

AUGUST 2, 1995

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This issue contains documents officially
filed not later than July 19, 1995

CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

REPUBLICATION OF OFFICIAL DOCUMENTS

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of August 1995 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

WASHINGTON STATE REGISTER

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

Mary F. Gallagher Dilley
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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Intent that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **PERMANENT**-includes the full text of permanently adopted rules.
- (d) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (e) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (f) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (g) **INDEX**-includes a combined subject matter and agency index.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
 - (i) underlined material is new material;
 - (ii) ~~deleted material is ((lined out between double parentheses))~~;
- (b) Complete new sections are prefaced by the heading **NEW SECTION**;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading **REPEALER**.

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

4. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

5. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

1994 - 1995
DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
94-16	Jul 6	Jul 20	Aug 3	Aug 17	Sep 6
94-17	Jul 27	Aug 10	Aug 24	Sep 7	Sep 27
94-18	Aug 10	Aug 24	Sep 7	Sep 21	Oct 11
94-19	Aug 24	Sep 7	Sep 21	Oct 5	Oct 25
94-20	Sep 7	Sep 21	Oct 5	Oct 19	Nov 8
94-21	Sep 21	Oct 5	Oct 19	Nov 2	Nov 22
94-22	Oct 5	Oct 19	Nov 2	Nov 16	Dec 6
94-23	Oct 26	Nov 9	Nov 23	Dec 7	Dec 27
94-24	Nov 9	Nov 23	Dec 7	Dec 21	Jan 10, 1995
95-01	Nov 23	Dec 7	Dec 21, 1994	Jan 4, 1995	Jan 24
95-02	Dec 7	Dec 21, 1994	Jan 4, 1995	Jan 18	Feb 7
95-03	Dec 21, 1994	Jan 4, 1995	Jan 18	Feb 1	Feb 21
95-04	Jan 4	Jan 18	Feb 1	Feb 15	Mar 7
95-05	Jan 18	Feb 1	Feb 15	Mar 1	Mar 21
95-06	Feb 1	Feb 15	Mar 1	Mar 15	Apr 4
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95-22	Oct 4	Oct 18	Nov 1	Nov 15	Dec 5
95-23	Oct 25	Nov 8	Nov 22	Dec 6	Dec 26
95-24	Nov 8	Nov 22	Dec 6	Dec 20	Jan 9, 1996

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

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

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

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

There is less than minor economic impact on business;

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

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

The rule is pure restatement of state statute.

WSR 95-15-003
PREPROPOSAL STATEMENT OF INTENT
STATE BOARD OF EDUCATION

[Filed July 5, 1995, 3:49 p.m.]

Subject of Possible Rule Making: Statutory and rule requirements. Establishing new waiver policies and procedures.

Specific Statutory Authority for New Rule: Chapter 28A.630 RCW, chapter 208, Laws of 1995.

Reasons Why the New Rule is Needed: The rule is needed to implement new waiver authority granted to the State Board of Education and the Office of Superintendent of Public Instruction pursuant to HB 1224 (chapter 208, Laws of 1995).

Goals of New Rule: Establishing new waiver policies and procedures and reduce paperwork for school districts and to streamline the waiver request process.

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

How Interested Parties can Participate in Formulation of the New Rule: Send written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis, (360) 753-6715.

July 5, 1995
 Larry Davis
 Executive Director

WSR 95-15-005
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF TRANSPORTATION

(Aviation Division)

[Filed July 6, 1995, 10:45 a.m.]

Specific Statutory Authority for New Rule: Chapter 47.68 RCW.

Reasons Why the New Rule is Needed: To insure the proper training, registration, conduct and management of aerial search and rescue.

Goals of New Rule: Insure that air search and rescue missions are run efficiently, effectively, and safely.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: The department will meet with various search and rescue groups. For more information and background information please contact Brian A. Holmes, Chief Pilot, (800) 552-0666 Washington state only, otherwise, (206) 764-4131.

June 30, 1995
 S. A. Moon
 Deputy Secretary
 for Operations

WSR 95-15-007
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 (Public Assistance)

[Filed July 6, 1995, 4:49 p.m.]

Subject of Possible Rule Making: WAC 388-517-1740. Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: There is not a rule allowing disregard of the Social Security COLA to April 1, 1995, for SLMB clients.

Goals of New Rule: Provide regulatory support for the disregard of the Social Security COLA to April 1, 1995, for SLMB clients.

Process for Developing New Rule: The department will conduct an internal and external review and approval process. The department will consider all comments.

How Interested Parties can Participate in Formulation of the New Rule: Contact Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

Jeanette Sevedge-App
 Acting Chief
 Office of Vendor Services
 by Rosemary Carr

WSR 95-15-008
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 (Public Assistance)

[Filed July 6, 1995, 4:49 p.m.]

Subject of Possible Rule Making: Medicaid dental program, chapters 388-86, 388-87, and 388-535 WAC.

Specific Statutory Authority for New Rule: (1) ESHB 1410, section 209(13); (2) Initiative 607; and (3) RCW 74.08.090.

Reasons Why the New Rule is Needed: (1) To implement the changes to enhance the Medicaid dental program for children; and (2) to add denturists as Medicaid eligible providers.

Goals of New Rule: (1) To assure access to dental care for Medicaid children; and (2) to allow denturists to become medical assistance administration providers.

Process for Developing New Rule: These rules will be filed [as an] emergency to assure client access to services. The proposed WAC will be distributed to persons expressing interest. All comments will be considered for final adoption.

How Interested Parties can Participate in Formulation of the New Rule: Bobbe J. Andersen, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-0529, FAX (360) 753-7315, TDD 1-800-848-5429.

July 6, 1995
 Jeanette Sevedge-App
 Acting Chief
 Office of Vendor Services
 by Rosemary Carr

July 6, 1995
 Chuck Fields
 Vice-President for
 Student Services

WSR 95-15-012
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 (Public Assistance)
 [Filed July 7, 1995, 3:15 p.m.]

Subject of Possible Rule Making: Amendment of WAC 388-86-022 School medical services.

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: To correctly list the providers within the school systems that may provide services to receive Medicaid reimbursement payment.

Goals of New Rule: To assure Medicaid clients have access to school medical services and the school receive appropriate reimbursement for providing the services.

Process for Developing New Rule: Draft language will be distributed internally and to school providers for review and comment.

How Interested Parties can Participate in Formulation of the New Rule: Bobbe J. Andersen, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-0529, FAX (360) 753-7315, TDD 1-800-848-5429.

July 7, 1995
 Jeanette Sevedge-App
 Acting Chief
 Office of Vendor Services

WSR 95-15-016
PREPROPOSAL STATEMENT OF INTENT
SHORELINE COMMUNITY COLLEGE
 [Filed July 10, 1995, 10:31 a.m.]

Subject of Possible Rule Making: Refund of tuition and fees, WAC 132G-160-075.

Specific Statutory Authority for New Rule: RCW 34.05.320.

Reasons Why the New Rule is Needed: SSB 6002 signed by the governor on April 13, 1995.

Goals of New Rule: Conform to SSB 6002 which references the need for college boards to establish rules concerning refunds.

Process for Developing New Rule: Normal rule-making process.

How Interested Parties can Participate in Formulation of the New Rule: Contact person Vice-President for Student Services, Shoreline Community College, 16101 Greenwood Avenue North, Seattle, WA 98133, phone (206) 546-4642, FAX 546-5826.

WSR 95-15-024
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
FISH AND WILDLIFE
 (Fisheries)
 [Filed July 10, 1995, 3:50 p.m.]

Subject of Possible Rule Making: Commercial herring rules.

Specific Statutory Authority for New Rule: RCW 75.08.080.

Reasons Why the New Rule is Needed: The decline in the abundance of herring which spawn in the Discovery Bay and Protection Island areas.

Goals of New Rule: To maximize commercial harvest opportunities.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Washington State Department of Fish and Wildlife, Marine Resource Division, Bruce Crawford, Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2325, FAX (360) 902-2944. Contact before August 17, 1995.

July 10, 1995
 Brad Young
 Assistant Rules Coordinator

WSR 95-15-032
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 (Public Assistance)
 [Filed July 11, 1995, 2:42 p.m.]

Subject of Possible Rule Making: Chapter 388-91 WAC, Medical care—Drugs.

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: New rules are needed to include payment methodology. Since adding payment methodology requires extensive rewriting of the material, the department chose to renumber the drug material into a new chapter in the 388-500 series and rename the chapter "Pharmacy Services." The new chapter adds new sections for definitions and maintenance information, and provides rule clarity.

Goals of New Rule: To give providers, clients, and the general public additional information on Medicaid pharmacy payment methods and the limitations for the payments.

Process for Developing New Rule: An agency task force reviewed the material and the draft will be circulated to all interested parties for comment. All comments will be considered.

How Interested Parties can Participate in Formulation of the New Rule: Bobbe J. Andersen, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-0529, FAX (360) 753-7315, TDD 1-800-848-5429.

July 11, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

WSR 95-15-036
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed July 12, 1995, 3:25 p.m.]

Subject of Possible Rule Making: Chapter 388-77 WAC, Family independence program; and chapter 388-77A WAC, Family independence program expiration.

Specific Statutory Authority for New Rule: RCW 74.21.904.

Reasons Why the New Rule is Needed: The department is repealing these chapters because the family independence program (FIP), a demonstration project, ended June 30, 1993. Therefore, these chapters are no longer required.

Goals of New Rule: Repeal chapters because FIP ended June 30, 1993.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Lee Burnett, Division of Employment and Social Services, P.O. Box 45470, Olympia, WA 98504, (206) 438-8273.

July 12, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

WSR 95-15-037
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
(Public Assistance)

[Filed July 12, 1995, 3:26 p.m.]

Subject of Possible Rule Making: WAC 388-503-0320 and 388-513-1395.

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: Implement legislative budget, Section 209.

Goals of New Rule: Provide by rule the elimination of the AFDC-related program for adults effective December 31, 1995.

Process for Developing New Rule: The department will conduct an internal and external review and approval process. The department will consider all comments.

How Interested Parties can Participate in Formulation of the New Rule: Contact Joanie Scotson, Program Manger,

Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

July 12, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

WSR 95-15-038
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
(Public Assistance)

[Filed July 12, 1995, 3:27 p.m.]

Subject of Possible Rule Making: WAC 388-506-0610 and 388-513-1315.

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: Implement ESSB 5439.

Goals of New Rule: Provide by rule the treatment of a parent(s) income/resources when determining the eligibility of a child in inpatient chemical dependency/mental health treatment.

Process for Developing New Rule: The department will conduct an internal and external review and approval process. The department will consider all comments.

How Interested Parties can Participate in Formulation of the New Rule: Contact Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

July 12, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

WSR 95-15-043
PREPROPOSAL STATEMENT OF INTENT
INSURANCE COMMISSIONER'S OFFICE

[Filed July 13, 1995, 10:50 a.m.]

Subject of Possible Rule Making: Repeal of WAC 284-13-310 through 284-13-420, 284-14-010 and 284-14-020, 284-32-010 through 284-32-200, 284-48-020, 284-44-170. Insurance Commissioner Matter No. R 95-8.

Specific Statutory Authority for New Rule: RCW 48.02.060.

Reasons Why the New Rule is Needed: Regulations pertain to risk based capital (WAC 284-13-310 through 284-13-420) which were codified as chapter 83, Laws of 1995. Outdated regulations (WAC 284-14-010 and 284-14-020, 284-32-010 through 284-32-200, 284-48-020, and 284-44-170) are being repealed.

Goals of New Rule: Eliminate outdated and superseded sections of Title 284 WAC.

Process for Developing New Rule: Public comments are solicited. Please submit comments by August 19, 1995.

How Interested Parties can Participate in Formulation of the New Rule: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, (360) 664-3790, FAX (360) 586-3535.

July 13, 1995
Deborah Senn
Insurance Commissioner

WSR 95-15-046
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed July 13, 1995, 4:55 p.m.]

Subject of Possible Rule Making: WAC 388-08-585 Equitable estoppel.

Specific Statutory Authority for New Rule: RCW 34.05.220.

Reasons Why the New Rule is Needed: To clarify the authority of administrative law judges to consider equitable estoppel defenses in public assistance cases and to notify department clients of the availability of the defense.

Goals of New Rule: To allow the use of the equitable estoppel defense in public assistance cases in administrative hearings.

Process for Developing New Rule: Agency study; and the department will conduct an internal and external review and approval process. The department will consider all comments.

How Interested Parties can Participate in Formulation of the New Rule: Lisa Brodoff, Department of Social and Health Services, Office of Appeals, P.O. Box 2465, Olympia, WA 98507-2465, (360) 753-3898, FAX (360) 664-0414.

July 13, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

WSR 95-15-047
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

(Public Assistance)
[Filed July 13, 1995, 4:55 p.m.]

Subject of Possible Rule Making: WAC 388-87-020 Subrogation.

Specific Statutory Authority for New Rule: SSB 5419, section (6) and RCW 74.08.090.

Reasons Why the New Rule is Needed: SSB [5419] requires the department to collect medical assistance cost of care for health care unless waived by the secretary of the department. This bill assures that the department has been assigned rights to collect from a third party.

Goals of New Rule: Expands the department requirements to collect medical assistance costs expended on clients when there is a third party resource.

Process for Developing New Rule: Internal and external review process whereby draft material is distributed for

review and comment. All comments are taken into consideration before final rule is filed.

How Interested Parties can Participate in Formulation of the New Rule: Bobbe J. Andersen, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-0529, FAX (360) 753-7315, TDD 1-800-848-5429.

July 13, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

WSR 95-15-050
PREPROPOSAL STATEMENT OF INTENT
STATE BOARD OF EDUCATION

[Filed July 14, 1995, 10:56 a.m.]

Subject of Possible Rule Making: Rules related to discipline of a school principal or chief school administrator of a public school building who fails to make a good faith effort to assure compliance with the transfer of student records as required by RCW 28A.225.330.

Specific Statutory Authority for New Rule: ESSB 5885 (section 25, subsection (3), chapter 311, Laws of 1995).

Reasons Why the New Rule is Needed: ESSB 5885 requires the State Board of Education to adopt rules as stated above.

Goals of New Rule: To implement requirements of ESSB 5885 as stated above.

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

How Interested Parties can Participate in Formulation of the New Rule: Send written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact: Dorene Mykol, (360) 753-6715.

July 14, 1995
Larry Davis
Executive Director

WSR 95-15-051
PREPROPOSAL STATEMENT OF INTENT
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 14, 1995, 10:58 a.m.]

Subject of Possible Rule Making: WAC 392-162-105 Program requirement—Program evaluation, to reflect changes needed in learning assistance program (LAP) evaluation requirements.

Specific Statutory Authority for New Rule: Chapter 478, Laws of 1987 and P.L. 103-382, Improving America's Schools Act of 1994.

Reasons Why the New Rule is Needed: The learning assistance program is the state equivalent of the federal Title I program. Title I recently changed its program evaluation

process, and the learning assistance program must change its evaluation accordingly.

Goals of New Rule: To bring learning assistance program evaluation requirements into line with Title I evaluation requirements.

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

How Interested Parties can Participate in Formulation of the New Rule: Send written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-4201 [98504-7200], FAX (360) 753-4201, TDD (360) 664-3631. Mary Elizabeth Beach, Director, Title I/LAP/Equity, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, phone (360) 753-3220.

July 12, 1995
Judith A. Billings
Superintendent of
Public Instruction

WSR 95-15-052
PREPROPOSAL STATEMENT OF INTENT
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 14, 1995, 11:00 a.m.]

Subject of Possible Rule Making: To revise chapter 392-162 WAC, Special service program—Learning assistance.

Specific Statutory Authority for New Rule: Chapter 478, Laws of 1987, and P.L. 103-382, Improving America's Schools Act of 1994.

Reasons Why the New Rule is Needed: Changes in federal Title I law, P.L. 103-382, Improving America's Schools Act of 1994, necessitates changes in state learning assistance program rules and regulations.

Goals of New Rule: To have learning assistance program (LAP) WACs reflect changes in new federal Title I legislation, since learning assistance program and Title I are compatible programs.

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

How Interested Parties can Participate in Formulation of the New Rule: Send written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-4201 [98504-7200], FAX (360) 753-4201, TDD (360) 664-3631. Mary E. Beach, Director, Title I/LAP/Equity, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, phone (360) 753-3220, FAX (360) 753-1953.

July 12, 1995
Judith A. Billings
Superintendent of
Public Instruction

WSR 95-15-055
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF AGRICULTURE

[Filed July 14, 1995, 11:42 a.m.]

Subject of Possible Rule Making: Increasing metrology laboratory service fees.

Specific Statutory Authority for New Rule: RCW 19.94.216 and 19.94.325.

Reasons Why the New Rule is Needed: Current calibration service fees provide insufficient revenues to support program operations.

Goals of New Rule: To transition from the current laboratory fee schedule that is based on a combination of hourly and piece/set rates to a single hourly fee schedule that will apply to all calibration services provided by the laboratory.

Process for Developing New Rule: The department will consult with the Weights and Measures Advisory Committee and other sectors of the business community that utilize laboratory services. Interested parties please refer below.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties desiring to participate in this process should contact the Washington State Department of Agriculture, Attention: Bob Arrington, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1857, to obtain a copy of the proposed rules. Written comments should be submitted to the Washington State Department of Agriculture by no later than October 10, 1995.

July 14, 1995
Julie C. Sandberg
Assistant Director

WSR 95-15-062
PREPROPOSAL STATEMENT OF INTENT
PARKS AND RECREATION
COMMISSION

[Filed July 14, 1995, 1:48 p.m.]

Subject of Possible Rule Making: Technical rock climbing.

Specific Statutory Authority for New Rule: RCW 43.51.180.

Reasons Why the New Rule is Needed: Increased technical rock climbing in state parks has demonstrated a need for regulation to protect park resources and ensure compatibility with other park activities.

Goals of New Rule: To establish rules that regulate technical rock climbing in state parks to protect park resources and ensure compatibility with activities of other park visitors.

Process for Developing New Rule: Negotiated rule making; and agency study. Worked with affected citizen groups.

How Interested Parties can Participate in Formulation of the New Rule: Contacts Rex Derr/Robyn Malmberg, 7150 Cleanwater Lane, P.O. Box 42664, Olympia, WA 98504-2664, (360) 902-8606/(360) 902-8609, FAX (360) 586-5875. Published state-wide public meetings.

July 14, 1995
Sharon Howdeshell
Office Manager

WSR 95-15-064

PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF ECOLOGY

[Order 95-14—Filed July 14, 1995, 3:25 p.m.]

Subject of Possible Rule Making: Chapter 173-175 WAC, Dam safety regulations.

Specific Statutory Authority for New Rule: Chapter 8, Laws of 1995.

Reasons Why the New Rule is Needed: In the last legislative session, the legislature exempted hydropower projects jointly regulated by the ecology dam safety section and the Federal Energy Regulatory Commission from further regulation by the state for dam safety.

Goals of New Rule: The rule amendment will exempt federally regulated hydropower projects from chapter 173-175 WAC.

Process for Developing New Rule: Partial rule repeal.

How Interested Parties can Participate in Formulation of the New Rule: David Cummings, P.E., Ecology Dam Safety Section, Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6620.

April 13, 1995
Linda G. Crerar
Assistant Director
Water Division

WSR 95-15-083

PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF AGRICULTURE

[Filed July 18, 1995, 4:47 p.m.]

Subject of Possible Rule Making: Hop disease quarantine, definitions and conditions governing the movement of regulated articles.

Specific Statutory Authority for New Rule: RCW 17.24.041.

Reasons Why the New Rule is Needed: The Washington Hop Commission requested that powdery mildew be added to the disease definitions that fall under hop diseases.

Goals of New Rule: To regulate an additional hop disease, powdery mildew.

Process for Developing New Rule: The Department of Agriculture will correspond with the hop industry on the proposed change and will request their input on the drafted amendment.

How Interested Parties can Participate in Formulation of the New Rule: William Brookreson, Assistant Director, Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1810; or Ann George, Manager, Washington Hop Commission, 504 North Naches Avenue, Suite 11, Yakima, WA 98901, (509) 453-4749; or Dr. Robert E. Klein, Plant Pathologist, IAREC, Washington State University, Route 2, Box 2953-A, Prosser, WA 99350, (509) 786-2226.

July 18, 1995
K. Diane Dolstad
Assistant Director

WSR 95-15-084

PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF AGRICULTURE

[Filed July 18, 1995, 4:49 p.m.]

Subject of Possible Rule Making: Hop rootstock, add powdery mildew to definitions and field standards.

Specific Statutory Authority for New Rule: RCW 15.14.030 (2), (5).

Reasons Why the New Rule is Needed: The proposal amends WAC 16-354-050 through 16-354-070 to include powdery mildew disease in the established field tolerances (zero tolerance) for specific diseases. This will protect the Washington hop industry from powdery mildew and the economic consequences of having it established; and will coordinate Washington and Oregon rules to allow free movement of hop rootstock between the two primary production states.

Goals of New Rule: (1) To provide industry protection from powdery mildew disease; (2) to coordinate quarantine rules (WAC 16-497-005 and 16-497-030) with certification rules; and (3) to facilitate movement of nursery stock within the primary hop production areas.

Process for Developing New Rule: The department will work closely with the industry on the proposed language since this amendment was at the request of industry.

How Interested Parties can Participate in Formulation of the New Rule: Bill Brookreson, Assistant Director, Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1810; Ann George, Manager, Washington Hop Commission, 504 North Naches Avenue, Yakima, WA 98901, (509) 453-4749; and Dr. Robert Klein, Plant Pathologist, IAREC, Washington State University, Route 2 Box 2953-A, Prosser, WA 99350, (509) 786-2226.

July 18, 1995
K. Diane Dolstad
Assistant Director

WSR 95-15-085

PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF AGRICULTURE

[Filed July 18, 1995, 4:50 p.m.]

Subject of Possible Rule Making: Rough bluegrass (*Poa trivialis*) quarantine.

Specific Statutory Authority for New Rule: RCW 15.49.310 and 17.24.041.

Reasons Why the New Rule is Needed: Establish a rough bluegrass (*Poa trivialis*) quarantine in the state of Washington. The quarantine will restrict growing areas of rough bluegrass seed grown in Washington.

Goals of New Rule: Restrict the growing areas of rough bluegrass seed so that it cannot contaminate Kentucky bluegrass seed grown in Washington.

Process for Developing New Rule: The proposed rule will be shared with the Washington Seed Council, who requested the rule, and other affected parties.

How Interested Parties can Participate in Formulation of the New Rule: K. Diane Dolstad, Assistant Director, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-2060.

July 18, 1995
K. Diane Dolstad
Assistant Director

July 17, 1995
K. Diane Dolstad
Assistant Director

WSR 95-15-086
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF AGRICULTURE

[Filed July 18, 1995, 4:51 p.m.]

Subject of Possible Rule Making: Washington State Department of Agriculture rules of administrative procedure.

Specific Statutory Authority for New Rule: RCW 34.05.425.

Reasons Why the New Rule is Needed: Establish in procedural rule who, in the Department of Agriculture, may serve as "reviewing officer" and "presiding officer."

Goals of New Rule: To clarify who may serve in the "reviewing officer" and "presiding officer" rules in an adjudicative proceeding within the Washington State Department of Agriculture.

Process for Developing New Rule: The proposed rule will be published in the Washington State Register for public input and comment.

How Interested Parties can Participate in Formulation of the New Rule: Dannie McQueen, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1809.

July 18, 1995
William E. Brookreson
Assistant Director

WSR 95-15-087
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF AGRICULTURE

[Filed July 18, 1995, 4:52 p.m.]

Subject of Possible Rule Making: To update the list of varieties eligible for seed certification and to update the certification standards for field pea, chickpea and lentil.

Specific Statutory Authority for New Rule: RCW 15.49.005 and 15.49.310.

Reasons Why the New Rule is Needed: To respond to industry request for rule making to update and make uniform Washington state certification standards with standards of the state of Idaho.

Goals of New Rule: Respond to industry request for rule updates and uniformity with certification standards in the state of Idaho.

Process for Developing New Rule: Input from Washington/Idaho Dry Pea and Lentil Association, Washington Seed Council and the board of directors of the Washington Crop Improvement Council.

How Interested Parties can Participate in Formulation of the New Rule: Max Long, Program Manager, Washington State Department of Agriculture, Seed Branch, 2015 South 1st Street, MS-3, Yakima, WA 98903, (509) 575-2750, FAX (509) 454-4395; or Keith Pfeifer, Manager, WSCIA, 114 North 5th Avenue, Yakima, WA 98902, (509) 248-3240, FAX (509) 452-0616.

WSR 95-15-088
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF AGRICULTURE

[Filed July 18, 1995, 4:53 p.m.]

Subject of Possible Rule Making: Respond to industry request for rule making to increase seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains.

Specific Statutory Authority for New Rule: RCW 15.49.310 and 16.49.370(3).

Reasons Why the New Rule is Needed: Respond to industry request for rule making to increase seed certification fees for buckwheat, chickpea, field pea, lentil, millet, soybean, sorghum and small grains.

Goals of New Rule: Respond to industry request to update fees to reflect current costs of operating that portion of the seed certification program delegated by the director to the Washington State Crop Improvement Association.

Process for Developing New Rule: Request from the Washington Seed Council and the board of directors of the Washington State Crop Improvement Association.

How Interested Parties can Participate in Formulation of the New Rule: Max Long, Program Manager, Washington State Department of Agriculture, Seed Branch, 2015 South 1st Street, MS-3, Yakima, WA 98903, (509) 575-2750, FAX (509) 454-4395; or Keith Pfeifer, Manager, WSCIA, 114 North 5th Avenue, Yakima, WA 98902, (509) 248-3240, FAX (509) 452-0616.

July 17, 1995
K. Diane Dolstad
Assistant Director

WSR 95-15-089
PREPROPOSAL STATEMENT OF INTENT
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 18, 1995, 4:54 p.m.]

Subject of Possible Rule Making: Chapter 392-122 WAC, Categorical apportionment.

Specific Statutory Authority for New Rule: RCW 28A.150.290.

Reasons Why the New Rule is Needed: The 1995-97 Biennial Operating Appropriations Act modified the funding formula for special education whereby special education excess cost funding is allocated to the students resident school district.

Goals of New Rule: Allow resident school districts to transfer some or all of their special education excess cost funding to other school districts or educational service districts serving students residing in the resident district.

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

How Interested Parties can Participate in Formulation of the New Rule: Send written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-4201 [98504-7200], FAX (206) 753-4201, TDD (206) 664-3631. Tom Case, (360) 753-6708, School Apportionment and Research Office.

July 17, 1995
Judith A. Billings
Superintendent of
Public Instruction

WSR 95-15-090
PREPROPOSAL STATEMENT OF INTENT
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed July 18, 1995, 4:55 p.m.]

Subject of Possible Rule Making: Chapter 392-121 WAC, Basic education funding—Transfer of basic education moneys.

Specific Statutory Authority for New Rule: RCW 28A.150.290.

Reasons Why the New Rule is Needed: To allow school districts participating in interdistrict cooperatives or obtaining basic education services from an educational service district to transfer basic education funding to other school districts and educational service districts.

Goals of New Rule: See reasons above.

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

How Interested Parties can Participate in Formulation of the New Rule: Send written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-4201 [98504-7200], FAX (206) 753-4201, TDD (206) 664-3631. Tom Case, (360) 753-6708, School Apportionment and Research Office.

July 17, 1995
Judith A. Billings
Superintendent of
Public Instruction

WSR 95-15-091
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
FINANCIAL INSTITUTIONS
[Filed July 18, 1995, 4:13 p.m.]

Subject of Possible Rule Making: Revise definitions in chapter 460-10A WAC. Delete definitions that are no longer used. Update and add new definitions so that consistent definitions are used throughout Title 460 WAC.

Specific Statutory Authority for New Rule: RCW 21.20.450.

Reasons Why the New Rule is Needed: Several of the current definitions in chapter 460-10A WAC are out-of-date and need to be revised so they are consistent with definitions in other chapters of Title 460 WAC. The previous repeal of several WAC chapters has eliminated the need for many

definitions. New definitions are needed to accommodate recent rule changes.

Goals of New Rule: Eliminate unneeded definitions and revise other definitions so they are consistent with other provisions of Title 460 WAC. Add new definitions to accommodate recent rule changes.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: William M. Beatty, Senior Securities Examiner, Department of Financial Institutions, Securities Division, P.O. Box 9033, Olympia, WA 98507-9033, (360) 902-8760, FAX (360) 586-5068.

July 14, 1995
Deborah Bortner
Assistant Director

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-10A-050 Promotional shares defined. "Promotional shares" means any (~~securities which are:~~

~~(1) Issued in consideration for services rendered in connection with the founding or organizing of a business enterprise, or~~

~~(2) Issued to a promoter in consideration for any tangible or intangible property, such as patents, copyrights or goodwill, to the extent that the value has not been satisfactorily established, or~~

~~(3) Issued to a promoter in the recent past or proposed to be issued at a price substantially lower than the price at which other securities of the same class or substantially similar class have been or are to be sold without any change in the conditions of the market or in the circumstances of the issuer which would justify such different prices.)~~ equity securities which were, or are to be, issued to promoters for less than eighty-five percent (85%) of the proposed public offering price. Equity securities which were, or are to be, issued for services rendered, patents, copyrights or other intangibles are presumed to be promotional shares unless, and to the extent that, the value of such intangibles has been established to the satisfaction of the administrator pursuant to recognized standards of valuation acceptable to the administrator. Consideration for shares of equity securities may include out-of-pocket development and marketing expenses (excluding promoters' salaries) to the extent that such expenses are not reimbursed by the issuer.

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-10A-060 Affiliate. Means (~~((+))~~) any person directly or indirectly controlling, controlled by or under common control with another person(~~(-~~

~~(2) A person owning or controlling ten percent or more of the outstanding voting securities of such other person,~~

~~(3) Any officer, director, partner or employee, or such person, and if such other person is an officer, director, partner or employee, any company for which such person acts in any such capacity)).~~

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-10A-110 Net worth. The excess of total assets over total liabilities as determined by generally accepted accounting ~~((practices))~~ principles.

AMENDATORY SECTION (Amending Order 304, filed 2/28/75, effective 4/1/75)

WAC 460-10A-130 Person. Any ~~((natural person, partnership, corporation, association or other legal entity))~~ individual, corporation, partnership, trust, or other legal entity, or any unincorporated association or organization including the following:

(1) Any relative, spouse, or relative of the spouse of the specified person;

(2) any trust or estate in which the specified person or any of the persons specified in (1), above, collectively own five percent (5%) or more of the of the total beneficial interest or of which any such persons serve as trustee, executor, or in any similar capacity; and

(3) any corporation or other organization, other than the issuer, in which the specified person or any of the persons specified in (1), above, are the beneficial owners collectively of five percent (5%) or more of any class of equity securities or five percent (5%) or more of the equity interest.

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

AMENDATORY SECTION (Amending Order SD-131-77, filed 11/23/77)

WAC 460-10A-170 Officer. The term "officer" means a president, vice president in charge of a business unit or division, treasurer, treasurer, ~~((or))~~ secretary, chief executive officer, chief financial officer, person who performs a principal policy making function for a principal business unit or division, or any person occupying a similar status and performing a similar function with respect to any organization, whether incorporated or unincorporated.

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

AMENDATORY SECTION (Amending Order SD-131-77, filed 11/23/77)

WAC 460-10A-180 Promoter. The term "promoter" includes, but is not limited to:

(1) Any person who, acting alone or in conjunction with one or more persons, directly or indirectly takes the initiative in founding and organizing the business or enterprise of an issuer; ~~((or))~~

(2) ~~((or))~~ Any person who, in connection with the founding or organizing of the business or enterprise of the issuer, directly or indirectly receives in consideration of services or property ~~((, ten percent))~~ or both services and property, five percent (5%) or more of any class of ~~((securities or))~~ equity security of the issuer or five percent (5%) or more of the proceeds from the sale of any class of ~~((securities))~~ equity security of the issuer. However, a person who

receives such securities or proceeds ~~((, either))~~ solely as underwriting commissions ~~((or solely in consideration of property,))~~ shall not be deemed a promoter within the meaning of this paragraph if such person does not otherwise take part in founding and organizing the enterprise ~~((;))~~;

(3) Any person who is an officer, director, or who beneficially owns, directly or indirectly, more than five percent (5%) of any class of equity security of the issuer, excluding equity securities purchased by any unaffiliated institutional investor more than one year prior to the filing date of the proposed offering; or

(4) Any person who is an affiliate of a person specified under paragraphs (1), (2), or (3) of this section.

NEW SECTION

WAC 460-10A-185 Control. Means the power to direct the management or policies of a person, directly or indirectly, whether it be through ownership of voting securities, by contract, or otherwise.

NEW SECTION

WAC 460-10A-190 Equity security. Means any common stock or similar security; or any instrument convertible, with or without consideration, into such a security, or a warrant, option or right to subscribe to or purchase such a security; or any such warrant, option or right.

NEW SECTION

WAC 460-10A-195 Promotional or developmental stage corporation. Means an issuer which has no public market for its shares and has no significant earnings.

NEW SECTION

WAC 460-10A-200 Public market. Excludes thin markets which do not result in reliable prices. If there is doubt as to the reliability of the market for an issuer's shares, the administrator may consider the market history, the public trading volume, the spread between the bid and asked prices, the number of market makers, public float, the pricing formula and other relevant factors.

NEW SECTION

WAC 460-10A-205 Significant earnings. Means annual earnings per share of at least five percent (5%) of the public offering price for the last two fiscal years, or average annual earnings per shares of at least five percent (5%) of the public offering price for last five fiscal years. Where good cause is shown, the administrator may consider other factors in determining whether significant earnings exist.

NEW SECTION

WAC 460-10A-210 Unaffiliated institutional investor. Means any unaffiliated bank; investment company registered under, or business development company as defined in, the Investment Company Act of 1940; any small business investment company licensed by the U.S. Small Business Administration under section 301 of the Small Business Investment Act of 1958; employee benefit plan

within the meaning of Title I of the Employee Retirement Income Security Act of 1974; insurance company; private business development company as defined in section 202 (a)(22) of the Investment Advisors Act of 1940 or any comparable business entity engaged as a substantial part of its business in the purchase and sale of securities and which owns less than 20% of the securities to be outstanding upon the completion of the proposed public offering.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 460-10A-035 Seasoned corporation.
- WAC 460-10A-055 Acquisition fee.
- WAC 460-10A-065 Appraised value.
- WAC 460-10A-075 Capital contribution.
- WAC 460-10A-080 Cash flow.
- WAC 460-10A-090 Cash available for distribution.
- WAC 460-10A-095 Construction fee.
- WAC 460-10A-100 Cost of property.
- WAC 460-10A-105 Development fee.
- WAC 460-10A-115 Nonspecified property program.
- WAC 460-10A-120 Organization and offering expenses.
- WAC 460-10A-125 Participant.
- WAC 460-10A-135 Program.
- WAC 460-10A-140 Program interest.
- WAC 460-10A-145 Program management fee.
- WAC 460-10A-150 Property management fee.
- WAC 460-10A-155 Sponsor.

**WSR 95-15-095
PREPROPOSAL STATEMENT OF INTENT
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES**

[Filed July 19, 1995, 9:30 a.m.]

Subject of Possible Rule Making: Establishing five classes of contract for the purpose of setting FY96 participation goals.

Specific Statutory Authority for New Rule: RCW 39.19.030(7).

Reasons Why the New Rule is Needed: (1) RCW 39.19.030 directs the office to set annual goals for the participation of minority and women's business enterprises in state contracting and procurement; (2) currently, one set of goals applies to two functional areas which are distinct. Each functional area should have its own set of goals so that neither is a burden to the other.

Goals of New Rule: (1) To accurately assess the state's progress in implementing the provisions of chapter 39.19 RCW; (2) to increase the flexibility of the state's program; (3) to facilitate better goal setting on individual contract and procurement opportunities.

Process for Developing New Rule: Comments from the effected business community and state organizations will be solicited directly.

How Interested Parties can Participate in Formulation of the New Rule: Contact Juan Huey-Ray, Rules Coordinator, Office of Minority and Women's Business Enterprises, P.O.

Box 41160, Olympia, WA 98504-1160, phone (360) 586-1228, FAX (360) 586-7079. All comments must be received by August 1, 1995, at 5:00 p.m.

July 19, 1995
James A. Medina
Director

**WSR 95-15-096
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF AGRICULTURE**

[Filed July 19, 1995, 9:35 a.m.]

Subject of Possible Rule Making: Self-inspection slips as a form of brand inspection.

Specific Statutory Authority for New Rule: RCW 16.57.350, 16.57.240.

Reasons Why the New Rule is Needed: The livestock industry requested self-inspection as an alternative to paying a state inspector time and mileage to complete the physical inspection of fifteen head or less of cattle. The livestock identification program is totally supported by fees for service and receives no general fund dollars. Therefore all costs of the program must be covered by the industry.

Goals of New Rule: To allow cattle owners to self-inspect when selling fifteen head or less of no brand or seller's branded cattle. To provide a system of collecting the Washington Beef Commission assessment when conducting brand inspections.

Process for Developing New Rule: The rule was requested by the Washington Cattlemen's Association and approved by the Livestock Identification Advisory Board which will assist in developing the rule language.

How Interested Parties can Participate in Formulation of the New Rule: Contact Washington State Department of Agriculture, Livestock Identification Program, Julie Sandberg, Assistant Director, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1852. Written comments should be submitted to the Washington State Department of Agriculture by no later than October 23, 1995.

July 19, 1995
Julie C. Sandberg
Assistant Director

**WSR 95-15-106
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF HEALTH**

(Dispensing Optician)

[Filed July 19, 1995, 10:25 a.m.]

Subject of Possible Rule Making: Supervision of apprentice dispensing opticians. Defining specific apprentice training requirements.

Specific Statutory Authority for New Rule: RCW 43.70.040.

Reasons Why the New Rule is Needed: Legislation adopted in the 1995 session will require amendments to existing dispensing optician rules pertaining to supervision of registered apprentice dispensing opticians. New rules defining the training requirements for apprentices to strengthen the program and make it more effective.

Goals of New Rule: To implement and provide clarification of legislation. To increase the effectiveness and efficiency of the apprenticeship program by setting forth specific training requirements.

Process for Developing New Rule: Public meetings, survey, workgroup participation.

How Interested Parties can Participate in Formulation of the New Rule: Send comments by August 15, 1995, to Judy Haenke, Program Manager, Health Professions Section Four, P.O. Box 47863, Olympia, WA 98504-7863, FAX (360) 586-7774.

July 18, 1995
Bruce Miyahara
Secretary

Goals of New Rule: Create and define a "retired status" license for engineers and land surveyors. Additionally, further define qualifications and application requirements.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: George A. Twiss, PLS, Assistant Registrar, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649, phone (360) 753-3634, FAX (360) 664-2551. A mailing list will be created to notify parties of informational meetings and/or public hearings.

July 19, 1995
Alan E. Rathbun
Executive Director

WSR 95-15-111

PREPROPOSAL STATEMENT OF INTENT WASHINGTON STATE LIBRARY

[Filed July 19, 1995, 10:34 a.m.]

Subject of Possible Rule Making: Repeal of WAC pertaining to the Western Library Network, chapter 304-25 WAC.

Specific Statutory Authority for New Rule: RCW 27.04.030.

Reasons Why the New Rule is Needed: No longer needed. The state library has not supervised the Washington Library Network, which has been privatized, since December 31, 1990.

Goals of New Rule: To eliminate unnecessary sections of code.

Process for Developing New Rule: Consideration at September 15, 1995, Washington State Library Commission meeting; receipt of testimony; action.

How Interested Parties can Participate in Formulation of the New Rule: Contact Nancy Zussy, State Librarian, Washington State Library, P.O. Box 42460, Olympia, WA 98504-2460, (360) 753-2915, FAX (360) 586-7575, nzussy@wln.com (Internet).

July 18, 1995
Nancy Zussy
State Librarian

WSR 95-15-119

PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF LICENSING

(Board of Registration for Professional Engineers and
Land Surveyors)

[Filed July 19, 1995, 11:58 a.m.]

Subject of Possible Rule Making: Creating a retired status license for professional engineers and professional land surveyors.

Specific Statutory Authority for New Rule: RCW 18.43.035 and section 5, chapter 356, Laws of 1995.

Reasons Why the New Rule is Needed: Implement the provisions of chapter 356, Laws of 1995 which permits the board to establish a retired status license.

WSR 95-15-120

PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF LICENSING

(Board of Registration for Professional Engineers and
Land Surveyors)

[Filed July 19, 1995, 11:59 a.m.]

Subject of Possible Rule Making: Requirements to become licensed as a professional land surveyor or enrolled as an engineer-in-training or land surveyor-in-training. Amending chapters 196-12, 196-16, 196-20, and 196-24 WAC.

Specific Statutory Authority for New Rule: RCW 18.43.035.

Reasons Why the New Rule is Needed: Modifications to the existing rules as listed above and drafting one new rule are needed to implement chapter 356, Laws of 1995 as passed by the legislature. These rules apply to the licensure of professional land surveyors and the application for, examination and enrollment of land surveyors-in-training and engineers-in-training.

Goals of New Rule: The goal of these rule changes is to provide clear, concise language in the code to notify the public of the new requirements to become licensed as a professional land surveyor and to become enrolled as a land surveyor-in-training and engineer-in-training. Additionally, the intent is to have the rules adopted in time for the law to be implemented by July 1, 1996.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: W. Rick Notestine, PLS, Assistant Registrar, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649, phone (360) 753-3634, FAX (360) 664-2551. A mailing list will be created to notify parties of informational meetings and/or public hearings.

July 19, 1995
Alan E. Rathbun
Executive Director



WSR 95-14-058
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Filed June 28, 1995, 2:03 p.m.]

Original Notice.

Title of Rule: WAC 388-86-005 Services available to recipients of categorically needy medical assistance, 388-86-030 Vision care, 388-86-073 Occupational therapy, 388-86-075 Outpatient and emergency care, 388-86-090 Physical therapy, 388-86-098 Speech therapy services, 388-500-0005 Medical definitions, 388-503-0370 Medically indigent eligible persons, 388-518-1805 LCP-MI eligibility, 388-518-1810 LCP-MI emergency medical expense requirement (EMER), 388-518-1840 LCP-MI spenddown, 388-521-2140 Effective date for the medically indigent, and 388-529-2950 Scope of care—Medically indigent.

Purpose: Amendments implement legislative changes to the MI and MN program, to correct a typographical error, and to move the rules concerning cataracts from WAC 388-86-095 to 388-86-030. Inform department staff of the legislated MI and MN program changes. Restricts MI covered services. Increases the MI EMER from \$1500 to \$2000. Restricts MI certification to three months. Eliminates the MN program for AFDC-related adults effective December 31, 1995. State Law: Section 209.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Informs department staff of the legislated MI and MN program changes. This legislation (1) restricts MI covered services; (2) increases the MI EMER from \$1500 to \$2000; (3) restricts MI certification to three months; and (4) eliminates the MN program for AFDC-related adults effective December 31, 1995.

Reasons Supporting Proposal: Proposed amendments implement the legislative changes to the MI and MN program, to correct a typographical error and to move the rules concerning cataracts from WAC 388-86-095 to 388-86-030.

Name of Agency Personnel Responsible for Drafting, implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? Yes. A copy of the statement may be obtained by writing to: Jeanette Sevedge-App, Acting Chief, Office of Vendor Services, Mailstop 45811, 14th Avenue and Jefferson Street, Olympia, Washington 98504, phone (206) 902-7536, FAX (206) 586-8487. This proposed rule implements legislation.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on August 22, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by August 8, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by August 15, 1995.

Date of Intended Adoption: August 23, 1995.

June 28, 1995

Jeanette Sevedge-App

Acting Chief

Office of Vendor Services

AMENDATORY SECTION (Amending Order 3620, filed 8/11/93, effective 9/11/93)

WAC 388-86-005 Services available to recipients of ((categorically)) categorically needy medical assistance. (1) The department shall provide the following Title XIX mandatory services:

- (a) Early and periodic screening diagnosis and treatment services to an eligible person twenty years of age or under;
- (b) Family planning services;
- (c) Federally qualified health center services;
- (d) Home health agency services;
- (e) Inpatient and outpatient hospital care;
- (f) Medicare certified rural health clinic services;
- (g) Other laboratory and x-ray services;
- (h) Skilled nursing home care;
- (i) Certified registered nurse practitioner services; and
- (j) Physicians' services in the office or away from the office as needed for necessary and essential medical care.

(2) The department shall provide the following Title XIX optional services:

- (a) Anesthesia services;
- (b) Blood;
- (c) Chiropractic services;
- (d) Drugs and pharmaceutical supplies;
- (e) Eyeglasses and examination;
- (f) Hearing aids and examinations;
- (g) Hospice services;
- (h) Licensed midwife services;
- (i) Maternity support services;
- (j) Oxygen;
- (k) Personal care services;
- (l) Physical therapy services;
- (m) Private duty nursing services;
- (n) Surgical appliances;
- (o) Prosthetic devices and certain other aids to mobility;

and

- (p) Dental services.

(3) The department shall limit organ transplants to the cornea, heart, heart-lung, kidney, kidney-pancreas, liver, pancreas, single lung, and bone marrow.

(4) The department shall provide treatment, dialysis, equipment, and supplies for acute and chronic nonfunctioning kidneys when the client is in the home, hospital, or kidney center as described under WAC 388-86-050(12).

(5) The department shall provide detoxification and medical stabilization to chemically using pregnant women in a hospital.

(6) The department shall provide detoxification of acute alcohol or other drug intoxication only in a certified detoxification center or in a general hospital having a detoxification provider agreement with the department.

(7) The department shall provide outpatient chemical dependency treatment in programs qualified under chapter 275-25 WAC and certified under chapter 275-19 WAC or its successor.

(8) For services available under the:

(a) Limited casualty program-medically needy, see chapter ~~((388-99))~~ 388-529 WAC; and

(b) Limited casualty program-medically indigent, see chapter ~~((388-100))~~ 388-529 WAC.

(9) The department may require a second opinion and/or consultation before the approval of any elective surgical procedure.

(10) The department shall designate diagnoses that may require surgical intervention:

(a) Performed in other than a hospital in-patient setting; and

(b) Requiring prior approval by the department for a hospital admission.

(11) The department shall assure the availability of necessary transportation to and from medical services covered under a client's medical program.

AMENDATORY SECTION (Amending Order 3711, filed 3/22/94, effective 4/22/94)

WAC 388-86-030 (~~((Eye-glasses and examinations))~~) Vision care. (1) The medical assistance administration (MAA) shall reimburse a provider for medically necessary eye care services for a client:

(a) Twenty-one years of age or over, one each of the services listed under subsection (2) of this section, in a twenty-four-month period; or

(b) Twenty years of age or under, one each of the services listed under subsection (2) of this section, in a twelve-month period.

(2) The MAA's eye care services shall include:

(a) Eye examinations;

(b) Refractions;

(c) Fitting fees; and

(d) Eyeglass lenses and/or frames.

(3) The department shall not apply the time period limitation (~~((does not apply))~~) when the:

(a) Eye examination is medically necessary for diagnosing and/or treating a medical condition; or

(b) Client described under subsection (5) of this section requires replacement glasses due to loss or breakage.

(4) MAA shall limit the choice of frames and lenses to frames and lenses listed under contract in the current MAA numbered memoranda and/or MAA provider's billing instructions on that subject.

(5) MAA shall only reimburse for replacement of broken or lost eyeglasses for a:

(a) Client of the division of developmental disabilities;

(b) Child twenty years of age or under; or

(c) Client residing in an institution.

(6) MAA shall reimburse for replacement of lenses for a change in refractive error in sphere, cylinder, or spherical equivalent of a plus or minus of one diopter and which result in an improvement of visual acuity. The change in prescription shall not apply to providing separate pairs of eyeglasses for distance and reading or for two pairs of eyeglasses in place of multifocals.

(7) MAA shall not reimburse a provider for eyeglasses when the client's prescription is over two years old.

(8) MAA shall reimburse for:

(a) Specialized lenses only for conditions as listed in MAA provider's billing instructions; and

(b) Contact lenses:

(i) Only when medically justified; and

(ii) As allowed in a twelve-month period with the conditions specified in MAA provider's billing instructions.

(9) MAA shall consider cataract surgery medically necessary without prior authorization when the client has a documented cataract with:

(a) The best correctable visual acuity in the affected eye is 20/50 or worse as measured on a snellen test chart; or

(b) Other visual impairment conditions which include:

(i) Double vision;

(ii) Phacogenic glaucoma;

(iii) Phacogenic uveitis;

(iv) Phacoanaphylactic endophthalmitis;

(v) Intraocular foreign body;

(vi) Ocular trauma; or

(vii) Dislocated or subluxated lens causing glaucoma, monocular diplopia, aphakia, myopia, or astigmatism.

(10) MAA shall consider cataract surgery as a nonemergent procedure, except when the client is determined statutorily blind as defined under WAC 388-511-1105 (1)(b).

(11) The provider shall document and maintain in the client's record medical justification of the eye care services.

~~((+0))~~ (12) Except for services as defined in WAC 388-86-027, the department shall not permit group screening for eyeglasses.

~~((+1))~~ (13) The department shall reimburse for eye care services provided to clients eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs; or

(b) Medically needy program;~~((+or~~

~~((+or~~ (c) Medically indigent program only as treatment for emergent services as specified in MAA provider's billing instructions).

~~((+2))~~ (14) The department shall not cover orthoptics and visual training therapy (~~((are not covered))~~). See WAC 388-86-200.

AMENDATORY SECTION (Amending Order 3714, filed 3/9/94, effective 4/9/94)

WAC 388-86-073 Occupational therapy. (1) The department shall pay for occupational therapy when the occupational therapy is provided:

(a) By a licensed occupational therapist;

(b) By a licensed occupational therapy assistant supervised by a licensed occupational therapist; or

(c) In schools, by an occupational therapy aide trained and supervised by a licensed occupational therapist.

(2) The department shall pay for occupational therapy:

(a) Effective September 1, 1993, as part of an outpatient treatment program for adults and children;

(b) By a home health agency as described under WAC 388-86-045;

(c) As part of the physical medicine and rehabilitation program as described under WAC 388-86-112;

(d) In a neuromuscular center; or

(e) By a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

(3) The department shall not pay for occupational therapy when payment for occupational therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services or nursing facility services.

(4) The department shall pay for the following occupational therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

(a) One occupational therapy assessment;

(b) Two durable medical equipment needs assessments;

(c) Twelve occupational therapy sessions;

(d) Twenty-four additional outpatient occupational therapy sessions if the diagnosis is associated with:

(i) A medically necessary condition for developmentally delayed clients;

(ii) Surgeries involving extremities:

(A) Fractures; or

(B) Open wounds with tendon involvement.

(iii) Intracranial injuries;

(iv) Burns;

(v) Traumatic injuries;

(vi) Cerebral palsy;

(vii) Downs Syndrome;

(viii) Meningomyelocele;

(ix) Severe oral/motor problems:

(A) Dyspraxia;

(B) Cleft palate and/or cleft lip; or

(C) That interfere with adequate nutrition.

(x) Symptoms involving nervous and musculoskeletal systems:

(A) Abnormality of gait; or

(B) Lack of coordination; or

(xi) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing services, but continues to require specialized outpatient therapy.

(e) Additional one hundred twenty-four outpatient occupational therapy sessions if the condition is post-surgery diplegic/congenital diplegia; and

(f) Additional sessions when requested and approved through department of health's children with special health care needs program;

(g) Subject to department approval, additional occupational therapy services regardless of diagnosis when such services are medically necessary.

(5) For the purposes of this section, a "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(6) The department shall pay for occupational therapy provided to a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age or younger and referred by a screening provider under the early and periodic screening, diagnosis and treatment program/healthy kids program as described under WAC 388-86-027; or

(ii) Receiving home health care services as described under WAC 388-86-045.

~~((e) Medically indigent program as part of the treatment program under home health care services as described under WAC 388-86-045))~~

(7) The department shall pay for occupational therapy provided to a client receiving services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

AMENDATORY SECTION (Amending Order 2649, filed 7/8/88)

WAC 388-86-075 Outpatient and emergency care.

~~((+))~~ The department shall require no authorization for categorically needy or limited casualty program-medically needy (~~recipients~~) clients to receive outpatient service, emergent outpatient surgical care, and other emergency care performed on an outpatient basis in a hospital. The provider shall present justification for the service with the request for payment.

~~((2) A recipient of the limited casualty program-medically indigent shall have medical consultant approval for emergency room services.))~~

AMENDATORY SECTION (Amending Order 3714, filed 3/9/94, effective 4/9/94)

WAC 388-86-090 Physical therapy. (1) The department shall pay for physical therapy as an outpatient service when:

(a) The attending physician prescribes physical therapy;

(b) A licensed physical therapist or physiatrist, a physical therapist assistant supervised by a licensed physical therapist, or, in schools, a physical therapy aide trained and supervised by a licensed physical therapist provides the treatment; and

(c) The therapy assists the client:

(i) In avoiding hospitalization or nursing facility care; or

(ii) In becoming employable; or

(iii) Who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or

(iv) As part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.

(2) The department shall pay for the following physical therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

(a) One medical diagnostic evaluation;

(b) Twelve physical therapy sessions; and

(c) Twenty-four additional outpatient sessions, when the services are for:

(i) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs

nursing services but continues to require specialized outpatient therapy; or

(ii) Medically necessary conditions for developmentally delayed clients;

(iii) Surgeries involving extremities:

(A) Fractures;

(B) Open wounds with tendon involvement.

(iv) Intracranial injuries;

(v) Burns;

(vi) Cerebral palsy;

(vii) Downs Syndrome;

(viii) Meningomyelocele;

(ix) Traumatic injuries; or

(x) Symptoms involving nervous and musculoskeletal systems with abnormality of gait and lack of coordination.

(d) Additional sessions when requested and approved through department of health's children with special health care needs program;

(e) Additional one hundred twenty-four outpatient physical therapy sessions if the condition is post-surgery diplegic/congenital diplegia; and

(f) Subject to department approval, additional physical therapy services regardless of diagnosis when such services are medically necessary.

(3) For the purposes of this section, "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(4) The department shall not pay for physical therapy when payment for physical therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services and nursing facility services.

(5) The department shall pay for outpatient physical therapy for a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age or under and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program/healthy kids program as described under WAC 388-86-027; or

(ii) Receiving home health care services as described under WAC 388-86-045.

~~((e) Medically indigent program when receiving home health care services as described under WAC 388-86-045.))~~

(6) The department shall pay for outpatient physical therapy for a client receiving services provided by a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

AMENDATORY SECTION (Amending Order 3714, filed 3/9/94, effective 4/9/94)

WAC 388-86-098 Speech therapy services. (1) The department shall pay for speech therapy for conditions which are the result of medically recognized diseases and defects.

(2) The department shall pay for speech therapy when the services are provided:

(a) By a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American Speech, Hearing and Language Association;

(b) By a person who completed the equivalent educational and work experience necessary for such a certificate; or

(c) In schools as described under WAC 388-86-022, by a person:

(i) Who has completed the academic program and is acquiring supervised work experience to qualify for a certificate of clinical competence from the American speech, hearing and language association; or

(ii) Trained and supervised by a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American speech, hearing and language association or a person who has completed the equivalent educational and work experience necessary for such a certificate.

(3) The department shall pay for the following speech therapy services in a calendar year when the health professional determines the services are medically appropriate:

(a) One medical diagnostic evaluation;

(b) Twelve speech therapy sessions;

(c) Twenty-four additional speech therapy sessions if the speech therapy service is for:

(i) Medically necessary conditions for developmentally delayed clients;

(ii) Cerebral Palsy;

(iii) Severe oral/motor problems:

(A) Dyspraxia;

(B) Cleft palate and/or cleft lip; or

(C) That interfere with adequate nutrition.

(iv) Meningomyelocele;

(v) Neurofibromatosis;

(vi) Downs Syndrome;

(vii) Traumatic head/brain injury (TBI);

(viii) Cerebral vascular accident (recent only) of dominant hemisphere; or

(ix) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing, but continues to require specialized outpatient therapy.

(d) Subject to department approval, additional speech therapy services regardless of diagnosis when such services are medically necessary.

(4) The department shall not pay for speech therapy when the speech therapy payment is part of the reimbursement for another treatment program including, but not limited to:

(a) Hospital inpatient diagnosis related group services; and

(b) Nursing facility services.

(5) The department shall pay for speech therapy provided to a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age and under and referred by a screening provider under the early and periodic screening, diagnosis and treatment program/healthy kids program; or

(ii) Receiving home health care services as described under WAC 388-86-045.

~~((e) Medically indigent program when receiving home health care services as described under WAC 388-86-045.))~~

(6) The department shall pay for speech therapy provided to a client receiving medical services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-500-0005 Medical definitions. Unless defined in this chapter or specifically defined in other chapters of the *Washington Administrative Code*, the department shall use definitions found in the *Webster's New World Dictionary*. This section contains definitions of words and phrases the department uses in rules for medical programs. Definitions of words used for both medical and financial programs are defined under WAC 388-22-030.

"Application" for eligibility for medical programs means a written request to the department of social and health services (DSHS) on a department form, from the applicant, an authorized representative, or if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant.

"Assignment Medicare" means the method by which the provider receives payment for services under Part B of Medicare.

"Assignment of rights" means the client gives the state the right to payment and support for medical care from a third party.

"Assistance unit" means a person or members of a family unit who are eligible for medical care.

"Authorization" means official approval for department action.

"Base period" means the time period used in the limited casualty program which corresponds with the months considered for eligibility.

"Beneficiary" means an eligible person who receives:

- * A federal cash Title XVI benefit; and/or
- * State supplement under Title XVI; or
- * Benefits under Title XVIII of the Social Security Act.

"Benefit period" means the time period used in determining whether Medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. The benefit period ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary may receive. Benefit period also means a "spell of illness" for Medicare payments.

"Cabulance" means a for-hire vehicle designed and used to transport a person confined to a wheelchair or persons otherwise physically restricted.

"Carrier" means an organization contracting with the federal government to process claims under Part B of Medicare.

"Categorical assistance unit (CAU)" means one or more family members whose eligibility for medical care is determined separately or together based on categorical relatedness.

"Categorically needy" means the status of a person who is eligible for medical care under Title XIX of the Social Security Act and is:

* A client receiving or eligible to receive cash assistance under:

- * Aid to families with dependent children (AFDC);
 - * Supplemental security income (SSI), including a grandfathered person and a person with an essential spouse;
 - * State supplement;
 - * Continuing state-funded cash assistance who is blind or disabled under SSI criteria, as described under WAC 388-511-1105; or
 - * Special categories.
- * A financially eligible person under twenty-one years of age who would be eligible for AFDC but does not qualify as a dependent child and who is in:

- * Foster care;
 - * Subsidized adoption;
 - * A nursing facility or intermediate care facility for mentally retarded; or
 - * An approved inpatient psychiatric facility.
- * A person who would be eligible for cash assistance except for the person's institutional status.
- * A person who is SSI categorically related and would not be eligible for cash assistance if the person was not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap.

* A qualified severely impaired disabled person under sixty-five years of age who works.

* A person during a temporary period who lost AFDC because of increased earnings, increased hours, loss of earned income disregards, or by receiving child or spousal support payments.

- * A pregnant woman;
- * Who meets AFDC financial eligibility standards;
- * Who would qualify for AFDC if the baby was already born;

* Whose family income does not exceed one hundred eighty-five percent of the federal poverty level; or

* Who was eligible for and receiving Medicaid while pregnant continues to be eligible through a sixty-day postpartum period that extends through the month that contains the sixtieth day after birth.

* An infant until the infant's first birthday when the infant lives with the mother and the mother was Medicaid eligible at the time the infant was born;

* An infant under one year of age whose family income does not exceed one hundred eighty-five percent of the federal poverty level;

* A child under six years of age or until the child is no longer an inpatient if the inpatient stay began before six years of age and whose family income does not exceed one hundred thirty-three percent of the federal poverty level.

* A child born after September 30, 1983, who has attained six years of age or until the child is no longer an inpatient if the inpatient stay began before eighteen years of age, but not attained eighteen years of age whose family income does not exceed one hundred percent of the federal poverty level.

* A child up to eighteen years of age or until the child is no longer an inpatient if the inpatient stay began before

eighteen years of age, born before September 30, 1983, with income allowed by AFDC.

* A certain widow, widower, and other qualified person who fails to meet SSI standards because of Social Security coverage or increase in Social Security coverage.

* A Medicare-eligible person whose income does not exceed one hundred percent of the federal poverty level and whose resources do not exceed twice the SSI resource eligibility level.

* A disabled working person entitled to enroll in Medicare Part A, whose income does not exceed two hundred percent of the federal poverty level and whose resources do not exceed twice the SSI resource eligibility level.

* An alien as defined under WAC 388-510-1020; or

* A person whose categorical eligibility is protected by statute.

"**Children's health program**" means a state-funded medical program for children under eighteen years of age:

* Whose family income does not exceed one hundred percent of the federal poverty level; and

* Who are not otherwise eligible under Title XIX of the Social Security Act.

"**Client**" means an applicant for or recipient of DSHS medical care programs.

"**Coinsurance-Medicare**" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which Medicare does not pay. Under Part A, coinsurance is a per day dollar amount. Under Part B, coinsurance is twenty percent of reasonable charges.

"**Community services office (CSO)**" means an office of the department which administers social and health services at the community level.

"**Copayment**" means a fixed dollar amount that is the responsibility of the client.

"**Couple**" means, for the purposes of an SSI-related client, an SSI-related client living with a person of the opposite sex and both presenting themselves to the community as husband and wife. The department shall consider the income and resources of such couple as if the couple were married.

"**Deductible-Medicare**" means an initial specified amount that is the responsibility of the client.

* "**Part A of Medicare-inpatient hospital deductible**" means an initial amount of the medical care cost in each benefit period which Medicare does not pay.

* "**Part B of Medicare-physician deductible**" means an initial amount of Medicare Part B covered expenses in each calendar year which Medicare does not pay.

"**Delayed certification**" means a department approval of a person's eligibility for medicaid made after the established application processing time limits.

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

"**Early and periodic screening, diagnosis and treatment (EPSDT)**" also known as the "healthy kids" program, means a program providing early and periodic screening, diagnosis and treatment to persons under twenty-one years of age who are eligible for Medicaid or the children's health program.

"**Electronic fund transfers**" means automatic bank deposits to a client's account.

"**Emergency medical condition**" means a medical condition (including labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

* Placing the patient's health in serious jeopardy;

* ((**Serious**)) Impairment to bodily functions; or

* ((**Serious**)) Dysfunction of any bodily organ or part.

"**Emergency medical expense requirement**" means a specified amount of expenses for ambulance, emergency room or inpatient hospital services, including physician services, incurred for an emergency medical condition((s)) that a client must incur prior to certification for the medically indigent program.

"**Essential spouse**" see "spouse."

"**Extended care patient**" means a recently hospitalized Medicare patient needing relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

"**Garnishment**" means withholding an amount from earned or unearned income to satisfy a debt or legal obligation.

"**Grandfathered client**" means:

* A noninstitutionalized person who meets all current requirements for Medicaid eligibility except the criteria for blindness or disability; and

* Was eligible for Medicaid in December 1973 as blind or disabled whether or not the person was receiving cash assistance in December 1973; and

* Continues to meet the criteria for blindness or disability and other conditions of eligibility used under the Medicaid plan in December 1973; and

* An institutionalized person who was eligible for Medicaid in December 1973 or any part of that month, as an inpatient of a medical institution or resident of an intermediate care facility that was participating in the ((**Medicare**)) Medicaid program and for each consecutive month after December 1973 who:

* Continues to meet the requirements for Medicaid eligibility that were in effect under the state's plan in December 1973 for institutionalized persons; and

* Remains institutionalized.

"**Health insuring organization (HIO)**" means an entity that arranges and pays for medical services provided to an eligible enrolled client in exchange for a premium or subscription charge paid by the department on a prepaid capitation risk basis.

"**Health maintenance organization (HMO)**" means an entity that provides comprehensive medical services directly to an eligible enrolled client in exchange for a premium paid by the department on a prepaid capitation risk basis.

"**Healthy kids,**" see "EPSDT."

"**Home health agency**" means an agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence.

"**Hospital**" means an institution licensed as a hospital by the official state licensing authority.

"**Income**" means, for an SSI-related client, the receipt by an individual of any property or service which the client can apply either directly, by sale, or conversion to meet the client's basic needs for food, clothing, and shelter.

* **"Earned income"** means gross wages for services rendered and/or net earnings from self-employment. Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.

* **"Unearned income"** means all other income.

"Institution" means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. This includes medical facilities, nursing facilities, and institutions for the mentally retarded, but does not include correctional institutions.

* **"Institution-public"** means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

* **"Institution for mental diseases"** means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases including medical attention, nursing care, and related services.

* **"Institution for the mentally retarded or a person with related conditions"** means an institution that:

* Is primarily for the diagnosis, treatment or rehabilitation of the mentally retarded or a person with related conditions; and

* Provides, in a protected residential setting, on-going care, twenty-four hour supervision, evaluation, and planning to help each person function at the greatest ability.

* **"Institution for tuberculosis"** means an institution for the diagnosis, treatment, and care of a person with tuberculosis.

* **"Medical institution"** means an institution:

* Organized to provide medical care, including nursing and convalescent care;

* With the necessary professional personnel, equipment and facilities to manage the health needs of the patient on a continuing basis in accordance with acceptable standards;

* Authorized under state law to provide medical care; and

* Staffed by professional personnel. Services include adequate physician and nursing care.

"Intermediary" means an organization having an agreement with the federal government to process Medicare claims under Part A.

"Legal dependent" means a person whom another person is required by law to support.

"Limited casualty program (LCP)" means a medical care program for medically needy as defined under WAC 388-503-0320 and for medically indigent as defined under WAC 388-503-0370.

"Medicaid" means the federal aid Title XIX program under which medical care is provided to:

* Categorically needy as defined in WAC 388-503-0310 and 388-503-1105; or

* Medically needy as defined in WAC 388-503-0320.

"Medical assistance" means the federal aid Title XIX program under which medical care is provided to the categorically needy as defined in WAC 388-503-0310 and 388-503-1105.

"Medical assistance administration (MAA)" means the unit within the department of social and health services

authorized to administer the Title XIX Medicaid and the state-funded medical care programs.

"Medical assistance unit (MAU)" means one or more family members whose eligibility for medical care is determined separately or together based on financial responsibility.

"Medical care services" means the limited scope of care financed by state funds and provided to general assistance (GAU) and ADATSA clients.

"Medical consultant" means a physician employed by the department.

"Medical facility" see **"Institution."**

"Medically indigent (MI)" means a state-funded medical program, part of the limited casualty program, for a person with limited income and resources who has an emergency medical condition requiring emergency room or inpatient hospital-based services.

"Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purpose of this section, "course of treatment" may include mere observation or, where appropriate, no treatment at all.

"Medically needy (MN)" is the status of a person who is eligible for a federally matched medical program under Title XIX of the Social Security Act, who, but for income and/or resources above the categorically needy level, would be eligible as categorically needy.

"Medicare" means the federal government health insurance program for certain aged or disabled clients under Titles II and XVIII of the Social Security Act. Medicare has two parts:

* **"Part A"** covers the Medicare inpatient hospital, post-hospital skilled nursing facility care, home health services, and hospice care.

* **"Part B"** is the supplementary medical insurance benefit (SMIB) covering the Medicare doctor's services, outpatient hospital care, outpatient physical therapy and speech pathology services, home health care, and other health services and supplies not covered under Part A of Medicare.

"Month of application" means the calendar month a person files the application for medical care unless the application is for the medically needy program, then, at the person's request and if the application is filed in the last ten days of that month, the month of application may be the following month.

"Nursing facility" means any institution or facility the department of health licenses as a nursing facility, or a nursing facility unit of a licensed hospital, that the:

* Department certifies; and

* Facility and the department agree the facility may provide skilled nursing facility care.

"Outpatient" means a nonhospitalized patient receiving care in a hospital outpatient or hospital emergency depart-

ment, or away from a hospital such as in a physician's office, the patient's own home, or a nursing facility.

"**Patient transportation**" means client transportation to and from covered medical services under the federal Medicaid and state medical care programs.

"**Physician**" means a doctor of medicine, osteopathy, or podiatry who is legally authorized to perform the functions of the profession by the state in which the services are performed.

"**Professional activity study (PAS)**" means a compilation of inpatient hospital data by diagnosis and age, conducted by the commission of professional and hospital activities, to determine the average length of hospital stay for patients. These data were published in a book entitled, *Length of Stay in PAS Hospitals, Western*. The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for clients of state-funded programs, or where no memorandum of understanding with a professional review organization (PRO) exists.

"**Professional review organization for Washington (PRO-W)**" means the state level organization responsible for determining whether health care activities:

- * Are medically necessary;
- * Meet professionally acceptable standards of health care; and
- * Are appropriately provided in an outpatient or institutional setting for beneficiaries of Medicare and clients of Medicaid and maternal and child health.

"**Prosthetic devices**" mean replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice as defined by state law to:

- * Artificially replace a missing portion of the body;
 - * Prevent or correct physical deformity or malfunction;
- or
- * Support a weak or deformed portion of the body.

"**Provider**" or "**provider of service**" means an institution, agency, or person:

- * Having a signed agreement with the department to furnish medical care and goods and/or services to clients; and

- * Eligible to receive payment from the department.

"**Resources**" mean, for an SSI-related client, cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

- * If an individual can reduce a liquid asset to cash, it is a resource.

- * If an individual cannot reduce an asset to cash, it is not considered an available resource.

* Liquid - Properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash in hand, stocks, savings, checking accounts, mutual fund shares, mortgage, promissory notes.

* Nonliquid - All other property both real and personal shall be evaluated according to the price the item can reasonably be expected to sell for on the open market in the particular geographical area involved.

"**Retroactivity**" means the period of no more than three calendar months before the application month of an otherwise eligible person under the Federal aid Title XIX program.

"**Spell of illness**" see "**benefit period.**"

"**Spenddown**" means the process by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the department.

"**Spouse**" means:

* "**Community spouse**" means a person living in the community and married to an institutionalized person or to a person receiving services from a home and community-based waived program.

* "**Eligible spouse**" means an aged, blind or disabled husband or wife of an SSI-eligible person with whom such spouse lives.

* "**Essential spouse**" means, for the purposes of SSI, a spouse whose needs were taken into account in determining the need of an old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) client for December 1973, who continues to live in the home and to be the spouse of such client.

* "**Ineligible spouse**" means the husband or wife of an SSI-eligible person, who lives with the SSI-eligible person and who has not applied or is not eligible to receive SSI.

* "**Institutionalized spouse**" means a married person in an institution or receiving services from a home or community-based waived program.

* "**Nonapplying spouse**" means the husband or wife, who has not applied for assistance, of an SSI-eligible person.

"**SSI-related**" means an aged, blind or disabled person.

"**State office or SO**" means the medical assistance administration of the department of social and health services.

"**Supplemental security income (SSI) program, Title XVI**" means the federal grant program for aged, blind, and disabled established by section 301 of the Social Security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

"**Supplementary payment (SSP)**" means the state money payment to persons receiving benefits under Title XVI, or who would, but for the person's income, be eligible for such benefits, as assistance based on need in supplementation of SSI benefits. This payment includes:

* "**Mandatory state supplement**" means the state money payment to a person who, for December 1973, was a client receiving cash assistance under the department's former programs of old age assistance, aid to the blind and disability assistance; and

* "**Optional state supplement**" means the elective state money payment to a person eligible for SSI benefits or who, except for the level of the person's income, would be eligible for SSI benefits.

"**Third party**" means any entity that is or may be liable to pay all or part of the medical cost of care of a federal Medicaid or state medical care client.

"**Title XIX**" is the portion of the federal Social Security Act that authorizes grants to states for medical assistance programs. Title XIX is also called Medicaid.

"**Transfer**" means any act or omission to act when title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or

relinquishing an interest in property. Transfer of title to a resource occurs by:

- * An intentional act or transfer; or
- * Failure to act to preserve title to the resource.

"**Value-fair market**" means, for SSI-related medical eligibility, the current value of a resource at the going price for which the resource can reasonably be expected to sell on the open market in the particular geographic area involved.

"**Value of compensation received**" means, for SSI-related medical eligibility, the gross amount paid or agreed to be paid by the purchaser.

"**Value-uncompensated**" means, for SSI-related medical eligibility, the fair market value of a resource minus the amount of compensation received in exchange for the resource.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-503-0370 Medically indigent eligible persons. ~~((For applications filed on or after July 1, 1991,))~~ The department shall determine a person eligible for the medically indigent program when the person:

(1) Has an emergency medical condition requiring hospital-based services.

(a) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in serious:

- (i) Jeopardy to the patient's health;
- (ii) Impairment to bodily functions; or
- (iii) Dysfunction of any bodily organ or part.

(b) For the purposes of this section, the department shall consider pregnancy and treatment under the Involuntary Treatment Act (ITA) as emergency medical conditions.

(2) Meets the financial eligibility, emergency medical expense and spenddown requirements under chapter 388-518 WAC; and

(3) Is not an inmate of a federal or state prison.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-519-1905 Base period. (1) Medically needy clients in their own homes shall have a choice of a three-month or a six-month base period which shall begin with the month of application. The department shall use a complete base period unless:

(a) A previous certification period overlaps; or

(b) The client is not resource eligible for the medically needy program for the full base period; or

(c) The client is not categorically related for the full base period; or

(d) The client becomes eligible for categorically needy Medicaid(-

~~(2) The department shall not certify a client for more than six months.~~

~~(3)); or~~

(e) The base period would extend beyond:

(i) December 31, 1995, for an AFDC-related caretaker adult medically needy client; or

(ii) June 30, 1996, for a medically indigent client.

(2) Effective July 1, 1995, the department shall consider the base period for a LCP-MI client:

(a) To be the three months beginning with the first month of emergency ambulance or emergency hospital-based services; and

(b) May begin up to three calendar months:

(i) Before the date of application; or

(ii) July 1, 1995, whichever is later.

(3) Subject to the limitation described under subsection (1)(e) of this section, the department shall not certify a client for more than:

(a) Six months for a medically needy client; or

(b) Three months for a medically indigent client. See WAC 388-518-1805 for LCP-MI program limitations.

(4) The department shall certify a client who is required to spenddown from the day the client meets the spenddown requirement through the last day of the chosen base period when the client has not incurred hospital expenses equal to the spenddown liability.

~~((4))~~ (5) The department shall certify a client who is required to spenddown from the first day of the base period when the client has incurred hospital expenses equal to the spenddown liability.

~~((5))~~ (6) When the client requests retroactive medical coverage at the time of application, the retroactive period shall begin three months before the application month unless exceptions in subsection (1)(a), (b), (c), or (d) of this section exist. The department shall certify a client with spenddown in retroactive period effective:

(a) The day the spenddown requirement was met through the last day of the retroactive period when the client has not incurred hospital expenses equal to the spenddown liability; or

(b) The first day of the retroactive period when the client has incurred hospital expenses equal to the spenddown liability.

~~((6))~~ (7) The department shall require an application for any subsequent period of eligibility for the medically needy program.

AMENDATORY SECTION (Amending Order 3828, filed 1/25/95, effective 2/25/95)

WAC 388-518-1805 LCP-MI eligibility. (1) The department shall not require as a condition of eligibility:

- (a) A person's citizenship;
- (b) Social Security number; and
- (c) Residency.

(2) A person shall not be eligible for LCP-MI when the person:

(a) Is eligible for medical care from another state; or

(b) Enters Washington state specifically for the purpose of obtaining medical care.

(3) A person receiving LCP-MI shall meet the following eligibility criteria:

(a) The person is not:

- (i) Receiving continuing cash assistance; or
- (ii) Eligible for any other medical program.

(b) The person must have an emergency medical condition as defined in WAC 388-500-0005; and

(c) For a pregnant woman, the department shall increase the number in the household by the number of unborn before comparing the pregnant woman's income to the:

- (i) Income requirements of WAC 388-518-1850(1); and
- (ii) Resource requirements of WAC 388-518-1850(2).

(4) For a client applying for LCP-MI on or after July 1, 1995, the department shall:

(a) Limit the client to three months of LCP-MI eligibility during the period of July 1, 1995 through June 30, 1996; and

(b) Not consider the months of a certification period beginning prior to July 1, 1995 as counting toward the program limitations described under subsection (4)(a) of this section.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-518-1810 LCP-MI emergency medical expense requirement (EMER). (1) The client shall satisfy the EMER as described in this section.

(2) The department shall require documentation of emergency medical expenses of ~~((one))~~ two thousand ~~((five hundred))~~ dollars per family over a twelve-month period.

(3) Only family members meeting the eligibility requirements in WAC 388-518-1805, 388-518-1820, 388-518-1830 and 388-518-1850 can accumulate expenses against the EMER.

(4) For a client applying for services received on or before June 30, 1995, the department shall allow the accumulation of emergency medical expenses to begin up to seven working days before the application date. The department may waive the seven-day rule if a person fails to apply for medical reasons or other good cause.

(5) The department shall ~~((ensure))~~ consider only the following emergency medical services ~~((, including the usual and customary amounts charged for inpatient and outpatient hospital services, count))~~ toward the EMER:

(a) Emergency ground or aid ambulance;

(b) Emergency inpatient hospitalization and related physician services; and

(c) Hospital emergency room services and related physician services.

(6) Other than expenses qualifying as hospital charity care under RCW 70.170.060, the emergency medical expense requirement and spenddown are the liability of the client.

(7) If the client does not satisfy the EMER during the three-month base period ~~((beginning with the month of application))~~, the department shall apply the incurred amount to any subsequent applications within twelve months of the initial application.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-518-1840 LCP-MI spenddown. (1) The department shall ensure all countable income above the MNIL described under WAC 388-507-0710 and nonexempted resources above the ~~((MNIL and))~~ resource levels described ~~((in WAC 388-507-0710 and))~~ under 388-507-0720 ~~((shall))~~ apply toward spenddown.

(2) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from excess countable income as described in WAC 388-519-1930. These expenses cannot have been used toward a previous spenddown, deductible, or emergency medical expense requirement.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-521-2140 Effective date for the medically indigent program. (1) The department shall ensure the effective date of eligibility is the date the client meets spenddown, if any, and the emergency medical expense requirement.

(2) The department shall pay for emergency medical care ~~((the client received in the seven working days before the application date))~~ as described under WAC 388-529-2950 when:

(a) The condition was an emergency medical condition requiring hospital-based care; and

(b) The person was otherwise eligible.

(3) The department shall determine the certification ~~((date))~~ period does not exceed three calendar months ~~((beginning with the month of application.~~

~~((4) A verified pregnant client may apply and be certified for separate three-month periods through the duration of the pregnancy. The three-month limitation in subsection (3) of this section may extend up to six weeks after delivery to cover the postpartum care, which includes routine care for the newborn. Beyond this period of time, the department shall determine eligibility for the mother or newborn separately.~~

~~((5) The department may waive the seven-day rule in subsection (2) of this section if a person fails to apply for medical reasons or other good cause.))~~

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-529-2950 Scope of care—Medically indigent. (1) The department shall provide coverage under the limited casualty program—medically indigent to an eligible person for treatment of emergency medical conditions requiring hospital-based care only. Services available are limited to:

~~((a) ((Rural health clinic services))~~ Medically necessary emergency air or ground ambulance; and

~~((b) ((Physical medicine and rehabilitation services;~~

~~((c) Physician and clinic services;~~

~~((d) Prescribed drugs;~~

~~((e) Dentures;~~

~~((f) Prosthetic devices;~~

~~((g) Eyeglasses;~~

~~((h) Nursing facilities, and intermediate care facilities for the mentally retarded;~~

~~((i) Home health services;~~

~~((j) Laboratory and x-ray services;~~

~~((k) Podiatric services; and~~

~~((l) Medically necessary transportation))~~ Physician services related to hospital emergency room services and emergency inpatient hospitalization.

(2) The department shall not pay for covered services until the client has medical expenses equal to the total of the emergency medical expense requirement of ~~((one))~~ two thousand ~~((five hundred))~~ dollars and the spenddown, if any.

(3) The emergency medical expense requirement in WAC 388-518-1850 does not apply for treatment under the Involuntary Treatment Act (ITA). When any other medical need is identified for clients undergoing treatment under the ITA, the department shall apply the emergency medical expense requirement to the services other than ITA.

~~(4) ((When a client indicates that an urgent undefined medical illness exists, the department shall:~~

~~(a) Regard the condition as an emergency medical condition;~~

~~(b) Allow one office visit for diagnosis, provided all financial eligibility criteria are met; and~~

~~(c) Allow treatment only when the condition meets the criteria for an emergency medical condition.~~

~~(5))~~ For other conditions and limitations under which the department may provide these services, refer to appropriate service in chapter 388-86 WAC.

~~((6))~~ (5) The department shall not provide a client out-of-state care except in the designated bordering cities.

**WSR 95-15-001
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)
[Filed July 5, 1995, 2:00 p.m.]

Original Notice.

Title of Rule: New chapter 388-300 WAC, Job opportunities and basic skills training (JOBS) program, and repealing chapter 388-47 WAC, Job opportunities and basic skills training (JOBS) program.

Purpose: Authorizes a mandatory JOBS program and assigns clients to the four pathways of service delivery. Renumbers and revises rules for JOBS program. Incorporates the employment partnership program as specified under chapter 74.25A RCW.

Statutory Authority for Adoption: Chapter 74.25A RCW and RCW 74.08.090.

Statute Being Implemented: Chapter 74.25A RCW and RCW 74.08.090.

Summary: Implements a mandatory JOBS program to assist in meeting the federal participation requirements and implements the pathway service delivery model to maximize resources.

Reasons Supporting Proposal: Authorizes a mandatory JOBS program and assigns clients to the four pathways of service delivery. Provides flexibility in selecting JOBS program service providers. Conforms the state law under chapter 74.25A RCW. Proposes changes in criteria for approving JOBS components, the waiting list process, funding priorities, and clarifies appeal rights.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sue Langley, Division of Economic and Social Services, 438-8281.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This rule does not require participation by businesses and employers. For those who do participate, the usual costs that employers incur as a result of hiring workers would still apply.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on September 5, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by August 22, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by August 29, 1995.

Date of Intended Adoption: September 6, 1995.

July 5, 1995

Jeanette Sevedge-App

Acting Chief

Office of Vendor Services

Reviser's note: The material contained in this filing will appear in the 95-16 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

**WSR 95-15-023
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)
[Filed July 10, 1995, 3:45 p.m.]

Original Notice.

Title of Rule: Repealing WAC 388-86-009 Voluntary prepaid health plans and 388-86-00902 Mandatory prepaid health care plans; and amending chapter 388-538 WAC, Managed care.

Purpose: Adds language to the managed care rules allowing supplemental security income clients to be enrolled into the Medical Assistance Administration's healthy options managed care program. Changes the exemption criteria to not exclude the disabled population.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Amends managed care rules to implement the inclusion of eligible SSI clients into managed care by adding another managed care model for payment. This new type is a hybrid of PCCM and a plan.

Reasons Supporting Proposal: Amends the reasons a person may be exempted from enrollment in the state's managed care program. Implement supplemental security

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income (SSI) eligible clients into the managed care program as stated in ESHB 1410.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bobbe Andersen, Medical Assistance Administration, 753-0529.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? Yes. A copy of the statement may be obtained by writing to: Jeanette Sevedge-App, Acting Chief, Office of Vendor Services, Mailstop 45811, 14th Avenue and Jefferson Street, Olympia, WA 98504, phone (206) 902-7536, or FAX (206) 586-8487.

EVALUATING THE IMPACT ON SMALL BUSINESSES OF CHANGING MEDICAL ASSISTANCE MANAGED CARE WAC

Summary of Rule Change: The changes in the managed care WAC chapter are to:

(1) Give more precise definitions of the terms used in the managed care program.

(2) Give more specific reasons for allowing a person not to enroll in a managed care plan. Extends the time period that a homeless person may choose not to enroll in the managed care program.

(3) Add a reimbursement model for implementation of managed care for the Supplemental Security Income (SSI) medical assistance population.

(4) Adds notice language.

(5) Adds that the Medicare client may not be enrolled in the department's managed care program.

(6) Repeals obsolete WAC 388-86-009 and 388-86-00902.

(7) Corrects references to obsolete WAC.

(8) Reformats the sections for easier reading and clarity.

What the Change will do: The department has chosen to incorporate into WAC contractual agreements between the department and the plans/PCCM. These changes will add language to reflect the administrative intent of the department's managed care program and to establish rules to allow to transition Supplemental Security Income (SSI) clients into healthy options managed care. Any effect of changes have already been negotiated by contract.

The majority of the changes in the managed care WAC chapter are editorial changes for consistency and easier reading.

The changes in WAC 388-538-080 clarifies and will reduce the number of exemptions and allow clients with serious medical needs to receive medical care in the managed care program. These changes may impact where the client will receive services.

Changes in WAC 388-538-080, incorporating specific notification requirements will compel the department to engage in a detailed notification process. The economic impact will rest fully on the department for this process.

Changes in WAC 388-538-090, 388-538-095, 388-538-100, and 388-538-120 should have no impact on small businesses.

Affected Business: Providers enrolled as Medicaid providers, who may be affected by managed care and who are likely small businesses: 8011 Physicians (M.D.), including specialists; offices and clinics of: 8031 Physicians, osteopathic; offices and clinics: 5912 Pharmaceutical -retail: 8051, 8052, 8059, 7352, 7629, 7699, and 5047 Medical equipment suppliers: 8041 Chiropractors: 8042 Optometrists: 8043 Podiatrists.

Analysis: Statewide the Medical Assistance Administration (MAA) is projecting the SSI population to be served in managed care to be approximately 65,000 clients. All of these clients are presently receiving medical care.

As of 1994, MAA has 13,840 providers serving approximately 592,000 clients. Many of these providers will continue to serve clients as they presently do.

Included in the 13,840 are dentists, opticians, ambulance, maternity support, hearing aid suppliers, and oxygen suppliers. These providers will not be affected by these WAC changes. Dentists, ambulance, maternity support, hearing aid supplies, oxygen supplies, and eyeglasses are services for which the department does not include in the managed care contracts.

The state has 1,500 licensed psychologists. MAA has contracts with only 64. This represents less than 5% of the total psychologists in the state.

The state has 2,364 lab facilities licensed in the state of Washington. MAA contracts with only 104. This represents less than 5% of the labs in the state.

Hospitals are also included in the 13,840. There is only one hospital in the state of Washington that has a contract with the department that shows 49 FTEs. This hospital does hire more than 50 persons, however, some are part time. On an annual basis this hospital would have more than 50 persons in employment. On the basis that hospitals have 50 employees or more, they are not considered small businesses.

MAA contracts with 35% of the physicians in the state. Many of these are enrolled with managed care plans or have contracted with the state to be primary care case managers.

For the providers contracted in the managed care program, the department pays the regular fee plus a management fee for each SSI client enrolled in managed care. For the providers who have a contract with managed care, this WAC change would have a favorable impact.

Medical equipment suppliers are not licensed in this state and there is no direct means to verify the number of such suppliers in the state. However, MAA most likely contracts with more than 10% of the medical equipment suppliers. Under the SSI managed care model, some those suppliers may be adversely economically impacted if they are not suppliers under health plans with which MAA contracts for managed care. It is unknown how the health plans will select the types and numbers of medical equipment suppliers under the department's managed care initiative. Other medical equipment suppliers will be positively economically impacted because they were successful in negotiating a relationship with one or more managed care plans.

The same is true for podiatrists and the other medical assistance providers.

Conclusion: Medical Assistance Administration reimburses only health care providers who choose to provide services to low income clients. For the providers who have a contract with managed care, this WAC change would have a favorable impact.

For the providers who are excluded from contracting in the managed care program either by choice or are unable to be contracted the impact is unknown.

To shift the SSI Medicaid population to managed care from a fee for service only method of providing medical care is a legislative decision. This method of providing services to Medicaid clients will be implemented. Any changes or alternatives to this implementation in an attempt to reduce the economic impact upon small businesses would not be feasible in meeting the stated objective of the statute which is the basis of the proposed rule.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on August 22, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by August 8, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by August 15, 1995.

Date of Intended Adoption: August 23, 1995.

July 10, 1995

Jeanette Sevedge-App
Acting Chief

Office of Vendor Services

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-86-009 Voluntary prepaid health plans.
- WAC 388-86-00902 Mandatory prepaid health care plans.

AMENDATORY SECTION (Amending Order 3621, filed 8/11/93, effective 9/11/93)

WAC 388-538-050 Definitions. For the purpose of this chapter:

~~(1) ("Coordinated care" means a comprehensive system of medical and health care delivery including preventative, primary, specialty, and ancillary services. Coordinated care involves having clients enrolled with or assigned to a primary care provider, in a plan or with an independent provider, responsible for arranging or delivering all contracted medical care.~~

~~(2) "Enrolled client" means a client eligible for Medicaid and receiving services from a health care plan or primary care case management provider who has a contract with the department.~~

~~(3)) "Emergency services" shall mean medical or other health services which are rendered for a medical condition~~

(including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (a) Placing the patient's health in serious jeopardy;
- (b) Serious impairment to bodily functions; or
- (c) Serious dysfunction of any bodily organ or part.

~~((4))~~ (2) "Enrolled client" means a client eligible for Medicaid and receiving services from a health care plan or primary care case management provider who has a contract with the department.

(3) "Health care plan" or "plan" means an organization contracting with the department ~~((, offering a health care plan that provides and/or pays))~~ to provide managed care to the client by providing and/or paying for medical services ~~((provided))~~ covered by the department to an eligible enrolled client in exchange for a ~~((department prepaid monthly fee))~~ contracted rate or management fee. ~~((A health care plan shall be referred to in this chapter as "a plan."))~~

(4) "Managed care" means a comprehensive system of medical and health care delivery including preventative, primary, specialty, and ancillary services. Managed care involves having clients enrolled:

- (a) With or assigned to a primary care provider;
- (b) With or assigned to a plan; or
- (c) With an independent provider, who is responsible for arranging or delivering all contracted medical care.

(5) "Persons with special health care needs" means persons having ongoing health conditions that:

- (a) Have a biologic, psychologic, or cognitive basis;
- (b) Have lasted or are virtually certain to last for at least one year; and

(c) Produce one or more of the following sequelae:

- (i) Significant limitation in areas of physical, cognitive, or emotional function;
- (ii) Dependency on medical or assistive devices to minimize limitation of function or activities;
- (iii) In addition for children:
 - (A) Significant limitation in social growth or developmental function;
 - (B) Need for psychological, educational, medical or related services over and above the usual for the child's age; or

(C) Special ongoing treatments such as medications, special diets, interventions or accommodations at home or at school.

(6) "Primary care provider (PCP)" means a provider who has responsibility for supervising, coordinating, and providing initial and primary care to clients, initiating referrals for specialist care, and maintaining the continuity of patient care. A primary care provider shall be either:

- (a) A physician, who meets the criteria under WAC 388-87-007;
- (b) An advanced registered nurse practitioner (ARNP), who meets the criteria under WAC 388-87-007; or
- (c) A licensed physician assistant((s)).

(7) "Primary care case management (PCCM)" means a model of health care where a physician, ARNP, physician assistant, community/migrant health center, health department, or clinic agrees to provide primary health care services and to arrange and coordinate other preventative, specialty, and ancillary health care in exchange for a ~~((monthly case~~

PROPOSED

~~management fee~~) contracted payment for each client managed. (~~Primary care case management shall be referred to in this section as "PCCM."~~)

(8) "Timely provision of services" means a client has the right to receive medically necessary health care without unreasonable delay.

AMENDATORY SECTION (Amending Order 3621, filed 8/11/93, effective 9/11/93)

WAC 388-538-060 Eligible client. (1) The department shall require a client, eligible for certain designated medical program categories, to enroll in ~~((a plan or under PCCM))~~ managed care when the client resides in the contracted managed care service area ~~((of a plan or PCCM))~~, except as provided in WAC 388-538-080.

(2) The department shall assign a client to a plan or a PCCM provider when the client does not choose a plan or PCCM.

(3) The department shall not enroll Medicare beneficiaries in managed care.

AMENDATORY SECTION (Amending Order 3621, filed 8/11/93, effective 9/11/93)

WAC 388-538-070 Managed care payment. The department shall pay ~~((a))~~ for managed care as follows:

(1) Under a capitated system, a set rate to a plan for contracted health care provided to the client; ~~((and))~~

(2) Under a PCCM model in which the contract is between the department and the health care provider, a monthly management fee ~~((under PCCM))~~ in addition to a fee for covered services provided to the client;

(3) Under a PCCM model in which the contract is between the department and a plan, a monthly management fee to the plan to be divided between the plan and the primary care provider, in addition to a fee to the health care provider for covered services provided to the client.

AMENDATORY SECTION (Amending Order 3621, filed 8/11/93, effective 9/11/93)

WAC 388-538-080 Managed care exemptions. (1) The department shall not require a client to enroll ~~((or to continue enrollment in a contracted plan or PCCM))~~ in managed care when:

(a) Disruption of care in an established treatment plan with a health care provider, who is not in managed care, would adversely affect the client's health status; or

(b) Medically necessary care is not reasonably available and accessible ~~((to the client))~~ under ~~((any of the plans))~~ managed care offered ~~((~~

~~((2))~~ In making the exemption determination, ~~((to the client.~~ The department shall consider medically necessary ~~((services))~~ care not reasonably available and accessible when:

~~((a))~~ (i) The limited English-speaking or hearing-impaired client can communicate in the client's primary language with a health provider not participating in a plan or under PCCM;

~~((b))~~ The nature of the client's health care needs is specialized and/or complex, such that available plans or PCCM are unable to adequately meet those needs, including

but not limited to persons with special health care needs as defined in WAC 388-538-050;

~~((e))~~ (ii) The distance is over twenty-five miles one-way, travel time greater than forty-five minutes one-way, or other transportation difficulties make it unreasonably difficult for a client to obtain primary medical care ~~((from a plan or))~~ under ~~((PCCM))~~ managed care;

~~((d))~~ (iii) The client is homeless or is expected to reside in temporary housing or a shelter for less than ~~((sixty))~~ one hundred and twenty days from date the client requests the exemption;

~~((e))~~ The client's treating provider is not a member of a plan, or a PCCM provider and the treating provider has determined that the established treatment plan or plan of care is essential to the client's physical or mental health; or

~~((f))~~ (iv) Before enrollment, a pregnant woman has started prenatal care with an obstetrical provider who is not ~~((a member of a plan or))~~ available under ~~((PCCM. (3))~~ managed care;

(v) The client is a member of a federally recognized tribe, Indian nation, or Alaskan native and resides in an area where the department has not contracted with Indian clinics/facilities; or

(vi) The client's circumstances, as evaluated by the department on a case-by-case basis, supports the client's claim that medically necessary care is not reasonably available and accessible under managed care, as offered to the client.

(2) A client requesting an exemption from enrolling in ~~((a plan or under PCCM))~~ managed care shall make a request to the department. The department shall timely notify the client of the exemption decision and the reasons therefor before enrolling the client in managed care. If the department denies the request for exemption, the department shall provide notice containing the following information before enrolling the client in managed care:

(a) Action the department intends to take;

(b) Reasons for the intended action;

(c) The specific rule or regulation supporting the action;

(d) Client's right to request a fair hearing, including the circumstances under which the fee-for-service status is continuing, if a hearing is requested; and

(e) Full translation into the primary language of the limited English proficient recipient.

The client shall remain exempted until a decision is made on the exemption request by the department. The client may request a fair hearing when the client is not satisfied with the department's decision as described under WAC ~~((388-81-040))~~ 388-526-2610.

(3) If an exemption is authorized as a result of a time-limited circumstance, the department may limit the time period for which the exemption is granted to the period of time that the circumstance is expected to continue.

(4) The department may offer a client who qualifies for an exemption the option to participate in PCCM with a contracted PCCM provider of the client's choice.

AMENDATORY SECTION (Amending Order 3621, filed 8/11/93, effective 9/11/93)

WAC 388-538-090 Client's choice of primary care provider. (1) Each client enrolled in managed care shall have a primary care provider (PCP).

(2) A client shall have an opportunity to choose a PCP from available providers.

(3) A plan shall assign a client to a PCP when the client enrolls in a plan and does not choose PCP in the plan.

(4) A client in ~~((a-plan))~~ managed care shall have the right to change a PCP:

(a) One time during a twelve-month period for any reason; and

(b) For subsequent changes during the twelve-month period, only for documented good cause. If the client is enrolled in managed care with a plan, the client shall notify ~~((a))~~ the plan of the ~~((+))~~

~~((+))~~ desired change including the name of the new PCP~~((+))~~, and ~~((+))~~ the reason for the desired change. If the client is enrolled in a PCCM which does not involve a plan, then the client shall notify the department of the desired change, including the name of the new PCP, and the reason for the desired change.

(5) ~~((A client enrolled with a PCCM shall have the right to change PCCM for any reason))~~ A client whose request to change PCP is denied may submit a grievance with the plan under WAC 388-538-110 or, if the decision was made by the department, may request a fair hearing under WAC 388-526-2610.

AMENDATORY SECTION (Amending Order 3621, filed 8/11/93, effective 9/11/93)

WAC 388-538-095 Medical services. The department shall pay separately, on a fee-for-service basis, only for medical services covered under the department's medical care programs that a managed care contract does not cover. ~~((Such services include transportation as described under WAC 388-86-085.))~~

AMENDATORY SECTION (Amending Order 3826, filed 1/24/95, effective 2/1/95)

WAC 388-538-100 Managed care emergency services. (1) The department shall exempt emergencies and emergency transportation services from routine medical care authorization procedures of ~~((a-plan or under primary care case management (PCCM)))~~ managed care.

(2) A client shall not be responsible for determining if an emergency exists or for the cost of such determination. For nonemergency conditions, hospital reimbursement for PCCM under WAC 388-87-072(4) shall be limited to a medical evaluation fee as established by the department.

(3) In a medical emergency, the client shall not be financially responsible for covered managed care services provided.

(4) When an emergency does not exist, and the client's ~~((plan primary care provider (-)))~~PCP~~((+))~~ does not authorize services, the client shall be financially responsible for further services received only when the client is informed and agrees, in writing, to the responsibility before receiving the services as described under WAC 388-87-010.

AMENDATORY SECTION (Amending Order 3701, filed 1/26/94, effective 2/26/94)

WAC 388-538-110 Client grievances. (1) A client aggrieved by a decision of a ~~((plan, PCCM,))~~ managed care contractor or the department shall have the right to a fair hearing as required under WAC 388-81-040.

(2) A client enrolled in a plan ~~((shall))~~:

(a) Shall exhaust a plan's grievance procedure before requesting a fair hearing, except as provided in subsection ~~((3)(b) and))~~ (2)(c) of this section; ~~((and))~~

(b) Shall receive a written decision ~~((from the plan stating the basis for the grievance decision))~~ containing the following information:

(i) Action the plan intends to take;

(ii) Reasons for the intended action;

(iii) The specific information supporting the action;

(iv) Client's right to request a fair hearing;

(v) Full translation into the primary language of the limited English proficient recipient.

~~((3))~~ A client (c) May request a fair hearing ~~((+))~~

when a:

(i) Grievance decision is adverse;

~~((b))~~ If a (ii) Plan does not respond in writing within thirty days from the date the client requests the grievance ~~((+))~~

~~((e))~~ (3) The client may request a fair hearing at the same time a grievance is filed when the plan denies medical care that a client feels is urgently needed medical care ~~((+))~~ and the client ~~((concurrently))~~ requests a grievance in writing.

(4) The ~~((plan or PCCM))~~ managed care contractor shall advise a client of the client's right to request a fair hearing at the time the ~~((plan or PCCM))~~ contractor notifies the client of the grievance decision.

AMENDATORY SECTION (Amending Order 3621, filed 8/11/93, effective 9/11/93)

WAC 388-538-120 Client request for a second medical opinion. (1) The client enrolled in ~~((a-plan))~~ managed care shall have the right to a second opinion by another physician or specialist ~~((participating in the client's assigned plan))~~:

(a) When the client needs more information as to the medical necessity of medical treatment recommended by the PCP; or

(b) If the client believes the PCP is not authorizing medically necessary care.

(2) If the client is enrolled in a plan, the second opinion physician or specialist shall be a participating provider in the plan. If the client is enrolled with a PCCM, which does not involve a plan, the client shall have the right to a second opinion by another provider or specialist ~~((the same as in (1)(a) or (b) of this section))~~, who is a medical assistance provider.

(3) When medically necessary, the client shall be promptly referred to:

(a) Another participating physician or specialist of a plan, when enrolled in a plan; or

(b) Another provider or specialist when enrolled under PCCM, which does not involve a plan.

AMENDATORY SECTION (Amending Order 3621, filed 8/11/93, effective 9/11/93)

WAC 388-538-130 Enrollment termination and disenrollments. (1) The department may terminate enrollment of a client in managed care when a:

~~((1))~~ (a) Client loses eligibility for a medical eligibility category which requires enrollment;

~~((2))~~ (b) Client requests and ~~((medical assistance administration (MAA)))~~ the department approves disenrollment under the ~~((same considerations as))~~ conditions for granting exemptions under WAC 388-538-080; ~~((or))~~

(c) Client is a member of a federally recognized tribe, Indian nation, or Alaskan native, and the client requests disenrollment; or

(d) Client is a Medicare beneficiary.

(2) When a client requests disenrollment under subsection (1)(b) of this section, the client shall remain enrolled in managed care until the decision is made on the disenrollment request unless continuing in managed care pending the decision would adversely affect the client's health status.

(3) ~~((Plan or PCCM))~~ Managed care contractors may request ~~((s in writing to MAA disenrollment of the client and:~~

~~((a) A plan or PCCM establishes that the client's behavior is:~~

~~((i))~~ a client be disenrolled if the managed care contractor establishes, in writing, to the department's satisfaction that:

(a) The client's behavior is inconsistent with ~~((a plan's or PCCM's))~~ the managed care contractor's rules and regulations, such as intentional misconduct; ~~((or~~

~~((i))~~ (b) The behavior is such that it has become medically infeasible to safely or prudently provide medical care; and

~~((b) MAA approves a plan's or PCCM's request:~~

~~((i))~~ (c) The managed care contractor has offered to the client, in writing, the opportunity to utilize the grievance procedure described in WAC 388-538-110, unless the client's conduct presents the threat of imminent harm to others.

(4) When a managed care contractor makes a request to disenroll a client as described in subsection (3) of this section, the client shall not be disenrolled until the department approves the contractor's request. The department shall make a decision on the request within ~~((fifteen))~~ thirty days from the day of receipt of the request ~~((and~~

~~((ii) Notifies))~~ after contacting the client, if possible, to learn the client's perspective. The department shall notify the client ten days in advance of the effective date of disenrollment.

(5) Managed care contractors shall not request disenrollment of a client solely due to an adverse change in the client's health or the cost of meeting the client's health care needs.

AMENDATORY SECTION (Amending Order 3621, filed 8/11/93, effective 9/11/93)

WAC 388-538-140 Quality of care. The department shall require:

(1) A plan to appoint a medical director or designee who:

(a) Shall be responsible for the plan's quality assurance program and shall review all plan grievances; and

(b) Furnishes MAA with a copy of all grievances and a plan's response to such grievances.

(2) A PCCM not involving a plan to provide adequate documentation for quality assurance review.

(3) A plan or PCCM to have in place a method to assure consideration of the unique needs of persons with special health care needs as defined in WAC 388-538-050 and to assist with:

(a) Early identification of persons with special health care needs;

(b) Timely access to health care; and

(c) Coordination of health service delivery and community linkages.

(4) The department shall conduct outreach of various types to accommodate the unique communication needs of some members of the populations served.

(5) The department shall ensure that clients are given the most important relevant information and a variety of ways to enroll or request exemptions and disenrollments.

(6) The plan or PCCM shall make reasonable and appropriate accommodations as required under the Americans with Disabilities Act (ADA) for clients who have a mental, physical, or sensory impairment or another limitation which affects the clients' abilities to understand written notices and/or other types of communications.

AMENDATORY SECTION (Amending Order 3621, filed 8/11/93, effective 9/11/93)

WAC 388-538-150 Managed care medical audit. (1) At least once a year, the department shall conduct a medical audit of ~~((a plan or PCCM))~~ managed care contractors to ensure the quality and accessibility of health care services provided or arranged by ~~((a plan or PCCM))~~ the contractors for enrolled clients.

(2) ~~((A plan or PCCM))~~ Managed care contractors shall permit such medical audit.

(3) The department may conduct or contract independently for such medical audit.

WSR 95-15-029
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed July 11, 1995, 10:45 a.m.]

Original Notice.

Title of Rule: WAC 392-122-900 General provision—Carryover prohibition.

Purpose: To amend the above rule to allow school districts to carryover up to 10% of learning assistance program funds from one school year to another.

Statutory Authority for Adoption: Section 519 of ESHB 1410.PL.

Summary: Revising WAC 392-122-900 General provision—Carryover prohibition.

Reasons Supporting Proposal: Section 519 of ESHB 1410.PL provided for annual carryover of up to 10% of learning assistance program funds.

Name of Agency Personnel Responsible for Richard M. Wilson, Superintendent of Public Instruction, Olympia, 753-2298; Implementation: Mary E. Beach, Superintendent of Public Instruction, Olympia, 753-3220; and Enforcement: John Pearson, Superintendent of Public Instruction, Olympia, 753-1545.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above.

Proposal Changes the Following Existing Rules: Current rules do not allow for the carryover of learning assistance program funds from one fiscal year to the next. Proposed change will allow school districts carryover up to 10% of their learning assistance program budget amounts. This is in accord with changes provided in section 519 of ESHB 1410.PL.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The rule will have a minor or negligible economic impact.

Hearing Location: Brouillet Conference Room, 4th Floor, Old Capitol Building, 600 South Washington Street, Olympia, WA 98504-7200, on August 24, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by August 10, 1995, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504, FAX (360) 753-4201, by August 23, 1995.

Date of Intended Adoption: August 25, 1995.

July 7, 1995
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 92-08, filed 9/21/92, effective 10/22/92)

WAC 392-122-900 General provision—Carryover prohibition. Categorical apportionment moneys shall not be carried over by a school district from one school district fiscal year to another, except for learning assistance program moneys as provided in subsection (4) of this section.

(1) The superintendent of public instruction shall recover categorical program allocations made pursuant to this chapter which are not expended by the school district during the school year for allowable program costs:

(a) Moneys recovered at the end of the school year beginning during the first year of each biennium shall be available for reallocation by the superintendent of public instruction.

(b) Moneys recovered at the end of the school year beginning during the second year of each biennium shall revert to the state treasurer: *Provided*, That if prior to recovery, insufficient moneys are available to fully fund those programs operating in the second year of the biennium, any moneys recovered shall first be allocated to fully fund these programs.

(2) Except as provided in subsection (3) of this section, the amount recovered pursuant to subsection (1) of this section shall be determined as follows:

(a) Determine the state allocation for the categorical program;

(b) Determine the district's expenditures for the program including indirect expenditures and abatements deemed allowable by the superintendent of public instruction as reported on Year-End Financial Statement F-196, Part III or such other document filed by the district pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference shall be recovered.

(3) The amount recovered pursuant to subsection (1) of this section for the institutional education program for the 1992-93 school year and thereafter shall be determined as follows:

(a) Determine the state allocation for the institutional education program excluding any amount provided for indirect costs;

(b) Determine the district's direct expenditures for the institutional education program as reported on Year-End Financial Statement F-196 or such other document filed by the district pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference shall be recovered.

(4) Notwithstanding other provisions of this section to the contrary, a school district may carry over from one school district fiscal year to the next up to ten percent of the preceding fiscal year's learning assistance program state allocation. Carryover moneys shall be expended solely for learning assistance program purposes.

**WSR 95-15-035
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)
[Filed July 12, 1995, 3:24 p.m.]

Original Notice.

Title of Rule: WAC 388-515-1530 Coordinated community AIDS services alternatives (CASA) program.

Purpose: This proposed amendment changes the maintenance needs allowance for CASA clients to the special income level (SIL) which is 300% of the SSI payment amount. This change is necessary to comply with the original waiver.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Inform department staff of the correct maintenance needs allowance for CASA clients by rule.

Reasons Supporting Proposal: This proposed amendment is to change the maintenance needs allowance for CASA clients to the special income level (SIL) which is 300% of the SSI payment level. This change is necessary to comply with the original waiver.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This proposed amendment does not regulate or have an economic impact on any business. This rule informs only department staff and has a positive client impact.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on August 22, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by August 8, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by August 15, 1995.

Date of Intended Adoption: August 23, 1995.

July 12, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-515-1530 Coordinated community AIDS services alternatives (CASA) program. (1) The department shall determine ~~((an eligible))~~ that a person is eligible for CASA ~~((is a))~~ if the person:

(a) ~~((Meeting))~~ Meets the categorically needy eligibility requirements for an SSI-related institutionalized person. For the purposes of CASA, the department shall consider a person institutionalized the date the person meets eligibility criteria, except institutionalized status;

(b) ~~((Having))~~ Has a diagnosis of:

(i) Acquired immune deficiency syndrome or disabling Class IV human immunodeficiency virus disease; or

(ii) P2 HIV/AIDS diagnosis, if fourteen years of age or under.

(c) Is determined medically at risk of need for the level of hospital-provided care;

(d) Is certified by the person's physician or nurse practitioner as in the terminal state of life;

(e) ~~((Agreeing))~~ Agrees to receive services in the person's own home, a licensed congregate care facility, or adult family home; ~~((and))~~

(f) ~~((Having))~~ Has a plan of care approved by the department and the department of health; and

(g) Does not have private insurance, including COBRA extensions, that covers inpatient hospital care.

(2) The department shall not require participation in the cost of CASA services by a person:

(a) Receiving SSI; or

(b) Remaining eligible for SSI under 1619(b) of the Social Security Act, but not receiving a cash grant.

(3) The department shall allocate available total income, including amounts disregarded in determining eligibility of a SSI-related CASA client residing at home, as follows:

(a) The client retains as maintenance needs an amount equal to the ~~((medically needy))~~ special income level ~~((MNL))~~ (SIL) for one person; and

(b) As described under WAC 388-513-1380 (1), (2), (3), (4)(b), (c), (d), (e), (f), (g), and (h), (5), and (6).

(4) The department shall allocate available total income, including amounts disregarded in determining eligibility of a CASA client residing in an adult family home or congregate care facility, as follows:

(a) The client shall retain a specified personal needs allowance as described under WAC 388-250-1600 or 388-250-1650;

(b) As described under WAC 388-513-1380 (1), (2), (3), (4)(c), (d), (e), (f), and (g), (5), and (6); and

(c) Pay remaining income up to the ~~((MNL))~~ SIL to the facility for the cost of board and room.

(5) The SSI-related CASA client's income remaining after deductions in subsection (3) or (4) of this section shall be the participation amount for CASA services.

(6) When the department has determined that the client has financial participation under subsection (5) of this section, the department shall require the client to meet the participation obligation to remain eligible.

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

WSR 95-15-045

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 94-21—Filed July 13, 1995, 1:37 p.m.]

Original Notice.

Title of Rule: Chapter 173-224 WAC, Wastewater discharge permit fees.

Purpose: Amend the existing regulation to allow ecology to increase fees which will allow for funding of the water quality wastewater discharge permit program.

Statutory Authority for Adoption: Chapter 90.48 RCW. Statute Being Implemented: Chapter 90.48 RCW.

Summary: Amend the existing chapter to fund program costs associated with operating the water quality wastewater discharge permit program.

Reasons Supporting Proposal: To keep ecology in compliance with RCW 90.48.465 by recovering the program funding level appropriated by the legislature.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bev Poston, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6425.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The existing fee schedule will be amended to increase fees for existing permittees in order to recover revenue to fund the program.

Proposal Changes the Following Existing Rules: Amends the fee schedule.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? Yes. A copy of the statement may be obtained by writing to Bev Poston, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6425, or FAX (360) 407-6426.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT Executive Summary

INTRODUCTION

This small business economic impact statement examines the economic impact of the 1995 amendments to chapter 173-224 WAC, Wastewater discharge permit fees. The state Regulatory Fairness Act, chapter 19.85 RCW, requires that a small business economic impact statement (SBEIS) be written for rules which impose more than minor costs on business.

The SBEIS compares the compliance costs of small and large businesses to determine whether the rule disproportionately impacts small businesses. Disproportionate impacts of rules on small businesses must be reduced when legal and feasible in meeting the stated objectives of the statutes upon which the rule is based.

REQUIREMENTS OF THE FEE RULE

The permit fee rule imposes fees on holders of state and NPDES (National Pollutant Discharge Elimination System) wastewater discharge permits. The amendments to the rule increase fees for nearly all permit holders. Fees are increased by 5.17 percent in 1996 and by an additional 4.47 percent in 1997.

The permit fee rule allows small businesses to apply for fee reductions. Small businesses that are independently-owned, for-profit enterprises with annual sales of \$1,000,000 or less and which pay a fee greater than \$500 will have their fees reduced to 50 percent of the annual permit fee.

LIST OF INDUSTRIES REQUIRED TO PAY PERMIT FEES

Permits for process wastewater discharges are held by many industries in the following sectors of the economy: Manufacturing (SICs 20 to 39), sand and gravel (SIC 1442), apple packing (SIC 0723), aquaculture (SIC 0279), dairy farming (SIC 0241), metal ore mining (SIC 10), petroleum wholesaling (SICs 5171 and 5172), and photofinishing (SIC 7384).

The industrial stormwater general permit applies to stormwater discharges from industrial plants. Most of the industries covered by this permit are located in the manufacturing sector of the economy (SICs 20 to 39). Mining of ores and coal is also covered by the permit. Several transportation industries (SICs 40 to 45) are covered by the permit. Construction sites that disturb 5 or more acres of land are also required to obtain stormwater general permits.

CONCLUSIONS OF ECONOMIC ANALYSIS

The cost of complying with the fee rule is the fee. The SBEIS compares fees for small and large businesses in order to determine whether the fees disproportionately impact small businesses. The SBEIS uses the ratio of the fee to the business's annual sales as the measure of the fee rule's proportional impact. The SBEIS's economic analysis shows that in all industries, the fee-to-sales ratio for small business is greater than the fee-to-sales ratio for large business. The permit fee does impose a disproportionate burden on small businesses.

REDUCTION OF IMPACT ON SMALL BUSINESS

Ecology took the following six steps to reduce the impact of the permit fee rule:

1. The fee rule contains a provision that grants fee reductions to small businesses.

2. If the reduced fee would continue to impose an "extreme economic hardship" on a business, then the business may apply for a further reduction in its fee. The minimum fee is \$100.

3. Holders of most general permits receive a 30 percent discount from the standard fee. This provision benefits small businesses in several industries that have been issued general permits: 1) Aggregate production; 2) dairy farming; 3) aquaculture; 4) crop preparing; and 5) boatyards. These industries include many small businesses.

4. The fee for the industrial stormwater general permit is low: \$291. This fee is a small percentage of sales.

5. Several fee categories have fees that rise as production or wastewater discharge rise.

6. Applicants for general permits are not required to pay application fees.

AGENCY CONTACT

For a complete copy of the SBEIS contact: Gordon Wiggerhaus, Department of Ecology, P.O. Box 47600, Olympia, WA 98504, phone (360) 407-6468.

Hearing Location: All hearings begin at 1:30 p.m. at the following dates and locations: On Wednesday, November 1, 1995, at the Ecology Yakima Regional Office, 15 West Yakima Avenue, Suite 200, Yakima, WA; on Thursday, November 2, 1995, at the Ecology Eastern Regional Office, North 4601 Monroe, Suite 100, Spokane, WA; and on Tuesday, November 7, 1995, at the Ecology Headquarters Building, 300 Desmond Drive, Auditorium, Lacey, WA.

Assistance for Persons with Disabilities: Contact Bev Poston by October 1, 1995, TDD (360) 407-6006.

Submit Written Comments to: Bev Poston, Ecology, P.O. Box 47600, Olympia, WA 98504-7600, FAX (360) 407-6426, by November 17, 1995.

Date of Intended Adoption: January 10, 1996.

July 11, 1995
Terry Husseman
Deputy Director

PROPOSED

AMENDATORY SECTION (Amending Order 93-08, filed 4/28/94, effective 5/29/94)

WAC 173-224-040 Permit fee schedule. (1) Application fee. In addition to the annual fee, first time applicants (except those applying for coverage under a general permit) will pay a one time application fee of twenty-five percent of the annual permit fee, or \$250.00, whichever is greater. An application fee will be assessed for RCRA sites regardless of whether a new permit is being issued or an existing permit for other than the discharge resulting from the RCRA corrective action, is being modified.

(2) Industrial facility categories.

(INDUSTRIAL FACILITY CATEGORIES ANNUAL PERMIT FEE)

Aluminum Alloys	9,960.00
Aluminum and Magnesium Reduction Mills	
a. NPDES Permit	58,736.00
b. State Permit	29,368.00
Aluminum Forming	29,879.00
Aggregate Production	
a. Mining Activities	
1. Mining, screening, washing and/or crushing	1,714.00
2. Inactive Sites	
A. Single site	379.00
B. Single Owner/multiple site	(fee per site)
i. 1 site will pay	379.00
ii. Additional sites 2 < 6 will pay	214.00
iii. Additional sites 6 < 11 will pay	143.00
iv. Additional sites 11 and greater will pay	71.00
The final fee for single owner/multiple inactive sites is the total sum of all the subcategories:	
b. Asphalt Production	
1. 0 < 50,000 tons/yr.	714.00
2. 50,000 < 300,000 tons/yr.	1,714.00
3. 300,000 tons/yr. and greater	2,143.00
c. Concrete Production	
1. 0 < 25,000 cu. yds/yr.	714.00
2. 25,000 < 200,000 cu. yds/yr.	1,714.00
3. 200,000 cu. yds/yr. and greater	2,143.00
The fee for a facility in the aggregate production category is the sum of the applicable fees in the mining activities and/or concrete and/or asphalt production categories.	
Aquaculture	
a. Finfish hatching and rearing	2,988.00
b. Shellfish hatching	102.00
Boat Yards	
a. With storm water only discharge	255.00
b. All others	511.00
Coal Mining and Preparation	
a. < 200,000 tons per year	3,984.00
b. 200,000 < 500,000 tons per year	8,964.00
c. 500,000 < 1,000,000 tons per year	15,925.00
d. 1,000,000 tons per year and greater	29,879.00
Combined Industrial Waste Treatment	
a. < 10,000 gpd	1,992.00
b. 10,000 < 50,000 gpd	4,980.00
c. 50,000 < 100,000 gpd	9,960.00
d. 100,000 < 500,000 gpd	19,919.00
e. 500,000 gpd and greater	29,879.00
Combined Food Processing Waste Treatment Facilities	9,960.00
Combined Sewer Overflow System	
a. < 50 acres	1,992.00
b. 50 < 100 acres	4,980.00
c. 100 < 500 acres	5,976.00
d. 500 acres and greater	7,968.00
Commercial Laundry	255.00

Concentrated Animal Feeding Operation (Including dairies)	
a. < 200 Animal Units	102.00
b. 200 < 400 Animal Units	255.00
c. 400 < 600 Animal Units	511.00
d. 600 < 800 Animal Units	766.00
e. 800 Animal Units and greater	1,022.00
Crop Preparing	
a. 0 < 1,000 bins/yr.	199.00
b. 1,000 < 5,000 bins/yr.	398.00
c. 5,000 < 10,000 bins/yr.	797.00
d. 10,000 < 15,000 bins/yr.	1,594.00
e. 15,000 < 20,000 bins/yr.	2,639.00
f. 20,000 < 25,000 bins/yr.	3,685.00
g. 25,000 < 50,000 bins/yr.	4,929.00
h. 50,000 < 75,000 bins/yr.	5,478.00
i. 75,000 < 100,000 bins/yr.	6,374.00
j. 100,000 < 125,000 bins/yr.	7,968.00
k. 125,000 < 150,000 bins/yr.	9,960.00
l. 150,000 bins/yr. and greater	11,952.00
Facilities Not Otherwise Classified	
a. < 1,000 gpd	996.00
b. 1,000 < 10,000 gpd	1,992.00
c. 10,000 < 50,000 gpd	4,980.00
d. 50,000 < 100,000 gpd	7,968.00
e. 100,000 < 500,000 gpd	15,925.00
f. 500,000 < 1,000,000 gpd	19,919.00
g. 1,000,000 gpd and greater	29,879.00
Flavor Extraction	
a. Steam Distillation	102.00
Food Processing	
a. < 1,000 gpd	996.00
b. 1,000 < 10,000 gpd	2,540.00
c. 10,000 < 50,000 gpd	4,532.00
d. 50,000 < 100,000 gpd	7,121.00
e. 100,000 < 250,000 gpd	9,960.00
f. 250,000 < 500,000 gpd	13,097.00
g. 500,000 < 750,000 gpd	16,433.00
h. 750,000 < 1,000,000 gpd	19,919.00
i. 1,000,000 < 2,500,000 gpd	24,401.00
j. 2,500,000 < 5,000,000 gpd	27,389.00
k. 5,000,000 gpd and greater	29,879.00
Fuel and Chemical Storage	
a. < 50,000 bbls	966.00
b. 50,000 < 100,000 bbls	1,992.00
c. 100,000 < 500,000 bbls	4,980.00
d. 500,000 bbls and greater	9,960.00
Hazardous Waste Clean Up Sites	
a. Leaking Underground Storage Tanks (LUST)	
1. State Permits	2,613.00
2. NPDES Permits Issued pre 7/1/94	2,613.00
3. NPDES Permits Issued post 7/1/94	5,225.00
b. NonLUST Sites	
1. 1 or 2 Contaminants of concern	5,108.00
2. > 2 Contaminants of concern	10,215.00
Ink Formulation and Printing	
a. Commercial Print Shops	1,532.00
b. Newspapers	2,554.00
c. Box Plants	4,086.00
d. Ink Formulation	5,108.00
Inorganic Chemicals Manufacturing	
a. Lime Products	4,980.00
b. Fertilizer	5,976.00
c. Peroxide	7,968.00
d. Alkaline Earth Salts	9,960.00
e. Metal Salts	13,943.00
f. Acid Manufacturing	19,919.00
g. Chlor-alkali	39,839.00
Iron and Steel	
a. Foundries	9,960.00
b. Mills	19,919.00

PROPOSED

Metal Finishing	
a. < 1,000 gpd	1,195.00
b. 1,000 < 10,000 gpd	1,992.00
c. 10,000 < 50,000 gpd	4,980.00
d. 50,000 < 100,000 gpd	9,960.00
e. 100,000 < 500,000 gpd	19,919.00
f. 500,000 gpd and greater	29,879.00
Noncontact Cooling Water with Additives	
a. < 1,000 gpd	623.00
b. 1,000 < 10,000 gpd	1,245.00
c. 10,000 < 50,000 gpd	1,868.00
d. 50,000 < 100,000 gpd	4,358.00
e. 100,000 < 500,000 gpd	7,470.00
f. 500,000 < 1,000,000 gpd	10,583.00
g. 1,000,000 < 2,500,000 gpd	13,695.00
h. 2,500,000 < 5,000,000 gpd	16,806.00
i. 5,000,000 gpd and greater	19,919.00
Noncontact Cooling Water Without Additives	
a. < 1,000 gpd	498.00
b. 1,000 < 10,000 gpd	996.00
c. 10,000 < 50,000 gpd	1,494.00
d. 50,000 < 100,000 gpd	3,486.00
e. 100,000 < 500,000 gpd	5,976.00
f. 500,000 < 1,000,000 gpd	8,466.00
g. 1,000,000 < 2,500,000 gpd	10,956.00
h. 2,500,000 < 5,000,000 gpd	13,445.00
i. 5,000,000 gpd and greater	15,935.00
Nonferrous Metals Forming	
	9,960.00
Ore Mining	
a. Ore Mining	1,992.00
b. Ore mining w/physical concentration processes	3,984.00
c. Ore mining with physical and chemical concentration processes	15,935.00
Organic Chemicals Manufacturing	
a. Fertilizer	9,960.00
b. Aliphatic	19,919.00
c. Aromatic	29,879.00
Petroleum Refining	
a. < 10,000 bbls/d	19,919.00
b. 10,000 < 50,000 bbls/d	39,839.00
c. 50,000 bbls/d and greater	79,677.00
Photofinishers	
a. < 1,000 gpd	797.00
b. 1,000 gpd and greater	1,992.00
Power and/or Steam Plants	
a. Steam Generation - Nonelectric	3,984.00
b. Hydroelectric	3,984.00
c. Nonfossil Fuel	5,976.00
d. Fossil Fuel	15,935.00
Pulp, Paper and Paper Board	
a. Fiber Recyclers	9,960.00
b. Paper Mills	19,919.00
c. Groundwood Pulp Mills	
1. < 300 tons per day	29,879.00
2. > 300 tons per day	59,758.00
d. Chemical Pulp Mills w/o Chlorine Bleaching	79,677.00
e. Chemical Pulp Mills w/Chlorine Bleaching	89,637.00
Radioactive Effluents and Discharges (RED)	
a. < 3 waste streams	19,281.00
b. 3 < 8 waste streams	33,463.00
c. 8 waste streams and greater	55,116.00
RCRA Corrective Action Sites	
	14,000.00
Seafood Processing	
a. < 1,000 gpd	996.00
b. 1,000 < 10,000 gpd	2,540.00
c. 10,000 < 50,000 gpd	4,532.00
d. 50,000 < 100,000 gpd	7,121.00
e. 100,000 gpd and greater	9,960.00

Shipyards	
a. Per crane, travel lift, small boat lift	1,992.00
b. Per drydock under 250 in length	1,992.00
c. Per graving dock	1,992.00
d. Per marine way	2,988.00
e. Per scroloft	2,988.00
f. Per drydock over 250 ft in length	3,984.00

The fee for a facility in the shipyard category is the sum of the fees for the applicable units in the facility.

Solid Waste Sites (nonstorm water)	
a. Nonputrescible	3,984.00
b. < 50 acres	7,968.00
c. 50 < 100 acres	15,935.00
d. 100 < 250 acres	19,919.00
e. 250 acres and greater	29,879.00

Storm Water (Unless specifically categorized elsewhere)	
a. Individual Industrial Permits	
1. < 50 acres	1,992.00
2. 50 < 100 acres	3,984.00
3. 100 < 500 acres	5,976.00
4. 500 acres and greater	7,968.00
b. Facilities covered under the Baseline Industrial	

Storm Water General Permit	265.00
e. Construction activities covered under the Baseline Industrial Storm Water General Permit	265.00

Textile Mills	39,839.00
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Timber Products	
a. Log Storage	1,992.00
b. Veneer	3,984.00
c. Sawmills	7,968.00
d. Hardwood, Plywood	13,943.00
e. Wood Preserving	19,919.00

Vegetable/Bulb Washing Facilities	
a. < 1,000 gpd	66.00
b. 1,000 < 5,000 gpd	132.00
c. 5,000 < 10,000 gpd	263.00
d. 10,000 < 20,000 gpd	527.00
e. 20,000 and greater	873.00

Vehicle Maintenance and Freight Transfer	
a. < 0.5 acre	1,992.00
b. 0.5 < 1.0 acre	3,984.00
c. 1.0 acre and greater	5,976.00

Water Plants	
a. Potable water treatment	2,490.00

Wineries	
a. < 500 gpd	204.00
b. 500 < 750 gpd	408.00
c. 750 < 1,000 gpd	815.00
d. 1,000 < 2,500 gpd	1,630.00
e. 2,500 < 5,000 gpd	2,598.00
f. 5,000 gpd and greater	3,566.00))

	FY 96 ANNUAL PERMIT FEE	FY 97 ANNUAL PERMIT FEE
INDUSTRIAL FACILITY CATEGORIES		
<u>Aluminum Alloys</u>	<u>\$10,471.00</u>	<u>\$10,939.00</u>
<u>Aluminum and Magnesium Reduction Mills</u>		
a. NPDES Permit	61,749.00	64,509.00
b. State Permit	30,875.00	32,225.00
<u>Aluminum Forming</u>	<u>31,412.00</u>	<u>32,816.00</u>
<u>Aggregate Production</u>		
a. Mining Activities		
1. Mining, screening, washing and/or crushing	1,802.00	1,883.00
2. Inactive Sites		
A. Single site	398.00	416.00
B. Single owner/multiple site (fee per site)		
i. 1 site will pay	398.00	416.00
ii. Additional sites 2 - < 6 will pay	225.00	235.00

iii. Additional sites 6 - < 11 will pay	<u>150.00</u>	<u>157.00</u>
iv. Additional sites 11 and greater will pay	<u>75.00</u>	<u>78.00</u>

The final fee for single owner/multiple inactive sites is the total sum of all the subcategories.

b. Asphalt Production		
1. 0 - < 50,000 tons/yr.	<u>751.00</u>	<u>785.00</u>
2. 50,000 - < 300,000 tons/yr.	<u>1,802.00</u>	<u>1,883.00</u>
3. 300,000 tons/yr. and greater	<u>2,253.00</u>	<u>2,354.00</u>
c. Concrete Production		
1. 0 - < 25,000 cu. yds/yr.	<u>751.00</u>	<u>785.00</u>
2. 25,000 - < 200,000 cu. yds/yr.	<u>1,802.00</u>	<u>1,883.00</u>
3. 200,000 cu. yds/yr. and greater	<u>2,254.00</u>	<u>2,354.00</u>

The fee for a facility in the aggregate production category is the sum of the applicable fees in the mining activities and concrete and asphalt production categories.

Aquaculture		
a. Finfish hatching and rearing	<u>3,141.00</u>	<u>3,281.00</u>
b. Shellfish hatching	<u>107.00</u>	<u>112.00</u>

Boat Yards		
a. With storm water only discharge	<u>268.00</u>	<u>280.00</u>
b. All others	<u>537.00</u>	<u>561.00</u>

Coal Mining and Preparation		
a. < 200,000 tons per year	<u>4,188.00</u>	<u>4,375.00</u>
b. 200,000 - < 500,000 tons per year	<u>9,424.00</u>	<u>9,845.00</u>
c. 500,000 - < 1,000,000 tons per year	<u>16,752.00</u>	<u>17,501.00</u>
d. 1,000,000 tons per year and greater	<u>29,879.00</u>	<u>32,816.00</u>

Combined Industrial Waste Treatment		
a. < 10,000 gpd	<u>2,094.00</u>	<u>2,188.00</u>
b. 10,000 - < 50,000 gpd	<u>5,235.00</u>	<u>5,469.00</u>
c. 50,000 - < 100,000 gpd	<u>10,471.00</u>	<u>10,939.00</u>
d. 100,000 - < 500,000 gpd	<u>20,941.00</u>	<u>21,877.00</u>
e. 500,000 gpd and greater	<u>31,412.00</u>	<u>32,816.00</u>

Combined Food Processing Waste Treatment Facilities		
	<u>10,471.00</u>	<u>10,939.00</u>

Combined Sewer Overflow System		
a. < 50 acres	<u>2,094.00</u>	<u>2,188.00</u>
b. 50 - < 100 acres	<u>5,235.00</u>	<u>5,469.00</u>
c. 100 - < 500 acres	<u>6,283.00</u>	<u>6,564.00</u>
d. 500 acres and greater	<u>8,377.00</u>	<u>8,751.00</u>

Commercial Laundry	<u>268.00</u>	<u>280.00</u>
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Concentrated Animal Feeding Operation (Including Dairies)		
a. < 200 Animal Units	<u>107.00</u>	<u>112.00</u>
b. 200 - < 400 Animal Units	<u>268.00</u>	<u>280.00</u>
c. 400 - < 600 Animal Units	<u>537.00</u>	<u>561.00</u>
d. 600 - < 800 Animal Units	<u>805.00</u>	<u>841.00</u>
e. 800 Animal Units and greater	<u>1,074.00</u>	<u>1,122.00</u>

Crop Preparing		
a. 0 - < 1,000 bins/yr.	<u>209.00</u>	<u>218.00</u>
b. 1,000 - < 5,000 bins/yr.	<u>418.00</u>	<u>437.00</u>
c. 5,000 - < 10,000 bins/yr.	<u>838.00</u>	<u>875.00</u>
d. 10,000 - < 15,000 bins/yr.	<u>1,676.00</u>	<u>1,751.00</u>
e. 15,000 - < 20,000 bins/yr.	<u>2,774.00</u>	<u>2,898.00</u>
f. 20,000 - < 25,000 bins/yr.	<u>3,874.00</u>	<u>4,047.00</u>
g. 25,000 - < 50,000 bins/yr.	<u>5,182.00</u>	<u>5,414.00</u>
h. 50,000 - < 75,000 bins/yr.	<u>5,759.00</u>	<u>6,016.00</u>
i. 75,000 - < 100,000 bins/yr.	<u>6,701.00</u>	<u>7,001.00</u>
j. 100,000 - < 125,000 bins/yr.	<u>8,377.00</u>	<u>8,751.00</u>
k. 125,000 - < 150,000 bins/yr.	<u>10,471.00</u>	<u>10,939.00</u>
l. 150,000 bins/yr. and greater	<u>12,562.00</u>	<u>13,127.00</u>

Facilities Not Otherwise Classified		
a. < 1,000 gpd	<u>1,047.00</u>	<u>1,094.00</u>
b. 1,000 - < 10,000 gpd	<u>2,094.00</u>	<u>2,188.00</u>
c. 10,000 - < 50,000 gpd	<u>5,235.00</u>	<u>5,469.00</u>
d. 50,000 - < 100,000 gpd	<u>8,377.00</u>	<u>8,751.00</u>
e. 100,000 - < 500,000 gpd	<u>16,752.00</u>	<u>17,501.00</u>
f. 500,000 - < 1,000,000 gpd	<u>20,941.00</u>	<u>21,877.00</u>
g. 1,000,000 gpd and greater	<u>31,412.00</u>	<u>32,816.00</u>

Flavor Extraction		
a. Steam Distillation	<u>107.00</u>	<u>112.00</u>

Food Processing		
a. < 1,000 gpd	<u>1,047.00</u>	<u>1,094.00</u>
b. 1,000 - < 10,000 gpd	<u>2,670.00</u>	<u>2,789.00</u>
c. 10,000 - < 50,000 gpd	<u>4,764.00</u>	<u>4,977.00</u>
d. 50,000 - < 100,000 gpd	<u>7,486.00</u>	<u>7,821.00</u>
e. 100,000 - < 250,000 gpd	<u>10,471.00</u>	<u>10,939.00</u>
f. 250,000 - < 500,000 gpd	<u>13,769.00</u>	<u>14,384.00</u>
g. 500,000 - < 750,000 gpd	<u>17,276.00</u>	<u>18,048.00</u>
h. 750,000 - < 1,000,000 gpd	<u>20,941.00</u>	<u>21,877.00</u>
i. 1,000,000 - < 2,500,000 gpd	<u>25,653.00</u>	<u>26,800.00</u>
j. 2,500,000 - < 5,000,000 gpd	<u>28,794.00</u>	<u>30,081.00</u>
k. 5,000,000 gpd and greater	<u>31,412.00</u>	<u>32,816.00</u>

Fuel and Chemical Storage		
a. < 50,000 bbls	<u>1,047.00</u>	<u>1,094.00</u>
b. 50,000 - < 100,000 bbls	<u>2,094.00</u>	<u>2,188.00</u>
c. 100,000 - < 500,000 bbls	<u>5,235.00</u>	<u>5,469.00</u>
d. 500,000 bbls and greater	<u>10,471.00</u>	<u>10,939.00</u>

Hazardous Waste Clean Up Sites		
a. Leaking Underground Storage Tanks (LUST)		
1. State Permit	<u>2,747.00</u>	<u>2,870.00</u>
2. NPDES Permit Issued pre 7/1/94	<u>2,747.00</u>	<u>2,870.00</u>
3. NPDES Permit Issued post 7/1/94	<u>5,493.00</u>	<u>5,739.00</u>
b. NonLUST Sites		
1. 1 or 2 Contaminants of concern	<u>5,370.00</u>	<u>5,610.00</u>
2. > 2 Contaminants of concern	<u>10,739.00</u>	<u>11,219.00</u>

Ink Formulation and Printing		
a. Commercial Print Shops	<u>1,611.00</u>	<u>1,683.00</u>
b. Newspapers	<u>2,685.00</u>	<u>2,805.00</u>
c. Box Plants	<u>4,296.00</u>	<u>4,488.00</u>
d. Ink Formulation	<u>5,370.00</u>	<u>5,610.00</u>

Inorganic Chemicals Manufacturing		
a. Lime Products	<u>5,235.00</u>	<u>5,469.00</u>
b. Fertilizer	<u>6,283.00</u>	<u>6,564.00</u>
c. Peroxide	<u>8,377.00</u>	<u>8,751.00</u>
d. Alkaline Earth Salts	<u>10,471.00</u>	<u>10,939.00</u>
e. Metal Salts	<u>14,658.00</u>	<u>15,313.00</u>
f. Acid Manufacturing	<u>20,941.00</u>	<u>21,877.00</u>
g. Chlor-alkali	<u>41,833.00</u>	<u>43,755.00</u>

Irrigation Drainage Districts (only if covered under a municipal storm water permit as listed in subsection (3)(a)(iii) of this section).

Iron and Steel		
a. Foundries	<u>10,471.00</u>	<u>10,939.00</u>
b. Mills	<u>20,941.00</u>	<u>21,877.00</u>
	<u>279.00</u>	<u>291.00</u>

Metal Finishing		
a. < 1,000 gpd	<u>1,256.00</u>	<u>1,312.00</u>
b. 1,000 - < 10,000 gpd	<u>2,094.00</u>	<u>2,188.00</u>
c. 10,000 - < 50,000 gpd	<u>5,235.00</u>	<u>5,469.00</u>
d. 50,000 - < 100,000 gpd	<u>10,471.00</u>	<u>10,939.00</u>
e. 100,000 - < 500,000 gpd	<u>20,941.00</u>	<u>21,877.00</u>
f. 500,000 gpd and greater	<u>31,412.00</u>	<u>32,816.00</u>

Noncontact Cooling Water With Additives		
a. < 1,000 gpd	<u>655.00</u>	<u>684.00</u>
b. 1,000 - < 10,000 gpd	<u>1,309.00</u>	<u>1,368.00</u>
c. 10,000 - < 50,000 gpd	<u>1,964.00</u>	<u>2,052.00</u>
d. 50,000 - < 100,000 gpd	<u>4,582.00</u>	<u>4,787.00</u>
e. 100,000 - < 500,000 gpd	<u>7,853.00</u>	<u>8,204.00</u>
f. 500,000 - < 1,000,000 gpd	<u>11,126.00</u>	<u>11,623.00</u>
g. 1,000,000 - < 2,500,000 gpd	<u>14,398.00</u>	<u>15,042.00</u>
h. 2,500,000 - < 5,000,000 gpd	<u>17,668.00</u>	<u>18,458.00</u>
i. 5,000,000 gpd and greater	<u>20,941.00</u>	<u>21,877.00</u>

Noncontact Cooling Water Without Additives		
a. < 1,000 gpd	<u>524.00</u>	<u>547.00</u>
b. 1,000 - < 10,000 gpd	<u>1,047.00</u>	<u>1,094.00</u>
c. 10,000 - < 50,000 gpd	<u>1,571.00</u>	<u>1,641.00</u>
d. 50,000 - < 100,000 gpd	<u>3,665.00</u>	<u>3,829.00</u>
e. 100,000 - < 500,000 gpd	<u>6,283.00</u>	<u>6,564.00</u>
f. 500,000 - < 1,000,000 gpd	<u>8,900.00</u>	<u>9,290.00</u>
g. 1,000,000 - < 2,500,000 gpd	<u>11,518.00</u>	<u>12,033.00</u>
h. 2,500,000 - < 5,000,000 gpd	<u>14,435.00</u>	<u>14,767.00</u>
i. 5,000,000 gpd and greater	<u>16,752.00</u>	<u>17,501.00</u>

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<u>Nonferrous Metals Forming</u>	<u>10,471.00</u>	<u>10,939.00</u>
<u>Ore Mining</u>		
a. Ore Mining	2,094.00	2,188.00
b. Ore mining w/physical concentration processes	4,188.00	4,375.00
c. Ore mining with physical and chemical concentration processes	16,752.00	17,501.00
<u>Organic Chemicals Manufacturing</u>		
a. Fertilizer	10,471.00	10,939.00
b. Aliphatic	20,941.00	21,877.00
c. Aromatic	31,412.00	32,816.00
<u>Petroleum Refining</u>		
a. < 10,000 bbls/d	20,941.00	21,877.00
b. 10,000 - < 50,000 bbls/d	41,883.00	43,755.00
c. 50,000 bbls/d and greater	83,764.00	87,508.00
<u>Photofinishers</u>		
a. < 1,000 gpd	838.00	875.00
b. 1,000 gpd and greater	2,094.00	2,188.00
<u>Power and/or Steam Plants</u>		
a. Steam Generation - Nonelectric	4,188.00	4,375.00
b. Hydroelectric	4,188.00	4,375.00
c. Nonfossil Fuel	6,283.00	6,564.00
d. Fossil Fuel	16,752.00	17,501.00
<u>Pulp, Paper and Paper Board</u>		
a. Fiber Recyclers	10,471.00	10,939.00
b. Paper Mills	20,941.00	21,877.00
c. Groundwood Pulp Mills		
1. < 300 tons per day	31,412.00	32,816.00
2. > 300 tons per day	62,824.00	65,632.00
d. Chemical Pulp Mills w/o Chlorine Bleaching	83,764.00	87,508.00
e. Chemical Pulp Mills w/Chlorine Bleaching	94,265.00	98,447.00
<u>Radioactive Effluents and Discharges (RED)</u>		
a. < 3 waste streams	20,270.00	21,176.00
b. 3 - < 8 waste streams	35,180.00	36,753.00
c. 8 waste streams and greater	57,943.00	60,533.00
<u>RCRA Corrective Action Sites</u>	<u>14,718.00</u>	<u>15,376.00</u>
<u>Seafood Processing</u>		
a. < 1,000 gpd	1,047.00	1,094.00
b. 1,000 - < 10,000 gpd	2,670.00	2,789.00
c. 10,000 - < 50,000 gpd	4,764.00	4,977.00
d. 50,000 - < 100,000 gpd	7,486.00	7,821.00
e. 100,000 gpd and greater	10,471.00	10,939.00
<u>Shipyards</u>		
a. Per crane, travel lift, small boat lift	2,094.00	2,188.00
b. Per drydock under 250 ft in length	2,094.00	2,188.00
c. Per graving dock	2,094.00	2,188.00
d. Per marine way	3,141.00	3,281.00
e. Per sycrolift	3,141.00	3,281.00
f. Per drydock over 250 ft in length	4,188.00	4,375.00
<u>The fee for a facility in the shipyard category is the sum of the fees for the applicable units in the facility.</u>		
<u>Solid Waste Sites (nonstorm water)</u>		
a. Nonputrescible	4,188.00	4,375.00
b. < 50 acres	8,377.00	8,751.00
c. 50 - < 100 acres	16,752.00	17,501.00
d. 100 - < 250 acres	20,941.00	21,877.00
e. 250 acres and greater	31,412.00	32,816.00
<u>Storm Water (Unless specifically categorized elsewhere.)</u>		
a. Individual Industrial Permits		
1. < 50 acres	2,094.00	2,188.00
2. 50 - < 100 acres	4,188.00	4,375.00
3. 100 - < 500 acres	6,283.00	6,564.00
4. 500 acres and greater	8,377.00	8,751.00
b. Facilities covered under the Baseline Industrial Storm Water General Permit	279.00	291.00
c. Construction activities covered under the		

<u>Baseline Industrial Storm Water General Permit</u>	<u>279.00</u>	<u>291.00</u>
<u>Textile Mills</u>	<u>41,833.00</u>	<u>43,755.00</u>
<u>Timber Products</u>		
a. Log Storage	2,094.00	2,188.00
b. Veneer	4,188.00	4,375.00
c. Sawmills	8,377.00	8,751.00
d. Hardwood, Plywood	14,658.00	15,313.00
e. Wood Preserving	20,941.00	21,877.00
<u>Vegetable/Bulb Washing Facilities</u>		
a. < 1,000 gpd	69.00	72.00
b. 1,000 - < 5,000 gpd	139.00	145.00
c. 5,000 - < 10,000 gpd	276.00	288.00
d. 10,000 - < 20,000 gpd	554.00	579.00
e. 20,000 and greater	918.00	959.00
<u>Vehicle Maintenance and Freight Transfer</u>		
a. < 0.5 acre	2,094.00	2,188.00
b. 0.5 - < 1.0 acre	4,188.00	4,375.00
c. 1.0 acre and greater	6,283.00	6,564.00
<u>Water Plants</u>		
a. Potable water treatment	2,618.00	2,735.00
<u>Wineries</u>		
a. < 500 gpd	214.00	224.00
b. 500 - < 750 gpd	429.00	448.00
c. 750 - < 1,000 gpd	857.00	895.00
d. 1,000 - < 2,500 gpd	1,714.00	1,791.00
e. 2,500 - < 5,000 gpd	2,731.00	2,853.00
f. 5,000 gpd and greater	3,749.00	3,917.00

(a) Facilities other than those in the aggregate production, crop preparing, shipyard, or RCRA categories which operate within several fee categories or subcategories shall be charged from that category or subcategory with the highest fee.

(b) Facilities with existing fee structures that obtain coverage under a general permit other than the industrial and municipal storm water general permits shall be charged a permit fee equaling 70% of the fee category in which they would otherwise belong.

(c) The total annual permit fee for a water treatment plant that primarily serves residential customers shall not exceed three dollars per residential equivalent. The number of residential equivalents is determined by dividing the facility's annual gross revenue in the previous calendar year by the annual user charge for a single family residence which uses nine hundred cubic feet of water per month.

(d) Crop preparation and aggregate production permittees are required to submit information to the department certifying annual production (calendar year) or unit processes. When required, the information form shall be completed and returned to the department within thirty days after it is mailed to the permittee by the department. Failure to provide this information could result in permit termination.

(i) Information submitted shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by an authorized corporate officer;

(B) In the case of a limited partnership, by an authorized general partner;

(C) In the case of a general partnership, by an authorized partner; or

(D) In the case of a sole proprietorship, by the proprietor.

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(ii) The department may verify information submitted and, if it determines that false or inaccurate statements have been made, it may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

(e) Fees for crop preparers discharging only noncontact cooling water without additives shall pay the lesser of the applicable fee in the crop preparing or noncontact cooling water without additives categories.

(f) Where no clear industrial facility category exists for placement of a permittee, the department may elect to place the permittee in a category with dischargers or permittees that contain or use similar properties or processes and/or a category which contains similar permitting complexities to the department.

(g) Hazardous waste clean up sites and EPA authorized RCRA corrective action sites with whom the department is commencing cost recovery through chapter 70.105D RCW shall not pay a permit fee under chapter 173-224 WAC until such time as the cost recovery under chapter 70.105D RCW ceases.

(h) Any permit holder with the exception of inactive aggregate operations who has not been in continuous operation within a consecutive eighteen-month period or who commits to not being in operation for a consecutive eighteen-month period or longer can have their permit fee reduced to twenty-five percent of the fee which they would be otherwise assessed. This nonoperating mode must be verified by the appropriate ecology staff. Once operations resume, the permit fee shall be returned to the full amount.

Facilities who commit to the minimum eighteen-month nonoperating mode but go back into operation during the same eighteen-month period will be assessed permit fees as if they were active during the entire period.

(i) Fees for inactive aggregate sites that become active will be prorated to reflect the number of days the facility is active during the fiscal year. Facilities that become active more than once in a fiscal year shall pay the full annual fee.

(j) Facilities with subcategories based on gallons per day (gpd) shall have their annual permit fee determined by using the maximum daily flow or maximum monthly average permitted flow in gallons per day as specified in the waste discharge permit, whichever is greater.

(k) RCRA corrective action sites requiring a waste discharge permit will be assessed a separate permit fee regardless of whether the discharge is authorized by a separate permit or by a modification to an existing permit for a discharge other than that resulting from the corrective action.

(3) MUNICIPAL/DOMESTIC FACILITIES

(a) The annual permit fee for a permit held by a municipality for a domestic wastewater facility issued under RCW 90.48.162 or 90.48.260 is determined as follows:

((i) Residential	Annual Permit Fee
Equivalents	
(RE)	
< 250,000	\$1.23 per RE
> 250,000	\$.74 per RE))

<u>(i) Residential</u>	<u>FY 96 Annual</u>	<u>FY 97 Annual</u>
<u>Equivalents</u>	<u>Permit Fee</u>	<u>Permit Fee</u>
<u>(RE)</u>		
<u>< 250,000</u>	<u>\$1.29 per RE</u>	<u>\$1.35 per RE</u>
<u>> 250,000</u>	<u>.74 per RE</u>	<u>.81 per RE</u>

(ii) In addition to the municipal annual permit fee, a biosolids surcharge amounting to five percent of the annual permit fee will also be assessed for municipalities who do not incinerate their sludge.

(iii) Municipal storm water permit annual fee for only the entities listed below will be:

((Name of Entity	Annual Fee
King County	\$ 22,688.00
Snohomish County	22,688.00
Pierce County	22,688.00
Tacoma, City of	22,688.00
Seattle, City of	22,688.00
Department of Transportation	22,688.00))

<u>Name of Entity</u>	<u>FY 96 Annual</u>	<u>FY 97 Annual</u>
	<u>Permit Fee</u>	<u>Permit Fee</u>
<u>King County</u>	<u>\$ 23,852.00</u>	<u>\$ 24,918.00</u>
<u>Snohomish County</u>	<u>23,852.00</u>	<u>24,918.00</u>
<u>Pierce County</u>	<u>23,852.00</u>	<u>24,918.00</u>
<u>Tacoma, City of</u>	<u>23,852.00</u>	<u>24,918.00</u>
<u>Seattle, City of</u>	<u>23,852.00</u>	<u>24,918.00</u>
<u>Department of</u>		
<u>Transportation</u>	<u>23,852.00</u>	<u>24,918.00</u>
<u>Clark County</u>	<u>23,852.00</u>	<u>24,918.00</u>
<u>Spokane, City of</u>	<u>23,852.00</u>	<u>24,918.00</u>
<u>Spokane, County</u>	<u>23,852.00</u>	<u>24,918.00</u>

Facilities listed in (a)(iii) of this subsection shall pay an annual fee for fiscal year ((1994)) 1996 and fiscal year ((1995)) 1997 regardless of the permit issuance date or the number of municipal storm water permits under which they are covered.

(b) The annual permit fee for each permit issued under RCW 90.48.162 or 90.48.260 that is held by a municipality that holds more than one permit for domestic wastewater facilities and which treats each domestic wastewater facility as a separate accounting entity, (i.e., maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made) is determined as in (a) of this subsection.

(c) The sum of the annual permit fees for permits held by a municipality that holds more than one permit for domestic wastewater facilities issued under RCW 90.48.162 or 90.48.260 and which does not treat each domestic wastewater facility as a separate accounting entity, (i.e., maintaining separate funds/accounts for each facility, into which revenue received from the users of that facility is deposited and out of which expenditures to pay for the costs of operating, etc., that facility are made) is determined as in (a) of this subsection.

(d) The permit fee for a privately-owned domestic wastewater facility that primarily serves residential customers is determined as in (a) of this subsection. Residential

customers are those whose lot, parcel or real estate, or building is primarily used for domestic dwelling purposes.

(e) Permit fees for privately-owned domestic wastewater facilities that do not serve primarily residential customers and for state-owned domestic wastewater facilities are the following:

<u>(Permitted Flows</u>	<u>Annual Permit Fee</u>
<u>.1 MGD and Greater</u>	<u>\$4,980.00</u>
<u>.05 MGD to < .1 MGD</u>	<u>1,992.00</u>
<u>.0008 MGD to < .05 MGD</u>	<u>996.00</u>
<u>< .0008 MGD</u>	<u>299.00</u>)

<u>Permitted Flows</u>	<u>FY 96 Annual Permit Fee</u>	<u>FY 97 Annual Permit Fee</u>
<u>.1 MGD and Greater</u>	<u>\$5,235.00</u>	<u>\$5,469.00</u>
<u>.05 MGD to < .1 MGD</u>	<u>2,094.00</u>	<u>2,188.00</u>
<u>.0008 MGD to < .05 MGD</u>	<u>1,047.00</u>	<u>1,094.00</u>
<u>< .0008 MGD</u>	<u>314.00</u>	<u>328.00</u>

Privately-owned domestic wastewater facilities shall have their annual permit fee determined by using the maximum daily flow or maximum monthly average permitted flow in million gallons per day, whichever is greater, as specified in the waste discharge permit.

(f) The number of residential equivalents is calculated in the following manner:

(i) If the facility serves only single-family residences, the number of residential equivalents is the number of single-family residences that it served on January 1 of the previous calendar year.

(ii) If the facility serves both single-family residences and other classes of customers, the number of residential equivalents is calculated in the following manner:

(A) Calculation of the number of residential equivalents that the facility serves in its own service area. Subtract from the previous calendar year's gross revenue:

(I) Any amounts received from other municipalities for sewage interception, treatment, collection, or disposal; and

(II) Any user charges received from customers for whom the permit holder pays amounts to other municipalities for sewage treatment or disposal services. Divide the resulting figure by the annual user charge for a single-family residence.

(B) Calculation of the number of residential equivalents that the facility serves in other municipalities which pay amounts to the facility for sewage interception, treatment, collection, or disposal:

(I) Divide any such amounts received from other municipalities during the previous calendar year by the annual user charge for a single-family residence. In this case "annual user charge for a single-family residence" means the annual user charge that the facility charges other municipalities for sewage interception, treatment, collection, or disposal services for a single-family residence. If the facility charges different municipalities differing single-family residential user charges, then the charge used in these calculations must be that which applies to the largest number of single-family residential customers. Alternatively, if the facility charges different municipalities differing single-family residential user charges, the permit holder may divide

the amount received from each municipality by the annual user charge that it charges that municipality for a single-family residence and sum the resulting figures.

(II) If the facility does not charge the other municipality on the basis of a charge per single-family residence, the number of residential equivalents in the other municipality is calculated by dividing its previous calendar year's gross revenue by its annual user charge for a single-family residence. If the other municipality does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, the number of residential equivalents is calculated as in (f)(iv) of this subsection.

(III) If the other municipality serves only single-family residences, the number of residential equivalents may be calculated as in (f)(i) of this subsection.

The sum of the resulting figures is the number of residential equivalents that the facility serves in other municipalities.

(C) The number of residential equivalents is the sum of the number of residential equivalents calculated in (f)(ii)(A) and (B) of this subsection.

(iii) The annual user charge for a single-family residence is calculated by either of the following methods, at the choice of the permit holder:

(A) The annual user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed monthly, this is calculated by multiplying by twelve the monthly user charge for a single-family residence using nine hundred cubic feet of water per month. If users are billed bimonthly, the annual user charge is calculated by multiplying by six the bimonthly user charge for a single-family residence using one thousand eight hundred cubic feet of water per two-month period. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the charge used in these calculations must be that which applies to the largest number of single-family residential customers.

(B) The average annual user charge for a single-family residence. This average is calculated by dividing the previous calendar year's gross revenue from provision of sewer services to single-family residences by the number of single-family residences served on January 1 of the previous calendar year. If the user charge for a single-family residence varies, depending on age, income, location, etc., then the gross revenue and number of single-family residences used in making this calculation must be those for all the single-family residential customers.

In either case, (f)(iii)(A) or (B) of this subsection, the permit holder must provide the department with a copy of its complete sewer rate schedule for all classes of customers.

(iv) If a permit holder does not maintain data on its gross revenue, user charges, and/or the number of single-family residences that it serves, and therefore cannot use the methods described in (f)(i) or (ii) of this subsection to calculate the number of residential equivalents that it serves, then the number of residential equivalents that it serves is calculated by dividing the average daily influent flow to its facility for the previous calendar year by two hundred fifty gallons. This average is calculated by summing all the daily flow measurements taken during the previous calendar year and then dividing the resulting sum by the number of days

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on which flow was measured. Data for this calculation must be taken from the permit holder's discharge monitoring reports. Permit holders using this means of calculating the number of their residential equivalents must submit with their application a complete set of copies of their discharge monitoring reports for the previous calendar year.

(g) Fee calculation procedures for holders of permits for domestic wastewater facilities.

(i) Municipalities holding permits for domestic wastewater facilities issued under RCW 90.48.162 and 90.48.260, and holders of permits for privately-owned domestic wastewater facilities that primarily serve residential customers must complete a form certifying the number of residential equivalents served by their domestic wastewater system. The form must be completed and returned to the department within thirty days after it is mailed to the permit holder by the department. Failure to return the form could result in permit termination. Fees will be calculated in even-numbered fiscal years.

(ii) The form shall bear a certification of correctness and be signed:

(A) In the case of a corporation, by an authorized corporate officer;

(B) In the case of a limited partnership, by an authorized partner;

(C) In the case of a general partnership, by an authorized partner;

(D) In the case of a sole proprietorship, by the proprietor; or

(E) In the case of a municipal or other public facility, by either a ranking elected official or a principal executive officer.

(iii) The department may verify the information contained in the form and, if it determines that the permit holder has made false statements, may, in addition to taking other actions provided by law, revise both current and previously granted fee determinations.

(4) Post FY 97 Annual Permit Fees. The permit fees specified in subsections (2) and (3) of this section shall be adjusted each fiscal year by an amount up to, but not exceeding, the state fiscal growth factor established in RCW 43.135.055 and the program funding appropriation established by the state legislature.

AMENDATORY SECTION (Amending Order 93-08, filed 4/28/94, effective 5/29/94)

WAC 173-224-050 Permit fee computation and payments. (1) The department shall charge permit fees based on the permit fee schedule contained in WAC 173-224-040. The department may charge fees at the beginning of the year to which they apply. The department shall notify permit holders of fee charges by mailing billing statements. Permit fees must be received by the department within forty-five days after the department mails a billing statement. The department may elect to bill permit holders a prorated portion of the annual fee on a monthly, quarterly, or other periodic basis. In cases where a new permit is only in effect for a portion of the fiscal year upon which the annual fee is based, the department shall prorate the fee ~~((accordingly))~~ on a quarterly basis. In addition to other circumstances, this applies where the department terminates a permit upon its

determination that an industry which discharges to a municipal sewer system is satisfactorily regulated by a local pretreatment program.

(2) Permit fee computation for individual permits. Computation of permit fees shall begin on the first day of each fiscal year, or in the case of facilities or activities not previously covered by permits, on the issuance date of the permit. In the case of applicants for state waste discharge permits who are deemed to have a temporary permit under RCW 90.48.200, computation shall begin on the sixty-first day after the department accepts a completed application. In the case of NPDES permit holders who submit a new, updated permit application containing information which could change their assigned permit fee, computation and permit fee category reassignment begins upon acceptance of the application by the department. Permits terminated during the fiscal year will have their fees prorated as follows:

(a) Permit coverage for up to three months will pay twenty-five percent of the annual permit fee;

(b) Permit coverage for three to six months will pay fifty percent of the annual permit fee;

(c) Permit coverage for six to nine months will pay seventy-five percent of the annual permit fee; and

(d) Permit coverage for nine months or greater will pay one hundred percent of the annual permit fee.

(3) Permit fee computation for general permits. Computation of fees for permittees covered under a general permit (with the exception of permittees covered under the baseline industrial storm water general permit and municipal storm water general permit) begins at the end of the permit application coverage period, regardless of the date of submission of the notice of intent. Any facility that is an existing operation requiring general permit coverage but that does not apply for a permit during the permit application coverage period will ~~((, in addition to paying))~~ incur fees beginning at the end of the application coverage period ~~((, be assessed a late charge of up to twenty-five percent of the annual permit fee depending upon the degree of lateness. The late charge will be calculated as follows: The number of days late divided by three hundred sixty-five (number of days in the state fiscal year) multiplied by the annual fee assessed)).~~ Permits terminated during the fiscal year will have their fees prorated as described in subsection (2)(a), (b), (c) and (d) of this section.

(4) Permit fees for sand and gravel (aggregate) general permittees will be assessed as in subsection (3) of this section and:

(a) A mining facility that is active for three months or more during the state fiscal year will be considered active for the full year for fee purposes. A mining facility that is active for less than three months shall ~~((have their fee prorated dependent upon the actual time the facility is active and inactive))~~ be considered inactive for fee calculation purposes.

(b) Inactive sites that become active for only concrete and/or asphalt production will be assessed a prorated fee for the actual time inactive. For the actual time a concrete and/or asphalt facility is active, fees will be based on total production of concrete and/or asphalt.

(c) Fees for continuously active sites that produce concrete and/or asphalt will be based on the average of the three previous calendar years production totals. Existing

facilities must provide the department with the production totals for concrete and/or asphalt produced during the previous three calendar years or for the number of full calendar years of operation if less than three. New facilities with no historical asphalt and/or concrete production data will have their first year fee based on the production levels reported on the notice of intent for coverage under the National Pollutant Discharge Elimination System and State Waste Discharge Permit for Process Water and Storm Water Discharges Associated with Sand and Gravel Operations, Rock Quarries and Similar Mining Facilities including Stockpiles of Mined Materials, Concrete Batch Operations and Asphalt Batch Operations general permit. The second year fee will be determined based on the actual production during the first year and estimated production for the second year. The third year fee will be determined based on the average of actual production for the first two years and estimated for the third year. Fee calculation for subsequent years will be based on the average production values of previous years.

(5) Fees for crop preparation general permittees will be assessed as in subsection (3) of this section and will be computed on the three previous calendar years production totals. Existing facilities must provide the department with the production totals in the manner described in WAC 173-224-040 (2)(d). New facilities with no historical production data will have their first year fee based on the estimated production level for that year. The second year fee will be determined based on the actual production during the first year and estimated production for the second year. The third year fee will be determined based on the average of actual production for the first two years and estimated for the third year. Fee calculation for subsequent years will be based on the average production values of previous years.

(6) Permittees covered under the baseline industrial storm water general permit before July 1, 1993, will have their annual permit fees calculated beginning on July 1, 1993. Facilities that are existing operations prior to July 1, 1993, and apply for permit coverage after July 1, 1993, will be assessed the annual permit fee beginning on July 1, 1993. ~~((Facilities submitting their notice of intent after January 1, 1994, will also be assessed a late charge of up to twenty five percent of the annual fee assessed depending upon the degree of lateness. The late charge will be calculated as described in subsection (2) of this section.))~~ Construction activities receiving coverage under the baseline industrial storm water general permit after July 1, 1993, will be assessed a permit fee beginning upon the permit issuance date. ~~((Construction storm water permits terminated during the fiscal year will have their fees prorated as follows:~~

- ~~(a) Permit coverage for up to three months will pay twenty five percent of the annual permit fee;~~
- ~~(b) Permit coverage for three to six months will pay fifty percent of the annual permit fee;~~
- ~~(c) Permit coverage for six to nine months will pay seventy five percent of the annual permit fee; and~~
- ~~(d) Permit coverage for nine months or greater will pay one hundred percent of the annual permit fee.))~~

(7) Facilities with an existing NPDES and/or state wastewater discharge permit who also have obtained coverage under the baseline industrial storm water general permit

shall not pay a permit fee for coverage under the baseline industrial storm water general permit.

(8) Computation of fees shall end on the last day of the state's fiscal year, or in the case of a terminated permit, ~~((on the date of termination. Computation shall end on the expiration date of a permit only if a permit holder has indicated to the department in writing that the permitted activity has been terminated))~~ during the quarter the termination took place.

(9) The applicable permit fee shall be paid by check or money order payable to the "Department of Ecology" and mailed to the Wastewater Discharge Permit Fee Program, P.O. Box 5128, Lacey, Washington 98503-0210.

(10) In the event a check is returned due to insufficient funds, the permit fee shall be deemed to be unpaid.

(11) Penalty due on delinquent accounts. The department may charge permit holders a penalty on fee charges that have not been paid by the due date indicated on the billing statement at the rates of:

(a) Ten percent of the assessed fee for the first thirty days late;

(b) Fifteen percent of the assessed fee for between thirty-one days late and sixty days late; and

(c) Twenty-five percent of the assessed fee for between sixty-one days late and ninety days late.

Failure to pay fees and penalties after ninety days may result in termination of the permit or the exercise of such other legal or equitable remedies that ecology is authorized to carry out including, but not limited to, the assessment of additional penalties. Civil penalties issued by the department may be sufficiently large to offset the economic benefit gained from nonpayment of fees and to deter continued operation and/or nonpayment. Payment of civil penalties shall not be deemed as payment of fees, nor shall payment of fees after assessment of penalties be deemed as a cause for reducing the penalty. Nothing herein shall be interpreted as restricting the authority of the department to exercise its other enforcement remedies as authorized by law.

AMENDATORY SECTION (Amending Order 93-08, filed 4/28/94, effective 5/29/94)

WAC 173-224-090 Small business fee reduction. A small business required to pay a permit fee under an industrial facility category may receive a reduction of its permit fee.

(1) To qualify for the fee reduction, a business must:

- (a) Be a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit;
- (b) Be independently owned and operated from all other businesses (i.e., not a subsidiary of a parent company);
- (c) Have annual sales of one million dollars or less of the goods or services produced using the processes regulated by the waste discharge permit; and
- (d) Pay an annual wastewater discharge permit fee greater than five hundred dollars.

(2) To receive a fee reduction, the permit holder must submit an application in a manner prescribed by the department demonstrating that the conditions of subsection (1) of this section have been met. The application shall bear a certification of correctness and be signed:

PROPOSED

- (a) In the case of a corporation, by an authorized corporate officer;
- (b) In the case of a limited partnership, by an authorized general partner;
- (c) In the case of a general partnership, by an authorized partner; or
- (d) In the case of a sole proprietorship, by the proprietor.

(3) The department may verify the information contained in the application and, if it determines that the permit holder has made false statements, may deny the fee reduction request and revoke previously granted fee reductions.

(4) The permit fee for small businesses determined to be eligible under subsection (1) of this section shall be reduced to fifty percent of the assessed annual permit fee.

(5) If ~~((due to special economic circumstances the annual permit fee assessed a small business))~~ the annual gross revenue of the goods and services produced using the processes regulated by the waste discharge permit is one hundred thousand dollars or less, and the annual permit fee assessed imposes an extreme hardship to the business, the small business may request an extreme hardship fee reduction. The small business must provide sufficient evidence to support its claim of an extreme hardship. ~~((The factors which the department may consider in whether an applicant faces special economic circumstances and in setting the applicant's fee include: The applicant's annual sales; the size of its labor force; the conditions of the market which affect the applicant's ability to pass the cost of the permit fee through to its customers; and the average annual profits.))~~ In no case will a permit fee be reduced below one hundred dollars.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-224-070 Credits.

WSR 95-15-053
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed July 14, 1995, 11:02 a.m.]

Original Notice.

Title of Rule: WAC 392-162-105 Program requirement—Program evaluation.

Purpose: To bring learning assistance program evaluation requirements into line with new Title I evaluation requirements.

Statutory Authority for Adoption: Chapter 478, Laws of 1987.

Summary: Revising WAC 392-162-105 Program requirement—Program evaluation.

Reasons Supporting Proposal: Public Law 103-382, Improving America's Schools Act of 1994 amends the federally funded Title I program evaluation requirements. The state learning assistance program evaluation requirements need to be revised in the same manner.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Olympia, 753-2298; Implementation: Mary E. Beach, Superintendent of Public Instruction, Olympia, 753-3220; and Enforcement: John Pearson, Superintendent of Public Instruction, Olympia, 753-1545.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary above. It is necessary to revise the learning assistance program evaluation requirements to make them comparable to federal Title I evaluation requirements, which were recently changed. Revising learning assistance program WAC 392-162-105 will ensure that both programs are using the same evaluation process.

Proposal Changes the Following Existing Rules: Amending WAC 392-162-105 will update the learning assistance program evaluation requirements.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The rule will have a minor or negligible economic impact.

Hearing Location: Old Capitol Building, 4th Floor, Brouillet Conference Room, 600 South Washington Street, Olympia, WA 98504-7200, on August 24, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by August 10, 1995, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504, FAX (360) 753-4201, by August 23, 1995.

Date of Intended Adoption: August 25, 1995.

July 10, 1995

Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

WAC 392-162-105 Program requirement—Program evaluation. The ~~((Chapter 1 Evaluation and Reporting System—CHERS))~~ Title I evaluation requirements shall be used annually by districts to evaluate the educational achievement of students ~~((in grades two through nine))~~ receiving recommended services in the learning assistance program. ~~((Students in kindergarten and grade one shall be evaluated annually using objective measures selected by the school district.))~~ Evaluation results shall be reported annually to the superintendent of public instruction on provided forms.

WSR 95-15-054
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed July 14, 1995, 11:04 a.m.]

Original Notice.

Title of Rule: WAC 392-140-570 through 392-140-594.

Purpose: Specify procedures for providing funding for student learning improvement activities and for other educational enhancement as provided in the 1995-97 Biennial Operating Appropriations Act.

Statutory Authority for Adoption: RCW 28A.150.400.

Statute Being Implemented: Section 520 of the 1995-97 Biennial Operating Appropriations Act.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Olympia, 753-2298; Implementation: Thomas J. Case, Superintendent of Public Instruction, Olympia, 753-6708; and Enforcement: David Moberly, Superintendent of Public Instruction, Olympia, 753-6742.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The rule will have a minor or negligible economic impact.

Hearing Location: Old Capitol Building, 4th Floor, Brouillet Conference Room, 600 South Washington Street, Olympia, WA 98504-7200, on August 24, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by August 10, 1995, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504, FAX (360) 753-4201, by August 23, 1995.

Date of Intended Adoption: August 25, 1995.

July 14, 1995

Judith A. Billings
Superintendent of
Public Instruction

1995-97 LOCAL ENHANCEMENT FUNDING INCLUDING THE STUDENT LEARNING IMPROVEMENT BLOCK GRANT

NEW SECTION

WAC 392-140-570 1995-97 Local enhancement funding—Applicable provisions. WAC 392-140-570 through 392-140-594 apply to the distribution of moneys to school districts for student learning improvement block grants and local program enhancement block grants pursuant to the 1995-97 State Operating Appropriations Act.

NEW SECTION

WAC 392-140-571 1995-97 Local enhancement funding—Definition—Student learning improvement block grants. As used in WAC 392-140-570 through 392-140-594 student learning improvement block grants means that portion of total local enhancement funding which is allocated to school districts for distribution to school buildings for building based planning, staff development, and other activities to improve student learning, consistent with

the student learning goals in RCW 28A.150.210 and 28A.630.885.

NEW SECTION

WAC 392-140-572 1995-97 Local enhancement funding—Definition—Other activities to improve student learning. As used in WAC 392-140-570 through 392-140-594, "other activities to improve student learning" means those activities such as program design and curriculum alignment which directly relate to the building plan to attain the student learning goals as set forth in RCW 28A.150.210, the essential academic learning requirements and the state assessment system as set forth in RCW 28A.630.885.

NEW SECTION

WAC 392-140-573 1995-97 Local enhancement funding—Definition—Local program enhancement block grants. As used in WAC 392-140-570 through 392-140-594 local program enhancement block grants means that portion of total local enhancement funding which is allocated to school districts for meeting other educational needs as identified by the school district.

NEW SECTION

WAC 392-140-574 1995-97 Local enhancement funding—Definition—Essential academic learning requirements. As used in WAC 392-140-570 through 392-140-594, the essential academic learning requirements means those specific academic and technical skills and knowledge based on the student learning goals set forth in RCW 28A.630.885 (3)(a) and adopted by the commission on student learning. Such requirements shall not limit the instructional strategies used by schools or school districts or require the use of specific curricula.

NEW SECTION

WAC 392-140-575 1995-97 Local enhancement funding—Definition—Assessment system. As used in WAC 392-140-570 through 392-140-594, assessment system means a series of assessments pursuant to RCW 28A.630.885 used to determine if students have successfully learned the essential academic learning requirements as developed by the commission on student learning.

NEW SECTION

WAC 392-140-576 1995-97 Local enhancement funding—Definition—Fiscal year. As used in WAC 392-140-570 through 392-140-594 "fiscal year" means the period beginning July 1 and ending the following June 30.

NEW SECTION

WAC 392-140-577 1995-97 Local enhancement funding—Definition—School year. As used in WAC 392-140-570 through 392-140-594 "school year" means the period beginning September 1 and ending the following August 31.

NEW SECTION

WAC 392-140-578 1995-97 Local enhancement funding—Definition—School district. As used in WAC 392-140-570 through 392-140-594 "school district" means the following:

(1) For purposes of student learning improvement block grants, "school district" means the same as defined in WAC 392-140-069 and the Washington state school for the deaf and the Washington state school for the blind; and

(2) For purposes of local program enhancement block grants "school district" means the same as defined in WAC 392-140-069.

NEW SECTION

WAC 392-140-580 1995-97 Local enhancement funding—Definition—Building plan. As used in WAC 392-140-570 through 392-140-594, building plan means a written document developed by the school building for a multiyear period which sets forth the goals, objectives, procedures, tasks, and timelines for attaining the student learning goals, as set forth in RCW 28A.150.210, the essential academic learning requirements, and the state assessment system as it is developed pursuant to RCW 28A.630.885. Such building plan shall be developed and kept on file by the end of the 1995-96 school year.

NEW SECTION

WAC 392-140-581 1995-97 Local enhancement funding—Definition—Annual performance report. As used in WAC 392-140-570 through 392-140-594, the annual performance report means that report referenced in RCW 28A.320.205 which requires each school to annually publish and deliver such report to each parent with children enrolled in the school and to make the report available to the community served by the school.

NEW SECTION

WAC 392-140-582 1995-97 Local enhancement funding—Definition—Allocation enrollment. As used in WAC 392-140-570 through 392-140-588, "allocation enrollment" means the school district's annual average full-time equivalent students as defined in WAC 392-121-133 plus running start enrollment except in the following cases:

(1) For a school district enrolling less than one hundred annual average full-time equivalent students, allocation enrollment means the sum of the following:

(a) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;

(b) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(c) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

(2) For a school district operating small school plants designated remote and necessary, allocation enrollment means the sum of the following:

(a) The school district's annual average full-time equivalent enrollment as defined in WAC 392-121-133 plus running start enrollment minus the annual average full-time

equivalent enrollment in the small school plants designated remote and necessary; plus

(b) For the small school plant designated remote and necessary:

(i) The greater of sixty or the annual average full-time equivalent students enrolled in kindergarten through sixth grade;

(ii) The greater of twenty or the annual average full-time equivalent students enrolled in seventh through eighth grade; and

(iii) The greater of sixty or the annual average full-time equivalent students enrolled in ninth through twelfth grade.

(3) For student learning improvement block grants only, the allocation enrollment for the Washington state school for the deaf and the Washington state school for the blind shall be the annual average September through May full-time equivalent enrollment reported by those schools to the superintendent of public instruction.

NEW SECTION

WAC 392-140-583 1995-97 Local enhancement funding—Definition—Form SPI 1129. "Form SPI 1129" means the various forms provided by the superintendent of public instruction on which school districts report expenditures of local education enhancement funding and provide a narrative of results and benefits for the school year.

NEW SECTION

WAC 392-140-584 1995-97 Local enhancement funding—Definition—Enrolled as a Medicaid service provider. Enrolled as a Medicaid service provider means having applied for and received a core provider agreement number pursuant to WAC 388-78-007 from the department of social and health services medical assistance administration office of provider services.

NEW SECTION

WAC 392-140-585 1995-97 Local enhancement funding—Actively pursuing federal matching funds for medical services provided through special education programs. The superintendent of public instruction shall find that a district is actively pursuing federal matching funds if the district is enrolled as a Medicaid service provider, and:

(1) That the district is billing for Medicaid eligible services provided to Medicaid eligible students in its special education program conducted pursuant to chapter 392-171 WAC; or

(2) That the district participates in a special education cooperative and the serving district(s) is billing for all Medicaid eligible services provided to all Medicaid eligible students in the cooperative; or

(3) That the Medicaid eligibility of the students enrolled in special education programs has been verified and none of the district's students enrolled in the district's special education program are eligible for Medicaid; or

(4) That the school district does not have any students needing special education.

NEW SECTION

WAC 392-140-586 1995-97 Local enhancement funding—Conditions of receipt of moneys. School districts shall comply with the following conditions in order to receive local enhancement funding:

(1) Receipt by a school district of one-fourth of the district's local enhancement funding allocation shall be conditioned on a finding by the superintendent of public instruction that:

(a) The school district is enrolled as a Medicaid service provider;

(b) The school district is actively pursuing federal matching funds for medical services provided through special education programs, pursuant to chapter 149, Laws of 1993, during the school year in which local enhancement funding is received.

(2) Receipt by a school district of student learning improvement block grant funding shall be conditioned on the school district having adopted a policy regarding the involvement of school staff, parents and community members in instructional decisions.

NEW SECTION

WAC 392-140-588 1995-97 Local enhancement funding—Allocation of moneys. From moneys appropriated by the legislature for local enhancement funding, the superintendent of public instruction shall apportion money to each eligible school district as follows:

(1) The school district's student learning improvement block grant allocation for a fiscal year shall equal the school district's allocation enrollment times a uniform state-wide rate of up to either \$36.69 for school districts meeting the conditions of receipt of moneys in WAC 392-140-586(1) or \$27.52 for districts not meeting the conditions of receipt of moneys in WAC 392-140-586(1); and

(2) The school district's local program enhancement block grant allocation for a school year shall equal the school district's allocation enrollment times a uniform state-wide rate of up to either \$26.30 for school districts meeting the conditions of receipt of moneys in WAC 392-140-586(1) or \$19.73 for districts not meeting the conditions of receipt of moneys in WAC 392-140-586(1).

(3) The school district's student learning improvement block grant allocation shall be paid to the school district in the same manner as provided in WAC 392-121-400 except that payments shall be made according to the following schedule:

September	24%
October through May	8% each month
June	12%

(4) The school district's local program enhancement block grant allocation shall be paid to the school district in the same manner as provided in WAC 392-121-400.

(5) In January of the following year or thereafter, the school district's student learning improvement block grant allocation and the school district's local program enhancement block grant allocation shall be adjusted to reflect any recovery made pursuant to WAC 392-140-594.

NEW SECTION

WAC 392-140-590 1995-97 Local enhancement funding—Conditions and limitations on expenditures. Expenditure of moneys allocated pursuant to WAC 392-140-570 through 392-140-594 is subject to the following conditions and limitations:

(1) The student learning improvement block grant allocation pursuant to WAC 392-140-588(1) shall be expended in school buildings for building based planning, staff development and other activities to improve student learning consistent with the student learning goals in RCW 28A.150.210 and 28A.630.885; further, schools shall, by the end of the 1995-96 school year, develop and keep on file a building plan to attain the learning goals and essential academic learning requirements and to implement the assessment system as it is developed.

(2) The local education program enhancement block grant allocation pursuant to WAC 392-140-588(2) may be expended to meet other education needs identified by the district.

(3) The school district shall account for expenditure of the student learning improvement block grant allocation and for expenditure of the local education program enhancement block grant allocation separately in expenditure Program 75, local educational program enhancement.

(4) The student learning improvement block grant allocation shall be expended during the period beginning July 1 of the fiscal year and ending on or before June 30 of the fiscal year.

(5) The local education program enhancement block grant allocation shall be expended during the period beginning September 1 and ending on or before August 31 of the school year.

(6) The school district shall report to the superintendent of public instruction as provided in WAC 392-140-592.

NEW SECTION

WAC 392-140-592 1995-97 Local enhancement funding—School district reporting. School districts receiving local enhancement funding shall report to the superintendent of public instruction as follows:

(1) Beginning with the 1995-96 school year each school receiving a student learning improvement block grant shall include information in the annual performance report required in RCW 28A.320.205 on how the grant moneys were spent and what results were achieved. Prior to November 2 of the following school year, each school district shall file the annual performance reports for all such schools with the superintendent of public instruction.

(2) Prior to November 2 of the following school year school districts shall report in the format prescribed by the superintendent of public instruction, the student learning improvement block grant allocation direct expenditures and other necessary information for the fiscal year to the superintendent of public instruction.

(3) Prior to November 2 of the following school year, the school district shall report in the format prescribed by the superintendent of public instruction, the local program enhancement block grant allocation direct expenditures and other necessary information for the school year to the superintendent of public instruction.

PROPOSED

NEW SECTION

WAC 392-140-594 1995-97 Local enhancement funding—Recovery of moneys. In January of the following school year or thereafter, the superintendent of public instruction shall compare:

(1) The school district's student learning improvement block grant allocation enhancement funding allocation made pursuant to WAC 392-140-588(1) and the school district's direct expenditures reported pursuant to WAC 392-140-592(2). If the allocation exceeds expenditures, the difference shall be recovered; and

(2) The school district's local program enhancement block grant allocation made pursuant to WAC 392-140-588(2) and the school district's direct expenditures reported pursuant to WAC 392-140-592(3). If the allocation exceeds expenditures, the difference shall be recovered.

**WSR 95-15-057
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Filed July 14, 1995, 11:44 a.m.]

Original Notice.

Title of Rule: WAC 388-49-600 Notice to households.

Purpose: Adds subsection (2)(h) stating the department need not give further advance notice when initiating recoupment of a claim already established. This conforms WAC 388-49-600 to 7 CFR 273.13 (b)(14).

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Adds new item to list of situations in which the department need not give further notice to a household. When the department initiates recoupment action for a claim already established it need not give further advance notice; although adequate notice is still required including the reduction amount and new benefit amount.

Reasons Supporting Proposal: This issuance is to conform WAC 388-49-600 with 7 CFR 273.13 (b)(14).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Chuck Henderson, Division of Income Assistance, 438-8325.

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

Rule is necessary because of federal law, 7 CFR 273.13 (b)(14).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This issuance affects only the food stamp program. It adds a condition under which the department need not further notify a household already notified earlier when the department initiates collection action. The department has already established the claim and in establishing the claim has notified the household the recoupment will begin. This

issuance then affects only the household involved in these actions, not small business.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on August 22, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by August 8, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by August 15, 1995.

Date of Intended Adoption: August 23, 1995.

July 14, 1995

Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3181, filed 5/21/91, effective 6/1/91)

WAC 388-49-600 Notices to households. (1) The department shall notify a certified household of any change:

(a) At least ten days before the change; or

(b) By the date benefits are to be received for a household reporting changes on the monthly report.

(2) The department is not required to provide advance notice when:

(a) The federal or state government makes mass changes;

(b) The department determines all household members have died;

(c) The household moves from the state;

(d) The department restored lost benefits and previously notified the household in writing when the increased allotment would terminate;

(e) The department notified the household at the time of certification that allotments would vary from month to month;

(f) The household's benefits are reduced because a public assistance grant is approved; ((or))

(g) A household member is disqualified for intentional program violation or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member; or

(h) The department initiates recoupment action on a claim for which the department has already given the household advance notice.

**WSR 95-15-058
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Filed July 14, 1995, 11:46 a.m.]

Original Notice.

Title of Rule: WAC 388-49-020 Definitions, 388-49-640 Overissuances, 388-49-660 Intentional program

violations—Administrative disqualification hearings, and 388-49-670 Intentional program violations—Disqualification penalties.

Purpose: WAC 388-49-020 amends definition of administrative error and intentional program violation and amends expedited services. WAC 388-49-640 amends policy of computing food stamp overissuance, amends criteria dictating allotment reduction to recoup food stamp overissuances. WAC 388-49-660 amends policy affecting when to implement intentional program violation disqualification. WAC 388-49-670 amends policy affecting disqualification penalties for food stamp misuse, amends policy affecting criteria for imposing an intentional program violation disqualification.

Statutory Authority for Adoption: RCW 74.04.510.

Statute Being Implemented: RCW 74.04.510.

Summary: Clarifies intent of current federal regulations governing definition of administrative error overissuance, definition of intentional program violation, computing an overissuance, staying an administrative disqualification hearing decision, and imposing disqualification arising from a court decision. New federal regulations address when to reduce an allotment to recoup an overpayment, and new disqualification penalties for coupon misuse.

Reasons Supporting Proposal: Revisions incorporate clarifications of current federal rules and amendments implementing new federal rules: 7 CFR 273.16 (c) and (e)(10), 7 CFR 273.18 (a)(2) and (d)(4), and FCS Administrative Notice 94-79 and 94-71.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dan Ohlson, Division of Income Assistance, 438-8326.

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

Rule is necessary because of federal law, 7 CFR 273.16 (c) and (e)(10), 273.18 (a)(2) and (c), 273.18 (d)(4), FCS Administrative Notice 94-79 and 94-71.

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. There is no supporting data available since the proposed rule amendments do not address small business. The rules address households which have received more food stamps than they were eligible to receive and incurred program disqualification penalties as a result. There is no matter whatsoever in these amendments which address criteria related to industrial economic impact.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on September 5, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by August 22, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by August 29, 1995.

Date of Intended Adoption: September 7, 1995.

July 14, 1995

Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3840, filed 2/22/95, effective 4/1/95)

WAC 388-49-020 Definitions. (1) "Administrative disqualification hearing" means a formal hearing to determine whether or not a person committed an intentional program violation.

(2) "Administrative error overissuance" means any overissuance caused solely by:

(a) Department action or failure to act when the household properly and accurately reported all the household's circumstances to the department; or

(b) Department failure to timely implement an intentional program violation disqualification; or

(c) For households determined categorically eligible under WAC 388-49-180(1), department action or failure to act which resulted in the household's improper eligibility for public assistance, provided a claim can be calculated based on a change in net food stamp income and/or household size.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to preside over adjudicative proceedings.

(4) "Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

(5) "Allotment" means the total value of coupons a household is certified to receive during a calendar month.

(6) "Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

(7) "Authorized representative" means an adult nonhousehold member sufficiently aware of household circumstances designated, in writing, by the head of the household, spouse, or other responsible household member to act on behalf of the household.

(8) "Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive benefits.

(9) "Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

(10) "Boarder" means an individual residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), or (c) who is a person:

(a) Paying reasonable compensation to the household for lodging and meals; or

(b) In foster care.

(11) "Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

(12) "Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

PROPOSED

(13) "Child" means someone seventeen years of age or younger, and under parental control.

(14) "Collateral contact" means oral contact in person or by telephone with someone outside of the household to confirm the household's circumstances.

(15) "Commercial boarding home" means an enterprise offering meals and lodging for compensation with the intent of making a profit.

(16) "Department" means the department of social and health services.

(17) "Dependent care deduction" means costs incurred by a household member for care provided by a nonhousehold member when the care is necessary for a household member to seek, accept, or continue employment, or attend training or education preparatory to employment.

(18) "Destitute household" means a household with a migrant or seasonal farmworker with little or no income at the time of application and in need of immediate food assistance.

(19) "Disabled person" means a person who meets one of the following criteria:

(a) Receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act;

(b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(c) Is a veteran:

(i) With service-connected or nonservice-connected disability rated or paid as total under Title 38 of the United States Code (USC); or

(ii) Considered in need of regular aid and attendance, or permanently housebound under Title 38 of the USC.

(d) Is a surviving:

(i) Spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or

(ii) Child of a veteran and considered permanently incapable of self-support under Title 38 of the USC;

(e) A surviving spouse or child of a veteran and:

(i) Entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC; and

(ii) Has a disability considered permanent under section 221(i) of the Social Security Act.

(f) Receives disability retirement benefits from a federal, state, or local government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(g) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:

(i) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or

(ii) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act.

(h) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.

(20) "Documentary evidence" means written confirmation of a household's circumstances.

(21) "Documentation" means the process of recording the source, date, and content of verifying information.

(22) "Elderly person" means a person sixty years of age or older.

(23) "Eligible food" means:

(a) For a homeless food stamp household, meals prepared and served by an authorized homeless meal provider; or

(b) For a blind or a disabled resident, meals prepared and served by a group living arrangement facility.

(24) "Entitlement" means the food stamp benefit a household received including a disqualified household member.

(25) "Equity value" means fair market value less encumbrances.

(26) "Expedited services" means providing food stamps within five calendar days to an eligible household which:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross monthly income and liquid resources which are less than the household's current monthly rent or mortgage and either the:

(i) Standard utility allowance as set forth in WAC 388-49-505; or

(ii) Limited utility allowance; or

(iii) Actual utility costs, whichever is higher; or

(d) Includes all members who are homeless individuals; or

(e) Includes a destitute migrant or seasonal farmworker.

(27) "Fair hearing" means an adjudicative proceeding in which the department hears and decides an applicant/recipient's appeal from the department's action or decision.

(28) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(29) "Food coupon" means food stamps and the two terms are interchangeable.

(30) "Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

(31) "Food stamp monthly reporting cycle" means the three-month reporting cycle consisting of the budget month, the process month, and the payment month.

(32) "Gross income eligibility standard" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(33) "Group living arrangement" means a public or private nonprofit residential setting which:

(a) Serves not more than sixteen blind or disabled residents as defined under WAC 388-49-020(19); and

(b) Is certified by the appropriate state agency under section 1616(e) of the Social Security Act.

(34) "Head of household" means the person designated by the household to be named on the case file, identification card, and FCA card.

(35) "Household employment representative" means:

(a) The household member selected as the head of household for employment and training purposes and voluntary quit provisions. Selection is limited to households with:

(i) An adult parent of children, of any age, living in the household; or

(ii) An adult who has parental control over children, under eighteen years of age, living in the household; or

(b) The principal wage earner if no selection is made by the household, or the household is not entitled to make a selection.

(36) "Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

(37) "Homeless individual" means a person lacking a fixed and regular nighttime residence or a person whose primary nighttime residence is a:

(a) Supervised shelter designed to provide temporary accommodations;

(b) Halfway house or similar institution providing temporary residence for persons needing or coming out of institutionalization;

(c) Temporary accommodation in the residence of another person; or

(d) Place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

(38) "Homeless meal provider" means a public or private nonprofit establishment (for example, soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by the division of income assistance (DIA) and authorized by food and nutrition service (FNS).

(39) "Household" means the basic client unit in the food stamp program.

(40) "Household disaster" means when food coupons, food purchased with food coupons, or food coupon authorization cards are destroyed by a natural disaster, such as flood, fire, etc.

(41) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(42) "Inadvertent household error overissuance" means any overissuance caused by either:

(a) Misunderstanding or unintended error by a household:

(i) Not determined categorically eligible under WAC 388-49-180(1); or

(ii) Determined categorically eligible under WAC 388-49-180(1) if a claim can be calculated based on a change in net food stamp income and/or household size; or

(b) Social Security Administration action or failure to take action which resulted in the household's categorical eligibility, if a claim can be calculated based on a change in net food stamp income and/or household size.

(43) "Ineligible household member" means the member excluded from the food stamp household because of:

(a) Disqualification for intentional program violation;

(b) Failure to apply for or provide a Social Security number;

(c) Failure to comply with work requirements as described under WAC 388-49-360;

(d) Status as an ineligible alien; or

(e) Failure to sign the application attesting to the member's citizenship or alien status.

(44) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(45) "Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course

in a trade or vocational school that normally requires a high school diploma or equivalency for admittance to the course.

~~(46) "Intentional program violation((after August 8, 1983,))" means intentionally:~~

~~(a) Making a false or misleading statement;~~

~~(b) Misrepresenting, concealing, or withholding facts; or~~

~~(c) Committing any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.~~

~~((Intentional program violation which ended before August 8, 1983, consists of any action by a person or persons to knowingly, willfully, and with deceitful intent:~~

~~(a) Make a false statement to the department, either orally or in writing, to obtain benefits to which the household is not entitled;~~

~~(b) Conceal information to obtain benefits to which the household is not entitled;~~

~~(c) Alter authorization cards or coupons to obtain benefits to which the household is not entitled;~~

~~(d) Use coupons to buy expensive or conspicuous nonfood items;~~

~~(e) Use or possess improperly obtained coupons or authorization cards; and~~

~~(f) Trade or sell coupons or authorization cards.))~~

(47) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(48) "Live-in attendant" means a person residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(49) "Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

(a) Income tax refunds,

(b) Rebates,

(c) Retroactive payments, and

(d) Insurance settlements.

(50) "Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

(51) "Migrant farmworker" means a person working in seasonal agricultural employment who is required to be absent overnight from the person's permanent residence.

(52) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(53) "Nonhousehold member" means a person who is not considered a member of the food stamp household such as a:

(a) Roomer;

(b) Live-in attendant;

(c) Ineligible student; or

(d) Person who does not purchase and prepare meals with the food stamp household except for persons described under WAC 388-49-190(2).

(54) "Nonstriker" means any person:

(a) Exempt from work registration the day before the strike for reasons other than their employment;

(b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;

(c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or

(d) Unable to work because workplace is closed to employees by employer in order to resist demands of employees, e.g., a lockout.

(55) "Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.

(56) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

(57) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

(58) "Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is affected by information reported on the monthly report for the budget month.

(59) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

(60) "Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.

(61) "Principal wage earner" means the household member with the greatest source of earned income in the two months prior to the month of violation of employment and training and voluntary quit provisions, including members not required to register.

(62) "Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.

(63) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

(64) "Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are reasonably certain will be received during the month of issuance.

(65) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(66) "Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.

(67) "Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

(68) "Recent work history" means receipt of earned income in one of the two months prior to the payment month.

(69) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

(70) "Resident of an institution" means a person residing in an institution that provides the person with the majority of meals as part of the institution's normal service.

(71) "Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.

(72) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(73) "Roomer" means a person to whom a household furnishes lodging, but not meals, for compensation.

(74) "Seasonal farmworker" means a person working in seasonal agricultural employment who is not required to be absent overnight from the person's permanent residence.

(75) "Shelter costs" means:

(a) Rent or mortgage payments plus taxes on a dwelling and property;

(b) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;

(c) Assessments;

(d) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;

(e) Standard basic telephone allowance;

(f) Initial installation fees for utility services; and

(g) Continuing charges leading to shelter ownership such as loan repayments for the purchase of a mobile home including interest on such payments.

(76) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

(77) "Sibling" means a natural or an adopted brother, sister, half brother, half sister, or stepbrother or stepsister.

(78) "Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's admission into the United States as a permanent resident.

(79) "Sponsored alien" means an alien lawfully admitted for permanent residence who has an affidavit of support or similar agreement executed by a person on behalf of the alien as a condition of the alien's admission into the United States as a permanent resident.

(80) "Spouse" means:

(a) Married under applicable state law; or

(b) Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

(81) "Striker" means any person:

(a) Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or

(b) Involved in any concerted slowdown or other concerted interruption of operations by employees.

(82) "Student" means any person:

(a) At least eighteen but less than fifty years of age;

(b) Physically and mentally fit for employment; and

(c) Enrolled at least half time in an institution of higher education.

(83) "Systematic alien verification for entitlements (SAVE)" means the immigration and naturalization service (INS) program whereby the department may verify the validity of documents provided by aliens applying for food stamp benefits by obtaining information from a central data file.

(84) "Temporary disability" means a nonpermanent physical illness or injury that incapacitates beyond the initial issuance month.

(85) "Thrifty food plan" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the basis for all allotments, taking into account the household size adjustments based on a scale.

(86) "Under parental control" means living with any adult other than the parent. A person is not under parental control when that person is:

(a) Receiving an AFDC grant as the person's own payee;

(b) Receiving, as the person's own payee, gross income equal to, or exceeding, the AFDC grant payment standard as described under WAC 388-250-1400(2);

(c) Married and living with a spouse; or

(d) Living with the person's own child.

(87) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

(88) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

(a) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a person or organization providing a service to the household; or

(b) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

(89) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

AMENDATORY SECTION (Amending Order 3810, filed 11/23/94, effective 1/1/95)

WAC 388-49-640 Overissuances. (1) The department shall establish claims and take collection action against households and household members for administrative error, inadvertent household error, or intentional program violation resulting in overissuances except as provided in subsections (3), (10), and (11) of this section.

(2) The department shall establish an overissuance claim against any household:

(a) Receiving more food stamp benefits than it was entitled to receive; or

(b) Containing an adult member who was an adult member of another household receiving more benefits than it was entitled to receive.

(3) The department shall not establish an administrative error claim or an inadvertent household error claim if an overissuance occurred because:

(a) The department failed to ensure the household:

(i) Signed the application form;

(ii) Completed a current work registration form; or

(iii) Was certified in the correct project area.

(b) The household transacted an expired food coupon authorization (FCA) unless the household had altered the FCA.

(4) The department shall hold all persons who were adult members of the household at the time of the overissuance jointly and severally liable for the overissuance.

(a) The department shall establish an overissuance claim and pursue collection action against any or all of these persons.

(b) If the household composition changes, the department may establish an overissuance claim and pursue collection action against any household containing a person who was an adult member of the household receiving the overissuance.

(5) The department shall not collect more than the amount of the overissuance.

(6) The department shall not establish an:

(a) Administrative error overissuance unless the department has:

(i) Discovered the overissuance within twelve months of its occurrence; and

(ii) Calculated the overissuance and mailed the household a demand letter within twenty-four months of the overissuance discovery date.

(b) Inadvertent household error overissuance unless the department has:

(i) Discovered the overissuance within twenty-four months of its occurrence; and

(ii) Calculated the overissuance and mailed the household a demand letter within twenty-four months of the overissuance discovery date.

(c) Intentional program violation overissuance unless the department has:

(i) Discovered the overissuance within seventy-two months of its occurrence; and

(ii) Calculated the overissuance and mailed the household a demand letter within twenty-four months of the overissuance discovery date.

(7) Except as provided in subsection ~~((8))~~ (9) of this section, the ~~((amount of))~~ department shall determine the overissuance ~~((shall))~~ amount to be the difference between:

(a) The ~~((monthly))~~ allotment actually authorized; and

(b) The ~~((monthly))~~ allotment ~~((the household))~~ that should have been authorized.

(8) When determining the monthly allotment the household should have been authorized, the department shall:

(a) Count the actual income received by the household;

(b) Not apply the twenty percent earned income deduction

~~((+))~~ to that portion of earned income ~~((which the household intentionally failed to report;~~

~~((b) When the department has determined that the household committed))~~ willfully or fraudulently unreported by the household member when committing an intentional program violation.

(9) The amount of the household's and/or household member's liability for an overissuance shall be the difference between:

(a) The amount of the overissuance; and

(b) Any lost benefits not previously restored or used as an offset.

(10) The department shall initiate collection action on all inadvertent household or administrative error claims unless:

(a) The claim is collected through offset;

(b) The administrative error claim is less than one hundred dollars;

(c) The inadvertent household error claim is less than thirty-five dollars;

(d) The department cannot locate the liable household; or

(e) The department determines collection action will prejudice an inadvertent household error claim case referred for possible prosecution or administrative disqualification.

(11) The department shall initiate collection action against the liable household whose member is found to have committed an intentional program violation unless:

(a) The household has repaid the overissuance;

(b) The department cannot locate the household; or

(c) The department determines collection action will prejudice the case against a household member referred for prosecution.

(12) The department shall initiate collection action by providing the household a demand letter.

(13) A household or household member may repay an overissuance (~~(except as provided in subsections (14) through (18) of this section))~~ by:

(a) A lump sum;

(b) Regular installments under a payment schedule agreed to by the household or household member and the department; and/or

(c) Allotment reduction~~((s))~~.

(14) ~~((When the allotment reduction is the method of collection, the department shall reduce a currently participating household's allotment to repay an:~~

(a) ~~Inadvertent household error overissuance by the greater of:~~

~~(i) Ten percent of the household's monthly allotment; or~~

~~(ii) Ten dollars per month.~~

~~(b) Intentional program violation overissuance by the greater of:~~

~~(i) Twenty percent of the household's monthly entitlement; or~~

~~(ii) Ten dollars per month.~~

~~(c) Administrative error overissuance by the amount agreed to by the household.))~~ The department shall ensure a negotiated monthly installment amount is not less than the amount which could be recovered through allotment reduction when a currently participating household is liable for an inadvertent household error or an intentional program violation.

(15) A household member and/or the department may request the payment schedule be renegotiated.

(16) ~~((The department shall ensure the negotiated monthly installment amount is not less than the amount which could be recovered through allotment reduction when:~~

~~(a) A current participating household is liable for an inadvertent household error or an intentional program violation; and~~

~~(b) An installment payment schedule is the method of collection.))~~ When allotment reduction is the method of collection, the department shall reduce a currently participating household's allotment to repay an:

(a) Inadvertent household error overissuance by the greater of:

(i) Ten percent of the household's monthly allotment; or

(ii) Ten dollars per month.

(b) Intentional program violation overissuance by the greater of:

(i) Twenty percent of the household's monthly entitlement; or

(ii) Ten dollars per month.

(c) Administrative error overissuance by the amount agreed to by the household.

(17) The department shall reduce the allotment to repay an inadvertent household error or an intentional program violation ~~((overissuance without additional notice if, after notification of failure to make payment in accordance with a repayment schedule, the household member fails to:~~

~~(a) Make the overdue payments; or~~

~~(b) Request renegotiation of the payment schedule.~~

~~(18) The department shall reduce the household's allotment if:~~

~~(a) The household member fails to respond to the demand letter:~~

~~(i) Within ten days of the date the inadvertent household error overissuance notice is mailed; or~~

~~(ii) Upon receipt of the intentional program violation overissuance notice or the next business day if received on a nonbusiness day.~~

~~(b) The household is liable for an inadvertent household error or an intentional program violation claim.~~

~~(19)) claim when:~~

(a) A household is liable for an inadvertent household error claim and fails to notify the department of their chosen repayment agreement or request a fair hearing and continued benefits within twenty days after receipt of the demand letter; or

(b) A household is liable for an intentional program violation claim and fails to inform the department of their chosen repayment agreement within ten days after receiving the demand letter; or

(c) After notification of failure to make payment according to a negotiated repayment schedule, the household member fails to:

(i) Make the overdue payments; or

(ii) Request renegotiation of the payment schedule.

~~((20))~~ (18) The department shall suspend collection action when:

(a) Collection action has not been initiated as provided in subsection (10) of this section;

(b) A liable household member cannot be located; or

(c) The cost of further collection action is likely to exceed the amount that can be recovered.

~~((20))~~ (19) The department may accept offers of compromise for overissuances when:

(a) The department has already established the account receivable for the overissuance and taken steps to recover the overissuance; and

(b) The amount offered approximates the net amount expected to be collected prior to the expiration of the collection period allowed by statute.

~~((21))~~ (20) The department shall write-off amounts from its account receivable records and release any applicable liens prior to the expiration of the collection period allowed by statute when there is:

(a) No further possibility of collection;

(b) An account receivable balance after payment of an accepted offer of compromise; or

(c) An account receivable balance after a claim has been in suspense for three consecutive years, as provided in subsection (19) of this section.

~~((22))~~ (21) The department may initiate collection action to satisfy a food stamp overissuance which occurred in another state when the department:

(a) Determines that the originating state does not intend to pursue collection in Washington state; and

(b) Receives the following from the originating state:

(i) Documentation of the overissuance computation;

(ii) Overissuance notice prepared for the client; and

(iii) Proof of service that the client received the overissuance notice.

AMENDATORY SECTION (Amending Order 3397, filed 5/29/92, effective 7/1/92)

WAC 388-49-660 Intentional program violations—Administrative disqualification hearings. Administrative disqualification hearings are governed by chapter 388-08 WAC and this section. If a provision in this section conflicts with a provision in chapter 388-08 WAC, the provision in this section controls.

(1) The department shall refer ~~((an individual))~~ a person who has no prior intentional program violation but who is suspected of committing an intentional program violation for an administrative disqualification hearing when:

(a) The overissuance caused by the suspected intentional program violation is four hundred fifty dollars or more; and

(b) At the time of referral, the ~~((individual))~~ person resides:

(i) In Washington state; or

(ii) Outside Washington but within one hour's reasonable drive to a community services office; and

(c) The department determines that administrative proceedings will not jeopardize criminal prosecution.

(2) The department shall refer ~~((an individual))~~ a person who has committed one or more intentional program violations and who is suspected of committing another intentional program violation when:

(a) The act of suspected intentional program violation occurred:

(i) After the department mailed the administrative decision disqualifying the ~~((individual))~~ person for the most recent intentional program violation; or

(ii) After entry of the order in criminal proceedings that caused the ~~((individual))~~ person to be disqualified for the most recent intentional program violation; and

(b) At the time of referral, the ~~((individual))~~ person resides:

(i) In Washington state; or

(ii) Outside Washington but within one hour's reasonable drive to a community services office; and

(c) The department determines that administrative proceedings will not jeopardize criminal prosecution.

(3) The department shall:

(a) Give thirty days or more advance notice of the hearing date to the person alleged to have committed an intentional program violation as defined in WAC 388-49-020; and

(b) Obtain proof of receipt of the notice.

(4) The notice of hearing shall comply with WAC 10-08-040 and contain the following information:

(a) The allegations;

(b) A summary of the department's evidence;

(c) A statement of how and where interested parties may examine the evidence;

(d) A statement that if the person or a representative fails without good cause to appear at the hearing, the administrative law judge and the review judge will make a decision based solely on the evidence and argument the department presents;

(e) A statement that the person has ten days from the date of the scheduled hearing to file a request with the administrative law judge:

(i) Showing good cause for failure to appear; and

(ii) Seeking a new hearing; and

(f) A statement that if a telephone hearing is scheduled, the person may request an in-person hearing by filing a request with the administrative law judge one week or more prior to the date of the hearing.

(5) The person or a representative shall have the right to one continuance of up to thirty days provided a request is filed ten days or more prior to the hearing date.

(6) The department shall conduct the hearing without the person or a representative if either person fails to appear at the hearing without good cause.

(a) The administrative law judge and the review judge shall base the decision solely on the evidence and argument the department presents.

(b) The person has ten days from the date of the scheduled hearing to file a request with the administrative law judge:

(i) Showing good cause for failure to appear; and

(ii) Requesting the hearing be reinstated.

(7) The administrative law judge shall grant a request to change a scheduled telephone hearing to an in-person hearing if the person or representative:

(a) Files the request one week or more before the date the hearing is scheduled; or

(b) Files the request one week or less before the date the hearing is scheduled if the person shows good cause for having the hearing conducted in person.

(8) The administrative law judge shall advise the person or representative they may refuse to answer questions during the hearing.

(9) The department shall bear the burden of proof for demonstrating intentional program violation with clear and convincing evidence.

(10) The department shall follow the decision-rendering in ~~((WAC 388-08-406))~~ chapter 388-08 WAC.

(11) The department shall make a final decision and notify the household member of the decision within ninety days of the date the ~~((individual))~~ person receives the notice of hearing.

(12) The department may combine an overissuance fair hearing and an administrative disqualification hearing into a single hearing when the facts alleged for each arise out of the same or related circumstances. When combined:

(a) The department shall apply the hearing procedures and time frames ~~((shall be those))~~ applicable to an administrative disqualification hearing;

- (b) The household loses its right to a subsequent fair hearing on the overissuance; and
- (c) The department shall give prior notice to:
 - (i) The person alleged to have committed the intentional program violation; and
 - (ii) The person alleged to be liable for the overissuance.

(13) The department shall stay implementing a disqualification and continue benefits at the level preceding such disqualification when the client timely:

- (a) Requests reinstatement of an administrative disqualification hearing for failure to appear; or
- (b) Files a petition for review or petition for reconsideration to overturn a disqualification order.

AMENDATORY SECTION (Amending Order 3758, filed 7/27/94, effective 8/27/94)

WAC 388-49-670 Intentional program violations—Disqualification penalties. (1) The department shall disqualify the person or persons committing an intentional program violation ~~((, but not the entire household,))~~ as defined in WAC 388-49-020.

(2) The department shall apply the following disqualification penalties ((as follows)) to a person committing an intentional program violation for offenses not related to those described in subsection (3) of this section:

- ~~((If the violation occurred in whole or in part after the household was notified of the following penalties, the department shall apply the following disqualification periods:~~
- ~~((i))~~ Six months for the first disqualification;
- ~~((ii))~~ (b) Twelve months for the second disqualification; and
- ~~((iii))~~ (c) Permanently for the third disqualification.
- ~~((b) The department shall disqualify the person or persons for three months:~~

- ~~((i) If the violation ended before the department notified the household of the penalties in subsection (2)(a) of this section; and~~
- ~~((ii) If the department determined the disqualification in an administrative hearing))~~

(3) The department shall apply disqualification penalties against a person for trading or receiving food coupons for controlled substances or firearms. The department shall impose:

- (a) A one-year disqualification penalty for a first conviction by a federal, state, or local court of the trading or receiving of food coupons for a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or
- (b) A permanent disqualification for:
 - (i) The second conviction by a federal, state, or local court of the trading or receiving of food coupons for a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or
 - (ii) The first conviction by a federal, state, or local court of the trading or receiving of food coupons for firearms, ammunition, or explosives.

~~((e))~~ (4) The department shall consider multiple violations as only one disqualification when the violations occur before the department notified the household of the penalties, as described in subsection (2)(a) of this section.

~~((d) Court ordered disqualifications are for the length of time specified by the court.))~~

(5) When a court of law convicts a person of an offense which qualifies as an intentional program violation, the department shall:

- (i) Recommend that a disqualification penalty, as provided in subsection (2)~~((a))~~ or (3) of this section, be imposed in addition to any civil or criminal intentional program violation penalties;
- (ii) Impose a disqualification period as specified in subsection (2) or (3) of this section if the court fails to address disqualification or specify a disqualification period;
- (iii) Initiate the disqualification period for the currently eligible person or persons within forty-five days of the date the:

(A) Disqualification is ordered if the court does not specify a date; or

(B) Court finds such person or persons guilty if the court specifies a disqualification date(~~(-~~

~~((iii) Impose a disqualification period as specified in subsection (2)(a) of this section if the court fails to address or specify a disqualification period)); and~~

(iv) Not initiate or continue an intentional program violation disqualification period contrary to a court order.

~~((3))~~ (6) The department shall provide written notice of disqualification to the person or persons before the disqualification. The department shall ensure the notice informs the:

- (a) Participating person or persons of the disqualification and the effective date of the disqualification; or
- (b) Nonparticipating person or persons that the disqualification period will be deferred until such time as the person or persons applies for and is found eligible for benefits.

~~((4))~~ (7) The department shall provide written notice to the remaining household member or members, if any:

- (a) Of the allotment the household will receive during the period of disqualification; or
- (b) That the household must re-apply because the certification period has expired.

~~((5))~~ (8) The department shall recognize an intentional program violation determined in another state or political jurisdiction.

~~((6) The department shall apply disqualification penalties against a person for trading food coupons for controlled substances or firearms. The department shall impose:~~

- ~~(a) A one year disqualification penalty for the first occasion of a finding by a federal, state, or local court of the trading of food coupons for a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or~~
- ~~(b) A permanent disqualification for:~~
 - ~~(i) The second occasion of a finding by a federal, state, or local court of the trading of food coupons for a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or~~
 - ~~(ii) The first occasion of a finding by a federal, state, or local court of the trading of food coupons for firearms, ammunition, or explosives.))~~

~~(i) The second occasion of a finding by a federal, state, or local court of the trading of food coupons for a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or~~

~~(ii) The first occasion of a finding by a federal, state, or local court of the trading of food coupons for firearms, ammunition, or explosives.))~~

PROPOSED

WSR 95-15-059
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed July 14, 1995, 11:48 a.m.]

Original Notice.

Title of Rule: WAC 388-49-150 Pended/delayed applications and 388-49-170 Recertification.

Purpose: WAC 388-49-150 clarifies that a determination of fault for delaying the application process and resulting remedies only applies to initial applications. A determination of fault is not required for recertifications. WAC 388-49-170 clarifies that a late reapplication must be processed using the same time frames as an initial application, describes when the reapplication process is completed, and clarifies when the department is to issue uninterrupted benefits.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: These amendments clarify the difference in processing time frames between food stamp program initial applications and recertification.

Reasons Supporting Proposal: Amends WAC 388-49-150 and 388-49-170 to conform to 7 CFR 273.14.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mike Arnaud, Division of Income Assistance, 438-8322.

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

Rule is necessary because of federal law, 7 CFR 273.14 (a)(d) and (f)(2).

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This issuance affects only the food stamp program and does not affect small businesses.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on August 22, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by August 8, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by August 15, 1995.

Date of Intended Adoption: August 23, 1995.

July 14, 1995

Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-150 Delayed and pended applications.

(1) When the department does not determine eligibility or provide benefits within thirty days after the date of initial application, the department shall determine if the delay is the fault of the household or the department.

(2) When the delay is the fault of the household, the household shall:

(a) Lose benefits for the month of application,

(b) Have an additional thirty days to take the required action, and

(c) Be denied and be required to file a new application when the application process is not complete by the end of the second thirty-day period.

(3) When the delay is the fault of the department, the department shall take immediate corrective action:

(a) If the case file is complete, the department shall process the application.

(b) If the case file is incomplete, the department shall pend the application.

(c) If the case is incomplete after sixty days from the date of application, the department shall deny the application.

AMENDATORY SECTION (Amending Order 2575, filed 12/31/87)

WAC 388-49-170 Recertification. (1) The department shall provide a notice of expiration to ~~((and))~~ an eligible household(s):

(a) ~~((Not earlier than fifteen days prior to, and))~~ Not later than ~~((;))~~ the first day of the household's last month of certification for a multi-month period; or

(b) At the time of certification if the household is certified for up to two months.

(2) A household provided a notice of expiration reappplies timely when the department receives the application by:

(a) The fifteenth day of the last month of certification, or

(b) The fifteenth day after the notice is received if the notice is provided at the time of certification.

(3) The department shall treat a household that reappplies late like an initial application and approve or deny in accordance with WAC 388-49-120.

(4) A household completes the reapplication process when it:

(a) Submits a timely reapplication;

(b) Completes an interview; and

(c) Submits requested verification.

(5) The department shall ~~((approve or deny households reapplying and completing the application process and shall notify the household))~~ notify a household that timely reappplies and completes the application of approval or denial:

(a) By the end of the current certification period, or

(b) Not later than thirty days after the last allotment when certified for one month.

~~((4))~~ A household shall lose its right to uninterrupted benefits when it fails to:

(a) Submit a timely reapplication, or

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~~(b) Appear for a face-to-face interview without good cause))~~

(6) The department shall provide uninterrupted benefits to a household who timely completes the reapplication process.

**WSR 95-15-063
PROPOSED RULES**

EMPLOYMENT SECURITY DEPARTMENT

[Filed July 14, 1995, 1:59 p.m.]

Original Notice.

Title of Rule: WAC 192-04-090(2) Untimely appeals—Petitions for hearing or petitions for review—Good cause; WAC 192-04-060 Appeals—Petitions for hearing—Petitions for review—Time limitation—Forms; WAC 192-04-063, defining aggrieved party; WAC 192-04-170 Decision of commissioner—Petition for review—Filing—Reply; and WAC 192-04-173 Advisement order.

Purpose: WAC 192-04-090(2) is being amended to implement a court settlement agreement. WAC 192-04-060, 192-04-063, 192-04-170, and 192-04-175 are housekeeping amendments to conform to current practices except WAC 192-04-170(4) which requires information needed to process pleadings and limits those pleadings to five pages.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 34.05.310, et seq.

Statute Being Implemented: RCW 50.32.070 and 50.32.075.

Reasons Supporting Proposal: WAC 192-04-090(2) *Nava v. Employment Security Department* court settlement. WAC 192-04-060, 192-04-063, 192-04-170, and 192-04-175 are housekeeping amendments to conform to current practices except WAC 192-04-170(4) requires information needed to process pleadings and limits those pleadings to five pages.

Name of Agency Personnel Responsible for Drafting: Norman J. Ericson, Chief Review Judge, P.O. Box 9046, Olympia, WA 98507-9046, (360) 493-9435; Implementation and Enforcement: Chief Review Judge, P.O. Box 9046, Olympia, WA 98507-9046, (360) 493-94[35].

Name of Proponent: [Employment Security Department], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 192-04-090(2) implements the *Nava v. Employment Security Department* court settlement; WAC 192-04-060, 192-04-063, 192-04-170, and 192-04-175 are housekeeping amendments to conform to current practices except WAC 192-04-170(4) requires information needed to process pleadings and limits those pleadings to five pages.

Proposal Changes the Following Existing Rules: WAC 192-04-090(2) adds consideration of physical, mental, educational or linguistic limitations of appealing or petitioning parties as considerations in determining the excusability for the late filing of appeals, petitions for hearing and petitions for review. Such additions are being added pursuant to the *Nava v. Employment Security Department* court settlement. The housekeeping amendments to WAC 192-04-060, 192-04-063, 192-04-170, and 192-04-175 conform to current practices except WAC 192-04-170(4)

requires information to process pleadings and limits those pleadings to five pages.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. There are no costs to Washington state businesses.

Hearing Location: Employment Security Department, Office of Information Services Conference Room, Second Floor, 605 Woodview, Lacey, WA, on August 22, 1995, at 1:30 p.m.

Submit Written Comments to: John Nemes, Rules Coordinator, Office of Management Review, P.O. Box 9046, Olympia, WA 98507-9046, by August 25, 1995.

Date of Intended Adoption: August 31, 1995.

July 14, 1995

Vernon E. Stoner
Commissioner

AMENDATORY SECTION (Amending WSR 89-24-030, filed 11/30/89, effective 1/1/90)

WAC 192-04-060 Appeals—Petitions for hearing—Petitions for review—Time limitation—Forms. Any interested party who is aggrieved by any decision of the department set forth in WAC 192-04-050 may file a written appeal or petition for hearing (~~with~~) in person at, or by mailing it to, any job service center or district tax office or the unemployment compensation agency in any other state or territory in which he or she then resides. (~~Such~~) The appeal or petition for hearing shall be filed within thirty days of the date (~~such~~) the decision is delivered or mailed, whichever is the earlier. If the appeal and/or petition for hearing is mailed, it shall be filed in accordance with the provisions of RCW 50.32.025.

Any interested party who is aggrieved by a decision of the office of administrative hearings, other than an order approving a withdrawal of appeal, an order approving a withdrawal of a petition for hearing, a consent order, or an interim order, may file a written petition for review in accordance with the provisions of WAC 192-04-170. (~~Such~~) The petition for review shall be filed within thirty days of the date of delivery or mailing of (~~such~~) the decision of the office of administrative hearings, whichever is the earlier. If the petition for review is mailed it shall be filed in accordance with the provisions of RCW 50.32.025.

At the request of (~~such~~) an interested, aggrieved party, the employment security department shall furnish forms for the filing of a notice of appeal, petition for hearing, or petition for review, but the use of such forms is not a jurisdictional requirement.

NEW SECTION

WAC 192-04-063 Aggrieved party. An aggrieved party is a claimant or an employer who receives an adverse decision of the department set forth in WAC 192-04-050 or an adverse decision of the office of administrative hearings.

AMENDATORY SECTION (Amending WSR 89-24-030, filed 11/30/89, effective 1/1/90)

WAC 192-04-090 Untimely appeals—Petitions for hearing or petitions for review—Good cause. (1) The following factors shall be considered in determining whether

good cause exists under RCW 50.32.075 for the late filing of an appeal, petition for hearing or petition for review:

- (a) The length of the delay,
- (b) The excusability of the delay, and
- (c) Whether acceptance of the late filed appeal, petition for hearing, or petition for review will result in prejudice to other interested parties, including the department.

(2) In determining the excusability for the late filing of an appeal, petition for hearing or petition for review, the office of administrative hearings or the commissioner's review office shall take into account any physical, mental, educational or linguistic limitations of the appealing or petitioning party, including any lack of facility with the English language. Examples of circumstances where excusability may exist include, but are not limited to, the following situations:

(a) The appealing or petitioning party has been identified as having, or claims to have, and the claim is supported, a mental health or physical impairment, and this impairment affects his or her ability to comply with the appeal, petition for hearing or petition for review timely filing requirements,

(b) The appealing or petitioning party's primary language is a language other than English, and the appeal rights on the determination notice or the petition for hearing rights on the order and notice of assessment are not in his or her primary language or the appropriate primary language "buck slip" or "cover slip" was not attached to the decision of the office of administrative hearings,

(c) The appealing or petitioning party's primary language is a language other than English and he or she claims his or her language resource did not translate the determination notice, order and notice of assessment or decision of the office of administrative hearings in such a way as to inform him or her of the timely appeal, petition for hearing or petition for review requirements,

(d) The appealing or petitioning party is illiterate or has limited literacy skills,

(e) The appealing or petitioning party has a sensory impairment that affects communication,

(f) The appealing or petitioning party has a history of special education and claims he or she did not understand or know about the need to file a timely appeal, petition for hearing or petition for review.

AMENDATORY SECTION (Amending WSR 89-24-030, filed 11/30/89, effective 1/1/90)

WAC 192-04-170 Decision of commissioner—Petition for review—Filing—Reply. (1) The written petition for review shall be filed ~~((with))~~ in person at any job service center or by mailing it to the agency records center of the ~~((E))~~ employment ~~((S))~~ security ~~((D))~~ department ~~((212 Maple Park Drive, Olympia, WA, 98504, or the unemployment compensation agency in any other state or territory. Such petition for review shall be filed within thirty days of the date of the mailing or delivery of the decision of the Office of Administrative Hearings, whichever is the earlier.))~~ within thirty days of the date of mailing or delivery of the decision of the office of administrative hearings, whichever is the earlier. Out-of-state residents may file the petition for review in person at the unemployment compensation agency of the state or territory in which they then reside or by

mailing it to the agency records center of the employment security department within thirty days of the date of the mailing or delivery of the decision of the office of administrative hearings, whichever is the earlier.

(2) Any written argument in support of the petition for review must be attached to the petition for review and be filed contemporaneously therewith. The commissioner's review office will acknowledge receipt of the petition for review ~~((and mail a copy of such acknowledgement to the petitioning party and his or her representative of record, if any.))~~ by assigning a review number to the case, entering the review number on the face of the petition for review, and setting forth the acknowledgement date on the petition for review. The commissioner's review office will also mail copies of the acknowledgement ~~((ment.))~~ petition for review and attached argument in support thereof to the petitioning party, nonpetitioning part ~~((ies of record))~~ y and their representatives of record, if any.

(3) Any reply to the petition for review and any argument in support thereof by the nonpetitioning party shall be filed ~~((within fifteen days of the date of mailing of the acknowledgment of the petition for review))~~ in person at, or mailed to, the commissioner's review office. ~~((It shall be mailed or delivered to the commissioner's review office, Employment Security Department, 212 Maple Park Drive, Olympia, WA, 98504, and to all other parties and their representatives.))~~ The reply must be received by the commissioner's review office within fifteen days of the date of mailing of the acknowledged petition for review. An informational copy shall be mailed by the nonpetitioning party to all other parties of record and their representatives, if any.

(4) The petition for review and argument in support thereof and the reply to the petition for review and argument in support thereof shall:

(a) Be captioned as such, set forth the docket number of the decision of the office of administrative hearings, and be signed by the party submitting it or by his or her representative.

(b) Be legible, reproducible and five (5) pages or less. ~~((4))~~ (5) Arrangements for representation and requests for copies of the hearing record and exhibits will not extend the period for the filing of a petition for review, argument in support thereof, or a reply to the petition for review.

~~((5))~~ (6) Any argument in support of the petition for review or in reply thereto not submitted in accordance with the provisions of this regulation shall not be considered in the disposition of the case absent a showing that failure to comply with these provisions was beyond the reasonable control of the individual seeking relief.

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

NEW SECTION

WAC 192-04-175 Advisement order. On behalf of the commissioner, the commissioner's review office may prevent finality of any decision of the office of administrative hearings and take jurisdiction of the proceedings for review thereof by issuing an order so providing and mailing

a copy of the advisement order to the parties of record and their representatives within the same period allowed for the filing of a petition for review. The parties of record will be given fifteen days to submit argument in support of or in opposition to the decision of the office of administrative hearings, as well as in response to any departmental memorandum suggesting to the commissioner's review office that it consider taking a decision of the office of administrative hearings under advisement. That argument and/or response from the parties of record must be hand delivered or mailed to the commissioner's review office and received by that office within fifteen days from the date of mailing of the order taking the decision of the office of administrative hearings under advisement.

WSR 95-15-065
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed July 14, 1995, 4:05 p.m.]

Original Notice.

Title of Rule: WAC 458-20-114 Nonbusiness income—Bona fide initiation fees, dues, contributions, tuition fees and endowment funds.

Purpose: The rule addresses the taxation of nonbusiness income.

Statutory Authority for Adoption: RCW 82.32.300, the proposal is to repeal this rule in its entirety.

Summary: It is intended that WAC 458-20-114 be repealed in its entirety. The subject matter of this rule has been or will be covered in other rules and/or excise tax bulletins.

Reasons Supporting Proposal: Consolidation of pertinent tax reporting information.

Name of Agency Personnel Responsible for Drafting: Kerry J. Breen, 711 Capitol Way South, #303, Olympia, WA, (360) 664-0087; Implementation: Les Jaster, 711 Capitol Way South, #303, Olympia, WA, (360) 586-7150; and Enforcement: Russell Brubaker, 711 Capitol Way South, #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: It is intended that WAC 458-20-114 be repealed in its entirety. The subject matter of this rule has been or will be covered in other rules and/or excise tax bulletins. Tuition fees have been adequately covered in revised WAC 458-20-167 Educational institutions, school districts, student organizations, private schools, effective April 10, 1995. Bona fide initiation fees and dues are to be covered in revised WAC 458-20-183 Amusement, recreation, and physical fitness services. This rule is planned to be adopted simultaneously with the repeal of WAC 458-20-114. Thus, there will be no period of time that the subject of nonbusiness income will be addressed by two different rules. Contributions and endowment funds are covered in a proposed excise tax bulletin that is expected to be adopted shortly. Other than eliminating the standard deduction provided for nonprofit organizations who receive income in the form of initiation fees or dues, there

is no intent to change the interpretation of the provisions in WAC 458-20-114 that have been or will be incorporated into other more pertinent departmental rules and/or excise tax bulletins.

Proposal Changes the Following Existing Rules: The proposal is to repeal WAC 458-20-114 in its entirety.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The Department of Revenue has reviewed the proposed repeal of this rule in order to determine the economic impact on small businesses. The proposed repeal of this rule will have minor or negligible impact.

Hearing Location: General Administration Building, Director's Conference Room, Room #402, 11th and Columbia Streets, Olympia, Washington, on August 24, 1995, at 9:30 a.m.

Assistance for Persons with Disabilities: Accommodations or assistance for persons with disabilities or to request a copy of the information in an alternate format contact Sandra Yuen, TDD 1-800-451-7985, or (360) 753-3217.

Submit Written Comments to: Kerry J. Breen, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (360) 664-0693.

Date of Intended Adoption: August 29, 1995.

July 14, 1995

Russell W. Brubaker
Assistant Director

REPEALER

The following section of the Washington Administrative Code is hereby repealed:

WAC 458-20-114	Nonbusiness income—Bona fide initiation fees, dues, contributions, tuition fees and endowment funds
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WSR 95-15-066
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed July 14, 1995, 4:08 p.m.]

Continuance of WSR 95-10-064.

Title of Rule: Amending WAC 458-40-610 Timber excise tax—Definitions.

Purpose: WAC 458-40-610 is being amended to define new terms relating to the reporting of timber harvests. The amendments include definitions of "chipwood" and "small logs" that are new categories set forth on the stumpage value and stumpage/harvest value adjustment tables contained forth in WAC 458-40-660.

Other Identifying Information: This rule was adopted in another format on an emergency basis effective April 28, 1995.

Statutory Authority for Adoption: RCW 83.32.330 and 84.33.096.

Summary: This rule must be amended so that a timber harvester reporting stumpage values has access to all necessary information about the terms used in the stumpage value and stumpage/harvest value adjustment tables contained in WAC 458-40-660. The amendments to this rule

include the definitions of "chipwood" and "small logs" and will inform a taxpayer reporting stumpage values in these categories of the way the department will interpret and calculate timber excise tax as the result of a harvest of such timber.

Reasons Supporting Proposal: This rule sets forth all terms used in the rules that relate to the harvest of timber, the stumpage value tables, and the calculation of timber excise tax. The rule must be amended to inform taxpayers about the terms used within the stumpage value tables in WAC 458-40-660 tables and in determining and calculating timber excise tax liability.

Name of Agency Personnel Responsible for Drafting: James A. Winterstein, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-4283; **Implementation and Enforcement:** Gary O'Neil, 2735 Harrison N.W., Building 4, Olympia, WA, (360) 753-2871.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule was originally proposed for adoption on a permanent basis to take the place of an emergency rule that was effective January 1, 1995. The department has now determined that this rule will be effective as of August 25, 1995, to coordinate with the stumpage value and stumpage/harvest value adjustment tables contained in WAC 458-40-660 for the last half of 1995. As amended, WAC 458-40-610 includes a definition of "log grade," "chipwood," "small logs," and "saw logs." These definitions are used to calculate the volume of timber harvested for the purposes of determining the amount of forest excise tax owed. The rule also revises the definition of "thinning."

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The Department of Revenue has reviewed the administrative provisions contained in these rules in order to determine the economic impact on small business. The proposed amendments to these rules will have a minor or negligible economic impact on small business.

Hearing Location: Department of Revenue Conference Room, Target Place Building No. 4, 2735 Harrison Avenue N.W., Olympia, WA, on August 22, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Accommodations or assistance for persons with disabilities or to request a copy of the information in an alternate format contact Sandra Yuen by August 10, 1995, TTY 1-800-451-7985, or (360) 753-3217.

Submit Written Comments to: James A. Winterstein, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (360) 664-0693, by August 22, 1995.

Date of Intended Adoption: August 25, 1995.

July 14, 1995
Russell W. Brubaker
Assistant Director
Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 90-14-033, filed 6/29/90, effective 7/30/90)

WAC 458-40-610 Timber excise tax—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply to WAC 458-40-600 through 458-40-690.

(1) **Codominant trees.** Trees whose crowns form the general level of the crown cover and receive full light from above, but comparatively little light from the sides.

(2) **Competitive sales.** The offering for sale of timber which is advertised to the general public for sale at public auction under terms wherein all qualified potential buyers have an equal opportunity to bid on the sale, and the sale is awarded to the highest qualified bidder. The term "competitive sales" includes making available to the general public permits for the removal of forest products.

(3) **Department.** The department of revenue of the state of Washington.

(4) **Dominant trees.** Trees whose crowns are higher than the general level of the canopy and which receive full light from the sides as well as from above.

(5) **Harvest unit.** An area of timber harvest having the same forest excise tax permit number, stumpage value area, hauling distance zone, harvest adjustments, and harvester. It may include more than one section: *Provided*, A harvest unit may not overlap a county boundary.

(6) **Hauling distance zone.** An area with specified boundaries as shown on the state-wide stumpage value area and hauling distance zone maps contained in WAC 458-40-640, having similar accessibility to timber markets.

(7) **Log grade.** Those grades listed in the "Official Log Scaling and Grading Rules" handbook developed and authored by the Northwest Log Rules Advisory Group (Advisory Group). "Utility grade" means logs that do not meet the minimum requirements of peeler or sawmill grades as defined in the handbook published by the Advisory Group but are suitable for the production of firm useable chips to an amount of not less than fifty percent of the gross scale; and meeting the following minimum requirements:

Minimum gross diameter—two inches.

Minimum gross length—twelve feet.

Minimum volume—ten board feet net scale.

Minimum recovery requirements—one hundred percent of adjusted gross scale in firm useable chips.

(8) **Lump sum sale.** Also known as a cash sale or an installment sale, it is a sale of timber wherein the total sale price is dependent upon an estimate of the total volume of timber in the sale rather than the actual volume harvested.

((8)) (9) **MBF.** One thousand board feet measured in Scribner Decimal C Log Scale Rule.

((9)) (10) **Noncompetitive sales.** Sales of timber in which the purchaser has a preferential right to purchase the timber or a right of first refusal.

((10)) (11) **Other consideration.** Value given in lieu of cash as payment for stumpage, such as improvements to the land that are of a permanent nature. It may include, but is not limited to, the construction of permanent roads and the installation of permanent bridges.

((11)) (12) **Permanent road.** A road built as part of the harvesting operation which is intended to have a useful life subsequent to the completion of the harvest.

~~((12))~~ (13) Private timber. All timber harvested from privately owned lands, including timber on reclassified reforestation land under chapters 84.28 and 84.33 RCW.

~~((13))~~ (14) Public timber. Timber harvested from federal, state, county, municipal, or other government owned lands.

~~((14))~~ (15) Remote island. An area of land which is totally surrounded by water at normal high tide and which has no bridge or causeway connecting it to the mainland.

~~((15))~~ (16) Sale price. The amount paid for timber in cash or other consideration.

~~((16))~~ (17) Scale sale. A sale of timber in which the sale price is the product of the actual volume harvested and the unit price at the time of harvest.

~~((17))~~ (18) Species. A grouping of timber based on biological or physical characteristics. In addition to the designations of species or subclassifications defined in Agriculture Handbook No. 451 Checklist of United States Trees (native and naturalized) found in the state of Washington, the following shall be considered separate species for the purpose of harvest classification used in the stumpage value tables:

(a) Other conifer. All conifers not separately designated in the stumpage value tables. See WAC 458-40-660.

(b) Other hardwood. All hardwoods not separately designated.

~~(c) Conifer utility. All conifer logs graded as utility.~~

~~(d) Hardwood utility. All hardwood logs graded as utility or number four sawmill as defined by the current edition of the "Official Log Sealing and Grading Rules" as developed and authored by the Northwest Log Rules Advisory Group.~~

~~(e))~~ Special forest products. The following are considered to be separate species of special forest products: Christmas trees (various species), posts (various species), western redcedar flatsawn and shingle blocks, western redcedar shake blocks and boards.

~~((18))~~ (d) Chipwood. All timber processed to produce chips or chip products delivered to a designated chipwood destination that has been approved in accordance with the provisions of WAC 458-40-670 or otherwise reportable in accordance with the provisions of WAC 458-40-670 (4) or (5).

(e) Small logs. All conifer logs harvested in stumpage value areas 6 or 7 generally measuring seven inches or less in scaling diameter, delivered to and purchased by weight measure at designated small log destinations that have been approved in accordance with the provisions of WAC 458-40-670(6). Log diameter and length is determined by merchandizer scanner with length not to exceed twenty feet.

(f) Sawlog. For purposes of timber harvest in stumpage value areas 6 and 7, a sawlog is a log having a net scale of not less than 33 1/3% of gross scale, nor less than ten board feet and meeting the following minimum characteristics: Gross scaling diameter of five inches and a gross scaling length of eight feet.

(19) Stumpage. Standing or fallen trees, live or dead, having commercial value which have not been severed from the stump.

~~((19))~~ (20) Stumpage value area (SVA). An area with specified boundaries which contains timber having similar growing, harvesting and marketing conditions.

~~((20))~~ (21) Thinning. Timber removed from a harvest unit meeting all the following conditions:

(a) Located in ~~(Western Washington)~~ stumpage value areas 1, 2, 3, 4, 5, and 10;

(b) The total volume removed is less than forty percent of the total merchantable volume of the harvest unit prior to harvest;

~~(c) (Not more than forty percent of the total volume removed is from the dominant and codominant trees;~~

~~(d) The trees removed in the harvest operation shall be distributed over the entire harvest unit.~~

(21)) Leave a minimum of one hundred undamaged, evenly spaced, dominant or codominant trees per acre of a commercial species or combination thereof.

(22) Timber. Forest trees, standing or down, on privately or publicly owned land, and except as provided in RCW 84.33.170, includes Christmas trees.

**WSR 95-15-067
PROPOSED RULES
DEPARTMENT OF REVENUE**

[Filed July 14, 1995, 4:13 p.m.]

Continuance of WSR 95-11-041.

Title of Rule: Amending WAC 458-40-660 Timber excise tax—Stumpage value tables and 458-40-670 Timber excise tax—Stumpage value adjustments.

Purpose: WAC 458-40-660 is being amended to comply with existing law that requires the adjustment of stumpage values every six months and to incorporate tables setting forth harvest value adjustments previously contained in WAC 458-40-670. WAC 458-40-670 is being amended to explain the process to be followed in the reporting of "chipwood" and "small logs" for the payment of timber excise tax and to eliminate the harvest value adjustment tables that will be moved to WAC 458-40-660.

Other Identifying Information: These rules were adopted in another format on an emergency basis effective July 1, 1995.

Statutory Authority for Adoption: RCW 83.32.330 and 84.33.096.

Statute Being Implemented: RCW 84.34.091.

Summary: These rules inform timber harvesters of the stumpage values to be used in calculating timber excise tax for the last half of 1995 and to inform harvesters about the stumpage/harvest value adjustments allowed.

Reasons Supporting Proposal: The amendments are necessary to comply with legislative requirements and to enable harvesters to properly report and calculate the amount of timber excise tax owed as a result of a timber harvest. The amendments also consolidate all information regarding stumpage values and stumpage/harvest value adjustments into one rule.

Name of Agency Personnel Responsible for Drafting: James A. Winterstein, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-4283; Implementation and Enforcement: Gary O'Neil, 2735 Harrison N.W., Building 4, Olympia, WA, (360) 753-2871.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: As amended, WAC 458-40-660 will contain the stumpage value tables and the stumpage value adjustment tables for the last half of 1995. These tables are used by timber harvesters to calculate the amount of timber excise tax owed as a result of a timber harvest. As amended, WAC 458-40-670 will contain information about the process to be followed in the reporting of "chipwood" and "small logs" for the payment of timber excise tax.

Proposal Changes the Following Existing Rules: See above. Additionally, the format of the two rules has been changed so that all tables regarding the stumpage values and stumpage/harvest value adjustment tables will be set forth in one rule.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The Department of Revenue has reviewed the administrative provisions contained in these rules in order to determine the economic impact on small business. The proposed amendments to these rules will have a minor or negligible economic impact on small business.

Hearing Location: Department of Revenue Conference Room, Target Place Building No. 4, 2735 Harrison Avenue N.W., Olympia, WA, on August 22, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Accommodations or assistance for persons with disabilities or to request a copy of the information in an alternate format contact Sandra Yuen by August 10, 1995, TTY 1-800-451-7985, or (360) 753-3217.

Submit Written Comments to: James A. Winterstein, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (360) 664-0693, by August 22, 1995.

Date of Intended Adoption: August 25, 1995.

July 14, 1995

Russell W. Brubaker
Assistant Director

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 95-02-038, filed 12/30/94, effective 1/1/95)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) Introduction. This section sets forth the stumpage value tables and the stumpage value adjustments that are used to calculate the amount of timber excise tax owed by a timber harvester.

(2) Stumpage value tables. The following stumpage value tables are hereby adopted for use in reporting the taxable value of stumpage harvested during the period ((January)) July 1 through ((June 30)) December 31, 1995:

**((TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 1995**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir	DF	1	\$927	\$920	\$913	\$906	\$899

			2	872	865	858	851	844
			3	724	717	710	703	696
			4	611	604	597	590	583
Western Redcedar ²	RC	1	1072	1065	1058	1051	1044	
		2	970	963	956	949	942	
		3	960	953	946	939	932	
		4	442	435	428	421	414	
Western Hemlock ³	WH	1	560	553	546	539	532	
		2	474	467	460	453	446	
		3	452	445	438	431	424	
		4	337	330	323	316	309	
Other Conifer	OC	1	560	553	546	539	532	
		2	474	467	460	453	446	
		3	452	445	438	431	424	
		4	337	330	323	316	309	
Red Alder	RA	1	186	179	172	165	158	
		2	150	143	136	129	122	
		3	47	40	33	26	19	
Black Cottonwood	BC	1	159	152	145	138	131	
		2	145	138	131	124	117	
		3	47	40	33	26	19	
Other Hardwood	OH	1	140	133	126	119	112	
		2	108	101	94	87	80	
		3	47	40	33	26	19	
Chipwood ⁴	CHW	1	13	12	11	10	9	
RC Shake Blocks	RCS	1	215	208	201	194	187	
RC Shingle Blocks	RCF	1	126	119	112	105	98	
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45	
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25	
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50	

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska Cedar.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Stumpage value per ton.
⁵ Stumpage value per 8 lineal feet or portion thereof.
⁶ Stumpage value per lineal foot.

**TABLE 2—Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 1995**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir	DF	1	\$858	\$851	\$844	\$837	\$830
		2	791	784	777	770	763
		3	645	638	631	624	617
		4	529	522	515	508	501
Western Redcedar ²	RC	1	1072	1065	1058	1051	1044
		2	1046	1039	1032	1025	1018
		3	636	629	622	615	608
		4	348	341	334	327	320
Western Hemlock ³	WH	1	565	558	551	544	537
		2	501	494	487	480	473
		3	476	469	462	455	448
		4	397	390	383	376	369
Other Conifer	OC	1	565	558	551	544	537
		2	501	494	487	480	473
		3	476	469	462	455	448
		4	397	390	383	376	369

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Red Alder	RA	1	186	179	172	165	158
		2	150	143	136	129	122
		3	47	40	33	26	19
Black Cottonwood	BC	1	159	152	145	138	131
		2	145	138	131	124	117
		3	47	40	33	26	19
Other Hardwood	OH	1	140	133	126	119	112
		2	108	101	94	87	80
		3	47	40	33	26	19
Chipwood ⁴	CHW	1	13	12	11	10	9
RC Shake Blocks	RCS	1	315	308	301	294	287
RC Shingle Blocks	RCF	1	126	119	112	105	98
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska Cedar.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Stumpage value per ton.
⁵ Stumpage value per 8 lineal feet or portion thereof.
⁶ Stumpage value per lineal foot.

TABLE 3 Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir	DF	1	\$846	\$839	\$832	\$825	\$818
		2	814	807	800	793	786
		3	658	651	644	637	630
		4	602	595	588	581	574
Western Redcedar ²	RC	1	1072	1065	1058	1051	1044
		2	999	992	985	978	971
		3	750	743	736	729	722
		4	463	456	449	442	435
Western Hemlock ³	WH	1	543	536	529	522	515
		2	492	485	478	471	464
		3	486	479	472	465	458
		4	384	377	370	363	356
Other Conifer	OC	1	543	536	529	522	515
		2	492	485	478	471	464
		3	486	479	472	465	458
		4	384	377	370	363	356
Red Alder	RA	1	186	179	172	165	158
		2	150	143	136	129	122
		3	47	40	33	26	19
Black Cottonwood	BC	1	159	152	145	138	131
		2	145	138	131	124	117
		3	47	40	33	26	19
Other Hardwood	OH	1	140	133	126	119	112
		2	108	101	94	87	80
		3	47	40	33	26	19
Chipwood ⁴	CHW	1	13	12	11	10	9
RC Shake Blocks	RCS	1	315	308	301	294	287
RC Shingle Blocks	RCF	1	126	119	112	105	98
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	TFX	1	0.50	0.50	0.50	0.50	0.50

Proposed

DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska Cedar.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Stumpage value per ton.
⁵ Stumpage value per 8 lineal feet or portion thereof.
⁶ Stumpage value per lineal foot.

TABLE 4 Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$989	\$982	\$975	\$968	\$961
		2	788	781	774	767	760
		3	656	649	642	635	628
		4	530	523	516	509	502
Lodgepole Pine	LP	1	362	355	348	341	334
Ponderosa Pine	PP	1	541	534	527	520	513
		2	364	357	350	343	336
Western Redcedar ³	RC	1	1072	1065	1058	1051	1044
		2	886	879	872	865	858
		3	796	789	782	775	768
		4	329	322	315	308	301
Western Hemlock ⁴	WH	1	543	536	529	522	515
		2	524	517	510	503	496
		3	511	504	497	490	483
		4	355	348	341	334	327
Other Conifer	OC	1	543	536	529	522	515
		2	524	517	510	503	496
		3	511	504	497	490	483
		4	355	348	341	334	327
Red Alder	RA	1	186	179	172	165	158
		2	150	143	136	129	122
		3	47	40	33	26	19
Black Cottonwood	BC	1	159	152	145	138	131
		2	145	138	131	124	117
		3	47	40	33	26	19
Other Hardwood	OH	1	140	133	126	119	112
		2	108	101	94	87	80
		3	47	40	33	26	19
Chipwood ⁵	CHW	1	13	12	11	10	9
RC Shake Blocks	RCS	1	315	308	301	294	287
RC Shingle Blocks	RCF	1	126	119	112	105	98
RC & Other Posts ⁶	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

PROPOSED

- ⁵ Stumpage value per ton.
- ⁶ Stumpage value per 8 lineal feet or portion thereof.
- ⁷ Stumpage value per lineal foot.

**TABLE 5—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1995**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$885	\$878	\$871	\$864	\$857
		2	810	803	796	789	782
		3	499	492	485	478	471
		4	498	491	484	477	470
Lodgepole Pine	LP	1	362	355	348	341	334
Ponderosa Pine	PP	1	541	534	527	520	513
		2	364	357	350	343	336
Western Redcedar ³	RC	1	1072	1065	1058	1051	1044
		2	998	991	984	977	970
		3	543	536	529	522	515
		4	542	535	528	521	514
Western Hemlock ⁴	WH	1	543	536	529	522	515
		2	492	485	478	471	464
		3	467	460	453	446	439
		4	411	404	397	390	383
Other Conifer	OC	1	543	536	529	522	515
		2	492	485	478	471	464
		3	467	460	453	446	439
		4	411	404	397	390	383
Red Alder	RA	1	186	179	172	165	158
		2	150	143	136	129	122
		3	47	40	33	26	19
Black Cottonwood	BC	1	159	152	145	138	131
		2	145	138	131	124	117
		3	47	40	33	26	19
Other Hardwood	OH	1	140	133	126	119	112
		2	108	101	94	87	80
		3	47	40	33	26	19
Chipwood ⁵	CHW	1	13	12	11	10	9
RC Shake Blocks	RCS	1	315	308	301	294	287
RC Shingle Blocks	RCF	1	126	119	112	105	98
RC & Other Posts ⁶	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	TFX	1	0.50	0.50	0.50	0.50	0.50

- ¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
- ² Includes Western Larch.
- ³ Includes Alaska Cedar.
- ⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- ⁵ Stumpage value per ton.
- ⁶ Stumpage value per 8 lineal feet or portion thereof.
- ⁷ Stumpage value per lineal foot.

**TABLE 6—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1995**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$424	\$417	\$410	\$403	\$396
Engelmann Spruce	ES	1	362	355	348	341	334
Lodgepole Pine	LP	1	362	355	348	341	334
Ponderosa Pine	PP	1	541	534	527	520	513
		2	364	357	350	343	336
Western Redcedar ³	RC	1	362	355	348	341	334
True Fir ⁴	WH	1	362	355	348	341	334
Western White Pine	WP	1	571	564	557	550	543
Hardwoods	OH	1	29	22	15	8	1
Small Logs ⁵	SML	1	32	31	30	29	28
Chipwood ⁵	CHW	1	7	6	5	4	3
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁶	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁷	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁸	DFX	1	0.25	0.25	0.25	0.25	0.25

- ¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
- ² Includes Western Larch.
- ³ Includes Alaska Cedar.
- ⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- ⁵ Stumpage value per ton.
- ⁶ Stumpage value per 8 lineal feet or portion thereof.
- ⁷ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- ⁸ Stumpage value per lineal foot.

**TABLE 7—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1995**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$254	\$247	\$240	\$233	\$226
Engelmann Spruce	ES	1	268	261	254	247	240
Lodgepole Pine	LP	1	310	303	296	289	282
Ponderosa Pine	PP	1	541	534	527	520	513
		2	364	357	350	343	336
Western Redcedar ³	RC	1	571	564	557	550	543
True Fir ⁴	WH	1	305	298	291	284	277
Western White Pine	WP	1	571	564	557	550	543
Hardwoods	OH	1	29	22	15	8	1

PROPOSED

Small Logs ⁵	SML	1	21	20	19	18	17
Chipwood ⁵	CHW	1	7	6	5	4	3
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁶	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁷	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁸	DFX	1	0.25	0.25	0.25	0.25	0.25

DF Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁸	TFX	1	0.50	0.50	0.50	0.50	0.50

- ¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
- ² Includes Western Larch.
- ³ Includes Alaska Cedar.
- ⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- ⁵ Stumpage value per ton.
- ⁶ Stumpage value per 8 lineal feet or portion thereof.
- ⁷ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- ⁸ Stumpage value per lineal foot.

**TABLE 8—Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 1995**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$975	\$968	\$961	\$954	\$947
		2	774	767	760	753	746
		3	642	635	628	621	614
		4	516	509	502	495	488
Lodgepole Pine	LP	1	362	355	348	341	334
Ponderosa Pine	PP	1	541	534	527	520	513
		2	364	357	350	343	336
Western Redcedar ³	RC	1	1058	1051	1044	1037	1030
		2	872	865	858	851	844
		3	782	775	768	761	754
		4	315	308	301	294	287
Western Hemlock ⁴	WH	1	529	522	515	508	501
		2	510	503	496	489	482
		3	497	490	483	476	469
		4	341	334	327	320	313
Other Conifer	OC	1	529	522	515	508	501
		2	510	503	496	489	482
		3	497	490	483	476	469
		4	341	334	327	320	313
Red Alder	RA	1	172	165	158	151	144
		2	136	129	122	115	108
		3	33	26	19	12	5
Black Cottonwood	BC	1	145	138	131	124	117
		2	131	124	117	110	103
		3	33	26	19	12	5
Other Hardwood	OH	1	126	119	112	105	98
		2	94	87	80	73	66
		3	33	26	19	12	5
Chipwood ⁵	CHW	1	12	11	10	9	8
RC Shake Blocks	RCS	1	315	308	301	294	287
RC Shingle Blocks	RCF	1	126	119	112	105	98
RC & Other Posts ⁶	RCP	1	0.45	0.45	0.45	0.45	0.45

**TABLE 1—Stumpage Value Table
Stumpage Value Area 1
July 1 through December 31, 1995**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir	DF	1	\$855	\$848	\$841	\$834	\$827
		2	727	720	713	706	699
		3	675	668	661	654	647
		4	473	466	459	452	445
Western Redcedar ²	RC	1	1204	1197	1190	1183	1176
		2	1204	1197	1190	1183	1176
		3	1117	1110	1103	1096	1089
		4	292	285	278	271	264
Western Hemlock ³	WH	1	570	563	556	549	542
		2	444	437	430	423	416
		3	427	420	413	406	399
		4	395	388	381	374	367
Other Conifer	OC	1	570	563	556	549	542
		2	444	437	430	423	416
		3	427	420	413	406	399
		4	395	388	381	374	367
Red Alder	RA	1	107	100	93	86	79
		2	82	75	68	61	54
		3	62	55	48	41	34
Black Cottonwood	BC	1	81	74	67	60	53
		2	66	59	52	45	38
		3	62	55	48	41	34
Other Hardwood	OH	1	80	73	66	59	52
		2	80	73	66	59	52
		3	62	55	48	41	34
Chipwood ⁴	CHW	1	18	17	16	15	14
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

- ¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
- ² Includes Alaska Cedar.
- ³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- ⁴ Stumpage value per ton.
- ⁵ Stumpage value per 8 lineal feet or portion thereof.
- ⁶ Stumpage value per lineal foot.

PROPOSED

TABLE 2—Stumpage Value Table
Stumpage Value Area 2
 July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$1,052	\$1,045	\$1,038	\$1,031	\$1,024
		2	753	746	739	732	725
		3	667	660	653	646	639
		4	479	472	465	458	451
Western Redcedar ²	RC	1	1204	1197	1190	1183	1176
		2	1204	1197	1190	1183	1176
		3	920	913	906	899	892
		4	277	270	263	256	249
Western Hemlock ³	WH	1	478	471	464	457	450
		2	478	471	464	457	450
		3	465	458	451	444	437
		4	399	392	385	378	371
Other Conifer	OC	1	478	471	464	457	450
		2	478	471	464	457	450
		3	465	458	451	444	437
		4	399	392	385	378	371
Red Alder	RA	1	107	100	93	86	79
		2	82	75	68	61	54
		3	62	55	48	41	34
Black Cottonwood	BC	1	81	74	67	60	53
		2	66	59	52	45	38
		3	62	55	48	41	34
Other Hardwood	OH	1	80	73	66	59	52
		2	80	73	66	59	52
		3	62	55	48	41	34
Chipwood ⁴	CHW	1	18	17	16	15	14
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Alaska-Cedar.

³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁴ Stumpage value per ton.

⁵ Stumpage value per 8 lineal feet or portion thereof.

⁶ Stumpage value per lineal foot.

TABLE 3—Stumpage Value Table
Stumpage Value Area 3
 July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$865	\$858	\$851	\$844	\$837
		2	696	689	682	675	668
		3	651	644	637	630	623
		4	379	372	365	358	351

Western Redcedar ²	RC	1	1204	1197	1190	1183	1176
		2	1204	1197	1190	1183	1176
		3	764	757	750	743	736
		4	329	322	315	308	301
Western Hemlock ³	WH	1	506	499	492	485	478
		2	465	458	451	444	437
		3	456	449	442	435	428
		4	372	365	358	351	344
Other Conifer	OC	1	506	499	492	485	478
		2	465	458	451	444	437
		3	456	449	442	435	428
		4	372	365	358	351	344
Red Alder	RA	1	107	100	93	86	79
		2	82	75	68	61	54
		3	62	55	48	41	34
Black Cottonwood	BC	1	81	74	67	60	53
		2	66	59	52	45	38
		3	62	55	48	41	34
Other Hardwood	OH	1	80	73	66	59	52
		2	80	73	66	59	52
		3	62	55	48	41	34
Chipwood ⁴	CHW	1	18	17	16	15	14
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Alaska-Cedar.

³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁴ Stumpage value per ton.

⁵ Stumpage value per 8 lineal feet or portion thereof.

⁶ Stumpage value per lineal foot.

TABLE 4—Stumpage Value Table
Stumpage Value Area 4
 July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$841	\$834	\$827	\$820	\$813
		2	728	721	714	707	700
		3	667	660	653	646	639
		4	462	455	448	441	434
Lodgepole Pine	LP	1	321	314	307	300	293
Ponderosa Pine	PP	1	567	560	553	546	539
		2	442	435	428	421	414
Western Redcedar ³	RC	1	1204	1197	1190	1183	1176
		2	1204	1197	1190	1183	1176
		3	911	904	897	890	883
		4	289	282	275	268	261
Western Hemlock ⁴	WH	1	466	459	452	445	438
		2	443	436	429	422	415
		3	400	393	386	379	372
		4	310	303	296	289	282
Other Conifer	OC	1	466	459	452	445	438
		2	443	436	429	422	415
		3	400	393	386	379	372
		4	310	303	296	289	282

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Red Alder	RA	1 2 3	107 82 62	100 75 55	93 68 48	86 61 41	79 54 34
Black Cottonwood	BC	1 2 3	81 66 62	74 59 55	67 52 48	60 45 41	53 38 34
Other Hardwood	OH	1 2 3	80 80 62	73 73 55	66 66 48	59 59 41	52 52 34
Chipwood ⁵	CHW	1	18	17	16	15	14
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts ⁶	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Western Larch.

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁵ Stumpage value per ton.

⁶ Stumpage value per 8 lineal feet or portion thereof.

⁷ Stumpage value per lineal foot.

**TABLE 5—Stumpage Value Table
Stumpage Value Area 5
July 1 through December 31, 1995**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$819	\$812	\$805	\$798	\$791
		2	743	736	729	722	715
		3	617	610	603	596	589
		4	531	524	517	510	503
Lodgepole Pine	LP	1	321	314	307	300	293
Ponderosa Pine	PP	1	567	560	553	546	539
		2	442	435	428	421	414
Western Redcedar ³	RC	1	1204	1197	1190	1183	1176
		2	1204	1197	1190	1183	1176
		3	898	891	884	877	870
		4	269	262	255	248	241
Western Hemlock ⁴	WH	1	496	489	482	475	468
		2	439	432	425	418	411
		3	380	373	366	359	352
		4	362	355	348	341	334
Other Conifer	OC	1	496	489	482	475	468
		2	439	432	425	418	411
		3	380	373	366	359	352
		4	362	355	348	341	334
Red Alder	RA	1	107	100	93	86	79
		2	82	75	68	61	54
		3	62	55	48	41	34
Black Cottonwood	BC	1	81	74	67	60	53
		2	66	59	52	45	38
		3	62	55	48	41	34
Other Hardwood	OH	1	80	73	66	59	52
		2	80	73	66	59	52
		3	62	55	48	41	34

Chipwood ⁵	CHW	1	18	17	16	15	14
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts ⁶	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods

WAC 458-40-684 and 458-40-686.

² Includes Western Larch.

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁵ Stumpage value per ton.

⁶ Stumpage value per 8 lineal feet or portion thereof.

⁷ Stumpage value per lineal foot.

**TABLE 6—Stumpage Value Table
Stumpage Value Area 6
July 1 through December 31, 1995**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$446	\$439	\$432	\$425	\$418
Engelmann Spruce	ES	1	383	376	369	362	355
Lodgepole Pine	LP	1	321	314	307	300	293
Ponderosa Pine	PP	1	567	560	553	546	539
		2	442	435	428	421	414
Western Redcedar ³	RC	1	472	465	458	451	444
True Firs ⁴	WH	1	364	357	350	343	336
Western White Pine	WP	1	498	491	484	477	470
Hardwoods	OH	1	50	43	36	29	22
Small Logs ⁵	SML	1	34	33	32	31	30
Chipwood ⁵	CHW	1	14	13	12	11	10
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁶	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁷	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁸	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Western Larch.

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁵ Stumpage value per ton.

⁶ Stumpage value per 8 lineal feet or portion thereof.

⁷ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁸ Stumpage value per lineal foot.

TABLE 7—Stumpage Value Table
Stumpage Value Area 7
 July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$364	\$357	\$350	\$343	\$336
Engelmann Spruce	ES	1	318	311	304	297	290
Lodgepole Pine	LP	1	266	259	252	245	238
Ponderosa Pine	PP	1	439	432	425	418	411
		2	342	335	328	321	314
Western Redcedar ³	RC	1	324	317	310	303	296
True Firs ⁴	WH	1	270	263	256	249	242
Western White Pine	WP	1	439	432	425	418	411
Hardwoods	OH	1	50	43	36	29	22
Small Logs ⁵	SML	1	20	19	18	17	16
Chipwood ⁵	CHW	1	11	10	9	8	7
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁶	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁷	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁸	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Western Larch.

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁵ Stumpage value per ton.

⁶ Stumpage value per 8 lineal feet or portion thereof.

⁷ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁸ Stumpage value per lineal foot.

TABLE 8—Stumpage Value Table
Stumpage Value Area 10
 July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$827	\$820	\$813	\$806	\$799
		2	714	707	700	693	686
		3	653	646	639	632	625
		4	448	441	434	427	420
Lodgepole Pine	LP	1	321	314	307	300	293
Ponderosa Pine	PP	1	567	560	553	546	539
		2	442	435	428	421	414
Western Redcedar ³	RC	1	1190	1183	1176	1169	1162
		2	1190	1183	1176	1169	1162
		3	897	890	883	876	869
		4	275	268	261	254	247

Western Hemlock ⁴	WH	1	452	445	438	431	424
		2	429	422	415	408	401
		3	386	379	372	365	358
		4	296	289	282	275	268
Other Conifer	OC	1	452	445	438	431	424
		2	429	422	415	408	401
		3	386	379	372	365	358
		4	296	289	282	275	268
Red Alder	RA	1	93	86	79	72	65
		2	68	61	54	47	40
		3	48	41	34	27	20
Black Cottonwood	BC	1	67	60	53	46	39
		2	52	45	38	31	24
		3	48	41	34	27	20
Other Hardwood	OH	1	66	59	52	45	38
		2	66	59	52	45	38
		3	48	41	34	27	20
Chipwood ⁵	CHW	1	18	17	16	15	14
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts ⁶	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁸	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Western Larch.

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁵ Stumpage value per ton.

⁶ Stumpage value per 8 lineal feet or portion thereof.

⁷ Stumpage value per lineal foot.

(3) Harvest value adjustments. Harvest value adjustments relating to the various logging and harvest conditions shall be allowed against the stumpage values as set forth in subsection (2) of this section for the designated stumpage value areas. See WAC 458-40-670 for more information about these adjustments.

The following harvest adjustment tables are hereby adopted for use during the period of July 1 through December 31, 1995:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
 July 1 through December 31, 1995

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	\$0.00
Class 2	Harvest of 20 thousand board feet to 40 thousand board feet per acre.	-\$4.00
Class 3	Harvest of 10 thousand board feet to but not including 20 thousand board feet per acre.	-\$7.00
Class 4	Harvest of 5 thousand board feet to but not including 10 thousand board feet per acre.	-\$9.00
Class 5	Harvest of less than 5 thousand board feet per acre.	-\$10.00

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II. Logging conditions

Class 1	<u>Most of the harvest unit has less than 30% slope. No significant outcrops or swamp barriers.</u>	<u>\$ 0.00</u>
Class 2	<u>Most of the harvest unit has slopes between 30% and 60%. Some rock outcrops or swamp barriers.</u>	<u>- \$17.00</u>
Class 3	<u>Most of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.</u>	<u>- \$25.00</u>
Class 4	<u>For logs that are yarded from stump to landing by helicopter. This does not include special forest products.</u>	<u>- \$145.00</u>
Note:	<u>A Class 2 adjustment may be used for slopes less than 30% 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.</u>	

III. Remote island adjustment:

For timber harvested from a remote island - \$50.00

IV. Thinning (see WAC 458-40-610(21))

Class 1	<u>Average log volume of 50 board feet or more.</u>	<u>- \$25.00</u>
Class 2	<u>Average log volume of less than 50 board feet.</u>	<u>- \$125.00</u>

**TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
July 1 through December 31, 1995**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
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I. Volume per acre

Class 1	<u>Harvest of more than 8 thousand board feet per acre.</u>	<u>\$0.00</u>
Class 2	<u>Harvest of 3 thousand board feet to 8 thousand board feet per acre.</u>	<u>- \$7.00</u>
Class 3	<u>Harvest of less than 3 thousand board feet per acre.</u>	<u>- \$10.00</u>

II. Logging conditions

Class 1	<u>Most of the harvest unit has less than 30% slope. No significant rock outcrops or swamp barriers.</u>	<u>\$0.00</u>
Class 2	<u>Most of the harvest unit has slopes between 30% and 60%. Some rock outcrops or swamp barriers.</u>	<u>- \$20.00</u>
Class 3	<u>Most of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.</u>	<u>- \$30.00</u>
Class 4	<u>For logs that are yarded from stump to landing by helicopter. This does not include special forest products.</u>	<u>- \$145.00</u>
Note:	<u>A Class 2 adjustment may be used for slopes less than 30% 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.</u>	

III. Remote island adjustment:

For timber harvested from a remote island - \$50.00

TABLE 11—Domestic Market Adjustment

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 Yellow Cedar. (Stat. Ref. - 36 CFR 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Red Cedar only. (Stat. Ref. - 50 USC appendix 2406.1)

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 adjustment amounts shall be as follows:

Class 1:	<u>SVA's 1 through 6, and 10</u>	<u>\$0.00 per MBF</u>
Class 2:	<u>SVA 7</u>	<u>\$0.00 per MBF</u>

Note: The adjustment will not be allowed on special forest products.

AMENDATORY SECTION (Amending WSR 94-14-048, filed 6/30/94, effective 7/1/94)

WAC 458-40-670 Timber excise tax—Stumpage value adjustments—Chipwood and small log destinations.

(1) Introduction. This section explains the harvest value adjustments to the stumpage value tables (WAC 458-40-660) for various logging and harvesting conditions. It also describes the procedure by which businesses that process chipwood, chipwood products, and/or small logs can become designated chipwood or small log destinations.

(2) Harvest value adjustments. Harvest value adjustments relating to the various logging and harvest conditions shall be allowed against the stumpage values as set forth in WAC 458-40-660 for the designated stumpage value areas with the following limitations:

((+)) (a) No harvest adjustment shall be allowed against special forest products, chipwood, or small logs as those terms are defined in WAC 458-40-610.

((2)) (b) Stumpage value rates for conifer and hardwoods shall be adjusted to a value no lower than one dollar per MBF.

((3)) (c) Timber harvesters planning to remove timber from areas having damaged timber may apply to the department for adjustment in stumpage values. ((Subh)) The application((s)) shall contain a map with the legal descriptions of the area, 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

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additional costs to be incurred resulting from the removal of the damaged timber. ((Such)) The application((s)) must be received by the department before the harvest commences. Upon receipt of ((such)) an application, the department will determine the amount of adjustment allowed and notify the harvester. In the event the extent of the damage or additional costs is not known at the time the application is filed, the harvester may provide relevant information to the department for a period not exceeding ninety days following completion of the harvest unit.

((The following harvest adjustment tables are hereby adopted for use during the period of July 1 through December 31, 1994:

**TABLE 1—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
July 1 through December 31, 1994**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	\$0.00
Class 2	Harvest of 20 thousand board feet to 40 thousand board feet per acre.	\$4.00
Class 3	Harvest of 10 thousand board feet to but not including 20 thousand board feet per acre.	\$7.00
Class 4	Harvest of 5 thousand board feet to but not including 10 thousand board feet per acre.	\$9.00
Class 5	Harvest of less than 5 thousand board feet per acre.	\$10.00
II. Logging conditions		
Class 1	Generally slopes less than 40%. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	Generally slopes between 40% and 60%. Some rock outcrops or swamp barriers.	\$17.00
Class 3	Generally rough, broken ground with slopes in excess of 60%. Numerous rock outcrops and bluffs.	\$25.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	\$69.00
III. Remote island adjustment:		
	For timber harvested from a remote island	\$50.00
IV. Thinning (see WAC 458-40-610(20))		
Class 1	Average log volume of 50 board feet or more.	\$25.00
Class 2	Average log volume of less than 50 board feet.	\$125.00

**TABLE 2—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
July 1 through December 31, 1994**

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 3 thousand board feet to 8 thousand board feet per acre.	\$7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	\$10.00
II. Logging conditions		
Class 1	Generally slopes less than 40%. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	Generally slopes between 40% and 60%. Some rock outcrops or swamp barriers.	\$20.00
Class 3	Generally rough, broken ground with slopes in excess of 60%. Numerous rock outcrops and bluffs.	\$30.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	\$69.00
III. Remote island adjustment:		
	For timber harvested from a remote island	\$50.00

TABLE 3—Domestic Market Adjustment

Public Timber

Harvest of timber not sold by a competitive bidding process which 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 which 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 Yellow Cedar. (Stat. Ref. 36 CFR 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Red Cedar only. (Stat. Ref. 50 USC appendix 2406.1)

Private timber

Harvest of private timber which 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 adjustment amounts shall be as follows:

Class 1:	SVA's 1 through 6, and 10	\$0.00 per MBF
Class 2:	SVA 7	\$0.00 per MBF

Note: The adjustment will not be allowed on special forest products.)

(d) The harvest adjustment tables are set forth in WAC 458-40-660(3).

PROPOSED

WSR 95-15-068
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed July 17, 1995, 11:50 a.m.]

(3) Chipwood destinations. Businesses that process logs to produce chips or chip products may be designated as approved "chipwood destinations." Logs delivered to the log yards designated as "chipwood destinations" for the purpose of being chipped may be reported as chipwood and have the volume measured by weight.

(a) The department of revenue will maintain a current list of approved chipwood destinations. This list will be updated as necessary and will be formally reviewed by the department at least twice a year. A list of approved chipwood destinations is available from the special programs division, forest tax section of the department.

(b) A log processor in the business of processing logs to produce chips or chip products that has not been designated as an approved destination may file an application to be listed as an approved chipwood destination. The application should be submitted to the Department of Revenue, Forest Tax Section, P. O. Box 47472, Olympia, Washington 98504-7472, to be included in this listing. To qualify as an approved destination, not less than ninety percent of the weight volume of logs delivered to and purchased by the log processor at a specified log yard or location must be processed to produce chips or chip products.

(c) Any applicant seeking administrative review of the department's decision made under (b) of this subsection may appeal the decision in accordance with WAC 458-20-100.

(4) Logs chipped in the woods. Logs chipped in the woods may also be reported as chipwood. Volume shall be measured in net weight of green chips.

(5) Other chipwood processing locations. Logs processed at locations other than those listed on the approved list of chipwood destinations maintained by the department and other than as provided in subsection (4) of this section may be reported as chipwood volume when scaled as utility grade logs, based on log scaling or upon approved sample log scaling methods.

If a harvester reports chipwood volume that was delivered to a location that is not listed as an approved chipwood destination and there has been no log scaling or approved sample log scaling, the chipwood volume so reported will be converted by the department to the appropriate sawlog volume in accordance with WAC 458-40-684 and 458-40-686 for purposes of timber excise taxation.

(6) Small log destinations. Businesses that process small logs as defined in WAC 458-40-610 may be designated as approved "small log destinations."

(a) The department of revenue will maintain a current list of approved small log destinations. This list will be updated as necessary and will be formally reviewed by the department at least twice a year. A list of approved small log destinations is available from the special programs division, forest tax section of the department.

(b) A log processor in the business of processing small logs that has not been designated as an approved destination may file an application to be listed as an approved small log destination. The application should be submitted to the Department of Revenue, Forest Tax Section, P. O. Box 47472, Olympia, Washington 98504-7472, to be included in this listing.

(c) Any applicant seeking administrative review of the department's decision made under (b) of this subsection may appeal the decision in accordance with WAC 458-20-100.

Original Notice.

Title of Rule: Chapter 388-77 WAC, Family independence program; and chapter 388-77A WAC, Family independence program expiration.

Purpose: The department is repealing these chapters because the family independence program (FIP), a demonstration project, ended June 30, 1993. Therefore, the rules are no longer required.

Statutory Authority for Adoption: RCW 74.21.904.

Statute Being Implemented: RCW 74.21.904.

Summary: This revision repeals chapters 388-77 and 388-77A WAC.

Reasons Supporting Proposal: The family independence program (FIP) ended June 30, 1993, making chapters 388-77 and 388-77A WAC obsolete.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lee Burnett, Division of Employment and Social Services, 438-8273.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Same as above.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The repeal of FIP does not change the amount of revenue going to the small business community. The repeal of these two chapters does not affect small business economically.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on August 22, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by August 8, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by August 15, 1995.

Date of Intended Adoption: August 23, 1995.

July 17, 1995

Jeanette Sevedge-App

Acting Chief

Office of Vendor Services

REPEALER

The following chapters of the Washington Administrative Code are repealed:

WAC 388-77 Family independence program.

WAC 388-77A Family independence program expiration.

WSR 95-15-075
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed July 17, 1995, 3:42 p.m.]

Original Notice.

Title of Rule: Chapter 392-141 WAC, Transportation—State allocation for operations.

Purpose: The purpose is to amend chapter 392-141 WAC to implement the requirement set forth in ESHB 1410.

Statutory Authority for Adoption: ESHB 1410, RCW 28A.150.290.

Statute Being Implemented: RCW 28A.160.160.

Summary: These amendments provide explicit instructions to school districts that no funds are allocated in any situation in which the school district is not actively engaged and to the greatest extent possible mitigating the hazard.

Reasons Supporting Proposal: These changes are required by ESHB 1410 passed by the 1995 legislature.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Olympia, 753-2298; Implementation: David L. Moberly, Superintendent of Public Instruction, Olympia, 753-6742; and Enforcement: Don Carnahan, Superintendent of Public Instruction, Olympia, 753-0235.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides for the transportation operation funding for school districts. The anticipated effect is a reduction in the amount of funding for hazardous walking conditions and more active involvement by school districts to mitigate hazards.

Proposal Changes the Following Existing Rules: The proposed change requires Office of Superintendent of Public Instruction to ensure that no funds are allocated to school districts which are not actively mitigating the hazard that requires pupil transportation funding.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The rule will have a minor or negligible economic impact.

Hearing Location: 4th Floor, Brouillet Conference Room, Old Capitol Building, 600 South Washington Street, Olympia, WA 98504-7200, on August 24, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by August 10, 1995, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504, FAX (360) 753-4201, by August 23, 1995.

Date of Intended Adoption: August 25, 1995.

July 14, 1995
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 92-03, filed 3/23/92, effective 4/23/92)

WAC 392-141-115 Definition—Eligible student. As used in this chapter, "eligible student" means any student served by a school district transportation program either by bus, district car, or individual arrangements meeting one or more of the following criteria:

(1) Students whose route stop is more than one radius mile from the student's destination school site or learning center;

(2) Students whose route stop is established because of hazardous walking conditions in accordance with WAC 392-141-175 and whose route stop is less than one radius mile from the student's destination school site or learning center and for which the school district is making a good faith effort to alleviate the hazard; or

(3) Students whose handicap is defined by RCW 28A.155.020 and who is either not ambulatory or capable of protecting his or her own welfare while traveling to or from schools or agencies where special education services are provided and whose route stop is one radius mile or less from the destination school site or learning center.

AMENDATORY SECTION (Amending Order 92-03, filed 3/23/92, effective 4/23/92)

WAC 392-141-135 Definition—Prorated bus. As used in this chapter, "prorated bus" means a whole or fractional bus calculated by dividing the total number of each type of route by the total of all routes run by each individual bus.

NEW SECTION

WAC 392-141-151 Definition—Good faith efforts. As used in this chapter, "good faith efforts" mean documented evidence that school districts are making an effort to communicate and work with local, state or federal agencies to alleviate hazardous walking conditions.

AMENDATORY SECTION (Amending Order 92-03, filed 3/23/92, effective 4/23/92)

WAC 392-141-170 Factors used to determine allocation. The method of determining the transportation operation allocation for each district shall be based on the following factors:

(1) The number of eligible students transported as defined in WAC 392-141-115;

(2) The radius mile distances from route stops to the destination schools, transfer route stops, learning centers, or agencies;

(3) A basic or special transportation distance weighing factor per radius mile interval as listed below:

Distance Weighing Factors Per Radius Miles

Table with 3 columns: Miles, Basic, Special. Rows for 1, 2, 3, 4, 5 miles.

PROPOSED

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6	4.60	5.49	7.75	7.99	9.26
7	4.97	5.64	8.00	8.24	8.97
8	5.30	5.78	8.25	8.49	8.74
9	5.65	5.94	8.50	8.74	8.51
10	6.00	6.08	8.75	8.99	8.28
11	6.36	6.23	9.00	9.24	8.05
12	6.71	6.38	9.25	9.49	7.87
13	7.07	6.53	9.50	9.74	7.69
14	7.43	6.67	9.75	9.99	7.50
15	7.79	6.83	10.00	10.49	7.32
16	8.13	6.97	10.50	10.99	7.02
17 and over	8.50	7.13	11.00	11.49	6.72

(4) The basic average load which is calculated by dividing the total number of basic and transit tripper students by the total number of prorated basic buses;

(5) A minimum load factor for districts with a basic average load of less than seventy-four students transported per bus for all home to school routes, except routes designed exclusively for handicapped or kindergarten students. This factor is calculated by dividing the whole number seventy-four by the basic average load and subtracting the whole number one;

(6) The special education average load is derived by dividing the total number of home to school special education students by the total number of special education prorated buses; and

~~(7) ((A small fleet maintenance allocation rate as defined in WAC 392-141-115; and~~

(8)) A special education load factor is based on the special education average load. To determine the special education load factor, use the following chart:

Special Average Load

From	To	Factor			
0.01	1.24	24.42	28.55	29.54	2.80
1.25	1.49	22.94	29.55	30.54	2.70
1.50	1.74	21.46	30.55	31.54	2.61
1.75	1.99	19.98	31.55	32.54	2.54
2.00	2.24	18.50	32.55	33.54	2.46
2.25	2.49	17.89	33.55	34.54	2.38
2.50	2.74	17.27	34.55	35.54	2.32
2.75	2.99	16.67	35.55	36.54	2.25
3.00	3.24	16.04	36.55	37.54	2.20
3.25	3.49	15.73	37.55	38.54	2.13
3.50	3.74	15.42	38.55	39.54	2.07
3.75	3.99	15.11	39.55	40.54	2.03
4.00	4.24	14.80	40.55	41.54	1.98
4.25	4.49	14.43	41.55	42.54	1.93
4.50	4.74	14.06	42.55	43.54	1.89
4.75	4.99	13.69	43.55	44.54	1.84
5.00	5.24	13.32	44.55	45.54	1.80
5.25	5.49	12.92	45.55	46.54	1.76
5.50	5.74	12.52	46.55	47.54	1.72
5.75	5.99	12.11	47.55	48.54	1.69
6.00	6.24	11.71	48.55	49.54	1.66
6.25	6.49	11.32	49.55	50.54	1.62
6.50	6.74	10.93	50.55	51.54	1.59
6.75	6.99	10.55	51.55	52.54	1.56
7.00	7.24	10.14	52.55	53.54	1.52
7.25	7.49	9.85	53.55	54.54	1.50
7.50	7.74	9.56	54.55	55.54	1.47
			55.55	56.54	1.45
			56.55	57.54	1.41

57.55	58.54	1.39
58.55	59.54	1.37
59.55	60.54	1.35
60.55	61.54	1.33
61.55	62.54	1.30
62.55	63.54	1.28
63.55	64.54	1.26
64.55	65.54	1.24
65.55	66.54	1.23
66.55	67.54	1.21
67.55	68.54	1.18
68.55	69.54	1.17
69.55	70.54	1.15
70.55	71.54	1.14
71.55	72.54	1.12
72.55	73.54	1.11
73.55	74.00	1.10
74.01+		1.00

NEW SECTION

WAC 392-141-176 Alleviating hazardous walking conditions. As a condition of funding for school bus stops located within one radius mile, school districts shall make a good faith effort to alleviate hazardous walking conditions. Good faith efforts shall include but are not limited to:

- (1) A written letter at least annually to appropriate agencies responsible for alleviating the hazard;
- (2) A second follow up letter if there is no response or communication from the first letter;
- (3) Meetings at which minutes are taken that document the efforts being made between the school district and appropriate agencies; or
- (4) Completed studies.

AMENDATORY SECTION (Amending Order 92-03, filed 3/23/92, effective 4/23/92)

WAC 392-141-185 Operation allocation computation. The computation of the transportation operation allocation shall be as follows:

- (1) All basic and transit tripper students defined in WAC 392-141-115 who are transported to school shall be measured by radius mile intervals between the bus route stop and the destination sites in accordance with WAC 392-141-170(3) and multiplied by two to yield the round trip totals in each distance interval;
- (2) All midday and basic shuttle students transported shall be measured by radius mile intervals between the bus route stop and the destination school in accordance with WAC 392-141-170(3);
- (3) The total students in subsections (1) and (2) of this section in each distance interval, multiplied by the applicable distance weighing factor contained in WAC 392-141-170(3) shall equal the weighted student units in each distance interval. Midday transportation students whose schedule is one day per week shall have the weighted student units multiplied by twenty percent;
- (4) The district's minimum load factor, if applicable, is calculated pursuant to WAC 392-141-170(5). This factor is multiplied by the total weighted student units generated by basic and tripper students. This total is the additional

weighted units attributable to the district's small average bus load;

(5) The sum of the cumulative weighted student units calculated in subsections (3) and (4) of this section, if applicable, less the weighted units for students who do not qualify under WAC 392-141-175 equals the total basic transportation weighted units;

(6) The basic allocation is the total basic transportation weighted units calculated in subsection (5) of this section multiplied by the standard student mile allocation rate(~~—The small fleet maintenance allocation rate, if applicable, shall be added to the standard student mile allocation rate before calculating the basic allocation~~);

(7) All special students defined in RCW 28A.155.020 transported on special transportation bus routes to school or agencies for related services shall be measured by radius mile intervals between their bus route stops and destinations sites in accordance with WAC 392-141-170(3) and multiplied by two to yield the round trip total in each distance interval;

(8) All special shuttle students transported between schools or agencies less frequently than five days a week shall be measured by radius mile intervals between the bus route stop and destination sites in accordance with WAC 392-141-170(3);

(9) The total students in subsections (7) and (8) of this section in each distance interval multiplied by the applicable distance weighing factor contained in WAC 392-141-170(3) shall equal the weighted student units in each distance interval. Special shuttle transportation whose schedule is less than five days a week shall have the weighted units multiplied by the appropriate percent shown in the table below:

No. of days per week	Percent factor
1	20%
2	40%
3	60%
4	100%

(10) The district's special transportation load factor, if applicable, is calculated pursuant to WAC 392-141-170. The factor is multiplied by the total weighted student units generated by special students (not special shuttle students);

(11) The weighted student units calculated in subsections (9) and (10) of this section, if applicable, equals the total special transportation weighted units;

(12) The special allocation is the total special transportation weighted units calculated in subsection (11) of this section, multiplied by the standard student mile allocation rate(~~—The small fleet maintenance allocation rate, if applicable, shall be added to the standard student mile allocation rate before calculating the special allocation~~);

(13) The district car allocation is computed for each vehicle and then totaled to equal the district car allocation. The computation is based on one hundred eighty days and fifty mile increments multiplied by the appropriate district car operation and depreciation rates published by the superintendent of public instruction. All vehicles traveling over two hundred fifty miles receive only the depreciation

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rate for miles in excess of two hundred fifty for the one hundred eighty day period;

(14) The district's annual allocation for transportation operation is the total of the calculations made in subsections (6), (12), and (13) of this section;

(15) When a district submits a revised report pursuant to WAC 392-141-165, to the extent funds are available, the district's operation allocation shall be recalculated. Any increase in operations allocations shall be prorated for the remainder of the annual school term or until termination of activities before the end of the scheduled school term. The date that the district documents first meeting the ten percent increase in eligible students transported shall be used to prorate any increase in annual transportation operation allocations.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-141-145 Definition—Small fleet maintenance allocation rate.

WSR 95-15-076
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed July 17, 1995, 3:44 p.m.]

Original Notice.

Title of Rule: Revision of chapter 392-162 WAC, Special services program learning assistance.

Purpose: To ensure that learning assistance program (LAP) WACs reflect changes in new federal Title I legislation, since the learning assistance program and Title I are compatible programs.

Statutory Authority for Adoption: Chapter 478, Laws of 1987, and Public Law 103-382, Improving American Schools Act of 1994.

Statute Being Implemented: Chapter 478, Laws of 1987.

Summary: Revisions in chapter 392-162 WAC, Special services program—Learning assistance will permit greater correspondence between the state learning assistance program and federal Title I programs.

Reasons Supporting Proposal: The changes made in the federal Title I program require corresponding changes in the state learning assistance program rules.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Olympia, 753-2298; Implementation: Mary E. Beach, Superintendent of Public Instruction, Olympia, 753-3220; and Enforcement: John Pearson, Superintendent of Public Instruction, Olympia, 753-3220.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 392-162 WAC contains WACs that define the state's learning assistance program (LAP), in terms of

the requirements specified under state law (chapter 28A.165 RCW) and federal law Public Law 103-382. Revising chapter 392-162 WAC will bring the existing learning assistance program into line with the new requirements developed under the new Title I law.

Proposal Changes the Following Existing Rules: The revisions in chapter 392-62 WAC will update the current learning assistance program rules and regulations.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The rule will have a minor or negligible economic impact.

Hearing Location: 4th Floor, Brouillet Conference Room, Old Capitol Building, 600 South Washington Street, Olympia, WA 98504-7200, on August 24, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by August 10, 1995, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504, FAX (360) 753-4201, by August 23, 1995.

Date of Intended Adoption: August 25, 1995.

July 14, 1995

Judith A. Billings
Superintendent of
Public Instruction

NEW SECTION

WAC 392-162-043 Definition—School-wide project. As used in this chapter, the term "school-wide project" means a school where all children are eligible to receive services depending on their needs.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

WAC 392-162-049 Definition—Needs assessment. As used in this chapter, the term, "needs assessment" means an analysis of the educational needs of ~~((students in grades kindergarten through nine as described in WAC 392-162-067: Provided, That an existing district needs assessment that meets the requirements of WAC 392-162-067 may be used))~~ an entire school that is based on the performance of children in relation to the state's challenging content standards and challenging student performance standards.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

WAC 392-162-052 Definition—Indirect expenditures. As used in this chapter, the term "indirect expenditures" is as defined in the accounting manual glossary of terms ~~((—i.e., "those expenditure elements that cannot be easily, obviously, and conveniently identified with specific programs. . . . accumulated in the accounting system under Program 94 or Program 97."))~~.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

WAC 392-162-057 Definition—Advisory committee. As used in this chapter, the term "advisory committee" means a consultant group with membership including, but not limited to, representatives of the following groups:

Parents—including parents of students served by program—teachers, principals, administrators, and school directors. This group can also be defined as the site-based planning team: *Provided*, That an existing advisory committee that meets the requirements of this section may serve as the learning assistance program advisory committee.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

WAC 392-162-062 ((Mid-year)) Program plan revision. A district may make ~~((a))~~ periodic change(s) to the planning document during the school year ~~((in the program plan required under WAC 392-162-070))~~ if such change(s) ~~((is))~~ are made ~~((after consultation))~~ with the "advisory committee" and ~~((is))~~ are submitted to the superintendent of public instruction on forms provided for that purpose.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

WAC 392-162-067 Program requirement—Needs assessment. ~~((Each district that seeks an allocation from the state for a learning assistance program shall conduct a needs assessment at least biennially. The needs assessment shall include:~~

~~(1) Use of objective measures to assess and identify those students in grades kindergarten through nine who are below grade level in the basic skills areas of readiness, reading, math, and language arts with special emphasis on the needs of students in the early grades.~~

~~(2) Review and use of current performance achievement data such as: State wide basic skills test, chapter 1 assessments, self-study data, and other academic progress results.~~

~~(3) Review of district basic education and district special needs programs to identify strategies for coordinating the learning assistance program with such programs and services.)~~ Any school district with a school-wide project must ensure that the school-wide project school conducts a needs assessment of the entire school that is based on the performance of children in relation to the state's challenging content standards and challenging student performance standards.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

WAC 392-162-075 Program approval. The superintendent of public instruction shall review and approve each district's ~~((application which contains the information required by WAC 392-162-070))~~ planning document. A district's learning assistance program shall not be implemented prior to ~~((application))~~ planning document approval.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

WAC 392-162-080 Program requirement—Selection of students. Students selected to participate in the learning assistance program shall be limited to those who:

(1) Are enrolled in grades kindergarten through nine;

(2) Are performing below grade level; provided, that all students in school-wide project schools will be eligible for services based on academic need;

(3) Have been selected using ~~((objective))~~ multiple measures; and

(4) Have been determined to have the greatest ~~((academic deficits and are not receiving services in the same basic skills area from another special service program))~~ risk of not meeting the state's challenging content and performance standards.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

WAC 392-162-085 Program requirement—Consultation with the "advisory committee." The school district staff responsible for the administration of the learning assistance program shall consult with the learning assistance program "advisory committee" in the planning, implementation and evaluation of the learning assistance program.

AMENDATORY SECTION (Amending Order 91-15, filed 8/23/91, effective 8/23/91)

WAC 392-162-095 Program requirement—Allowable expenditures. Only allowed expenditures shall be reimbursed by the superintendent of public instruction. Allowed expenditures shall include direct and indirect expenditures included on the approved program budget~~((: Provided, That beginning with expenditures for the 1990-91 school year, the allowed indirect expenditure rate for each school district shall not exceed the rate calculated for Program 55 "Remediation" for the most recently completed fiscal year using the federal restrictive rate methodology))~~.

AMENDATORY SECTION (Amending Order 87-14, filed 10/22/87)

WAC 392-162-110 Program requirement—End of year report. Districts shall submit to the superintendent of public instruction at the close of the fiscal year an end of the year report on forms provided by the superintendent of public instruction. The report shall ~~((include number of students served by grade level, basic skills area, ethnicity, and gender and other information which may be required by the superintendent of public instruction))~~ enable results to be disaggregated by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-162-042	Definition—Program options.
WAC 392-162-044	Definition—Program plan.
WAC 392-162-055	Definition—Direct expenditure.
WAC 392-162-070	Program requirement—District program plan.

WSR 95-15-078
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Order 94-37—Filed July 18, 1995, 10:35 a.m.]

Original Notice.

Title of Rule: The Model Toxics Control Act cleanup regulation (MTCA), chapter 173-340 WAC.

Purpose: The purpose of the rule amendment is to make the Model Toxics Control Act regulation consistent with the recent statutory changes which defines industrial cleanup properties and situations appropriate for the use of agreed orders.

Other Identifying Information: WAC 173-340-200, 173-340-440, 173-340-530, 173-340-700, 173-340-706, 173-340-740, and 173-340-745.

Statutory Authority for Adoption: RCW 70.105D-.030(f).

Statute Being Implemented: Model Toxics Control Act, chapter 70.105D RCW.

Summary: The purpose of this rule amendment is to make the existing rule language consistent with the 1994 statutory amendments to the Model Toxics Control Act. This proposed rule amendment will remove language in the existing rule that currently restricts the use of agreed orders for final cleanup actions. Ecology is also proposing to remove the criteria in the existing rule which has been used in determining whether a site is suitable for application of the industrial standards. The proposed rule will be amended to include the statutory definition of industrial properties.

Name of Agency Personnel Responsible for Drafting: Pete Kmet, 300 Desmond Drive, Olympia, WA, (206) 407-7199; Implementation and Enforcement: Toxics Cleanup Program, All Ecology Offices.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: During the 1994 legislative session, amendments to the Model Toxics Control Act were passed and subsequently signed by Governor Lowry. These amendments contain language describing the appropriate situations for using agreed orders and provide a definition of industrial properties. Chapter 70.105D WAC implements the Model Toxics Control Act. The Model Toxics Control Act regulation presently defines situations appropriate for use of agreed orders and describes the general conditions which must be present at a site for application of the industrial cleanup standards. In both cases, the existing regulatory language is inconsistent with the recent statutory changes. The purpose of this rule amendment is to make the existing rule language consistent with the new statutory language. The new statutory amendment now allows the use of agreed orders for any phase of the cleanup process, including the final cleanup action. The existing rule states that agreed orders "... may be used for all remedial actions except for nonroutine cleanup actions and interim actions that constitute a substantial majority of a cleanup action likely to be selected." The proposed rule amendment will remove language in the existing rule that currently restricts the use of agreed orders for final cleanup actions. This rule amendment will also make the existing rule consistent with the recent statutory

changes regarding the definition of industrial properties. Ecology is proposing to remove the criteria in the existing rule which has been used in determining whether a site is suitable for application of the industrial standards. The proposed rule will be amended to include the statutory definition of industrial properties.

Proposal Changes the Following Existing Rules: Yes, the proposed rule will amend WAC 173-340-200, 173-340-440, 173-340-530, 173-340-700, 173-340-706, 173-340-740 and 173-340-745 of the Model Toxics Control Act regulation, chapter 173-340 WAC. See above for a description of the changes.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? Yes. A copy of the statement may be obtained by writing to Pete Kmet, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7199, or FAX (360) 407-7154.

December 15, 1994

SMALL BUSINESS ECONOMIC IMPACT STATEMENT
 for amendments to the
 Model Toxics Control Act Regulation
 Chapter 173-340 WAC

What changes are being made in the regulation that controls cleanups?

The Model Toxics Control Act regulation (MTCA rule), chapter 173-340 WAC, amendments make two basic changes:

- MTCA allows industrial sites to use a lower standard for their site cleanups. The amendment **extends the definition of industrial property** to some properties that would not have qualified for this standard.
- The MTCA rule has not allowed the use of agreed orders for nonroutine cleanup actions or for interim cleanups that result in the majority of the cleanup. The amendments would **allow the use of agreed orders for all remedial cleanup actions.**

Small Business Economic Impact Statement

The Regulatory Fairness Act (RFA), chapter 19.85 RCW, was adopted in 1982 to reduce any proportionately higher economic impacts of state regulations on small businesses. A small business is defined as any business which has fifty or fewer employees. The RFA requires that regulations that have an economic impact on more than ten percent of the businesses in any one industry be evaluated through a small business economic impact statement (SBEIS)

This rule is being modified in order to minimize costs in accordance with recent changes allowed by amendments to the law. The amendments have been reviewed. No SBEIS is required for this rule amendment.

The cost savings for each of the amendments will be far greater than the costs of applying for industrial site classification of an agreed order. The net impact of the rule changes is to:

- **Reduce the cost of cleanups for any industrial site that can qualify for the classification.**
- **Allow the voluntary use of a less expensive agreed order for more cleanups.**

No small business economic impact statement is required. The amendments fit the criteria for cost minimizing features under the Regulatory Fairness Act.

If you have questions:

Contact: Pete Kmet at (360) 407-7199.

Hearing Location: Port of Seattle Commission Chambers, 2711 Alaskan Way, Seattle, WA, on August 23, 1995, at 7:00 p.m.; and at the Spokane County Health Building, West 1101 College Avenue, Spokane, WA, on August 24, 1995, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Donna Foster by August 16, 1995, TDD (360) 407-6006.

Submit Written Comments to: Pete Kmet, Department of Ecology, P.O. Box 47600, Olympia, WA 98504, FAX (206) 407-7154, by September 8, 1995.

Date of Intended Adoption: October 27, 1995.

July 18, 1995

Terry Husseman
for Mary Riveland
Director

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-200 Definitions. For the purpose of this chapter, the following definitions shall apply:

"Act" means the same as the "Model Toxics Control Act" and "chapter 70.105D RCW."

"Acute toxicity" means the ability of a hazardous substance to cause injury or death to an organism as a result of a short-term exposure to a hazardous substance.

"Agreed order" means an order issued by the department under WAC 173-340-530 with which the potentially liable person receiving the order agrees to comply. An agreed order may be used to require or approve any cleanup or other remedial actions but it is not a settlement under RCW 70.105D.040(4) and shall not contain a covenant not to sue, or provide protection from claims for contribution, or provide eligibility for public funding of remedial actions under RCW 70.105D.070 (2)(d)(xi).

"All practicable methods of treatment" means all technologies and/or methods currently available and demonstrated to work under similar site circumstances or through pilot studies, and applicable to the site at reasonable cost. These include "all known available and reasonable methods of treatment" (AKART) for discharges or potential discharges to waters of the state, and "best available control technologies" for releases of hazardous substances into the air resulting from cleanup actions.

"Applicable state and federal laws" means all legally applicable requirements and those requirements that the department determines, based on the criteria in WAC 173-340-710(3), are relevant and appropriate requirements.

"Area background" means the concentrations of hazardous substances that are consistently present in the environment in the vicinity of a site which are the result of human activities unrelated to releases from that site.

"Bioconcentration factor" means the ratio of the concentration of a hazardous substance in the tissue of an aquatic organism divided by the hazardous substance concentration in the ambient water in which the organism resides.

"Carcinogen" means any substance or agent that produces or tends to produce cancer in humans. For implementation of this chapter, the term carcinogen will apply to substances on the United States Environmental Protection Agency lists of A (known human) and B (probable human) carcinogens, and any substance which causes a significant increased incidence of benign or malignant tumors in a single, well conducted animal bioassay, consistent with the weight of evidence approach specified in the United States Environmental Protection Agency's Guidelines for Carcinogen Risk Assessment as set forth in 51 FR 33992 et seq. as presently published or as subsequently amended or republished.

"Carcinogenic potency factor" or "CPF" means the upper 95th percentile confidence limit of the slope of the dose-response curve and is expressed in units of (mg/kg-day)⁻¹. When derived from human epidemiological data, the carcinogenic potency factor may be a maximum likelihood estimate.

"Chronic reference dose" means an estimate (with an uncertainty spanning an order of magnitude or more) of a daily exposure level for the human population, including sensitive subpopulations, that is likely to be without an appreciable risk of adverse effects during a lifetime.

"Chronic toxicity" means the ability of a hazardous substance to cause injury or death to an organism resulting from repeated or constant exposure to the hazardous substance over an extended period of time.

"Cleanup" means the implementation of a cleanup action or interim action.

"Cleanup action" means any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with WAC 173-340-360.

"Cleanup action plan" means the document prepared by the department under WAC 173-340-360 which selects the cleanup action and specifies cleanup standards and other requirements for the cleanup action.

"Cleanup level" means the concentration of a hazardous substance in soil, water, air, or sediment that is determined to be protective of human health and the environment under specified exposure conditions.

"Cleanup process" means the process for identifying, investigating, and cleaning up hazardous waste sites under chapter 70.105D RCW.

"Cleanup standards" means the standards promulgated under RCW 70.105D.030 (2)(d). Establishing cleanup standards requires specification of the following:

Hazardous substance concentrations that protect human health and the environment ("cleanup levels");

The location on the site where those cleanup levels must be attained ("points of compliance"); and

Additional regulatory requirements that apply to a cleanup action because of the type of action and/or the location of the site. These requirements are specified in applicable state and federal laws and are generally established following the selection of a specific cleanup action.

"Closure site assessment" means a site assessment required for closure of an underground storage tank pursuant to rules adopted under chapter 90.76 RCW.

PROPOSED

"Commercial properties" or "commercial sites" means properties that are currently being used for, have been characterized by, or are committed to traditional commercial uses such as mini-storage, offices, professional services, retail sales, banks, hotels, motels, restaurants, taverns, automotive repair, gas stations, hospitals, medical clinics, post offices, museums, and theaters; and, that are:

- : Designated for commercial use in a comprehensive plan, if one has been prepared; and
- : Zoned for commercial use.

A property with mixed industrial and commercial uses should normally qualify as a commercial site under this definition. Daycare facilities and schools do not qualify as commercial sites. Also, properties with residential uses, mixed commercial and residential uses, or mixed industrial and residential uses are considered residential uses under this chapter and do not qualify as commercial sites. See WAC 173-340-740 for additional criteria to determine if a land use meets the definition of commercial property.

"Compliance monitoring" means a remedial action that consists of monitoring as described in WAC 173-340-410.

"Containment" means a container, vessel, barrier, or structure, whether natural or constructed, which confines a hazardous substance within a defined boundary and prevents or minimizes its release into the environment.

"Contaminant" means any hazardous substance that does not occur naturally or occurs at greater than natural background levels.

"Curie" means the measure of radioactivity defined as that quantity of radioactive material which decays at the rate of 3.70×10^{10} transformations per second. This decay rate is nearly equivalent to that exhibited by 1 gram of radium in equilibrium with its disintegration products.

"Day" means calendar day; however, any document due on the weekend or a holiday may be submitted on the first working day after the weekend or holiday.

"Decree" means consent decree under WAC 173-340-520. "Consent decree" is synonymous with decree.

"Department" means the department of ecology.

"Developmental reference dose" means an estimate (with an uncertainty of an order of magnitude or more) of an exposure level for the human population, including sensitive subgroups, that is likely to be without an appreciable risk of developmental effects.

"Direct contact" means exposure to hazardous substances through ingestion or dermal contact.

"Director" means the director of ecology or the director's designee.

"Environment" means any plant, animal, natural resource, surface water (including underlying sediments), ground water, drinking water supply, land surface (including tidelands and shorelands) or subsurface strata, or ambient air within the state of Washington or under the jurisdiction of the state of Washington.

"Exposure" means subjection of an organism to the action, influence, or effect of a hazardous substance (chemical agent) or physical agent. Exposure is quantified as the amount of the agent available at the exchange boundaries (e.g., skin, lungs, gut) and available for absorption.

"Exposure parameters" means those parameters used to derive an estimate of the exposure to a hazardous substance.

"Exposure pathway" means the path a hazardous substance takes or could take from a source to an exposed organism. An exposure pathway describes the mechanism by which an individual or population is exposed or has the potential to be exposed to hazardous substances at or originating from a site. Each exposure pathway includes an actual or potential source or release from a source, an exposure point, and an exposure route. If the exposure point differs from the source of the hazardous substance, the exposure pathway also includes a transport/exposure medium.

"Facility" means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

"Federal cleanup law" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq., as presently promulgated or as subsequently amended or repromulgated.

"Fish diet fraction" means the percentage of the total fish or shellfish in an individual's diet that is obtained or has the potential to be obtained from the site.

"Food crop" means any domestic plant which is produced for the purpose of, or may be used in whole or in part for, consumption by people or livestock. This shall include nursery, root, or seedstock to be used for the production of food crops.

"Free product" means a hazardous substance that is present as a nonaqueous phase liquid (that is, liquid not dissolved in water).

"Ground water" means water in a saturated zone or stratum beneath the surface of land or below a surface water.

"Hazard index" means the sum of two or more hazard quotients for multiple hazardous substances and/or multiple exposure pathways.

"Hazardous sites list" means the list of hazardous waste sites maintained under WAC 173-340-330.

"Hazardous substance" means any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (5) and (6), or any dangerous or extremely dangerous waste as designated by rule under chapter 70.105 RCW; any hazardous substance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule under chapter 70.105 RCW; any substance that, on the effective date of this section, is a hazardous substance under section 101(14) of the federal cleanup law, 42 U.S.C., Sec. 9601(14); petroleum or petroleum products; and any substance or category of substances, including solid waste decomposition products, determined by the director by rule to present a threat to human health or the environment if released into the environment.

The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction

thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.

"Hazardous waste site" means any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

"Hazard quotient" or "HQ" means the ratio of the dose of a single hazardous substance over a specified time period to a reference dose for that hazardous substance derived for a similar exposure period.

"Highest beneficial use" means the beneficial use of a resource generally requiring the highest quality in the resource. For example, for many hazardous substances, providing protection for the beneficial use of drinking water will generally also provide protection for a great variety of other existing and future beneficial uses of ground water.

"Independent remedial actions" means remedial actions conducted without department oversight or approval and not under an order or decree.

"Indicator hazardous substances" means the subset of hazardous substances present at a site selected under WAC 173-340-708 for monitoring and analysis during any phase of remedial action for the purpose of characterizing the site or establishing cleanup requirements for that site.

"Industrial properties" or "industrial sites" means properties that are or have been characterized by, or are to be committed to, traditional industrial uses such as processing or manufacturing of materials, marine terminal and transportation areas and facilities, fabrication, assembly, treatment, or distribution of manufactured products, or storage of bulk materials, that are either:

- : Zoned for industrial use by a city or county conducting land use planning under chapter 36.70A RCW (Growth Management Act); or
- : For counties not planning under chapter 36.70A RCW (Growth Management Act) and the cities within them, zoned for industrial use and adjacent to properties currently used or designated for industrial purposes.

See WAC 173-340-745 for additional criteria to determine if a land use meets the definition of industrial property.

"Inhalation correction factor" means a multiplier that is used to adjust exposure estimates based on ingestion of drinking water to take into account exposure to hazardous substances which are volatilized and inhaled during use of the water.

"Initial investigation" means a remedial action that consists of an investigation under WAC 173-340-310 to determine that a release or threatened release may have occurred that warrants further action under this chapter.

"Institutional control" means a measure undertaken to limit or prohibit activities that may interfere with the integrity of a cleanup action or result in exposure to hazardous substances at the site.

"Integrated risk information system" or "IRIS" means a data base developed by the United States Environmental Protection Agency which provides a summary of information on hazard identification and dose-response assessment for specific hazardous substances.

"Interim action" means a remedial action conducted under WAC 173-340-430 that partially addresses the cleanup of a site.

"Interspecies scaling factor" means the conversion factor used to take into account differences between animals and humans.

"Legally applicable requirements" means those cleanup standards, standards of control, and other human health and environmental protection requirements, criteria, or limitations promulgated under state or federal law that specifically address a hazardous substance, cleanup action, location, or other circumstances at the site.

"Lowest observed adverse effect level" or "LOAEL" means the lowest concentration of a hazardous substance at which there is a statistically or biologically significant increase in the frequency or severity of an adverse effect between a population and a control group.

"Mail" means delivery through the United States Postal Service or an equivalent method of delivery or transmittal, including private mail carriers, or personal delivery.

"Maximum contaminant level" or "MCL" means the maximum concentration of a contaminant established by either the Washington state board of health or the United States Environmental Protection Agency under the Federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and published in chapter 248-54 WAC or 40 C.F.R. 141 as presently promulgated or subsequently amended or repromulgated.

"Maximum contaminant level goal" or "MCLG" means the maximum concentration of a contaminant established by either the Washington state board of health or the United States Environmental Protection Agency under the Federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and published in chapter 248-54 WAC or 40 C.F.R. 141 as presently promulgated or subsequently amended or repromulgated, for which no known or anticipated adverse effects on human health occur, including an adequate margin of safety.

"Method detection limit" or "MDL" means the minimum concentration of a compound that can be measured and reported with 99% confidence that the value is greater than zero.

"Millirem" or "mrem" means the measure of the dose of any radiation to body tissue in terms of its estimated biological effect relative to a dose received from an exposure to one roentgen (R) of x-rays. One millirem equals 0.001 rem.

"Mixed funding" means any funding provided to potentially liable persons from the state toxics control account under WAC 173-340-560.

"Model Toxics Control Act" or "act" means the act approved by the voters at the November 1988 general election, also known as Initiative 97 (chapter 70.105D RCW).

"Natural background" means the concentration of hazardous substance consistently present in the environment which has not been influenced by localized human activities. For example, several metals naturally occur in the bedrock and soils of Washington state due solely to the geologic processes that formed these materials and the concentration of these metals would be considered natural background. Also, low concentrations of some particularly persistent

organic compounds such as polychlorinated biphenyls (PCBs) can be found in surficial soils and sediment throughout much of the state due to global use of these hazardous substances. These low concentrations would be considered natural background. Similarly, concentrations of various radionuclides which are present at low concentrations throughout the state due to global distribution of fallout from bomb testing and nuclear accidents would be considered natural background.

"Natural person" means any unincorporated individual or group of individuals. The term "individual" is synonymous with "natural person."

"No observed adverse effect level" or "NOAEL" means the exposure level at which there are no statistically or biologically significant increases in frequency or severity of adverse effects between the exposed population and its appropriate control; some effects may be produced at this level, but they are not considered to be adverse, nor precursors to specific adverse effects.

"Null hypothesis" means an assumption about hazardous substance concentrations at a site when evaluating compliance with cleanup levels established under this chapter. The null hypothesis is that the site is contaminated at concentrations which exceed cleanup levels. This shall not apply to cleanup levels based on background concentrations.

"Order" means an enforcement order issued under WAC 173-340-540 or an agreed order issued under WAC 173-340-530.

"Owner or operator" means any person with any ownership interest in the facility or who exercises any control over the facility; or in the case of an abandoned facility, any person who had owned, or operated, or exercised control over the facility any time before its abandonment. The term does not include:

An agency of the state or unit of local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or circumstances in which the government involuntarily acquires title. This exclusion does not apply to an agency of the state or unit of local government which has caused or contributed to the release or threatened release of a hazardous substance from the facility; or

A person who, without participating in the management of a facility, holds indicia of ownership primarily to protect the person's security interest in the facility.

"PAHs (carcinogenic)" means those PAHs substances identified as A (known human) or B (probable human) carcinogens by the United States Environmental Protection Agency. These include benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene, chrysene, dibenzo(a,h)anthracene, and indeno(1,2,3-cd)pyrene.

"Permanent solution" means a cleanup action in which cleanup standards of WAC 173-340-700 through 173-340-760 can be met without further action being required at the site being cleaned up or any other site involved with the cleanup action, other than the approved disposal of any residue from the treatment of hazardous substances.

"Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, federal government agency, or Indian tribe.

"Picocurie" or "pCi" means 10^{-12} curie.

"Point of compliance" means the point or points where cleanup levels established in accordance with WAC 173-340-720 through 173-340-760 shall be attained.

"Polychlorinated biphenyls" or "PCB mixtures" means those aromatic compounds containing two benzene nuclei with two or more substituted chlorine atoms. For the purposes of this chapter, PCB includes those congeners which are identified using the appropriate analytical methods as specified in WAC 173-340-830.

"Polycyclic aromatic hydrocarbons" or "PAH" means those hydrocarbon molecules composed of two or more fused benzene rings. For the purpose of this chapter, PAH includes those compounds which are identified and quantified using the appropriate analytical methods as specified in WAC 173-340-830. The specific compounds generally included are acenaphthene, acenaphthylene, fluorene, naphthalene, anthracene, fluoranthene, phenanthrene, benzo[a]anthracene, benzo[b]fluoranthene, benzo[k]fluoranthene, pyrene, chrysene, benzo[a]pyrene, dibenzo[a,h]anthracene, indeno[1,2,3-cd]pyrene, and benzo[ghi]perylene.

"Potentially liable person" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040.

"Practicable" means (except when used in the phrase "permanent to the maximum extent practicable" which is defined in WAC 173-340-360(5)) capable of being designed, constructed and implemented in a reliable and effective manner including consideration of cost. When considering cost under this analysis, an alternative shall not be considered practicable if the incremental cost of the alternative is substantial and disproportionate to the incremental degree of protection provided by the alternative over other lower cost alternatives.

"Practical quantitation limit" or "PQL" means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions, using department approved methods.

"Public notice" means, at a minimum, adequate notice mailed to all persons who have made a timely request of the department and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the newspaper of largest circulation in the city or county of the proposed action; and opportunity for interested persons to comment.

"Public participation plan" means a plan prepared under WAC 173-340-600 to encourage coordinated and effective public involvement tailored to the public's needs at a particular site.

"Rad" means that quantity of ionizing radiation that results in the absorption of 100 ergs of energy per gram of irradiated material, regardless of the source of radiation.

"Radionuclide" means a type of atom which spontaneously undergoes radioactive decay. Radionuclides are hazardous substances under the act.

"Recovery by-products" means any hazardous substance, water, sludge or other materials collected in the free product removal process in response to a release from an underground storage tank.

"Reasonable maximum exposure" means the highest exposure that can be reasonably expected to occur for a

human or other living organisms at a site under current and potential future site use.

"Reference dose" or "RFD" means a benchmark dose, derived from the NOAEL or LOAEL for a hazardous substance by consistent application of uncertainty factors used to estimate acceptable daily intake doses and an additional modifying factor, which is based on professional judgment when considering all available data about a substance, expressed in units of milligrams per kilogram body weight per day. This includes chronic reference doses, subchronic reference doses, and developmental reference doses.

"Regional office" means one of the regional offices of the department of ecology.

"Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to the abandonment or disposal of containers of hazardous substances.

"Relevant and appropriate requirements" means those cleanup standards, standards of control, and other human health and environmental requirements, criteria, or limitations established under state and federal law that, while not legally applicable to the hazardous substance, cleanup action, location, or other circumstance at a site, the department determines address problems or situations sufficiently similar to those encountered at the site that their use is well suited to the particular site. The criteria specified in WAC 173-340-710(3) shall be used to determine if a requirement is relevant and appropriate.

"Rem" means the unit of radiation dose equivalent that is the dosage in rads multiplied by a factor representing the different biological effects of various types of radiation.

"Remedy" or "remedial action" means any action or expenditure consistent with the purposes of chapter 70.105D RCW to identify, eliminate, or minimize any threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

"Restoration time frame" means the period of time needed to achieve the required cleanup levels at the points of compliance established for the site.

"Risk" means the probability that a hazardous substance, when released into the environment, will cause an adverse effect in exposed humans or other living organisms.

"Routine cleanup action" means a remedial action that consists of a cleanup action meeting the requirements in WAC 173-340-130(7).

"Safety and health plan" means a plan prepared under WAC 173-340-810.

"Sample mean" means the arithmetic mean or the average of a set of measurements. The arithmetic mean is defined as the sum of all measurements divided by the number of measurements.

"Sampling and analysis plan" means a plan prepared under WAC 173-340-820.

"Saturated zone" means the area below the water table in which all interstices are filled with water.

"Schools" mean preschools, elementary schools, middle schools, high schools, and similar facilities, both public and private, used primarily for the instruction of minors.

"Science advisory board" means the advisory board established by the department under RCW 70.105D.030(4).

"Secondary maximum contaminant level" means the maximum concentration of a secondary contaminant in water established by the United States Environmental Protection Agency under the Federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and published in 40 C.F.R. 143 as presently promulgated or as subsequently amended or repromulgated.

"Sensitive environment" means an area of particular environmental value, where a release could pose a greater threat than in other areas including: Wetlands; critical habitat for endangered or threatened species; national or state wildlife refuge; critical habitat, breeding or feeding area for fish or shellfish; wild or scenic river; rookery; riparian area; big game winter range.

"Site" means the same as facility.

"Site characterization report" means a written report describing the site and nature of a release from an underground storage tank, as described in WAC 173-340-450(4)(b).

"Site check" means the investigation conducted pursuant to rules adopted under chapter 90.76 RCW in order to confirm a release from an underground storage tank.

"Site hazard assessment" means a remedial action that consists of an investigation performed under WAC 173-340-320.

"Site register" means the public information document described in WAC 173-340-600.

"Soil" means a mixture of organic and inorganic solids, air, water, and biota which exists on the earth's surface above bedrock, including materials of anthropogenic sources such as slag, sludge, etc.

"State remedial investigation/feasibility study" means a remedial action that consists of activities performed under WAC 173-340-350 to collect, develop, and evaluate sufficient information regarding a site to enable the selection of a cleanup plan under WAC 173-340-360.

"Status report" means a written or verbal report on the status of the interim actions taken in response to a release from an underground storage tank, as described in WAC 173-340-450(4)(b).

"Subchronic reference dose" means an estimate (with an uncertainty of an order of magnitude or more) of a daily exposure level for the human population, including sensitive subgroups, that is likely to be without appreciable risk of adverse effects during a portion of a lifetime.

"Surface water" means lakes, rivers, ponds, streams, inland waters, salt waters, and all other surface waters and water courses within the state of Washington or under the jurisdiction of the state of Washington.

"Technically possible" means capable of being designed, constructed and implemented in a reliable and effective manner, regardless of cost.

"Total excess cancer risk" means the upper bound on the estimated excess cancer risk associated with exposure to multiple hazardous substances and multiple exposure pathways.

"Total petroleum hydrocarbons" or "TPH" means any fraction of crude oil that is contained in plant condensate,

crankcase motor oil, gasoline, aviation fuels, kerosene, diesel motor fuel, benzol, fuel oil, and other products derived from the refining of crude oil. For the purposes of this chapter, TPH will generally mean those fractions of the above products that are quantified by EPA Methods 8015 or 418.1 as appropriate or other test methods approved by the department.

"Type I error" means the error made when it is concluded that an area of a site is below cleanup levels when it actually exceeds cleanup levels. This is the rejection of a true null hypothesis.

"Underground storage tank" or "UST" means an underground storage tank and connected underground piping as defined in the rules adopted under chapter 90.76 RCW.

"Underground storage tank operator" means any underground storage tank operator as defined in the rules adopted under chapter 90.76 RCW.

"Underground storage tank owner" means any underground storage tank owner as defined in the rules adopted under chapter 90.76 RCW.

"Underground storage tank release" means a confirmed release from an underground storage tank pursuant to the rules adopted under chapter 90.76 RCW.

"Unrestricted site use conditions" means restrictions on the use of the site or natural resources affected by releases of hazardous substances from the site are not required to ensure continued protection of human health and the environment.

"Upper bound on the estimated excess cancer risk of one in one hundred thousand" means the upper 95th percent confidence limit on the estimated risk of one additional cancer above the background cancer rate per one hundred thousand individuals.

"Upper bound on the estimated excess cancer risk of one in one million" means the upper 95th percent confidence limit on the estimated risk of one additional cancer above the background cancer rate per one million individuals.

"Volatile organic compound" means those carbon-based compounds listed in EPA methods 601, 602, 603, 624, 8010, 8015, 8020, 8030, 8240, 502.1, 502.2, 503.1, 524.1, 524.2, and those with similar vapor pressures or boiling points.

"Wastewater facility" means all structures and equipment required to collect, transport, treat, reclaim, or dispose of domestic, industrial, or combined domestic/industrial wastewaters.

"Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this classification, wetlands must have one or more of the following attributes at least periodically, the land supports predominantly hydrophytes; the substrate is predominately undrained hydric soil; and the substrate is nonsoil and saturated with water or covered by shallow water at some time during the growing season each year.

"Zoned for (a specified) use" means the use is allowed as a permitted or conditional use under the local jurisdiction's land use zoning ordinances. A land use that is inconsistent with the current zoning but allowed through a zoning variance or through a grandfather clause is not considered to be zoned for that use.

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

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-440 Institutional controls. (1) Purpose. Institutional controls are measures undertaken to limit or prohibit activities that may interfere with the integrity of an interim action or cleanup action or result in exposure to hazardous substances at a site. Such measures shall be required to assure both the continued protection of human health and the environment and the integrity of an interim action or cleanup action in the following circumstances:

(a) Where a cleanup action results in residual concentrations of hazardous substances which exceed method A or method B cleanup levels, as applicable, established under WAC 173-340-700 through 173-340-760; or

(b) If conditional points of compliance have been established; or

(c) When the department determines such controls are required to assure the continued protection of human health and the environment or the integrity of the cleanup action.

(2) Institutional controls shall not be used as a substitute for cleanup actions that would otherwise be technically possible.

(3) Institutional controls include:

(a) Physical measures, such as fences and signs, to limit activities that may interfere with the cleanup action or result in exposure to hazardous substances at the site; and

(b) Legal and administrative mechanisms ~~((used))~~ to limit site use or activities and/or to ensure that ~~((such))~~ any physical measures are maintained over time. These may include, for example, restricting the use of a site for industrial or commercial purposes or other specified land uses, or placing restrictions on activities such as disturbing a cap or using the ground water.

(4) Format.

(a) For properties owned by ~~((the))~~ a person who has been named as a potentially liable person or who has not been named a potentially liable person by the department but meets the criteria in RCW 70.105D.040 for being named a potentially liable ~~((parties))~~ person, appropriate institutional controls shall be described in a restrictive covenant on the property. The covenant shall be executed by the property owner and recorded with the register of deeds for the county in which the site is located. This restrictive covenant shall run with the land, and be binding on the owner's successors and assigns.

(b) For ~~((other))~~ properties containing hazardous substances where the owner does not meet the criteria in RCW 70.105D.040 for being a potentially liable person, the department may approve cleanup actions which include restrictive covenants or other legal and/or administrative mechanisms. The use of legal or administrative mechanisms which do not include restrictive covenants is intended to apply to situations where the release has affected properties near the source of the release not owned by a potentially liable person. Examples of such mechanisms include zoning overlays, placing notices in local zoning or building department records, public notices and educational mailings.

(5) Where required, the restrictive covenant shall:

(a) Prohibit activities on the site that may interfere with a cleanup action, operation and maintenance, monitoring, or other measures necessary to assure the integrity of the cleanup action and continued protection of human health and the environment;

(b) Prohibit activities that may result in the release of a hazardous substance which was contained as a part of the cleanup action;

(c) Require notice to the department of the owner's intent to convey any interest in the site. No conveyance of title, easement, lease, or other interest in the property shall be consummated by the property owner without adequate and complete provision for the continued operation, maintenance and monitoring of the cleanup action, and for continued compliance with this subsection;

(d) Require notice and approval by the department of any proposal to use the site in a manner which is inconsistent with the restrictive covenant. If the department, after public notice and comment approves the proposed change, the restrictive covenant shall be amended to reflect the change.

(e) Grant the department and its designated representatives the right to enter the property at reasonable times for the purpose of evaluating compliance with the cleanup action plan and other required plans, including the right to take samples, inspect any remedial actions taken at the site, and to inspect records.

(6) Local government notification. Prior to a deed restriction being established under this chapter, the department shall notify and seek comment from a city or county department with land use planning authority for real property subject to the deed restriction.

(7) Financial assurances. The department may require the potentially liable person to provide financial assurances, through a trust fund or equivalent financial mechanism approved by the department, sufficient to cover all costs of operation and maintenance including compliance monitoring and undertaking appropriate corrective measures. It is the department's expectation that such assurances will be required wherever the cleanup action includes containment and in other appropriate circumstances.

~~((7))~~ (8) Removal of restrictions. If the residual hazardous substances remaining at the site are subsequently reduced in concentration such that the method A or method B cleanup levels, as applicable, established under WAC 173-340-700 through 173-340-760 are met without a conditional point of compliance, then the owner may request that the restrictive covenant or other restrictions be eliminated. The restrictive covenant or other restrictions shall be removed, if the department, after public notice and opportunity for comment, concurs.

AMENDATORY SECTION (Amending WSR 90-08-086, filed 4/3/90, effective 5/4/90)

WAC 173-340-530 Agreed orders. (1) Agreed orders may be used for all remedial actions (~~except for nonroutine cleanup actions and interim actions that constitute a substantial majority of a cleanup action likely to be selected~~). Since an agreed order is not a settlement, an agreed order shall not provide for mixed funding, a covenant not to sue,

or protection from claims for contribution. An agreed order means that the potentially liable person agrees to perform remedial actions at the site in accordance with the provisions of the agreed order and that the department will not take additional enforcement action against the potentially liable person to require those remedial actions specified in the agreed order so long as the potentially liable person complies with the provisions of the order. The department may require additional remedial actions should it deem such actions necessary.

(2) Request.

(a) To request an agreed order, a person shall submit a letter to the department based on available information, describing:

(i) The proposed remedial action including a schedule for the work;

(ii) The facility, including location and boundaries;

(iii) The environmental problems to be addressed, including the releases at the facility and the potential impact of those releases to human health and the environment;

(iv) A summary of the relevant historical use or conditions at the facility;

(v) Names of other persons whom the person has reason to believe may be potentially liable persons at the facility; and

(vi) A proposed public participation plan. This proposed plan shall be commensurate with the nature of the proposal and site and shall include at a minimum the elements listed in WAC 173-340-600(8).

(b) The letter may include a waiver of the procedural requirements of WAC 173-340-500, and acceptance, for purposes of the agreed order, of potentially liable person status.

(c) Recognizing that the basic steps of the cleanup process may be combined and may vary by site, the information in the request shall be at the level of detail appropriate to the step in the process for which the order is requested. For example, a request for an agreed order for a state remedial investigation/feasibility study should generally include the level of information needed for a site hazard assessment, so that the department and the public can evaluate the proposed scope of work and relative priority of the site.

(d) The department may waive part of the letter requirements of (a) of this subsection if the requirements have already been met.

(3) Response. The department shall respond to the request within sixty days, unless the department needs additional time to determine potentially liable person status under WAC 173-340-500. The department may:

(a) Request additional information;

(b) Proceed with discussions, if the department believes it is in the public interest to do so; or

(c) Provide written reasons for denying the request.

(4) Discussions on the agreed order shall not exceed sixty days unless the department decides continued discussions are in the public interest.

Unless an emergency exists, the department will stay any enforcement action under chapter 70.105D RCW; however, the duration of such stay shall not exceed sixty days from the date discussions begin. Furthermore, the

department can withdraw from discussions if it determines that:

(a) Reasonable progress is not being made toward an agreed order acceptable to the department; or

(b) The agreed order is inappropriate based on new information or changed circumstances.

The department may commence with enforcement action after notifying the potentially liable person in writing of its intent to withdraw from discussions.

(5) Focus of discussions. The focus of discussions for the agreed order shall ordinarily be the technical scope of work and work schedule. This subsection is not intended to preclude discussion on any item. It is intended to convey the expectation that the scope of work and work schedule will be the primary topics of discussion in formulating agreed orders.

(6) When issuing an agreed order, the department shall provide appropriate public participation opportunities under WAC 173-340-600. If the agreed order is for a routine cleanup action and any person requests judicial review, then the applicable consent decree procedures under WAC 173-340-520 will be initiated.

(7) Revisions. If the department and the potentially liable person signing the order agree to substantial changes in the order, the department shall provide appropriate additional public notice and opportunity to comment.

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-700 Overview of cleanup standards.

(1) Purpose. This section provides an overview of the methods for establishing cleanup standards that apply to a release or threatened release of a hazardous substance at a site. If there are any inconsistencies between this section and any specifically referenced section, the referenced section shall govern.

(2) Cleanup standards versus selection of cleanup actions.

(a) Cleanup standards are identified for the particular hazardous substances at a site and the specific areas or pathways, such as land or water, where humans and the environment can become exposed to these substances. This part provides uniform methods state-wide for identifying cleanup standards and requires that all cleanups under the act meet these standards. The actual degree of cleanup may vary from site to site and will be determined by the cleanup action alternative selected under WAC 173-340-360. Establishing cleanup standards for individual sites requires the specification of the following:

(i) Hazardous substance concentrations that protect human health and the environment ("cleanup levels");

(ii) The location on the site where those cleanup levels must be attained ("points of compliance"); and

(iii) Additional regulatory requirements that apply to a cleanup action because of the type of action and/or the location of the site. These requirements are specified in applicable state and federal laws and are generally established in conjunction with the selection of a specific cleanup action.

(b) For most sites, there are several cleanup technologies or combinations of cleanup technologies ("cleanup

action alternatives") that may be used to comply with cleanup standards at individual sites. Other parts of this rule govern the process for planning and deciding on the cleanup action to be taken at a site. For example, WAC 173-340-350 (State remedial investigation and feasibility study) (RI/FS) specifies the studies that are prepared to define the nature and extent of contamination ("RI") and to identify and evaluate cleanup action alternatives ("FS"). WAC 173-340-360 (Selection of cleanup actions) specifies the criteria for selecting the preferred alternative. WAC 173-340-410 specifies the monitoring required to assure that the remedy is effective.

(c) The department recognizes that cleanup actions selected under WAC 173-340-360 may involve containment of hazardous substances. In these cases, the cleanup action may be determined to comply with cleanup standards, provided the compliance monitoring program is designed to ensure the long-term integrity of the containment system, and the other requirements for containment technologies in WAC 173-340-360(8) are met.

(3) Three basic methods for establishing cleanup levels. These rules provide three approaches for establishing cleanup levels:

(a) Method A: Tables. On some sites, the cleanup action may be routine (WAC 173-340-130) or may involve relatively few hazardous substances. Under Method A, cleanup levels for hazardous substances are established at concentrations at least as stringent as concentrations specified in applicable state and federal laws and Tables 1, 2, or 3 of this chapter. Method A cleanup levels for hazardous substances not addressed under applicable state and federal laws or Tables 1, 2, or 3 are established at concentrations which do not exceed the natural background concentration or the practical quantitation limit for the substance in question.

(b) Method B: Standard method. Method B is the standard method for determining cleanup levels for ground water, surface water, soil, and air. Cleanup levels for individual hazardous substances are established using applicable state and federal laws or the risk equations specified in WAC 173-340-720 through 173-340-750. For individual carcinogens, cleanup levels are based upon the upper bound of the estimated excess lifetime cancer risk of one in one million (1×10^{-6}). For individual noncarcinogenic substances, cleanup levels are set at concentrations which are anticipated to result in no acute or chronic toxic effects on human health and the environment. Where a hazardous waste site involves multiple hazardous substances and/or multiple pathways of exposure, method B cleanup levels for individual substances must be modified in accordance with the procedures in WAC 173-340-708. Under this method, the total excess lifetime cancer risk for a site shall not exceed one in one hundred thousand (1×10^{-5}) and the hazard index for substances with similar noncarcinogenic toxic effects shall not exceed one (1).

(c) Method C: Conditional method. Compliance with cleanup levels developed under the method A or B may be impossible to achieve or may cause greater environmental harm. In those situations, method C cleanup levels for individual hazardous substances may be established on the basis of applicable state and federal laws and a site-specific risk assessment. Method C soil cleanup levels may also be established at certain commercial and industrial sites which

meet the criteria in WAC 173-340-740 and 173-340-745. For individual carcinogens, method C cleanup levels are based upon the upper bound of the estimated lifetime cancer risk of one in one hundred thousand (1×10^{-5}). For individual noncarcinogenic substances, method C cleanup levels are set at concentrations which are anticipated to result in no acute or chronic toxic effects on human health and no significant adverse effects on the protection and propagation of aquatic and terrestrial organisms. Where a hazardous waste site involves multiple hazardous substances and/or multiple pathways of exposure, method C cleanup levels for individual substances must be modified in accordance with the procedures in WAC 173-340-708. Under this method, the total excess lifetime cancer risk for a site shall not exceed one in one hundred thousand (1×10^{-5}) and the hazard index for substances with similar noncarcinogenic toxic effects shall not exceed one (1).

(4) Additional requirements for setting cleanup levels. Several requirements apply to cleanups under any of the three basic methods. Some of these requirements, such as the identification of applicable state and federal laws, describe analyses used along with methods A, B or C in order to set cleanup levels for particular substances at a site. Others describe the technical procedures to be used.

(a) Applicable state and federal laws. RCW 70.105D-030 (2)(d) requires the cleanup standards in these rules to be "at least as stringent as all applicable state and federal laws." In addition to establishing minimum requirements for cleanup standards, applicable state and federal laws may also impose certain technical and procedural requirements for performing cleanup actions. These requirements are described in WAC 173-340-710 and are similar to the "ARAR" (applicable, relevant and appropriate requirements) approach of the federal superfund law.

(b) Cross-media contamination. In some situations, migration of hazardous substances from one medium may cause contamination in a second media. For example, the release of hazardous substances in soil may cause ground water contamination. Under methods A, B, and C, cleanup levels must be established at concentrations which prevent violations of cleanup levels for other media following implementation of the cleanup action.

(c) Risk assessment procedures. The analyses performed under methods B and C use several factors for defining cleanup levels for carcinogens and noncarcinogens. The individual factors and procedures for modifying these factors based on new scientific information are specified in WAC 173-340-708 and 173-340-720 through 173-340-750. WAC 173-340-708 also provides rules for use of indicator hazardous substances:

(d) Natural background. Cleanup levels shall not exceed concentrations established under methods A, B, or C except where the natural background concentration is greater than the cleanup level established under those methods. In such situations, the cleanup level shall be established at a concentration equal to the natural background concentration.

(5) Threshold criteria for all cleanup actions. WAC 173-340-360 specifies that all cleanup actions conducted under this chapter shall protect human health and the environment, comply with cleanup standards and applicable state and federal laws, and provide for compliance monitoring. These are the threshold criteria and all cleanup actions

must meet these criteria regardless of other factors such as cost or technical limitations.

(6) Measuring compliance. Setting cleanup standards also involves being able to demonstrate that they have been met. This involves specifying where on the site the cleanup levels must be met ("points of compliance"), how long it takes for a site to meet cleanup levels ("restoration time frame"), and conducting sufficient monitoring to demonstrate that the cleanup standards have been met and will continue to be met in the future. The provisions for establishing points of compliance are in WAC 173-340-720 through 173-340-750. The provisions for establishing restoration time frames are in WAC 173-340-360. The compliance monitoring plan prepared under WAC 173-340-410 specifies precisely how these are measured for each site. Where cleanup levels are below the practical quantitation limit, compliance with cleanup standards will be based upon the practical quantitation limit.

(7) Administrative principles for cleanup standards.

(a) Remedial actions under this chapter shall be conducted in a manner that is consistent with this section. This section shall be used in combination with WAC 173-340-130, the more specific sections in Part VII of this chapter and WAC 173-340-360.

(b) Establishing cleanup standards and selecting an appropriate cleanup action involves many technical and public policy decisions. This chapter is intended to constrain the range of decisions needed to be made on individual sites to promote expeditious cleanups.

(c) The act contains policies which state, in part, each person has a fundamental and inalienable right to a healthful environment and it is essential that sites be cleaned up well. Consistent with these policies, cleanup standards under this chapter shall be established which provide conservative estimates of human health and environmental risks which protect susceptible individuals as well as the general population.

(d) Cleanup standards under this chapter shall be established which protect human health and the environment for current and potential future site and resource uses.

(e) Cleanup actions that achieve cleanup levels under methods A, B or C (as applicable) and comply with applicable state and federal laws shall be presumed to be protective of human health and the environment.

(f) Except as provided for in applicable state and federal laws, cost shall not be a factor in determining what cleanup level is protective of human health and the environment. In addition, where specifically provided for in this chapter, cost may be appropriate for certain other determinations related to cleanup standards such as point of compliance. Cost shall, however, be considered when selecting an appropriate cleanup action.

(g) At most sites, there is more than one hazardous substance and more than one pathway for hazardous substances to get into the environment. For many sites there is more than one technology that could address each of these. When evaluating cleanup action alternatives it is appropriate to consider a representative range of technologies that could address each of these as well as different combinations of these technologies to accomplish the overall site cleanup.

(h) The cleanup of a particular media of a site will often affect other media at the site. These cross-media impacts

shall be considered when establishing cleanup standards and selecting a cleanup action. Cleanup actions conducted under this chapter shall use appropriate engineering controls or other measures to minimize these cross-media impacts.

(i) In general, cleanup levels must be met throughout a site before the site will be considered to be clean. A remedy that leaves hazardous substances on a site in excess of cleanup levels may qualify as a cleanup action as long as the remedy is protective of human health and the environment, meets cleanup levels at specified points of compliance, complies with applicable state and federal laws, provides for adequate monitoring, and incorporates appropriate institutional controls. However, these rules are intended to promote thorough cleanups rather than long-term partial cleanups or containment measures.

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-706 Use of method C. (1) Method C cleanup levels represent concentrations which are protective of human health and the environment for specified site uses. A site that qualifies for a method C cleanup level for one media does not necessarily qualify for a method C cleanup level in other media. Each media must be evaluated separately using the criteria applicable to that media.

(a) Method C cleanup levels may be established where the person ~~((undertaking))~~ conducting the cleanup action can demonstrate that such levels comply with applicable state and federal laws, that all practicable methods of treatment are utilized, that institutional controls are implemented in accordance with WAC 173-340-440, and that one or more of the following conditions exist:

~~((a))~~ (i) Where method A or B cleanup levels are below area background concentrations, method C cleanup levels may be established at concentrations that are equal to area background concentrations, but in no case greater than concentrations specified in subsection (2) of this section;

~~((b))~~ (ii) Where attainment of method A or B cleanup levels has the potential for creating a significantly greater overall threat to human health or the environment than attainment of method C cleanup levels established under this chapter, method C cleanup levels may be established at concentrations which minimize those overall threats, but in no case greater than concentrations specified in subsection (2) of this section. Factors that shall be considered in making this determination include:

~~((i))~~ (A) Results of a site-specific risk assessment;

~~((ii))~~ (B) Duration of threats;

~~((iii))~~ (C) Reversibility of threats;

~~((iv))~~ (D) Magnitude of threats; and

~~((v))~~ (E) Nature of affected population.

~~((e))~~ (iii) Where method A or B cleanup levels are below technically possible concentrations, method C cleanup levels may be established at the technically possible concentrations, but in no case greater than levels specified in subsection (2) of this section~~((-or))~~.

~~((d))~~ (b) For soil cleanup levels only, method C cleanup levels may also be established where the person conducting the cleanup action can demonstrate:

(i) The site is ~~((defined as))~~ an industrial ~~((site))~~ property and meets the criteria for establishing industrial soil cleanup levels under WAC 173-340-745; or

(ii) The site is a commercial or industrial property and meets the criteria for establishing commercial soil cleanup levels under WAC 173-340-740 (1)(c).

(2) Method C cleanup levels shall be established in accordance with the procedures in WAC 173-340-720 through 173-340-760. Method C cleanup levels shall be at least as stringent as all of the following:

(a) Concentrations established under applicable state and federal laws;

(b) Concentrations which are estimated to result in no significant adverse effects on the protection and propagation of aquatic and terrestrial life;

(c) For hazardous substances for which sufficiently protective, health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which are protective of human health and the environment as determined by the following methods:

(i) Concentrations which are estimated to result in no significant adverse acute or chronic toxic effects on human health as estimated using a hazard quotient of one (1) and the procedures defined in WAC 173-340-720 through 173-340-760;

(ii) For known or suspected carcinogens, concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to one in one hundred thousand as determined using the procedures defined in WAC 173-340-720 through 173-340-760; and

(iii) Concentrations which eliminate or minimize the potential for food chain contamination.

(3) The department may establish method C cleanup levels that are more stringent than those required by subsection (2) of this section when based upon a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment.

(4) Concentrations of individual hazardous substances established under subsections (2) and (3) of this section, including those based on applicable state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with WAC 173-340-708. In making these adjustments, the hazard index shall not exceed one (1) and the total excess cancer risk shall not exceed one in one hundred thousand. These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(5) If there are any inconsistencies between this subsection and any specifically referenced sections, the referenced section shall govern.

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-740 Soil cleanup standards. (1) General considerations.

(a) Presumed exposure scenario. Soil cleanup levels shall be based on estimates of the reasonable maximum

exposure expected to occur under both current and future site use conditions. The department has determined that residential site use is generally the site use requiring the most protective cleanup levels and that exposure to hazardous substances under residential site use conditions represents the reasonable maximum exposure scenario. Soil cleanup levels for this presumed exposure scenario shall be established in accordance with method A or method B cleanup levels described in subsections (2) and (3) of this section. In the event of a release of a hazardous substance, treatment, removal, and/or containment measures shall be implemented for those soils with hazardous substance concentrations which exceed soil cleanup levels based on this use unless (the following can be demonstrated:

~~(i) The site does not serve as a current residential area;~~
~~(ii) The site does not have the potential to serve as a future residential area based on the consideration of site zoning, statutory and regulatory restrictions, comprehensive plans, historical site use, adjacent land uses, and other relevant factors; and~~

~~(iii) Appropriate site use restrictions are implemented at the site; or~~

~~(iv)) more stringent concentrations are necessary to protect human health and the environment or less stringent concentrations based on another site use scenario are specifically authorized by this chapter.~~

(b) Industrial property soil cleanup levels. Soil cleanup levels for qualifying industrial ~~((sites))~~ properties may be established in accordance with the requirements in WAC 173-340-745.

(c) Commercial property soil cleanup levels. For industrial ~~((sites))~~ properties (and parts of industrial properties) not qualifying under WAC 173-340-745 and commercial ~~((sites, the presumption is that))~~ properties, soil cleanup levels ~~((will))~~ shall be established in accordance with ~~((residential areas))~~ method A or method B cleanup levels described in subsections (2) and (3) of this section unless it can be clearly demonstrated that ~~((this is inappropriate))~~ the criteria in (c)(i)(A) through (C) of this subsection are met.

(i) For a site to qualify ~~((under this subsection))~~ for a commercial soil cleanup level, it must be clearly demonstrated that:

~~((A) The site is currently zoned for or otherwise officially designated for industrial/commercial use;~~

~~(B) The site is currently used for industrial/commercial purposes or has a history of use for industrial/commercial purposes;~~

~~(C) Properties adjacent to and in the general vicinity of the site are used or are designated for use for industrial/commercial purposes; and~~

~~(D) The site is expected to be used for industrial/commercial purposes for the foreseeable future due to site zoning, statutory or regulatory restrictions, comprehensive plans, adjacent land use, and other relevant factors.))~~ (A) The area of the site where commercial soil cleanup levels are proposed meets the definition of a commercial property as per WAC 173-340-200 or, is an industrial property (or portion of an industrial property) not qualifying for industrial soil cleanup levels under WAC 173-340-745;

Not all land uses allowed in commercial zones will meet the definition of a commercial property under this chapter. An evaluation of whether a site will meet the definition of

commercial property should include a review of the actual text in the comprehensive plan and zoning ordinance pertaining to the site and a visit to the site to observe actual land uses in the zone. When evaluating land uses to determine if a site meets the definition of commercial property, the following characteristics shall be considered:

- : People do not live on the property.
- : Access by the general public (including children) is allowed and often encouraged for the purposes of purchasing goods or services. Such access is typically for a limited duration, infrequent for individuals, and closely controlled or supervised.
- : Food is not grown on the property (however, restaurants and grocery stores are commonly considered commercial properties).
- : The surface of the land on the property is mostly covered by buildings, or other structures, paved parking lots and paved access roads. Other areas are usually intensely landscaped so that there is no access to exposed soil by the public.
- : There is no or minimal wildlife habitat on the developed portions of the property and what wildlife there is, is characteristic of highly urbanized areas.

(B) The cleanup action provides for appropriate institutional controls implemented in accordance with WAC 173-340-440 to limit potential exposure to residual hazardous substances. This shall include, at a minimum, placement of a covenant on the property restricting use of the site to industrial or commercial uses, as applicable; and

(C) Hazardous substances remaining at the property after remedial action would not pose a threat to human health or the environment at the site or in adjacent areas.

(I) At a minimum, the following site specific factors shall be considered when evaluating compliance with this criterion:

- : The potential for human contact with residual hazardous substances;
- : The potential for transport of residual hazardous substances to adjacent areas; and
- : The potential for ecological impacts due to biota contact with the residual hazardous substances.

(II) In order to meet this criterion, commercial sites with nearby residential areas, schools or daycare facilities shall be required to establish a transition zone between these land uses and any area where a commercial soil cleanup standard is proposed. The purpose of this transition zone is to provide sufficient distance to minimize potential human exposure to residual hazardous substances. The soil cleanup standard within this transition zone shall be based on a residential site use exposure scenario. In establishing a transition zone addressing potential threats posed to human health by direct soil contact, it shall be presumed an adequate transition zone has been established if the area proposed for a commercial soil cleanup level is at least three hundred feet from:

- : Residential areas;

- : Areas planned for or zoned for residential uses; and
- : Existing or planned schools or daycare facilities.

(III) The actual transition zone required at a site maybe greater than or less than the three hundred foot presumed protective distance through consideration of, at a minimum, the following site specific factors:

- : The presence of natural features, manmade structures or intervening land uses that would limit or encourage access to the site by children, provided that fencing to limit access to a site shall be insufficient to overcome the presumed three hundred foot transition zone as this is insufficient to assure long-term protection;
- : The degree of reduction of potential exposure to residual hazardous substances by the selected remedy;
- : The likelihood of future utility work or building construction exposing residual hazardous substances;
- : The potential for transport of residual hazardous substances to nearby residential areas, daycare facilities or schools; and
- : The likelihood that these factors would remain in place for the foreseeable future through the use of deed restrictions and other institutional controls, where applicable.

(ii) For industrial/commercial sites (or portions of these sites) qualifying for a commercial soil cleanup level under this subsection, soil cleanup levels shall be (~~established as close as practicable to the method B soil cleanup levels established under subsection (3) of this section and shall be~~) at least as stringent as the method C soil cleanup levels established under subsection (4) of this section. The overall limits on hazard index and total excess cancer risk specified in subsections (3) through (5) of this section shall apply to these sites. Commercial/industrial sites (or portions of these sites) not qualifying under this subsection shall use method A or method B cleanup levels described in subsections (2) and (3) of this section.

(iii) ~~(Institutional controls under WAC 173-340-440 shall be required for industrial/commercial sites qualifying under this subsection where soil cleanup levels are less stringent than method B soil cleanup levels established under subsection (3) of this section.~~

(iv) ~~The department expects that only industrial/commercial sites located in the interior portion of a large industrial/commercial area will qualify for other than method A or method B cleanup levels under this subsection.)~~ Soil cleanup levels for areas beyond the commercial/industrial property boundary that do not qualify for commercial soil cleanup levels under this subsection (including implementation of institutional controls and a covenant restricting use of the property to commercial or industrial use, as applicable) shall use method A or method B cleanup levels as described in subsections (2) or (3) of this section.

(iv) The department expects that commercial properties that are part of a large commercial business district or office park and are well separated from residential areas will

qualify for a commercial soil cleanup level under this subsection. The department expects that commercial properties that are adjoining residential areas such as spot zoned industrial/commercial properties and commercial/industrial strips adjoining residential areas will not qualify for a commercial soil cleanup level unless the residual soil contamination has been contained sufficiently to minimize potential future human contact and adequate institutional controls are in-place to insure potential exposure pathways are eliminated for the foreseeable future.

Note: A change in the reasonable maximum exposure to commercial/industrial site use primarily affects the direct contact exposure pathway. Thus, for example, where the cleanup level is based primarily on the potential for the hazardous substance to leach and cause ground water contamination, it is the department's expectation that land use will not affect the cleanup level. Similarly, where the cleanup level is based primarily on surface water protection, ecological or other pathways other than direct human contact, land use is not expected to affect the cleanup level.

(d) Other nonresidential site soil cleanup levels.

(i) Soil cleanup levels for daycare facilities and schools shall be established in accordance with method A or method B cleanup levels as described in subsections (2) and (3) of this section.

(ii) For other nonresidential site uses such as recreational (~~or~~), agricultural, or silvicultural uses soil cleanup levels shall be established under the presumption of a residential site use scenario unless it can be shown that this presumption is clearly inappropriate. Where a residential site use scenario is used, soil cleanup levels for these land uses shall be established in accordance with method A or method B as described in subsections (2) and (3) of this section. If a nonresidential site use scenario applies, soil cleanup levels may be established in accordance with method A or method B as described in subsections (2) and (3) of this section or on a case-by-case basis.

(A) The overall limits on the hazard index and cancer risk specified in subsections (3) through (5) of this section shall apply to these types of sites.

(B) Where soil cleanup levels are established on a case-by-case basis, the cleanup levels for these types of sites shall be at least as stringent as method C cleanup levels established under subsection (4) of this section. Given the nature of these land uses, any case-by-case analysis must address not only potential human health effects but also potential adverse effects on vegetation or wildlife and potential food chain contamination by residual hazardous substances.

(C) Where other than a method A or method B soil cleanup level is proposed at these sites, the cleanup action shall include appropriate institutional controls implemented in accordance with WAC 173-340-440 to limit potential exposure to residual contamination. This shall include, at a minimum, placement of a covenant on the property restricting use of the site to the land use(s) the cleanup level is based on.

(e) Relationship between soil cleanup levels and other cleanup standards. Soil cleanup levels shall be established at concentrations which do not directly or indirectly cause violations of ground water, surface water, sediment, or air cleanup standards established under this chapter or applicable state and federal laws. A site that qualifies for other than a

method A or method B soil cleanup level under this subsection does not necessarily qualify for other than a method A or method B cleanup level in other media. Each media must be evaluated separately using the criteria applicable to that media.

(2) Method A cleanup levels.

(a) Method A cleanup levels shall be at least as stringent as all of the following:

(i) Concentrations in the following table; and

Table 2
Method A Cleanup Levels - Soil^a

Hazardous Substance	CAS Number	Cleanup Level
Arsenic	7440-38-2	20.0 mg/kg ^b
Benzene	71-43-2	0.5 mg/kg ^c
Cadmium	7440-43-9	2.0 mg/kg ^d
Chromium	7440-47-3	100.0 mg/kg ^e
DDT	50-29-3	1.0 mg/kg ^f
Ethylbenzene	100-41-4	20.0 mg/kg ^g
Ethylene dibromide	106-93-4	0.001 mg/kg ^h
Lead	7439-92-1	250.0 mg/kg ⁱ
Lindane	58-89-9	1.0 mg/kg ^j
Methylene chloride	75-09-2	0.5 mg/kg ^k
Mercury (inorganic)	7439-97-6	1.0 mg/kg ^l
PAHs (carcinogenic)		1.0 mg/kg ^m
PCB Mixtures		1.0 mg/kg ⁿ
Tetrachloroethylene	127-18-4	0.5 mg/kg ^o
Toluene	108-88-3	40.0 mg/kg ^p
TPH (gasoline)		100.0 mg/kg ^q
TPH (diesel)		200.0 mg/kg ^r
TPH (other)		200.0 mg/kg ^s
1,1,1 Trichloroethane	71-55-6	20.0 mg/kg ^t
Trichloroethylene	79-01-5	0.5 mg/kg ^u
Xylenes	1330-20-7	20.0 mg/kg ^v

^a Caution on misusing method A tables. Method A tables have been developed for specific purposes. They are intended to provide conservative cleanup levels for sites undergoing routine cleanup actions or those sites with relatively few hazardous substances. The tables may not be appropriate for defining cleanup levels at other sites. For these reasons, the values in these tables should not automatically be used to define cleanup levels that must be met for financial, real estate, insurance coverage or placement, or similar transactions or purposes. Exceedances of the values in these tables do not necessarily trigger requirements for cleanup action under this chapter.

^b Arsenic. Cleanup level based on background concentrations in the state of Washington.

^c Benzene. Cleanup level based on protection of ground water.

^d Cadmium. Cleanup level based on plant protection.

^e Chromium. Cleanup level based on health risks associated with inhalation of resuspended dust.

^f DDT. Cleanup level based on concentrations derived using the procedures in subsection (3)(a)(iii)(B) of this section.

^g Ethylbenzene. Cleanup level based on protection of ground water.

^h Ethylene dibromide. Cleanup level based on protection of ground water.

ⁱ Lead. Cleanup level based on preventing unacceptable blood lead levels.

^j Lindane. Cleanup level based on concentration derived using the procedures in subsection (3)(a)(iii)(B) of this section.

^k Methylene chloride. Cleanup level based on protection of ground water.

^l Mercury. Cleanup level based on protection of ground water.

^m PAHs (carcinogenic). Cleanup level based on concentration derived using the procedures in subsection (3)(a)(iii)(B) of this section.

ⁿ PCB Mixtures. Cleanup level based on concentration derived using the procedures in subsection (3)(a)(iii)(B) of this section.

^o Tetrachloroethylene. Cleanup level based on protection of ground water.

- ^p Toluene. Cleanup level based on protection of ground water.
- ^q Total Petroleum Hydrocarbons (gasoline). Cleanup level based on protection of ground water.
- ^r Total Petroleum Hydrocarbons (diesel). Cleanup level based on protection of ground water.
- ^s Total Petroleum Hydrocarbons (other). Cleanup level based on protection of ground water.
- ^t 1,1,1 Trichloroethane. Cleanup level based on protection of ground water.
- ^u Trichloroethylene. Cleanup level based on protection of ground water.
- ^v Xylenes. Cleanup level based on protection of ground water.

(ii) Concentrations established under applicable state and federal laws;

(b) For sites with additional hazardous substances for which there is no value in Table 2 or applicable state and federal laws, cleanup levels for these additional hazardous substances shall be established at the natural background concentration or the practical quantification limit, subject to the limitations in this chapter.

(c) The department may establish method A cleanup levels that are more stringent than those required by subsection (2)(a) of this section, when based on a site-specific evaluation, the department determines that such levels are necessary to protect human health or environment.

(3) Method B cleanup levels.

(a) Method B cleanup levels for soils shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws;

(ii) Concentrations which will not cause contamination of ground water at levels which exceed method B ground water cleanup levels established under WAC 173-340-720 as determined using the following criteria:

(A) For individual hazardous substances or mixtures, concentrations that are equal to or less than one hundred times the ground water cleanup level established in accordance with WAC 173-340-720 unless it can be demonstrated that a higher soil concentration is protective of ground water at the site;

(B) For total petroleum hydrocarbons, the person undertaking the cleanup may elect to make this demonstration on the basis of data on individual hazardous substances that comprise the total petroleum hydrocarbons.

(iii) For those hazardous substances for which health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(A) Concentrations which are estimated to result in no acute or chronic toxic effects on human health via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RFD} \times \text{ABW} \times \text{UCF2} \times \text{HQ}}{\text{SIR} \times \text{AB1} \times \text{FOC}} \text{ (mg/kg)}$$

Where:

- RFD = Reference Dose as defined in WAC 173-340-708(7) (mg/kg-day)
- ABW = Average body weight over the period of exposure (16 kg)
- UCF2 = Units conversion factor (1,000,000 mg/kg)
- SIR = Soil ingestion rate (200 mg/day)
- AB1 = Gastrointestinal absorption rate (1.0)
- FOC = Frequency of contact (1.0)
- HQ = Hazard quotient (1);

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(B) Concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 1,000,000 via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RISK} \times \text{ABW} \times \text{LIFE} \times \text{UCF1}}{\text{CPF} \times \text{SIR} \times \text{ABI} \times \text{DUR} \times \text{FOC}}$$

(mg/kg)

Where:

RISK	=	Acceptable cancer risk level (1 in 1,000,000)
ABW	=	Average body weight over the period of exposure (16 kg)
LIFE	=	Lifetime (75 years)
UCF1	=	Unit conversion factor (1,000,000 mg/kg)
CPF	=	Carcinogenic Potency Factor as defined in WAC 173-340-708(8) (kg-day/mg)
SIR	=	Soil ingestion rate (200 mg/day)
ABI	=	Gastrointestinal absorption rate (1.0)
DUR	=	Duration of exposure (6 years)
FOC	=	Frequency of contact (1.0);

(iv) To assure that unacceptable risks do not result from inhalation of hazardous substances in or released from contaminated soils, soil concentrations which ensure that releases of hazardous substances shall not result in ambient air concentrations which exceed method B cleanup levels established under WAC 173-340-750.

(b) The department may establish method B cleanup levels that are more stringent than those required under (a) of this subsection, when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health or environment, including the following:

(i) Concentrations which eliminate or substantially reduce the potential for food chain contamination;

(ii) Concentrations which eliminate or substantially reduce the potential for damage to soils or biota in the soils which could impair the use of soils for agricultural or silvicultural purposes;

(iii) Concentrations which eliminate or substantially reduce the potential for adverse effects on vegetation or wildlife;

(iv) Concentrations more stringent than those in (b) of this subsection where the department determines that such levels are necessary to protect the ground water at a particular site;

(v) Concentrations necessary to protect nearby surface waters from hazardous substances in runoff from the site; and

(vi) Concentrations which eliminate or minimize the potential for the accumulation of vapors in buildings or other structures to concentrations which pose a threat to human health or the environment.

(4) Method C soil cleanup levels.

(a) Method C soil cleanup levels may be ~~((approved by the department))~~ utilized, if the person ~~((undertaking))~~ conducting the cleanup action can demonstrate that such levels are consistent with applicable state and federal laws, that all practicable methods of treatment have been utilized, that institutional controls are implemented in accordance with WAC 173-340-440, and that one or more of the conditions in WAC 173-340-706(1) exist. Method C soil cleanup levels may also be utilized if the person conducting

the cleanup action can demonstrate that the site meets the requirements for establishing commercial soil cleanup levels under WAC 173-340-740 (1)(c).

(b) Method C cleanup levels for soils shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws;

(ii) Concentrations which will not cause contamination of ground water at levels which exceed ground water cleanup levels established under WAC 173-340-720 as determined using the following procedures:

(A) For individual hazardous substances or mixtures, concentrations that are equal to or less than one hundred times the ground water cleanup level established in accordance with WAC 173-340-720 unless it can be demonstrated that a higher soil concentration is protective of ground water at the site;

(B) For total petroleum hydrocarbons, the person undertaking the cleanup may elect to make this demonstration on the basis of data on individual hazardous substances that comprise the total petroleum hydrocarbons;

(iii) For those hazardous substances for which health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(A) Concentrations which are anticipated to result in no significant acute or chronic toxic effects on human health and estimated in accordance with WAC 173-340-740 (3)(a)(iii)(A) except that the frequency of contact shall be 0.5, the soil ingestion rate shall be 100 milligrams per day, and the average body weight shall be 16 kilograms;

(B) For known or suspected carcinogens, concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 100,000 and are estimated in accordance with WAC 173-340-740 (3)(a)(iii)(B) except that the frequency of contact shall be 0.5 and the soil ingestion rate shall be 100 milligrams per day; and

(iv) To assure that unacceptable risks do not result from inhalation of hazardous substances in or released from contaminated soils, soil concentrations which ensure that releases of hazardous substances shall not result in ambient air concentrations which exceed method C cleanup levels established under WAC 173-340-750.

~~((b))~~ (c) The department may establish method C soil cleanup levels that are more stringent than those required by (a) through (c) of this subsection when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment, including consideration of those factors listed in subsection (3)(c) of this section.

(5) Multiple hazardous substances/multiple pathways of exposure.

(a) Soil cleanup levels for individual hazardous substances developed in accordance with subsections (3) and (4) of this section, including cleanup levels based on applicable state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with the procedures specified in WAC 173-340-708 (5) and (6).

In making these adjustments, the hazard index shall not exceed one and the total excess cancer risk shall not exceed one in one hundred thousand.

(b) These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(6) Point of compliance.

(a) The point of compliance is the point or points where the soil cleanup levels established under subsections (2), (3), (4), and (5) of this section shall be attained.

(b) For soil cleanup levels based on the protection of ground water, the point of compliance shall be established in the soils throughout the site.

(c) For soil cleanup levels based on human exposure via direct contact, the point of compliance shall be established in the soils throughout the site from the ground surface to fifteen feet below the ground surface. This represents a reasonable estimate of the depth of soil that could be excavated and distributed at the soil surface as a result of site development activities.

(d) The department recognizes that, for those cleanup actions selected under WAC 173-340-360 that involve containment of hazardous substances, the soil cleanup levels will typically not be met at the points of compliance specified in (b) and (c) of this subsection. In these cases, the cleanup action may be determined to comply with cleanup standards, provided the compliance monitoring program is designed to ensure the long-term integrity of the containment system, and the other requirements for containment technologies in WAC 173-340-360(8) are met.

(7) Compliance monitoring.

(a) Compliance with soil cleanup levels shall be based on total analyses of the soil fraction less than two millimeters in size. When it is reasonable to expect that larger soil particles could be reduced to two millimeters or less during current or future site use and this reduction could cause an increase in the concentrations of hazardous substances in the soil, soil cleanup levels shall also apply to these larger soil particles. Compliance with soil cleanup levels shall be based on dry weight concentrations. The department may approve the use of alternate procedures for stabilized soils.

(b) Sampling and analytical procedures shall be defined in a compliance monitoring plan prepared under WAC 173-340-410. The sample design shall provide data which are representative of the area where exposure to hazardous substances may occur.

(c) The data analysis and evaluation procedures used to evaluate compliance with soil cleanup levels shall be defined in a compliance monitoring plan prepared under WAC 173-340-410. These procedures shall meet the following general requirements:

(i) Methods of data analysis shall be consistent with the sampling design. Separate methods may be specified for surface soils and deeper soils;

(ii) When cleanup levels are based on requirements specified in applicable state and federal laws, the procedures for evaluating compliance that are specified in those requirements shall be utilized to evaluate compliance with cleanup levels unless those procedures conflict with the intent of this section;

(iii) Where procedures for evaluating compliance are not specified in an applicable state and federal law, statistical methods shall be appropriate for the distribution of sampling data for each hazardous substance. If the distribution of sampling data for a hazardous substance is inappropriate for statistical methods based on a normal distribution, then the data may be transformed. If the distributions for hazardous substances differ, more than one statistical method may be required; and

(iv) The data analysis plan shall specify which parameters are to be used to determine compliance with soil cleanup levels.

(A) For cleanup levels based on short-term or acute toxic effects on human health or the environment, an upper percentile soil concentration shall be used to evaluate compliance with cleanup levels.

(B) For cleanup levels based on chronic or carcinogenic threats, the mean soil concentration shall be used to evaluate compliance with cleanup levels unless there are large variations in hazardous substance concentrations relative to the mean hazardous substance concentration or a large percentage of concentrations are below the detection limit.

(d) Appropriate statistical methods include the following:

(i) A procedure in which a confidence interval for each hazardous substance is established from site sampling data and the soil cleanup level is compared to the upper confidence interval;

(ii) A parametric test for percentiles based on tolerance intervals to test the proportion of soil samples having concentrations less than the soil cleanup level; or

(iii) Other statistical methods approved by the department.

(e) If a confidence interval approach is used to evaluate compliance with a soil cleanup level, the decision rule is a one-tailed test of the null hypothesis that the true soil concentration of a hazardous substance exceeds the soil cleanup level. Compliance with soil cleanup levels shall be determined using the following criteria:

(i) The upper confidence interval on the true soil concentration is less than the soil cleanup level. Statistical tests shall be performed at a Type I error level of 0.05;

(ii) No single sample concentration shall be greater than two times the soil cleanup level; and

(iii) Less than ten percent of the sample concentrations shall exceed the soil cleanup level.

(f) If a method to test the proportion of soil samples is used to evaluate compliance with a soil cleanup level, compliance shall be determined using the following criteria:

(i) No single sample concentrations shall be greater than two times the soil cleanup level; and

(ii) Less than ten percent of the sample concentrations shall exceed the soil cleanup level; and

(iii) The true proportion of samples that do not exceed the soil cleanup level shall not be less than ninety percent. Statistical tests shall be performed with a Type I error level of 0.05.

(g) For purposes of demonstrating compliance with soil cleanup levels, measurements below the method detection limit shall be assigned a value equal to one-half the method detection limit. Detectable levels below the practical quantitation limit shall be assigned a value equal to the

method detection limit. The department may approve alternate statistical procedures for handling nondetected values or values below the practical quantitation limit. Alternate statistical procedures may include probit analysis and regression analysis.

AMENDATORY SECTION (Amending WSR 91-04-019, filed 1/28/91, effective 2/28/91)

WAC 173-340-745 Soil cleanup standards for industrial ((sites)) properties. (1) General considerations.

(a) This section shall be used to establish soil cleanup levels where the department has determined that industrial site use represents the reasonable maximum exposure.

(b) Cleanup levels shall not be based on industrial site use unless the following criteria described in (b)(i) through (iii) of this subsection can be demonstrated:

~~((i) The site is zoned or has been otherwise officially designated for industrial use;~~

~~(ii) The site is currently used for industrial purposes or has a history of use for industrial purposes;~~

~~(iii) Adjacent properties are currently used or designated for use for industrial purposes;~~

~~(iv) The site is expected to be used for industrial purposes for the foreseeable future due to site zoning, statutory or regulatory restrictions, comprehensive plans, adjacent land use, and other relevant factors; and~~

~~(v) The cleanup action provides for institutional controls implemented in accordance with WAC 173-340-440.~~

~~(e) The department expects that only sites located within a limited number of large industrial areas will qualify for industrial soil cleanup levels under this section.)~~ (i) The area of the site where industrial site soil cleanup levels are proposed meets the definition of an industrial property under WAC 173-340-200.

Local governments use a variety of zoning categories for industrial land uses so a property does not necessarily have to be in a zone called "industrial" to meet this definition. Also, there are land use zones called "industrial" that are actually commercial, rather than industrial, land uses. Thus, an evaluation to determine compliance with this definition should include a review of the actual text in the comprehensive plan and zoning ordinance pertaining to the site and a visit to the site to observe land uses in the zone. When evaluating land uses to determine if a site meets the definition of industrial property, the following characteristics shall be considered:

- : People do not live on industrial property. The primary potential exposure is to adult employees of businesses located on the industrial property.
- : Access to the property by the general public is not allowed. If access is allowed, it is highly limited and controlled due to safety or security considerations.
- : Food is not grown on industrial property (however, food processing operations are commonly considered industrial facilities).
- : Operations at these facilities are often (but not always) characterized by use and storage of chemicals, noise, odors, truck traffic and dust.

: The surface of the land at these sites is mostly covered by buildings or other structures, paved parking lots, paved access roads and material storage areas.

: There is no or minimal wildlife habitat on the developed portions of the property and what wildlife there is, is characteristic of highly urbanized areas.

: These facilities may have support facilities consisting of offices, restaurants, and other facilities that are commercial in nature but are primarily devoted to administrative functions necessary for the industrial use and/or are intended to serve the industrial facility employees and not the general public.

(ii) The cleanup action provides for appropriate institutional controls implemented in accordance with WAC 173-340-440 to limit potential exposure to residual hazardous substances. This shall include, at a minimum, placement of a covenant on the property restricting use of the site to industrial property uses; and

(iii) Hazardous substances remaining at the property after remedial action would not pose a threat to human health or the environment at the site or in adjacent nonindustrial areas.

(A) In evaluating compliance with this criterion, at a minimum the following factors shall be considered:

- : The potential for human contact with the residual hazardous substances;
- : The potential for transport of residual hazardous substances to adjacent areas; and
- : The potential for ecological impacts due to biota contact with residual hazardous substances.

(B) Industrial sites with nearby residential areas, schools or daycare facilities shall be required to establish a transition zone between these land uses and any area where an industrial soil cleanup standard is proposed. The purpose of this transition zone is to provide sufficient distance to minimize potential human exposure to residual hazardous substances. The soil cleanup standard within this transition zone shall be based on either a residential or commercial site use scenario and established according to the procedures and limitations in WAC 173-340-740. In establishing a transition zone addressing potential threats posed to human health by direct soil contact/ingestion, it shall be presumed an adequate transition zone has been established if the area proposed for an industrial site soil cleanup level is at least three hundred feet from:

- : Residential areas;
- : Areas planned or zoned for residential uses; and
- : Existing and planned schools and daycare facilities.

(C) The actual transition zone required for a site may be greater than or less than the three hundred foot presumed protective distance through consideration of, at a minimum, the following site specific factors:

- : The presence of natural features, manmade structures or intervening land uses that would limit or

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encourage access to the site by children, provided that fencing to limit access to a site shall be insufficient to overcome the presumed protective three hundred foot transition zone, as this is insufficient to assure long-term protection;

- : The degree of reduction of potential exposure to residual hazardous substances by the selected remedy;
- : The likelihood of future utility work or building construction exposing residual hazardous substances;
- : The potential for transport of residual hazardous substances to nearby residential areas, schools and daycare facilities; and
- : The likelihood that these factors would remain in place for the foreseeable future through the use of deed restrictions and other institutional controls, as applicable.

(c) The department expects that properties zoned for heavy industrial or high intensity industrial use and located within a city or county having completed a comprehensive plan and adopted implementing zoning regulations under the Growth Management Act (chapter 36.70A RCW) will meet the definition of industrial site. For cities and counties not planning under the Growth Management Act, the department expects that spot zoned industrial properties will not meet the definition of industrial site but that properties that are part of a larger area zoned for heavy industrial or high intensity industrial use will meet the definition of an industrial site. For both GMA and non-GMA cities and counties, the department expects that light industrial and commercial zones and uses should meet the definition of industrial site where the land uses are comparable to those cited in the definition of industrial site or the land uses are an integral part of a qualifying industrial use (e.g., ancillary or support facilities). This will require a site-by-site evaluation of the zoning text and land uses.

Furthermore, the department expects that industrial properties close to residential areas, schools and daycare facilities will use either residential soil cleanup levels, or commercial soil cleanup levels with appropriate safeguards, within the three hundred foot transition zone unless access to the site from these areas by children is highly unlikely due to an intervening permanent physical feature such as a significant water body, wetland or major arterial street. Industrial sites (and portions of industrial sites) not qualifying for an industrial soil cleanup level under this section may still qualify for a commercial soil cleanup level. See WAC 173-340-740 (1)(c) for establishing commercial soil cleanup levels.

Note: A change in the reasonable maximum exposure to industrial site use primarily affects the direct contact exposure pathway. Thus, for example, for sites where the cleanup level is based primarily on the potential for the hazardous substance to leach and cause ground water contamination, it is the department's expectation that an industrial land use will not affect the cleanup level. Similarly, where the cleanup level is based primarily on surface water protection, ecological or other pathways other than direct human contact, land use is not expected to affect the cleanup level.

(d) Soil cleanup levels established under this section shall be ((as close as practicable to cleanup levels established in accordance with WAC 173-340-740, but in no case higher than the concentrations established under)) at least as stringent as those described in subsections (2) through (5) of this section.

(e) Soil cleanup levels for areas beyond the industrial property boundary that do not qualify for industrial soil cleanup levels under this section (including implementation of institutional controls and a covenant restricting use of the property to industrial property uses) shall be established in accordance with WAC 173-340-740.

(f) Soil cleanup levels shall be established at concentrations which do not directly or indirectly cause violations of ground water, surface water, or air cleanup standards established under this chapter or under applicable state and federal laws. A site that qualifies for an industrial soil cleanup level under this section does not necessarily qualify for other than a method A or method B cleanup level in other media. Each media must be evaluated separately utilizing the criteria applicable to that media.

((g) See WAC 173-340-740 (1)(c) for establishing cleanup levels at industrial sites not qualifying under this section and at commercial sites.))

(2) Method A cleanup levels.

(a) Method A cleanup levels shall be at least as stringent as all of the following:

(i) Concentrations in the following table:

**Table 3
Method A Cleanup Levels - Industrial Soil^a**

Hazardous Substance	CAS Number	Cleanup Level
Arsenic	7440-38-2	200.0 mg/kg ^b
Benzene	71-43-2	0.5 mg/kg ^c
Cadmium	7440-43-9	10.0 mg/kg ^d
Chromium (Total)	7440-47-3	500.0 mg/kg ^e
DDT	50-29-3	5.0 mg/kg ^f
Ethylbenzene	100-41-4	20.0 mg/kg ^g
Ethylene dibromide	106-93-4	0.001 mg/kg ^h
Lead	7439-92-1	1000.0 mg/kg ⁱ
Lindane	58-89-9	20.0 mg/kg ^j
Methylene chloride	75-09-2	0.5 mg/kg ^k
Mercury (inorganic)	7439-97-6	1.0 mg/kg ^l
PAHs (carcinogenic)		20.0 mg/kg ^m
PCB Mixtures		10.0 mg/kg ⁿ
Tetrachloroethylene	127-18-4	0.5 mg/kg ^o
Toluene	108-88-3	40.0 mg/kg ^p
TPH (gasoline)		100.0 mg/kg ^q
TPH (diesel)		200.0 mg/kg ^r
TPH (other)		200.0 mg/kg ^s
1,1,1 Trichloroethane	71-55-6	20.0 mg/kg ^t
Trichloroethylene	79-01-5	0.5 mg/kg ^u
Xylenes	1330-20-7	20.0 mg/kg ^v

^a Caution on misusing method A tables. Method A tables have been developed for specific purposes. They are intended to provide conservative cleanup levels for sites undergoing routine cleanup actions or those sites with relatively few hazardous substances. The tables may not be appropriate for defining cleanup levels at other sites. For these reasons, the values in these tables should not automatically be used to define cleanup levels that must be met for financial, real estate, insurance coverage or placement, or similar transactions or purposes. Exceedances of the values in these tables do not necessarily trigger requirements for cleanup actions under this chapter.

PROPOSED

- b Arsenic. Cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.
- c Benzene. Cleanup level based on protection of ground water.
- d Cadmium. Cleanup level based on protection of ground water.
- e Chromium. Cleanup level based on inhalation exposure.
- f DDT. Cleanup level based on protection of ground water.
- g Ethylbenzene. Cleanup level based on protection of ground water.
- h Ethylene dibromide. Cleanup level based on protection of ground water.
- i Lead. Cleanup level based on direct contact.
- j Lindane. Cleanup level based on cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.
- k Methylene chloride. Cleanup level based on protection of ground water.
- l Mercury. Cleanup level based on protection of ground water.
- m PAHs (carcinogenic). Cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.
- n PCB Mixtures. Cleanup level based on concentration derived using the procedures in subsection (4)(a)(iii)(B) of this section.
- o Tetrachloroethylene. Cleanup level based on protection of ground water.
- p Toluene. Cleanup level based on protection of ground water.
- q Total Petroleum Hydrocarbons (gasoline). Cleanup level based on protection of ground water.
- r Total Petroleum Hydrocarbons (diesel). Cleanup level based on protection of ground water.
- s Total Petroleum Hydrocarbons (other). Cleanup level based on protection of ground water.
- t 1,1,1 Trichloroethane. Cleanup level based on protection of ground water.
- u Trichloroethylene. Cleanup level based on protection of ground water.
- v Xylenes. Cleanup level based on protection of ground water; and

(ii) Concentrations established under applicable state and federal laws;

(b) For sites with additional hazardous substances for which there is no value in Table 3 or applicable state and federal laws, cleanup levels for these additional hazardous substances shall be established at the natural background concentration or the practical quantification limit, subject to the limitations in this chapter.

(c) The department may establish method A cleanup levels that are more stringent than those required by (a) of this subsection when, based on site-specific evaluations, the department determines that such levels are necessary to protect human health or environment, including consideration of the factors in WAC 173-340-740 (3)(b).

(3) Method B cleanup levels. This section does not provide procedures for establishing method B cleanup levels. Method C is the standard method for establishing soil cleanup levels at industrial sites and its use is conditioned upon the continued use of the site for industrial purposes.

(4) Method C cleanup levels.

(a) Method C cleanup levels for industrial soils shall be at least as stringent as all of the following:

(i) Concentrations established under applicable state and federal laws;

(ii) Concentrations which will not cause contamination of ground water to concentrations which exceed ground water cleanup levels established under WAC 173-340-720 as determined using the following procedures:

(A) For individual hazardous substances or mixtures, concentrations that are equal to or less than one hundred times the ground water cleanup level established in accordance with WAC 173-340-720 unless it can be demonstrated that higher soil concentrations are protective of ground water at the site;

(B) For total petroleum hydrocarbons, the person undertaking the cleanup action may elect to make this demonstration on the basis of data on individual hazardous substances that comprise the total petroleum hydrocarbons;

(iii) For those hazardous substances for which sufficiently protective health-based criteria or standards have not been established under applicable state and federal laws, those concentrations which protect human health and the environment as determined by the following methods:

(A) Concentrations which are anticipated to result in no acute or chronic toxic effects on human health via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RFD} \times \text{ABW} \times \text{UCF2} \times \text{HQ}}{\text{SIR} \times \text{AB1} \times \text{FOC}} \text{ (mg/kg)}$$

Where:

RFD = Reference Dose as specified in WAC 173-340-708(7) (mg/kg-day)

ABW = Average body weight over the period of exposure (70 kg)

UCF2 = Unit conversion factor (1,000,000 mg/kg)

SIR = Soil ingestion rate (50 mg/day)

AB1 = Gastrointestinal absorption rate (1.0)

FOC = Frequency of contact (0.4)

HQ = Hazard quotient (1);

(B) Concentrations for which the upper bound on the estimated excess cancer risk is less than or equal to 1 in 100,000 via direct contact with contaminated soil and are determined using the following equation and standard exposure assumptions:

$$\text{Soil Cleanup Level} = \frac{\text{RISK} \times \text{ABW} \times \text{LIFE} \times \text{UCF1}}{\text{CPF} \times \text{SIR} \times \text{AB1} \times \text{DUR} \times \text{FOC}} \text{ (mg/kg)}$$

Where:

RISK = Acceptable cancer risk level (1 in 100,000)

ABW = Average body weight over the period of exposure (70 kg)

LIFE = Lifetime (75 years)

UCF1 = Units conversion factor (1,000,000 mg/kg)

CPF = Carcinogenic Potency Factor as specified in WAC 173-340-708(8) (kg-day/mg)

SIR = Soil ingestion rate (50 mg/day)

AB1 = Gastrointestinal absorption rate (1.0)

DUR = Duration of exposure (20 years)

FOC = Frequency of contact (0.4);

(b) The department may establish method C cleanup levels that are more stringent than those required by (a) of this subsection when, based on a site-specific evaluation, the department determines that such levels are necessary to protect human health and the environment.

(5) Multiple hazardous substances/multiple pathways of exposure.

(a) Soil cleanup levels for individual hazardous substances developed in accordance with subsection (4) of this section, including cleanup levels based on state and federal laws, shall be adjusted downward to take into account exposure to multiple hazardous substances and/or exposure resulting from more than one pathway of exposure. These adjustments shall be made in accordance with the procedures specified in WAC 173-340-708 (5) and (6). In making these adjustments, the hazard index shall not exceed one and the total excess cancer risk shall not exceed one in one hundred thousand.

(b) These overall limits on the hazard index and total excess cancer risk shall also apply to sites where there is

exposure to a single hazardous substance by one exposure pathway, including cleanup levels based on applicable state and federal laws.

(6) Point of compliance. The point of compliance shall be established in accordance with WAC 173-340-740(6).

(7) Compliance monitoring. Compliance monitoring shall be performed in accordance with WAC 173-340-410 and 173-340-740(7).

WSR 95-15-082
PROPOSED RULES
INSURANCE COMMISSIONER'S OFFICE

[Filed July 18, 1995, 3:40 p.m.]

Original Notice.

Title of Rule: Long-term care insurance.

Purpose: The proposed regulations: (1) Set minimum standards for benefit triggers; (2) set minimum standards for alternate care benefits; (3) provide for a policyholder's right to reduce benefits; (4) provide for modification of contracts in case of state or federal health care reform; (5) protect insureds from unintentional lapse; and (6) set new disclosure form standards. The rules also correct a typographical error in WAC 284-54-270.

Other Identifying Information: Insurance Commissioner Matter No. 95-5.

Statutory Authority for Adoption: RCW 48.02.060, 48.84.030, 48.84.050.

Statute Being Implemented: RCW 48.01.030, 48.84.030, 48.84.050.

Summary: The proposed regulations: (1) Set minimum standards for benefit triggers; (2) set minimum standards for alternate care benefits; (3) provide for a policyholder's right to reduce benefits; (4) provide for modification of contracts in case of state or federal health care reform; (5) protect insureds from unintentional lapse; and (6) set new disclosure form standards. The rules also correct a typographical error in WAC 284-54-270.

Reasons Supporting Proposal: These rules are proposed to help ensure that rates, benefits, and exclusions are fair and easily understood by the average purchaser, and to provide a way to help policyholders keep from lapsing their policies due to nonpayment of premium.

Name of Agency Personnel Responsible for Drafting: Melodie Bankers, P.O. Box 40255, Olympia, WA, (360) 586-3574; Implementation: Pat Musick, P.O. Box 40255, Olympia, WA, (360) 664-2093; and Enforcement: Greg Scully, P.O. Box 40255, Olympia, WA, (360) 407-0197.

Name of Proponent: Insurance Commissioner Deborah Senn, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed regulations: (1) Set minimum standards for benefit triggers; (2) set minimum standards for alternate care benefits; (3) provide for a policyholder's right to reduce benefits; (4) provide for modification of contracts in case of state or federal health care reform; (5) protect insureds from unintentional lapse; and (6) set new disclosure form standards. The rules also correct a typographical error

in WAC 284-54-270. Long-term care policies sold in this state will provide measurably better coverage and the disclosure materials used by insurance companies will provide more meaningful comparative information so that consumers can make informed decisions.

Proposal Changes the Following Existing Rules: Amends WAC 284-54-020, 284-54-030, 284-54-300, and 284-54-350. The rules set new minimum standards for benefit triggers and alternate care benefits. Most insurance companies that offer long-term care policies for sale in this state have at least some contracts that substantially meet these new standards. The new standards reflect discussions about long-term care benefits at the National Association of Insurance Commissioners Long-Term Care Task Force.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? Yes. A copy of the statement may be obtained by writing to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 664-3790, or FAX (360) 586-3535.

Hearing Location: General Administration Building, Auditorium/Lobby, 11th and Columbia, Olympia, Washington, on August 22, 1995, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Lorie Malabed by August 18, 1995, TDD (360) 491-8503, or (800) 883-6384.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, FAX (360) 586-3535, by August 22, 1995. Written comments may also be submitted by electronic mail to 73303.700@compuserve.com.

Date of Intended Adoption: August 28, 1995.

July 18, 1995

Deborah Senn

Insurance Commissioner

AMENDATORY SECTION (Amending Order R 94-10, filed 7/6/94, effective 8/6/94)

WAC 284-54-020 Definitions of terms used in this chapter and chapter 48.84 RCW. For purposes of the administration of chapter 48.84 RCW and this chapter:

(1) "Community based care" or "home-based care" means services (~~provided outside an institutional setting and includes~~) including, but (~~is~~) not limited to(~~the following~~): (a) Home delivered nursing services or therapy; (b) custodial or personal care; (c) day care; (d) home and chore aid services; (e) nutritional services, both in-home and in a communal dining setting; (~~and~~) (f) respite care(~~whether provided at any level from skilled care to custodial or personal care~~); (g) adult day health care services; or (h) other similar services furnished in a home-like or residential setting. Such services shall be provided at all levels of care, from skilled care to custodial or personal care.

(2) "Contract" means a long-term care insurance policy or contract, regardless of the kind of insurer issuing it, unless the context clearly indicates otherwise.

(3) "Direct response insurer" means an insurer who, as to a particular contract, is transacting insurance directly with a potential insured without solicitation by, or the intervention of, a licensed insurance agent.

(4) A "gatekeeper provision" is any provision in a contract establishing a threshold requirement which must be

satisfied before a covered person is eligible to receive benefits promised by the contract. Examples of such provisions include, but are not limited to the following: A three-day prior hospitalization requirement, recommendations of the attending physician, and recommendations of a case manager.

(5) "Institutional care" means care provided in a hospital, skilled or intermediate nursing home, (~~congregate care facility, adult family home,~~) or other facility certified or licensed by the state primarily affording diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services. Such a facility provides twenty-four-hour nursing services on its premises or in facilities available to the institution on a formal prearranged basis.

(6) "Insured" shall mean any beneficiary or owner of a long-term care contract regardless of the type of insurer.

(7) "Insurer" includes insurance companies, fraternal benefit societies, health care service contractors and health maintenance organizations unless the context clearly indicates otherwise.

(8) "Premium" shall mean all sums charged, received or deposited as consideration for a contract and includes any assessment, membership, contract, survey, inspection, service, or similar fees or charges as paid.

(9) "Terminally ill care" means care for an illness, disease, or injury which has reached a point where recovery can no longer be expected and the attending physician has certified that the patient is facing imminent death; or has a life expectancy of six months or less.

(10) "Adult day health care" means a program of community based social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the individual's home.

AMENDATORY SECTION (Amending Order R 87-7, filed 7/9/87)

WAC 284-54-030 Standards for definitions applicable to long-term care contracts. The following definitions are applicable to long-term care contracts and the implementation of chapter 48.84 RCW and this chapter, and no contract may be advertised, solicited, or issued for delivery in this state as a long-term care contract which uses definitions more restrictive or less favorable to an insured than the following:

(1) "Acute care" means care provided for patients who are not medically stable. These patients require frequent monitoring by health care professionals in order to maintain their health status.

(2) "Benefit period" means the period of time for which the insured is eligible to receive benefits or services under a contract. A benefit period begins on the first day that the insured is eligible for and begins to receive the benefits of the contract. The benefit period ends when the insured is no longer eligible to receive benefits or has received the lifetime maximum benefits available. Such benefit period must be stated in terms of days rather than in terms of months of benefit.

(3) "Case manager" or "case coordinator" means an individual qualified by training and/or experience to coordi-

nate the overall medical, personal and social service needs of the long-term care patient. Such coordination activities shall include but are not limited to: Assessing the individual's condition to determine what services and resources are necessary and by whom they might most appropriately be delivered; coordination of elements of a treatment or care plan and referral to the appropriate medical or social services personnel or agency; control coordination of patient services and continued monitoring of the patient to assess progress and assure that services are delivered. Such activities shall be conducted in consultation with the attending physician.

(4) "Chronic care" or "maintenance care" means care that is necessary to support an existing level of health and is intended to preserve that level from further failure or decline. The care provided is usually for a long, drawn out or lingering disease or infirmity showing little change or slowly progressing with little likelihood of complete recovery, whether such care is provided in an institution or is community-based and whether such care requires skilled, intermediate or custodial/personal care.

(5) "Convalescent care" or "rehabilitative care" is nonacute care which is prescribed by a physician and is received during the period of recovery from an illness or injury when improvement can be anticipated, whether such care requires skilled, intermediate or custodial/personal care, and whether such care is provided in an institutional care facility or is community-based.

(6) "Custodial care" or "personal care" means care which is mainly for the purpose of meeting daily living requirements. This level of care may be provided by persons without professional skills or training. Examples are: Help in walking, getting out of bed, bathing, dressing, eating, meal preparation, and taking medications. Such care is intended to maintain and support an existing level of health or to preserve the patient from further decline. Custodial or personal care services are those which may be recommended by the case manager in consultation with the patient's attending physician and are not primarily for the convenience of the insured or the insured's family.

(7) "Guaranteed renewable" means that renewal of a contract may not be declined by an insurer for any reason except for nonpayment of premium, but the insurer may revise rates on a class basis.

(8) A "home health aide" is a person who is providing care under the supervision of a physician, licensed professional nurse, physical therapist, occupational therapist, or speech therapist. Care provided may include ambulation and exercise, assistance with self-administered medications, reporting changes in a covered person's conditions and needs, completing appropriate records, and personal care or household services needed to achieve medically desired results.

(9) "Home care services" or "personal care services" are services of a personal nature including, but not limited to, homemaker services, assistance with the activities of daily living, respite care services, or any other nonmedical services provided to ill, disabled, or infirm persons which services enable those persons to remain in their own residences consistent with their desires, abilities and safety. An insurer may require that such services will be provided by or under the direction of a regulated home health care agency or

home care agency, or will be administered in accordance with a plan of treatment developed by or with the assistance of health care professionals.

(10) "Home health care" shall mean, but is not limited to, any of the following health or medical services: Nursing services, home health aide services, physical therapy, occupational therapy, speech therapy, respiratory therapy, nutritional services, medical or social services, and medical supplies or equipment services. An insurer may require that such services will be provided by or under the direction of a regulated home health care agency or home care agency, or will be administered in accordance with a plan of treatment developed by or with the assistance of health care professionals.

(11) "Intermediate care" means technical nursing care which requires selected nursing procedures for which the degree of care and evaluation is less than that provided for skilled care, but greater than that provided for custodial/personal care. This level of care provides a planned continuous program of nursing care that is preventive or rehabilitative in nature.

(12) "Long-term care total disability" means the functional inability due to illness, disease or infirmity to engage in the regular and customary activities of daily living which are usual for a person of the same age and sex.

(13) "Managed long-term care delivery system" means a system or network of providers arranged or controlled by a managed long-term care plan. Such systems provide a range of long-term care services with provisions for effective utilization controls and quality assurance. In the case of provision of long-term care in the managed care environment, a case manager or other qualified individual may be used to develop and coordinate a care plan of appropriate long-term care services.

(14) "Managed long-term care plan" means a plan which on a prepaid basis assumes the responsibility and the risk for delivery of the covered long-term care services set forth in the benefit agreement. Actual services are rendered by the plan through its own staff, through capitation, or other contractual arrangements with providers. Managed long-term care plans may include but are not limited to those offered by health maintenance organizations, and health care service contractors, if their services are provided through a managed long-term care delivery system.

(15) "Noncancellable" means that renewal of a contract may not be declined except for nonpayment of premium, nor may rates be revised by the insurer.

(16) "One period of confinement" means consecutive days of institutional care received as an inpatient in a health care institution, or successive confinements due to the same or related causes when discharge from and readmission to the institution occurs within a period of time not more than ninety days or three times the maximum number of days of institutional care provided by the policy to a maximum of one hundred eighty days, whichever provides the covered person with the greater benefit.

(17) "Preexisting condition," as defined by RCW 48.84.020(3), means a covered person's medical condition that caused that person to have received medical advice or treatment during the specified time period before the effective date of coverage.

(18) "Respite care" is short-term care which is required in order to maintain the health or safety of the patient and to give temporary relief to the primary caretaker from his or her caretaking duties.

(19) "Skilled care" means care for an illness or injury which requires the training and skills of a licensed professional nurse, is prescribed by a physician, is medically necessary for the condition or illness of the patient, and is available on a twenty-four-hour basis.

NEW SECTION

WAC 284-54-040 Minimum standards for benefit triggers—Physician certification, activities of daily living, and cognitive impairments. (1) Beginning January 1, 1996, a long-term care insurance contract or certificate which provides coverage to a resident of this state may require certification by the insured's physician that the services are appropriate due to illness or infirmity, or may include provisions which condition the payment of benefits on an assessment of the insured's ability to perform specific activities of daily living or loss of functional capacity, or may be based on the insured's cognitive impairment.

No insurer shall require deficiency in more than two activities of daily living or loss of functional capacity. "Activities of daily living" on which an insurer intends to rely as a measure of functional incapacity shall be defined in the policy, no more restrictively than the following:

(a) Bathing: The ability of the insured to wash himself or herself either in the tub or shower or by sponge bath, transferring into a tub or shower, and transferring out of a tub or shower, without hands-on assistance.

(b) Dressing: The ability of the insured to put on and take off all garments, and necessary braces or artificial limbs, and to fasten or unfasten them, without hands-on assistance.

(c) Eating: The ability of the insured to get food and drink from a container into the body for nourishment, including intravenously or by feeding tube, without hands-on assistance.

(d) Continence: The ability of the insured to control bowel and bladder functions, or, in the event of incontinence, the ability to maintain a reasonable level of personal hygiene (including caring for catheter or colostomy bag), without hands-on assistance.

(e) Transferring: The ability of the insured to move in and out of a chair or bed, or to get to and from and on and off the toilet, without hands-on assistance.

(f) Cognitive impairment: A deficiency in a person's short-term or long-term memory, orientation as to person, place, and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.

(g) Upon prior approval of the commissioner in writing, an insurer may develop additional standards or definitions for activities of daily living; however, in no case may an insurer require a deficiency in more than two activities or daily living as a barrier to benefits. No contract or certificate may combine more than one activity of daily living to create a compound impairment requirement.

(h) For purposes of this section, "hands-on assistance" means any amount of physical assistance (whether minimal,

moderate, or maximal) without which the insured would not be able to perform the activity.

(2) If an insurer proposes standards other than those described in subsection (1) of this section, the insurer shall describe to the satisfaction of the commissioner how the proposed assessment will reasonably be expected to produce reliable, valid, and clinically appropriate results and shall demonstrate that the alternate assessment method is not less beneficial to the insured than the standards described in subsection (1) of this section.

NEW SECTION

WAC 284-54-170 Minimum standards—Alternate care. (1) Beginning on January 1, 1996, no long-term care insurance contract which provides institutional care coverage to a resident of this state, may be advertised, solicited, delivered, or issued for delivery unless the insurer offers an alternate plan of care benefit.

(a) For purposes of this section, "alternate plan of care benefit" means medically-acceptable services delivered according to a plan of treatment to an insured otherwise eligible for benefits.

(b) An alternative plan of care benefit shall be unstructured to allow for flexibility and for types of care that might develop after the issue date of the insured's policy or certificate, and to allow for different levels of care.

(c) An alternate plan of care benefit shall include coverage for durable medical equipment or devices such as grab bars or ramps, residential structural improvements, and health care services rendered or provided to the insured in alternative settings to those specifically named in the insured's contract.

(d) Examples of services which might be provided under an alternate plan of care benefit include coverage for home-delivered meals; in-home safety devices; or care provided in licensed or certified Alzheimer's centers, assisted living facilities, congregate care facilities, adult day health care facilities or similar arrangements which may not have twenty-four-hour nursing services on their premises.

(2) An alternate plan of care benefit shall be agreeable to the insured's physician, the insurer, and the insured, and shall be part of a plan of treatment developed by or with the assistance of health care professionals.

(3)(a) Coverage of care provided in facilities meeting the insurance contract's definition of institutional care or community based or home-based care but which facilities are not specifically excluded by definition, shall be provided to insureds when delivery of covered care at an alternative facility is in the best interest of the insured.

(b) An insurer may limit such options by imposing a condition that such care be in a facility regulated by the state only if such class of facility is subject to state regulation.

NEW SECTION

WAC 284-54-180 Reduction of coverage. Every long-term care insurance contract providing coverage to a resident of this state which is issued on or after January 1, 1996, shall include the right of an insured to reduce the benefits of a long-term care contract without providing evidence of insurability. Such a reduction may include, for example, changes which result in a contract with a longer

elimination period, a lower daily benefit, or a shorter benefit period.

NEW SECTION

WAC 284-54-190 Nonduplication with state or national health care benefits. In the event that a state or federal program is enacted which substantially duplicates all or part of the coverage of an in-force long-term care insurance contract or certificate, current benefits or features which are duplicated by a state or national program shall be revised or eliminated promptly and in an orderly manner, subject to prior approval by the commissioner.

NEW SECTION

WAC 284-54-253 Unintentional lapse. The purpose of this section is to protect insureds from unintentional lapse by establishing standards for notification of a designee to receive notice of lapse for nonpayment of premiums at least thirty days prior to the termination of coverage and to provide for a limited right to reinstatement of coverage unintentionally lapsed by a person with a cognitive impairment or loss of functional capacity. These are minimum standards and do not prevent an insurer from including benefits more favorable to the insured. This section applies to every insurer providing long-term care coverage to a resident of this state, which coverage is issued for delivery or renewed on or after January 1, 1996.

(1) Every insurer shall permit an insured to designate at least one additional person to receive notice of lapse or termination for nonpayment of premium, if the premium is not paid on or before its due date. The designation shall include the designee's full name and home address.

(a) Except as provided in (b) of this subsection, the notice shall provide that the contract or certificate will not lapse until at least thirty days after the notice is mailed to the insured's designee.

(b) Where a policyholder or certificate holder pays premium through a payroll or pension deduction plan, the insurer shall provide a copy of the notice to the insured's designee no later than sixty days after premium is due and unpaid; the notice shall provide that the policy will not lapse until at least thirty days after the notice is mailed to the insured's designee.

(c) The insurer shall offer each insured in writing an opportunity to change the designee, or update the information concerning the designee, no less frequently than once in every twenty-four months.

(2) Every insurer shall provide a limited right to reinstate coverage in the event of lapse or termination for nonpayment of premium, if the insurer is provided proof of the insured's cognitive impairment or loss of functional capacity and reinstatement is requested within the five months after the policy lapsed or terminated due to nonpayment of premium.

(a) The standard of proof of cognitive impairment or loss of functional capacity shall be no more restrictive than as set forth in WAC 284-54-040.

(b) If the required proof of the insured's cognitive impairment or loss of functional capacity is received during the period, and past due premium remains unpaid at the end of five months (or such other additional time as the insurer

may determine), the offer of reinstatement shall be extended to provide a reasonable period of time for the payment of any past due premiums.

(c) Current good health of the insured shall not be required for reinstatement if the request otherwise meets the requirements of this section.

(3) An insurer shall permit an insured to waive his or her right to designate an additional person to receive notice of lapse or termination for nonpayment of premium.

(a) The waiver shall be in writing, and shall be dated and signed by the applicant or insured.

(b) No less frequently than once in every twenty-four months, the insured shall be permitted to revoke this waiver and to name a designee.

(4) Designation by the insured to receive notice of lapse or termination for nonpayment of premium does not constitute acceptance of any liability on the part of the designee for services provided to the insured or applicant.

AMENDATORY SECTION (Amending Order R 94-10, filed 7/6/94, effective 8/6/94)

WAC 284-54-270 Requirement to offer inflation protection. (1) No insurer may offer a long-term care insurance contract unless, in addition to any other inflation protection option, the insurer offers to the applicant the option to purchase a contract that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the contract. Insurers must offer to each applicant, at the time of purchase, the option to purchase a contract with an inflation protection feature no less favorable than one of the following:

(a) Increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than five percent;

(b) Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or

(c) Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

(2) Where the contract is issued to a group, the required offer in subsection (1) of this section shall be made to the group policyholder; except, if the policy is issued to an association group (defined in RCW 48.24.045) other than to a continuing care retirement community, the offering shall be made to each proposed certificateholder.

(3) The offer in subsection (1) of this section shall not be required of life insurance policies or riders containing accelerated long-term care benefits.

(4)(a) Insurers shall include the following information in or with the outline of coverage:

(i) A graphic comparison of the benefit levels of a contract that increases benefits over the contract period with

a contract that does not increase benefits. The graphic comparison shall show benefit levels over at least a twenty-year period.

(ii) Any expected premium increases or additional premiums to pay for automatic or optional benefit increases.

(b) An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure.

(c) It is intended that meaningful inflation protection be provided. Meaningful benefit minimums or durations may, for example, include providing increases to attained age, or for a period such as at least twenty years, or for some multiple of the policy's maximum benefit, or throughout the period of coverage.

(5) Inflation protection benefit increases under a contract which contains such benefits shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the contract.

(6) An offer of inflation protection which provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. Such offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

(7)(a) Inflation protection as provided in subsection (1)(a) of this section shall be included in a long-term care insurance contract unless an insurer obtains a written rejection of inflation protection signed by the applicant.

(b) The rejection shall be considered a part of the application and shall state:

"I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this contract with and without inflation protection. Specifically, I have reviewed Plans, and I reject inflation protection."

AMENDATORY SECTION (Amending Order R 87-7, filed 7/9/87)

WAC 284-54-300 Information to be furnished, style.

(1) No later than January 1, 1996, each broker, agent, or other representative of an insurer selling or offering benefits that are designed, or represented as being designed, to provide long-term care insurance benefits, shall deliver the disclosure form as set forth in WAC 284-54-350 not later than the time of (~~application~~) initial solicitation by an agent for the contract. If an agent has solicited the coverage, the disclosure form shall be signed by that agent and a copy left with the applicant. The insurer shall maintain a copy in its files. A direct response insurer shall deliver the disclosure form not later than the time an application for the contract is provided to the prospective insured for execution.

(2) The disclosure form required by this section shall identify the insurer issuing the contract and may contain additional appropriate information in the heading. The informational portion of the form shall be substantially as set forth in WAC 284-54-350 and words emphasized therein shall be underlined or otherwise emphasized in each form issued. The form shall be printed in a style and with a type character that is easily read by an average person eligible for long-term care insurance.

(3) Where inappropriate terms are used in the disclosure form, such as "insurance," "policy," or "insurance company," a fraternal benefit society, health care service contractor, or health maintenance organization shall substitute appropriate terminology.

(4) In completing the form, each subsection shall contain information which succinctly and fairly informs the purchaser as to the contents or coverage in the contract. If the contract provides no coverage with respect to the item, that shall be so stated. ~~((Address each of the questions as though they had been raised by the applicant regarding a long-term care policy.))~~ Address the ~~((answer))~~ form to the reasonable person likely to purchase long-term care insurance.

(5) A policy which provides for the payment of benefits based on standards described as "usual," "customary," or "reasonable" (or any combination thereof), or words of similar import, shall include an explanation of such terms in its disclosure form and in the definitions section of the contract.

(6) If the contract contains any gatekeeper provision which limits benefits or precludes the insured from receiving benefits, such gatekeeper provision ~~((must))~~ shall be fully described.

(7) All insurers shall use the same disclosure form. It is intended that the information provided in the disclosure form will appear in substantially the same format provided to enable a purchaser to compare competing contracts easily.

(8) The information provided shall include the statement: "This is NOT a Medicare supplement policy," and shall otherwise comply with WAC ~~((284-55-067))~~ 284-66-120.

(9) The required disclosure form ~~((must))~~ shall be filed by the insurer with the commissioner prior to use in this state.

(10) In any case where the prescribed disclosure form is inappropriate for the coverage provided by the contract, an alternate disclosure form shall be submitted to the commissioner for ~~((prior))~~ approval or acceptance prior to use in this state.

(11) Upon request of an applicant or insured, insurers shall make available a disclosure form in a format which meets the requirements of the Americans With Disabilities Act and which has been approved in advance by the commissioner.

AMENDATORY SECTION (Amending Order R 87-7, filed 7/9/87)

WAC 284-54-350 Form to be used—Long-term care insurance disclosure form. No later than January 1, 1996, the ~~((following))~~ disclosure form shall be ~~((used))~~ substantially as follows:

(Company Name)
Disclosure Form
Long-term Care Insurance

The decision to buy a new long-term care policy is very important. It should be carefully considered.

The following data give you some general tips and furnish you with a summary of benefits available under our policy.

Your long-term care policy provides thirty days (sixty days for direct response insurers) within which you may decide without cost whether you wish to keep it. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available under your policy.

If you now have insurance which provides benefits for long-term care, read your policy carefully. Look for what is said about renewing it. See if it contains waiting periods before benefits are paid. Note how it covers preexisting conditions (health conditions you already have). Compare these features with similar ones in any new policy. Use this information to measure the value of any insurance or health care plans you now have.

DON'T BUY MORE INSURANCE THAN YOU REALLY NEED. One policy that meets your needs is usually less expensive than several limited policies.

If you are eligible for state medical assistance coupons (Medicaid), you should not purchase a long-term care insurance policy.

After you receive your policy, make sure you have received the coverage you thought you bought. If you are not satisfied with the policy, you may return it within thirty days (sixty days for direct response insurer) for a full refund of premium.

DISCLOSURE FORM

BENEFITS PROVIDED UNDER THE CONTRACT

Level of Care: Location Given:	Skilled Care		Intermediate Care		Custodial/Personal Care	
	Nursing Home	Home-Based	Nursing Home	Home-Based	Nursing Home	Home-Based
Payment Per Day	\$/% _____	\$/% _____	\$/% _____	\$/% _____	\$/% _____	\$/% _____
Number of Days of Benefits:	_____	_____	_____	_____	_____	_____

GENERAL CONTRACT INFORMATION

Premium	Waiver of Premium	Recurring Conditions	Maximum Lifetime Benefits	Restoration of Maximum Lifetime Benefits?
Do premiums remain unchanged for life? Yes/No	Must premiums be paid when you are receiving benefits? Yes/No	If your disability recurs, when do you have to:	Days _____	Yes/No
Will premiums automatically increase with age? Yes/No	Explain: _____	-satisfy a new waiting period?	Dollars _____	If yes, explain how and when they will be restored: _____
May the company make additional premium increases? Explain: _____	_____	-pay a new deductible? Explain: _____	_____	_____
_____	_____	_____	_____	_____

LIMITATIONS ON COVERAGE

Exclusions and Exceptions (List and Explain Carefully)	Pre-Existing Conditions	Restrictions on Where and From Whom Care Received?	Payments You Must Make When You Have A Claim (List, Explain)
How many days do you have to wait to collect benefits: - after the policy is effective? - after you become ill: _____	Are conditions for which you have been treated: -excluded? _____ -limited? _____	Yes/No If yes, Explain: _____	Amount of co-payment charge: _____
Other significant exclusions: _____	Treatment how long ago? Excluded how long?	_____	Deductible: _____
_____	_____	_____	Other: _____

NURSING HOME OR OTHER IN-PATIENT BENEFITS

Number of Days of Prior Hospitalization Required	Max. No. of Days Between Hospital Discharge and Nursing Home Admission	Level of Care Required at Time of Nursing Home Admission	No. of Days of Skilled Care Required to Qualify for Another Level of Care	Maximum Nursing Home or In-Patient Benefits
_____	_____	_____	_____	Days? _____ Dollars? _____

PROPOSED

HOME-BASED OR OTHER OUT-PATIENT CARE BENEFITS

Covered Services (State whether covered and briefly explain limitations on benefits)	Gatekeeping (Threshold) Requirements	Maximum Home of Out-Patient Benefits
Hygiene/Personal Care? _____	Prior in-patient care required? Yes/No _____	Maximum number of days or visits: _____
Chore Services? _____	Prior level of in-patient care required? _____	Maximum duration of visits: _____
Meals/Nutritional Services? _____	Assessment by case manager or other required? Yes/No _____	Dollar Maximum: _____
Respite Care? _____	Explain: _____	_____
Adult Day Care? _____	_____	_____
Durable Medical Equipment? _____	_____	_____

SPECIAL COVERAGE OR LIMITATIONS:

=====

Premium: _____ Mode: _____

*This disclosure form was delivered to me on: _____ (date)

* _____
(Signature of Applicant)

*By: _____

*(Agent or Broker -- printed name and signature)

Contract Form No. _____

* A direct response insurer need not include this portion of the disclosure form.

PROPOSED

3. BOTH INSTITUTIONAL AND COMMUNITY-BASED CARE

What is the maximum daily benefit amount for:	YES/NO/COMMENTS
Institutional/nursing home care?	_____
Home/Community Based Care?	_____
Are there limits on the number of days (or visits) per year for which benefits will be paid for:	
Institutional/nursing home care?	_____
Home/Community based care?	_____
What are the dollar limits the policy will pay during the policyholder's lifetime for:	
Institutional/Nursing home care?	_____
Home/Community based care?	_____
Total lifetime limit?	_____
What basic features and benefits does the policy offer?	
Is the policy guaranteed renewable?	___
Can you purchase additional increments of coverage? If yes:	_____
When can additional coverage be purchased?	_____
How much can be purchased?	_____
When is additional coverage no longer available for purchase?	_____
Does the policy have inflation protection?	___
If yes, what is the % amount of the increase?	_____
Is the rate of increase simple or compound?	_____
When do increases stop?	_____
If policy includes inflation coverage, what is the daily benefit for:	
Institutional/nursing home care..	
5 years from policy effective date?	_____
10 years from policy effective date?	_____
Home/Community based care.....	
5 years from policy effective date?	_____
10 years from policy effective date?	_____
After the limits have been reached for inflation adjustments, what is the maximum daily benefit for:	
Institutional/nursing home care	_____
Home/community based care	_____
After the limits have been reached for inflation adjustments, what is the maximum lifetime benefit for:	
Institutional/nursing home care	_____
Home/community based care	_____
Is there a waiver of premium provision for:	
Institutional/nursing home care?	___
Home/community based care?	___
How many days of confinement in an institution are required before the waiver of premium benefit is available?	_____
Home many days of confinement at home are required before the waiver of premium benefit is available?	_____
How many days of benefits must be paid before waiver is effective?	_____
Does the policy have a nonforfeiture benefit?	___
If yes, how many years must policy be in effect before the insured benefits from nonforfeiture values?	_____
What would the benefit value be in terms of dollars after 20 years?	_____
What does the nonforfeiture benefit promise?(give an appropriate example showing dollars and time limits)	_____

PROPOSED

PROPOSED

	YES/NO/COMMENTS
Does the policy have a death benefit?	_____
If yes, specify value (in dollars of %)	_____
What conditions or limitations apply, if any?	_____
Does the policy have a restoration of benefits provision?	_____
If yes, give amount of benefit and minimum required # of days between benefits.	_____
If disability recurs, is there a new elimination or waiting period before benefits begin again?	_____
If yes, after how long?	_____
How long is the waiting period for pre-existing conditions?	_____
How is the pre-existing condition defined?	_____
When do benefits begin?	
How long is the elimination or waiting period before benefits begin for:	
Institutional/nursing home care?	_____
Home/community based care?	_____
What gatekeepers are required before benefits start?	
Doctor certification	_____
Case management	_____
If yes, by whom?	_____
Medical necessity	_____
Plan of treatment	_____
If yes, by whom?	_____
Inability to perform activities of daily living (ADLs)	_____
If yes, how many ADLs must fail before benefits begin?	_____
If the policy uses an ADL gatekeeper(s), define "inability to perform ADL."	_____
Is there a separate benefit qualification requirement if there is a cognitive impairment?	_____
Who determines a qualifying event?	_____
Define any separate benefit qualification requirement if there is a cognitive impairment:	_____
What does the policy cost?	
How often can the premium increase?	
By how much annually can the premium increase?	_____
Is there a discount if both spouses buy policies?	_____
If so, how much?	_____
Do you lose the discount if one spouse dies?	_____

4. **ADDITIONAL POLICY INFORMATION**
 Use this space to outline additional benefits, further explanations or clarifications

5. **POLICY DEFINITIONS**
 (Include definitions of policy provisions)

WHAT DOES THE POLICY COST?

	POLICY OPTION 1	POLICY OPTION 2	POLICY OPTION 3	POLICY OPTION 4
COMPANY NAME.....	_____	_____	_____	_____
ELIMINATION(DEDUCTIBLE)PERIOD	_____	_____	_____	_____
BENEFIT PERIOD	_____	_____	_____	_____
\$ BENEFIT FOR DAY	_____	_____	_____	_____
\$ MAXIMUM BENEFIT	_____	_____	_____	_____
Institutional/Nursing Home	_____	_____	_____	_____
Home Health/Community Based	_____	_____	_____	_____
PREMIUM SUBTOTAL \$	_____	_____	_____	_____
OPTIONAL BENEFITS	_____	_____	_____	_____
Inflation	_____	_____	_____	_____
Non Forfeiture	_____	_____	_____	_____
Spousal Discount	_____	_____	_____	_____
Death Benefit	_____	_____	_____	_____
Other _____	_____	_____	_____	_____
Other _____	_____	_____	_____	_____
Other _____	_____	_____	_____	_____
PREMIUM TOTAL \$	_____	_____	_____	_____
BENEFIT "TRIGGERS" (QUALIFICATION REQUIREMENTS)				
List _____	_____	_____	_____	_____
List _____	_____	_____	_____	_____
List _____	_____	_____	_____	_____

WSR 95-15-093
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed July 19, 1995, 8:38 a.m.]

The Department of Revenue previously announced its intention to amend WAC 458-20-258 Travel agents and tour operators. This announcement was published in the state register as WSR 95-03-050 and a continuance was announced as WSR 95-14-085. The department noted at the time it filed the continuance that the delay in adopting the rule was to allow additional time to review the recent United States Supreme Court decision in *OKLAHOMA TAX COMMISSION v. JEFFERSON LINES, INC.* 514 US ____, 63USLW 4233 (1995).

Because of the ramifications of this court case, the department does not believe it can adopt the proposed rule within the time allowed for completing the rule-making action for this proposal. The department is withdrawing this proposed rule and will start a new rule-making action after further study.

Since the department is withdrawing this rule proposal, the hearing announced in the state register at WSR 95-14-085 for August 23, 1995, will not be held.

Les Jaster
 Rules Coordinator

WSR 95-15-094
PROPOSED RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed July 19, 1995, 9:04 a.m.]

Original Notice.

Title of Rule: WAC 192-12-130 and 192-12-141, describing the procedures for filing intra- and interstate claims for unemployment insurance benefits.

Purpose: To modify the procedures used by individuals filing claims for unemployment insurance benefits in order to streamline the processing of claims for both the claimant and the department. In addition, both regulations are rewritten to simplify language and terminology.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.140.

Statute Being Implemented: RCW 50.12.050, 50.20.140.

Summary: To extend the period within which a continued claim for benefits is considered timely, to authorize filing claims by telephone, to eliminate the reporting of hours for holiday and vacation pay, and to update the appellate procedures for interstate claimants.

Reasons Supporting Proposal: Extending the time limit for filing claims and modifying the reporting of vacation and holiday pay will simplify the claims process for claimants and reduce agency workload. Authorizing telephone claims filing is consistent with new technology being developed by the agency. Modifying the appellate procedures for interstate claims brings them in line with current practice.

Name of Agency Personnel Responsible for Drafting: Juanita Myers, 212 Maple Park, Olympia, (360) 902-9666;

Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, (360) 902-9303.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The extended time limit for filing continued claims for benefits is proposed to provide for equitable treatment of claimants, reduce the number of conditional payments, redeterminations, overpayments, and appeals, and streamline payment of benefits. Authorizing telephone filing of continued claims will permit the agency to implement alternative methods of filing continued UI benefit claims. By law, claimants need only report days for which holiday and vacation pay is received; elimination of the requirement that hours be reported will bring the regulation into line with statute. The appellate procedures in WAC 192-12-130 were written in 1953 and are outdated; the proposed revision will bring them into line with current practices used by members of the interstate agreement.

Proposal Changes the Following Existing Rules: WAC 192-12-130 and 192-12-141 provide that a timely continued claim for benefits must be received no later than one week following the week(s) claimed. This means many claims are received untimely, requiring staff to issue conditional payments, determine if there was good cause for filing late, etc. An internal agency workgroup has recommended that a continued claim be considered timely if it is received within four weeks after the close of the week(s) being claimed. The regulations require that continued claims be filed in person or by mail. The department is developing an interactive voice response system to allow weekly claims for benefits to be filed via telephone. This amendment will authorize filing of telephone claims.

WAC 192-12-141 requires claimants to report the number of hours for which vacation and holiday pay was received. This is not necessary under law. The rule is modified accordingly.

WAC 192-12-130 was last modified in 1953; the appellate procedures are revised consistent with current practice.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Once an individual has established a valid claim, he or she is entitled to benefits if certain conditions are fulfilled. The proposed amendments merely modify the method by which claims can be filed, the information to be reported, and allow a longer period within which an individual can file a claim for those benefits to which he or she is entitled. Under current timeliness standards, a claim received more than one week after the close of the week(s) being claimed is late. Staff must conditionally pay the claim, then conduct fact finding to determine if the claimant had good cause for late filing. "Good cause" is liberally construed, meaning that most late claims are cleared. In addition, the majority of those denied are overturned on appeal by the Office of Administrative Hearings. Employers are charged as benefits are paid out, thus some minimal cost savings may result in cases where a weekly claim is denied. However, the maximum benefits payable to the claimant is not reduced by a denial for filing late. Roughly 36% of claimants exhaust benefits; in these

cases, the cost to the employer is the same regardless of whether the claimant received a denial of one or two weeks for filing late. The primary impact of the proposed change in the timeliness standards will be to reduce agency workload and streamline the filing process. The only additional cost to employers will result from payment of benefits to those claimants who currently are unable to establish good cause for filing more than one week late and who do not exhaust benefits. This amount is negligible, and the cost to small employers is the same as to large employers.

Hearing Location: Employment Security Department, Training Annex, Room 1, 106 Maple Park Drive, Olympia, WA, on August 22, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Ramona Dahl, Affirmative Action by August 18, 1995, TDD (360) 902-9569, or (360) 902-9536.

Submit Written Comments to: John Nemes, Rules Coordinator, OMR, P.O. Box 9046, Olympia, WA 98507-9046, FAX (360) 438-3226, by August 20, 1995.

Date of Intended Adoption: September 6, 1995.

July 18, 1995

Dale Ziegler

Assistant Commissioner, UI

AMENDATORY SECTION (Amending Rule 12, adopted 6/10/53, effective 6/20/53)

WAC 192-12-130 ((Payment of benefits to)) Unemployment benefits for interstate claimants. ((Section 44 of the act (RCW 50.12.050) provides: " * * * The commissioner may enter into agreement with any other state whereby in the event an individual files a claim in another state against wages earned in employment in this state, or against wage credits earned in this state and in any other state or who files a claim in this state against wage credits earned in employment in any other state, or against wages earned in this state and in any other state, the claim will be paid by this state or another state as designated by the agreement in accordance with a determination on the claim as provided by the agreement and pursuant to the qualification and disqualification provisions of this act or under the provisions of the law of the designated paying state (including another state) * * * ."

Section 40 of the act (RCW 50.12.010) provides: "It shall be the duty of the commissioner to administer this act. He shall have the power and authority to adopt, amend, or rescind such rules and regulations, * * * as he deems necessary or suitable to that end. * * * ."

The commissioner accordingly prescribes:))

(1) ((The following regulation shall govern the Washington employment security department in its administrative cooperation with other states adopting similar regulation for the payment of benefits to interstate claimants.

(2) Definitions. As used in this regulation, unless the context clearly requires otherwise:

(a) "Interstate benefit payment plan" means the plan approved by the interstate conference of employment security agencies under which benefits shall be payable to unemployed individuals absent from the state (or states) in which benefit credits have been accumulated.

(b) "Interstate claimant" means an individual who claims benefits under the unemployment insurance law of one or

more liable states through the facilities of the agent state. The term interstate claimant shall not include any commuter provided, however, that the Washington employment security department may, by arrangement with any adjoining state employment security agency, treat certain commuters as interstate claimants if they reside in geographical areas from which the Washington employment security department finds that requiring commuters to file their benefit claims in the state of their last employment would cause undue hardship to such claimants. As herein used, the term commuter applies to each individual who, immediately before becoming unemployed, customarily commuted from his residence in the agent state to his work in the liable state.

(e) "State" includes Alaska, Hawaii and the District of Columbia.

(d) "Agent state" means any state in which an individual files a claim for benefits from another state or states.

(e) "Liable state" means any state against which an individual files, through another state, a claim for benefits.

(f) "Benefits" means the compensation payable to an individual, with respect to his unemployment, under the unemployment insurance law of any state.

(g) "Week of unemployment" includes any week of unemployment as defined in the law of the liable state from which benefits with respect to such week are claimed.))

What is an "interstate claimant"? An "interstate claimant" is a person who files a claim for one state's unemployment benefits from another state. For example:

(a) You are an interstate claimant if you live in Oregon and file a claim in Oregon for Washington state benefits.

(b) You are an interstate claimant if you live in Washington and file a claim in Washington for benefits from Oregon.

(c) You are NOT an interstate claimant if you live in Oregon but file your claim for Washington benefits in a Washington state employment security office; this is because your claim was filed in the same state that will be paying your benefits.

The state where you file your claim is called an "agent state". The state that pays your claim is the "liable state".

(2) Where can I apply for benefits? You can file your application in any state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Canada.

(3) How do I apply for benefits? (a) If you are applying in Washington, you must file your application in person at an employment security office.

(b) If you are applying in another state, you must file your application as required by that state.

(4) Who decides if I am eligible for benefits? Every state has its own laws which control who is eligible for benefits. If you file a claim for Washington benefits, your eligibility for benefits will be decided by Washington state law even if you file in another state. If you file for benefits against another state, your eligibility for benefits will be decided under that state's laws.

((3) Registration for work.

(a) Each interstate claimant shall be registered for work, through any public employment office in the agent state when and as required by law, regulations, and procedures of the agent state. Such registration shall be accepted as meeting the registration requirements of the liable state.

~~(b) Each agent state shall duly report, to the liable state in question, whether each interstate claimant meets the registration requirements of the agent state.))~~

(5) Do I have to register for work? You must register for work in the state in which you filed your claim.

~~((4) Benefit rights of interstate claimants.~~

~~(a) If a claimant files a claim against any state, and it is determined by such state that the claimant has available benefit credits in such state, then claims shall be filed only against such state as long as benefit credits are available in that state. Thereafter, the claimant may file claims against any other state in which there are available benefit credits.~~

~~For the purposes of this regulation, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction.~~

~~(b) The benefit rights of interstate claimants established by this regulation shall apply only with respect to new claims (notices of unemployment) filed on or after July 5, 1953.))~~

(6) When can I apply for benefits? You can apply for benefits at any time, even if you are working. However, if you already have a valid claim in one state, you must continue with that claim as long as benefits are available before a new claim against another state can be paid. A "valid" claim is one that has not been denied, terminated, or the benefits exhausted (paid out).

~~((5) Claim for benefits.~~

~~(a) Claims for benefits or waiting period shall be filed by interstate claimants on uniform interstate claims forms and in accordance with uniform procedures developed pursuant to the interstate benefit payment plan. Claims shall be filed in accordance with the type of week in use in the agent state. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.~~

~~(b) Claims shall be filed in accordance with agent state regulations for intrastate claims in local employment offices, or at an itinerant point, or by mail.~~

~~(i) With respect to claims for weeks of unemployment in which an individual was not working for his regular employer, the liable state shall, under circumstances which it considers good cause, accept a continued claim filed up to one week, or one reporting period, late. If a claimant files more than one reporting period late, an initial claim must be used to begin a claim series and no continued claim for a past period shall be accepted.~~

~~(ii) With respect to weeks of unemployment during which an individual is attached to his regular employer, the liable state shall accept any claim which is filed within the time limit applicable to such claims under the law of the agent state.))~~

(7) How do I file my claim? (a) If you are applying for Washington benefits, mail your completed claim form directly to the interstate office of the Washington state employment security department.

(b) If you are applying for benefits against another state, mail your completed claim form directly to the address provided for the liable state.

(c) Once your claim is established, you will be instructed to continue filing by mail or by telephone.

(8) How often must I file my claim? (a) If you are filing for Washington benefits, file your claim each week unless you are instructed to file on a biweekly basis.

(b) If you are filing against another state, file your claim according to the schedule and method directed by that state.

(9) When is a claim for Washington benefits considered late? (a) Until you receive your first payment, your claim is considered late if it is filed more than seven days (one week) after the Saturday of the week being claimed. You will not be paid for these weeks unless you can prove you had a good reason for filing late.

(b) After you have received your first payment, your claim is considered late if it is filed more than 28 days (four weeks) after the Saturday of the last week being claimed. Any week or weeks that are filed late will be conditionally paid. This means you will be paid benefits, but you will be asked to prove you had a good reason for filing late. If you cannot do so, you will receive a notice telling you to repay benefits for the week(s) you filed late.

~~((6) Determination of claims.~~

~~(a) The agent state shall, in connection with each claim filed by an interstate claimant, ascertain and report to the liable state in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.~~

~~(b) The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts. The agent state shall not refuse to take an interstate claim.~~

~~(7) Appellate procedure.~~

~~(a) The agent state shall afford all reasonable cooperation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.~~

~~(b) With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified officer of the agent state.))~~

(10) How do I file an appeal? If you wish to file an appeal regarding your claim, you can do so by:

(a) Mailing your appeal directly to the liable state. Your appeal will be considered filed on the postmarked date; or

(b) Filing your appeal with the agent state, which will forward them to the liable state. Your appeal will be considered filed on the date it is received by the agent state.

All appeal hearings will be conducted by the liable state by telephone. The liable state will notify you of the date, time, and telephone number.

~~((8) Extension of interstate benefit payments to include claims taken in and for Canada. This regulation shall apply in all its provisions to claims taken in and for Canada.))~~

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

PROPOSED

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

AMENDATORY SECTION (Amending WSR 93-10-025, filed 4/28/93, effective 5/29/93)

WAC 192-12-141 ((Registration, reports and claims for unemployment compensation and related benefits.))
Applying for unemployment benefits. (1) **((Interstate claimants.** Individuals who file interstate claims for benefits against this state through the local office of any agent state shall not be subject to this regulation. (See WAC 192-12-130.)) **If you apply for Washington state benefits in another state, follow the instructions in WAC 192-12-130. If you apply for benefits in Washington state, follow the instructions below.**

(2) **((Application for initial determination.** Except for good cause shown an application for initial determination shall be filed in person at a Washington state employment security office on forms provided by the department. Such application may be made at any time.)) **How do I apply for benefits?** You must file your application for benefits in person at a Washington state employment security office. You may apply at any time, even if you are working. Your claim is effective the first week you report to the office.

(3) **((Registration for work.** As a condition of eligibility for waiting period credit or benefits, an individual shall register for work at an office of the Washington state employment security department on forms provided and shall thereafter renew his or her registration as directed during the total period [in] which he or she maintains active claim status except as provided in WAC 192-12-150, covering the requirements for payment of benefits to partially unemployed individuals and standby workers.)) **Do I have to register for work?** You must register for work unless you are partially unemployed or on standby. (See WAC 192-12-150.)

(4) **((Perfecting a claim for waiting period credit.**

(a) Except for good cause shown, to perfect a claim for waiting period credit, a claimant shall report in person at an employment security department office during the week for which he or she intends to claim waiting period credit.

(b) The claim for waiting period credit shall be made in writing on forms provided by the department. It shall be filed at the office during the calendar week immediately following the last day of the week being claimed except for good cause shown.)) **Will I receive benefits immediately?** The first week you are eligible for benefits is your waiting week. You will not be paid for this week.

(5) **((Claim for benefits.** A claim for waiting period credit or benefits shall be filed in writing with a Washington state employment security office, as prescribed by the department. The department shall determine the method and time sequence by which each individual shall file a claim for benefits.))

((a) To be accepted as a claim for waiting period credit or benefits, the claim form shall:

- (i) Include a correct week ending date which is the Saturday date of the week being claimed, and
- (ii) Be filed after the week ending date of the week claimed, and
- (iii) Include the answer to at least one question, and
- (iv) Include the claimant's signature, and

(v) Be filed against an established benefit year ending date, whether monetarily eligible or ineligible, and

(vi) Include certification as to the amount of remuneration, if any, including a pension, holiday pay, vacation pay, or earnings for the week or weeks claimed, and a certification of the number of hours during each week claimed unless the certification of remuneration removes the claimant from the status of an unemployed individual as defined in RCW 50.04.310.

(b) The method for filing claims shall be one of the following:

(i) In person method, whereby the claimant shall file the claim in person except for good cause shown;

(ii) Mail method, whereby the claimant shall file the claim by mail or in a Washington state employment security office except for good cause shown. Claims submitted by mail shall be deemed filed with the department on the postmarked date.

(iii) The commissioner may authorize other methods for the purpose of study, in response to state or national emergencies, or where unusual circumstances, not within the control of the claimant, make in person or mail filing difficult.

(c) The time sequence for filing claims shall be one of the following:

(i) Weekly sequence, whereby claims shall be filed during the calendar week immediately following the week being claimed except for good cause shown;

(ii) Biweekly sequence, whereby a claim for a two-consecutive week period shall be filed during the calendar week immediately following such period except for good cause shown.

(iii) The commissioner may authorize another sequence for the purpose of study, in response to state or national emergency, or where unusual circumstances, not within the control of the claimant, make another sequence more appropriate.)) **Do I continue to file a claim for benefits?** You must file a claim as instructed for all weeks for which you want to be paid. Every week begins on Sunday and ends at midnight on Saturday. Your claim must be filed after the end of the week(s) you are claiming.

(a) What information do I report on my claim form? The claim form must contain:

(i) The Saturday date(s) of the week(s) you are claiming;

(ii) Answers to the questions (your claim will be considered legal if at least one question is answered);

(iii) Your signature or, if filing by telephone, your personal identification number;

(iv) The amount and source of any pension you are receiving for the week claimed;

(v) Any holiday earnings received during the week claimed;

(vi) Any vacation pay received during the week claimed, and the dates for which such pay was accrued; and

(vii) Any earnings and the number of hours you worked during the week claimed, unless you are not eligible for benefits because you are fully employed.

A claim that does not meet these requirements is incomplete and will be returned to you with a request for additional information.

(b) How do I file my claim? When you apply, you will be told to file your claim in person, by mail, or by telephone. If you file by mail, the claim is considered filed on the postmarked date.

(c) How often must I file my claim? When you apply, you will be told to file weekly or biweekly.

(i) If you file weekly, you will claim the week which ended the preceding Saturday.

(ii) If you file biweekly, you will claim the two weeks which ended on the preceding Saturday.

(iii) Other filing schedules can be authorized for the purpose of study, in cases of emergency, or where unusual circumstances make weekly or biweekly filing difficult.

(6) ~~((Certain exceptions pertaining to filing claims in person:~~

(a) A claimant who is directed to file a claim for waiting period credit or benefits in person and because of returning to work is unable to do so must be permitted to file the claim by mail. The claimant must file the claim or claims within the same period as the claimant was directed to file in person except for good cause shown, provided that claims submitted by mail shall be deemed filed with the department on the postmarked date.

(b) In the event that a claimant is scheduled to file a claim (or claims) in person on the last business day of the week and the claimant fails to file as scheduled, the claimant shall be allowed the next business day to file such claim (or claims) in person.)) Are there other times when I am required to report in person? You may be instructed to report in person for any reason. If you do not report, you will not receive benefits for that week, except:

(a) If you return to work and cannot report in person as instructed, you can file your claim by mail;

(b) If you have been instructed to file in person on a Friday (or the last business day of a week), you can file your claim on the next business day; or

(c) When you can show you had good cause for not reporting in person. "Good cause" includes factors which would cause another person in similar circumstances to be unable to report as directed.

(7) ~~((Reporting responsibility. Irrespective of time sequences for filing claims for waiting period credit or benefits, the department may require a claimant to report to a local office in person for any reason deemed appropriate. Failure to report, as and when directed, shall result in the denial of benefits for the week during which such failure occurs, except for good cause shown.~~

(8) ~~Itinerant offices. In cases where a representative of the employment security department shall establish a location apart from the usual place of reporting for the purpose of taking registrations, initial applications or claims for waiting period credit or benefits, all individuals registering or filing an application or claims at such location shall be deemed to have registered or filed at an Employment Security office.~~

(9) ~~Provisions for processing late claims.~~

If a claim form is filed with the intent to claim benefits for more than one week and one or more of the weeks is late filed;

(a) ~~The week or weeks that are not late filed shall be promptly processed and paid if all other eligibility requirements are met, and~~

(b) ~~The week or weeks that are late filed shall be promptly processed and conditionally paid unless the claimant shows good cause for late filing.)) When is my claim considered late? (a) Until you receive your first payment, your claim is considered late if it is filed more than seven days (one week) after the Saturday of the last week being claimed. You will not be paid for these weeks unless you can prove you had a good reason for filing late.~~

(b) After you have received your first payment, your claim is considered late if it is filed more than 28 days (four weeks) after the Saturday of the last week being claimed. Any week or weeks that are filed late will be conditionally paid. This means you will be paid benefits, but you will be asked to prove you had a good reason for filing late. If you cannot do so, you will receive a notice directing you to repay benefits for the week(s) you filed late.

~~((10) Provisions for handling incomplete claims.~~

(a) In the event that a claim form does not conform to the definition of a claim for waiting period credit [or] [for] benefits, the form may be returned to the claimant for correction or completion. Any such returned form will be accompanied by a written explanation [of] [or] the reason for return, and the correction or completion of omitted entries required.

(b) If a claim form is submitted with the intent to claim benefits for more than one week, and one or more of the weeks do not conform to the definition of a claim for benefits, the week or weeks that do meet the definition shall be promptly processed.

(11) ~~Reopening of claims. A claimant shall report in person at an employment security department office during the first week for which benefits are claimed after a break or interruption of one or more weeks in a series of consecutive weekly claims, except for good cause shown. The department may waive or modify this requirement, when authorized by the commissioner, for administrative reasons or to reduce hardship to the public.)) (8) How do I reopen my claim? If you have stopped filing claims for one or more weeks, you must report in person to reopen your claim. Other methods for reopening claims can be authorized by the department as needed.~~

WSR 95-15-097

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed July 19, 1995, 9:37 a.m.]

Original Notice.

Title of Rule: Rough bluegrass quarantine.

Purpose: Establish a rough bluegrass (*Poa trivialis*) quarantine in the state of Washington.

Statutory Authority for Adoption: Chapters 15.49 and 17.24 RCW.

Statute Being Implemented: RCW 17.24.041.

Summary: Restrict the growing areas of rough bluegrass in the state of Washington.

Reasons Supporting Proposal: Rough bluegrass is a threat to Kentucky bluegrass grown in Washington. The proposed rule restricts the growing areas of rough bluegrass to prevent the contamination of Kentucky bluegrass grown in Washington.

PROPOSED

Name of Agency Personnel Responsible for Drafting: K. Diane Dolstad, 1111 Washington Street, Olympia, (360) 902-2060; Implementation and Enforcement: Max Long, 2015 South 1st Street, Yakima, (509) 575-2750.

Name of Proponent: Washington/North Idaho Seed Association, Washington Seed Council, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule places a quarantine on rough bluegrass (*Poa trivialis*) by restricting where it is grown in Washington state. The quarantine and restriction are being established to prevent contamination of Kentucky bluegrass grown in Washington state.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Four basic considerations: 1. There is no disparate impact on small business - all members of the seed trade, with perhaps one exception, meet the definition of small business. 2. Within the regulated area, there are no producers of rough bluegrass to mitigate the potential impact of the quarantine, three counties where there is production (Benton, Klickitat and Yakima counties) were excluded from regulation. 3. The significant economic impact would occur to the seed industry if there were seed mixes or contamination of Kentucky bluegrass because of the significant market states in which rough bluegrass is a prohibited noxious weed seed in Kentucky bluegrass. 4. The quarantine is pursued at the request of the seed industry through its two primary organizations, the Washington Seed Council and the Washington/North Idaho Seed Association.

Hearing Location: Washington State Department of Agriculture, Ag Service Center, Conference Room, 2015 South First Street, Yakima, WA 98903, on August 22, 1995, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by August 21, 1995, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: William Brookreson, FAX (360) 902-2092, by August 21, 1995.

Date of Intended Adoption: August 22, 1995.

July 18, 1995
K. Diane Dolstad
Assistant Director

Chapter 16-493 WAC ROUGH BLUEGRASS QUARANTINE

NEW SECTION

WAC 16-493-001 Rough bluegrass quarantine—Establishing quarantine. The seeds of the crop known as rough bluegrass, *Poa trivialis* and its known strains, hereinafter referred to as rough bluegrass, is a threat to Kentucky bluegrass grass seed production; therefore, a rough bluegrass quarantine is established to prevent the introduction of rough bluegrass into major Kentucky bluegrass grass seed production areas, to control seed stocks to be planted for further seed increase, and to assure Kentucky bluegrass seed growers of a source of seed stock for planting purposes which is tested for presence of rough bluegrass. If Kentucky

bluegrass seed becomes contaminated with rough bluegrass grass seed there would be a significant economic loss to Kentucky bluegrass growers in the state.

NEW SECTION

WAC 16-493-005 Rough bluegrass quarantine—Definitions. (1) "Person" means a natural person, individual, firm, partnership, corporation, company, society, or association, and every officer, agent, or employee thereof. This term shall import either the singular or the plural as the case may be.

(2) "Department" means the Washington state department of agriculture.

(3) "Director" means the director of the department of agriculture or his/her duly authorized representative.

(4) "Rough bluegrass" means *Poa trivialis* and all related subspecies.

(5) "Nursery" means an area of two acres or less in which Kentucky bluegrass for seed production is seeded in rows with twenty-four-inch minimum spacings to facilitate rouging.

(6) "Seed stock" means those seeds of Kentucky bluegrass which are to be planted for seed increase or with intent of seed increase, except this definition does not include: Big Bluegrass, Upland Bluegrass, Brome, Meadow Fescue, Tall Fescue, Oatgrass, Orchardgrass, Timothy, or Wheatgrass.

(7) "Official seed laboratory" means a seed testing laboratory approved by the director, such as, but not limited to, Washington State Seed Laboratory, 2015 South First Street, Yakima, Washington; and Oregon State Seed Laboratory, Oregon State University, Corvallis, Oregon.

(8) "Representative sample" means a sample drawn in accordance with sampling procedures adopted by the director, as found in WAC 16-304-020 and 16-304-040.

(9) "Rough bluegrass analysis certificate" means a test report from an official seed laboratory showing freedom from rough bluegrass based on a 15 gram sample.

NEW SECTION

WAC 16-493-010 Rough bluegrass quarantine—Regulated area. Areas regulated under the rough bluegrass quarantine include all counties in the state of Washington lying east of the Cascade Crest.

(1) This quarantine shall not apply: To experiments or trial grounds of the United States Department of Agriculture; to experiments or trial grounds of Washington State University experiment station; or to trial grounds of any person, firm, or corporation: *Provided*, That said trial ground plantings are approved by the director and under supervision of trained personnel familiar with rough bluegrass control.

(2) This quarantine shall not apply to seed production fields of rough bluegrass grown in Benton, Klickitat, or Yakima counties.

NEW SECTION

WAC 16-493-015 Rough bluegrass quarantine—Quarantine area. Areas quarantined under the rough bluegrass quarantine include all counties in the state of

Washington lying west of the Cascade Crest and all areas outside of the state of Washington.

NEW SECTION

WAC 16-493-020 Rough bluegrass quarantine—Regulated articles. Articles regulated under the requirements of the rough bluegrass quarantine include:

- (1) Seed stocks of all varieties of Kentucky bluegrass.
- (2) Seed production fields of rough bluegrass.
- (3) This quarantine shall not apply to seed sown for forage or turf.

NEW SECTION

WAC 16-493-025 Rough bluegrass quarantine—Conditions governing movement of regulated articles. No seed stock shall be shipped, transported, moved in, or into the rough bluegrass quarantine regulated area unless such seed stock is accompanied by a test report from an official laboratory showing said seed stock is free of rough bluegrass on the basis of a minimum 25 gram analysis: *Provided*, That seed stock found to contain rough bluegrass may be planted in the regulated area if planted in a nursery under an inspection program as established by the Washington state department of agriculture.

NEW SECTION

WAC 16-493-030 Rough bluegrass quarantine—Procedure for clearing seed stocks. Each person moving, shipping or transporting seed stock in or into the rough bluegrass quarantine regulated area shall:

- (1) Submit an official laboratory analysis of a representative sample showing freedom from rough bluegrass; or
- (2) Have a representative sample submitted for testing.

NEW SECTION

WAC 16-493-035 Rough bluegrass quarantine—Seed stock containing rough bluegrass. Each lot of seed stock found to contain rough bluegrass shall be placed under "stop sale" to be released only for shipment out of the quarantine area or for planting in nurseries of two acres or less under supervision of, and approved by, an agent of the department of agriculture. The nursery shall be seeded in rows. It shall be the duty of the person receiving such seed to rogue this increase area or chemically treat to eradicate the rough bluegrass thus assuring production of seed that is free of rough bluegrass. Seed increase areas shall be inspected by the department at least three times during the seedling year. Any areas not passing inspection shall not be harvested, but instead shall be destroyed by the person who planted the increase area upon order of the director of the Washington state department of agriculture or his/her agent. If not destroyed as directed, the department of agriculture shall have the plot destroyed and the grower shall be liable for all expenses.

NEW SECTION

WAC 16-493-040 Rough bluegrass quarantine—Application for nursery inspection. A person shall make application for nursery inspection for rough bluegrass to the department of agriculture not later than fourteen days prior to planting.

NEW SECTION

WAC 16-493-045 Rough bluegrass quarantine—Fees. (1) Fees for sampling and analysis for the presence of rough bluegrass shall be that fee established by the director in WAC 16-304-039 through 16-304-050.

(2) Inspection fee for nursery plantings shall be fifty dollars per acre or portion thereof.

NEW SECTION

WAC 16-493-050 Rough bluegrass quarantine—Violation and procedures. (1) A person who is alleged to have violated the rough bluegrass quarantine shall meet with a representative of the department to discuss the allegation and determine:

- (a) How it did occur;
- (b) How much acreage is involved and location of all plantings;

(c) Corrective procedures, such as rouging, chemical treatment, etc., and the time frame for such work, or agreement for voluntary destruction of all acreage involved to avoid recurrence and minimize economic loss.

(2) Treated and roughed acreage shall be inspected by the department of agriculture three times during the seedling stages to assure freedom from rough bluegrass. The violator will be assessed an hourly inspection fee and a mileage fee where additional mileage is involved.

(3) Any person who violates the terms of this quarantine may be subject to the criminal and civil penalties provided in chapters 15.49 and/or 17.24 RCW.

WSR 95-15-098

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed July 19, 1995, 9:38 a.m.]

Original Notice.

Title of Rule: Add definition of powdery mildew to hop disease quarantine rules.

Purpose: Add powdery mildew to the list of hop diseases in the rules that define and govern the movement of regulated articles.

Other Identifying Information: WAC 16-497-005 and 16-497-030.

Statutory Authority for Adoption: RCW 17.24.041.

Statute Being Implemented: Chapter 17.24 RCW.

Summary: The Washington Hop Commission requested that powdery mildew be added to the disease listing under the hop disease quarantine rules after receiving advice from Washington State University.

Reasons Supporting Proposal: Protect hop growers in Washington state from powdery mildew disease.

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Max Long, Seed Branch, 2015 South First, Yakima, (509) 575-2750.

Name of Proponent: Ann George, Washington Hop Commission, (509) 453-4749 and Dr. Robert Klein, Washington State University, (509) 786-2226, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Add powdery mildew to the list of hop diseases and conditions, which govern the movement of regulated articles. Washington currently is free of the disease, and its introduction would have a serious negative impact on the Washington hop industry. The quarantine is designed to exclude this disease.

Proposal Changes the Following Existing Rules: Adds powdery mildew to hop disease quarantine definitions and under regulations and conditions governing the movement of regulated articles.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The hop industry that is potentially impacted requested the rule to protect it from the economic impact of introduction of powdery mildew. There is no disproportionate impact on small business.

Hearing Location: Ag Service Center, Conference Room, 2015 South First Street, Yakima, WA 98903, on August 22, 1995, at 11:00.

Assistance for Persons with Disabilities: Contact Cathy Jensen by August 21, 1995, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: William Brookreson, FAX (360) 902-2092, by August 21, 1995.

Date of Intended Adoption: August 28, 1995.

July 18, 1995
K. Diane Dolstad
Assistant Director

AMENDATORY SECTION (Amending Order 2077, filed 3/27/91, effective 4/27/91)

WAC 16-497-005 Hop disease quarantine—Definitions. (1) "Director" means the director of the Washington state department of agriculture or the director's authorized representative.

(2) "Department" means the Washington state department of agriculture.

(3) "Iilar viruses" means a grouping of viruses, including Apple Mosaic Virus and Prunus Necrotic Ringspot, which share common characteristics including spherical in shape, with genetic material in three different particles and commonly inducing ring spots in hosts.

(4) "Verticillium wilt" means the disease caused by *Verticillium albo-atrum* Reinke & Berth, or hop strains of this organism.

(5) "Powdery mildew" means the disease caused by *Sphaerotheca macularis* (WALLR.: FR) Lind = *Sphaerotheca humuli* (DC) Burrill.

AMENDATORY SECTION (Amending Order 2077, filed 3/27/91, effective 4/27/91)

WAC 16-497-030 Regulations—Conditions governing the movement of regulated articles. Hop plants and all parts thereof will be admitted into the state of Washington: *Provided*, That the following provisions are complied with.

(1) The hop plant or parts thereof have been certified in accordance with the regulations of an official state agency, which certification program requires at least two field inspections during the growing season, and requires that certification tolerances shall not exceed: Powdery mildew, Verticillium wilt((;)) (albo atrum (dm)),₁ and Iilar viruses, zero percent: *And provided further*, That all shipments of such hop planting stock shall be apparently free of insect pests and shall be accompanied by a certificate issued by an official agency of the state of origin certifying that the hop planting stock was produced under official certification regulations and meets official standards.

(2) All shipments of hop planting stock shall be plainly marked with the contents on the outside of the package or container.

(3) Persons shipping or transporting regulated articles into this state from areas under quarantine shall notify the department's plant certification branch of the nature and quantity of each shipment, the expected date of arrival at destination, the name of the intended receiver and the destination. The person to whom the articles are shipped shall hold the same until they are inspected and/or released by the department.

WSR 95-15-099

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed July 19, 1995, 9:39 a.m.]

Original Notice.

Title of Rule: Hop rootstock, add powdery mildew.

Other Identifying Information: WAC 16-354-005 through 16-354-070.

Statutory Authority for Adoption: RCW 15.14.030 (2), (5).

Statute Being Implemented: Chapter 15.14 RCW.

Summary: The Washington Hop Commission on behalf of the industry has requested that powdery mildew be added to the established field tolerances in the certification standards for hop rootstock.

Reasons Supporting Proposal: (1) To protect the hop industry from powdery mildew disease; (2) to coordinate quarantine rules (WAC 16-497-005 and 16-497-030) with certification rules; (3) to facilitate the movement of nursery stock within the primary hop production area.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Max Long, Seed Branch, 2015 South First Street, Yakima, 98903, (509) 575-2750.

Name of Proponent: Washington Hop Commission, Ann George, Manager and Dr. Robert Klein, Washington State University, Plant Pathologist.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule has been proposed to coordinate Washington and Oregon rules (Oregon has a powdery mildew quarantine) to allow free movement of nursery stock within the primary United States production area for hops. This would also make certification rules consistent with the proposed hop disease quarantine. Establishment of powdery mildew in Washington production would cause significant economic harm to the industry. At the present time, Washington is free of the disease, but it could be potentially introduced in hop plants from other states.

Proposal Changes the Following Existing Rules: Adds powdery mildew disease to the list of regulated diseases and establishes a field tolerance.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The negative impact would accrue to the industry by the inability to move nursery stock between Washington and Oregon, the primary production areas. The hop industry that is potentially impacted requested the rule to protect it from the economic impact of the introduction of powdery mildew. There is no disproportionate impact on small business.

Hearing Location: Washington State Department of Agriculture, Ag Service Center, Conference Room, 2015 South First Street, Yakima, WA 98903, on August 22, 1995, at 11:30 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by August 21, 1995, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: William Brookreson, FAX (360) 902-2092, by August 21, 1995.

Date of Intended Adoption: August 28, 1995.

July 19, 1995
K. Diane Dolstad
Assistant Director

AMENDATORY SECTION (Amending Order 2077, filed 3/27/91, effective 4/27/91)

WAC 16-354-005 Hop rootstock—General. (1) Rootstocks of hops (*Humulus Lupulus L.*) may be designated as foundation stock, registered stock and certified stock when inspected, tested and found to be discernibly free from Iilar viruses and virus-like diseases, downy mildew, powdery mildew, verticillium wilt, crown gall, rootknot nematode, hop cyst nematode or other serious pests, by procedures and inspections outlined in this program.

(2) The issuance of a state of Washington certified plant tag or stamp under this chapter affirms only that the tagged or stamped hop rootstock has been subjected to certification procedures to determine compliance with standards by the department. The department disclaims all express or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant materials under this chapter.

(3) The department is not responsible for disease, genetic disorders, off-type, failure of performance, mislabeling, or otherwise, in connection with this chapter. No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty, or

to accept financial responsibility on behalf of the department regarding this chapter.

(4) Participation in the hop rootstock certification program shall be voluntary.

AMENDATORY SECTION (Amending Order 2077, filed 3/27/91, effective 4/27/91)

WAC 16-354-010 Definitions. (1) "Iilar virus" means a grouping of viruses, including Apple Mosaic Virus and Prunus Necrotic Ringspot, which share common characteristics including spherical in shape, with genetic material in three different particles and commonly inducing ring spots in hosts.

(2) "Virus-like" means a transmissible disorder of unknown cause.

(3) "Index" means to determine virus infection by means of inoculation from the plant to be tested to an indicator plant or by any other method.

(4) "Foundation rootstock" means slips or rhizomes, cuttings and rooted plants taken from hop stocks established and maintained by Washington State University, that are indexed, and believed to be free from known viruses and which will be genetically uniform. Cuttings or rooted plants, which shall be used to establish certified mother blocks shall be furnished to the applicant for a fee determined by Washington State University.

(5) "Certified mother block" means a planting of hop stocks established from foundation rootstock.

(6) "Certified rootstock" means rootstock produced from certified mother blocks and meeting the requirements as herein provided.

(7) "Verticillium wilt" means the disease caused by *Verticillium albo-atrum* Reinke & Berth. or hop strains of this organism.

(8) "Downy mildew and/or black rot" means the disease caused by *Pseudoperonospora humuli* Miy. & Tak., G. W. Wils. Black roots caused by this disease shall not be permitted.

(9) "Powdery mildew" means the disease caused by *Sphaerotheca humuli* (DC) Burrill = *Sphaerotheca macularis* (WALLR.: FR) Lind.

(10) "Crown gall" means the disease caused by *Agrobacterium tumefaciens* E. F. Sm. & Towns., Conn.

~~((10))~~ (11) "Rootknot nematode" means the nematode *Meloidogyne* sp.

~~((11))~~ (12) "Hop cyst nematode" means the nematode *Heterodera humuli* Filipjev.

~~((12))~~ (13) "Crown" means a slip or layered stem cutting with visible buds, that has been grown for one or two years.

~~((13))~~ (14) "Fairly fresh" means that the roots or cuttings are not excessively wilted.

~~((14))~~ (15) "Firm" means that the plant parts are not soft or spongy, although they may yield to slight pressure.

~~((15))~~ (16) "Moist" means that the plant parts are reasonably turgid and not dried to a degree that would affect normal growth.

~~((16))~~ (17) "Fairly clean" means that the plant parts are not matted or caked with dirt.

((17)) (18) "Free from damage caused by mold" means that the plants shall be free from excessive mold or decay. Plants slightly affected by mold shall be allowed.

((18)) (19) "Free from damage caused by freezing injury" means that the roots shall be of a normal color and only moderately affected by discolored roots which affect the normal growth of the plant.

((19)) (20) "Broken or mutilated rootstock" means the breaking of the root section or splitting of the plant part or other mechanical injury that would affect the normal growth of the plant.

((20)) (21) "Department" means the Washington state department of agriculture.

((21)) (22) "Director" means the director of the Washington state department of agriculture or the director's authorized representative.

AMENDATORY SECTION (Amending Order 2077, filed 3/27/91, effective 4/27/91)

WAC 16-354-070 Hop rootstock field standards. (1) The unit of certification shall be the entire lot within the field standing at the time of inspection.

(2) Specific requirements. (Percentage tolerances)

	<u>Certified</u>
Downy mildew	1%
Nematodes (visible)	1%
Verticillium wilt	0
ilar viruses	0
<u>Powdery mildew</u>	<u>0</u>

**WSR 95-15-100
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed July 19, 1995, 9:40 a.m.]

Original Notice.

Title of Rule: Washington State Department of Agriculture rules of administrative procedure.

Purpose: To establish in procedural rule who, in the Department of Agriculture, may serve as "reviewing officer" and "presiding officer."

Statutory Authority for Adoption: RCW 34.05.425.

Statute Being Implemented: Chapter 34.05 RCW.

Summary: Clarify who may serve in the "reviewing officer" and "presiding officer" roles in an adjudicative proceeding within the Washington State Department of Agriculture.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dannie McQueen, P.O. Box 42560, Olympia, 98504-2560, (360) 902-1809.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To clarify in rule who in the Department of Agriculture may serve as "reviewing officer" and "presiding officer."

Proposal Changes the Following Existing Rules: Expands who may serve as a "reviewing officer" in an adjudicative proceeding.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. There is no economic impact on parties to an adjudicative proceeding.

Hearing Location: Department of Agriculture, Room 205, 1111 Washington Street S.E., Olympia, WA 98504-2560, on August 22, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by August 21, 1995, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Dannie McQueen, FAX (360) 902-1809, by August 22, 1995.

Date of Intended Adoption: August 22, 1995.

July 19, 1995

William E. Brookreson

Assistant Director

AMENDATORY SECTION (Amending WSR 91-23-051, filed 11/15/91, effective 12/16/91)

WAC 16-08-002 Definitions. The definitions set forth in this section shall apply throughout this chapter unless the context otherwise requires:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department of agriculture.

(3) "Reviewing officer" means the deputy director or administrative regulations analyst of the department of agriculture, who the director hereby designates to exercise all decision making powers to review initial orders, and prepare and enter final orders for the director of agriculture pursuant to RCW 34.05.464(2), or the director of agriculture. The reviewing officer shall mean the director in those cases where the deputy director has acted as the presiding officer.

AMENDATORY SECTION (Amending WSR 93-10-059, filed 4/30/93, effective 5/31/93)

WAC 16-08-021 Presiding officer. (1) The director will designate the presiding officer for an adjudicative proceeding:

(a) In matters involving an adjudicative proceeding, the director may designate as presiding officer an administrative law judge assigned by the office of administrative hearings under the authority of chapter 34.12 RCW, or the deputy director, the assistant director, agency operations division; the assistant director, laboratory services division; or the administrative regulations analyst of the department;

(b) In matters involving an emergency or brief adjudicative proceeding or involving a proceeding pursuant to WAC 16-08-022, the director may designate in writing staff persons to function as the presiding officer.

(2) A person who has served as an investigator, prosecutor, or advocate in any stage of an adjudicative proceeding or someone who is subject to the authority or direction of such a person, may not serve as a presiding officer in the same proceeding.

(3) The presiding officer shall have the authority to:

(a) Determine the order of presentation of evidence;

(b) Administer oaths and affirmations;

PROPOSED

- (c) Issue subpoenas;
- (d) Rule on procedural matters, objections, and motions;
- (e) Rule on offers of proof and receive relevant evidence;
- (f) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;
- (g) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;
- (h) Take any appropriate action necessary to maintain order during the hearing;
- (i) Permit or require oral argument or briefs and determine the time limits for submission thereof;
- (j) Take any other action necessary and authorized by any applicable statute or rule;
- (k) Waive any requirement of these rules unless a party shows that it would be prejudiced by such a waiver.

WSR 95-15-103
PROPOSED RULES
BOARD OF BOILER RULES
 [Filed July 19, 1995, 9:47 a.m.]

Original Notice.

Title of Rule: Chapter 296-104 WAC.

Purpose: To comply with actions taken by the Board of Boiler Rules and to update current rules.

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040.

Statute Being Implemented: Duties of board—Make definitions, rules and regulations—Boiler construction code. Rules and regulations—Scope.

Summary: WAC 296-104-015 Board meetings, clarifies title for consistency; WAC 296-104-020 Administration—Filing requirements before installation, gives inspectors option on filing manufacturers' data reports. Would not require filing with chief inspector if filed with the national board. Second hand boilers would require a data report or construction details and approval from chief inspector before starting installation; WAC 296-104-025 Administration—Owner to notify chief inspector in case of accidents, defines methods of notification. Clarifies wording and defines responsibility for costs involved in department investigation; WAC 296-104-030 Administration—Penalty for operation of unsafe boiler or unfired pressure vessels, defines violations and cites pertinent WAC for penalties; WAC 296-104-035 Administration—Inspectors to have no other interests, rewords title for consistency. Further redefines wording; WAC 296-104-040 Administration—Inspectors to submit inspection reports, deletes words "to submit." Clarifies wording and adds requirements for reinspection after suspension of inspection certificate; WAC 296-104-045 Administration—Insurance companies to notify the chief inspector of new, canceled or suspended risk, deletes words "to notify the chief inspector of new, canceled or suspended risk" and adds "responsibilities" after "Insurance companies." Adds more specific responsibilities of special inspectors for in-service inspections and repairs or alterations; WAC 296-104-100 Inspection—Frequency of inspections, allows

biennial internal inspections for organic vapor boilers. Allows latitude of internal inspection frequency for low pressure heating boilers meeting certain criteria. Mandates biennial internal inspection of low water fuel cutoff; WAC 296-104-105 Inspection—Notification of inspection, clarifies wording; WAC 296-105-110 Inspection—Inspectors to notify the chief inspector of defective boilers or unfired pressure vessels, deletes "Inspectors to notify the chief inspector of" and adds "Unsafe or" to title. Clarifies specifies [specific] actions to be taken when unsafe vessel is found; WAC 296-104-115 Inspection—Defective conditions disclosed at time of external inspection, deletes "disclosed at time of external inspection" and adds "concealed by covering"; WAC 296-104-120 Inspection—Condemned boilers or unfired pressure vessel, delete entire rule. Adequately addressed in WAC 296-104-110; WAC 296-104-130 Inspection—Validity of inspection certificate, adds provisions for portable unfired pressure vessels with certificates to be considered valid if issuing jurisdiction has a reciprocal agreement with the state and certificate is posted; WAC 296-104-135 Inspection—Restamping of boilers and unfired pressure vessels, clarifies wording; WAC 296-104-140 Inspection—State stamp, clarifies proper marking. Amends requirement for data sheets for first inspection so they are not required to be filed with chief inspector if they have been filed with the national board; WAC 296-104-145 Inspection of systems, deletes "of" from title. Clarifies numbering and reports for groups of unfired pressure vessels operating as a single unit; and WAC 296-104-150 Inspection of systems—Unfired steam boilers, deletes "of systems" from title.

Reasons Supporting Proposal: To comply with actions taken by the Board of Boiler Rules to clarify wording and make existing WACs consistent with nationally accepted codes and standards and to respond to industry requests.

Name of Agency Personnel Responsible for Drafting: Dick Barkdoll/Pat Carlson-Brown, 7273 Linderson Way S.W., (360) 902-5270.

Name of Proponent: Board of Boiler Rules, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 296-104-015, adds "Administration" before title for consistency; WAC 296-104-020, gives inspectors option on filing manufacturers' data reports. Would not require filing with chief inspector if filed with the national board. Second hand boilers would require a data report or construction details and approval from chief inspector before starting installation; WAC 296-104-025, clarifies wording and defines responsibility for costs involved in department investigation. Defines methods of notification; WAC 296-104-030, defines violations and cites pertinent WAC for penalties; WAC 296-104-035, defines wording for clarification; WAC 296-104-040, clarifies wording and adds requirements for reinspection after suspension of inspection certificate; WAC 296-104-045, clarifies wording and defines responsibilities of insurance companies. Adds more specific responsibilities of special inspectors for in-service inspections and repairs or alterations; WAC 296-104-100, allows biennial internal inspections for organic vapor boilers. Allows latitude of internal inspection frequency for low pressure heating boilers meeting certain criteria. Mandates

biennial internal inspection of low water fuel cutoff; WAC 296-104-105, clarifies wording; WAC 296-105-110, clarifies specific actions to be taken when unsafe vessel is found; WAC 296-104-115, clarifies wording; WAC 296-104-120, delete entire rule. Adequately addressed in WAC 296-104-110; WAC 296-104-130, adds provisions for portable unfired pressure vessels with certificates to be considered valid if issuing jurisdiction has a reciprocal agreement with the state and certificate is posted; WAC 296-104-135, clarifies wording; WAC 296-104-140, clarifies proper marking. Amends requirement for data sheets for first inspection so they are not required to be filed with chief inspector if they have been filed with the national board; WAC 296-104-145, clarifies numbering and reports for groups of unfired pressure vessels operating as a single unit; and WAC 296-104-150, clarifies title for consistency.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The Board of Boiler Rules and the department have considered whether these rules are subject to the Regulatory Fairness Act and have determined that they are not for the following reasons: The changes made in the rules shown below are for clarification to existing rules of chapter 296-104 WAC for the purpose of clarification and to be consistent with national codes and standards. There is no financial impact on small businesses in these amendments. The provision in WAC 296-104-025 defining the responsibility of the owner of boilers or undired [unfired] pressure vessels to reimburse labor and industries for the cost of investigating an explosion or other serious accident reflects the historical conduct of the agency and merely constitutes the board's recognition of that policy.

Hearing Location: Labor and Industries, 7273 Linderson Way S.W., Tumwater, on September 12, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Dick Barkdoll by September 11, 1995.

Submit Written Comments to: Dick Barkdoll, Labor and Industries, Boiler Section, P.O. Box 44410, Olympia, WA 98504-4410, FAX (360) 902-5292, by September 12, 1995.

Date of Intended Adoption: September 12, 1995.

July 18, 1995
Robert Reid
Chairman

AMENDATORY SECTION (Amending WSR 91-11-107, filed 5/22/91, effective 6/22/91)

WAC 296-104-015 Administration—Board meetings. The board of boiler rules shall hold its regular meetings in January, March, May, September and November of each year. The time, place, and date of each regular meeting shall be set by the chairman of the board and published annually. Special meetings may be called by the chairman when considered necessary by the board. The chief inspector will serve as secretary to the board without vote.

AMENDATORY SECTION (Amending Order 74-37, filed 11/8/74)

WAC 296-104-020 Administration—Filing requirements before installation. Manufacturers data reports on boilers and pressure vessels as required by the provisions of the ASME Code (~~(and the National Board of Boiler and Pressure Vessel Inspectors)~~) shall be filed by the owner or his agent with the chief inspector or the National Board of Boiler and Pressure Vessel Inspectors before installation. When the boilers or pressure vessel are of special design or construction not covered by the ASME Code (unless otherwise exempted by the rules and regulations), the (~~proposed~~) owner or user shall apply to the (~~chief inspector~~) board of boiler rules in writing for permission to install such boilers or pressure vessels and shall supply such details of design and construction as may be required by the (~~chief inspector~~) board of boiler rules and (~~his~~) approval shall be secured before construction is started. When (~~used or~~) second hand boilers or pressure vessels are to be (~~installed~~) reinstalled, the owner or user shall (~~similarly apply~~) file a data report or construction details, as required, and secure approval from the chief inspector before starting installation.

AMENDATORY SECTION (Amending Part II, filed 3/23/60)

WAC 296-104-025 Administration—Owner to notify chief inspector (~~in case~~) of accidents. When an accident occurs which (~~serves to~~) renders a boiler or unfired pressure vessel inoperative, the owner or user shall immediately notify the chief inspector, and submit a detailed report of the accident. In cases of serious accidents, such as explosions or those resulting in personal injury, notice to the chief inspector shall be given immediately by telephone (~~or telegraph~~) or (~~messenger and~~) electronic means designed to assure its earliest possible receipt. Neither the boiler or unfired pressure vessel nor any parts thereof shall be removed or disturbed before (~~and~~) an inspection has been made by the chief inspector, (~~deputy inspector or special inspector, unless~~) or his designee except for the purpose of saving life or limiting consequential damage. The inspector making the investigation and inspection shall report to the chief inspector as soon as possible. The boiler or pressure vessel owner shall be responsible for all costs of the department's investigation.

AMENDATORY SECTION (Amending Part II, filed 3/23/60)

WAC 296-104-030 Administration—Penalty for operation of unsafe boilers or unfired pressure vessels. (~~If upon inspection~~) In the event that a boiler or unfired pressure vessel is (~~found to be in such condition that it is~~) unsafe to operate, the inspection certificate shall be suspended (~~by the inspector~~). Any person, firm, partnership, or corporation causing such objects to be operated under pressure without a valid certificate of inspection shall be (~~subject to the provisions~~) in violation of RCW (~~(70.79.310)~~) 70.79.320 and subject to the penalties specified in WAC 296-104-701.

AMENDATORY SECTION (Amending Part II, filed 3/23/60)

WAC 296-104-035 Administration—~~(Inspectors to have no other)~~ Conflict of interests. Inspectors commissioned by the state of Washington shall not ~~((be engaged))~~ engage in the sale of any service, article, or device ~~((related))~~ or promote any other activity for personal gain relating to boilers or unfired pressure vessels ~~((and shall devote their full time to inspection work))~~ or their appurtenances.

AMENDATORY SECTION (Amending Order 74-37, filed 11/8/74)

WAC 296-104-040 Administration—Inspector's ~~((to submit))~~ inspection reports. Inspectors shall submit reports of inspections of boilers and unfired pressure vessels on appropriate forms ~~((as))~~ approved by the chief inspector. Routine reports of inspections shall be submitted within thirty days of inspection. ~~((Requests for variance from regular inspection date shall be in writing. When hazardous conditions are discovered during any inspection remedial action shall be initiated at once and reported to the chief inspector.))~~ Reports of reinspection after suspension of an inspection certificate shall be submitted by an inspector employed by the in-service inspection agency as soon as notice of corrective action has been received so that the vessel certificate can be reinstated and the boiler or unfired pressure vessel lawfully operated.

AMENDATORY SECTION (Amending Part II, filed 3/23/60)

WAC 296-104-045 Administration—Insurance companies' ~~((to notify the chief inspector of new, canceled or suspended risks))~~ responsibilities. All insurance companies shall notify the chief inspector within thirty days of all boiler or unfired pressure vessel risks written, canceled, not renewed or suspended because of unsafe conditions. Special inspectors shall perform all in-service inspections of boilers and unfired pressure vessels insured by their employer. After a repair or alteration the in-service inspector is responsible to assure an R-1 form is completed and submit a copy of the R-1 form to the department with his/her inspection report.

AMENDATORY SECTION (Amending WSR 94-21-002, filed 10/5/94, effective 11/5/94)

WAC 296-104-100 Inspection—Frequency of inspections. Power boilers shall be inspected annually both internally and externally while not under pressure, and annually externally while under pressure, except organic vapor boilers which shall be internally inspected biennially and externally annually.

Low pressure heating boilers shall be inspected externally biennially. ~~((Where construction permits,))~~ They shall in addition be inspected internally ~~((at the same time))~~ biennially except where construction does not permit an internal inspection or those nonvapor boilers using glycol, or oil, or those adequately treated with a corrosion inhibitor. Low pressure steam boilers shall, as a minimum, have a biennial internal inspection of their low water fuel cutoff.

Unfired pressure vessels shall be inspected externally biennially. Where subject to corrosion and construction permits they shall in addition be inspected internally biennially or at intervals established in accordance with the NBIC or API-510 when utilized by an owner/user inspection agency.

When internal intervals are extended by an owner/user inspection agency, based on the NBIC or API-510, ultrasonic examination is required at the biennial external certificate inspection.

Unfired pressure vessels not subject to internal corrosion shall be inspected externally biennially.

AMENDATORY SECTION (Amending Part III, filed 3/23/60)

WAC 296-104-105 Inspection—Notification of inspection. The owner or user shall prepare each boiler and unfired pressure vessel for internal inspection and shall prepare for and apply a hydrostatic pressure test whenever necessary on the date specified by the inspector ~~((, which date shall not be less than))~~. Seven days ~~((after the date of))~~ will be considered sufficient notification.

AMENDATORY SECTION (Amending Part III, filed 3/23/60)

WAC 296-104-110 Inspection—~~(Inspectors to notify the chief inspector of)~~ Unsafe or defective boilers or unfired pressure vessels. If an inspector, upon inspection of a boiler or unfired pressure vessel or ~~((any of their))~~ appurtenances finds ~~((that they do not comply with the Washington state boiler and unfired pressure vessels law rules and regulations, he shall immediately notify the chief inspector and submit a report of the defects))~~ hazardous conditions such that it is unsafe to operate under pressure, remedial action shall be initiated at once. A red tag indicating "unsafe - do not use" shall be attached to the principle operating control and the owner or user advised that further operation is prohibited until specified repairs or other action are taken. The chief inspector shall be notified immediately, followed by a report on the condition. Any certificate in force is considered suspended. When reinspection establishes that necessary repairs have been made or corrective action taken so that the boiler or unfired pressure vessel is safe to operate, a report of reinspection shall be submitted to the chief inspector. The certificate of inspection will then be reinstated or a new certificate issued as appropriate.

If other defects, but not unsafe conditions, are found, a routine inspection report containing a noncompliance report shall be submitted to the chief inspector and the owner or user allowed to operate the object for a period as specified by the inspector until corrective action is completed.

AMENDATORY SECTION (Amending Part III, filed 3/23/60)

WAC 296-104-115 Inspection—Defective conditions ~~((disclosed at time of external inspection))~~ concealed by covering. If upon an external inspection there is evidence of a leak or crack, enough of the covering of the boiler or unfired pressure vessel shall be removed to satisfy the inspector in order that he/she may determine as to the safety

of the boiler or unfired pressure vessel, or if the covering cannot be removed at the time, he may order the operation of the boiler or unfired pressure vessel stopped until such time as the covering can be removed and proper examination made.

AMENDATORY SECTION (Amending Part III, filed 3/23/60)

WAC 296-104-130 Inspection—Validity of inspection certificate. An inspection certificate, issued in accordance with RCW 70.79.290, shall be valid until expiration unless some defect or condition affecting the safety of the boiler or unfired pressure vessel is disclosed (~~(— Provided, however, That a certificate issued for a boiler or unfired pressure vessel inspected by a special inspector shall be valid only if the boiler or unfired pressure vessel for which it was issued continues to be insured by a duly authorized insurance company or operated by a duly authorized company))~~ or the conditions of RCW 70.79.300 apply.

When portable unfired pressure vessels are inspected and certified by the state or the city jurisdictions of Spokane, Seattle or Tacoma, the certificates will be considered valid certificates provided they are posted on or near the vessel, and provided there is an agreement between that city and the state.

AMENDATORY SECTION (Amending Part III, filed 3/23/60)

WAC 296-104-135 Inspection—Restamping of boilers and unfired pressure vessels. When the stamping on a boiler or unfired pressure vessel becomes indistinct the inspector shall instruct the owner or user to have it restamped. Request for permission to restamp the boiler or unfired pressure vessel shall be made to the chief inspector and proof of the original stamping shall accompany the request (~~(authorized by the chief inspector)~~). Restamping authorized by the chief inspector shall be done only (~~(by)~~) in the presence of an inspector, and shall be identical with the original stamping except that it will not be required to restamp the ASME symbol. Notice of completion of such restamping shall be filed with the chief boiler inspector by the inspector who (~~(stamped)~~) witnessed the restamping of the boiler or unfired pressure vessel together with a facsimile of the stamping applied.

AMENDATORY SECTION (Amending Order 73-1, filed 3/22/73)

WAC 296-104-140 Inspection—State stamp. Upon completion of the installation, all boilers and unfired pressure vessels shall be inspected by the chief inspector, a deputy inspector, or a special inspector. At the time of this inspection, each boiler or unfired pressure vessel shall be (~~(stamped)~~) marked with a serial number of the state of Washington followed by the letter "W," said letter and figures to be not less than 5/16 in. in height. The (~~(stamping)~~) marking shall not be concealed by lagging or paint and shall be exposed at all times. (~~(A metal tag 1 inch by 3 inches minimum, with the state number stamped thereon may be used where construction does not permit a direct stamp on the boiler or unfired pressure vessel.)~~)

Data sheets (~~(properly filled in and signed)~~) shall be made available at the time of first inspection if not filed with the National Board.

Washington special numbers when assigned by the chief inspector shall be preceded by the letters: WS.

AMENDATORY SECTION (Amending Part III, filed 3/23/60)

WAC 296-104-145 Inspection of systems. A group of unfired pressure vessels operating as a single unit such as the vessels in a refrigeration system, evaporators, ironers and paper machines (~~(shall be classed as a single unit and shall))~~ may be given one number, designating the different vessels of the unit as a-b-c, etc. The inspector's report shall cover all pressure vessels in the system individually. One certificate shall be issued for the unit. Certificate charge shall be as outlined in RCW 70.79.290, for each vessel of the system.

AMENDATORY SECTION (Amending Part III, filed 3/23/60)

WAC 296-104-150 Inspection (~~(of systems)~~)—Unfired steam boilers. Unfired steam boilers operating at pressures of 50 psi or more shall be inspected as power boilers. Unfired steam boilers operating at less than 50 psi shall be inspected as unfired pressure vessels.

AMENDATORY SECTION (Amending Part III, filed 3/23/60)

WAC 296-104-155 Inspection (~~(of systems)~~)—Preparation for internal inspection. The owner or user shall prepare a boiler for internal inspection in the following manner or as required by the inspector:

(a) Water shall be drawn off and the boiler thoroughly washed.

(b) All manhole and handhole plates and wash-out plugs and water column connections shall be removed, the furnace and combustion chambers thoroughly cooled and cleaned.

(c) All grates of internally fired boilers shall be removed.

(d) At each annual inspection brickwork shall be removed as required by the inspector in order to determine the condition of the boiler headers, furnace, supports, or other parts.

(e) The steam (~~(gauge)~~) gauge shall be removed for testing or evidence of testing shown.

(f) Any leakage of steam or hot water into the boiler shall be cut off by disconnecting the pipe or valve at the most convenient point.

(g) The low water cutout shall be disassembled to such a degree as the inspector shall require.

AMENDATORY SECTION (Amending Part III, filed 3/23/60)

WAC 296-104-160 Inspection (~~(of systems)~~)—Boilers or unfired pressure vessels improperly prepared for inspection. If a boiler or unfired pressure vessel has not been properly prepared for an internal inspection, or the owner or user fails to comply with the requirements for hydrostatic test as set forth in these rules, the inspector may decline to make the inspection or test and the certificate of

inspection shall be withheld until the owner or user complies with the requirements.

Unfired pressure vessels shall be prepared for inspection to the extent deemed necessary by the inspector.

AMENDATORY SECTION (Amending Part III, filed 3/23/60)

**WAC 296-104-165 Inspection ((of systems))—
Removal of covering to permit inspection.** If the boiler or unfired pressure vessel is jacketed so that the longitudinal seams of shells, drums, or domes cannot be seen, enough of the jacketing, setting wall, or other form of casing or housing shall be removed so that the size of the rivets, pitch of the rivets, and other data necessary to determine the safety of the boiler or unfired pressure vessel may be obtained provided such information cannot be determined by other means.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-104-120 Inspection—Condemned boilers or unfired pressure vessel.

WSR 95-15-104

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 93-16—Filed July 19, 1995, 9:59 a.m.]

Original Notice.

Title of Rule: Chapter 173-354 WAC, Used oil management standards.

Purpose: To encourage the recycling and sound management of used oil.

Other Identifying Information: Equivalent to 40 CFR Part 279.

Statutory Authority for Adoption: Chapter 70.95I RCW, RCW 70.105.125, 70.95.060.

Statute Being Implemented: Chapter 70.95I RCW, also RCW 70.105.220 - [70.105].270.

Summary: Establishes rules in the management of used oil from generation to disposal. Simplifies recycling requirements, as well as requirements related to other higher forms of management as delineated in RCW 70.105.150. In addition, sets standards for prevention of release to the environment, and recordkeeping for facilities which manage used oil.

Reasons Supporting Proposal: Federal requirement under Resource Conservation and Recovery Act. Divert nearly four million gallons of used oil from entering state's waters annually.

Name of Agency Personnel Responsible for Drafting: William P. Green, Solid Waste Services, 300 Desmond Drive, Lacey, WA 98503, (360) 407-6109; Implementation and Enforcement: David E. B. Nightingale, Solid Waste Services, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6106.

Name of Proponent: Washington State Department of Ecology, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to public request, the department has prepared a table comparing, essentially paragraph for paragraph, the contents of the federal rule (40 CFR part 279) with this rule. Those interested in receiving this document, should mail requests to: David Nightingale, Solid Waste Services Program, Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, or call (360) 407-6106, or FAX (360) 407-6102.

In addition, the department is seeking specific comments both pro and con to the following issues:

Do you prefer the increased readability and simplified format?

What threshold should exist for the reporting of oil spills in WAC 173-354-200?

Are secondary containment requirements in WAC 173-354-320 and 173-354-340 adequate or overly burdensome?

Should used oil from households and small businesses be allowed to mix or commingle, as discussed in WAC 173-354-460?

Is the 1.0% ash content for burning used oil in WAC 173-354-525 too stringent? What alternatives are there to protect air quality?

How should oil filters be managed in WAC 173-354-700? Should oil filters be banned from disposal in municipal solid waste landfills?

Rule is necessary because of federal law, 40 Code of Federal Regulations 271.26.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule will encourage used oil recycling by establishing the infrastructure to manage the used oil through simplified rules. As collection has increased across the state in response to the implementation of the 1991 Used Oil Recycling Act, concerns arose among the citizens and collectors as to if the oil was being managed in an environmentally sound manner. Concerns of liability were also expressed for improperly managed oil under the Model Toxic Control Act. In addition, there was discussion to regulate oil under the dangerous waste regulations. To answer these concerns, and, by removing the uncertainty, ecology hopes to encourage more businesses to properly manage used oil. With the added convenience, more used oil will be collected and recycled.

Proposal Changes the Following Existing Rules: The rule incorporates, and replaces chapters 212-51 and 173-330 WAC. Also incorporated and replaced is WAC 173-303-515 of the Dangerous Waste Regulations, chapter 173-303 WAC. This was done to provide a comprehensive rule for the regulated community to refer to. Sections of the Uniform Fire Code are also referenced, and in some cases repeated. Sections of chapter 173-400 WAC are also referenced.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? Yes. A copy of the statement may be obtained by writing to: David E. B. Nightingale, Solid Waste Services, Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6106, or FAX (360) 407-6102.

Hearing Location: Auditorium, Ecology Headquarters, 300 Desmond Drive, Lacey, WA 98503, on September 7, 1995, at 2-4 p.m. and 5-7 p.m.

PROPOSED

Assistance for Persons with Disabilities: Contact David E. B. Nightingale by September 5, 1995, TDD (360) 407-6006.

Submit Written Comments to: David E. B. Nightingale, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, FAX (360) 407-6102, by September 21, 1995.

Date of Intended Adoption: October 10, 1995.

July 14, 1995
Terry Husseman
Deputy Director

Reviser's note: The material contained in this filing will appear in the 95-16 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 95-15-105

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF LICENSING

[Filed July 19, 1995, 10:04 a.m.]

The Department of Licensing hereby withdraws proposed rule WAC 308-56A-090 filed on June 29, 1995, as part of WSR 95-14-075.

Nancy Kelly
Administrator
Title and Registration Services

WSR 95-15-107

PROPOSED RULES DEPARTMENT OF HEALTH

[Filed July 19, 1995, 10:28 a.m.]

Original Notice.

Title of Rule: Chapter 246-291 WAC, Group B public water systems. Regulations governing small water systems.

Purpose: To clarify what water systems are subject to this rule and what systems may be exempted from some or all requirements. It also proposes changes mandated by the recently passed legislation E2SSB 5448, which would require new systems to be owned and/or operated by a department-approved Satellite Management Agency where available.

Statutory Authority for Adoption: RCW 43.20.050.

Summary: Changes are intended to clarify requirements, lessen requirements for existing approved systems and implement new legislation for new systems.

Reasons Supporting Proposal: New legislation and lessening of regulatory oversight.

Name of Agency Personnel Responsible for Drafting: Rich Sarver, Airdustrial Building #3, 7822, (360) 586-8123; Implementation: B-David Clark, Airdustrial Building #3, 7822, (360) 753-1280; and Enforcement: John Aden, Airdustrial Building #3, 7822, (360) 664-0441.

Name of Proponent: Washington State Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed revisions will clarify existing requirements and allow the department and local health jurisdictions where applicable, to waive certain requirements for approved

existing systems. The rule also incorporates new legislative direction for new systems.

Proposal Changes the Following Existing Rules: Proposed changes would allow for waivers of certain requirements for certain types of Group B water systems. Adds requirements for ownership and/or operation of new systems by satellite management agencies where available.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The proposed revisions will have a minor or negligible economic impact.

Hearing Location: Quality Inn, 700 Port Drive, Clarkson, WA 99403, on September 13, 1995, at 11:10 a.m.

Assistance for Persons with Disabilities: Contact John Aden, (360) 664-0441 by September 1, 1995.

Submit Written Comments to: Michelle Davis, 1112 S.E. Quince Street, Mailstop 7890, Olympia, WA 98504-7890, FAX (360) 586-7424, by September 1, 1995.

Date of Intended Adoption: September 13, 1995.

July 18, 1995

Sylvia I. Beck
Executive Director

AMENDATORY SECTION (Amending WSR 94-14-002, filed 6/22/94, effective 7/23/94)

WAC 246-291-010 Definitions. Abbreviations:

CSE - comprehensive system evaluation;

GW - ground water under the direct influence of surface water;

m - meter;

MCL - maximum contaminant level;

mg/L - milligrams per liter;

ml - milliliter;

mm - millimeter;

NTU - nephelometric turbidity unit;

psi - pounds per square inch;

umhos/cm - micromhos per centimeter;

VOC - volatile organic chemical;

WFI - water facilities inventory form; and

WHPA - wellhead protection area.

"Authorized agent" means any person who:

Makes decisions regarding the operation and management of a public water system whether or not he or she is engaged in the physical operation of the system;

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

Has discretion over the finances of the system.

"Coliform sample" means a sample of water collected from the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.

"Comprehensive system evaluation (CSE)" means a review, inspection and assessment of a public water system, including, but not limited to: Source; facilities; equipment; operation and administration; maintenance; records; planning documents and schedules; and monitoring, for the purpose of ensuring that safe and adequate drinking water is provided.

"Confirmation" means to demonstrate the results of a sample to be precise by analyzing a repeat sample. Confirmation occurs when analysis results fall within plus or minus thirty percent of the original sample.

"**Contaminant**" means a substance present in drinking water which may adversely affect the health of the consumer or the aesthetic qualities of the water.

"**Cross-connection**" means a physical arrangement connecting a public water system, directly or indirectly, with anything other than another potable water system, and capable of contaminating the public water system.

"**Department**" means the Washington state department of health or health officer as identified in a joint plan of operation in accordance with WAC 246-291-030(1).

"**Disinfection**" means the use of chlorine or other agent or process the department approves for killing or inactivating microbiological organisms, including pathogenic and indicator organisms.

"**Distribution system**" means that portion of a public water supply system which stores, transmits, pumps, and distributes water to consumers.

"**Expanding public water system**" means a public water system installing additions, extensions, changes, or alterations to their existing source, transmission, storage, or distribution facilities which will enable the system to increase in size its existing service area and/or its number of approved service connections.

"**Fire flow**" means the rate of water flow needed to fight fires under WAC 246-293-640 or adopted city, town, or county standards.

"**Generator disconnect**" means an electrical circuit arranged to allow connection of a generator to the power supply for the pumping equipment while prohibiting electrical current from flowing back into the main service line.

"**Ground water under the direct influence of surface water (GWI)**" means any water beneath the surface of the ground, which the department determines has the following characteristics:

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

Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions.

~~("Group A water system" means a public water system:~~

~~With fifteen or more service connections, regardless of the number of people; or serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections:))~~

"**Group B water system**" means a public water system ~~((with):~~

~~Constructed to serve less than fifteen ((service connections and serving:)) residential services regardless of the number of people; or~~

~~Constructed to serve an average nonresidential population of less than twenty-five ((people)) per day for sixty or more days within a calendar year; or~~

Any number of people for less than sixty days within a calendar year.

"**Guideline**" means a department document assisting the owner in meeting a rule requirement.

"**Health officer**" means the health officer of the city, county, city-county health department or district, or an authorized representative.

"**Hydraulic analysis**" means the study of the water system network evaluating water flows within the distribution system under worst case conditions such as, peak hourly design flow plus fire flow, when required. Hydraulic analysis includes consideration of all factors affecting system energy losses.

"**Maximum contaminant level (MCL)**" means the maximum permissible level of a contaminant in water delivered to any public water system user.

"**Maximum contaminant level violation**" means a confirmed measurement above the MCL and for a duration of time, where applicable.

"**Owner**" means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that holds as property, a public water system.

"**Peak hourly design flow**" means the maximum rate of water use, excluding fire flow, which can be expected to ever occur within a defined service area over a sixty minute time period.

"**Potable**" means water suitable for drinking by the public.

"**Pressure zone**" means a distribution system whereby an established minimum and maximum pressure range can be maintained without the use of ancillary control equipment (e.g., booster pumps, pressure reducing valves, etc.).

"**Primary standards**" means standards based on chronic, nonacute, or acute human health effects.

"**Public water system**" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including collection, treatment, storage, or distribution facilities used primarily in connection with such system.

"**Repeat sample**" means a sample collected to confirm the results of a previous analysis.

"**Same farm**" means a parcel of land or series of parcels which are connected by covenants and devoted to the production of livestock or agricultural commodities for commercial purposes and does not qualify as a Group A water system.

"**Secondary standards**" means standards based on factors other than health effects such as taste and odor.

"Sell" means to bill separately for drinking water or to include drinking water as part of an itemized listing in a bill delivered to customers, where the amount billed is an increase over what the purveyor pays for water. The presence of centralized source or individual service meters does not affect whether the water is being sold.

"**Service**" means a connection to a public water system designed to provide potable water.

"**Special purpose sample**" means a sample collected for reasons other than the monitoring compliance specified in this chapter.

"**Standard methods**" means the 18th edition of the book, titled *Standard Methods for the Examination of Water and Waste Water*, jointly published by the American Public Health Association, American Water Works Association

(AWWA), and Water Pollution Control Federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235.

"State board of health" and "board" means the board created by RCW 43.20.030.

"Surface water" means a body of water open to the atmosphere and subject to surface runoff.

"Volatile organic chemical (VOC)" means a manufactured carbon-based chemical that vaporizes quickly at standard pressure and temperature.

"Water facilities inventory form (WFI)" means the department form summarizing each public water system's characteristics.

"Well field" means a group of wells one system owns or controls which:

Draw from the same aquifer or aquifers as determined by comparable inorganic chemical analysis; and

Discharge water through a common pipe and the common pipe shall allow for collection of a single sample before the first distribution system connection.

AMENDATORY SECTION (Amending WSR 94-14-002, filed 6/22/94, effective 7/23/94)

WAC 246-291-020 Applicability. (1) The rules of this chapter shall apply to all Group B public water systems except those systems meeting all of the following conditions:

(a) Consists only of distribution and/or storage facilities and does not have any source or treatment facilities;

(b) Obtains all water from, but is not owned by, a public water system where the rules of this chapter or chapter 246-290 WAC apply;

(c) Does not sell water directly to any person; ~~((and))~~

(d) Is not a passenger-conveying carrier in interstate commerce; and

(e) The distribution system is regulated under the Uniform Plumbing Code, chapter 51-26 WAC.

~~((For the purposes of this section, "sell" shall mean to bill separately for drinking water or to include a drinking water line item as part of an itemized listing in a bill delivered to residences, or equivalent services connected to a public water system.))~~ Examples of systems which shall not be exempt include, but are not limited to, water districts, public utility districts, cooperatives, mutuals and associations which serve residential short plats and subdivisions.

(2) Group B public water systems meeting all of the conditions under subsection (1) of this section may be required by the department to comply with such provisions of this chapter as are necessary to resolve a public health concern if the department determines a public health threat exists or is suspected.

AMENDATORY SECTION (Amending WSR 94-14-002, filed 6/22/94, effective 7/23/94)

WAC 246-291-025 Bottled water. (1) Any water source used for bottling, regardless of size, shall meet the minimum requirements ~~((required under))~~ in accordance with chapter 246-290 WAC.

(2) In addition to the requirements imposed by the department, the processing of bottled water is regulated by

the state department of agriculture and the United States Food and Drug Administration.

AMENDATORY SECTION (Amending WSR 94-14-002, filed 6/22/94, effective 7/23/94)

WAC 246-291-030 General administration. (1) The department and the health officer for each local health jurisdiction may develop a joint plan of operation. Responsibility for administering these rules shall remain with the department of health unless there is a joint plan of operation in place. This plan shall:

(a) List the roles and responsibilities and specifically designate those systems for which the department and local health officer have primary responsibility;

(b) Provide a list of water system requirements and procedures which the local board of health may waive for systems within its jurisdiction;

(c) Provide for a level of water system supervision necessary to effectively achieve listed responsibilities;

(d) Be signed by the department and the local health department or district; and

(e) Be reviewed at least once every five years and updated as needed.

Wherever in these rules the term "department" is used, the term "health officer" may be substituted based on the terms of this joint plan of operation.

(2) The local board of health may adopt rules pursuant to RCW 70.05.060 governing public water systems for which the health officer has assumed primary responsibility. Adopted local board of health rules shall be:

(a) No less stringent and may be more stringent than this chapter; and

(b) Revised, if necessary, within twelve months after the effective date of revised state board of health rules. During this time period, existing local rules shall remain in effect, except provisions of the revised state board of health rules which are more stringent than the local board of health rules shall apply.

(3) For residential systems with only two services, the ((health officer)) department may eliminate any or all requirements of these rules ((for water systems with only two residential connections where the health officer has assumed primary responsibility for these systems)).

(4) For any residential system, the department may eliminate all ongoing requirements of these rules, except for recordkeeping and reporting requirements under WAC 246-291-260, provided the system has been granted an initial approval or it has been categorized as fully approved/adequate or provisionally approved.

(5) The health officer may approve design reports and water system plans which reflect good engineering practice such as those found in the department guideline titled *Group B Water System Approval*, for those public water systems where the health officer has assumed primary responsibility.

~~((5))~~ (6) The health officer may allow system owners to substitute results of a calculated fixed radius method and a ten year time of travel criteria instead of using the six hundred foot radius prescribed in WAC 246-291-100 (2)(f) and 246-291-110 (3)(f).

~~((6))~~ (7) The department may develop and distribute guidelines to clarify sections of the rules as needed.

((7)) (8) Fees may be charged by the department of health as authorized in RCW 43.20B.020 and by local health agencies as authorized in RCW 70.05.060 to recover all or a portion of the costs incurred in administering these rules.

AMENDATORY SECTION (Amending WSR 94-14-002, filed 6/22/94, effective 7/23/94)

WAC 246-291-100 Ground water source approval and protection. (1) The owner shall ensure that drinking water is obtained from the highest quality source feasible. Existing sources shall conform to the primary water quality standards established in this chapter. Proposed sources shall conform to the primary and secondary water quality standards established in this chapter and the well construction standards established under chapter 173-160 WAC. The owner shall be responsible for submitting evidence required by the department to determine whether a proposed ground water source is a GWI.

(2) No new source, previously unapproved source, or modification of an existing source shall be used as a drinking water supply without department approval. A party seeking approval shall ensure compliance with WAC 246-291-140 as applicable and provide:

(a) A copy of the water right permit, if required, obtained from the department of ecology for the source, quantity, type, and place of use;

(b) A copy of the source site inspection approval made by the department or local health jurisdiction representative;

(c) Well source development data establishing source capacity. Data shall include static water level, yield, amount of drawdown, recovery rate and duration of pumping. The source shall be pump tested to determine whether the well and aquifer are capable of supplying water at the rate desired and to provide information necessary to determine proper pump settings. A department guideline titled *Group B Water System Approval* is available to assist owners;

(d) Upgradient water uses affecting either water quality or quantity;

(e) A map showing the project location and vicinity including a six hundred foot radius around the well site designating the preliminary short term ground water contribution area;

(f) A map depicting topography, distances to well or spring from existing property lines, buildings, potential sources of contamination within the six hundred foot radius around the well, and any other natural or man-made features affecting the quality or quantity of water;

(g) The dimensions and location of sanitary control area;

(h) Copies of the recorded legal documents for the sanitary control area;

(i) A copy of the water well report;

(j) A general description of the spring and/or aquifer recharge area affecting the quantity or quality of flow. Seasonal variation shall also be included;

(k) Documentation of totalizing source meter installation;

(l) An initial analysis result of raw water quality from a certified lab, including as a minimum, a bacteriological, complete inorganic chemical and physical analysis of the source water quality;

(m) In areas where the department determines that other contamination may be present, or at the discretion of the department, sample results for these contaminants may be required;

(n) If water quality information from (l) and (m) of this subsection shows a contaminant level of concern, the department may require further action by the owner; and

(o) If water quality results taken from the proposed source confirm a primary MCL violation, the owner shall ensure that appropriate treatment is provided.

(3) The owner shall contact the department before developing or modifying a source, to identify any additional requirements the department deems necessary.

(4) Sanitary control area.

(a) The owner shall ensure that a sanitary control area is maintained around all sources for the purpose of protecting them from existing and potential sources of contamination. A department guideline titled *Group B Water System Approval* describes activities which should be precluded within the sanitary control area and is available from the department on request.

(b) The minimum sanitary control area shall have a radius of one hundred feet (thirty meters) for wells, and two hundred feet (sixty meters) for springs, unless engineering justification supports a smaller area. The justification must address geological and hydrological data, well construction details and other relevant factors necessary to assure adequate sanitary control.

(c) The department may require a larger sanitary control area if geological and hydrological data support such a decision. It shall be the owner's responsibility to obtain the protection needed.

(d) No source of contamination may be constructed, stored, disposed of, or applied within the sanitary control area without the permission of the department and the system owner.

(e) The sanitary control area shall be owned in fee simple, or the owner shall have the right to exercise complete sanitary control of the land through other legal provisions.

(f) The owner shall obtain a duly recorded restrictive covenant which shall run with the land, restricting the use of said land in accordance with these rules.

AMENDATORY SECTION (Amending WSR 94-14-002, filed 6/22/94, effective 7/23/94)

WAC 246-291-110 Surface water and GWI source approval and protection. (1) The owner shall ensure that drinking water is obtained from the highest quality source feasible. Existing sources shall conform to the primary water quality standards established in this chapter. Proposed sources shall conform to the primary and secondary water quality standards established in this chapter. The owner shall be responsible for submitting evidence required by the department to determine whether a proposed ground water source is a GWI.

(2) No new source, previously unapproved source, or modification of an existing source shall be used as a drinking water supply without department approval. As of the effective date of these rules, the department shall no longer approve new or expanding surface water or GWI sources

unless the department determines they meet the following conditions:

(a) The system is under the ownership and operation of a department of health approved satellite management agency; and

(b) Continuous effective treatment, including filtration, disinfection and any other measures required under chapter 246-290 WAC are provided.

(3) An owner seeking source approval shall provide the department:

(a) A copy of the water right permit, if required, obtained from the department of ecology for the source, quantity, type, and place of use;

(b) A copy of the source site inspection approval made by the department or local health jurisdiction representative;

(c) Upgradient water uses affecting either water quality or quantity;

(d) A map showing the project location and vicinity;

(e) A map depicting topography, distances to the surface water intake or GWI source from existing property lines, buildings, potential sources of contamination, ditches, drainage patterns, and any other natural or man-made features affecting the quality or quantity of water;

(f) For GWI sources:

(i) A map depicting topography, distances to well or spring from existing property lines, buildings, potential sources of contamination within the six hundred foot radius around the well, and any other natural or man-made features affecting the quality or quantity of water;

(ii) Copies of the recorded legal documents for the sanitary control area;

(iii) A copy of the water well report if applicable;

(iv) A general description of the recharge area affecting the quantity or quality of flow. Seasonal variation shall also be included;

(v) Well development data establishing source capacity. Data shall include static water level, yield, amount of drawdown, recovery rate and duration of pumping. The source shall be pump tested to determine whether the well and aquifer are capable of supplying water at the rate desired and to provide information necessary to determine proper pump settings. A department guideline titled *Group B Water System Approval* is available to assist owners.

Existing and proposed sources shall conform to the well construction standards established under chapter 173-160 WAC if applicable.

(g) Documentation of totalizing source meter installation;

(h) An initial analysis result of raw water quality from a certified lab, including as a minimum, a bacteriological, and complete inorganic chemical and physical analysis of the source water quality;

(i) In areas where the department determines that other contamination may be present, or at the discretion of the department, sample results for these contaminants may also be required;

(j) If water quality information from (h) and (i) of this subsection shows a contaminant level of concern, the department may require further action by the owner; and

(k) If water quality results taken from the proposed source confirm a primary MCL violation, the owner shall ensure that appropriate treatment is provided which shall

eliminate the public health risk to consumers served by the system.

(4) Watershed control program.

(a) Owners of new or expanding surface water or GWI sources shall ensure the development and submittal of a watershed control program to the department for review and approval. Once approved, the owner shall implement the program.

(b) This program shall be part of the water system plan required in WAC 246-291-140.

(c) The owner's watershed control program shall contain, at a minimum, the following elements:

(i) Watershed description and inventory, including location, hydrology, land ownership and activities which may adversely affect water quality;

(ii) Watershed control measures, including documentation of ownership and relevant written agreements, monitoring procedures and water quality;

(iii) System operation, including emergency provisions; and

(iv) Documentation of water quality trends.

Sections in the department guideline titled *Planning Handbook* and in the *DOH SWTR Guidance Manual* address watershed control and are available to owners.

(d) The owner shall ensure submittal of the watershed control program to the department for review and approval. Following department approval, the owner shall ensure implementation as approved.

(e) The owner shall update the watershed control program at least every six years, or more frequently if required by the department.

AMENDATORY SECTION (Amending WSR 94-14-002, filed 6/22/94, effective 7/23/94)

WAC 246-291-130 Existing system approval. (1) At the discretion of the department, owners of existing systems without approved design reports shall, as determined by the department, provide information necessary to establish the extent of the water systems compliance with this chapter.

(2) After receipt of the required data, the department shall review the information and place the system into one of the following categories:

(a) Fully approved/adequate. A fully approved system has been found to be in full compliance with these regulations and may add services if designed accordingly; or

(b) Provisionally adequate. A provisionally adequate system complies with ((aH)) applicable MCL and treatment standards, fire flow requirements where applicable, and meets a twenty psi minimum pressure requirement under peak hourly design flow conditions but may not be in compliance with other regulatory requirements. A provisionally adequate system is considered satisfactory for its existing services, but may not expand to supply additional services; or

(c) Inadequate. Any system not identified in (a) or (b) of this subsection. The system is considered unsatisfactory and no additional service connections can be made to an inadequate system.

(3) After categorizing the system, the department shall notify the owner in writing of the following:

(a) The system's category;

(b) The relationship of the system's category with respect to adding service connections and potential comments on status request letters; and

(c) If the system is not fully approved, what additional actions the owner needs to complete before a full or provisional approval is granted.

(4) The department is authorized to take enforcement actions in accordance with WAC 246-291-050.

AMENDATORY SECTION (Amending WSR 94-14-002, filed 6/22/94, effective 7/23/94)

WAC 246-291-140 Water system planning requirements. (1) Water system plan.

(a) The water system plan shall:

(i) Identify present and future needs;

(ii) Set forth means for meeting those needs; and

(iii) Do so in a manner consistent with other relevant plans and local, state, and federal laws.

(b) Owners of the following categories of systems shall ensure the development and submittal of a water system plan for review and approval by the department:

(i) All systems as required by chapter 70.116 RCW the Public Water System Coordination Act of 1977 and chapter 246-293 WAC ~~((and created after September 21, 1977));~~

(ii) Any system experiencing problems related to planning, operation, and/or management as determined by the department and outlined in a departmental order;

(iii) Any proposed or expanding system as determined by the department; and

(iv) Any system which installs treatment, other than simple chlorination disinfection equipment, after the effective date of these regulations.

(c) A department guideline titled *Group B Water System Approval* is available from the department to assist owners in developing this plan. Design reports may be combined with a water system plan. To the extent to which they are applicable, the water system plan shall address the following elements:

(i) Description of system management and ownership;

(ii) Description of appropriate water quality monitoring and reporting requirements;

(iii) Service area and identification of existing and proposed major facilities;

((iii)) (iv) Maximum number of connections the system can safely and reliably support;

((iv)) (v) Water conservation program. Systems which are developed or expanded after the effective date of this rule shall develop a conservation program;

((v)) (vi) Relationship and compatibility with other plans;

((vi)) (vii) Description of water source(s) ~~((information))~~ including compliance with applicable source approval and protection under WAC 246-291-100 and 246-291-110;

((vii)) (viii) Source protection (including required protective covenants, wellhead protection and watershed control where applicable); and

((viii)) (ix) Financial viability.

(2) Prior to developing a new water system, the developer of the proposed system shall follow the steps listed below as applicable:

(a) The developer shall ensure that the new system is owned or operated by a department-approved satellite management agency (SMA), or if a department-approved SMA is not available, that the proposed new system has a department-approved water system plan in accordance with WAC 246-291-140;

(b) Department approval of any system created after July 22, 1995, that is not owned or operated by a SMA shall be conditioned upon future management or ownership by a SMA, if such management or ownership can be made with reasonable economy and efficiency, or upon periodic review of the system's operational history to determine its ability to meet the department's financial viability and other operating requirements.

(c) If the proposed system is located within the boundaries of a critical water supply service area, the ability to develop an independent system shall be governed by the provisions of the Public Water System Coordination Act, chapter 70.116 RCW and chapter 246-293 WAC, and will be subject to the jurisdictional coordinated water system plan; or

~~((b))~~ (d) If the proposed system consists of a surface water or GWI source, ensure that the proposed system will be owned and operated by a department-approved satellite system management agency ~~((or~~

~~(e) If the proposed system utilizes ground water only and is not located within the boundaries of a critical water supply service area, the developer shall:~~

~~(i) Contact the following potential water service providers in writing, and provide proof of such attempted contact to the department:~~

~~(A) The public water system which has a service area identified in a department approved water system plan that includes the proposed development area;~~

~~(B) Each existing public water system serving property within one thousand feet; and~~

~~(C) Available department of health approved satellite management agencies.~~

~~(ii) Upon completion of the steps listed in (c)(i) of this subsection, the developer of the proposed system has the option of developing an independent water system).~~

(3) For systems approved after the effective date of these rules, a summary of the following shall be recorded, by the system owner, on all affected property titles as a means of providing information about the system to property owners, lending institutions, and other potentially affected parties:

(a) Notice that the property is served by a public water system;

(b) The initial water system plan, planning section of the *Group B Water System Guideline*, or equivalent information from other documents as determined by the department;

(c) Notice that the system is subject to state and local rules;

(d) Recommendation to check with the jurisdictional regulatory authority on the current system status;

(e) Notice that fees may be assessed by the department for providing information on a public water system;

(f) Requirement for satellite management, if applicable;

(g) Notice of any waivers granted to the system; and

(h) Other information required by the department.

WSR 95-15-108
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed July 19, 1995, 10:29 a.m.]

Original Notice.

Title of Rule: WAC 246-290-990 Water system evaluation and project review and approval fees.

Purpose: To revise existing fee structure to allow for recovery of costs of reviewing and approving documents and performing other fee for service activities requested by water system purveyors.

Statutory Authority for Adoption: RCW 43.20B.020.

Summary: A proposal to increase existing fee-for-service fees to offset increased costs to the department while maintaining compliance with initiate [Initiative] 601.

Reasons Supporting Proposal: Since the last revision took place in 1992, the fiscal growth factors for FY-94 and FY-95 have been 7.11% and 6.21% respectively. In order to keep up with the increased costs, the department is proposing this revision.

Name of Agency Personnel Responsible for Drafting and Enforcement: John Aden, Airdustrial Building #3, 7822, (360) 664-0441; and Implementation: B-David Clark, Airdustrial Building #3, 7822, (360) 753-1280.

Name of Proponent: Washington State Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule revision is intended to recover the increased costs of carrying out fee-for-service requests from water purveyors and others. The department is proposing that most existing fees be increased by approximately 5% and that new fee categories be added to cover new require

ments which have been imposed since the 1992 revision of this WAC section. Anticipated effects will be increased costs for purveyors requesting fee-for-service work from the department.

Proposal Changes the Following Existing Rules: The proposal is intended to revise the fees laid out in WAC 246-290-990.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? Yes. A copy of the statement may be obtained by writing to: John Aden, Division of Drinking Water, P.O. Box 47822, Olympia, WA 98504-7822, phone 1-800-521-0323, or FAX (360) 586-5529.

Hearing Location: Department of Health, 1112 S.E. Quince Street, Executive Conference Room, Olympia, WA, on August 25, 1995, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact John Aden, (360) 664-0441 by August 18, 1994 [1995].

Submit Written Comments to: Michelle Davis, 1112 S.E. Quince Street, Mailstop 7890, Olympia, WA 98504-7890, FAX (360) 586-7424, by August 18, 1994 [1995].

Date of Intended Adoption: August 25, 1995.

July 18, 1995
 Bruce Miyahara
 Secretary

AMENDATORY SECTION (Amending Order 315, filed 12/3/92, effective 1/3/93)

WAC 246-290-990 Water system evaluation and project review and approval fees. (1) The fees for the review and approval of water system plans, project reports, construction documents, existing systems, and related evaluations required under chapters 246-290 (~~and~~), 246-291, 246-293, and 246-295 WAC shall be as follows:

(a) Water system plans required under WAC 246-290-100, 246-293-220, and 246-293-230.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Water system plan (New and Updated) ⁽⁺⁾	100.00	350.00	850.00	1,600.00	2,600.00	3,850.00
	<u>105.00</u>	<u>365.00</u>	<u>890.00</u>	<u>1,680.00</u>	<u>2,730.00</u>	<u>4,040.00</u>
Minor water system plan alteration	(25.00)	85.00	210.00	400.00	650.00	950.00
	<u>26.00</u>	<u>89.00</u>	<u>220.00</u>	<u>420.00</u>	<u>680.00</u>	<u>995.00</u>

⁽⁺⁾ Requirements for satellite management agencies are addressed within a water system plan.

(b) Satellite management agency (SMA) plans required under WAC 246-295-040.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
<u>SMA plan for ownership (New and Updated)</u>	<u>No plan required</u>	890.00	890.00	1,680.00	2,730.00	4,040.00
<u>SMA approval amendment</u>	<u>No amendment required</u>	78.00 per hour or appropriate fee from category above, whichever is less				
<u>SMA plan for operation only (New and Updated)</u>	<u>No plan required</u>	890.00	890.00	890.00	890.00	890.00

PROPOSED

PROPOSED

(c) New plan elements required under WAC 246-290-100, 246-290-135, and 246-291-140 including:
(i) Conservation; and
(ii) Wellhead protection,
shall be reviewed separately by the department and the fee assessed shall reflect the time spent for this review and shall be calculated based on seventy-eight dollars per hour. After the initial submittal, updated information shall be reviewed as part of the updated water system plan and the review fee shall be included in the applicable updated plan review fee listed under (a) or (b) of this subsection.
(d) Project reports required under WAC 246-290-110.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
All types of filtration or other complex treatment processes	(250.00)	500.00	775.00	1,125.00	1,550.00	2,050.00
	<u>260.00</u>	<u>525.00</u>	<u>815.00</u>	<u>1,180.00</u>	<u>1,625.00</u>	<u>2,155.00</u>
Chemical addition only, such as ion exchange, hypochlorination, (corrosion control,) or fluoridation	(75.00)	150.00	250.00	375.00	525.00	700.00
	<u>78.00</u>	<u>155.00</u>	<u>260.00</u>	<u>390.00</u>	<u>550.00</u>	<u>735.00</u>
Complete water system (an additional fee shall be assessed for review of treatment facility, if any)	(150.00)	350.00	550.00	800.00	1,100.00	1,450.00
	<u>155.00</u>	<u>365.00</u>	<u>575.00</u>	<u>840.00</u>	<u>1,155.00</u>	<u>1,520.00</u>
System modifications requiring a detailed evaluation to determine whether the system, as modified, will comply with regulations (an additional fee shall be assessed for review of treatment facility, if any)	(100.00)	250.00	400.00	600.00	850.00	1,150.00
	<u>105.00</u>	<u>260.00</u>	<u>420.00</u>	<u>630.00</u>	<u>890.00</u>	<u>1,200.00</u>

(e) Special reports or plans required under WAC 246-290-115, 246-290-230, 246-291-230, 246-290-250, 246-290-470, 246-290-636, 246-290-654, and 246-290-676 including:

- (i) Corrosion control recommendation report;
- (ii) Corrosion control study;
- (iii) Plan to cover uncovered reservoirs;
- (iv) Predesign study;
- (v) Uncovered reservoir plan of operation;
- (vi) Tracer study plan;
- (vii) Surface water or GWI treatment facility operations plan; or
- (viii) Filtration pilot study,

shall be reviewed by the department and the fee assessed shall reflect the time spent for this review and shall be calculated based on seventy-eight dollars per hour.

~~((e))~~ (f) Construction documents required under WAC 246-290-120.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
All types of filtration or other complex treatment processes	(250.00)	500.00	775.00	1,125.00	1,550.00	2,050.00
	<u>260.00</u>	<u>525.00</u>	<u>815.00</u>	<u>1,180.00</u>	<u>1,625.00</u>	<u>2,155.00</u>

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Chemical addition only, such as ion exchange, hypochlorination, (corrosion control,)) or fluoridation	((75.00	150.00	250.00	375.00	525.00	700.00))
	<u>78.00</u>	<u>155.00</u>	<u>260.00</u>	<u>390.00</u>	<u>550.00</u>	<u>735.00</u>

Complete new water system except treatment (an additional fee shall be assessed for review of treatment facility, if any)	((200.00	450.00	650.00	900.00	1,200.00	1,550.00))
	<u>210.00</u>	<u>470.00</u>	<u>680.00</u>	<u>945.00</u>	<u>1,260.00</u>	<u>1,625.00</u>

New source only (an additional fee shall be assessed for review of treatment facility, if any)	((150.00	275.00	375.00	500.00	650.00	825.00))
	<u>155.00</u>	<u>285.00</u>	<u>390.00</u>	<u>525.00</u>	<u>680.00</u>	<u>865.00</u>

One or more of the following submitted as a package <u>and not requiring a detailed evaluation as determined by the department:</u> Water line installation, booster pump station, modifications to source pumping, piping-valving, controls or storage reservoir (an additional fee shall be assessed for review of treatment facility, if any)	((100.00	175.00	275.00	400.00	550.00	725.00))
	<u>105.00</u>	<u>180.00</u>	<u>285.00</u>	<u>420.00</u>	<u>575.00</u>	<u>760.00</u>

<u>Documents submitted for projects such as water line installation, booster pump stations, modifications to source pumping, piping/valving, controls or storage reservoirs as determined by the department where such projects:</u> <u>Comply with design standards established by the department;</u> <u>Are prepared by a professional engineer in accordance with WAC 246-290-040; and</u> <u>Do not require a detailed evaluation by the department.</u>	<u>50.00</u>	<u>90.00</u>	<u>150.00</u>	<u>210.00</u>	<u>290.00</u>	<u>380.00</u>
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~~((d))~~ (g) Existing system approval required under WAC 246-290-140. For the purpose of this subsection the department shall determine whether a system is expanding or nonexpanding.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
NONEXPANDING system ((built before November 10, 1989 As built approval Without treatment)) not requiring a detailed evaluation by the department	((350.00	1,020.00	1,460.00	2,020.00	2,700.00	3,500.00))
	<u>200.00</u>	<u>400.00</u>	<u>600.00</u>	<u>800.00</u>	<u>1,000.00</u>	<u>1,200.00</u>

((With chemical addition	425.00	1,320.00	1,960.00	2,770.00	3,750.00	4,900.00
With complex treatment	675.00	2,020.00	3,010.00	4,270.00	5,800.00	7,600.00))

((EXPANDING)) NONEXPANDING

system ((built before November 10, 1989

As built approval Without treatment))

requiring a detailed evaluation as determined by the department

((700.00	1,670.00	2,685.00	4,095.00	5,900.00	8,100.00))	
300.00	600.00	900.00	1,200.00	1,500.00	1,800.00	
((With chemical addition	850.00	1,970.00	3,185.00	4,845.00	6,950.00	9,500.00
With complex treatment	1,350.00	2,670.00	4,235.00	6,345.00	9,000.00	12,200.00))

((NONEXPANDING)) EXPANDING

system ((built after November 9, 1989

As built approval Without treatment))

not requiring a detailed evaluation by the department

((700.00	1,670.00	2,685.00	4,095.00	5,900.00	8,100.00))	
400.00	800.00	1,200.00	1,600.00	2,000.00	2,400.00	
((With chemical addition	850.00	1,970.00	3,185.00	4,845.00	6,950.00	9,500.00
With complex treatment	1,350.00	2,670.00	4,235.00	6,345.00	9,000.00	12,200.00))

EXPANDING system ((built after November 9, 1989

As built approval Without treatment))

requiring a detailed evaluation as determined by the department

((800.00	1,845.00	2,960.00	4,495.00	6,450.00	8,825.00))	
500.00	1,000.00	1,500.00	2,000.00	2,500.00	3,000.00	
((With chemical addition	950.00	2,145.00	3,460.00	5,245.00	7,500.00	10,225.00
With complex treatment	1,450.00	2,845.00	4,510.00	6,745.00	9,550.00	12,925.00))

(h) Monitoring waivers requested under WAC 246-290-300.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
<u>Inorganic chemical monitoring waiver</u>	<u>Not applicable</u>	<u>70.00 per source</u>	<u>95.00 per source</u>	<u>120.00 per source</u>	<u>145.00 per source</u>	<u>170.00 per source</u>
<u>Organic chemical monitoring waiver</u>	<u>Not applicable</u>	<u>125.00 per source</u>	<u>175.00 per source</u>	<u>225.00 per source</u>	<u>275.00 per source</u>	<u>325.00 per source</u>
<u>Use waiver</u>	<u>Not applicable</u>	<u>150.00 per source</u>	<u>200.00 per source</u>	<u>255.00 per source</u>	<u>300.00 per source</u>	<u>350.00 per source</u>
<u>Area wide waiver renewal</u>	<u>Not applicable</u>	<u>200.00 per source</u>	<u>275.00 per source</u>	<u>350.00 per source</u>	<u>425.00 per source</u>	<u>500.00 per source</u>
<u>Inorganic chemical monitoring waiver renewal</u>	<u>Not applicable</u>	<u>40.00 per source</u>	<u>50.00 per source</u>	<u>60.00 per source</u>	<u>70.00 per source</u>	<u>80.00 per source</u>
<u>Organic chemical monitoring waiver renewal</u>	<u>Not applicable</u>	<u>75.00 per source</u>	<u>105.00 per source</u>	<u>135.00 per source</u>	<u>165.00 per source</u>	<u>195.00 per source</u>
<u>Use waiver renewal</u>	<u>Not applicable</u>	<u>105.00 per source</u>	<u>140.00 per source</u>	<u>175.00 per source</u>	<u>210.00 per source</u>	<u>245.00 per source</u>
<u>Coliform monitoring waiver including departmental inspection requested by purveyor</u>	<u>Not applicable</u>	<u>315.00</u>	<u>390.00</u>	<u>495.00</u>	<u>630.00</u>	<u>Not applicable</u>

PROPOSED

<u>Coliform monitoring waiver with third-party inspection report</u>	<u>Not applicable</u>	<u>100.00</u>	<u>100.00</u>	<u>100.00</u>	<u>100.00</u>	<u>Not applicable</u>
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((e)) (i) Other evaluations and approvals. As applicable, these fees will be charged in addition to the basic fees assessed under (a) through ((d)) (h) of this subsection.

Project Type	Group B	Group A				
		<100 Services	100 to 500 Services	501 to 999 Services	1,000 to 9,999 Services	10,000 or more Services
Well-site evaluation and approval including the site inspection and hydrogeologic information review.	(150.00)	220.00	260.00	320.00	400.00	500.00
	<u>155.00</u>	<u>230.00</u>	<u>270.00</u>	<u>335.00</u>	<u>420.00</u>	<u>525.00</u>
((Comprehensive system evaluation requested by purveyor for purpose of reducing routine coliform monitoring to less than 5/month	No plan required	300.00	375.00	475.00	600.00	not applicable
		<u>300.00</u>	<u>375.00</u>	<u>475.00</u>	<u>600.00</u>	
((Coliform monitoring plan Regulatory monitoring plan ¹	No plan required	70.00	95.00	130.00	175.00	230.00
	No plan required	<u>150.00</u>	<u>200.00</u>	<u>250.00</u>	<u>300.00</u>	<u>350.00</u>
Unfiltered system annual comprehensive report	Not applicable	<u>300.00</u>	<u>500.00</u>	<u>700.00</u>	<u>900.00</u>	<u>1,100.00</u>
Water system compliance report	(50.00)	85.00	85.00	85.00	85.00	85.00
	<u>52.00</u>	<u>89.00</u>	<u>89.00</u>	<u>89.00</u>	<u>89.00</u>	<u>89.00</u>

¹ A comprehensive document containing coliform, inorganic chemical and organic chemical monitoring plans in accordance with WAC 246-290-300 (2)(b), (3)(f), and (7)(e).

PROPOSED

(2) To determine the appropriate fee for a noncommunity system, calculate the service equivalent by taking the average population served each day of operation and dividing by twenty-five for a transient noncommunity (TNC) system and two and one-half for nontransient noncommunity (NTNC) system. Use the number of service equivalents to find out what Group A size category to look under and submit the appropriate fee. (All noncommunity systems are Group A systems as described in WAC 246-290-020.)

(3) Additional review and approval fees may be assessed as follows:

(a) The basic fee covers an evaluation, or the review of an initial submittal and one resubmittal if required. If additional resubmittals are required, an additional twenty-five percent of the original fee will be assessed for each additional resubmittal. For water system plan and SMA plan preparation the basic fee also covers a preplanning conference. When the department is asked to participate in other meetings involving the plan such as community meetings, public hearings, or meetings with elected officials, the department is authorized to charge additional fees at the rate of seventy-eight dollars per hour;

(b) Fees for department project approval based on local technical review will be determined on a case-by-case basis as outlined in the applicable memorandum of understanding between the department and the respective local agency((-);

(c) Fees for services which the department determines are not described under subsection (1) of this section, will be

calculated based on a rate of ((seventy-five)) seventy-eight dollars per hour.

Examples of these services include, but are not limited to:

- (i) Review and inspection of water reuse projects;
- (ii) Collection of water quality samples requested by purveyor; or
- (iii) Review of alternate technologies requested by purveyor, manufacturer or authorized representative;

(d) Additional fees assessed by the department shall be billed to the purveyor using an itemized invoice.

(4) All fees required under this section except as noted in subsection (3) of this section, shall be submitted prior to the department's approval. Payment of fees shall be in the form of a check or money order made payable to: The Department of Health. Payment of a fee shall not guarantee approval of the submitted document or evaluation request.

(5) Purveyors unable to determine the appropriate fee payment to submit should contact the department.

WSR 95-15-109
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed July 19, 1995, 10:31 a.m.]

Original Notice.
 Title of Rule: Chapter 246-130 WAC, HIV/AIDS early intervention services.

Purpose: Rule guides two early intervention programs, the HIV/AIDS prescription drug program and the HIV intervention program.

Statutory Authority for Adoption: RCW 43.70.040 and 43.70.120.

Statute Being Implemented: RCW 43.70.120.

Summary: Chapter 246-130 WAC, establishes the scope and program policies of two early intervention programs for low-income HIV seropositive persons, the HIV/AIDS prescription drug program and the HIV intervention program.

Reasons Supporting Proposal: WAC needs updating to reflect recent changes in health services delivery consistent with insurance regulatory reforms and the public health improvement plan.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Anne Shields, P.O. Box 47841, Olympia, WA 98504, (360) 586-5627.

Name of Proponent: Department of Health, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Rule changes increase agency discretion in determining program eligibility.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 246-130 WAC establishes the scope and program policies of two early intervention programs for low-income HIV seropositive persons, the HIV/AIDS prescription drug program and the HIV intervention program. The rule guides provision of and reimbursement for appropriate services and defines financial and medical eligibility for program participants. Changes are proposed that define appropriate personal health services for the programs and allow greater departmental discretion in establishing financial eligibility.

Proposal Changes the Following Existing Rules: The proposed changes update existing rules. The proposed changes update language regarding the provision of and reimbursement for appropriate services, financial and medical eligibility for program participants, and public process for policy changes in the two early intervention programs described above. Changes are proposed that define appropriate personal health services for the programs and allow greater departmental discretion in establishing financial eligibility. A public process for eligibility policy changes in the two programs is proposed in the revision.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. No changes in policies affected any aspect of small business operations or profitability are proposed in the revision. No changes are proposed in provider reimbursement or contracting policies. No changes in provider fee schedules are proposed. No impacts are anticipated for any contracting clinical providers.

Hearing Location: Seattle Central Community College, 1701 Broadway, Seattle, WA, on September 12, 1995, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Anne Shields, P.O. Box 47841, Olympia, WA 98504-7841 by September 5, 1995, (360) 586-5627.

Submit Written Comments to: Anne Shields, P.O. Box 47841, Olympia, WA 98504-7841, by September 5, 1995.

Date of Intended Adoption: September 12, 1995.

July 19, 1995
Bruce Miyahara
Secretary

Chapter 246-130 WAC
HUMAN IMMUNODEFICIENCY VIRUS (HIV) IN-
FECTION ((TREATMENT)) INTERVENTIONS

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-130-001 Purpose. The department shall administer federal and state funds appropriated to assist ~~((a person in need of Zidovudine, or other drugs and treatments available in the future. These drugs are used for the treatment of various stages of infection with HIV))~~ eligible persons with HIV infection to access early intervention services.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-130-010 Definitions. The following words and phrases have the following meaning in chapter 246-130 WAC unless the context clearly indicates otherwise:

~~((1))~~ "AIDS" means acquired immunodeficiency syndrome.

~~((2))~~ "APDP" means HIV/AIDS prescription drug program.

~~((3))~~ "Department" or "DOH" means the Washington state department of health.

"Early intervention services" means personal health services and behavioral risk reduction interventions codelivered with these services that reduce the rate of progression of HIV infection and reduce HIV transmission.

"HIP" means the HIV intervention program.

~~((4))~~ "HIV" means human immunodeficiency virus.

~~((5))~~ "NPIG" means National Poverty Income Guidelines as under sections 652 and 673 (2) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 9735) and as updated annually in the Federal Register on February 16.

~~((6))~~ "Patient share") "Participation" means the ~~((amount))~~ proportion of cost borne by the ((patient)) eligible client.

"Personal health services" mean clinical interventions and treatments, including but not limited to medications, that are delivered to individuals and are intended to reduce morbidity and mortality.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-130-020 Early intervention services. To the extent federal or state funds are appropriated for the purpose of ~~((APDP approved drugs and treatments))~~ providing services through HIP and APDP, the department shall ((reimburse a)) contract with participating ((pharmacy, or) pharmacies, other health care providers, ((and clinic for costs of dispensing APDP approved drugs and treatments to an eligible individual suffering from infection with HIV)) or social service providers for the delivery of early intervention services.

PROPOSED

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

~~WAC 246-130-030 Reimbursements. ((Individuals desiring reimbursement for APDP approved drugs and treatments must provide evidence of financial eligibility as established by WAC 246-130-040.))~~ The department will make reimbursement ~~((, reduced by the patient share computed in accordance with WAC 246-130-070, to eligible participants who, in the department's judgment, demonstrate the greatest need or the most likely benefit from the treatments))~~ to contracted providers to provide early intervention services to eligible persons. The department shall produce a schedule of reimbursement for all services covered on a fee-for-service basis that shall be applicable to all contracted providers.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

~~WAC 246-130-040 Financial eligibility. ((+))~~ The department ~~((will consider a patient eligible if he or she:~~

~~(a) Has resources at or below the exemptions listed under subsection (3) of this section; and~~

~~(b) Is not eligible for any other resources providing similar benefits to meet the costs of the treatment; and~~

~~(c) Has gross monthly income at or below three hundred seventy percent of the NPIG; and~~

~~(d) The total cost of program covered medications is in excess of the patient's share as computed in accordance with WAC 246-130-070.~~

~~(2) The department shall consider the following in determining resources:~~

~~(a) Savings, property, and other assets;~~

~~(b) Government and private medical insurance programs, including Medicaid, providing partial or full coverage for drug and treatments needed in the treatment of infection with HIV; and~~

~~(c) Local funds raised for the purpose of providing financial support for a specified patient))~~ shall provide early intervention services for persons with HIV infection, including those persons with disabling AIDS conditions, who meet financial eligibility requirements established by the department and are not eligible to receive similar services funded by other resources. The department shall publish and make available a description of the process and criteria for establishing medical and financial eligibility for early intervention services. The department shall provide for public involvement in establishing and periodically reviewing these criteria, including seeking input from clients and providers of early intervention services.

~~((3))~~ The following exemptions shall not be considered in determining ~~((a patient's resources to pay for treatments covered by these regulations))~~ financial eligibility for early intervention services:

~~((a))~~ (1) A home, defined as real property owned by ((a patient)) an eligible client as a principal place of residence, together with the property surrounding and contiguous thereto not to exceed five acres; and

~~((b))~~ (2) Commercial property, or property used for the purpose of producing income, except to the extent that its value exceeds the sum of ten thousand dollars;

~~((c))~~ (3) Household furnishings;

~~((d))~~ (4) An automobile; and

~~((e))~~ (5) Savings, property, or other liquid assets, to the extent the value thereof does not exceed the sum of ten thousand dollars.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

~~WAC 246-130-060 ((Fiscal))~~ Medical and financial information. An individual seeking ~~((coverage))~~ early intervention services shall provide ((fiscal)) medical and financial information upon request of the department including:

(1) Sources and amounts of resources to verify financial eligibility~~((;))~~;

(2) Evidence that all other available resources or entitlements were ((used)) accessed before requests for ((reimbursement from the state program)) early intervention services through HIP and APDP are submitted to the department((;)); and

(3) Other medical or financial information ((when)) as required by the department.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

~~WAC 246-130-070 ((Patient))~~ Participation. ((The patient shall)) Eligible clients may be responsible for paying part of the cost of ((the treatment)) early intervention services received ((in any month in which his or her income exceeds two hundred percent of the NPIG. The amount of the patient's share shall be one sixth of the amount by which his or her income for the month exceeds two hundred percent of the NPIG)) according to participation standards established by the department.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-130-050 Transfer of resources without adequate consideration.

WSR 95-15-110
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed July 19, 1995, 10:33 a.m.]

Original Notice.

Title of Rule: Chapter 246-812 WAC, Board of denture technology.

Purpose: To implement citizen's initiative (chapter 18.30 RCW) to regulate the denturist profession.

Statutory Authority for Adoption: Chapters 34.05, 18.30 RCW.

Statute Being Implemented: Chapter 18.30 RCW.

Summary: In accordance with chapter 18.30 RCW, these rules establish eligibility, licensing and standards of practice criteria for denturists.

Reasons Supporting Proposal: Denturists are not a licensed or regulated profession.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Gail Zimmerman, Olympia, (360) 753-2461.

Name of Proponent: Washington State Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provides for eligibility and standards of practice criteria for denturists.

Proposal does not change the existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? Yes. A copy of the statement may be obtained by writing to: Pat Collins, Program Manager, P.O. Box 47867, Olympia, WA 98504-7867.

Hearing Location: Department of Health, 1102 S.E. Quince Street, Olympia, WA 98504, on August 23, at 3:00.

Assistance for Persons with Disabilities: Contact Pat Collins, 1112 S.E. Quince Street, Olympia, WA 98504-7860 by August 16, 1995, TDD (360) 664-4004.

Submit Written Comments to: Michelle Davis, Rules Coordinator, 1112 S.E. Quince Street, Mailstop 7890, Olympia, WA 98504-7890, by August 16, 1995.

Date of Intended Adoption: August 23, 1995.

July 18, 1995
Bruce Miyahara
Secretary

Chapter 246-812 WAC BOARD OF DENTURE TECHNOLOGY

DENTURISTS

NEW SECTION

WAC 246-812-001 Purpose. The purpose of these rules is to further clarify and define chapter 18.30 RCW, Denturists.

NEW SECTION

WAC 246-812-010 Definitions. The following terms are so defined for the purposes of this chapter:

"Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

"Approval" and "accreditation" are used interchangeably with reference to sanctioning of courses.

"Board" means the state board of denture technology, whose address is:

Department of Health
Health Profession Quality Assurance Division
Board of Denture Technology
1112 SE Quince Street, PO Box 47867
Olympia, WA 98504-7867

"Denture technology" for the purposes of application under RCW 18.30.090(3) is defined, at a minimum, as the making, constructing, altering, reproducing or repairing of a denture.

"Five years employment in denture technology" is defined as working a minimum of twenty hours per week during five of the last ten years.

"Office on AIDS" means that section within the department of health with jurisdiction over public health matters as defined in chapter 70.24 RCW.

"4,000 Hours practical work experience in denture technology" is defined and taken as a whole, which must have occurred within the past five years of date of application.

NEW SECTION

WAC 246-812-015 Adjudicative proceedings—Procedural rules for the board. The board adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-11 WAC, including subsequent amendments.

LICENSURE—APPLICATION AND ELIGIBILITY REQUIREMENTS

NEW SECTION

WAC 246-812-101 Purpose. The purpose of WAC 246-812-101 through 246-812-170 is to establish guidelines on eligibility, and set forth the procedures for application to receive a license for the practice of denturism. By statute, the eligibility and application criterion are established in RCW 18.30.090.

NEW SECTION

WAC 246-812-120 Denturist licensure—Initial eligibility and application requirements. To be eligible for Washington state denturist licensure, the applicant shall complete an application provided by the board, and shall include written documentation to meet eligibility criteria. Each applicant shall provide:

(1) A signed, notarized application and required fee. Fees are set by the board and are nonrefundable. Fees must be in United States funds and made payable by check or money order, to the department of health. (Refer to WAC 246-812-990 for fee schedule.)

(2) Proof that they meet the basic eligibility requirements identified in RCW 18.30.090, documented by the signed, notarized affidavit processed as part of the application.

(3) Proof of seven hours of AIDS education and training as further defined by WAC 246-812-130.

(4) Photograph. A recent photograph, signed and dated, shall be attached to the application.

NEW SECTION

WAC 246-812-125 Denturist licensure—Endorsement. For the purposes of endorsement as provided in RCW 18.30.090 (1)(a) licensing authorities shall be determined to be substantially equivalent that meet the following criteria:

(1) Written examination - applicants must have successfully completed a written examination which included testing in the areas of:

(a) Oral pathology;

- (b) Head and oral anatomy and physiology;
 - (c) Dental laboratory technology;
- Additionally, the examination must include four of the following test categories:
- (d) Partial denture construction and design;
 - (e) Microbiology;
 - (f) Clinical dental technology;
 - (g) Clinical jurisprudence;
 - (h) Asepsis;
 - (i) Medical emergencies;
 - (j) Cardiopulmonary resuscitation.

(2) Practical examination - applicants must have successfully completed a clinical examination.

NEW SECTION

WAC 246-812-130 Denturist licensure—Training course approval. For the purposes of eligibility as defined in RCW 18.30.090 (3)(b), board approval will be given to any course(s) that consists of course work at an accredited institution in each and all of the following areas:

- (1) Head and oral anatomy and physiology;
- (2) Oral pathology;
- (3) Partial denture construction and design;
- (4) Microbiology;
- (5) Clinical dental technology;
- (6) Dental laboratory technology;
- (7) Clinical jurisprudence;
- (8) Asepsis;
- (9) Medical emergencies;
- (10) Cardiopulmonary resuscitation.

NEW SECTION

WAC 246-812-140 Application for licensure—AIDS education requirements. (1) Application for licensure. Persons applying for a license shall submit, in addition to the other licensure requirements, evidence to show compliance with the education requirements of subsection (3) of this section.

(2) AIDS education and training. The board shall accept formal lecture-type education and training that is consistent with the topical outline available from the office on AIDS. Such education and training shall be a minimum of seven clock hours. As an alternative to formal lectures, the board will also accept education and training obtained through videos and/or self-study materials. Such videos and/or self-study materials must include a written examination that is graded by the provider of the materials.

All education and training shall include the subjects of prevention, transmission and treatment of AIDS.

(3) Documentation. The applicant shall:

- (a) Certify, on forms provided, that the minimum education and training occurred after January 1, 1986;
- (b) Keep records for two years documenting attendance and description of the learning;
- (c) Be prepared to validate, through submission of these records, that attendance has taken place.

NEW SECTION

WAC 246-812-150 Examination—Content and scores. An applicant seeking licensure in Washington by examination must successfully complete a written and practical examination as specified in RCW 18.30.100. In order to be licensed, an applicant shall be required to obtain an overall passing score of seventy percent on the written examination and an overall score of seventy percent on the practical examination.

NEW SECTION

WAC 246-812-155 Denturist examination scores. An applicant must pass all sections of the written examination and the practical demonstration of skills within three attempts. After three failures the applicant must petition the board for permission to take any further examination. The board shall have complete discretion regarding such petition and the conditions under which further examination permission may be granted.

NEW SECTION

WAC 246-812-160 Lapsed and inactive licenses—Requirements for reinstating or activating a license. (1) A licensee who allows their denturist license to lapse for more than three years must pay a penalty fee per WAC 246-812-990.

(2) A licensee whose license has been inactive for more than three years may be reexamined as provided for in RCW 18.25.040 at the board's discretion.

(3) A licensee who has placed their denturist license on inactive status and later requests to activate the license shall submit to the board, in writing, a request to activate their license from inactive status. The request to activate a license must include the following:

- (a) An applicable fee, per WAC 246-812-990.
- (b) Updated chronology from date license was placed into inactive status.
- (c) Proof of four hours of AIDS education refresher training.

NEW SECTION

WAC 246-812-170 License renewal form. A license shall not be renewed until the applicant has submitted completed renewal forms and the full amount of the renewal fee, including any penalty fee for late renewal of the license.

PRACTICE STANDARDS

NEW SECTION

WAC 246-812-301 Purpose. The purpose of WAC 246-812-201 through 246-812-460 is to provide standards to guide denturists in the conduct of their practice.

NEW SECTION

WAC 246-812-320 Maintenance and retention of patient records. Any denturist who treats patients in the state of Washington shall maintain complete treatment records regarding patients treated. These records shall

include, but shall not be limited to, treatment plans, patient charts, patient histories, correspondence, financial data and billing. These records shall be retained by the dentist for five years in an orderly, accessible file and shall be readily available for inspection by the board or its authorized representative. Copies of records may be forwarded to a second party upon the patient's or authorized agent's written request. In such cases, office records shall state the date on which the records were released, method forwarded and to whom, and the reason for the release. A reasonable fee may be charged the patient to cover mailing and clerical costs.

In offices where more than one dentist is performing the services, the records must specify the dentist who performed the services.

NEW SECTION

WAC 246-812-330 Privileged communications. A dentist shall not, without the consent of the patient, reveal any information acquired in attending such patient, which was necessary to enable the dentist to treat the patient. This shall not apply to the release of information in an official proceeding where the release of information may be compelled by law.

NEW SECTION

WAC 246-812-340 Patient abandonment. The dentist shall always be free to accept or reject a particular patient, bearing in mind that whenever possible a dentist shall respond to any reasonable request for his/her services in the interest of public health and welfare.

NEW SECTION

WAC 246-812-350 License display—Notification of address. Every person who engages in the practice of dentistry in this state shall display their license, at all times, in a conspicuous place within their office. Whenever requested, they shall exhibit their license to any member of the board, or its authorized agent, and to the secretary or the secretary's authorized agent. Every licensee shall notify the secretary of the address or addresses, including changes, where the licensee shall engage in the practice of dentistry.

NEW SECTION

WAC 246-812-360 Identification of new dentures. Every complete upper and lower denture and removable partial denture fabricated by a dentist licensed under the provisions of chapter 18.30 RCW, or fabricated pursuant to the dentist's work order or under the dentist's direction or supervision, shall be marked with the name of the patient for whom the denture is intended. The markings shall be done during fabrication and shall be permanent, legible, and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant them shall be determined by the dentist fabricating the denture. If, in the professional judgment of the dentist, this identification is not practical, identification shall be provided as follows:

- (1) The initials of the patient may be shown alone, if use of the patient's name is impracticable; or
- (2) The identification marks may be omitted in their entirety if none of the forms of identification specified in

subsection (1) of this section is practicable, clinically safe, or the patient declines.

NEW SECTION

WAC 246-812-390 Improper billing practices. The following acts shall constitute grounds for which disciplinary action may be taken:

(1) Rebating or offering to rebate to an insured any payment to the licensee by the third-party payor of the insured for services or treatments rendered under the insured's policy.

(2) Submitting to any third-party payor a claim for a service or treatment at a greater or an inflated fee or charge other than the usual fee the licensee charges for that service or treatment when rendered without third-party reimbursement.

NEW SECTION

WAC 246-812-400 Dentist associations or societies. The president or chief executive officer of any dentist association or society within this state shall report to the board when an association or society determines that a dentist has committed unprofessional conduct or that a dentist may not be able to practice dentistry with reasonable skill and safety to patients as the result of any mental or physical condition and constitutes an apparent risk to the public health, safety, or welfare. The report required by this section shall be made without regard to whether the license holder appeals, accepts, or acts upon the determination made by the association or society. Notification of appeal shall be included.

NEW SECTION

WAC 246-812-410 Insurance carriers. The executive officer of every insurer, licensed under Title 48 RCW operating in the state of Washington, shall report to the board any evidence that a dentist has charged fees for dentist services not actually provided, or has otherwise committed unprofessional conduct.

NEW SECTION

WAC 246-812-420 Professional liability carriers. Every institution or organization providing professional liability insurance directly or indirectly to dentists shall send the board a complete report of any malpractice settlement, award or payment over five thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured dentist's incompetence or negligence in the practice of dentistry. Such institution or organization shall also report the payment of three or more claims during a year as the result of alleged incompetence or negligence in the practice of dentistry regardless of the dollar amount of the payment.

NEW SECTION

WAC 246-812-430 Courts. The board requests the assistance of all clerks of trial courts within the state to report, to the board, all professional malpractice judgments

and all criminal convictions of licensed denturists, other than for minor traffic violations.

NEW SECTION

WAC 246-812-440 State and federal agencies. The board requests the assistance of executive officers of any state or federal program operating in the state of Washington, under which a denturist has been judged to have demonstrated incompetence or negligence in the practice of denturism, or has otherwise committed unprofessional conduct; or whose practice is impaired as a result of a mental, physical or chemical condition, to report to the board all professional malpractice judgments and decisions.

NEW SECTION

WAC 246-812-450 Professional standards review organizations. Unless prohibited by federal or state law, every professional standards review organization operating within the state of Washington shall report to the board any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct, or to report information which indicates that the license holder may not be able to practice their profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

NEW SECTION

WAC 246-812-460 Board conflict of interest. Members of the board shall not participate in deciding a disciplinary case where their participation presents a conflict of interest or creates an appearance of a conflict of interest.

INFECTION CONTROL

NEW SECTION

WAC 246-812-501 Purpose. The purpose of WAC 246-812-501 through 246-812-520 is to establish requirements for infection control in denturist offices to protect the health and well-being of the people of the state of Washington. For purposes of infection control, all denturist staff members and all patients shall be considered potential carriers of communicable diseases. Infection control procedures are required to prevent disease transmission from patient to denturist and staff, denturist and staff to patient, and from patient to patient. Every denturist is required to comply with the applicable standard of care in effect at the time of treatment. At a minimum, the denturist must comply with the requirements defined in WAC 246-812-620 and 246-812-630.

NEW SECTION

WAC 246-812-510 Definitions. The following definitions pertain to WAC 246-812-501 through 246-812-520.

"Communicable diseases" means an illness caused by an infectious agent which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water or air.

"Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

"Direct care staff" are the denturist staff who directly provide denturist care to patients.

"Sterilize" means the use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

NEW SECTION

WAC 246-812-520 Use of barriers and sterilization techniques. The use of barriers and sterilization techniques is the primary means of assuring that there is the least possible chance of the transmission of communicable diseases from denturist and staff to patients, from patient to patient and from patient to denturist and staff. To prevent patient to patient cross contamination, instruments and supplies contaminated or likely to be contaminated with blood or saliva and touched during treatment must be sterilized between patients or discarded except as otherwise set forth below. Surfaces and equipment which are likely to be contaminated with blood or saliva and touched during treatment must be decontaminated or covered with a barrier which is discarded and replaced between patients except as otherwise set forth below:

(1) Denturists shall comply with the following barrier techniques:

(a) Gloves shall be used by the denturist and direct care staff during treatment which involves intraoral procedures or contact with items potentially contaminated with the patient's bodily fluids. Fresh gloves shall be used for every intraoral patient contact. Gloves shall not be washed or reused for any purpose. The same pair of gloves shall not be used, removed, and reused for the same patient at the same visit or for any other purpose. Gloves that have been used for denturist treatment shall not be reused for any nondenturist purpose.

(b) Masks shall be worn by the denturist and direct care staff when splatter or aerosol is likely.

(c) Unless effective surface decontamination methods are used, protective barriers shall be placed over areas which are likely to be touched during treatment, not removable to be sterilized, and likely to be contaminated by blood or saliva. These procedures must be followed between each patient. These include but are not limited to:

- (i) Delivery unit;
- (ii) Chair controls (not including foot controls);
- (iii) Light handles;
- (iv) Head rest;
- (v) Instrument trays;
- (vi) Treatment area and laboratory countertops/benches.

(d) Protective eyewear shields shall be worn by the denturist and direct care staff and provided to all patients during times when splatter or aerosol is expected.

(2) Denturists shall comply with the following sterilization requirements:

(a) Every denturist office shall have the capability to ultrasonically clean and sterilize contaminated items by

autoclave, dry heat, unsaturated formaldehyde/alcohol vapor (such as MDT Chemiclave ®) or ethylene oxide, where adequate ventilation is provided. Sterilizers shall be tested by a biological spore test on at least a weekly basis. In the event of a positive biological spore test, the dentist shall take immediate remedial action to ensure the objectives of (a) of this subsection are accomplished. Documentation shall be maintained either in the form of a log reflecting dates and person(s) conducting the testing or copies of reports from an independent testing entity. The documentation shall be maintained for a period of at least five years.

(b) The following items shall be sterilized by an appropriate autoclave, dry heat, unsaturated formaldehyde/alcohol vapor (such as MDT Chemiclave ®) or ethylene oxide sterilization method between patients:

- (i) Hand instruments;
- (ii) Air-water syringe tips;
- (iii) High volume evacuator tips;
- (iv) Nose cone sleeves;
- (v) Metal impression trays.

(c) Gross debris shall be removed from items prior to sterilization. Ultrasonic disinfectant solution cleaning shall be used whenever possible.

(d) Non-disposable items used in patient care which cannot be autoclaved, dry heat, unsaturated formaldehyde/alcohol vapor (such as MDT Chemiclave ®) or ethylene oxide sterilized shall be immersed and ultrasonically cleaned in a chemical sterilant. If such a technique is used, the solution shall be approved by the Environmental Protection Agency and used in accordance with the manufacturer's directions for sterilization.

(e) Items such as impressions contaminated with blood or saliva shall be thoroughly rinsed, appropriately disinfected, placed in and transported to the dentist laboratory in an appropriate case containment device that is properly sealed and separately labeled.

(f) In the laboratory: Ragwheels shall be sterilized or disinfected; patient pumice shall be discarded after each use; and, patient burrs and stones shall be sterilized or disinfected.

SUBSTANCE ABUSE MONITORING

NEW SECTION

WAC 246-812-601 Purpose. The board recognizes the need to establish a means of proactively providing early recognition and treatment options for denturists whose competency may be impaired due to the abuse of drugs or alcohol. The board intends that such denturists be treated and their treatment monitored so that they can return to or continue to practice their profession in a way which safeguards the public. To accomplish this the board shall approve voluntary substance abuse monitoring programs and shall refer denturists impaired by substance abuse to approved programs as an alternative to instituting disciplinary proceedings as defined in RCW 18.130.160.

NEW SECTION

WAC 246-812-610 Definitions. The following general terms are defined within the context used in this chapter:

"**Aftercare**" is that period of time after intensive treatment that provides the dentist and the dentist's family with group or individual counseling sessions, discussions with other families, ongoing contact and participation in self-help groups and ongoing continued support of treatment program staff.

"**Approved substance abuse monitoring program**" or "**approved monitoring program**" is a program the board has determined meets the requirements of the law and the criteria established by the board in WAC 246-812-620 which enters into a contract with denturists who have substance abuse problems regarding the required components of the dentist's recovery activity and oversees the dentist's compliance with these requirements. Substance abuse monitoring programs do not provide evaluation or treatment to participating denturists.

"**Approved treatment facility**" is a facility approved by the bureau of alcohol and substance abuse, department of social and health services according to RCW 70.96A.020(2) or 69.54.030 to provide intensive alcoholism or drug treatment if located within Washington state. Drug and alcohol treatment programs located out-of-state must be equivalent to the standards required for approval under RCW 70.96A.020(2) or 69.54.030.

"**Contract**" is a comprehensive, structured agreement between the recovering dentist and the approved monitoring program stipulating the dentist's consent to comply with the monitoring program and its required components of the dentist's recovery activity.

"**Health care professional**" is an individual who is licensed, certified, or registered in Washington to engage in the delivery of health care to patients.

"**Random drug screens**" are laboratory tests to detect the presence of drugs of abuse in body fluids which are performed at irregular intervals not known in advance by the person being tested.

"**Substance abuse**" means the impairment, as determined by the board, of a dentist's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

"**Support group**" is a group of health care professionals meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced health care professional facilitator in which denturists may safely discuss drug diversion, licensure issues, return to work, and other professional issues related to recovery.

"**Twelve-step groups**" are groups such as alcoholics anonymous, narcotics anonymous, and related organizations based on a philosophy of anonymity, belief in a power outside of oneself, a peer group association, and self-help.

NEW SECTION

WAC 246-812-620 Approval of substance abuse monitoring programs. The board shall approve the monitoring program(s) which shall participate in the board's substance abuse monitoring program. A monitoring program approved by the board may be contracted with an entity

PROPOSED

outside the department but within the state, out-of-state, or a separate structure within the department.

(1) The approved monitoring program shall not provide evaluation or treatment to the participating dentist.

(2) The approved monitoring program staff must have the qualifications and knowledge of both substance abuse and the practice of denturism as defined in this chapter to be able to evaluate:

- (a) Clinical laboratories;
- (b) Laboratory results;
- (c) Providers of substance abuse treatment, both individuals and facilities;
- (d) Support groups;
- (e) The dentist work environment; and
- (f) The ability of the dentist to practice with reasonable skill and safety.

(3) The approved monitoring program shall enter into a contract with the dentist and the board to oversee the dentist's compliance with the requirements of the program.

(4) The approved monitoring program may make exceptions to individual components of the contract on an individual basis.

(5) The approved monitoring program staff shall recommend, on an individual basis, whether a dentist shall be prohibited from engaging in the practice of denturism for a period of time and restrictions, if any, on the dentist's access to controlled substances in the work place.

(6) The approved monitoring program shall maintain records on participants.

(7) The approved monitoring program shall be responsible for providing feedback to the dentist as to whether treatment progress is acceptable.

(8) The approved monitoring program shall report to the board any dentist who fails to comply with the requirements of the monitoring program.

(9) The approved monitoring program shall receive from the board guidelines on treatment, monitoring, and limitations on the practice of denturism for those participating in the program.

NEW SECTION

WAC 246-812-630 Participation in approved substance abuse monitoring program. (1) In lieu of disciplinary action, the dentist may accept board referral into the approved substance abuse monitoring program.

(a) The dentist shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation shall be performed by health care professional(s) with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

(b) The dentist shall enter into a contract with the board and the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to:

(i) The dentist shall undergo intensive substance abuse treatment in an approved treatment facility.

(ii) The dentist shall agree to remain free of all mind-altering substances including alcohol except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101.

(iii) The dentist must complete the prescribed aftercare program of the intensive treatment facility, which may include individual and/or group psychotherapy.

(iv) The treatment counselor(s) shall provide reports to the approved monitoring program at specified intervals. Reports shall include treatment, prognosis, and goals.

(v) The dentist shall submit to random drug screening as specified by the approved monitoring program.

(vi) The dentist shall attend support groups facilitated by a health care professional and/or twelve-step group meetings as specified by the contract.

(vii) The dentist shall comply with specified employment conditions and restrictions as defined by the contract.

(viii) The dentist shall sign a waiver allowing the approved monitoring program to release information to the board if the dentist does not comply with the requirements of this contract.

(c) The dentist is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment, and random drug screens.

(d) The dentist may be subject to disciplinary action under RCW 18.130.160, if the dentist does not consent to be referred to the approved monitoring program, does not comply with specified employment restrictions, or does not successfully complete the program.

(2) A dentist who is not being investigated by the board or subject to current disciplinary action or currently being monitored by the board for substance abuse may voluntarily participate in the approved substance abuse monitoring program without being referred by the board. Such voluntary participants shall not be subject to disciplinary action under RCW 18.130.160 for their substance abuse, and shall not have their participation made known to the board if they meet the requirements of the approved monitoring program as defined in subsection (1) of this section.

(3) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved monitoring programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplinary authority for cause as defined in subsection (1) of this section. Records held by the board under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.

FEES

NEW SECTION

WAC 246-812-990 Dentist fees. The following fees shall be charged by the department of health and are nonrefundable:

Title of Fee	Fee
Application (includes the initial license which expires the following June 30)	\$ 1,000
Examination	1,500
Reexamination, written	500
Reexamination, practical	500
License renewal	2,750

Late renewal penalty	300
Inactive license renewal	1,500
Duplicate license	15
Certification	25
Multiple location licenses	50

**WSR 95-15-114
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**
[Filed July 19, 1995, 10:55 a.m.]

Original Notice.

Title of Rule: Rules and regulations for providing special education services to students with disabilities.

Purpose: Repeal chapter 392-171 WAC; and adopt new chapter 392-172 WAC.

Statutory Authority for Adoption: Chapter 28A.155 RCW.

Statute Being Implemented: Chapter 28A.155 RCW.

Summary: Chapter 392-171 WAC is repealed in its entirety. A new chapter 392-172 WAC is proposed which makes significant substantive and format changes bringing special education rules into compliance with federal requirements and improving the usefulness of the chapter to consumers and those who implement.

Reasons Supporting Proposal: Office of Superintendent of Public Instruction was requested by the Joint Select Committee for Educational Reform and Restructuring to look at special education rules to provide greater efficiency in their implementation. The United States Department of Education completed a monitoring of the state at about the same time and found deficiencies in the special education rules as they are currently formulated.

Name of Agency Personnel Responsible for Drafting: John Brattain, Superintendent of Public Instruction, Olympia, 753-6733; Implementation and Enforcement: Doug Gill, Superintendent of Public Instruction, Olympia, 753-6733.

Name of Proponent: Superintendent of Public Instruction, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Proposed regulations have been reviewed by the Department of Ecology and constitute a portion of the state's corrective action plan, adoption of which is a condition of continued federal special education funding.

Rule is necessary because of federal law, Individuals with Disabilities Education Act, 20 U.S.C.A. §§ 1400-1485.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule governs the provision of special education to students by school districts and other public agencies in the state of Washington. Its purpose is to implement chapter 28A.155 RCW and the Individuals with Disabilities Education Act. The anticipated effect to this chapter will be simplification of the implementation by local districts and greater understanding on the part of all who benefit from or implement the chapter.

Proposal Changes the Following Existing Rules: Proposed changes repeal chapter 392-171 WAC which had been amended over the past several years in a patchwork fashion as changes were made in federal regulations. The

chapter had lost any logical procedural flow and was becoming less useful to consumers and those who implement. These changes allow for simplification of language as well as imposing a more logical flow to the requirements.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The rule will have a minor or negligible economic impact.

Hearing Location: Brouillet Conference Room, Old Capitol Building, 4th Floor, 600 South Washington Street, Olympia, WA 98504-7200, on August 23, 1995, at 9 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by August 16, 1995, TDD (360) 664-3631, or (360) 753-6733.

Submit Written Comments to: John Brattain, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, FAX (360) 586-0247, by August 22, 1995.

Date of Intended Adoption: August 24, 1995.

July 19, 1995
Judith A. Billings
Superintendent of
Public Instruction

**Chapter 392-172 WAC
RULES FOR THE PROVISION OF SPECIAL EDUCATION TO SPECIAL EDUCATION STUDENTS**

GENERAL AUTHORITY AND PURPOSE

NEW SECTION

WAC 392-172-010 Authority. The authority for this chapter is RCW 28A.155.090(7) which enables the superintendent of public instruction to promulgate rules and regulations to implement chapter 28A.155 RCW. Such authority is supplemented by RCW 28A.300.070 which authorizes the superintendent of public instruction to receive federal funds in accordance with the provisions of federal law.

NEW SECTION

WAC 392-172-020 Purposes. The purposes of this chapter are to:

- (1) Implement chapter 28A.155 RCW consistent with the Individuals with Disabilities Education Act, 20 United States Code section 1401 et seq.;
- (2) Assure that all special education students as defined in this chapter have available a free and appropriate public education to meet their unique needs;
- (3) Assure that the rights of special education students and their parents are protected;
- (4) Assist school districts and other public agencies to provide for special education and related services; and
- (5) Establish compliance standards for public agencies responsible for providing special education pursuant to chapter 28A.155 RCW. State residential school programs are established and operated pursuant to RCW 28A.190.020 et seq.

Special education regulations must be implemented by school districts and other public agencies with an awareness that there are additional federal and state civil rights regulations (29 US Code 764, RCW 49.60.030, 43 USC 12101 et seq.) that apply to students who have a disability regardless

PROPOSED

of the student's eligibility for special education and related services. If a student has a physical, sensory, or mental impairment which substantially limits one or more major life activities, the district or other public agency has an obligation to provide that student appropriate educational services. Such services must be designed to meet the needs of the student with a disability to the same extent the needs of students without disabilities are met. A school district and other public agency's obligation to provide appropriate educational services to meet the needs of a student who has a disability exists separate and apart from the obligation to provide a free and appropriate public education to a student who qualifies for special education and related services under these regulations.

STUDENT'S RIGHTS—GENERAL

NEW SECTION

WAC 392-172-030 Students' rights to special education programs. (1) Each school district or other public agency shall provide every special education student between the age of three and twenty-one years, a free and appropriate educational program. The right to special education for eligible students commences on their third birthday.

(2) School districts or other public agencies may provide special education and related services to students with a disability in the birth through two years age group. If a school district or other public agency provides an education to any student who is not disabled in the birth through two years age group, the district or other public agency shall make special education and related services available pursuant to this chapter to all its special education students of the same age.

(3) Any student referred for special education and related services shall qualify pursuant to eligibility criteria set forth in this chapter.

(4) A special education student shall remain eligible for special education and related services until one of the following occurs:

(a) The multidisciplinary team, based on a reevaluation determines the student is no longer in need of special education; (In this case, while a disability may continue, and individual accommodations in the general education classroom may be necessary for educational benefit, such services would not represent special education services as defined in this chapter.) or

(b) The student has met high school graduation requirements established by the school district or other public agency pursuant to rules of the state board of education; or

(c) The student has reached age twenty-one. The student whose twenty-first birthday occurs on or before August 31 would no longer be eligible for special education. The student whose twenty-first birthday occurs after August 31, shall continue to be eligible for special education and related services for the remainder of the school year.

STUDENTS—GENERAL—DEFINITIONS

NEW SECTION

WAC 392-172-035 Definitions of "free appropriate, public education," "adult student," "special education student," "parent," and "public agency." As used in this chapter:

(1) "Free appropriate, public education" means special education and related services which:

(a) Are provided at public expense, under local school district or other public agency supervision and direction, and without charge to parents;

(b) Meet the standards of the state educational agency and the state board of education, including the requirements of this chapter;

(c) Include preschool, elementary school, or secondary school education in the state; and

(d) Are provided in conformance with individualized education program requirements of this chapter.

(2) "Special education student" and "student" (depending upon the context in which the terms are used) mean:

(a) Any student, enrolled in school or not, whose unique needs cannot be addressed exclusively through education in general education classes with or without individual accommodations and is therefore determined to be in need of special education services; or

(b) For the purpose of due process protections, a person under the age of twenty-one enrolled in school or not, who has been referred and for whom the school district or other public agency has made a decision to evaluate; or

(c) A person under the age of twenty-one who resides in a residential school serving students with a disability in accordance with RCW 28A.190.020 et seq.; who also qualifies pursuant to (a) of this subsection.

(3) "Adult student" means a special education student who is over the age of eighteen and who has not been judged incapacitated by a court of law. A student shall assume and be entitled to exercise all rights, duties and responsibilities otherwise granted to or imposed upon parents by this chapter upon attaining the age of eighteen. The adult student shall retain and be entitled to exercise the same until he or she has been judged incapable of exercising these rights by a court of law.

(4) "Parent" means a parent, a guardian, an adult person acting as a parent, or a surrogate parent who has been appointed in accordance with this chapter. The term includes a person acting in the place of a parent, such as a grandparent or stepparent with whom a student lives, as well as persons who are legally responsible for a student's welfare. The term does not include the state if the student is a ward of the state.

(5) As used in this chapter, "public agency" means:

(a) Each public school district in the state;

(b) Each educational service district that provides special education or related services to one or more students with a disability;

(c) Each state operated program; and

(d) Each public or private organization or entity or person which provides special education and/or related services to one or more students with a disability on behalf of a public school district or other public agency whether or

not the entity receives federal funds made available for purposes of the Individuals with Disabilities Education Act.

NEW SECTION

WAC 392-172-040 Definitions of "evaluation," "current evaluation," "reevaluation," and "consent." As used in this chapter:

- (1) "Evaluation" means procedures used to determine:
 - (a) Whether a student is disabled; and
 - (b) The nature and extent of the special education and related services that the student requires, if any. The term includes procedures used selectively with an individual student and does not include basic tests administered to or procedures used with all students in a school, grade, or class.
- (2) "Current evaluation data" for determination of eligibility means:
 - (a) Evaluation data obtained during a period of ninety calendar days prior to determining eligibility for students ages birth to six; or
 - (b) Evaluation data obtained during a period of one hundred eighty calendar days prior to determining eligibility for students ages six through twenty-one.
- (3) "Reevaluation" means procedures used to determine the student's continuing need for special education and related services. Reevaluation may also be used to determine the appropriateness of the services being provided to the student.
- (4) "Consent" means that the parent or adult student:
 - (a) Has been fully informed of all information relevant to the activity for which consent is sought in his or her native language or other mode of communication, including being informed of existing evaluation data to be used;
 - (b) Understands and agrees in writing to the activity for which consent is sought, and the consent describes the activity and lists any records which will be released and to whom; and
 - (c) Understands that the granting of consent is voluntary and may be revoked at any time.

NEW SECTION

WAC 392-172-045 Definition of "special education." As used in this chapter "special education" means instruction that is specially designed to meet the unique needs of a special education student and provided at no cost to the parent or student. Specially designed instruction includes instruction conducted in the classroom, in the home, in hospitals, institutions, and in other settings as well as physical education, and vocational education. Special education also includes specially designed instruction when it is carried out as part of speech and language services, physical and occupational therapy, orientation and mobility instruction, behavioral intervention, and audiological services.

The following terms are incorporated within the definition of special education: (1) "Specially designed instruction" means organized and planned instructional activities which are designed by certificated special education and related services personnel. However specially designed instruction may also be implemented by other than special education and related services personnel pursuant to an individualized education program.

The term does not include individual accommodations in the general education classroom which alone would be sufficient and effective to meet the individual needs of the student.

(2) "At no cost" means that all specially designed instruction is provided without charge. However, the term does not preclude incidental fees which are normally charged to nonspecial education students or their parents as a part of the general education program.

(3) "Physical education" means the development of:

- (a) Physical and motor fitness;
- (b) Fundamental motor skills and patterns; and
- (c) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

The term includes special physical education, adapted physical education, movement education, and motor development.

(4) "Vocational education" means organized educational programs offering a sequence of courses that are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning that contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupation-specific skills necessary for economic independence as a productive and contributing member of society. The term also includes applied technology education.

(5) "Audiology" means the provision of habilitative activities related to a hearing impairment.

(6) "Occupational therapy" is instruction designed to improve, develop or restore functions impaired or lost through illness, injury, or deprivation or to prevent further loss.

(7) "Orientation and mobility instruction" means the provision of training/instruction in orientation and mobility for students who are visually impaired.

(8) "Physical therapy" means developing or restoring motor function and maintaining appropriate performance commensurate with the student's unique needs.

(9) "Speech and language services" mean the provision of instruction for the habilitation or prevention of communication disorders.

NEW SECTION

WAC 392-172-055 Definition of "related services."

As used in this chapter "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a special education student to benefit from special education. These services include communication disorders services and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and evaluation of disabilities in students, counseling services, including rehabilitation counseling, medical services for diagnostic or evaluation purposes, and orientation and mobility services. The term also includes school health services, social work services in schools, parent counseling and training, and classified staff services.

The terms used in the definition of "related services" are defined as follows:

- (1) "Audiology" includes:
- (a) Identification of students with hearing loss;
 - (b) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;
 - (c) Creation and administration of programs for the prevention of hearing loss;
 - (d) Counseling and guidance of students, parents, and teachers regarding hearing loss; and
 - (e) Determination of the student's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
- (2) "Classified staff services" includes:
- (a) Services provided by classified staff which provide for the student's safety, personal care, and instructional assistance; and
 - (b) Services provided to certificated staff by classified staff which provide assistance for special education students to achieve placement in the least restrictive environment.
- (3) "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.
- (4) "Early identification and evaluation of disabilities in students" means the implementation of a formal plan for identifying a disability as early as possible in a student's life.
- (5) "Medical services" means services provided by a licensed physician to determine a student's medically related disabling condition which may result in the student's need for special education and related services.
- (6) "Occupational therapy" includes:
- (a) The identification and evaluation of the student's physical and self-care status;
 - (b) Determination of the student's need for occupational therapy; and
 - (c) Related counseling and guidance of parents, students, and staff regarding the provision of occupational therapy.
- (7) "Orientation and mobility services" includes:
- (a) Identification and evaluation of the student's mobility status;
 - (b) Determination of the student's need for orientation and mobility services; and
 - (c) Related counseling and guidance of parents, students and staff regarding orientation and mobility services.
- (8) "Parent counseling and training" means assisting parents in understanding the special needs of their child and providing parents with information about child development.
- (9) "Physical therapy" includes:
- (a) Identification and evaluation of the student's physical status;
 - (b) Determination of the student's need for physical therapy; and
 - (c) Related counseling and guidance of parents, students and staff regarding physical therapy services.
- (10) "Psychological services" includes:
- (a) Administering psychological and educational tests, and other evaluation procedures;
 - (b) Interpreting evaluation results;
 - (c) Obtaining, integrating, and interpreting information about the student's behavior and conditions relating to learning;

(d) Consulting with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests, interviews, and behavioral evaluations; and

(e) Planning and managing a program of psychological services, including psychological counseling for students and parents.

(11) "Recreation" includes:

- (a) Assessment of leisure function;
- (b) Therapeutic recreation services;
- (c) Recreation programs in school and community agencies; and
- (d) Leisure education.

(12) "Rehabilitation counseling services" means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a special education student. The term also includes vocational rehabilitation services provided to special education students by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

(13) "School health services" means services provided by a qualified school nurse or other qualified person.

(14) "Social work services in schools" include:

- (a) Preparing a social or developmental history on a special education student;
- (b) Group and individual counseling with the student and family;
- (c) Working with those problems in a student's living situation (home, school, and/or community) that affect the student's adjustment in school; and

(d) Mobilizing school and community resources to enable the student to benefit from his or her educational program.

(15) "Speech and language services" include:

- (a) Identification of students with specific speech and language disorders;
- (b) Diagnosis and appraisal of speech and language disorders;
- (c) Referral for medical or other professional attention necessary for the habilitation of speech and language disorders; and
- (d) Counseling and guidance of parents, students, and staff regarding speech and language disorders.

(16) "Transportation" includes:

- (a) Travel to and from school and between schools;
- (b) Travel in and around school buildings; and
- (c) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a special education student. The list of related services is not exhaustive and may include other developmental, corrective, or supportive services, if they are required to assist a special education student to benefit from special education.

NEW SECTION

WAC 392-172-060 Definition—Transition services.

(1) As used in this chapter, the term "transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes move-

ment from school to post-school activities. Some examples of appropriate post-school outcomes include:

- (a) Postsecondary education;
- (b) Integrated employment;
- (c) Supported employment;
- (d) Continuing and adult education;
- (e) Adult services; and
- (f) Independent living and/or community participation.

(2) The coordinated set of activities shall be based upon the individual student needs, taking into account the student's preferences and interests, and shall include:

- (a) Functional vocational evaluation;
- (b) Instruction;
- (c) Vocational education/training;
- (d) Community experiences;
- (e) The development of employment and other post-school adult living objectives; and
- (f) Where appropriate, acquisition of daily living skills.

NEW SECTION

WAC 392-172-062 Definition of terms related to transition services. The following terms used in the definition of "transition services" are defined as follows:

(1) "Coordinated set of activities" means a planned and organized sequence of activities which promotes the movement of a student from school to post-school adult living.

(2) "Outcome-oriented process" means a series of activities unique to an individual student's needs which are intended to lead directly to such outcomes as: Integrated employment, supported employment, postsecondary education, continuing and adult education, adult services, independent living, and/or community participation.

(3) "Postsecondary education" means organized educational programs provided by qualified personnel which are available beyond grades 9-12. The term includes:

- (a) Community colleges;
- (b) Vocational-technical colleges;
- (c) Four-year colleges and universities.

(4) "Vocational education" means a planned series of learning experiences as defined in this chapter (WAC 392-172-045).

(5) "Vocational training" means the acquisition of specific skills through specialized instruction and practice, and provided by qualified personnel.

(6) "Integrated employment" means paid work in sites and settings that are not unique to individuals with disabilities.

(7) "Supported employment" means paid work that requires the use of designated personnel to assist special education students in acquiring and maintaining site specific skills.

(8) "Continuing and adult education" means organized educational programs conducted by qualified personnel for individuals who have graduated or otherwise exited high school.

(9) "Adult services" means health, social, housing, transportation, and/or employment opportunities normally provided for persons beyond age eighteen through public, nonprofit agencies.

(10) "Independent living" means initiating, maintaining, and/or actively participating in a household, using self-generated resources.

(11) "Community participation" means integrated and active involvement in the local community.

(12) "Functional vocational evaluation" means the evaluation of occupational interests, aptitudes, and preparation opportunities.

(13) "Participating agency" means any state or local agency, other than the school district or other public agency responsible for a student's education, that is or will be, financially and legally responsible for providing supplemental transition services to the special education student.

NEW SECTION

WAC 392-172-065 Definition—Supplementary aids and services. As used in this chapter, the term "supplementary aids and services" means any of the following:

(1) Specially designed instruction provided in the general education classroom by personnel qualified pursuant to WAC 392-172-200.

(2) Any other service, including assistive technology or other assistive device, provided in conjunction with the general education classroom which permits the delivery of specially designed instruction. Such instructional services must be designed, monitored, supervised and evaluated by special education personnel certificated pursuant to WAC 392-172-200 in cooperation with the general education classroom teacher.

NEW SECTION

WAC 392-172-070 Definition—Assistive technology device and service. The term "assistive technology device" means any item, piece of equipment, or product system—whether acquired commercially off the shelf, modified, or customized—that is used to increase, maintain, or improve functional capabilities of special education students.

The term "assistive technology service" means any service that directly assists a special education student in the selection, acquisition, or use of an assistive technology device. The term includes:

(1) The evaluation of the needs of a special education student, including a functional evaluation of the student in the student's customary environment;

(2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by special education students;

(3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing of assistive technology devices;

(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(5) Training or technical assistance for a special education student, or if appropriate, the student's family; and

(6) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ or are otherwise substantially involved in the major life functions of students with disabilities.

NEW SECTION

WAC 392-172-075 Availability of assistive technology. Each public agency shall ensure that assistive technology devices or assistive technology services, or both, are made available to a special education student if required as a part of the student's individualized education program.

STUDENT SPECIFIC PROCEDURES**IDENTIFICATION**NEW SECTION

WAC 392-172-100 Childfind. The local district or other public agency shall conduct childfind activities for the purpose of locating, evaluating and identifying students with a suspected disability, regardless of the severity of their disability, who are residing within the boundaries of the district or other public agency and who are not currently receiving special education and related services.

Childfind activities shall include written notification to all parents of children in the district or other public agency regarding access to and the use of the school district and other public agency's childfind system. Written notification and posting will be consistent with WAC 392-172-306 (2)(b).

Childfind activities shall apply to students ages birth through twenty-one and may include, but are not limited to: Posting notice in school buildings of the availability of special education programs, preschool developmental screening, local media informational campaigns, liaison with public health and other medical and social agencies, public or private, a questionnaire for first-time enrolling students, screening of district-wide group standardized test results, in-service education to teaching staff, and cooperation as requested with state childfind programs.

EVALUATION PROCEDURESNEW SECTION

WAC 392-172-102 Preevaluation procedures—Referrals. A referral of a student suspected of having a disability may be originated or transmitted through any source, either in writing or verbally.

A referral may be initiated by any source, including but not limited to parents, medical personnel, school district or other public agency personnel, community agencies, civil authorities, district screening procedures, and other identified, interested personnel.

NEW SECTION

WAC 392-172-104 Evaluation procedures—Time line. A school district or other public agency must complete a written referral when a student suspected of having a disabling condition is brought to the attention of any certificated staff member or administrator.

(1) If the referral under WAC 392-172-102 is made to a school district or other public agency certified staff or administrator (other than the special education designee) such staff must notify the school district and other public agency's special education designee at the time of the

referral. Within twenty-five school days, the district or other public agency superintendent or designee shall:

(a) Record the circumstance by date, origin, and reason(s) for the referral;

(b) Provide the student's parent(s) or the adult student written notice that the student has been referred because of a suspected disabling condition and that the district or other public agency will determine whether or not there is good reason to believe that the student is a candidate for evaluation;

(c) Review the referral;

(d) Collect and examine existing school, medical and other records in the possession of the school district or other public agency; and

(e) Based on the existing record, make a determination whether or not the student is a candidate for evaluation. This decision shall be recorded in writing and shall set forth the date and the name of the person making the decision. The superintendent or designee shall direct a notice to the student's parent(s) or the adult student that complies with the requirements of WAC 392-172-306.

(2) When the student is a candidate for evaluation, the school district or other public agency shall fully evaluate the student and arrive at a decision pursuant to WAC 392-172-154 within:

(a) Thirty-five school days after the date written consent for an evaluation has been provided by the parent(s) or the adult student; or

(b) Thirty-five school days after the date the refusal of the parent(s) or the adult student to grant consent has been overridden pursuant to a hearing (or appeal) in accordance with WAC 392-172-350 et seq.; or

(c) Such other time period as may be agreed to by the parent(s) or the adult student and documented by school authorities, including specifying the reasons for extending the time line.

NEW SECTION

WAC 392-172-106 General areas of evaluation. The evaluation of a student shall be in all areas related to the suspected disability, including, but not limited to health, vision, hearing, social skills, emotional status, general intelligence, academic performance, communication skills, motor abilities, career, vocational, and the need for transition services.

NEW SECTION

WAC 392-172-108 General evaluation safeguards—Personnel, materials and procedures. (1) Every student who is evaluated or reevaluated shall be evaluated according to the procedures established in this chapter. The superintendent of public instruction shall ensure that each public agency establishes and implements protection in evaluation procedures which meet the requirements of this chapter. Before the initial provision of special education and related services to a special education student, a full and individual evaluation of the student's educational needs must be conducted in accordance with this chapter.

(2) The evaluation of a student (except one completed for a communication disordered student) shall be made by a multidisciplinary team. The multidisciplinary team is a

group of professionals selected by the district or other public agency and knowledgeable about the student and the area(s) of suspected disability(ies).

(3) If the referral is generated by a general education classroom teacher, the district or other public agency shall invite the referring teacher to serve on the multidisciplinary team.

(4) For a student suspected of having a learning disability, the multidisciplinary team must include:

(a) The student's general education classroom teacher; or

(b) If the child does not have a general education classroom teacher, a general education classroom teacher qualified to teach a child of his or her age; or

(c) For a child of less than school age, an individual qualified by the state to teach a child of his or her age; and

(d) At least one individual qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech language pathologist, or remedial reading teacher.

(5) Each member of the team shall be licensed, registered, credentialed, or certificated according to his or her professional standards in accordance with state statutes and rules. If parents request the opportunity to attend a multidisciplinary team meeting, they shall be granted this opportunity. Scheduling of the multidisciplinary team meeting shall be at the discretion of the school district or other public agency. Upon request, the district or other public agency shall notify the parent(s) of the time and place of multidisciplinary team meetings. These provisions apply to all multidisciplinary team meetings conducted by the district or other public agency, including those resulting from initial evaluations and reevaluations.

(6) No single procedure or test shall be the sole criterion for determining a student's eligibility or disabling condition and/or for determining the appropriate educational program for a student.

(7) Evaluation materials, procedures, and instruments used for the purpose of identification and programming shall be selected and administered so as not to be racially or culturally discriminatory.

(8) All tests and other evaluation materials shall have been validated for the specific purpose for which they are used and shall accurately reflect whatever factors the tests purport to measure. If properly validated tests are unavailable, the professional judgment of each member of the multidisciplinary team shall determine eligibility for special education based on other evidence of the existence of a disability and need for special education. This professional judgment shall be documented in a written narrative.

(9) All tests and other evaluation materials shall be administered by qualified personnel in conformance with the instructions of the test producer.

(10) Evaluation materials, procedures or instruments shall be provided and administered in a student's primary language or mode of communication, unless it is clearly not feasible to do so. Tests shall be selected and administered so as to ensure that, when a test is administered to a student with impaired and/or unique sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's

impaired and/or unique sensory, manual, communication or speaking skills (except where those skills are the factors the test purports to measure). Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(11) In conducting evaluation activities, appropriate evaluation team members shall:

(a) Collect and review all available existing school, medical, and other records pertinent to the suspected disabling condition(s) of the student, including previous screening and evaluation results, health reports, relevant cumulative records and recommendations of related service providers; and

(b) Conduct evaluation activities required by this chapter; and

(c) Collect such other data as needed to verify the results of standardized testing, including but not limited to parent and/or teacher interviews and current classroom performance data.

(12) Each person actually performing an evaluation shall complete and sign an evaluation report. Information used to support the evaluation, but which is not incorporated into the file (e.g., review of health record), shall be referenced as to date of record, location, and source person. Each report shall specify:

(a) The procedures and instruments used;

(b) The results obtained;

(c) The apparent significance of findings as related to the student's instructional program, including a description of the specific factors which are interfering with the student's educational performance and the special education and related services needed to assist the student in benefiting from his or her educational placement; and

(d) The need to schedule services over a period of time that exceeds the regular one hundred eighty-day school calendar.

(13) A written summary analysis of the reports shall be developed consistent with the requirements of WAC 392-172-152.

NEW SECTION

WAC 392-172-110 Communication disordered students—Evaluation. Students who are suspected of having a communication disorder shall be evaluated by a qualified speech language pathologist who shall use procedures appropriate to the evaluation of communication disorders. If, during this evaluation, additional areas of disability are suspected, the student shall be referred for additional evaluation. The evaluation results required in this section shall be summarized as provided in WAC 392-172-108.

NEW SECTION

WAC 392-172-112 Medical evaluation. (1) Medical evaluations at the expense of a school district or other public agency shall be obtained subject to the following conditions:

(a) During the evaluation process the multidisciplinary team suspects a student of having a health problem which may affect his or her eligibility and need for special education.

(b) In accordance with criteria established by the school district or other public agency (except in the case of an independent evaluation pursuant to WAC 392-172-150).

(2) Medical evaluation services necessary to make a determination of the educational needs of residential school students, shall be the responsibility of the department of social and health services pursuant to RCW 28A.190.040.

ELIGIBILITY CRITERIA FOR STUDENTS WITH DISABILITIES

NEW SECTION

WAC 392-172-114 Definition and eligibility criteria for developmentally delayed. Definition and eligibility criteria for developmentally delayed are as follows:

(1) As used in this chapter, the term "developmentally delayed, birth to thirty-six months" shall mean those children under thirty-six months of age who:

(a) Demonstrate a 1.5 standard deviation or twenty-five percent delay in the developmental area of cognition. (WAC 392-172-116(1)), communication (WAC 392-172-116(2)), fine motor (WAC 392-172-116(3)), gross motor (WAC 392-172-116(4)), or motor which for the purpose of this section shall be a combined delay of fine motor (WAC 392-172-116(3)) and gross motor (WAC 392-172-116(4)); or

(b) Qualify for one of the other eligibility categories specified in this chapter unless otherwise excluded; and

(c) Need special education and related services. Such children in order to continue to be eligible for special education and related services must be reevaluated prior to age three.

(2) As used in this chapter, the term "developmentally delayed, three to six years" shall mean those children between thirty-six months and the age of eligibility for entry to the first grade who demonstrate a delay on a standardized norm referenced test, with a test-retest or split-half reliability of .80 that is at least:

(a) Two standard deviations below the mean in one or more of the six developmental areas defined in WAC 392-172-116; or

(b) One and one-half standard deviations below the mean in two or more of the six developmental areas defined in WAC 392-172-116; or

(c) Qualify for one of the other eligibility categories specified in this chapter unless otherwise excluded; and

(d) Need special education and related services. Children who qualify for special education as developmentally delayed must be reevaluated prior to the age of eligibility for entry to first grade and a determination made that the student either:

(i) Qualifies under the provisions of one of the other disabling conditions in this chapter; or

(ii) Is no longer in need of the special education and related services. The procedural safeguard requirements in this chapter are also applicable to this provision.

(3) The term "developmentally disabled" does not include children under the age of eligibility for entry to the first grade who qualify solely for communications disorder services under WAC 392-172-120.

NEW SECTION

WAC 392-172-116 Areas of developmental delay—Definitions. The six developmental areas for the purpose of applying eligibility criteria to developmentally delayed children are:

(1) Cognitive: Comprehending, remembering, and making sense out of one's experience. Cognitive ability is the ability to think and is often thought of in terms of intelligence;

(2) Communication: The ability to effectively use or understand age-appropriate language, including vocabulary, grammar, and speech sounds;

(3) Fine motor: Motor skills requiring precise, coordinated use of the small muscles;

(4) Gross motor: Motor skills used for body control such as standing, walking, balance and climbing;

(5) Social/emotional: The ability to develop and maintain functional interpersonal relationships and to exhibit age appropriate social and emotional behaviors; and

(6) Adaptive skills: The ability to develop and exhibit age appropriate self-help skills, including independent feeding, toileting, personal hygiene and dressing skills.

NEW SECTION

WAC 392-172-118 Definition and eligibility criteria for seriously behaviorally disabled. (1) Students who are seriously behaviorally disabled are those who exhibit over a long period of time and to a marked degree, one or more of the following characteristics, which adversely affects their educational performance:

(a) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(c) Inappropriate types of behavior or feelings under normal circumstances;

(d) A general pervasive mood of unhappiness or depression; or

(e) A tendency to develop physical symptoms or fears associated with personal or school problems.

(2) The term includes students who are schizophrenic.

(3) The term does not include students who are socially maladjusted, unless it is determined that they are also seriously behaviorally disabled.

(4) All students considered for special education and related services as seriously behaviorally disabled shall be evaluated according to the following:

(a) A current evaluation which concludes that the student has a serious behavioral disability and which considers and describes the student's social and emotional behaviors and provides implications for educational planning, if any.

(b) An evaluation which describes behaviors which distinguish between common disciplinary problem behaviors and serious behavioral disabilities. Common disciplinary problem behaviors (e.g., truancy, smoking, breaking school conduct rules) may exist in conjunction with serious behavioral disabilities, but cannot be used as the sole criteria for recommending special education and related services. The evaluation shall also include:

(i) A social or developmental history compiled directly from the parent(s) and/or records, when parents are not available.

(ii) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually.

(c) If the academic evaluation is completed and there is documentation showing that the student's disability is evident in the school environment, the following evaluation reports may be substituted for the school district and other public agency's evaluation.

(d) A current evaluation by a psychiatrist or a nonpublic school mental health professional who holds a graduate degree in a recognized mental health specialty that considers and describes the student's social and emotional behaviors, which concludes that the student has a serious behavioral disability, and provides implications for educational planning, if any. The multidisciplinary team shall consider these implications in planning and implementing the student's educational program.

NEW SECTION

WAC 392-172-120 Definition and eligibility criteria for communication disordered. A student shall be considered to have a communication disorder if there is present a documented communication disorder such as stuttering, voice disorder, language impairment, and/or impaired articulation which adversely affects a student's educational performance. The evaluation procedures and eligibility standards outlined in this section apply to those students whose only disabling condition is a communication disorder.

All students being considered for special education and related services as communication disordered shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current hearing screening report;

(2) A current description of the level of educational development as provided by the classroom teacher, or where available, by standardized tests in those areas affected by the speech and/or communication problem(s) including discussion of the existing or potential impact of the problem(s) on educational performance; and

(3) A current evaluation of the level of speech and/or language development, as measured by standardized tests or professionally recognized procedures, scales, or checklists appropriate to the student's age level and mode of communication, individually administered, and which considers the student's sex, dialect norms, social-cultural environment, and behaviors. For children under the age of eligibility for entry to the first grade, the evaluation shall include developmental acquisition of speech and language. Such measures shall result in one or more of the following findings that the student:

(a) Achieves a rating of moderate or severe on a standardized articulation test that yields a severity rating and/or misarticulates in comparison to developmental norms five or more unrelated phonemes each in two or more positions (initial, medial, or final) for children under the age of eligibility for entry to the first grade, three or more unrelated phonemes for students age six through age seven, or one or more for students over age seven, with consider-

ation given to the student's speech intelligibility, physical ability, and/or therapy history.

(b) Has a delay in receptive and/or expressive language such that functioning is one year or more below chronological age for students up through age eight or functioning is two-thirds of chronological age or below for students over age eight.

(c) Has interruptions or dysfluencies in more than one speaking situation such as repetitions, prolongations, blockage in flow of speech, struggle, or avoidance behaviors which interfere with communication or are inconsistent with age or development.

(d) Has a deviation in voice quality, pitch, or loudness characterized by abusive vocal habits, or interference with communication, or is inconsistent with age or development, or demonstrates chronic hoarseness of duration of three weeks or more.

Whenever appropriate, referral for medical and/or psychological and/or other evaluations shall be made and the results considered in the evaluation of the student's suspected disabling condition.

NEW SECTION

WAC 392-172-122 Definition and eligibility criteria for orthopedically impaired. Students who are orthopedically impaired are those who lack normal function of muscles, joints or bones due to congenital anomaly, disease or permanent injury, and such condition adversely affects their educational performance.

All students being considered for special education and related services as orthopedically impaired shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current medical evaluation by a qualified medical practitioner which describes and confirms the student's health circumstances and which provides any medical implications for educational planning;

(2) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually; and

(3) A current physical therapy and/or occupational therapy evaluation which considers and describes implications for therapy as a part of educational planning.

NEW SECTION

WAC 392-172-124 Definition and eligibility criteria for health impaired. Students with health impairments are those who have limited strength, vitality or alertness, due to chronic or acute health problems—such as students with serious congenital heart defect, other congenital syndrome(s), other disorders of the cardiorespiratory systems, disorders of the central nervous system including epilepsy or neurological impairment, or other profound health circumstances or degenerative condition(s)—which adversely affects or with a high degree of professional certainty will affect their educational performance.

All students being considered for special education and related services as health impaired shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current evaluation by a qualified practitioner which describes and confirms the student's health circumstances and which provides any implications for educational planning; and

(2) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually.

NEW SECTION

WAC 392-172-126 Specific learning disability—

Definition. Specific learning disability is a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language which prevents the student from achieving commensurate with his or her age and ability levels in one or more of the areas listed in this subsection, when provided with learning experiences appropriate to the student's age and ability levels. Such disorder may include problems in visual and auditory perception and integration and may manifest itself in an impaired ability to listen, think, speak or communicate clearly, read with comprehension, write legibly and with meaning, spell, and to accurately perform mathematical calculations, including those involving reading. The presence of a specific learning disability is indicated by intellectual functioning above that specified in this chapter for eligibility as mentally retarded and by a severe discrepancy between the student's intellectual ability and academic achievement in one or more of the following areas:

- (1) Oral expression;
- (2) Listening comprehension;
- (3) Written expression;
- (4) Basic reading skill;
- (5) Reading comprehension;
- (6) Mathematics calculations; and
- (7) Mathematics reasoning.

Such a performance deficit cannot be explained by visual, or hearing, or motor disabilities, mental retardation, behavioral disability, or environmental, cultural, or economic disadvantage.

A specific learning disability includes conditions described as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia, when the student meets the eligibility criteria set forth in WAC 392-172-128, including documentation of severe discrepancy as required by WAC 392-172-132.

NEW SECTION

WAC 392-172-128 Specific learning disability—

Evaluation procedures. Evaluation procedures and eligibility standards: All students (except those under the age of entry for first grade) considered for initial placement in special education as specific learning disabled shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current evaluation of sufficient scope to rule out eligibility for any other disabling condition and to rule out environmental, cultural, or economic factors as an explanation for the specific academic problem;

(2) A current vision and hearing screening report shall be obtained and shall be of sufficient scope to rule out vision

or hearing acuity as an explanation for the specific academic problem;

(3) A written record of observation of the student's learning behaviors in the general education program and the relationships of these behaviors to the specific academic problem shall be completed by a member of the evaluation team other than the student's general education teacher. In the case of a student of less than school age or out of school, a team member shall observe the student in an environment appropriate for a student of that age;

(4) Written documentation that the student has an academic achievement problem in the general education program shall be available. Examples of data used for documentation may include:

- (a) Student performance on daily classroom work and/or criterion-referenced tests;
 - (b) Summary of past student performance;
 - (c) Group test results;
 - (d) Teacher observation and judgments; and
 - (e) Performance on student learning objectives;
- (5) Documentation of the existence of a severe discrepancy between the student's intellectual ability and academic achievement in one or more of the seven areas specified in WAC 392-172-126 shall be recorded. Such documentation shall conform to the requirements of WAC 392-172-132; and
- (6) Tests used to assess the student's intellectual ability and academic achievement shall be:

- (a) Current;
- (b) Reliable as demonstrated by a reliability coefficient of .85 or above;
- (c) Normed on representative national samples;
- (d) Selected and administered in accordance with the general requirements of WAC 392-172-108; and
- (e) Individually administered and interpreted by a qualified person (defined in WAC 392-172-108) in accordance with the standardized procedures described in the test manuals.

NEW SECTION

WAC 392-172-130 Discrepancy tables for determining severe discrepancy under WAC 392-172-132. The superintendent of public instruction shall develop and publish discrepancy tables for the purpose of determining a severe discrepancy between intellectual ability and academic achievement pursuant to WAC 392-172-132. Such tables shall be developed on the basis of a regressed standard score discrepancy method which shall consider the following variables:

- (1) The reliability coefficient of the intellectual ability test;
- (2) The reliability coefficient of the academic achievement test; and
- (3) An appropriate correlation between the intellectual ability and the academic achievement tests.

The regressed standard score discrepancy method shall be applied at a criterion level of 1.55.

NEW SECTION

WAC 392-172-132 Method for documenting severe discrepancy. (1) For students in grades one and above, a severe discrepancy shall be determined and documented from tables developed pursuant to WAC 392-172-130.

(2) For the purposes of applying the severe discrepancy tables, the following scores shall be used:

(a) A total or full scale intellectual ability score;

(b) An academic achievement test score which can be converted into a standard score with a mean of one hundred and a standard deviation of fifteen; and

(c) A severe discrepancy between the student's intellectual ability and academic achievement in one or more of the seven areas provided for in WAC 392-172-126 shall be determined by applying the regressed standard score discrepancy method to the obtained intellectual ability and achievement test scores using the tables referenced above. Where the evaluation results do not appear to accurately represent the student's intellectual ability and where the discrepancy between the student's intellectual ability and academic achievement does not initially appear to be severe upon application of the discrepancy tables, WAC 392-172-130, the multidisciplinary team shall apply professional judgment in order to determine the presence of a severe discrepancy. In this event, the multidisciplinary team shall document in writing a narrative explanation as to why the student has a severe discrepancy. The multidisciplinary team must provide supportive evidence, including the procedures used to determine that a severe discrepancy exists between the student's intellectual ability and academic achievement. If the prohibition against the use of specific tests or test results as provided in WAC 392-172-108(8) shall preclude the use of any of the tests referenced above, the multidisciplinary team shall document in a written narrative the basis upon which the members decided that there exists a severe discrepancy between intellectual ability and achievement.

NEW SECTION

WAC 392-172-134 Definition and eligibility criteria for mental retardation. Students who are mentally retarded are those who demonstrate significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects their educational performance.

(1) All students being considered for special education and related services as mentally retarded shall be evaluated and determined eligible for special education and related services according to the following:

(a) A current evaluation of intellectual functioning obtained from a standardized individual test designed to measure intellectual functioning, individually administered by a qualified psychologist and interpreted and attested to as to validity by a qualified psychologist; and

(b) A current evaluation which considers and describes adaptive behavior as measured by standardized instrument(s), or professionally recognized scales where there are no known standardized measures, which discusses any implications for educational planning; and

(c) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually; and

(d) A developmental history compiled directly from the parent(s), or records, when parents are not available.

(2) Eligibility standards:

(a) Significantly subaverage general intellectual functioning, defined as a full scale intelligence quotient two or more standard deviations below the mean on the respective measure; and

(b) Concurrent deficits in adaptive behavior.

NEW SECTION

WAC 392-172-136 Definition and eligibility criteria for multiple disabilities. A student shall be considered multiply disabled when there are present and documented two or more disabling conditions, each of which is so severe as to warrant a special program were that disabling condition to appear in isolation, and the combination of which causes such severe educational problems that the student requires intensive programming and cannot be accommodated in special education programs solely for one of the impairments. Students who are deaf/blind are not included as multiply disabled.

NEW SECTION

WAC 392-172-138 Definition and eligibility criteria for deafness. Students who are deaf are those students who have a documented hearing impairment which is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance.

All students being considered for special education and related services as deaf shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current evaluation by a qualified audiologist which describes and confirms that the hearing impairment is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification and which prevents the auditory channel from being the primary mode of learning speech and language and adversely affects educational performance;

(2) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually; and

(3) A current evaluation of language development as measured by standardized tests or professionally recognized scales appropriate to age level and administered individually. Each school district or other public agency shall ensure that the hearing aids worn by students who are deaf are functioning properly.

NEW SECTION

WAC 392-172-140 Definition and eligibility criteria for hearing impairment. Students who are hearing impaired are those students who have a hearing impairment, whether permanent or fluctuating, which adversely affects the student's educational performance but is not included under the definition of deafness. All students being consid-

ered for special education and related services as hard of hearing shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current evaluation by a qualified audiologist which describes and confirms that the student:

(a) Has an organic hearing loss in excess of 20 dB better ear average in the speech range (500, 1,000, 2,000 Hz), unaided; or

(b) Has a history of fluctuating hearing loss which has interrupted the normal acquisition of speech and language and continues to be a part of educational planning.

(2) A current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually.

(3) A current evaluation of language development as measured by standardized tests or professionally recognized scales appropriate to age level and administered individually.

Each school district or other public agency shall ensure that the hearing aids worn by students who are hearing impaired are functioning properly.

NEW SECTION

WAC 392-172-142 Definition and eligibility criteria for visually impaired/blindness. Students who are visually impaired/blind are those students who have a visual impairment which, even with correction, adversely affects the student's educational performance.

All students being considered for special education and related services as visually impaired/blind shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current evaluation by a qualified vision specialist or physician which describes and confirms that the student:

(a) Has visual acuity of 20/70 or less in the better eye with correction; or

(b) Has a field of vision which at its widest diameter subtends an angle of no greater than twenty degrees in the better eye with correction.

(2) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually.

NEW SECTION

WAC 392-172-144 Definition and eligibility criteria for deaf/blindness. Students who are deaf/blind are those whose hearing and vision impairments, in combination, cause such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for students who are deaf or blind.

All students being considered for special education and related services as deaf/blind shall be evaluated and determined eligible for special education and related services according to the following:

(1) A current evaluation by a qualified audiologist and vision specialist or physician which describes and confirms that the vision and hearing impairments, in combination, cause such severe communication and other developmental and educational problems that the students cannot be accommodated in special education programs solely for students who are deaf or blind;

(2) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually; and

(3) A current evaluation of language development as measured by standardized tests or professionally recognized scales appropriate to age level and administered individually.

NEW SECTION

WAC 392-172-146 Definition and eligibility criteria for autism. "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a student's educational performance. If a student manifests characteristics of autism after age three, that student still could be diagnosed as having autism if the criteria in this section are satisfied.

Students in this category have a range of intellectual abilities.

Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines and unusual responses to sensory experiences.

The term does not apply if a student's educational performance is adversely affected primarily because the student has a serious behavioral disability, as defined in this chapter. The category of autism includes students with pervasive developmental disorders if they meet eligibility criteria.

All students being considered for special education and related services under the category of autism shall be evaluated and determined eligible for special education and related services according to the following:

(1) A developmental history which includes verbal and nonverbal communication, social interaction, play, motor and sensory development;

(2) An adaptive behavior evaluation which includes:

(a) A standardized measure of adaptive behavior;

(b) An evaluation of the student's social skills, including interactions with peers, based on a classroom observation; and

(c) An evaluation of the student's self-help and community skills based on classroom and/or home observations and/or standardized evaluation methods;

(3) A communication evaluation which includes evaluations of:

(a) Receptive, expressive, and social communication skills;

(b) The possible contributions of the student's communication impairment to challenging behavior, and their implications for educational planning; and

(c) The potential need for augmentative communication methods;

(4) An evaluation of preacademic or academic strengths and weaknesses, preferred learning modalities, and present levels of functioning;

(5) A hearing and vision screening; and

(6) An evaluation of fine and gross motor skills.

NEW SECTION

WAC 392-172-148 Definition and eligibility criteria for traumatic brain injury. "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability and/or psychosocial impairment that:

(1) Adversely affects educational performance which results in the need for special education and related services. The term applies to open or closed head injuries resulting in impairments in one or more of the following areas such as: Cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

(2) All students being considered for special education and related services under the category of traumatic brain injury shall be evaluated and determined eligible for special education and related services according to the following:

(a) A current medical evaluation by a qualified medical practitioner, which describes an acquired injury to the brain or a history of significant head trauma and which provides any medical implications for educational planning;

(b) Current academic achievement evaluation as measured by standardized tests appropriate to age level and administered individually;

(c) Current evaluation of cognitive functioning, which may include intelligence, memory, attention, reasoning, abstract thought, judgment, problem-solving, and/or information-processing;

(d) Current evaluation of language and communication skills;

(e) Current evaluation of fine and gross motor skills.

NEW SECTION

WAC 392-172-150 Independent educational evaluation. (1) The parent(s) of a student or the adult student referred for special education and related services or any special education student who is to be evaluated or reevaluated has the right to obtain an independent educational evaluation, subject to subsections (2), (3) and (4) of this section.

(2) When requested by the parent, each school district or other public agency shall provide information about where an independent educational evaluation may be obtained.

(3) For the purposes of this section:

(a) "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the school district or other public agency responsible for the education of the student in question; and

(b) "Public expense" means that the school district or other public agency either pays for the full cost of the evaluation or assures that the evaluation is otherwise provided at no cost to the parent (or to the adult student).

(4) A parent or the adult student has the right to an independent educational evaluation at public expense when the parent or the adult student disagrees with the evaluation results obtained by the school district or other public agency, as follows:

(a) The parent(s) or the adult student should provide a written or verbal notice to the school district or other public agency superintendent or special education director which:

(i) Indicates that the parent or the adult student disagrees with the school district and other public agency's evaluation; and

(ii) Requests an independent educational evaluation at public expense;

(b) The school district or other public agency shall have the opportunity to initiate and conduct a hearing pursuant to WAC 392-172-350 et seq. to show that its evaluation is appropriate: If the school district or other public agency elects to initiate a hearing the school district or other public agency shall provide the parent(s) or the adult student written notice of the decision to initiate a hearing no later than the fifteenth calendar day after the date of receipt of the parent's (or adult student's) notice of disagreement;

(c) If the final decision pursuant to WAC 392-172-350 et seq. is that the school district and other public agency's evaluation is appropriate, the parent or adult student still has the right to an independent educational evaluation, but not at public expense;

(d) If the district or other public agency elects not to hold a hearing or does not receive a favorable decision in the due process hearing, the independent evaluation shall be provided at public expense in accordance with the same criteria which the district or other public agency uses when it initiates an evaluation including, but not limited to, the location of the evaluation and the qualifications of the examiner; and

(e) The school district or other public agency will not deny payment for an independent educational evaluation solely because the parent did not provide prior notification of his or her intent to seek an independent educational evaluation at public expense.

(5) If the parent or adult student obtains an independent educational evaluation at private expense, the results of the evaluation:

(a) Shall be considered by the school district or other public agency and documented in any decision made with respect to the provision of special education and related services to the student; and

(b) May be presented as evidence at such hearings regarding that student as may be conducted pursuant to WAC 392-172-350 et seq.

(6) If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation shall be at public expense.

DOCUMENTATION OF EVALUATIONNEW SECTION

WAC 392-172-152 Summary analysis of evaluation data. (1) The student's multidisciplinary team shall analyze the reports of evaluation data provided for in WAC 392-172-108 and any other available data in each of the areas evaluated. From these reports a written summary analysis shall be prepared. The conclusions and recommendations resulting in the eligibility decision pursuant to WAC 392-172-154 and contained in the summary analysis shall:

- (a) Identify the existence of a disability which requires the provision of special education and related services.
- (b) Reconcile any inconsistent or contradictory information that appears in the evaluation data.
- (c) Relate the apparent significance, as appropriate, of such factors as test measurement error or cultural, environmental, economic, and behavioral factors to the evaluation results.

Where specific test results obtained in any evaluation do not appear to the multidisciplinary team to accurately reflect a student's performance the multidisciplinary team shall apply professional judgment to determine eligibility for special education and related services. In such event, the multidisciplinary team shall document in a written narrative the basis for such determination, the instruments used, and the data used for a determination of eligibility.

(d) Make recommendations to the individualized education program team regarding:

- (i) Special education and related services needed;
 - (ii) The need, if appropriate, of providing such services over a period of time that exceeds the school district and other public agency's regular school program;
 - (iii) Service options, as well as, needs for specialized materials or equipment;
 - (iv) Instructional and curricular practices and materials, and student management strategies (e.g., reinforcement schedules, etc.), as determined by the multidisciplinary team to be significant to the student's program;
 - (v) location of services.
 - (f) Document any necessary professional judgment(s) and the facts or reasons in support of the judgment(s).
- (2) Each multidisciplinary team member shall certify in writing whether the summary analysis reflects his or her conclusion. If it does not reflect his or her conclusion, the team member must submit a separate statement presenting his or her conclusion(s) and the reasons therefor.
- (3) Upon the written request of the parent or the adult student the school district or other public agency shall provide the parent or the adult student a copy of the summary analysis and/or reports prior to the individualized education program meeting. If the parent or the adult student makes a written request of the district or other public agency to explain the summary analysis, the district or other public agency shall schedule such a meeting prior to the individualized education program meeting.

DISTRICT DECISION

NEW SECTION

WAC 392-172-154 School district or other public agency decision on eligibility. The school district or other public agency superintendent or designee shall record in writing the decision as to the eligibility for special education of a student who has been evaluated. The information used to make the determination shall be filed in school district or other public agency records. If the decision is that the student is not eligible for special education, the parents or legal guardian of the student shall be informed in writing of the evaluation findings in compliance with notice requirements of WAC 392-172-302, within ten school days following the completion of the evaluation. If the decision is that

the student is eligible for special education, the school district or other public agency shall initiate and schedule a meeting and request that the parent(s) participate in the individualized education program conference pursuant to WAC 392-172-156.

INDIVIDUAL EDUCATION PROGRAM

NEW SECTION

WAC 392-172-156 Meetings. (1) A meeting shall be held within thirty calendar days after the date upon which a student's evaluation is completed (and the student determined to be eligible) for the purpose of developing the student's individualized education program. Meetings consistent with this section shall be conducted by the school district or other public agency at least once a year for the purpose of reviewing and revising as necessary each student's individualized education program. Meetings may be held more frequently. The school district or other public agency shall initiate and conduct the meeting and shall include the following participants:

- (a) A representative of the school district or other public agency other than the student's teacher who is qualified to provide or supervise the provision of special education services, and authorized to commit district or other public agency resources;
- (b) The student's general classroom teacher or special education teacher or therapist: Either the representative of the school district or other public agency or the teacher or therapist must be knowledgeable in the area of the student's suspected disability;
- (c) General education teachers, in whose classes the student is enrolled, shall be invited to and given the opportunity to participate in the meeting, one or both of the parents (in the case of a nonadult student), subject to subsections (2) through (5) of this section;
- (d) The student if he or she is an adult student, (and in the case of nonadult students, the student, if appropriate);
- (e) The student, if transition services are being considered;
- (f) A member of the student's multidisciplinary team or a person who is knowledgeable about the evaluation procedures used with the student and is familiar with the results of the evaluation;
- (g) A person knowledgeable about the service options; and
- (h) Other individuals at the discretion of the district or other public agency or the parent or the adult student, including representatives from the general education program in which the multidisciplinary team has recommended the delivery of services.

(2) Each school district or other public agency shall take steps to assure (in the case of nonadult students) that one or both parents of the special education student are present at each meeting or are afforded the opportunity to participate, including:

- (a) Notifying the parent(s) of the meeting early enough to assure his or her participation; and
- (b) Scheduling the meeting at a mutually agreed upon place and time.

(3) The notice to the parent(s) shall include the purpose, time, location of the meeting and who will be in attendance. If the purpose of the meeting is the consideration of transition services, the parent(s) will be notified that the student is invited.

(4) If a parent cannot attend, the district or other public agency shall use other methods to assure participation, including individual or conference telephone calls.

(5) If a parent does not attend (in the case of a nonadult student), a meeting may be conducted. In such a case the school district or other public agency shall make a record of its attempts to arrange a mutually agreed upon time and place. The record shall contain such information as:

(a) Detailed records of telephone calls made or attempted and the results of those calls;

(b) Copies of correspondence sent to the parents and any responses received; and

(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(6) The school district or other public agency shall take whatever action is necessary to assure that the parent or adult student understands the proceedings at a meeting, including arranging for an interpreter for parents (or adult students) who are deaf or whose native language is other than English.

(7) The district or other public agency shall document the parent(s) and other individualized education program participants' presence at the individualized education program meeting.

NEW SECTION

WAC 392-172-158 Individualized education program—Implementation. At the beginning of each school year, each public agency shall have in effect an individualized education program for every special education student who is receiving special education from that agency. An individualized education program must:

(1) Be in effect before special education and related services are provided to a student; and

(2) Be implemented as soon as possible following the meetings under this chapter.

It is expected that the individualized education program of a special education student will be implemented immediately following the meetings under this chapter. An exception to this would be when the meetings occur during the summer or a vacation period, or where there are circumstances that require a short delay (e.g., working out transportation arrangements). However, there can be no undue delay in providing special education and related services to the student.

NEW SECTION

WAC 392-172-160 Individualized education program. (1) Each student's individualized education program shall be developed on the basis of the evaluation and parent input, where it is provided, and shall include:

(a) A statement of the student's present levels of educational performance;

(b) A statement of specific annual goals including short-term instructional objectives which are stated in terms that

provide for measurement of progress, expected levels of performance, and the schedules for their accomplishments;

(c) A statement of the specific special education and related services to be provided to the student based upon the individual needs of the student, as determined through the evaluation process, and the extent to which the student will be able to participate in the general educational program, including physical education. If modifications (supplementary aids and services) to the general education program are necessary to ensure the child's participation in that program those modifications must be described. If the student is unable to participate in the general physical education program, a description of the specially designed physical education to be provided to the student shall be included;

(d) The individualized education program developed for a special education student shall also include a statement of the needed transition services as defined in WAC 392-172-060 including goals and objectives, based on a functional vocational evaluation and anticipated post-school outcome(s) beginning no later than age sixteen and annually thereafter (and when determined appropriate for an individual student, beginning in elementary school or sooner), including, when appropriate, a statement of the interagency responsibilities or linkages (or both) before the student leaves the school setting. In the case where a participating agency fails to provide agreed upon services, the educational agency shall reconvene the individualized education program team, as soon as possible, to identify alternative strategies to meet transition objectives, and, if necessary, revise the individualized education program, as long as the student is eligible for services;

(e) If the individualized education program team determines that services are not needed in one or more of the areas specified in WAC 392-172-060 (2)(a) through (f), the individualized education program must include a statement to that effect and the basis upon which the determination was made;

(f) The projected dates for the initiation of all special education and related services and the anticipated duration of each service, including the number of school days, the number of hours per day, and the length of the school year over which such services shall be provided. In the event the individualized educational program is the first in the district or other public agency for such student and the multidisciplinary team has not made a determination as to the need for an extended school year for such student, the individualized educational program team shall make its recommendation on the length of the school year over which such services shall be provided prior to the conclusion of the regular school year;

(g) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being met; and

(h) Aversive therapy, if applicable, consistent with WAC 392-172-388 through 392-172-398. The individualized education program shall describe the positive interventions attempted by the district or other public agency prior to the use of aversive therapy.

(2) Nothing in this chapter relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service

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that the agency would otherwise provide to special education students who meet the eligibility criteria of that agency.

(3) The school district or other public agency shall provide the parent or the adult student a copy of the individualized education program.

(4) Each public agency must provide special education and related services to a special education student in accordance with an individualized education program. However, Part B of the Individuals with Disabilities Education Act does not require that any agency, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and objectives.

NEW SECTION

WAC 392-172-162 Physical education required. (1) Each special education student is afforded the opportunity to participate in the general physical education program available to students who are not disabled unless:

(a) The student is enrolled full time in a separate facility; or

(b) The student needs specially designed physical education, as prescribed in the student's individualized education program.

(2) If specially designed physical education is prescribed in a student's individualized education program, the school district or other public agency shall ensure that the public agency responsible for the education of that student provides the service directly, or makes arrangements for it to be provided through other public or private programs.

(3) The school district or other public agency shall ensure that any special education student who is enrolled in a separate facility will be provided with appropriate physical education services.

NEW SECTION

WAC 392-172-164 Parent notice of individualized education program meeting—Transition services. If a purpose of the individualized education program meeting is the consideration of transition services for a student, the notice required under WAC 392-172-156 of the individualized education program meeting must also:

(1) Indicate this purpose;

(2) Indicate that the district or other public agency will invite the student; and

(3) Identify any other agency that will be invited to send a representative.

NEW SECTION

WAC 392-172-166 Transition services participants. If a purpose of the individualized education program meeting is the consideration of transition services for a student, the district or other public agency shall also invite:

The student; and

A representative of any other agency that is likely to be responsible for providing or paying for transition services.

If the student does not attend, the district or other public agency shall take other steps to ensure that the student's preferences, and aptitudes and interests are considered; and

If an agency invited to send a representative to an individualized education program meeting does not do so,

the district or other public agency shall take other steps to obtain the participation of the other agency in the planning of any transition services.

NEW SECTION

WAC 392-172-168 Required student participation—Transition. The district or other public agency is required to invite each student to participate in his or her individualized education program meeting if a purpose of the meeting is the consideration of transition services for the student. For all students who are sixteen years of age or older, one of the purposes of the annual meeting will always be the planning of transition services, since transition services are a required component of the individualized education program for these students.

For a student younger than age sixteen, if transition services are initially discussed at a meeting that does not include the student, the district or other public agency is responsible for ensuring that, before a decision about transition services for the student is made, a subsequent individualized education program meeting is conducted for that purpose, and the student is invited to the meeting.

SERVICE DELIVERY OPTIONS

NEW SECTION

WAC 392-172-170 Initial service delivery—Parental consent for initial placement—Notice required. (1) The written consent of the parent(s) or adult student shall be requested and obtained before initial special education and related services are provided.

(2) Each school district or other public agency shall provide written notice of initial special education services to be provided to the student, or of the school district or other public agency and other public agency's inability or refusal to make special education and related services available, at the initial meeting or within ten calendar days after the initial meeting provided for in WAC 392-172-156. The notice shall comply with the notice requirements of WAC 392-172-306. Students admitted to state residential schools shall be enrolled in an educational program within ten school days of admission.

(3) The student's proposed special education and related services shall commence when either:

(a) Written consent has been given by the parent(s) or the adult student; or

(b) The refusal of a student's parent(s) or adult student to grant consent has been overridden by the school district or other public agency pursuant to a hearing (or appeal) conducted in accordance with WAC 392-172-350 et seq.

NEW SECTION

WAC 392-172-172 Least restrictive environment. The state shall ensure that each public agency establishes and implements procedures which meet the least restrictive environment requirements of this chapter, and that the various alternative service delivery options included under this chapter are available to the extent necessary to implement the individualized education program for each student eligible for and in need of special education. The provision

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of services to each special education student, including students in public or private institutions or other care facilities, shall be in his or her least restrictive environment as follows:

(1) Educational setting—Each special education student shall be provided services:

(a) In the general educational environment with students who are not disabled to the maximum extent appropriate to his or her needs. Special classes, separate schooling or other removal from the general education environment cannot occur unless it is demonstrated by the school district or other public agency that the nature or severity of the student's disability is such that his or her education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily; and

(b) In the school which he or she would attend if not receiving special education and related services, unless his or her individualized education program requires some other arrangement. If some other arrangement is required, the student shall be provided services in the appropriate educational program that is as close to the student's home as possible.

(2) Nonacademic settings—Each special education student shall be provided nonacademic and extracurricular services and activities conducted by the school district or other public agency with students who are not disabled to the maximum extent appropriate to the needs of the student. Nonacademic and extracurricular services and activities may also include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district or other public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the district or other public agency and assistance in making outside employment available. Each school district or public agency shall take steps to ensure that its special education students have available to them the variety of educational programs and services available to nonspecial education students in the area served by the school district or public agency, including art, music industrial arts, consumer and homemaking education, and vocational education.

NEW SECTION

WAC 392-172-174 Continuum of alternative service delivery options. A continuum of alternative service delivery options shall be made available as necessary to meet the needs of special education students including special education and related services in: General classes, special classes, special schools, home, hospitals, institutions, and instruction in other settings, and shall provide for supplementary services in conjunction with the general education classroom.

Specially designed instruction shall be provided as follows:

(1) Provided directly by certificated special education personnel or by general certificated teachers and/or classified instructional staff who are under the direct supervision of the general certificated teacher. For the purposes of this section, direct supervision includes observation of classified instructional staff at least weekly, during the time they are provid-

ing direct services to the student. Direct supervision of classified instructional staff providing related services, including services at off-site locations, shall occur at least monthly.

(2) Provided directly by certificated special education personnel or by classified instructional staff who are under the direct supervision of the certificated special education personnel including classified instructional staff who are performing individual or small group (six students or less) instructional and/or training activities pursuant to specific directives provided by the certificated special education personnel.

If the specially designed instruction is not delivered directly by certified special education personnel, it must be designed, monitored, and evaluated by certificated special education personnel pursuant to a written plan which shall include at least a monthly evaluation of student progress toward specific written individualized education program objectives.

NEW SECTION

WAC 392-172-176 Transition to preschool program. Each local school district or other public agency shall develop policies and procedures for the transition of children participating in the early intervention program under Part H of the Individuals with Disabilities Education Act who are eligible for participation in preschool programs under Part B of the Individuals with Disabilities Education Act.

If the child will participate in the school district and other public agency's preschool program under Part B of Individuals with Disabilities Education Act at age three, an individual education program consistent with this chapter must be developed and implemented by the child's third birthday. The district or other public agency must provide the family with information on the eligibility and evaluation requirements under Part B of the Individuals with Disabilities Education Act, including the parent's and school district and other public agency's rights regarding procedural safeguards.

Each school district and other public agency's policies and procedures must include procedures for:

(1) Notifying the agency in which the child is being served, and the family of the need for transitional planning;

(2) Describing how the families will be included in the transitional plans;

(3) Convening, with the approval of the family, a transition conference with the agency, family, and district or other public agency, at least ninety days before the child is eligible for the preschool program under Part B of Individuals with Disabilities Education Act for the purpose of reviewing a child's program options for the remainder of the school year, and establishing a transition plan.

NEW SECTION

WAC 392-172-178 Preschool services. The requirements of this chapter apply to all preschool children with disabilities who are entitled to receive free, appropriate public education. Districts that provide preschool programs for nondisabled preschool children must ensure that the requirements of this chapter are met. Districts that do not operate programs for nondisabled preschool children are not

required to initiate such programs solely to satisfy the requirements regarding the provision of services in the least restrictive environment. For these districts some alternative methods for meeting the requirement include:

(1) Providing opportunities for the participation (even part-time) of preschool children with disabilities in other preschool programs operated by public agencies (such as Head Start);

(2) Providing services to children with disabilities in private school programs for nondisabled preschool children or private school preschool programs that integrate children with disabilities and nondisabled children; and

(3) Locating classes for preschool children with disabilities in general elementary schools. In each case the district or other public agency must ensure that the provision of services for each child is in the least restrictive environment in which the unique needs of that child can be met, based upon the child's individualized education program, and meets all of the other requirements of this chapter.

NEW SECTION

WAC 392-172-180 Procedures for establishing educational settings. (1) The educational setting (placement) for each special education student shall be determined at least annually at a meeting conducted pursuant to WAC 392-172-156.

(2) The selection of the appropriate placement for each special education student shall be based upon:

(a) The student's individualized education program;

(b) The least restrictive environment requirements of WAC 392-172-172;

(c) The placement option(s) that provides a reasonably high probability of assisting the student to attain his or her annual goals; and

(d) A consideration of any potential harmful effect on the student or on the quality of services which he or she needs.

(3) In interpreting data gathered through the evaluation process in this chapter and in making placement decisions, each public agency shall:

(a) Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, parental input, physical condition, social and cultural background, and adaptive behavior;

(b) Ensure that information obtained from all of these sources is documented and carefully considered; and

(c) Ensure that the placement decision is made in conformity with the least restrictive environment rules in this chapter.

EVALUATION OF PROGRESS—REEVALUATION

NEW SECTION

WAC 392-172-182 Reevaluation—Requirement. Each special education student shall be reevaluated by the multidisciplinary team in accordance with the evaluation procedures specified in WAC 392-172-100 through 392-172-152, as follows:

(1) At a minimum, once every three years or more frequently if conditions warrant.

(2) Upon request of the student's parent or adult student, teacher, or individualized education program team.

NEW SECTION

WAC 392-172-184 Reevaluation—Notice requirement. A reasonable time prior to conducting the reevaluation, the district or other public agency shall provide written notice to parents or adult student. The notice shall include the procedural safeguard requirements provided in WAC 392-172-306. The parents or adult student have the right to submit to the multidisciplinary team any information they deem important to the reevaluation.

NEW SECTION

WAC 392-172-186 Reevaluation—Purposes. The purposes of reevaluation are to determine the following:

(1) If the student is appropriately identified as disabled and in need of special education and related services; and

(2) If the program designed for the student is appropriate to meet the student's unique needs.

NEW SECTION

WAC 392-172-188 Reevaluation general procedures. The multidisciplinary team shall determine if additional evaluation procedures are necessary to confirm the decisions to be made in WAC 392-172-186.

In making the determination, members of the multidisciplinary team shall be governed by the generally recognized professional practice standards of their respective disciplines. The multidisciplinary team shall document in a written narrative the basis for the determination including any relevant data or evaluation procedures utilized.

NEW SECTION

WAC 392-172-190 Reevaluation—Notice of results. Within ten calendar days of the completion of the reevaluation, the district or other public agency superintendent or designee shall notify the parent or adult student, pursuant to WAC 392-172-306, of one or more of the following decisions:

(1) That the student is eligible and in need of special education;

(2) That the individualized education program designed for the student is appropriate to the student's unique needs.

When a determination is made that the individualized education program is inappropriate, an individualized education program team meeting shall be convened in accordance with WAC 392-172-156 through 392-172-168. When special education and related services are to be discontinued, notice shall be given the parent(s) pursuant to WAC 392-172-302.

SERVICE DELIVERY STANDARDS

STAFF QUALIFICATIONS

NEW SECTION

WAC 392-172-200 Staff qualifications. All employees of a school district or other public agency funded in whole or part with state or federal special education excess cost funds shall be qualified as follows (except as provided for in subsection (4) of this section):

(1) All employees shall hold such credentials, certificates or permits as are now or hereafter required by the state board of education for the particular position of employment and shall meet such supplemental standards as may be established by the school district or other public agency of employment. Supplemental standards established by a district or other public agency may exceed, but not be less than, those established by this section.

(2) In addition to the requirement of subsection (1) of this section, all teachers shall possess "substantial professional training" and support personnel shall meet standards established under the educational staff associate rules of the state board of education, as now or hereafter amended. A teacher of special education must hold a valid general teaching certificate for the appropriate level(s). The school district or other public agency is responsible for determining whether or not the teacher has adequate preparation to provide special education services. "Substantial professional training" as used in this section shall mean and be evidenced by either an appropriate special education endorsement or recommended placement upon the teaching certificate of an employee issued by the superintendent of public instruction. If the teacher does not have a certificate endorsed in special education, the teacher of special education must hold a valid general teaching certificate for the appropriate level(s), and the school district or other public agency is responsible for determining whether or not the teacher has adequate preparation in special education to teach such classes. Course work focused on the essential areas of study and credits required for endorsement by the state board of education, special education are required.

(3) Classified staff shall present evidence of either formal and/or adequate in-service training or successful experience in working with special education students. The office of superintendent of public instruction, through the special education comprehensive system of personnel development, shall identify the minimum competencies classified staff must possess and develop in-service training strategies to meet staff needs.

(4) General education classroom personnel providing specially designed instruction pursuant to a properly formulated individual education program may be paid from state special education excess cost funds if the district has in place a cost allocation plan which meets the requirements established by the superintendent of public instruction.

NEW SECTION

WAC 392-172-202 Emergency—Temporary out-of-endorsement assignment. In order to temporarily assign a nonspecial education endorsed classroom teacher to a special education position, the district or other public agency must comply with the following:

(1) The district or other public agency must make one or more of the following factual determinations:

(a) The district or other public agency was unable to recruit a teacher with the proper endorsement who was qualified for the position.

(b) The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practicable.

(c) The reassignment of another teacher within the district or other public agency with the appropriate endorsement to such assignment would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned such other classroom teachers.

(2) The teacher assigned to the special education position must meet the following requirements:

(a) The teacher so assigned must have at least two full school years of classroom teaching experience and must not have been placed on probation pursuant to RCW 28A.405.-100 during the last two school years.

(b) The teacher so assigned must have completed six semester hours or nine quarter hours of course work which are applicable to an endorsement in the out-of-endorsement grade level or subject area.

(3) The district or other public agency shall comply with the following condition:

Prior to the assignment, or as soon as reasonably practicable thereafter, but in no event beyond twenty school days after the commencement of the assignment, a designated representative of the district or other public agency and the classroom teacher so assigned shall mutually develop a written plan which provides necessary assistance to the teacher so assigned and which provides for a reasonable amount of planning and study time associated specifically with the assignment.

(4) The district or other public agency shall submit to the office of superintendent of public instruction as part of its annual report required by WAC 180-16-195, a list which indicates all such assignments. Such list shall include:

(a) The name and certification number of each teacher so assigned, the grade levels or subject areas and the number of such periods taught by such teacher, and the dates upon which such assignment(s) commenced and concluded.

(b) The reason for each such assignment.

(c) The reason why the particular teacher was selected for the out-of-endorsement grade level or subject area.

(d) A dated copy of each plan of assistance required pursuant to subsection (3) of this section. Such copy shall not contain any personal information the disclosure of which would violate the named teacher's right to privacy pursuant to RCW 42.17.310 (1)(b).

(5) The district or other public agency adopts a resolution for each proposed out-of-endorsement assignment which states that the district or other public agency has made good faith efforts to comply with the provision(s) for which it is requesting a waiver. Such resolution must recite the actions that the school district or other public agency has taken to comply. Upon adoption and transmission of such resolution to the superintendent of public instruction, the district or other public agency shall be authorized to assign each such classroom teacher affected to the proposed out-of-endorsement assignment.

(6) An emergency out-of-endorsement assignment by the district or other public agency is only valid for one school year.

PROGRAM STANDARDS—TRANSPORTATION— FACILITIES—COMPARABILITY

NEW SECTION

WAC 392-172-204 Transportation. (1) Methods. Transportation options for special education students shall include the following categories and shall be exercised in the following sequence:

- (a) A scheduled school bus;
- (b) Contracted transportation, including public transportation; and
- (c) Other transportation arrangements, including that provided by parents. Board and room cost in lieu of transportation may be provided whenever the above stated transportation options are not feasible because of the need(s) of a special education student or because of the unavailability of adequate means of transportation, in accordance with rules of the superintendent of public instruction.

(2) Welfare of the student. The transportation of a special education student shall be in accordance with rules of the superintendent of public instruction governing transportation by public school districts and other public agencies.

(3) Bus aides and drivers. Training and supervision of bus aides and drivers shall be the responsibility of the school district or other public agency superintendent or designee.

(4) Special equipment. Special equipment may include lifts, wheelchair holders, restraints, and two-way radios. All such special equipment shall comply with specifications contained in the specifications for school buses as now or hereafter established by the superintendent of public instruction.

(5) Transportation time on bus. Wherever reasonably possible, no student should be required to ride more than sixty minutes one way.

(6) Transportation for state residential school students to and from the residential school and the sites of the educational program shall be the responsibility of the department of social and health services and each state residential school pursuant to law.

(7) Transportation for a state residential school student, including students attending the state school for the deaf and the state school for the blind, to and from such school and the residency of such student shall be the responsibility of the district of residency only if the student's placement was made by such district or other public agency pursuant to an interagency agreement—i.e., an appropriate placement in the least restrictive environment.

NEW SECTION

WAC 392-172-206 Facilities. Construction of special facilities or the remodeling of present facilities in order to meet the special education and related services needs of any special education student shall be provided in accordance with rules of the superintendent of public instruction and the state board of education. All educational facilities required for special education students in residential school programs

shall be the responsibility of the department of social and health services as provided by RCW 28A.190.040.

NEW SECTION

WAC 392-172-208 Comparable facilities. If a school district or other public agency, in compliance with this chapter, operates a facility that is identifiable as being for special education students, the district or other public agency shall assure that the facility and the services and activities provided in the facility are comparable in quality to the school district and other public agency's facilities, services, and activities for students who are not disabled.

NEW SECTION

WAC 392-172-210 Program length. The length of the education program for special education students shall be at least as long as the education program for students who are not disabled in terms of both the number of school days in the general school year and the average number of hours per school day. If a special education student cannot attend school a full school day, the reason shall be documented in his or her records and addressed in the individualized education program. The program length for a student during an extended school year shall be determined by the student's individualized education program.

NEW SECTION

WAC 392-172-212 Health or safety standards. The superintendent of public instruction and districts shall comply with any federal health or safety requirements that apply to facilities used under Part B of Individuals with Disabilities Education Act.

NEW SECTION

WAC 392-172-214 Administration of medication. (1) Medication may be administered to a special education student by school district personnel subject to the state professional licensing laws and the following conditions:

(a) The medication shall be administered pursuant to a written order and written instruction from the student's physician; and

(b) The medication shall be supplied by the student's parent(s) or the adult student.

(2) The orders and instructions shall be current, obtained at least yearly, and reviewed and updated whenever there is a significant change in the student's school activity program, in accordance with policies adopted by the school district or other public agency.

SERVICE DELIVERY SETTINGS

NEW SECTION

WAC 392-172-216 Choice and running start programs. The requirements governing intradistrict and interdistrict choice and the running start program are contained in chapters 28A.225 and 28A.600 RCW, and chapter 392-137 WAC.

NEW SECTION

WAC 392-172-218 Home/hospital instruction. Home or hospital instruction shall be provided to both special education students and other students who are unable to attend school for an estimated period of four weeks or more because of physical disability or illness. As conditions to such services, the parent(s) of a student or the adult student shall request the services and provide a written statement to the school district or other public agency from a qualified medical practitioner that states the student will not be able to attend school for an estimated period of at least four weeks. A student who is not otherwise disabled pursuant to WAC 392-172-035 who qualifies pursuant to this subsection shall be deemed "disabled" only for the purpose of home/hospital instructional services and funding and may not otherwise qualify as a special education student for the purposes of generating state or federal special education funds. A school district or other public agency shall not pay the cost of the statement from a qualified medical practitioner for the purposes of qualifying a student for home/hospital instructional services pursuant to this section.

Home/hospital instructional services funded in accordance with the provisions of this section shall not be used for the initial or ongoing delivery of services to special education students. It shall be limited to placement as is deemed necessary to provide temporary intervention as a result of a physical disability or illness.

NEW SECTION

WAC 392-172-220 Contractual services. (1) School districts, severally or jointly, shall be authorized to:

(a) Enter into interdistrict agreements with another school district(s) pursuant to RCW 28A.335.160, 28A.225.250, 28A.225.260, and chapter 392-135 WAC; and

(b) Contract with nonpublic and public school agencies for special education and related services for special education students if the school district establishes that it cannot provide an appropriate education for the special education student within the district or another school district.

(2) In the case of a cooperative delivery of services by a school district of a special education student at a center for the furtherance of research and training in disabling conditions as established pursuant to RCW 28B.20.410 through 28B.20.414, as now or hereafter amended, or other such centers as may be established at other public institutions of higher education, as defined in RCW 28B.10.016, the school districts and other public agencies shall establish that the parent(s) or adult student has:

(a) Given written approval for delivery of services to the student at such center despite the existence of an appropriate education for the student within the district or another school district; and

(b) Has agreed that such delivery of services would equal or substantially equal the services available in the school district.

NEW SECTION

WAC 392-172-222 Approval of nonpublic and public school agencies. A school district or other public agency shall neither provide a student with services in a nonpublic or public school agency nor award a contract to a nonpublic or public school agency until the nonpublic or public school agency has been approved by the state board of education. Approval of such agencies shall be made in accordance with the following procedures:

(1) The school district or other public agency shall establish that all requirements imposed by this chapter for contracting with a nonpublic or public school agency can be met and shall forward the nonpublic or public school agency's application to the superintendent of public instruction or designee;

(2) The superintendent of public instruction or designee shall recommend approval or disapproval of the agency to the state board of education; and

(3) The superintendent of public instruction or designee shall notify the requesting school district or other public agency and nonpublic or public school agency of approval or disapproval.

NEW SECTION

WAC 392-172-224 School district or other public agency responsibility when contracting for the delivery of services in a nonpublic or public school agency. Any school district or other public agency contracting with an approved nonpublic or public school agency for special education and/or related services on behalf of a special education student shall:

(1) Initiate and conduct a meeting with appropriate personnel and the student's parent(s) to develop the student's individualized education program. The district or other public agency shall assure that a representative of the nonpublic or public school agency attends the meeting or in some other way assure participation by the nonpublic school agency. Meetings to review or revise the student's individualized education program after the student has been placed shall be initiated and conducted by the nonpublic or public school agency at the discretion of the school district or other public agency. The district or other public agency shall assure that both the parent(s) or the adult student and the nonpublic school agency are represented in any decision concerning the student's individualized education program and agree to proposed changes in the program before those changes are implemented. The responsibility for compliance with this section lies with the school district or other public agency.

(2) Develop a written contract which shall include, but not necessarily be limited to, the following elements:

(a) Names of the parties involved;

(b) The name(s) of the student(s) with disabilities for whom the contract is drawn;

(c) Location and setting;

(d) Description of program administration and supervision;

(e) Designation of coordinator of the services to be provided by the school district or other public agency and the contractor;

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- (f) Assurance of compliance with staff certification requirements;
- (g) Periodic student report requirements;
- (h) Annual program monitoring procedures and requirements;
- (i) Starting date and duration of contract;
- (j) Program day and description of student's program;
- (k) Charges and reimbursement—Billing and payment procedures;
- (l) Total contract cost;
- (m) Contract review;
- (n) Disposition of materials and equipment upon termination;
- (o) School district and other public agency's responsibility for compliance with due process, individualized education program, and yearly review and determination of placement requirements;
- (p) Contractor's policies and procedures covering:
- (i) Nondiscrimination;
- (ii) Care of student(s) in emergencies;
- (iii) Fire drills;
- (iv) Personnel policies;
- (v) Staff duties; and
- (vi) Board of directors' duties and functions;
- (q) Other contractual elements that may be necessary to assure compliance with state and federal rules; and
- (r) Signatures of authorized school and contractor officials.

NEW SECTION

WAC 392-172-226 Residential educational services. If the delivery of services in a public or private residential educational program is necessary to provide special education and related services to a special education student, the program, including nonmedical care and room and board, must be at no cost to the parents of the student. Nothing in this chapter relieves an insurer or similar third party (public or private) from an otherwise valid obligation to provide or to pay for services provided to a special education student. Nothing in this chapter relieves any participating agency of the responsibility to provide or pay for any service that the agency would otherwise provide to any special education student who meets the eligibility criteria of that agency.

PRIVATE SCHOOLS PROVISIONS

NEW SECTION

WAC 392-172-228 Out-of-state agencies. In the event the resident school district or other public agency is unable to contract with another district or other public agency, or a nonpublic agency, or an appropriate state agency, the district or other public agency may contract with an out-of-state educational program.

Contractual arrangements for an out-of-state educational program must be approved by the superintendent of public instruction or designee prior to the placement of the students in that program. The school district or other public agency shall be responsible for:

- (1) Determining that no appropriate in-state service option is available and for making the decision that the student should be placed in an out-of-state program;

(2) Determining that the out-of-state educational program is appropriately licensed or approved by that state's authorities and that the delivery of services will result in an appropriate education for the student; and

(3) Contracting with the out-of-state agency pursuant to the requirements of WAC 392-172-220 through 392-172-224.

The school district or other public agency may petition the superintendent of public instruction or designee for state and/or federal special education funds to provide an educational program with an out-of-state agency.

PRIVATE SCHOOL STUDENTS—PLACED BY PARENTS OR OTHERS

NEW SECTION

WAC 392-172-230 Placement of students by parents. If a special education student has a free appropriate public education available and the parents choose to place the student in a private school or facility, the public agency is not required by this chapter to pay for the student's education at the private school or facility. However, the public agency shall make services available to the student as provided in WAC 392-172-232 through 392-172-248.

Disagreements between a parent and a public agency regarding the availability of a program appropriate for the student, and the question of financial responsibility, are subject to the due process procedures of this chapter. Disagreements may also be resolved through the mediation process described in this chapter.

NEW SECTION

WAC 392-172-232 Definition—"Private school student(s) with disabilities." For the purpose of WAC 392-172-234 through 392-172-248 "private school student(s) with disabilities" means special education students enrolled in private schools or agencies and whose enrollment is not the result of a contractual arrangement between a public school district or other public agency and the private school or agency.

NEW SECTION

WAC 392-172-234 School district or other public agency responsibility for private school special education students. Subject to the provisions of WAC 392-172-236 through 392-172-248:

(1) Each school district or other public agency shall provide special education and related services designed to meet the needs of private school special education students who attend a private school located within the school district and other public agency's boundaries.

(2) Each school district or other public agency shall provide private school special education students with genuine opportunities to participate in special education and related services consistent with the number of those students and their needs.

(3) If a special education student is enrolled in a parochial or other private school and receives special education or related services from the school district or other public agency, the school district or other public agency shall:

(a) Initiate and conduct meetings to develop, review and revise an individualized education program for the student, in accordance with this chapter; and

(b) Ensure that a representative of the parochial or other private school attends each meeting. If the representative cannot attend, the district or other public agency shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

NEW SECTION

WAC 392-172-236 Determination of needs, numbers of students and types of services. The school district or other public agency shall determine the needs of private school special education students, the number who will participate, and the types of special education and related services which the school district or other public agency will provide. Such determination shall be made after consultation with persons knowledgeable of the needs of these students on a basis comparable to that used in providing for the participation under this chapter of special education students enrolled in public schools.

NEW SECTION

WAC 392-172-238 Service arrangements. (1) Special education services to private school students may be provided through such arrangements as dual enrollment pursuant to chapter 392-134 WAC.

(2) No services, material, or equipment of any nature shall be provided to or on the site of any private school or agency subject to sectarian (i.e., religious) control or influence.

(3) Special education students enrolled in any private school or agency subject to sectarian control or influence shall be provided services in a manner that:

(a) Maintains a physical and administrative separation between the private and the public school programs; and

(b) Does not benefit the private school at public expense, e.g., pursuant to dual enrollment or shared time arrangements in accordance with chapter 392-134 WAC.

NEW SECTION

WAC 392-172-240 Personnel in private schools and agencies. (1) School district or other public agency personnel may be made available to nonsectarian private schools and agencies only to the extent necessary to provide services required by the special education student.

(2) Each school district or other public agency providing services to students enrolled in nonsectarian private schools or agencies shall maintain continuing administrative control and direction over those services.

(3) Services to private school special education students shall not include the payment of salaries of teachers or other employees of private schools or agencies, except for services performed outside regular hours of the school day and under public supervision and control.

NEW SECTION

WAC 392-172-242 Equipment—Construction. (1) Equipment used with special education students in a private school or agency may be placed on nonsectarian private school or agency premises for the period of time necessary for the program, but title to and administrative control over all equipment must be retained and exercised by the school district or other public agency.

(2) Records shall be kept of equipment and an accounting made of the equipment which shall assure that the equipment is used solely for the purposes of the program.

(3) The equipment shall be removed from the private school or agency if necessary to avoid its being used for other purposes or if it is no longer needed for the purposes of the program or project.

(4) Funds shall not be used to construct facilities for private schools or agencies.

NEW SECTION

WAC 392-172-244 Prohibition of segregation. Programs or projects carried out in public facilities, and involving joint participation by special education students otherwise enrolled in private schools or agencies and special education students enrolled in public schools, shall not include classes that are separated on the basis of school enrollment or the religious affiliations of the students.

NEW SECTION

WAC 392-172-246 Funds and property not to benefit private schools. Public funds provided and property derived from those funds shall not benefit any private school or agency.

NEW SECTION

WAC 392-172-248 Existing level of instruction. Provisions for serving private school special education students shall not include the financing of the existing level of instruction in a private school or agency.

PROCEDURAL SAFEGUARDS

NEW SECTION

WAC 392-172-300 General responsibility of public agencies. The state shall ensure that each school district or public agency establishes and implements procedural safeguards that meet the requirements of 34 CFR 300.500-300.515.

NOTICE REQUIREMENTS—GENERAL

NEW SECTION

WAC 392-172-302 When notice must be given. Written notice in accordance with WAC 392-172-306 shall be given by a school district or other public agency to the parent(s) of a student (or to the adult student) a reasonable time before the school district or other public agency:

(1) Proposes to initiate or change:

(a) The identification, evaluation, or delivery of educational services to the student;

(b) The individualized education program, including annual goals and short term instructional objectives or the provision of special education and related services to the student pursuant to this chapter; or

(2) Refuses to initiate or change:

(a) The identification, evaluation, or delivery of special education and related services to the student; or

(b) The individualized education program or the provision of special education and related services to the student pursuant to this chapter.

NEW SECTION

WAC 392-172-304 Parent consent. Parental consent must be obtained in writing (or denial of consent overridden by a due process hearing) before:

(1) Conducting an initial evaluation; and

(2) Providing initial special education and related services to a special education student.

A school district or other public agency shall not require written parental consent as a condition for receiving any other benefit, service, or activity to the parent or to the student.

NEW SECTION

WAC 392-172-306 Contents of notice. (1) The notice required by WAC 392-172-302 shall include:

(a) A full explanation of all of the procedural safeguards available to the parent or the adult student that are set forth in 34 CFR 300.500, 300.502 through 300.515, and 300.562 through 300.569;

(b) A description of the action proposed or refused by the school district or other public agency, an explanation of why the district or other public agency proposes or refuses to take the action, and a description of any options the district or other public agency considered and the reasons why those options were rejected;

(c) A description of each evaluation procedure, test, record, or report the district or other public agency used as a basis for the proposal or refusal; and

(d) A description of any other factors which are relevant to the school district and other public agency's proposal or refusal.

(2) The notice shall be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent or adult student or other mode of communication used by the parent or adult student, unless it is clearly not feasible to do so.

(3) If the native language or other mode of communication of the parent or adult student is not a written language, the district or other public agency shall take steps to assure that:

(a) The notice is translated orally or by other means to the parent or adult student in his or her native language or other mode of communication;

(b) The parent or adult student understands the content of the notice; and

(c) There is written evidence that the requirements in (a) and (b) of this subsection have been met.

SURROGATE PARENTS

NEW SECTION

WAC 392-172-308 Surrogate parents. (1) Each school district or other public agency providing a special education program to a nonadult special education student shall assure that the rights of the nonadult student are protected when:

(a) No parent (as defined in WAC 392-172-035(5)) can be identified;

(b) The school district or other public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(c) The student is a ward of the state.

(2) Duty of school district or other public agency. The duty of a school district or other public agency under this section includes the assignment of a person to act as a surrogate for the parents. This duty includes the establishment of a method:

(a) For determining whether a nonadult student needs a surrogate parent; and

(b) For assigning a surrogate parent to the student.

(3) Criteria for selection of surrogates. Each school district or other public agency shall assure that a person selected as a surrogate:

(a) Has no interest that conflicts with the interests of the student he or she represents; and

(b) Has knowledge and skills that assure adequate representation of the student.

(4) Nonemployee requirement—Compensation:

(a) A person assigned as a surrogate may not be an employee of a school district and/or other agency which is involved in the education or care of the student; and

(b) A person who otherwise qualifies as a surrogate parent pursuant to this section is not an "employee" of the school district and/or other agency solely because he or she is paid by the school district and/or agency to serve as a surrogate parent.

(5) Responsibilities. A surrogate parent may represent the student in all matters relating to:

(a) The identification, evaluation, and the delivery of educational services to the student; and

(b) The provision of free special education and related services to the student.

MEDIATION

NEW SECTION

WAC 392-172-310 Mediation—Purpose. The purpose of mediation is to offer both the parent and the school district or other public agency an optional alternative to a formal due process hearing. Mediation requires the consent and agreement of both parties. Mediation cannot be used to deny or delay access by a parent to a due process hearing under this chapter. Mediation is used to resolve disagreements concerning the identification, evaluation, delivery of educational services or provision of a free appropriate public education to a special education student. Mediation

may be terminated by either party at any time during the process.

NEW SECTION

WAC 392-172-312 Mediation—Definition. Mediation is a dispute resolution process in which an impartial mediator assists both parties in reaching a mutually acceptable agreement on the educational needs of a special education student. The primary participants in the mediation process are the parent(s), school district or other public agency representative(s), and mediator. The process is voluntary, confidential, and informal. It is a collaborative process, conducted in a nonadversarial manner. Mediation services may be provided by the office of superintendent of public instruction at no cost to either party.

NEW SECTION

WAC 392-172-314 Request for mediation services. To access the system of mediation established by the office of superintendent of public instruction, a request for mediation services may be made in writing or verbally to administrative agents for the office of superintendent of public instruction located statewide. Written confirmation of the request shall be provided to both parties by an intake coordinator and a mediator shall be assigned to the case.

NEW SECTION

WAC 392-172-316 Written mediation agreement. Agreements reached through the mediation process shall be documented in writing and signed by both parties. Solutions to the issue(s) raised through the mediation process shall not be in conflict with state and federal laws or regulations. Both parties shall be given a copy of the written mediation agreement. Negotiations, mediation positions, etc., disclosed in a mediation shall not be used as evidence in a due process hearing or other administrative review unless one party to the mediation violates the agreement. A copy shall also be filed by the mediator with the office of superintendent of public instruction in mediations provided by that agency.

CITIZEN COMPLAINT PROCESS

NEW SECTION

WAC 392-172-320 Authority. The authority for this chapter is RCW 28A.300.070 which authorizes the superintendent of public instruction to receive and administer federal funds on behalf of school districts and other public agencies in the state of Washington in compliance with applicable rules and regulations.

NEW SECTION

WAC 392-172-322 Purpose. The purpose of this chapter is to ensure compliance by the state of Washington with 34 CFR 300.660 through 300.662, Individuals with Disabilities Education Act.

NEW SECTION

WAC 392-172-324 Definition—Complaint. As used in this chapter, the term "complaint" means an allegation, by the complainant, that the state, a local school district or other public agency, an educational service district or other public agency, or other subgrantee receiving federal funds (or receiving state funds to carry out a federal requirement), including private schools and facilities where students are placed on a contractual basis, has violated a federal statute or regulation or a state regulation that applies to a federal program covered under this chapter.

NEW SECTION

WAC 392-172-326 Definition—Other subgrantee. As used in this chapter, the term "other subgrantee" means the government, for profit or nonprofit, or other legal entity to which the state as grantee awards a subgrant or the district or public agency grants a contract, and which is accountable to the state for the use of the funds provided. The subgrantee is the entire legal entity even if only a particular component of the entity is designated in the subgrant award document.

NEW SECTION

WAC 392-172-328 Informing citizens about complaint procedures. The superintendent of public instruction shall inform parents and other interested individuals about the citizen complaint procedures in this chapter. Specific actions to be taken by the superintendent of public instruction include:

- (1) Disseminating copies of the state's procedures to parent, advocacy, and professional organizations;
- (2) Conducting in-service training sessions on the complaint process through educational service districts; and
- (3) Including information about the system in state-wide conferences.

NEW SECTION

WAC 392-172-330 Right to register a complaint. Any individual, entity, or organization may register a complaint. If a parent or adult student has also filed a request for a due process special education hearing pursuant to WAC 392-172-350, regarding the same issues, a citizen complaint by such person regarding noncompliance shall be held in abeyance until the hearing has been concluded.

NEW SECTION

WAC 392-172-332 Contents of complaint. A complaint filed under this chapter shall include:

- (1) A statement that the state, a local school district or other public agency, an educational service district, or other subgrantee has violated one or more requirements of federal statutes or regulations or state regulations that apply to a federal program;
- (2) The facts on which the statement is based;
- (3) The name and address of the complainant; and
- (4) In the case of a complaint alleging a violation by an entity other than the state and filed directly with the superin-

tendent of public instruction, the name and address of the allegedly offending entity.

NEW SECTION

WAC 392-172-334 Procedure for filing a complaint.

The procedure for filing a complaint shall be as follows:

(1) A complaint alleging a violation by a local school district or other public agency, an educational service district, or other subgrantee shall be filed directly with the superintendent of public instruction.

(2) The superintendent of public instruction, upon receipt of a complaint against a local school district or other public agency, an educational service district, or other subgrantee, shall refer the complaint to the allegedly offending entity for action pursuant to this chapter.

(3) Receipt of a complaint by the superintendent of public instruction activates a time line not to exceed sixty calendar days unless an extension of the time limit is approved by the superintendent of public instruction on the basis of exceptional circumstances relative to a particular complaint.

NEW SECTION

WAC 392-172-336 Designation of responsible employee. The chief officer of each local school district or other public agency, an educational service district, or other subgrantee shall designate at least one employee to monitor and coordinate the entity's compliance with this chapter. Such employee shall also be charged with the responsibility for investigating any complaint(s) communicated to the superintendent of public instruction pursuant to WAC 392-172-334.

NEW SECTION

WAC 392-172-338 Investigation of and response to complaints against a school district or other public agency, educational service district, or other subgrantee. Investigation of and response to a complaint shall be as follows:

(1) Upon receipt of a properly filed complaint with the superintendent of public instruction and referred by the superintendent of public instruction to the allegedly offending entity, the employee(s) designated pursuant to WAC 392-172-336 shall investigate the alleged violations.

(2) Upon completion of the investigation by the allegedly offending entity, the designated employee(s) shall provide the responsible official of the entity with a written report, including applicable documentation, of the results of the investigation. Said officials shall respond in writing to the superintendent of public instruction no later than twenty calendar days after the date of receipt by the entity of such complaint.

(3) The response to the superintendent of public instruction shall clearly state either:

(a) That the entity denies the allegations contained in the complaint and the basis for such denial; or

(b) Proposes reasonable corrective action(s) deemed necessary to correct the violation.

(4) The superintendent of public instruction will provide the complainant the opportunity to submit additional infor-

mation, either orally or in writing, about the allegations in the complaint.

(5) Within thirty calendar days, and upon review of all relevant information including, dependent upon necessity, information obtained through an independent on-site investigation by the superintendent of public instruction, the superintendent of public instruction will make an independent determination as to whether the public agency is violating a requirement of Part B of the Individuals with Disabilities Education Act or of this chapter.

(6) Consistent with the provisions of WAC 392-172-320 through 392-172-346, issue a written decision to the complainant that addresses each allegation in the complaint including findings of fact and conclusions and the reasons for the state's final decision, and clearly states either:

(a) That the complaint is without merit, the allegations are denied, and the basis for such denial; or

(b) The reasonable corrective measures deemed necessary to correct any violation. Any such corrective measures deemed necessary shall be instituted as soon as possible but in no event later than thirty calendar days following the date of the response to the complainant.

(7) When appropriate, technical assistance, negotiations, and corrective action(s) are to be instituted no later than ten days following notice of written decision by the superintendent of public instruction.

(8) If compliance by a local school district or other public agency, educational service district, or other subgrantee is not achieved pursuant to subsection (6) of this section, the superintendent of public instruction shall initiate fund withholding, fund recovery, or any other sanction deemed appropriate.

NEW SECTION

WAC 392-172-340 Complainant right to appeal. In the event a complainant, local school district or other public agency, educational service district, or other subgrantee remains aggrieved with the decision of the superintendent of public instruction, either party may appeal the decision to the Secretary, Department of Education.

NEW SECTION

WAC 392-172-342 Complaints against the superintendent of public instruction—Designation of responsible employee(s). A complaint alleging a violation by the superintendent of public instruction shall be filed directly with the superintendent of public instruction in the form specified in WAC 392-172-332.

NEW SECTION

WAC 392-172-344 Complaints against the superintendent of public instruction—Investigation of and response to complaints. (1) The staff responsible for investigating the alleged violation shall commence investigation within ten days of receipt of the complaint by the superintendent of public instruction.

(2) Investigation by the superintendent of public instruction may include on-site investigations as appropriate.

(3) Upon completion of the investigation, investigating staff shall provide the superintendent of public instruction with a written report on the results of the investigation.

(4) The superintendent of public instruction shall respond in writing to the complainant as soon as possible but in no event later than sixty calendar days after the date of receipt of such complaint by the superintendent of public instruction.

(5) The response shall clearly state either:

(a) That the complaint is without merit, the allegations are denied, and the basis for such denial; or

(b) The reasonable corrective measures deemed necessary to correct any violation. Any such corrective measures deemed necessary shall be instituted as soon as possible but in no event later than thirty calendar days following the date of the response to the complainant.

NEW SECTION

WAC 392-172-346 Appeal to the secretary of education in complaints against the superintendent of public instruction. In the event that a complainant remains aggrieved with the response of the superintendent of public instruction, the complainant may file an appeal directly with the Secretary, Department of Education.

HEARINGS—GENERAL

NEW SECTION

WAC 392-172-350 Right to initiate—Purposes. (1) Hearings conducted in accordance with WAC 392-172-350 through 392-172-360 may be initiated in the following cases for the purposes stated:

(a) The parent(s) of a student (or an adult student) or a school district or other public agency may initiate a hearing to challenge or to show (as the case may be) the appropriateness of a proposal by the school district or other public agency to initiate or change:

- (i) The identification of the student;
- (ii) The evaluation of the student;
- (iii) The delivery of educational services to the student;

or

(iv) The provision of special education and related services to the student pursuant to this chapter;

(b) The parent(s) of a student (or an adult student) or a school district or other public agency may initiate a hearing to challenge or to show (as the case may be) the appropriateness of the school district and other public agency's refusal of the parent(s) (or adult student's) request to initiate or change:

- (i) The identification of the student;
- (ii) The evaluation of the student;
- (iii) The delivery of educational services to the student;

or

(iv) The provision of special education and related services to the student pursuant to this chapter;

(c) A school district or other public agency may initiate a hearing to show that its evaluation of a student is appropriate if the student's parent(s) or adult student disagrees with the evaluation results.

(2) A request by a student's parent(s) or adult student for a hearing pursuant to this section shall:

(a) Be in writing and specify the district or other public agency;

(b) Be mailed or provided directly to the Office of Superintendent of Public Instruction, Office of Legal Services, Old Capitol Building, Olympia, Washington 98504; and

(c) Explain the concerns of the parent(s) or adult student in general or specific terms.

(3) A request by a school district or other public agency for a hearing pursuant to this section shall:

(a) Be in writing;

(b) Be mailed or provided directly to Office of Superintendent of Public Instruction, Office of Legal Services, Old Capitol Building, Olympia, Washington 98504. A copy of such request, including required attachments shall be transmitted to the student's parent(s) or adult student;

(c) Have attached to such request a copy of the notice to parent(s) or adult student as required by WAC 392-172-302. If the hearing request by the district or other public agency is in response to a request for an independent educational evaluation pursuant to WAC 392-172-150, the school district and other public agency's written request for a hearing also shall have attached a copy of the written notice to the district or other public agency required by WAC 392-172-150(2).

(4) A notice of a hearing requested by a student's parent(s) or adult student or initiated by a school district or other public agency pursuant to this section shall be provided by the hearing officer and shall include, but not necessarily be limited to:

(a) The date, time, and place of the hearing;

(b) The issues to be addressed at the hearing to the extent the issues have been identified at the time of the notice;

(c) The rights, procedures, and other matters set forth in WAC 392-172-352 through 392-172-364; and

(d) The right of the parent(s) or adult student to seek an independent evaluation at public expense pursuant to WAC 392-172-150.

(5) The forty-five day time line for completing the hearing process shall begin on the day the superintendent receives the written request for a due process hearing.

NEW SECTION

WAC 392-172-352 Hearing officers—Selection and expenses of—Parent assistance. (1) If a hearing is initiated pursuant to WAC 392-172-350:

(a) The hearing shall be conducted by and at the expense of the superintendent of public instruction.

(b) The superintendent of public instruction shall provide for a court reporter's stenographic record of all testimony and other oral hearing proceedings at the expense of the superintendent of public instruction: A court reporter's stenographic record need not be transcribed for any purpose except as provided or required in WAC 392-172-354 (1)(e).

(c) The superintendent of public instruction shall inform the parent(s) or adult student of any free or low-cost legal and other relevant services available in the area if:

(i) The parent or adult student requests the information;

or

(ii) The school district or other public agency or the parent or adult student initiates a hearing.

(d) The hearing shall be conducted by a qualified person selected and appointed by the chief administrative law judge in the office of administrative hearings pursuant to chapter 10-08 WAC and shall be a person who:

(i) Is not an employee of a public agency which is involved in the education or care of the student; and

(ii) Does not have a personal or professional interest which would conflict with his or her objectivity in the hearing.

(2) A person who otherwise qualifies to conduct a hearing under this section is not an employee of the public agency solely because he or she is paid by the agency to serve as a hearing officer.

(3) The hearing shall be conducted in accordance with the provisions of WAC 392-101-005 unless modified by this chapter.

(4) Each public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

NEW SECTION

WAC 392-172-354 Hearing rights. (1) Any party to a hearing initiated pursuant to WAC 392-172-350 has the right to:

(a) Be accompanied and advised by persons with special knowledge or training with respect to the problems of special education students;

(b) Be advised and/or represented by an attorney;

(c) Present evidence, including the opinion(s) of qualified experts, confront, cross-examine, and compel the attendance of witnesses;

(d) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;

(e) Obtain a written or electronic verbatim record of the hearing at no cost to any party to a hearing. In the event of an appeal to a court of law by the school district or other public agency, the district or other public agency shall bear the cost of transcribing the record for appeal purposes and shall make a copy available to the other party at a cost, if any, which is no greater than the school district and other public agency's cost of copying the original; and

(f) Obtain written findings of fact, conclusions of law and judgments. The state, after deleting any personally identifiable information, shall:

(i) Transmit those findings and decisions to the state advisory panel established under this chapter; and

(ii) Make those findings and decisions available to the public.

(2) Parents who are a party to a hearing have the right to have the student who is the subject of the hearing present.

(3) Parents (or adult students) who are a party to a hearing have the right to open the hearing to the public.

NEW SECTION

WAC 392-172-356 Time line for hearing officer's decision—Time and place of hearing. (1) Not later than forty-five days after the date of receipt of a request for a hearing pursuant to WAC 392-172-350:

(a) A final decision shall be reached based upon a preponderance of the evidence; and

(b) A copy of the decision consisting of the hearing officer's findings of fact, conclusions of law, and judgment shall be mailed or provided directly to each of the parties and to the superintendent of public instruction by the hearing officer, together with a certification of the date of mailing and the parties to whom it was mailed.

(2) The decision of the hearing officer shall be drafted in a manner which:

(a) Sets forth the findings of fact, conclusions of law and judgment separately, and numbers each finding of fact and conclusion; and

(b) Avoids the revelation of personally identifiable information that is unnecessary to reaching and understanding the decision reached.

(3) A hearing officer may grant specific extensions of time beyond the period set forth in this section at the written or otherwise documented request of the parent(s) or school district or other public agency, as follows:

(a) Continuances only by written order of the administrative law judge, which specifies the expiration date; and

(b) Continuances in instances of good cause and to periods of time that do not unjustifiably infringe on the right of either party to a timely decision.

(4) Each hearing shall be conducted at a time and place which is reasonably convenient to the parent(s) and student involved.

NEW SECTION

WAC 392-172-358 Prospective application to amendments in *Washington Administrative Code* affecting hearings. Amendments to the *Washington Administrative Code* affecting special education hearings and appeals pursuant to chapter 392-172 WAC shall apply prospectively. Hearing requests filed pursuant to WAC 392-172-350 shall be governed by the chapter 392-172 WAC regulations in effect at the time the request for a hearing is filed.

NEW SECTION

WAC 392-172-360 Final decision—Appeal to court of law. A decision made in a hearing initiated pursuant to WAC 392-172-350 is final, unless modified or overturned by a court of law. Any party aggrieved by the findings and decision made in a hearing who does not have the right to appeal under this chapter has the right to bring a civil action under section 615 (e)(2) of the Individuals with Disabilities Education Act. A civil action may be filed in either state or federal court.

NEW SECTION

WAC 392-172-362 Attorneys' fees. Each public agency shall inform parents that in any action or proceeding under section 615 of the Individuals with Disabilities Education Act, courts may award parents reasonable attorneys' fees under the circumstances described in section 615 (e)(4).

NEW SECTION

WAC 392-172-364 Student's status during hearing and judicial review processes. (1) During the pendency of any administrative or judicial proceeding regarding a hearing request initiated pursuant to WAC 392-172-350 or a written request for mediation, unless the school district or other public agency and the parent(s) of the student or the adult student agree otherwise, the student involved in the hearing or mediation request shall remain in the educational program he or she was in at the time the hearing or mediation request was made.

(2) The student, with the consent of the parent(s) or the adult student, shall be enrolled in the general school program until the completion of all such proceedings if the hearing or mediation request involves an application for initial admission to the school.

(3) During the pendency of a hearing regarding the disciplinary exclusion of a special education student who brings a firearm (as defined in Section 921 of Title 18 of the U.S.C.), to school, the student can receive services in an alternative educational program for up to forty-five calendar days. This alternative educational program must be developed in an individualized education program meeting conducted pursuant to WAC 392-172-156.

DISCIPLINARY EXCLUSIONNEW SECTION

WAC 392-172-370 Disciplinary exclusion—Purpose. The purpose of WAC 392-172-370 through 392-172-382 is to ensure that special education students are not being improperly excluded from school for disciplinary reasons. Each school district or other public agency, educational service district and public agency serving special education students shall take steps to ensure that each employee, contractor, and other agent of the district or other public agency responsible for education or care of a special education student is knowledgeable of WAC 392-172-370 through 392-172-382. No school district or other public agency and no educational service district shall authorize, permit, or condone the use of disciplinary procedures which violate WAC 392-172-370 through 392-172-382 by any employee, contractor, or other agent of the district or other public agency responsible for the education or care of a special education student.

NEW SECTION

WAC 392-172-372 Disciplinary exclusion—Procedures, continuing district or other public agency responsibility. A school district or other public agency cannot implement a disciplinary action which constitutes a change of placement, as defined by WAC 392-172-376 until a multidisciplinary team has determined whether the misconduct for which the student is being excluded from school is a manifestation of the disability and/or due to an inappropriate placement.

If the misconduct is a manifestation of the disability and/or due to an inappropriate placement, the proposed disciplinary action, resulting in a change in provision of services, may not be implemented. The district or other

public agency must convene an individualized education program meeting conducted pursuant to WAC 392-172-156 for the purposes of developing an appropriate program. The school district or other public agency has a continuing obligation to provide special education and related services to the student.

If the misconduct is neither a manifestation of the disability nor due to an inappropriate placement of a special education student, the proposed disciplinary action may be implemented. The district or other public agency must convene an individualized education program meeting conducted pursuant to WAC 392-172-156 for the purposes of developing an alternative educational program for the student during the long-term suspension or expulsion.

The district or other public agency must provide the parents with written notice consistent with WAC 392-172-302 through 392-172-306 regarding the multidisciplinary team decision as to whether the misconduct for which the student is being excluded from school is a manifestation of the disability or due to an inappropriate placement.

NEW SECTION

WAC 392-172-374 Disciplinary exclusion—Determination of disability relatedness and/or appropriateness of program. Prior to implementing a disciplinary action which constitutes a significant change of placement to a special education student as defined in WAC 392-172-376, a multidisciplinary team meeting must be held to determine:

(1) If the student's misconduct is a manifestation of the disability; the determination of whether the misconduct is a manifestation of the disability must be based on evaluation data related to behavior and must be recent enough to afford an understanding of the student's current behavior. A team may not make a determination that misconduct is or is not a manifestation of the disability based on a student's special education eligibility category. In making such a determination the multidisciplinary team shall document in a written narrative the basis for such determination, including any relevant data or evaluation procedures utilized.

(2) If the student's misconduct is due to an inappropriate program; in determining whether the behavior is due to an inappropriate program, the multidisciplinary team shall follow the procedures specified in WAC 392-172-570.

The district or other public agency must provide the parents with written notice consistent with WAC 392-172-302 through 392-172-306 regarding the multidisciplinary team decision.

NEW SECTION

WAC 392-172-376 Disciplinary exclusion—Definition significant change of placement. For the purposes of WAC 392-172-370 through 392-172-382, the term "significant change of placement of a special education student" means any suspension, in school or out-of-school, or expulsion for disciplinary reasons which excludes a special education student from school for more than ten consecutive school days in a given school year or any series of suspensions that are each of ten days or fewer in duration which create a pattern of exclusion.

NEW SECTION

WAC 392-172-378 Disciplinary exclusion—Determination of what constitutes a pattern of exclusion. The determination of whether a series of suspensions that are each of ten days or fewer in duration creates a pattern of exclusion must be determined by a multidisciplinary team on an individual basis. Among the factors that the multidisciplinary team should consider in determining whether a series of suspensions constitutes a pattern of exclusion are the length of each suspension, the proximity in time of the suspensions to one another, and the total amount of time the student is excluded from the program. In making such a determination, the multidisciplinary team shall document in a written narrative the basis for such determination, including any relevant data or evaluation procedures utilized.

The district or other public agency must provide the parents with written notice consistent with WAC 392-172-302 through 392-172-306 regarding the multidisciplinary team decision as to whether the series of suspensions constitutes a pattern of exclusion.

NEW SECTION

WAC 392-172-380 Emergency exclusion—Dangerous students. A special education student whose presence poses an immediate and continuing danger to the student, other students, or school personnel or an immediate and continuing threat of substantial disruption of the educational process, may be expelled pursuant to WAC 180-40-295. Prior to an exclusion exceeding ten school days, the school district or other public agency must complete the procedures defined in WAC 392-172-370 through 392-172-382.

A parent may request a hearing conducted in accordance with WAC 392-172-350 through 392-172-356. Pursuant to WAC 392-172-364, during the pendency of the hearing, unless the parent(s) of the student or the adult student agree to an alternative educational program, the student involved in the complaint shall return to the educational program he or she was in at the time of the expulsion.

A school district or other public agency may obtain a court order (a temporary restraining order or injunction) during pendency of a hearing to extend the exclusion from school for a dangerous student beyond ten school days or to place the student in an alternative setting.

An alternative educational program must be provided during any exclusion.

NEW SECTION

WAC 392-172-382 Disciplinary exclusion—Bringing a firearm to school. A special education student who brings a firearm as defined in Section 921 of Title 18 of the U.S. Code to school, may be placed in an interim alternative educational placement for up to forty-five calendar days. This interim alternative educational placement must be developed in an individualized educational program meeting conducted pursuant to WAC 392-172-156. Prior to the expiration of the interim alternative educational placement, the school district or other public agency must complete the procedures defined in WAC 392-172-370 through 392-172-382.

If the student's parents initiate a due process hearing pursuant to WAC 392-172-350 through 392-172-364, and if the parties cannot agree on another placement, the student must remain in that interim alternative educational placement during the review proceedings.

AVERSIVE THERAPY—SAFEGUARDSNEW SECTION

WAC 392-172-388 Aversive therapy. The purpose of WAC 392-172-388 through 392-172-398 is to assure that students with a disabling condition are safeguarded against the use and misuse of various forms of aversive therapy. Each school district or other public agency and educational service district shall take steps to assure that each employee, volunteer, contractor, and other agent of the district or other public agency responsible for the education, care, or custody of a student with a disabling condition is aware of WAC 392-172-388 through 392-172-398. No school district or other public agency and no educational service district shall authorize, permit, or condone the use of aversive therapy which violates WAC 392-172-390 through 392-172-396 by any employee, volunteer, contractor or other agent of the district or other public agency responsible for the education, care, or custody of a student with a disabling condition. Aversive therapy, to the extent permitted, shall only be used as a last resort. Positive interventions shall be attempted by the district or other public agency and educational service district and described in the individualized education program prior to the use of aversive therapy.

NEW SECTION

WAC 392-172-390 Aversive therapy—Definition. For the purpose of WAC 392-172-388 through 392-172-398, the term "aversive therapy" means the systematic use of stimuli or other treatment which a student is known to find painful or unpleasant for the purpose of discouraging undesirable behavior on the part of the student. The term does not include the use of reasonable force, restraint, or other treatment to control unpredicted spontaneous behavior which poses one of the following dangers:

- (1) A clear and present danger of serious harm to the student or another person.
- (2) A clear and present danger of serious harm to property.
- (3) A clear and present danger of seriously disrupting the educational process.

NEW SECTION

WAC 392-172-392 Aversive therapy—Prohibited forms. There are certain forms of aversive therapy that are manifestly inappropriate by reason of their offensive nature or their potential negative physical consequences, or both. The purpose of this section is to uniformly prohibit their use respecting students with a disabling condition, as follows:

- (1) Electric current. No student may be stimulated by contact with electric current.
- (2) Food services. No student who is willing to consume subsistence food or liquid when the food or liquid

is customarily served may be denied or subjected to an unreasonable delay in the provision of the food or liquid.

(3) Force and restraint in general. No force or restraint which is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law may be used. See RCW 9A.16.100 which cites the following uses of force or restraint as uses which are presumed to be unreasonable and therefore unlawful:

- (a) Kicking, burning, or cutting a student.
- (b) Striking a student with a closed fist.
- (c) Shaking a student under age three.
- (d) Interfering with a student's breathing.
- (e) Threatening a student with a deadly weapon.
- (f) Doing any other act that is likely to cause and which does cause bodily harm to a student greater than transient pain or minor temporary marks.

Note: This statutory listing of worst case uses of force or restraint may not be read as implying that all unlisted uses (e.g., shaking a four year old) are permissible. Whether or not an unlisted use of force or restraint is permissible depends upon such considerations as the balance of these rules, and whether the use is reasonable under the circumstances.

(4) Hygiene care. No student may be denied or subjected to an unreasonable delay in the provision of common hygiene care.

(5) Isolation. No student may be excluded from his or her general instructional or service area and isolated within a room or any other form of enclosure, except under the conditions set forth in WAC 392-172-394.

(6) Medication. No student may be denied or subjected to an unreasonable delay in the provision of oral medication.

(7) Noise. No student may be forced to listen to noise or sound which the student obviously finds painful.

(8) Noxious sprays. No student may be forced to smell or be sprayed in the face with a noxious or potentially harmful substance.

(9) Physical restraints. No student may be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object, except under the conditions set forth in WAC 392-172-394.

(10) Taste treatment. No student may be forced to taste or ingest a substance which is not commonly consumed or which is not commonly consumed in its existing form or concentration.

(11) Water treatment. No student's head may be partially or wholly submerged in water or any other liquid.

NEW SECTION

WAC 392-172-394 Aversive therapy—Other forms—Conditions. Various forms of aversive therapy which are not prohibited by WAC 392-172-392 nevertheless warrant close scrutiny. Accordingly, the use of aversive therapy involving bodily contact, isolation, or physical restraint not prohibited by WAC 392-172-392 is conditioned upon compliance with certain procedural and substantive safeguards, as follows:

(1) Bodily contact. The use of any form of aversive therapy not prohibited by WAC 392-172-392 which involves contacting the body of a student with a disabling condition

shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-172-396.

(2) Isolation. The use of aversive therapy which involves excluding a student with a disabling condition from his or her general instructional area and isolation of the student within a room or any other form of enclosure is subject to each of the following conditions:

(a) The isolation, including the duration of its use, shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-172-396.

(b) The enclosure shall be ventilated, lighted, and temperature controlled from inside or outside for purposes of human occupancy.

(c) The enclosure shall permit continuous visual monitoring of the student from outside the enclosure.

(d) An adult responsible for supervising the student shall remain in close proximity.

(e) Either the student shall be capable of releasing himself or herself from the enclosure or the student shall continuously remain within view of an adult responsible for supervising the student.

(3) Physical restraint. The use of aversive therapy which involves physically restraining or immobilizing a student with a disabling condition by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object is subject to each of the following conditions:

(a) The restraint shall only be used when and to the extent it is reasonably necessary to protect the student, other persons, or property from serious harm.

(b) The restraint, including the duration of its use, shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-172-396.

(c) The restraint shall not interfere with the student's breathing.

(d) An adult responsible for supervising the student shall remain in close proximity.

(e) Either the student shall be capable of releasing himself or herself from the restraint or the student shall continuously remain within view of an adult responsible for supervising the student.

NEW SECTION

WAC 392-172-396 Aversive therapy—Individualized education program requirements. The terms of a student's individualized education program respecting the use of an aversive therapy involving bodily contact, isolation, or physical restraint shall meet each of the following requirements:

(1) The individualized education program be consistent with the recommendations of a multidisciplinary team which includes a school psychologist and/or other certificated employee who understands the appropriate use of the aversive therapy and who concurs with the recommended use of the aversive therapy, and a person who works directly with the student.

(2) The individualized education program shall specify the aversive therapy that may be used.

(3) The individualized education program shall state the reason the aversive therapy is judged to be appropriate and the behavioral objective sought to be achieved by its use, and shall describe the positive interventions attempted and the reasons they failed, if known.

(4) The individualized education program shall describe the circumstances under which the aversive therapy may be used.

(5) The individualized education program shall describe or specify the maximum duration of any isolation or restraint.

(6) The individualized education program shall specify any special precautions that must be taken in connection with the use of the aversive therapy technique.

(7) The individualized education program shall specify the person or persons permitted to use the aversive therapy or the qualifications of the personnel permitted to use the aversive therapy.

(8) The individualized education program shall establish a means of evaluating the effects of the use of the aversive therapy and a schedule for periodically conducting the evaluation.

NEW SECTION

WAC 392-172-398 Aversive therapy—Parent complaint process. A parent of a student with a disabling condition may file a complaint alleging a violation of WAC 392-172-392, 392-172-394, or 392-172-396 involving the student. Each such complaint shall be investigated and addressed by a school district or other public agency, educational service district, and the superintendent of public instruction in accordance with the terms of this chapter.

STUDENT RECORDS

NEW SECTION

WAC 392-172-400 Definition of "educational records" as used in records rules. (1) For the purpose of WAC 392-172-400 through 392-172-426 and the Family Educational Rights and Privacy Act of 1974 governing student records, the term "educational records" shall mean those records that:

(a) Are directly related to a student; and
 (b) Are maintained by a school district or other public agency or by a party acting for the school district or other public agency.

(2) The term "educational records" does not include:

(a) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which:

(i) Are in the sole possession of the maker thereof; and
 (ii) Are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs on a temporary basis the duties of the individual who made the record and does not refer to an individual who permanently succeeds the maker of the record in his or her position;

(b) Records of a security unit of a school district or other public agency which are:

(i) Maintained apart from the records described in subsection (1) of this section;

(ii) Maintained solely for district or other public agency security purposes; and

(iii) Not disclosed to individuals other than security officials of the same district or other public agency. This exception from the definition of educational records does not apply if educational records are disclosed to personnel of the school district and other public agency's security unit;

(c) Records relating to an individual who is employed by a school district or other public agency which:

(i) Are made and maintained in the normal course of business;

(ii) Relate exclusively to the individual in that individual's capacity as an employee; and

(iii) Are not available for use for any other purpose: This exception from the definition of "educational records" does not apply to records relating to an individual in attendance at the school district or other public agency who is employed as a result of his or her status as a student;

(d) Records relating to an adult student which are:

(i) Created or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in their professional or paraprofessional capacity;

(ii) Created, maintained, or used only in connection with the provision of treatment to the student; and

(iii) Not disclosed to anyone other than individuals providing the treatment. However, the records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities which are part of the program of instruction at the school district or other public agency;

(e) Records of a school district or other public agency which contain only information relating to a person after that person was no longer a student at the school district or other public agency. An example would be information collected by a school district or other public agency pertaining to the accomplishments of its alumni.

NEW SECTION

WAC 392-172-402 Definitions used in records rules—"Destruction"—"Native language"—And "educational agency." For the purpose of WAC 392-172-400 through 392-172-426 governing records of special education students:

(1) "Destruction" shall mean physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

(2) "Native language," when used with reference to an individual of limited English proficiency, means the language normally used by that individual, or in the case of a student, the language normally used by the parents of a student or by the adult student.

(3) "Educational agency" means any agency or institution which collects, maintains, or uses personally identifiable information or from which information is obtained in implementing this chapter.

NEW SECTION

WAC 392-172-404 Notice to parents. The state shall give notice that is adequate to fully inform parents about the requirements of this chapter regarding the identification, location, and evaluation of eligible special education students, including:

(1) A description of the extent to which notice is given in the native languages of the various population groups in the state;

(2) A description of the students on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures that educational agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and students regarding this information, including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations.

Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both with circulation adequate to notify parents throughout the state of the activity.

NEW SECTION

WAC 392-172-406 Opportunity to examine records. The parents of a special education student, in accordance with the confidentiality procedures in this chapter, shall be afforded an opportunity to inspect and review all educational records which shall include, but not be limited to:

(1) The identification, evaluation, and the delivery of educational services to the student; and

(2) The provision of free, appropriate public education to the student.

NEW SECTION

WAC 392-172-408 Access rights. (1) Each school district or other public agency shall permit parents of special education students (or adult students) to inspect and review during school business hours any educational records relating to their student or the adult student which are collected, maintained, or used by the district or other public agency under this chapter. The district or other public agency shall comply with a request promptly and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or delivery of services to the student and in no case more than forty-five calendar days after the request has been made.

(2) The right to inspect and review educational records under this section includes:

(a) The right to a response from the educational agency to reasonable requests for explanations and interpretations of the records;

(b) The right to request that the school district or other public agency provide copies of the records containing the information if failure to provide those copies would effec-

tively prevent the parent from exercising the right to inspect and review the records; and

(c) The right to have a representative of the parent or adult student inspect and review records.

(3) A school district or other public agency may presume that a parent has authority to inspect and review records relating to his or her student unless the district or other public agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

NEW SECTION

WAC 392-172-410 Record of access. Each educational agency shall keep a record of parties obtaining access to educational records collected, maintained, or used under this chapter (except access by parents, adult students, and authorized employees of the educational agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

NEW SECTION

WAC 392-172-412 Records on more than one student. If any educational record includes information on more than one student, the parent(s) of those students (and/or adult students) shall have the right to inspect and review only the information relating to their student (or themselves) or to be informed of that specific information.

NEW SECTION

WAC 392-172-414 List of types and locations of information. Each educational agency shall provide parents (and adult students) on request a list of the types and locations of educational records collected, maintained, or used by the agency.

NEW SECTION

WAC 392-172-416 Fees. (1) A participating educational agency may charge a fee for copies of records which are made for parents (or adult students) under this chapter if the fee does not effectively prevent the parents (or adult students) from exercising their right to inspect and review those records.

(2) An educational agency may not charge a fee to search for or to retrieve information under this chapter.

NEW SECTION

WAC 392-172-418 Amendment of records at the request of a parent or adult student. (1) A parent of a special education student (or an adult student) who believes that information in educational records collected, maintained, or used under this chapter is inaccurate or misleading or violates the privacy or other rights of the student may request the educational agency which maintains the information to amend the information.

(2) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time after receipt of the request.

(3) If the agency refuses to amend the information in accordance with the request it shall inform the parent or

adult student of the refusal and advise the parent or adult student of the right to a hearing provided for in WAC 392-172-420.

(4) The educational agency, on request, shall provide the parent or adult student an opportunity for a hearing to challenge information, in the educational records, to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

(5) If, as a result of the hearing, the educational agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parent or adult student in writing.

(6) If, as a result of the hearing, the educational agency decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the parent(s) or adult student of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(7) Any explanation placed in the records of the student in compliance with this section shall:

(a) Be maintained by the educational agency as part of the records of the student as long as the records or the contested portion is maintained by the educational agency; and

(b) Also be disclosed to any party to whom the records of the student (or the contested portion thereof) are disclosed.

NEW SECTION

WAC 392-172-420 Hearing procedures regarding records. A hearing initiated pursuant to WAC 392-172-418 to challenge information in educational records shall be conducted according to procedures which include at least the following elements:

(1) The hearing shall be held within a reasonable period of time after the educational agency has received the request;

(2) The parent or adult student shall be given notice of the date, place, and time reasonably in advance of the hearing;

(3) The hearing may be conducted by any party, including an official of the educational agency, who does not have a direct interest in the outcome of the hearing;

(4) The parent or adult student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised pursuant to WAC 392-172-418 and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney;

(5) The educational agency shall provide a written decision to the parent or adult student within a reasonable period of time after the conclusion of the hearing; and

(6) The decision of the educational agency shall:

(a) Be based solely upon the evidence presented at the hearing; and

(b) Include a summary of the evidence and the reasons for the decision.

NEW SECTION

WAC 392-172-422 Consent. (1) Consent of a parent or adult student shall be obtained before personally identifiable information is:

(a) Disclosed to anyone other than officials of educational agencies collecting or using the information obtained under this chapter subject to subsection (2) of this section; or

(b) Used for any purpose other than meeting a requirement imposed by this chapter.

(2) No school district or other public agency shall release information from educational records to educational agencies without the consent of a parent or adult student except in those cases in which a release of information without consent is permitted by the rules that implement the federal Privacy Rights of Parents and Students Part 99 of 34 Code of Federal Regulations (CFR) 34 sections 99.1 et seq. See 34 CFR 99.31 (when prior consent not required), 34 CFR 99.35 (disclosure to state and federal officials) and 34 CFR 99.37 (directory information).

(3) If a parent refuses to provide consent under this section, the school district or other public agency may use the due process hearing procedures in this chapter to override parental refusal.

NEW SECTION

WAC 392-172-424 Safeguards. (1) Each educational agency shall protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages. The same privacy provisions provided to parents are extended to special education students with consideration given to the type and severity of the student's disability.

(2) One official at each educational agency shall be designated as the individual responsible for assuring the confidentiality of any personally identifiable information.

(3) All persons collecting or using personally identifiable information shall receive training or instruction regarding:

(a) The policies and procedures on protection of the confidentiality of personally identifiable information set forth in the state's annual program plan; and

(b) 34 CFR 99.1 et seq. (the Family Educational Rights and Responsibilities Act rules).

(4) Each educational agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

NEW SECTION

WAC 392-172-426 Destruction of information. Each school district or other public agency shall inform parent(s) (and adult students) when personally identifiable information collected, maintained, or used in compliance with this chapter is no longer needed to provide educational services to the student. The information shall thereafter be destroyed at the request of the parent(s) or adult student. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes

attended, grade level completed and year completed may be maintained without time limitation.

STATE PROCEDURES—REQUIREMENTS—STANDARDS

STATE ADVISORY COUNCIL

NEW SECTION

WAC 392-172-500 Advisory council. (1) The special education state advisory council is hereby established in order to help facilitate the provision of special education and related services to meet the unique needs of special education students.

(2) The membership of the council shall include at least one representative of each of the following groups or entities:

- (a) Individuals with disabilities;
- (b) Teachers of special education students;
- (c) Parents of special education students;
- (d) Local administrators of special education programs;
- (e) Support services personnel;
- (f) Superintendents;
- (g) Principals;
- (h) Nonpublic schools serving special education students;
- (i) School directors;
- (j) Institutions of higher education;
- (k) Department of social and health services;
- (l) The medical profession; and
- (m) Other individuals or groups as may hereafter be designated and approved by the superintendent of public instruction.

(3) The council's purposes are to:

(a) Advise the superintendent of public instruction and make recommendations on all matters related to special education and specifically advise the superintendent of unmet needs within the state in the education of special education students;

(b) Comment publicly on the state's annual program plan, state rules regarding the education of special education students, and the procedures for distribution of funds; and

(c) Assist the state in developing and reporting such information and evaluations as may assist the federal government.

(4) The council shall conduct its affairs in accordance with bylaws approved by the superintendent of public instruction. To assure that information and recommendations are provided to the superintendent of public instruction, the state advisory council shall have the authority to recommend the design of its organization and to appoint subcommittees from its membership for carrying out council responsibilities. Ad hoc subcommittees with membership other than council members may be appointed. The superintendent of public instruction or designee must give prior approval for such appointments.

(5) Procedures — The council shall follow the procedures noted in this section.

(a) The advisory council shall meet as often as necessary to conduct its business.

(b) By July 1 of each year, the advisory council shall submit an annual report of council activities and suggestions to the superintendent of public instruction. This report must be made available to the public in a manner consistent with other public reporting requirements of this chapter.

(c) Official minutes must be kept on all council meetings and shall be made available to the public on request to the office of superintendent of public instruction.

(d) All advisory council meetings and agenda items must be publicly announced prior to the meeting, and meetings must be open to the public.

(e) Interpreters and other necessary services must be provided at council meetings for council members or participants.

(f) The advisory council shall serve without compensation but the superintendent of public instruction must reimburse the council for reasonable and necessary expenses for attending meetings and performing duties.

NEW SECTION

WAC 392-172-502 Interagency agreements. The superintendent of public instruction shall develop and implement interagency agreements with all other state and local agencies that provide or pay for services required under this chapter for special education students. Consideration shall be given to preserving existing arrangements between school districts and other public agencies and other agencies which are consistent with this chapter. These agreements shall:

(1) Describe the role that each agency plays in providing or paying for required services;

(2) Define the financial responsibility of each agency for providing special education students with a free appropriate public education;

(3) Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and

(4) Establish procedures under which school districts and other public agencies may initiate proceedings in order to secure reimbursement from agencies that are parties to the agreements or otherwise implement the provisions of the agreements.

MONITORING—FUNDING

NEW SECTION

WAC 392-172-504 Monitoring. (1) The superintendent of public instruction or designee shall annually monitor selected local school district or other public agency special education programs. The purposes of monitoring shall be:

(a) To determine the school district and other public agency's compliance with this chapter and the federal regulations implementing 20 USC Section 1401, et seq. (Part B of the Individuals with Disabilities Education Act) and federal and state special education laws including validation of information included in school district or other public agency applications for federal funds; and

(b) To provide the school district or other public agency with technical assistance for improving the quality of its special education program.

(2) The superintendent of public instruction or designee shall develop procedures (including specific time lines) for monitoring school districts and other public agencies. These procedures shall include:

- (a) Collection of data and reports;
- (b) Conduct of on-site visits;
- (c) A review of state and federal special education fund utilization; and

(d) Comparison of a sampling of individualized education programs with the programs actually provided.

(3) Following a monitoring visit, a written monitoring report shall be submitted to the school district or other public agency. The monitoring report shall include, but not be limited to:

- (a) Findings of noncompliance, if any; and
- (b) Required corrective actions for remediation of any such instance(s) of noncompliance.

(4) The school district or other public agency shall have thirty calendar days after the date of its receipt of the monitoring report to provide the office of superintendent of public instruction with:

- (a) Supplemental arguments and/or facts which may serve as a basis for alteration of the monitoring report;
- (b) A written action plan which sets forth the measures the district or other public agency shall take and time period(s) within which the district or other public agency shall act in order to remediate the instance(s) of noncompliance;

(c) In the event that the district or other public agency submits supplemental arguments and/or facts which may serve as a basis for alteration of the monitoring report, the office of superintendent of public instruction shall within thirty calendar days provide the district or other public agency with a determination as to the alteration of the monitoring report. The school district or other public agency shall, within thirty calendar days of receipt of the determination, provide the office of superintendent of public instruction a written action plan, if any, which results from that determination.

(5) The superintendent of public instruction or designee either shall approve the plan as submitted or shall request the school district or other public agency to make such modifications as are considered necessary. Once an approvable plan has been submitted, the district or other public agency shall be provided written notice of:

- (a) Approval;
- (b) The performance expected of the district or other public agency; and
- (c) The schedule for periodic review or verification of the school district and other public agency's progress toward remediation of the instance(s) of noncompliance.

(6) If the school district or other public agency fails to submit an approvable corrective action plan required in WAC 392-172-504(4) or fails to comply with a corrective action plan approved pursuant to WAC 392-172-504(5), the superintendent of public instruction or designee shall institute procedures to insure corrective action or prompt response to a monitoring report. Such procedures may include one or more of the following:

- (a) Verification visits by office of superintendent of public instruction staff to:

(i) Determine whether the school district or other public agency is taking the required corrective action;

(ii) Expedite the school district and other public agency's response to a monitoring report; and

(iii) Provide any necessary technical assistance to the school district or other public agency in its efforts to comply.

(b) Withhold, in whole or part, a specified amount of state and/or federal special education funds, in compliance with the provisions of WAC 392-172-590 and 392-172-514.

(c) Initiate request for office of superintendent of public instruction audit pursuant to WAC 392-172-508 through 392-172-518 which may result in the recovery of unlawfully received or expended state and/or federal special education funds.

NEW SECTION

WAC 392-172-506 Use and allocation of Part B Funds. (1) The superintendent of public instruction may use five percent of the total state allotment in any fiscal year under Part B of the Individuals with Disabilities Education Act, or four hundred fifty thousand dollars, whichever is greater, for administrative costs related to carrying out sections 612 and 613 of the IDEA. However, this amount cannot be greater than twenty-five percent of the state's total allotment for the fiscal year under Part B of the Individuals with Disabilities Education Act.

(2) Allowable costs for use of the five percent include:

(a) Administration of the state plan and for planning at the state level, including planning, or assisting in the planning, of programs or projects for the education of special education students;

(b) Approval, supervision, monitoring, and evaluation of the effectiveness of local programs and projects for the education of special education students;

(c) Technical assistance to districts with respect to the requirements of this chapter;

(d) Leadership services for the program supervision and management of special education activities for special education students; and

(e) Other state leadership activities and consultative services.

(3) The office of the superintendent of public instruction may use the portion of its allocation it does not use for administration:

(a) For support services and direct services in accordance with the priority requirements of Part B; and

(b) For the administrative costs of the state's monitoring activities and complaint investigations, to the extent that these costs exceed the administrative costs for monitoring and complaint investigations incurred during fiscal year 1985.

(4) For the purposes of this section:

(a) "Direct services" means services provided to a special education student by the state directly, by contract, or through other arrangements; and

(b) "Support services" includes implementing the comprehensive system of personnel development, recruitment and training of hearing officers and surrogate parents, and public information and parent training activities relating to

free, appropriate public education for special education students.

NEW SECTION

WAC 392-172-508 Definition of "unlawfully received or expended funds." For the purpose of WAC 392-172-512 through 392-172-518, "unlawfully received or expended funds" shall mean any state or federal special education funds received and held or expended by a school district or other public agency in a manner or for a purpose that is in violation of any provision of:

- (1) State statute or rule, including this chapter; or
- (2) Any federal rule or condition to funding that may now or hereafter supplement this chapter including:

The recovery of funds based on inaccurate child count information under the Individuals with Disabilities Education Act.

(3) In addition to meeting the other requirements of this chapter, the superintendent of public instruction shall:

- (a) Establish procedures to be used by school districts and other public agencies in counting the number of special education students receiving special education and related services;
- (b) Set dates by which those agencies and institutions must report to the superintendent of public instruction to ensure that the state complies with federal requirements;
- (c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made;
- (d) Aggregate the data from the count obtained from each agency and institution, and prepare the reports required by the United States Department of Education; and
- (e) Ensure that documentation is maintained that enables the state and the United States Secretary of Education to audit the accuracy of the count.

NEW SECTION

WAC 392-172-510 Child count procedures. The superintendent of public instruction shall report to the United States Secretary of Education no later than February 1 of each year the number of special education students aged three through twenty-one residing in the state who are receiving special education and related services. The superintendent shall submit the report on forms provided by the United States Secretary of Education.

- (1) Information required in the report includes:
 - (a) The number of special education students receiving special education and related services on December 1 of that school year;
 - (b) The number of special education students aged three through five who are receiving free, appropriate public education;
 - (c) The number of those special education students aged six through twenty-one within each disability category, as defined in the definition of "special education students"; and
 - (d) The number of those special education students aged three through twenty-one for each year of age (three, four, five, etc.).
- (2) For the purpose of this part, a student's age is the student's actual age on the date of the child count: December 1.

(3) The superintendent may not report a student aged six through twenty-one under more than one disability category.

(4) If a special education student aged six through twenty-one has more than one disability, the superintendent shall report that student in accordance with the following procedure:

(a) A student with deaf-blindness must be reported under the category "deaf-blindness."

(b) A student who has more than one disability (other than deaf-blindness) must be reported under the category "multiple disabilities."

(5) The office of the superintendent of public instruction shall include in its report a certification signed by an authorized official of the agency that the information provided is an accurate and unduplicated count of special education students receiving special education and related services on the dates in question.

(6) The office of the superintendent of public instruction may include in its report special education students who are enrolled in a school or program that is operated or supported by a public agency, and that either:

- (a) Provides them with both special education and related services; or
- (b) Provides them only with special education if they do not need related services to assist them in benefiting from that special education.

(7) The superintendent may not include special education students in its reports who:

- (a) Are not enrolled in a school or program operated or supported by a public agency;
- (b) Are not provided special education that meets state standards;
- (c) Are not provided with a related service that they need to assist them in benefiting from special education;
- (d) Are counted by the state's lead agency for Part H services; or
- (e) Are receiving special education funded solely by the federal government.

NEW SECTION

WAC 392-172-512 Audits. (1) The superintendent of public instruction or designee shall conduct fiscal/program audits of school district or other public agency special education programs. The purposes of such audits shall be:

- (a) To determine compliance or noncompliance with:
 - (i) A school district and other public agency's application(s) for state and federal excess cost funds;
 - (ii) The provisions of this chapter; and
 - (iii) Any supplemental federal conditions to funding as may now or hereafter exist.
 - (b) To establish a factual basis for:
 - (i) The recovery of unlawfully received or expended state or federal special education funds; or
 - (ii) The initiation of fund withholding proceedings.
- (2) Preliminary audit report—Following an audit, a preliminary written audit report shall be submitted to the school district or other public agency for review and comment. The preliminary audit report shall include, but not be limited to:

(a) Findings of noncompliance which could include comparisons to findings of noncompliance as a result of monitoring, if any; and

(b) Recommendations for remediation of any such instance(s) of noncompliance.

(3) The school district or other public agency shall have fifteen days after the date of its receipt of the preliminary audit report to provide the superintendent of public instruction or designee a written reply setting forth any supplemental arguments and/or facts that may serve as a basis for alteration of the preliminary finding(s) of noncompliance.

(4) Final audit report—A final written audit report shall be provided to the school district or other public agency after review of the supplemental arguments and/or facts submitted by the district or other public agency. The final audit report shall include, but not necessarily be limited to:

(a) Findings of noncompliance, if any; and

(b) Recommendations for remediation of any such instance(s) of noncompliance.

(5) The school district or other public agency shall have fifteen days after the date of its receipt of the final audit report to provide the superintendent of public instruction or designee a written plan which sets forth the measures the district or other public agency shall take and time period(s) within which the district or other public agency shall act in order to remedy the instance(s) of noncompliance.

(6) The superintendent of public instruction or designee shall either approve the plan as submitted or request the school district or other public agency to make such modifications as are considered necessary. Once an approvable plan has been submitted the district or other public agency shall be provided written notice of:

(a) Approval;

(b) The performance expected of the district or other public agency; and

(c) The schedule for periodic review or audit of the school district and other public agency's progress toward remediation of the instance(s) of noncompliance.

NEW SECTION

WAC 392-172-514 Fund withholding. (1) In the event a school district or other public agency fails to submit an approvable remediation plan required by WAC 392-172-512 or fails to submit an approvable corrective action plan pursuant to WAC 392-172-504 or fails to comply with a remediation plan approved pursuant to WAC 392-172-512 or fails to comply with a corrective action plan pursuant to WAC 392-172-504, the superintendent or designee shall provide the school district or other public agency notice which complies with RCW 34.05.434 of:

(a) Intent to withhold a specified amount of state and/or federal special education funds; and

(b) The school district and other public agency's opportunity for a hearing before the superintendent of public instruction or designee prior to commencement of the withholding.

(2) Funds may be withheld in whole or part in the event the district or other public agency fails to request a hearing or the hearing decision upholds the final audit or monitoring in whole or part. (RCW 28A.155.100.)

NEW SECTION

WAC 392-172-516 Recovery of funds. (1) If a preliminary audit conducted pursuant to WAC 392-172-512 indicates that a district or other public agency has unlawfully received and/or expended either state or federal special education funds, the superintendent of public instruction or designee shall provide the school district or other public agency with an opportunity for an informal conference prior to the final audit report.

(2) If the final audit report sets forth one or more instances of unlawful receipt or expenditure of either state or federal special education funds, the superintendent of public instruction or designee shall take such action as he or she deems necessary to recover the funds including, but not limited to, a reduction in future allocations of any amount of any state funds and/or any amount of federal special education funds to the district or other public agency.

(3) No right to a hearing in connection with the recovery of funds unlawfully received and/or expended is granted by this chapter.

NEW SECTION

WAC 392-172-518 Fund withholdings to enforce parent appeal decisions. The superintendent of public instruction or designee may withhold any amount of state funds and/or any amount of federal special education funds as deemed necessary to enforce a decision made on appeal pursuant to WAC 392-172-360 without any necessity of a further hearing on the matter.

PRIVATE SCHOOL REQUIREMENTS

NEW SECTION

WAC 392-172-520 Implementation by state. In implementing the private school provisions of this chapter, the state shall:

(1) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

(2) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a special education student; and

(3) Provide an opportunity for those private schools and facilities to participate in the development and revision of state standards that apply to them.

NEW SECTION

WAC 392-172-522 Students in public or private institutions. The state shall make arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures) as may be necessary to ensure that the least restrictive environment provisions in this chapter are effectively implemented.

NEW SECTION

WAC 392-172-524 Technical assistance training and monitoring activities. (1) The state shall carry out activities to ensure that teachers and administrators in all public agencies:

PROPOSED

(a) Are fully informed about their responsibilities for implementing the least restrictive environment requirements; and

(b) Are provided with technical assistance and training necessary to assist them in this effort.

(2) The state shall carry out activities to ensure that the least restrictive environment requirements are implemented by each public agency.

If there is evidence that a public agency delivers services in locations that are inconsistent with the least restrictive environment requirements, the state shall:

(a) Review the public agency's justification for its actions; and

(b) Assist in planning and implementing any necessary corrective action.

NEW SECTION

WAC 392-172-526 State responsibility. The state shall ensure that to the extent consistent with their number and location in the state, provision is made for the participation of private school special education students in the program assisted or carried out under this chapter by providing them with special education and related services.

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

NEW SECTION

WAC 392-172-550 Comprehensive system of personnel development. The superintendent of public instruction shall establish and implement procedures for developing and conducting a comprehensive system of personnel development which includes:

(1) The continuing education of general and special education instructional services personnel;

(2) Detailed procedures to assure that all personnel necessary to carry out the purposes of the Individuals with Disabilities Education Act, P.L. 102-119, 34 CFR 300.1, as of October 1, 1992, are appropriately and adequately prepared;

(3) Provisions consistent with 34 CFR 300.153, 300.380 through 300.383, and 303.360;

(4) Effective procedures for acquiring and disseminating significant information derived from educational research, demonstration and similar projects; and

(5) The adoption, where appropriate, of promising educational practices and material developed through research, demonstration, and similar initiatives.

NEW SECTION

WAC 392-172-552 Definitions. The following definitions apply to this chapter:

(1) "Appropriate professional requirements," those entry level requirements that are based on the highest requirements in the state applicable to the profession or discipline in which a person is providing special education or related services and that establish the qualifications for personnel providing special education and related services under chapters 392-172 and 392-173 WAC to children and youth

with disabilities who are served by state, local, and private agencies;

(2) "Highest requirements in the state applicable to a specific profession or discipline," the highest entry-level academic degree needed for any state-approved or recognized certification, licensing, or registration or other comparable requirements that apply to that profession or discipline;

(3) "Profession or discipline," a specific occupational category that provides special education and related services to children and youth with disabilities under chapters 392-172 and 392-173 WAC, has been established or designated by the state, and has a required scope of responsibility and degree of supervision; and

(4) "Qualified" means that a person, in accordance with the provisions contained in 34 CFR 300.153 of the Individuals with Disabilities Education Act, has met superintendent of public instruction approved or recognized certification, licensing, registration, or other comparable requirements for the profession or discipline in which the person is providing special education and related services.

NEW SECTION

WAC 392-172-554 Scope of system. Through the superintendent of public instruction, the state of Washington shall develop and implement a comprehensive system of personnel development which:

(1) Meets all federal requirements contained in 34 CFR 300.153, 300.381 through 300.383 and 303.360 of the IDEA;

(2) Addresses current and projected special education and related services personnel needs, including the needs of leadership personnel; and

(3) Coordinates and facilitates efforts among state and local educational agencies, institutions of higher education, professional and other associations to recruit, prepare and retain qualified personnel necessary to serve children and youth (birth through twenty-one), including leadership personnel, personnel from minority backgrounds, and personnel with disabilities.

NEW SECTION

WAC 392-172-556 Establishment of a comprehensive system of personnel development advisory committee. Consistent with procedures established at the discretion of the superintendent of public instruction, the superintendent shall appoint members to serve on a comprehensive system of personnel development advisory committee. The comprehensive system personnel development advisory committee shall include at least one representative each from: An institution of higher education, the office of the superintendent of public instruction, an educational service district, a local educational agency, a special education-related professional organization, and a parent or other advocacy organization. It shall be the responsibility of the comprehensive system of personnel development advisory committee to:

(1) Advise the superintendent of public instruction, of unmet personnel needs with respect to the provision of special education and related services to children and youth (ages birth through twenty-one years);

(2) Comment publicly on the state plan and rules and other policy documents proposed for issuance by the state which have an impact on such personnel; and

(3) Assist the superintendent of public instruction in developing and reporting such information and evaluations as may be required to assist the Secretary of the Department of Education in the performance of his or her responsibilities under the Individuals with Disabilities Education Act and other activities as determined necessary by the superintendent.

NEW SECTION

WAC 392-172-558 Annual needs assessment. Each year, the special education section of the office of the superintendent of public instruction, with the assistance of the state's educational services districts, shall administer a state-wide needs assessment to determine the current and projected special education and related services personnel needs, including the need for leadership personnel.

NEW SECTION

WAC 392-172-560 Data system on personnel and personnel development. Annually, the superintendent of public instruction, with the assistance of the state's educational service districts, shall collect the following information:

(1) The number and type of personnel, including leadership personnel, employed in the provision of special education and related services, by profession or discipline;

(2) The number and type of personnel who are employed with emergency, provisional, or temporary certification in each profession or discipline who do not hold appropriate state certification, licensure, or other credentials comparable to certification or licensure in that profession or discipline;

(3) The number and type of personnel, including leadership personnel, in each profession or discipline needed, and a projection of the number of those personnel that will be needed in five years, based on projections of individuals to be served, retirement, and other departures of personnel from the field and other relevant factors; and

(4) Content areas in which continuing education is needed, identified by profession or discipline, including leadership personnel. Information collected on personnel which meets the requirements of subsections (1) through (3) of this section must include: Audiologists, counselors, diagnostic and evaluation personnel, home-hospital teachers, interpreters for students with hearing impairments including deafness, occupational therapists, orientation and mobility specialists, parents, physical education teachers, physical therapists, psychologists, rehabilitation counselors, social workers, speech-language pathologists, teachers, teacher aides (i.e., instructional assistants), recreation and therapeutic recreation specialists, vocational education teachers, work study coordinators, and other instructional and noninstructional staff. Additionally, data on leadership personnel required under subsections (1) through (3) of this section must include administrators and supervisors of state and local agencies who are involved in the provision or supervision of services or activities necessary to carry out

the purposes of the Individuals with Disabilities Education Act, Parts B and H.

NEW SECTION

WAC 392-172-562 Other sources of annual needs assessment data. As required under 34 CFR 300.383, the superintendent of public instruction shall collect data from institutions of higher education to determine, on an annual basis:

(1) The numbers of students enrolled in programs for the preparation of special education and related services personnel administered by institutions in the state of Washington; and

(2) The numbers of students who graduated during the past year with certification or licensure, or with credentials to qualify for certification or licensure, from programs for the preparation of special education and related services personnel administered by Washington's institutions of higher education.

Prior to collecting data from institutions of higher education, the special education section of the office of the superintendent of public instruction shall determine annually the institutions of higher education within the state that are preparing special education and related services personnel, including leadership personnel, by area of specialization (consistent with the listing of personnel categories incorporated in WAC 392-172-560 (1) through (3)). This information, in written form, shall be made available annually to the comprehensive system of personnel development committee, to institutions of higher education in the state of Washington, and, upon request, to the public.

NEW SECTION

WAC 392-172-564 Report of current and projected personnel needs. Annually, the special education section shall:

(1) Review and analyze the information submitted by public agencies, institutions of higher education, and other sources; and

(2) Prepare a summary report of projected state-wide preservice and continuing education needs for the state of Washington. This document shall be submitted to the members of the comprehensive system of personnel development committee for review, comment, and revision and shall be included in the annual report of the special education state advisory council. This information shall also be reported to the Department of Education as required under 34 CFR 300.383 of the IDEA.

NEW SECTION

WAC 392-172-566 Administration of continuing education. The personnel development plan for the state of Washington shall provide for the continuing education needs of general and special education and related services personnel to enable these personnel to meet the needs of special education students under this chapter. Educational service districts shall assume a central role in the provision and coordination of continuing education programming state-wide.

NEW SECTION**WAC 392-172-568 Personnel development plan.**

Each year, with the involvement of the state's educational service districts, the superintendent of public instruction will develop, update and implement a personnel development plan which addresses:

- (1) The process used for determining the continuing education and preservice training needs;
- (2) The need, by areas of specialization, for new personnel and the need for continuing education;
- (3) The content areas in which continuing education and preservice training is needed;
- (4) An assurance that ongoing continuing education (in-service training) programs are available to all personnel who are engaged in the provision of special education, including leadership personnel, and that these programs include the following:

(a) The use of incentives which ensure participation by personnel, such as release time, payment for participation, options for academic credit, certification renewal, or updating of professional skills; and

(b) The use of innovative training practices which have been found to be effective;

(5) The involvement of the state's educational service districts in the planning, administration, and evaluation of continuing education;

(6) The procedures for acquiring and disseminating to teachers, administrators, services personnel significant knowledge derived from education research and other sources;

(7) Procedures for adopting, if appropriate, promising practices, materials, and technology, proven effective through research and demonstration; and where appropriate, of promising educational practices and material developed through research, demonstration, and similar initiatives.

NEW SECTION**WAC 392-172-570 Provision of technical assistance.**

Consistent with the federal requirements contained in 34 CFR 300.380 through 300.383 and 34 CFR 300.555, the superintendent of public instruction shall provide, through superintendent of public instruction-initiatives and/or educational service district staff, technical assistance to local educational agencies and other agencies, institutions, organizations, or individuals responsible for implementing special education and related services. Technical assistance training shall be provided in response to:

(1) Requests from agencies, institutions, organizations, and individuals;

(2) The results of monitoring or application review; and/or

(3) The targeting of specific training issues or concerns through the personnel development plan or superintendent of public instruction staff evaluation.

Technical assistance may be administered through on-site visitation, teleconference, correspondence, or any other means considered appropriate and effective by the superintendent of public instruction, in consultation with the educational service district, if providing technical assistance, and the receiving agency, institution, organization, or individual.

NEW SECTION

WAC 392-172-572 Personnel standards. In order to ensure that all personnel necessary to carry out the purposes of Part B the Individuals with Disabilities Education Act are appropriately and adequately prepared and trained, the superintendent of public instruction shall:

(1) Establish and maintain standards for personnel providing special education and related services; and

(2) Determine that all personnel providing special education and related services perform these functions under state-approved or state-recognized certification, licensure, or other comparable requirements that apply to the area in which the person is providing special education and related services.

NEW SECTION**WAC 392-172-574 Professional standards review.**

Before October 1st of each year, the special education section, on behalf of the superintendent of public instruction, shall review the professional requirements in the statutes necessary for the provision of special education and related services. This professional standards review must include the requirements of all statutes and the rules of all state agencies applicable to serving special education students, and shall include the standards of the superintendent of public instruction, the department of licensing, the division of vocational rehabilitation, the department of social and health services, and any other public agency responsible for the licensing or certification of personnel who provide special education or related services. In conducting this review, the superintendent of public instruction must:

(1) Determine the highest standards applicable to each profession or discipline based upon the most current information available to the superintendent of public instruction;

(2) Identify those professions or disciplines for which the highest requirements of the state apply;

(3) Identify those specific professions or disciplines for which the existing personnel standards for special education or related services, including standards for temporary or emergency certification are not based on the highest requirement in the state applicable to that specific profession or discipline; and

(4) For those professions or disciplines for which the highest requirements of the state do not apply, detail the steps the superintendent of public instruction is taking (and the procedures for notifying public agencies and personnel of those steps and the time lines it has established) for the retraining or hiring of personnel that meet the appropriate professional requirements in the state of Washington. In determining annually the status of personnel standards for each applicable profession or discipline in the state (as defined in WAC 392-172-572), the superintendent of public instruction's review and determination must be based on current information that accurately describes, for each profession or discipline in which personnel are providing special education or related services, whether the applicable standards are consistent with the highest requirements in the state for that profession or discipline.

The results of the review conducted in accordance with the provision of this section shall be described in a report prepared for and submitted to the comprehensive system of

personnel development committee. Each annual report and necessary supporting documentation must be maintained in the files of the superintendent of public instruction's special education section and must be available to the public. Each report shall be incorporated in the appropriate state plan for Part B of the Individuals with Disabilities Education Act submitted to the Department of Education.

FUNDING PROCEDURES, STANDARDS

ANNUAL SCHOOL DISTRICT APPLICATION—REQUIREMENTS

NEW SECTION

WAC 392-172-580 Annual applications—Contents.

As a condition to the receipt and expenditure of federal special education funds, a school district or other public agency shall annually submit an application to the superintendent of public instruction or designee on or before an announced date and conduct its special education and related services program in compliance with the school district and other public agency's state approved plan. The applications shall be made on forms developed and distributed by the superintendent or designee. Application forms shall include, but not limited to, the following assurance(s) and types of information:

(1) Assurance that:

(a) The school district or other public agency is in compliance with the provisions of this chapter and the rules implementing Part B of Individuals with Disabilities Education Act (34 CFR 300.1 et seq.) that may supplement this chapter, including procedural safeguards;

(b) The district or other public agency shall remain in compliance with this chapter and any such supplemental rules for the entire school year; and

(c) The funds applied for shall be expended in compliance with the application, this chapter, and any such supplemental federal rules, including excess cost, nonsupplanting, and comparable services;

(2) The information and assurances required by 34 CFR 300.220 through 34 CFR 300.240 and any other pertinent federal rules including 34 CFR 76.650 through 76.662;

(3) Identification of the local district or other public agency designee responsible for child identification activities and confidentiality of information;

(4) A description of the policies, procedures and/or activities to be implemented or continued to provide for:

(a) Identification, location and evaluation (child find) of special education students not currently receiving special education and related services;

(b) Confidentiality of personally identifiable information;

(c) Implementation of a system for personnel development;

(d) Involvement of parents of special education students, including the participation of non-English speaking parents;

(e) Participation of special education students with students without disabilities;

(f) Delivery of services to special education students in the least restrictive environment;

(g) Development of individualized education programs for each eligible special education student;

(h) Availability of career development and vocational education programs for special education students;

(i) A description of the numbers and types of special education students receiving special education and related services by placement option within the school district and other public agency's continuum of alternative placements;

(j) A goal of providing full educational opportunity to all special education students, aged birth through twenty-one;

(k) A description of the kind of and number of facilities, personnel, and services necessary to meet the school district and other public agency's full educational opportunity goal, including a detailed timetable for reaching that goal;

(l) A description of the use of funds received under Part B of the Individuals with Disabilities Education Act (34 CFR 300.1 et seq.); and

(m) A description of procedures, with parent/family involvement, for annually evaluating program effectiveness, including individualized education programs.

(5) Any other pertinent information requested by the superintendent of public instruction which is necessary for the management of the special education program.

NEW SECTION

WAC 392-172-582 Collaborative applications. The superintendent of public instruction may require districts to submit a collaborative application for payments under Part B of the Individuals with Disabilities Education Act if it is determined that a single district or other public agency application would be disapproved because:

(1) The school district and other public agency's entitlement is less than the seven thousand five hundred dollar minimum required; or

(2) The district or other public agency is unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of special education students. Districts that apply for Part B funds in a collaborative application must meet the same minimum requirements as a single district or other public agency applicant. The application must be signed by the superintendent of each participating school district or other public agency. The districts are jointly responsible for implementing programs receiving payments under Part B of the Individuals with Disabilities Education Act.

NEW SECTION

WAC 392-172-584 Review and amendment process.

(1) The steps in the review process include:

(a) Submission by the district or other public agency of the application to educational service district special education director;

(b) The educational service district director of special education will review the application using the state checklist; and

(c) The educational service district director of special education will forward the application to office of the superintendent of public instruction for review by program supervisors using state checklist and for final approval by the superintendent's designee.

(2) Prior to making a final decision on an application, office of superintendent of public instruction staff shall consider any decision resulting from a hearing under WAC

392-172-350 that is adverse to the district or other public agency involved in the decision.

(3) If a district or other public agency makes a significant amendment to its application, the district or other public agency must follow the same steps it took for submitting its original application. The review and approval process shall be the same as that used for an initial request for funds under Part B of the Individuals with Disabilities Education Act.

NEW SECTION

WAC 392-172-586 Notification of grant award. The superintendent of public instruction shall notify a district or other public agency in writing of:

(1) The amount of the grant under Part B of the Individuals with Disabilities Education Act;

(2) The period during which the district or other public agency may obligate the Part B funds; and

(3) The federal requirements that apply to the grant.

NEW SECTION

WAC 329-172-588 Availability of application and public participation. Each district or other public agency shall:

(1) Make the application, any evaluations, periodic program plans, and reports relating to the Part B program available for public inspection; and

(2) Provide reasonable opportunities for the participation by teachers, parents, families and other interested agencies, organizations, and individuals in the planning for and operation of the Individuals with Disabilities Education Act Part B program as an integral part of the overall school program; and

(3) At a minimum, a school district and other public agency's procedures must describe the steps taken to:

(a) Make the application and any required evaluations, plans, and reports available to the public; and

(b) Involve the required constituency groups, as noted above, in the planning and operation of the Part B program. Parental participation in the individualized education program process does not constitute involvement in the planning and operation of the program.

NEW SECTION

WAC 392-172-590 Denial of applications—Opportunity for hearing. (1) In the event the superintendent of public instruction or designee proposes to deny, in whole or part, the annual application of a district or other public agency for federal special education funds, the district or other public agency shall be provided notice pursuant to RCW 34.05.434 of:

(a) Intent to deny the application of the district or other public agency; and

(b) The school district and other public agency's opportunity for a hearing before the superintendent of public instruction or designee prior to a denial of the application.

(2) The superintendent of public instruction shall provide an opportunity for a hearing before the office of superintendent of public instruction disapproves the application in accordance with the following procedures:

(a) The applicant shall request the hearing within thirty days of the action of the superintendent of public instruction.

(b) Within thirty days after it receives a request, the superintendent of public instruction shall hold a hearing on the record and shall review its action.

(c) No later than ten days after the hearing the office of superintendent of public instruction shall issue its written ruling, including findings of fact and reasons for the ruling. If supported by substantial evidence, findings of fact by the superintendent of public instruction are final.

(3) If the office of superintendent of public instruction determines that its action was contrary to state or federal statutes or regulations that govern the applicable program, the action shall be rescinded.

(4) If the superintendent of public instruction does not rescind its final action after a review, the applicant may appeal to the United States Secretary of Education. The applicant shall file a notice of the appeal with the United States Secretary of Education within twenty days after the applicant has been notified by the superintendent of public instruction of the results of the agency's review.

(5) The superintendent of public instruction shall make available at reasonable times and places to each applicant all records pertaining to any review or appeal an applicant is pursuing under this section, including records of other applicants.

(6) The school district and other public agency's application may be denied, in whole or part, if the district or other public agency fails to request a hearing or the hearing decision upholds the proposed basis for denial.

MISCELLANEOUS PROGRAM REQUIREMENTS

NEW SECTION

WAC 392-172-592 Records related to grant funds.

(1) The superintendent of public instruction and districts shall keep records that show:

(a) The amount of funds under the grant;

(b) How the funds were used;

(c) The total cost of the project;

(d) The share of that cost provided from other sources; and

(e) Other records to facilitate an effective audit.

(2) Records shall be maintained to show program compliance including, records related to the location, evaluation and placement of special education students and the development and implementation of individualized education programs. Program and fiscal information records shall be available to authorized representatives of the office of superintendent of public instruction for the purpose of compliance monitoring under WAC 392-172-504.

(3) Records shall be retained for seven years after completion of the activities for which grant funds were used.

NEW SECTION

WAC 392-172-594 Program coordination. The superintendent of public instruction and districts shall, to the extent possible, coordinate each of its federal projects with other activities that are in the same geographic area served by the project and that serve similar purposes and target groups.

WSR 95-15-116
PROPOSED RULES
EXECUTIVE ETHICS BOARD

[Filed July 19, 1995, 11:38 a.m.]

Original Notice.

Title of Rule: WAC 292-110-010 Use of state resources.

Purpose: To provide limited exceptions to the prohibition against using state resources for private benefit of state officers and employees.

Statutory Authority for Adoption: RCW 42.52.160(3).
 Statute Being Implemented: RCW 42.52.160.

Summary: The regulation permits state officers and employees of the executive branch of government to make occasional but limited use of state resources for their private benefit if there is no cost to the state or the cost is de minimis and the use of state resources does not interfere with the performance of the officer's or employee's official duties.

Reasons Supporting Proposal: The legislature authorized the Executive Ethics Board to adopt rules providing limited exceptions to the prohibition against using state resources for private benefit of state officers and employees of the executive branch of government. The regulations will provide guidance to officers and employees as well as state agencies.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: William B. Collins, Senior Assistant Attorney General, P.O. Box 40100, Olympia, WA 98504-0100, (360) 753-6245.

Name of Proponent: Executive Ethics Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: State officers and employees are prohibited from using state resources for their private benefit. The regulation provides two limited exceptions to this prohibition and permits occasional but limited use of state resources for private benefit. The first exception applies if the use of state resources results in no actual cost to the state. Under this exception an officer or employee may use state resources so long as it does not interfere with the performance of the officer's or employee's official duties. The second exception applies if there is some cost to the state. Under this exception, use of state resources is only permitted if the cost to the state is de minimis and the use of state resources does not interfere with the performance of the officer's or employee's official duties. In addition, under this exception, if there is a de minimis cost to the state, there must be some public benefit in addition to the private benefit to the officer or employee.

Proposal Changes the Following Existing Rules: At present, there are no rules which authorize the use of state resources for private benefit. The regulation changes the current law by allowing limited exceptions to the current prohibition.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This regulation applies to state officers and employees of the executive branch of government. It does not regulate private industry.

Therefore, the regulation will impose no economic impact on private industry.

Hearing Location: Criminal Justice Training Center, 19010 1st Avenue South, Seattle, WA 98418, on September 8, 1995, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Teri Metcalf by August 25, 1995, TDD (360) 586-3751.

Submit Written Comments to: Clerk of the Board, P.O. Box 40100, Olympia, WA 98504-0100, FAX (360) 664-0229, by August 25, 1995.

Date of Intended Adoption: At a meeting following the hearing or at a special meeting scheduled in October.

July 19, 1995

Cheryl L. J. Rohret
 Chair of the Board

EXECUTIVE ETHICS BOARD

CHAPTER 292-110 WAC

AGENCY SUBSTANTIVE RULES

NEW SECTION

WAC 292-110-010 Use of state resources. (1) No state officer or state employee may use any person, money, or property under the officer's or employee's official control or direction or in his or her custody for private benefit or gain of the officer or employee or any other person; PROVIDED, that this prohibition does not apply to the use of public resources to benefit another person as part of the officer's or employee's official duties.

(2) Under circumstances described in sections three and four of this rule, a state officer or employee may make occasional but limited use of state resources for his or her private benefit if there is no actual cost to the state or the cost to the state is de minimis. The cost to the state is de minimis if the actual expenditure of state funds is so small as to be insignificant or negligible.

(3) Notwithstanding the prohibition in section one of this rule, a state officer or employee may make occasional but limited use of state resources for his or her private benefit, if: (a) there is no cost to the state and (b) the use of state resources does not interfere with the performance of the officer's or employee's official duties: PROVIDED, that an officer or employee may not make private use of any state property which has been removed from state facilities even if there is no cost to the state. Under this exception, for example, a state officer or employee may use an office telephone to make local calls; an office bulletin board to post notices; or office space to hold meetings on breaks or at lunch during the work day. The private use of these state resources does not result in any additional cost to the state. This exception is limited to occasional use of these resources that does not interfere with the performance of the officer's or employee's official duties. Accordingly, this exception would not apply, for example, to an officer or employee who is regularly making private business calls out of his or her state office. In such circumstances, the use of public resources would not be occasional and would likely interfere with the performance of the officer's or employee's official duties. Similarly, a state officer or employee may not take state property, such as a computer or tools, home for his or

her personal use even though there is no actual cost to the state.

(4) Notwithstanding the prohibition in section one of this rule, a state officer or employee may make occasional use of state resources for his or her private benefit, if:

(a) the cost to the state is de minimis;

(b) the use of state resources does not interfere with the performance of the officer's or employee's official duties; and

(c) there is some benefit to the public in addition to the private benefit to the officer or employee; PROVIDED, that an officer or employee may not make private use of any state property which is consumable such as paper, envelopes or spare parts even if the actual cost to the state is de minimis. A public benefit under this rule may be indirect, such as improving employee morale or activities that improve the skills of an officer or employee. Under this exception, for example, an officer or employee may use the office computer after working hours to do homework for a class that will help improve the officer's or employee's skills. The use of the computer after working hours will result in a very small actual cost to the state, however, since the officer or employee is improving his or her skills, there is an indirect benefit to the public. This exception is limited to occasional use of these resources that does not interfere with the performance of the officer's or employee's official duties and which results in a public benefit. Accordingly, this exception would not apply, for example, to an officer or employee who regularly uses the office computer after work for his or her private business. In such circumstances the use of the computer would not be occasional and there is no public benefit. Similarly, a state officer or employee may not make private use of state property which is consumable, such as envelopes, or spare parts to repair a private vehicle, even if the actual cost of the envelopes or parts is de minimis. Thus, an officer or employee who makes appropriate use of an office computer to do homework may not use state paper to print out the homework assignment.

(5) State agencies are encouraged to adopt policies applying these principles to their unique circumstances. Nothing in this rule is intended to limit the ability of an agency to adopt policies that are more restrictive. However, violation of a more restrictive agency policy will not constitute a violation of RCW 42.52.160.

WSR 95-15-118
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed July 19, 1995, 11:50 a.m.]

Original Notice.

Title of Rule: Safety standards for fire fighters.

Purpose: Chapter 296-305 WAC, Safety standards for fire fighters, based on its review of the rule-making record, and in accordance with the provisions of the Washington Industrial Safety and Health Act (WISHA) of 1973 (chapter 49.17 RCW), the fire service advisory committee requests modifications to rules for state and local government fire

fighters and volunteer fire fighting organizations under the auspices of state and local governments.

Following research by, and pursuant to, the recommendations of the industry fire service advisory committee, the committee has determined that the existing standards do not adequately protect fire fighters from atmospheric, mechanical, and other hazards. Fire service employees are required to conform to current general OSHA/WISHA regulations and NFPA recommendations.

The ongoing need for safety and health criteria to be followed through the line of command at fires and other hazardous sites can be satisfied only through the implementation of a comprehensive and upgraded fire fighter safety and health program.

The state has existing standards specifically addressing fire fighter safety and health hazards. However, they do not adequately address many of the new federally mandated regulations that have been promulgated in the past five years. As a state-plan state, working in cooperation with the federal OSHA regulations, WISHA's policy is to protect all state and local government employees with regulations that are at-least-as-effective-as those rules promulgated for private industry.

Compliance with the provisions of these amended and new standards will effectively provide more comprehensive protection to employees who work as fire fighters for state and local governments from injury, occupational health hazards, or death.

The complete vertical fire fighter standard is being revised. Proposed state-initiated amendments are summarized below:

The majority of existing sections in the current standard are being amended, moved and incorporated into other existing or new sections for reorganization of information. Section numbers are being reserved for future use. Existing sections proposed for this type of amendment are: WAC 296-305-001 Foreword, 296-305-003, Effective date, 296-305-005 Scope and application, 296-305-007 Definitions, 296-305-010 Variance and procedure, 296-305-015 Injury and illness report for fire fighters, 296-305-017 Accident investigation, 296-305-020 Accident prevention programs, 296-305-025 Management's responsibility, 296-305-030 Employee's responsibility, 296-305-035 Safe place standards, 296-305-040 First-aid training and certification, 296-305-045 First-aid kits, 296-305-060 Personal protective equipment and clothing, 296-305-06009 Body protection, 296-305-06011 Head protection, 296-305-063 Respiratory equipment, 296-305-064 Fire overhaul, 296-305-065 Requirements for fire stations, 296-305-070 Automotive fire apparatus, 296-305-075 Fire service equipment, 296-305-080 Testing fire service equipment, 296-305-085 Fire combat training, 296-305-090 Operations, 296-305-095 Fire overhaul, 296-305-100 Ladders, 296-305-105 Aerial ladders, 296-305-110 Elevated platforms, and 296-305-115 Electrical.

THE FOLLOWING SECTIONS ARE PROPOSED FOR AMENDMENT AS INDICATED BELOW:

WAC 296-305-06001 Eye and face protection, the section title is proposed to be amended to "Fire service equipment." The proposed "Fire service equipment" section, previously located at WAC 296-305-075, has been updated to reflect current fire service practices and replaces the

existing "Eye and face protection" section, which is moved to WAC 296-305-02003.

WAC 296-305-06003 Hearing protection, the section title is proposed to be amended to "Testing fire service equipment." The "Testing fire service equipment" section, previously located at WAC 296-305-080, has been updated to reflect current fire service practices and replaces the existing "Hearing protection" section, which is moved to WAC 296-305-02005.

WAC 296-305-06005 Hand protection, the section title is proposed to be amended to "Ground ladders." The "Ground ladders" section, previously located at WAC 296-305-100, has been updated to reflect current WISHA/OSHA and NFPA requirements and replaces the existing "Hand protection" section, which is moved to WAC 296-305-02007.

WAC 296-305-06007 Foot protection, the section title is proposed to be amended to "Electrical." The "Electrical" section, previously located at WAC 296-305-115, has been updated to reflect current WISHA/OSHA and the national electrical code requirements and replaces the existing "Foot protection (for structural fire fighting)" section, which is moved to WAC 296-305-02013.

WAC 296-305-06501 General requirements, the section title is proposed to be amended to "Requirements for fire station(s) (facilities)." The "Requirements for fire station(s) (facilities)" section, previously located at WAC 296-305-065, replaces the existing "General requirements" which is moved to WAC 296-305-06503.

WAC 296-305-06503 Sanitation, the section title is proposed to be amended to "General requirements." The "General requirements" section, previously located at WAC 296-305-06501, has been updated to reflect current WISHA/OSHA and NFPA requirements for lighting, sprinkler systems, alarm, and stairway and guardrail systems. This amended section replaces the existing "Sanitation" section, which is moved to WAC 296-305-06505.

WAC 296-305-06505 Sleeping areas, the section title is proposed to be amended to "Sanitation, disinfection, cleaning, and storage areas." The "Sanitation, disinfection, cleaning, and storage areas" section, previously located at WAC 296-305-06503, has been updated to reflect current WISHA/OSHA and NFPA requirements for disinfecting; designated cleaning areas; protective clothing; storage and drying areas; and the care of reusable emergency medical supplies and equipment. This amended section replaces the existing "Sleeping areas" section, which is moved to WAC 296-305-06507.

WAC 296-305-06507 Apparatus area, the section title is proposed to be amended to "Sleeping areas." The "Sleeping areas" section, previously located at WAC 296-305-06505, has been updated to reflect current safety and health requirements for sprinkler systems and smoke detectors and replaces the existing "Apparatus area" section, which is moved to WAC 296-305-06509.

WAC 296-305-06509 Refueling areas, the section title is proposed to be amended to "Apparatus areas." The "Apparatus areas" section, previously located at WAC 296-305-06507, replaces the existing "Refueling area" section, which is moved to WAC 296-305-06513.

WAC 296-305-06511 Hose drying towers, the section title is proposed to be amended to "Indoor air quality." There is no current "Indoor air quality" section. It replaces

the existing "Hose drying towers" section, which is moved to WAC 296-305-06515. This section has been updated to reflect current WISHA and ACGIH requirements for indoor air quality and nonsmoking requirements.

WAC 296-305-06513 Drill towers, the section title is proposed to be amended to "Refueling areas." The "Refueling areas" section, previously located at WAC 296-305-06509, has been updated to reflect current uniform fire codes and replaces the existing "Drill towers" section, which is moved to WAC 296-305-06517.

WAC 296-305-06515 Fire station equipment and tools, the section title is proposed to be amended to "Hose drying towers." The "Hose drying towers" section, previously located at WAC 296-305-06511, has been updated to reflect current WISHA/OSHA safety requirements and replaces the existing "Fire station equipment and tools" section, which is moved to WAC 296-305-06519.

WAC 296-305-06517 Stair and landing protection, the section title is proposed to be amended to "Drill tower training facilities." The "Drill tower training facilities" section, previously located at WAC 296-305-06513, replaces the existing "Stair and landing protection" section, which is incorporated into other sections throughout the standard.

WAC 296-305-07001 Design and construction, the section title is proposed to be amended to "Wildland fire operations." There is no current "Wildland fire operations" section. It replaces the existing "Design and construction" section, which is moved to WAC 296-305-04501. This section has been added to reflect current fire service operations defined as a wildland fire. Requirements of this section focus on clothing, equipment, and practices specific to wildland fire fighting.

WAC 296-305-07003 Automotive fire apparatus equipment, the section title is proposed to be amended to "Personal protective clothing and equipment for wildland fire fighting." There is no current "Personal protective clothing and equipment for wildland fire fighting" section. It replaces the existing "Automotive fire apparatus equipment" section, which is moved to WAC 296-305-04503. This section has been added to reflect current wildland fire fighting protective clothing requirements as noted in NFPA 1977 standard, 1993 edition.

WAC 296-305-07005 Apparatus operational rules, the section title is proposed to be amended to "Respiratory protection for wildland fire fighters." There is no current "Respiratory protection for wildland fire fighters" section. It replaces the existing "Apparatus operational rules" section, which is moved to WAC 296-305-04505. This section has been added to reflect current WISHA/OSHA respiratory protection requirements and current NFPA standard recommendations.

WAC 296-305-07007 Apparatus operation communications, the section title is proposed to be amended to "Personal accountability." There is no current "Personal accountability" section. It replaces the proposed "Apparatus operation communications" section, at WAC 296-305-08000, Appendix G. This section has been added to reflect current wildland fire fighting practices.

WAC 296-305-07009 Maintenance and repair, the section title is proposed to be amended to "Apparatus standards for wildland fire fighting." There is no current "Apparatus standards for wildland fire fighting" section. It

replaces the existing "Maintenance and repair" section, which is moved to WAC 296-305-04507. This section has been added to reflect current wildland fire fighting practices.

PROPOSED NEW SECTIONS ARE ADDED AND AMENDED AS INDICATED BELOW:

WAC 296-305-01001 Forward [Foreword], the "Forward" section was previously found at WAC 296-305-001. The material in this section has been updated to reflect current WISHA standards promulgation processes.

WAC 296-305-01002 Effective date, the "Effective date" section was previously found at WAC 296-305-003. This section has been updated to reflect the proposed effective date.

WAC 296-305-01003 Scope and application, the "Scope and application" section was previously found at WAC 296-305-005. This section has been updated to reflect the fire service and the department's revised application references.

WAC 296-305-01005 Definitions, the "Definitions" section was previously found at WAC 296-305-007. This section has been updated to add and delete definitions that reflect the overall revised standard.

WAC 296-305-01007 Variance and procedure, the "Variance and procedure" section was previously found at WAC 296-305-010.

WAC 296-305-01009 Appeals, there is no "Appeals" section in the current standard. This section has been added to outline the appeals process.

WAC 296-305-01501 Injury and illness reports for fire fighters, the "Injury and illness reports for fire fighters" section was previously found at WAC 296-305-015. This section has been updated to reflect the changes in the recordkeeping and reporting requirements for all industries in the state in the past seven years.

WAC 296-305-01503 Accident investigation, the "Accident investigation" section was previously found at WAC 296-305-017. This section has been updated to reflect amendments to be at least as effective as federal criteria adopted in the past five years.

WAC 296-305-01505 Accident prevention program, the "Accident prevention program" section was previously found at WAC 296-305-020. This section has been updated to reflect amendments to the general safety and health WISHA regulations.

WAC 296-305-01507 Fire department safety officer, the "Fire department safety officer" information was previously found at WAC 296-305-020. This is a new section addressing the duties of the fire department safety officer. In the previous document, the duties were incorporated into the accident prevention program.

WAC 296-305-01509 Management's responsibility, the "Management's responsibility" section was previously found at WAC 296-305-025. This section has been updated to focus on specific responsibilities of the management team.

WAC 296-305-01511 Employee's responsibility, the "Employee's responsibility" section was previously found at WAC 296-305-030. This section has been updated to focus on specific employee responsibilities.

WAC 296-305-01513 Safe place standards, the "Safe place standards" section was previously found at WAC 296-305-035. This section has been updated to focus on nonspecific responsibilities of both employees and employers.

WAC 296-305-01515 First-aid training and certification, the "First-aid training and certification" section was previously found at WAC 296-305-040. This section has been updated to reflect current safety and health practices.

WAC 296-305-01517 First-aid kits, the "First-aid kits" section was previously found at WAC 296-305-045.

WAC 296-305-02001 Personal protective equipment and protective clothing, the "Personal protective equipment and protective clothing" section was previously found at WAC 296-305-060. This section has been updated to reflect current NFPA requirements for personal protective equipment and protective clothing; the training employees shall have in donning, doffing, and care of equipment; station/work uniforms; and turnout and structural fire fighting clothing.

WAC 296-305-02003 Eye and face protection, the "Eye and face protection" section was previously found at WAC 296-305-06001. This section has been updated to reflect current requirements for eye and face protection.

WAC 296-305-02005 Hearing protection, the "Hearing protection" section was previously found at WAC 296-305-06003. This section has been updated to reflect current WISHA regulations for hearing protection.

WAC 296-305-02007 Hand protection, the "Hand protection" section was previously found at WAC 296-305-06005. This section has been updated to reflect current WISHA and NFPA regulations for hand protection.

WAC 296-305-02009 Body protection, the "Body protection" section was previously found at WAC 296-305-06009. This section has been updated to reflect current NFPA requirements for body protection.

WAC 296-305-02011 Body armor, there is no "Body armor" section in the current standard. This section has been added to reflect current recommendations and requirements of the National Institute of Justice.

WAC 296-305-02013 Foot protection for structural fire fighting, the "Foot protection" section was previously found at WAC 296-305-06007. This section has been updated to reflect current NFPA requirements.

WAC 296-305-02015 Head protection, the "Head protection" section was previously found at WAC 296-305-06011. This section has been updated to reflect current NFPA requirements for head protection.

WAC 296-305-02017 Personal alert safety system (PASS) protection, there is no "Personal alert safety system (PASS) protection" section in the current standard. This section has been added to reflect current NFPA and WISHA requirements for using SCBA's and PASS systems.

WAC 296-305-02019 Life safety ropes, harnesses, and hardware protection, "Life safety ropes, harnesses, and hardware protection" information was previously found at WAC 296-305-075, 296-305-080, 296-305-085, 296-305-090, 296-305-105, and 296-305-110. This section has been updated to incorporate all safety fall protection devices into one area.

WAC 296-305-02501 Emergency medical protection, there is no "Emergency medical protection" section in the current standard. This section has been added to reflect current WISHA/OSHA bloodborne pathogens, tuberculosis, HIV, and other infectious disease requirements.

WAC 296-305-03001 Hazardous chemical protection, there is no "Hazardous chemical protection" section in the

current standard. This section has been added to reflect current WISHA/OSHA requirements for hazardous waste operations and emergency response and hazard communication requirements.

WAC 296-305-04001 Respiratory equipment protection, the "Respiratory equipment" section was previously found at WAC 296-305-063. This section has been updated to reflect current WISHA/OSHA respiratory requirements and updated NFPA standards.

WAC 296-305-04501 Automotive fire apparatus design and construction, the "Automotive fire apparatus" section was previously found at WAC 296-305-070. The "Design and construction" section was previously found at WAC 296-305-07001. This section has been updated to reflect current NFPA requirements.

WAC 296-305-04503 Automotive fire apparatus equipment, the "Automotive fire apparatus equipment" section was previously found at WAC 296-305-07003. This section has been updated to reflect current NFPA and DOT requirements.

WAC 296-305-04505 Automotive apparatus operational rules, the "Apparatus operational rules" section was previously found at WAC 296-305-07005. This section has been updated to reflect current apparatus operational rules for fire fighters.

WAC 296-305-04507 Fire apparatus maintenance and repair, the "Maintenance and repair" section was previously found at WAC 296-305-07009. This section has been updated to reflect current NFPA requirements.

WAC 296-305-04509 Aerial ladders, the "Aerial ladders" section was previously found at WAC 296-305-105. This section has been updated to reflect current NFPA requirements.

WAC 296-305-04511 Elevated platforms, the "Elevated platforms" section was previously found at WAC 296-305-110. This section has been updated to reflect current WISHA/OSHA and NFPA requirements.

WAC 296-305-05001 Emergency fireground operations—Structural, there is no "Emergency fireground operations—Structural" (incident command system) section in the current standard. This section has been added to reflect current fire fighting practices and NFPA requirements.

WAC 296-305-05003 Confined space rescue operations, there is no "Confined space rescue operations" section in the current standard. This section has been added to reflect current WISHA/OSHA confined space rescue procedures and requirements.

WAC 296-305-05005 High angle rescue operations, there is no "High angle rescue operations" section in the current standard. This section has been added to reflect current NFPA requirements.

WAC 296-305-05007 Trench rescue operations, there is no "Trench rescue operations" section in the current standard. This section has been added to reflect current WISHA/OSHA excavation, trenching and shoring requirements.

WAC 296-305-05009 Watercraft rescue operations, there is no "Watercraft rescue operations" section in the current standard. This section has been added to reflect current WISHA/OSHA and NFPA requirements.

WAC 296-305-05011 Hazardous materials operations, there is no "Hazardous materials operations" section in the current standard. This section has been added to reflect current WISHA/OSHA requirements when engaged in hazardous materials operations.

WAC 296-305-05013 Aircraft rescue and fire fighting, there is no "Aircraft rescue and fire fighting" section in the current standard. This section has been added to reflect current fire service practices.

WAC 296-305-05501 Fire training, the "Fire combat training" section was previously found at WAC 296-305-085. This section has been updated to reflect current WISHA/OSHA and NFPA requirements.

WAC 296-305-05503 Additional training, there is no "Additional training" section in the current standard. This section has been added to reflect current WISHA/OSHA and NFPA requirements for additional training for all fire fighters.

WAC 296-305-06519 Fire station equipment and tools, the "Fire station equipment and tools" section was previously found at WAC 296-305-06515.

WAC 296-305-07011 Personnel restraints and enclosures for wildland fire fighting, there is no "Personnel restraints and enclosures for wildland fire fighting" section in the current standard. This section has been added to reflect current wildland fire fighting practices.

WAC 296-305-07013 Equipment for wildland fire fighting, there is no "Equipment for wildland fire fighting" section in the current standard. This section has been added to reflect current wildland fire fighting practices.

WAC 296-305-07015 Aircraft operations for fighting wildland fires, there is no "Aircraft operations for fighting wildland fires" section in the current standard. This section has been added to reflect current wildland fire fighting practices.

WAC 296-305-07017 First-aid for wildland fire fighters, there is no "First-aid for wildland fire fighters" section in the current standard. This section has been added to reflect current wildland fire fighting practices.

WAC 296-305-07019 Training for wildland fire fighting, there is no "Training for wildland fire fighting" section in the current standard. This section has been added to reflect current wildland fire fighting practices and WISHA/OSHA requirements for proper training of employees.

WAC 296-305-08000 Appendices, there is no "Appendices" section in the current standard. These appendices are nonmandatory in nature and are provided as aids to help members of fire service organizations develop comprehensive safety and health programs.

Other proposed amendments are housekeeping in nature. State-initiated proposed amendments will establish additional compliance requirements.

Statutory Authority for Adoption: Chapter 49.17 RCW. Statute Being Implemented: RCW 49.17.040, [49.17].050, [49.17].060.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Pat Wolhuter, 7273 Linderson Way, Tumwater, WA, (360) 902-5524; Implementation and Enforcement: Frank Leuck, 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Purpose above.

Proposal Changes the Following Existing Rules: See Purpose above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? Yes. A copy of the statement may be obtained by writing to: Division of Consultation and Compliance, Department of Labor and Industries, Standards Section, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5541, or FAX (360) 902-5529.

Hearing Location: On August 22, 1995, at 9:30 a.m., at the Spokane Fire Protection District #1, Valley Fire Department, North 2411 Pioneer Lane, Spokane, WA 99216; on August 23, 1995, at 9:30 a.m., at the Providence Medical Center, 110 South Ninth Avenue, Yakima, WA 98902; on August 24, 1995, at 1:00 p.m., at the Howard Johnson Plaza Hotel, (formerly WestCoast Everett Pacific Hotel), 3105 Pine, Everett, WA 98206; and on August 25, 1995, at 1:00 p.m., at the Department of Social and Health Services, OB-2 Building Auditorium, 1115 Washington Street S.E., Olympia, WA 98504.

Assistance for Persons with Disabilities: Contact Linda Dausener by August 10, 1995, (360) 902-5516.

Submit Written Comments to: Frank P. Leuck, Assistant Director, Division of Consultation and Compliance, P.O. Box 44620, Olympia, WA 98507-4620, by September 25, 1995. In addition to written comments, the department will accept comments submitted to the following FAX machine number: (360) 902-5529. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: December 5, 1995.

July 19, 1995
Mark O. Brown
Director

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

~~WAC 296-305-001 ((Foreword.)) ((These fire fighter safety and health standards were adopted by the department of labor and industries in accordance with the provisions of the Washington Industrial Safety and Health Act of 1973 (chapter 49.17 RCW), following extensive research and pursuant to the recommendations of an advisory committee made up of representatives of fire fighting personnel and their employers.~~

~~The purpose of this chapter is to assist employers and employees in the reduction of work related injuries and illness. In addition to providing an enforceable set of safety and health standards for the fire protection service, it is the intent of the department that the provisions of this chapter be used to assist both employers and employees in achieving the safest workplaces reasonably attainable under the conditions to which employees are or will be exposed.)~~

Reserved.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

~~WAC 296-305-003 ((Effective date.)) ((Unless a particular provision of this chapter specifies otherwise, the effective date of chapter 296-305 WAC, shall be *(December 17, 1977).*)~~ Reserved.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

~~WAC 296-305-005 ((Scope and application.)) ((1) The rules of this chapter shall apply with respect to any and all activities, operations and equipment of employers and employees involved in providing fire protection services which are subject to the provisions of the Washington Industrial Safety and Health Act of 1973 (chapter 49.17 RCW).~~

~~(2) The provisions of this chapter apply to all work places where fire fighters are employed, including the fire combat scene. Although enforcement of applicable standards will result from provable violations of these standards which occur at the fire combat scene, agents of the department will not act in any manner that will reduce or interfere with the effectiveness of the emergency response of a fire fighting unit. Activities directly related to the combating of a fire will not be subjected to the immediate restraint provisions of RCW 49.17.130.~~

~~(3) The provisions of this chapter shall be supplemented by the provisions of the safety and health standards of the department of labor and industries, chapters 296-24 and 296-62 WAC. In the event of conflict between any provisions of this chapter and any provision of either of the two chapters last cited, the provisions of this chapter shall apply. The requirements of this chapter shall be reviewed by the appropriate labor management committee at least every two years.)~~ Reserved.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

~~WAC 296-305-007 ((Definitions.)) ((Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.~~

~~(1) Aerial ladder: A ladder mounted on top of an apparatus, hydraulic or pneumatic controlled.~~

~~(2) Aerial platform: A device consisting of two or more booms or sections with a passenger carrying platform assembly.~~

~~(3) Aerial tower: Telescopic elevating platform or water tower assembly usually with a ladder on top of the section.~~

~~(4) Ancillary clothing: Outer garments auxiliary or supplemental to other protective clothing provided for fire fighters.~~

~~(5) ANSI: American National Standards Institute.~~

~~(6) Apparatus: A mobile piece of fire fighting equipment such as pumper, aerial, tanker, etc.~~

~~(7) Approved: A method, equipment, procedure, practice, tool, etc., which is sanctioned, consented to, confirmed or accepted as good or satisfactory for a particular purpose or use by a person or organization authorized to make such a judgment.~~

~~(8) Bag mask: A hand-operated device consisting of a bellows type bag and a face piece used to administer artificial respiration to an individual.~~

~~(9) Beacon: A flashing or rotating light.~~

~~(10) Chief: An employer representative responsible for the fire department's operation.~~

~~(11) City service apparatus: An all purpose apparatus which carries ground ladders as well as forcible entry tools, salvage and overhaul equipment, and fire fighters.~~

~~(12) Combat scene: The site where the suppression of a fire or emergency exists.~~

~~(13) dBA: A measure of noise level expressed as decibels measured on the "A" scale.~~

~~(14) Deck pipe: A permanently mounted device which delivers a large stream of water.~~

~~(15) Decontamination: A process by which hazardous substances are removed from protective clothing and equipment of personnel exposed to those substances.~~

~~(16) Department: Department of labor and industries.~~

~~(17) Director of fire department: The chief or principle administrator of the fire department.~~

~~(18) Drill tower: A structure which may or may not be attached to the station and which is principally used for training fire fighters in fire service techniques.~~

~~(19) Employee: An employee of an employer who is employed in the business of his employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is his personal labor for an employer under this chapter whether by way of manual labor or otherwise.~~

~~(20) Employer: Any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations.~~

~~(21) Employer representative: A fire department officer authorized by the chief or director to act in his behalf.~~

~~(22) Engine (pumper): A piece of apparatus equipped with hose and a pump for the purpose of supplying water under pressure through hose lines.~~

~~(23) Explosion proof: Capable of withstanding an explosion of a specified gas or vapor which may occur within it and of preventing the ignition of a specified gas or vapor surrounding the enclosure by sparks, flashes, or explosion of the gas or vapor within, and which operates at such an external temperature that a surrounding flammable atmosphere will not be ignited thereby.~~

~~(24) Fastest means available: The (nearest closest) telephone, portable radio, mobile radio, telephone/radio dispatcher or any other mode of mechanical communication.~~

~~(25) Fire combat training: Training received by fire fighters on the drill ground, drill tower, or industrial site to maintain the fire fighter's proficiency.~~

~~(26) Fire fighter: An officer or any employee who by virtue of his position in a fire department has a duty to engage in the fighting and extinguishment of fires.~~

~~(27) Fire retardant: A material to reduce, stop or prevent the flame spread.~~

~~(28) Foot stand, ladder: Devices attached to inside of beams of ladders that when folded down, provide foot space.~~

~~(29) Fly: Extendable sections of ground or aerial ladders.~~

~~(30) Hazardous condition: The physical condition or act which is causally related to accident occurrence. The hazardous condition is related directly to both the accident type and the agency of the accident.~~

~~(31) Hazardous substances: Substances that present an unusual risk to persons due to properties of toxicity, chemical activity, corrosivity, etiological hazards of similar properties.~~

~~(32) HEPA filtration: High efficiency particulate air filtration found in vacuum systems capable of filtering 0.3 micron particles with 99.97% efficiency.~~

~~(33) Hose bed: Portion of fire apparatus where hose is stored.~~

~~(34) Hose tower: A vertical enclosure where hose is hung to dry.~~

~~(35) Industrial fire brigade: An organized group of employees whose primary employment is other than fire fighting; who are knowledgeable, trained and skilled in the safe evacuation of employees during emergency situations, and in assisting in fire fighting operations.~~

~~(36) Jack, ground: Heavy jacks attached to frame of chassis of the aerial equipped apparatus to provide stability when the aerial portion of the apparatus is used.~~

~~(37) Ladder company: The fire company manning an aerial ladder truck and especially trained in ladder work, ventilation, rescue, forcible entry, salvage and related tasks.~~

~~(38) Ladder pipe: A heavy stream nozzle attached to an aerial ladder usually supplied by a 3 inch hose from a Siamese intake at ground level.~~

~~(39) Life line: Length of rope to which employees and employer representatives are secured when in extremely hazardous areas.~~

~~(40) Life line gun: A gun designed to shoot a rope line, for rescue, to persons in distress such as in water, canyons, on cliffs and buildings, etc.~~

~~(41) Life net: A rescue item, commonly carried on ladder trucks, consisting of heavy canvas supported by a folding metal frame and springs and containing a pad to soften impact.~~

~~(42) Live fire training: Any fire set within a structure, tank, pipe, pan, etc., under controlled conditions to facilitate the training of fire fighters under actual fire conditions.~~

~~(43) Locking in: The act of securing oneself to a ladder by hooking a leg over a rung and placing top of foot against the other leg or against the ladder.~~

~~(44) Manned station: A fire station continuously occupied by fire fighters on scheduled work shifts. The manned station may also serve as headquarters for volunteers.~~

~~(45) MESA: Mining Enforcement and Safety Administration.~~

~~(46) Monitor: A portable device which delivers a large stream of water.~~

~~(47) NFPA: National Fire Protection Association.~~

~~(48) NIOSH: National Institute of Occupational Safety and Health.~~

(49) ~~Nondestructive testing:—A test to determine the characteristics or properties of a material or substance that does not involve its destruction or deterioration.~~

(50) ~~Nonskid:—The surface treatment that lessens the tendency of a foreign substance to reduce the coefficient of friction between opposing surfaces.~~

(51) ~~Overhauling:—That portion of fire extinguishment involving discovery of hidden fires or smoldering material.~~

(52) ~~Outrigger:—Manually or hydraulically operated metal enclosures and jacks which are extended and placed in contact with the ground to give the apparatus a wide, solid base to support different loads.~~

(53) ~~Place of employment:—Any premises, room or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control.~~

(54) ~~Platform:—The portion of a telescoping or articulating boom used as an elevated working surface.~~

(55) ~~Pole hole:—An opening in a floor through which a pole passes and employees slide to get from one floor to another.~~

(56) ~~Pompier ladder:—Ladder constructed with a single spar to which a hook is attached on one end and rungs attached to the spar.~~

(57) ~~Prefire training:—The training of fire fighters in recognizing sources and locations of potential fires and the method of fire combat to be used.~~

(58) ~~Probable fatality:—An injury which by the doctor's prognosis could lead to death.~~

(59) ~~Pumper (engine):—An apparatus equipped with hose and a pump for the purpose of supplying water under pressure through hose lines.~~

(60) ~~Qualified:—One who by possession of a recognized degree, certificate or professional standing, or who by extensive knowledge, training or experience has successfully demonstrated his ability to solve or resolve problems related to the subject matter, the work or the project.~~

(61) ~~RCW:—Revised Code of Washington.~~

(62) ~~Respiratory equipment:—Self contained breathing apparatus designed to provide the wearer with a supply of respirable atmosphere carried in or generated by the breathing apparatus. When in use, this breathing apparatus requires no intake of air or oxygen from the outside atmosphere.~~

(a) ~~Respirators (closed circuit):—Those types of respirators which retain exhaled air in the system and recondition such air for breathing again.~~

(b) ~~Respirators (open circuit):—Those types of respirators which exhaust exhaled air to the outside of the mask into the ambient air.~~

(c) ~~Respirators (demand):—Those types of respirators whose input air to the mask is started when a negative pressure is generated by inhalation.~~

(d) ~~Respirators (pressure demand):—Those types of respirators which constantly and automatically maintain a positive pressure in the mask by the introduction of air when the positive pressure is lowered (usually from .018 psi to .064 psi) through the process of inhalation or leakage from the mask.~~

(63) ~~Responding:—The act of answering an emergency call or other alarm.~~

(64) ~~Safe and healthful working environment:—The work surroundings of an employee with minimum exposure to unsafe acts and/or unsafe conditions.~~

(65) ~~Safety net:—A rope or nylon strap net not to exceed 6 inch mesh, stretched and suspended above ground level at the base of drill tower, and at such a height that a falling body would be arrested prior to striking the ground.~~

(66) ~~Safety officer:—Employer representative as assigned by chief of fire department.~~

(67) ~~Seaboard:—A guard which will prevent accidental injury and covers the blade and pick of an axe or other sharp instrument when worn by the fire fighter.~~

(68) ~~Shall:—Means mandatory.~~

(69) ~~Should:—Means recommended.~~

(70) ~~Siamese:—A hose appliance having two or more female inlets with one male outlet.~~

(71) ~~Signalman:—A person so positioned that he can direct an activity, such as apparatus entering or leaving a fire station, where the operator's vision is obstructed or obscured.~~

(72) ~~Station (fire station):—Structure in which fire service apparatus and/or personnel are housed.~~

(73) ~~Tailboard:—Standing space on the side or rear of an engine or pumper apparatus where fire fighters ride.~~

(74) ~~Tillerman:—Rear driver of tractor trailer aerial ladder.~~

(75) ~~Turnout clothing:—Outer garments worn by fire fighters for personal protection consisting of helmet, gloves, coat and pants with vapor and thermal barrier liners, and boots.~~

(76) ~~Turntable:—The rotating surface located at the base of an aerial ladder, or boom, on aerial apparatus.~~

(77) ~~Unmanned station:—A station serving as headquarters for volunteer fire fighters which may or may not be attended by a chief or other officials responsible for directing the company's activities.~~

(78) ~~Volunteer:—Individual other than a fully paid fire fighter whose primary employment is other than fire fighting.~~

(79) ~~Wheel blocks (chocks):—A block or wedge placed under a wheel to prevent motion.~~

(80) ~~Work environment:—The surrounding conditions, influences or forces to which an employee is exposed while working.~~

(81) ~~Work place:—Any plant, yard, premises, room or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control, and includes, but is not limited to, all work places covered by industrial insurance under Title 51 RCW, as now or hereafter amended.) Reserved.~~

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-010 ((Variance and procedure.))
 ((Realizing that conditions may exist in operations under which certain state standards will not have practical application, the director of the department of labor and industries or his authorized representative may, pursuant to this section, RCW 49.17.080 and/or 49.17.090 and appropriate administrative rules of this state and the department of labor and

~~industries and upon receipt of application and after adequate investigation by the department, permit a variation from these requirements when other means of providing an equivalent measure of protection are afforded. Such variation granted shall be limited to the particular case or cases covered in the application for variance and may be revoked for cause. The permit for variance shall be conspicuously posted on the premises and shall remain posted during the time it is in effect. All requests for variances from safety and health standards included in this or any other chapter of Title 296 WAC, shall be made in writing to the director of the department of labor and industries at Olympia, Washington, or his duly authorized representative, the assistant director, division of industrial safety and health, department of labor and industries, Olympia, Washington. Variance application forms may be obtained from the department upon request.)) Reserved.~~

NEW SECTION

WAC 296-305-01001 Forward. These fire fighter safety and health standards were adopted by the department of labor and industries in accordance with the provisions of the Washington Industrial Safety and Health Act (WISHA) of 1973 (chapter 49.17 RCW), with recommendations from the fire service advisory committee.

The purpose of this chapter is to assist employers and employees in the reduction of work related injuries and illnesses by providing a set of minimum safety and health standards to assist in achieving a safe and healthful work environment for the fire protection service.

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

NEW SECTION

WAC 296-305-01002 Effective date. Unless a particular provision of this chapter specifies otherwise, the effective date of chapter 296-305 WAC, shall be April 1, 1996.

NEW SECTION

WAC 296-305-01003 Scope and application. (1) The rules of this chapter shall apply with respect to any and all activities, operations and equipment of employers and employees involved in providing fire protection services which are subject to the provisions of the Washington Industrial Safety and Health Act of 1973 (chapter 49.17 RCW).

(2) The provisions of this chapter apply to all fire fighters and their work places, including the fire combat scene. Although enforcement of applicable standards will result from provable violations of these standards at the fire combat scene, agents of the department will not act in any manner that will reduce or interfere with the effectiveness of the emergency response of a fire fighting unit. Activities directly related to the combating of a fire will not be subjected to the immediate restraint provisions of RCW 49.17.130.

(3) In the development of this document many consensus standards of the industry were considered and evaluated

as to adaptability to the Washington State Fire Service industry. Where adaptable and meaningful, the fire fighter safety elements of these standards were incorporated into this WAC. Chapter 296-305 WAC, shall be considered as the fire fighter safety standards for the state of Washington.

(4) The provisions of this chapter cover existing requirements that apply to all fire departments. All fire departments shall have in place their own policy statement and operating instructions that meet or exceed these requirements. This chapter contains state and/or federal performance criteria that fire departments shall meet.

(5) Unless specifically stated otherwise by rule, if a duplication of regulations, or a conflict exists between the rules regulating wildland fire fighting and other rules in the chapter, only the rules regulating wildland fire fighting shall apply to wildland fire fighting activities and equipment.

(6) The provisions of this chapter shall be supplemented by the provisions of the general safety and health standards of the department of labor and industries, chapters 296-24 (including Part G-2, Fire protection) and 296-62 WAC. In the event of conflict between any provision(s) of this chapter and any provision(s) of the general safety and health standards, the provision(s) of this chapter shall apply.

NEW SECTION

WAC 296-305-01005 Definitions. Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

Accident: An unexpected event that interrupts or interferes with the orderly progress of the fire department operations and may or may not include personal injury or property damage.

Accountability system: A system of fire fighter accountability that provides for the tracking and inventory of all members.

ACGIH: American Conference of Governmental Industrial Hygienists.

Aerial ladder: A ladder mounted on top of an apparatus, hydraulic or pneumatic controlled.

Aerial tower: Telescopic elevating platform or water tower assembly usually with a ladder on top of the section.

Aerial platform: A device consisting of two or more booms or sections with a passenger carrying platform assembly.

ANSI: American National Standards Institute.

Apparatus: A mobile piece of fire equipment such as a pumper, aerial, tender, automobile, etc.

Approved:

(1) A method, equipment, procedure, practice, tool, etc., which is sanctioned, consented to, confirmed or accepted as good or satisfactory for a particular purpose or use by a person, or organization authorized to make such a judgment.

(2) Means approved by the director of the department of labor and industries or his/her authorized representative: *Provided, however,* That should a provision of this chapter state that approval by an agency or organization other than the department of labor and industries is required, such as Underwriters' Laboratories or the Bureau of Mines, the provisions of chapter 296-24 WAC, Part A-1, shall apply.

Audiogram: A chart, graph, or table resulting from an audiometric test showing an individual's hearing threshold levels as a function of frequency.

Authorized person: A person approved or assigned by the employer to perform a specific type of duty or duties or to be at a specific location or locations at the job site.

Beacon: A flashing or rotating light.

Bloodborne pathogens: Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

Blowup (wildfire): Sudden increase in fire intensity or rate of spread sufficient to preclude direct control or to upset existing control plans. Often accompanied by violent convection and may have other characteristics of a fire storm.

Chemical-protective clothing: Items made from chemical-resistive materials, such as clothing, hood, boots, and gloves, that are designed and configured to protect the wearer's torso, head, arms, legs, hands, and feet from hazardous materials. Chemical-protective clothing (garments) can be constructed as a single, or multi-piece, garment. The garment may completely enclose the wearer either by itself or in combination with the wearer's respiratory protection, attached or detachable hood, gloves, and boots.

Chief: The employer representative highest in rank who is responsible for the fire department's operation.

Combat scene: The site where the suppression of a fire or emergency exists.

Confinement: Those procedures taken to keep a material in a defined or local area.

Confined space: Means a space that:

(1) Is large enough and so configured that an employee can bodily enter and perform assigned work; and

(2) Has limited or restricted means for entry or exit (for example, tanks, vessels, silos, storage bins, hoppers, vaults, and pits are spaces that may have limited means of entry.); and

(3) Is not designed for continuous employee occupancy.

Containment: The actions taken to keep a material in its container (e.g. stop the release of the material or reduce the amount being released.)

Contaminated: The presence or the reasonably anticipated presence of nuisance materials foreign to the normal atmospheres, blood, hazardous waste, or other potentially infectious materials on an item or surface.

Contaminated laundry: Laundry which has been soiled with blood or other potentially infectious materials or may contain contaminated sharps.

Contamination: The process of transferring a hazardous material from its source to people, animals, the environment, or equipment, which may act as a carrier.

dBa: A measure of noise level expressed as decibels measured on the "A" scale.

Deck pipe: A permanently mounted device which delivers a large stream of water.

Decontamination:

(1) The physical or chemical process of reducing and preventing the spread of contamination from persons or equipment used at a hazardous materials incident.

(2) The use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

Department: Department of labor and industries.

Director of fire department: The chief or principle administrator of the fire department.

Director: The director of the department of labor and industries, or his/her designated representative.

Disinfection: A procedure which inactivates virtually all recognized pathogenic microorganisms, but not necessarily all microbial forms (example: bacterial endospores) on inanimate objects.

Drill tower: A structure which may or may not be attached to the station and which is principally used for training fire fighters in fire service techniques.

Driver: A person having satisfactorily completed the fire department's "requirements of driver" of a specific piece of fire apparatus.

Emergency: A sudden and unexpected event calling for immediate action.

Emergency incident: A specific emergency operation.

Emergency medical care: The provision of treatment to, and/or transportation of, patients which may include first-aid, cardiopulmonary resuscitation, basic life support, advanced life support, and other medical procedures that occur prior to arrival at a hospital or other health care facility.

Emergency operations: Activities of the fire department relating to rescue, fire suppression, emergency medical care, and special operations, including response to the scene of an incident and all functions performed at the scene.

Employee: An employee of an employer who is employed in the business of his/her employer whether by way of manual labor or otherwise and every person in this state who is engaged in the employment of or who is working under an independent contract the essence of which is their personal labor for an employer under this chapter whether by way of manual labor or otherwise. Also see "Member."

Employer: Any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees or who contracts with one or more persons, the essence of which is the personal labor of such person or persons and includes the state, counties, cities, and all municipal corporations, public corporations, political subdivisions of the state, and charitable organizations.

Employer representative: A fire department officer authorized by the chief or director of the fire department to act in his/her behalf.

Engine (pumper): A piece of apparatus equipped with hose and a pump for the purpose of supplying water under pressure through hose lines.

Engineering control: Any procedure other than an administrative control that reduces exposures by modifying the source or reducing the exposure to an individual. Examples of engineering controls include the use of isolation, containment, encapsulation, sound absorbing materials for noise control, and ventilation.

Explosion proof equipment: Equipment enclosed in a case that is capable of withstanding an explosion or a specified gas or vapor which may occur within it and of preventing the ignition of a specified gas or vapor surrounding the enclosure by sparks, flashes, or explosion of the gas or vapor within, and which operates at such an external temperature that it will not ignite a surrounding flammable atmosphere.

Fastest means available: The (nearest-closest) telephone, portable radio, mobile radio, telephone/radio dispatcher or any other mode of mechanical communication.

Fire apparatus: A fire department emergency vehicle used for rescue, fire suppression, or other specialized functions.

Fire boat: A fire department watercraft having a permanent, affixed fire fighting capability.

Fire combat training: Training received by fire fighters on the drill ground, drill tower, or industrial site to maintain the fire fighter's proficiency.

Fire department: An organization providing any or all of the following: Rescue, fire suppression, and other related activities. For the purposes of this standard the term "Fire Department" shall include any public, private, or military organization engaging in this type of activity.

Fire department facility: Any building or area owned, operated, occupied, or used by a fire department on a routine basis. This does not include locations where a fire department may be summoned to perform emergency operations or other duties, unless such premises are normally under the control of the fire department.

Fire department safety officer: The member of the fire department assigned and authorized as the principal safety officer to perform the duties and responsibilities specified in this standard.

Fire fighter: A member of a fire department whose duties require the performance of essential fire fighting functions or substantially similar functions.

Fire retardant: A material to reduce, stop or prevent the flame spread.

Fly: Extendible sections of ground or aerial ladders.

Foot stand, ladder: Devices attached to inside of beams of ladders that when folded down, provide foot space.

Ground jack: Heavy jacks attached to frame of chassis of aerial-equipped apparatus to provide stability when the aerial portion of the apparatus is used.

Ground mobile attack: A wildland or wildfire attack using a moving fire apparatus with one or more hoses extended with at least a nozzle person moving with the vehicle.

Guideline: An organizational directive that establishes a standard course of action.

Halyard: Rope used on extension ladders for the purpose of raising or lowering fly section(s). A wire cable may be referred to as a halyard when used on the uppermost fly section(s) of three or four section extension ladders.

Hazard communication program: A procedure to address comprehensively the issue of evaluating the potential hazards of chemicals and communicating information concerning hazards and appropriate protective measures to employees. See chapter 296-62 WAC, Part C, Hazard Communications.

Hazardous area: The immediate area where members might be exposed to a hazard.

Hazardous atmosphere: Any atmosphere, either immediately or not immediately dangerous to life or health, which is oxygen deficient or which contains a toxic or disease-producing contaminant.

Hazardous condition: The physical condition or act which is causally related to accident occurrence. The hazardous condition is related directly to both the accident type and the agency of the accident.

Hazardous material: A substance (solid, liquid, or gas) that when released is capable of creating harm to people, the environment, and property.

Hazardous substances: Substances that present an unusual risk to persons due to properties of toxicity, chemical activity, corrosivity, etiological hazards of similar properties.

HEPA filtration: High efficiency particulate air filtration found in vacuum system capable of filtering 0.3 micron particles with 99.97% efficiency.

High angle rescue operations: Operations, activities, and training on slopes greater than 60 degrees. High cliffs, overhangs, and sides of structures are examples.

Hose bed: Portion of fire apparatus where hose is stored.

Hose tower: A vertical enclosure where hose is hung to dry.

Hot zone: Area immediately surrounding a hazardous materials incident, which extends far enough to prevent adverse effects from hazardous materials releases to personnel outside the zone. This zone is also referred to as the exclusion zone or the restricted zone in other documents.

Identify: To select or indicate verbally or in writing using recognized standard terms. To establish the identity of; the fact of being the same as the one described.

IDLH: Immediately dangerous to life and health.

Imminent hazard (danger): An act or condition that is judged to present a danger to persons or property and is so immediate and severe that it requires immediate corrective or preventative action.

Incident Commander: The person in overall command of an emergency incident. This person is responsible for the direction and coordination of the response effort.

Incident Command System (ICS): An organized system of roles, responsibilities, guidelines, and procedures used to manage and direct emergency operations.

Incipient (phase) fire: The first phase of a fire; where the oxygen content in the air has not been significantly reduced and the fire is producing water vapor, carbon dioxide, carbon monoxide and other gases.

Industrial fire brigade: An organized group of employees whose primary employment is other than fire fighting; who are knowledgeable, trained and skilled in the safe evacuation of employees during emergency situations, and in assisting in fire fighting operations.

Initial attack (initial action): The control efforts taken by resources which are the first to arrive at the incident.

Injury: Physical damage suffered by a person that requires treatment by a practitioner of medicine (a physician, nurse, paramedic or EMT) within one year of the incident regardless of whether treatment was actually received.

Life safety or rescue rope: Rope dedicated solely for the purpose of constructing lines for supporting people during rescue, fire fighting, or other emergency operations, or during training evolutions.

Line: Rope when in use.

Live fire training: Any fire set within a structure, tank, pipe, pan, etc., under controlled conditions to facilitate the training of fire fighters under actual fire conditions.

Locking in: The act of securing oneself to a ladder by hooking a leg over a rung and placing top of foot against the other leg or against the ladder.

Manned station: See staffed station.

May: A permissive use or an alternative method to a specified requirement.

Member: A person involved in performing the duties and responsibilities of a fire department under the auspices of the organization. A fire department member may be a full-time or part-time employee or a paid or unpaid volunteer, may occupy any position or rank within the fire department, and engages in emergency operations. Also see Employee.

Monitor: A portable appliance that delivers a large stream of water.

Mop up: The act of making a wildfire/wildland fire safe after it is controlled, such as extinguishing or removing burning materials along or near the control line, felling snags, trenching logs to prevent rolling.

NFPA: National Fire Protection Association.

NIIMS: National Interagency Incident Management System.

NIOSH: National Institute of Occupational Safety and Health.

Nondestructive testing: A test to determine the characteristics or properties of a material or substance that does not involve its destruction or deterioration.

Nonskid: The surface treatment that lessens the tendency of a foreign substance to reduce the coefficient of friction between opposing surfaces.

Occupational Exposure: Means reasonably anticipated skin, eye, mucous membrane or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties.

Officer: (1) Person in charge of a particular task or assignment.

(2) A supervisor.

OSHA: Occupational Safety and Health Administration.

Other potentially infectious materials (OPIM): (1) The following body fluids: Semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;

(2) Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and

(3) HIV-containing cell or tissue cultures, organ cultures, and HIV- or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.

Outrigger: Manually or hydraulically operated metal enclosures and jacks which are extended and placed in

contact with the ground to give the apparatus a wide, solid base to support different loads.

Overhauling: That portion of fire extinguishment involving discovery of hidden fires or smoldering material.

PASS: Personal Alert Safety System.

PEL: Permissible Exposure Limit.

Personal protective equipment (PPE): (1) The equipment provided to shield or isolate a person from the chemical, physical, and thermal hazards that may be encountered at a hazardous materials incident. Personal protective equipment includes both personal protective clothing and respiratory protection. Adequate personal protective equipment should protect the respiratory system, skin, eyes, face, hands, feet, head, body, and hearing.

(2) Specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts, or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

Place of employment: Any premises, room or other place where an employee or employees are employed for the performance of labor or service over which the employer has the right of access or control. For the purposes of this code, fireground and emergency scenes are also considered places of employment.

Platform: The portion of a telescoping or articulating boom used as a working surface.

Positive communication: Visual, audible, physical, safety guide rope, or electronic means which allows for two way message generation and reception.

PPE: Personal protective equipment.

Prefire training: The training of fire fighters in recognizing sources and locations of potential fires and the method of fire combat to be used.

Probable fatality: (1) An occupational injury or illness, which, by the doctor's prognosis, could lead to death.

(2) An occupational injury or illness, which by its very nature, is considered life threatening.

Protective clothing: Equipment designed to protect the wearer from heat and/or hazardous materials contacting the skin or eyes. Protective clothing is divided into five types:

(1) Structural fire fighting protective clothing;

(2) Liquid splash-protective clothing;

(3) Vapor-protective clothing;

(4) High temperature-protective proximity clothing; and

(5) Wildland fire fighting clothing.

Pumper: See engine.

Qualified: One who by possession of a recognized degree, certificate or professional standing, or who by knowledge, training or experience has successfully demonstrated his/her ability to solve or resolve problems related to the subject matter, the work or the project.

RCW: Revised Code of Washington.

Rescue: Those activities directed at locating endangered persons at an emergency incident and removing those persons from danger.

Rescue craft: Any fire department watercraft used for rescue operations.

Respiratory equipment: Self-contained breathing apparatus designed to provide the wearer with a supply of respirable atmosphere carried in or generated by the breathing apparatus. When in use, this breathing apparatus

requires no intake of air or oxygen from the outside atmosphere.

(1) **Respirators (closed circuit):** Those types of respirators which retain exhaled air in the system and recondition such air for breathing again.

(2) **Respirators (open circuit):** Those types of respirators which exhaust exhaled air to the outside of the mask into the ambient air.

(3) **Respirators (demand):** Those types of respirators whose input air to the mask is started when a negative pressure is generated by inhalation.

(4) **Respirators (pressure demand):** Those types of respirators which constantly and automatically maintain a positive pressure in the mask by the introduction of air when the positive pressure is lowered (usually from .018 psi to .064 psi) through the process of inhalation or leakage from the mask.

Respiratory protection: Equipment designed to protect the wearer from the inhalation of contaminants. Respiratory protection is divided into three types:

(1) Positive pressure self-contained breathing apparatus (SCBA);

(2) Positive pressure airline respirators;

(3) Negative pressure air purifying respirators.

Responding: The usual reference to the act of responding or traveling to an alarm or request for assistance.

Risk assessment: To set or determine the possibility of suffering harm or loss, and to what extent.

Safe and healthful working environment: The work surroundings of an employee with minimum exposure to unsafe acts and/or unsafe conditions.

Safety officer: Either the fire department safety officer or an assistant safety officer (see fire department safety officer).

Safety net: A rope or nylon strap net not to exceed 6-inch mesh, stretched and suspended above ground level at the base of drill tower, and at such a height that a falling body would be arrested prior to striking the ground.

Scabbard: A guard which will prevent accidental injury and covers the blade and pick of an axe or other sharp instrument when worn by the fire fighter.

SCBA: Self Contained Breathing Apparatus.

Service testing: The regular, periodic inspection and testing of apparatus and equipment according to an established schedule and procedure, to insure that it is in safe and functional operating condition.

Shall: Mandatory.

Should: Recommended.

Signalman: A person so positioned that he/she can direct the driver when the drivers vision is obstructed or obscured.

SOP: Standard operating procedure or guidelines.

Staffed station: A fire station continuously occupied by fire fighters on scheduled work shifts. The staffed station may also serve as headquarters for volunteers.

Standard operating procedure or guidelines: An organizational directive that established a standard course of action. See SOP.

Station (fire station): Structure in which fire service apparatus and/or personnel are housed.

Structural fire fighting: The activities of rescuing, fire suppression, and property conservation involving buildings,

enclosed structures, aircraft, vehicles, vessels, or similar properties that are involved in a fire or emergency situation.

Structural fire fighting protective clothing: This category of clothing, often called turnout or bunker gear, means the protective clothing normally worn by fire fighters during structural fire fighting operations. It includes a helmet, coat, pants, boots, gloves, and a hood to cover parts of the head not protected by the helmet and facepiece. Structural fire fighters' protective clothing provides limited protection from heat but may not provide adequate protection from the harmful gases, vapors, liquids, or dusts that are encountered during hazardous materials incidents.

Tail/running board: Standing space on the side or rear of an engine or pumper apparatus.

Team: Two or more individuals who are working together in positive communication with each other through visual, audible, physical, safety guide rope, electronic, or other means to coordinate their activities and who are in close proximity to each other to provide assistance in case of emergency.

Tillerman: Rear driver of tractor-trailer aerial ladder.

Turnout clothing: See structural fire fighting protective clothing.

Turntable: The rotating surface located at the base of an aerial ladder, or boom, on aerial apparatus.

Universal precaution: An approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.

Vapor barrier: Material used to prevent or substantially inhibit the transfer of water, corrosive liquids and steam or other hot vapors from the outside of a garment to the wearer's body.

Variance: An allowed or authorized deviation from specific standard(s) when an employer substitutes measures which afford an equal degree of safety. Variances are issued as temporary or permanent with interim measures issued, when requested, until a determination or decision is made.

Vessel: Means every description of watercraft or other artificial contrivance used or capable of being used as a means of transportation on water, including special-purpose floating structures not primarily designed for or used as a means of transportation on water.

WAC: Washington Administrative Code.

Wheel blocks (chocks): A block or wedge placed under a wheel to prevent motion.

Wildfire: An unplanned and unwanted fire requiring suppression action; an uncontrolled fire, usually spreading through vegetative fuels and often threatening structures.

Wildland fire: (Defined herein for structural fire fighters.) A fire burning in natural vegetation that requires an individual or crew(s) to expend more than one hour of labor to confine, control and extinguish. Agencies may substitute crews to avoid the one hour bench mark or increase crew size to complete the job in less than one hour. One hour was chosen as the maximum time that individuals should work in high temperatures in structural protective clothing.

Wildland fire fighting enclosure: A fire apparatus enclosure with a minimum of three sides and a bottom.

WISHA: Washington Industrial Safety Health Act.

Work environment: The surrounding conditions, influences or forces to which an employee is exposed while working.

Workplace: See place of employment.

WRD: WISHA Regional Directive.

NEW SECTION

WAC 295-305-01007 Variance and procedure. (1) Conditions may exist in operations that a state standard will not have practical use. The director may issue a variance from the requirements of the standard when another means of providing equal protection is provided.

(2) Applications for variances will be reviewed and investigated by the department. Variances granted shall be limited to the specific WAC code covered in the application and may be revoked for cause. The variance shall remain prominently posted on the premises while in effect.

Note: Variance forms may be obtained from the department upon request. Requests for variance from safety and health standards shall be made in writing to the assistant director, Division of Consultation and Compliance, Department of Labor and Industries, P.O. Box 44600, Olympia, Washington 98504-4600. (Reference RCW 49.17.080 and 49.17.090.)

NEW SECTION

WAC 296-305-01009 Appeals. Any party authorized to appeal from an action of the department as set forth in RCW 49.17.140(3), may do so by filing a notice of appeal in writing. The appeal must contain the recommended subject matter, as noted below, by serving a copy of such notice of appeal either in person or by mail upon the assistant director of the Division of Consultation and Compliance, (7273 Linderson Way, Tumwater, Washington) P.O. Box 44600, Olympia, Washington 98504-4600. The appeal must be sent to the department within fifteen working days of the communication of the notice.

The notice of appeal should contain:

- (1) The name and address of the appealing party and his/her representative if any;
- (2) The place where the alleged safety violation occurred;
- (3) A statement identifying the order, decision or citation appealed from, by report number and date of issuance;
- (4) The grounds upon which the appealing party considers such order, decision, or citation to be unjust or unlawful;
- (5) A statement of facts in support of each grounds stated;
- (6) The relief sought, including the specific nature and extent;
- (7) A statement that the person signing the notice of appeal has read it and to the best of his/her knowledge, information and belief there is good ground to support it. A notice of appeal may be signed by the party or by his/her authorized representative.

References:

WAC 296-350-030, Notice of appeal—Filing and service.

WAC 296-350-040, Notice of appeal—Contents RCW 49.17.140(3).

AMENDATORY SECTION (Amending Order 90-10, filed 8/13/90, effective 9/24/90)

WAC 296-305-015 (~~Injury and illness report for fire fighters.~~) (~~(1) Notice of injury or illness;~~

~~(a) Whenever an occupational accident causes injury or illness to a fire fighter or other employee, or whenever a fire fighter or other employee becomes aware of an illness apparently caused by occupational exposure, it shall be the duty of such a fire fighter or other employee, or someone on his behalf, to report the injury or illness to the employer before the end of his duty period or not later than 24 hours.~~

~~EXCEPTION: In the event that symptoms of an occupational injury or illness are not apparent at the time of the accident, the employee shall report the symptoms to his employer within 48 hours after becoming aware of the injury or illness.~~

~~(b) Whenever an injury occurs to a fire fighter or other employee while on duty and the injury results in a fatality, or probable fatality, the employer shall report the accident to the division of industrial safety and health by the fastest means available.~~

~~(2) Recordkeeping—written reports; all fire service employers shall maintain records and reports in accordance with chapter 296-27 WAC.~~

~~(3) An annual summary of the statistics tabulated in items (1) (a), (b), and (2) above shall be maintained by the department of labor and industries.)~~ Reserved.

NEW SECTION

WAC 296-305-01501 Injury and illness reports for fire fighters. (1) Notice of injury or illness.

(a) Whenever an occupational accident causes injury or illness to a fire fighter or other employee, or whenever a fire fighter or other employee becomes aware of an illness apparently caused by occupational exposure, it shall be the duty of such a fire fighter or other employee, or someone on his/her behalf, to report the injury or illness to the employer before the end of his/her duty period but not later than twenty-four hours after the incident.

(b) Exception: In the event that symptoms of an occupational injury or illness are not apparent at the time of the incident, the employee shall report the symptoms to his/her employer within forty-eight hours after becoming aware of the injury or illness.

(c) Within eight hours after the fatality or probable fatality of any fire fighter or employee from a work-related incident or the inpatient hospitalization of two or more employees as a result of a work-related incident, the employer of any employees so affected, shall orally report the fatality/multiple hospitalization by telephone or in person, to the nearest office of the department or by using the OSHA toll-free central telephone number, 1-800-321-6742.

(i) This requirement applies to each such fatality or hospitalization of two or more employees which occurs within thirty days of the incident.

(ii) Exception: If any employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under this subsection, the employer shall make a report within eight hours of the time the incident is reported to any agent or employee of the employer.

(iii) Each report required by this subsection shall relate the following information: Establishment name, location of the incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident.

(2) Recordkeeping - written reports; all fire service employers shall maintain records of occupational injuries and illnesses. Reportable cases include every occupational death, every occupational illness, or each injury that involves one of the following: Unconsciousness, inability to perform all phases of regular duty-related assignment, inability to work full time on duty, temporary assignment, or medical treatment beyond first-aid.

(3) All fire departments shall record occupational injury and illnesses on forms OSHA 101-Supplementary Record Occupational Injuries and Illnesses and OSHA 200-Log summary. Forms other than OSHA 101 may be substituted for the Supplementary Record of Occupational Injuries and Illnesses if they contain the same items. (See Appendix A.)

(4) An annual summary of the statistics tabulated from fire fighter occupational injuries, illnesses, and fatalities occurring during each calendar year beginning January 1 and ending December 31, shall be maintained and reported in February of the following year, to the department of labor and industries.

NEW SECTION

WAC 296-305-01503 Accident investigation. (1) After the emergency actions following accidents that cause serious injuries that have immediate symptoms, a preliminary investigation of the cause of the accident shall be conducted. The investigation shall be conducted by a person designated by the employer. The fire department shall establish a written procedure and a program for investigating, and evaluating the facts, relating to the cause of the accident. The findings of the investigation shall be documented by the employer for reference at any following formal investigations.

(2) Within eight hours after the fatality or probable fatality of any fire fighter or employee from a work-related incident or the inpatient hospitalization of two or more employees as a result of a work-related incident, the employer of any employees so affected, shall orally report the fatality/multiple hospitalization by telephone or in person, to the nearest office of the department or by using the OSHA toll-free central telephone number, 1-800-321-6742.

(3) Equipment involved in an accident resulting in an immediate or probable fatality, shall not be moved, until a representative of the division of consultation and compliance investigates the accident and releases such equipment, except where removal is essential to prevent further accident. When necessary to remove the victim, such equipment may be moved only to the extent of making possible such removal.

(4) Upon arrival of the department's investigator, the employer shall assign to assist the investigator such personnel as are deemed necessary by the department to conduct the investigation.

(5) The fire department shall preserve all records, photographic materials, audio, video, recordings, or other documentation concerning an accident.

Reference: WAC 296-24-020 (2), (3).

NEW SECTION

WAC 296-305-01505 Accident prevention program.

(1) All fire departments shall develop and implement a written safety program.

(2) Fire department safety programs shall have an assigned safety officer.

(3) Each employer shall develop a formal accident-prevention program, tailored to the needs of the fire department and to the type of hazards involved. The department of labor and industries' consultation division may be contacted for assistance in developing appropriate programs.

(a) A safety orientation program describing the employer's safety program shall include:

(i) How and when to report injuries, including instruction as to the location of first-aid facilities.

(ii) How to report unsafe conditions and practices.

(iii) The use and care of required personal protective equipment.

(iv) The proper actions to take in event of emergencies including the routes of exiting from areas during emergencies.

(v) Identification of the hazardous gases, chemicals or materials involved along with the instructions on the safe use and emergency action following accidental exposure.

(vi) A description of the employer's total safety program.

(vii) An on-the-job review of the practices necessary to perform the initial job assignments in a safe manner.

(4) Fire departments shall have a safety committee and serve in an advisory capacity to the fire chief. The number of employer-selected members shall not exceed the number of employee-elected members.

(5) The frequency of safety meetings shall be determined by the safety committee, but shall not be less than one hour per calendar quarter, however, special meetings may be held at the request of either party.

(6) Minutes shall be taken of all safety meetings. After review by the chief or his/her designee the minutes shall be conspicuously posted at all stations.

(7) Employee submitted written suggestions or complaints shall be considered. Action recommendations by the committee shall be transmitted in writing to the fire chief. The chief or his/her designated agent will reply to the submitter.

(8) Inspections of fire stations shall be made at least monthly and records maintained to ensure that stations are reasonably free of recognized hazards. These inspections shall include, but not be limited to, tools, apparatus, extinguishers, protective equipment, and life safety equipment.

NEW SECTION

WAC 296-305-01507 Fire department safety officer.

(1) The duties of the fire department safety officer shall include, but are not limited to:

(a) Plan and coordinate safety activities.

(b) Work closely with the safety committee.

(c) Investigate accidents.

(d) Devise corrective measures to prevent accidents.

(2) Realizing safety training and recordkeeping are management's responsibility, the fire department safety officer shall ensure the following requirements are being met:

- (a) Ensure safety training for all employees.
- (b) Ensure safety directives are complied with.
- (c) Ensure that records are kept, but not limited to the following:

- (i) Accidents
- (ii) Injuries
- (iii) Inspections
- (iv) Exposures
- (v) Medical Monitoring
- (vi) Safety meetings
- (vii) Apparatus
- (viii) Equipment
- (ix) Protective clothing
- (x) Other fire department safety activities

(3) The fire department safety officer, through the fire chief, shall have the authority and responsibility to identify and recommend correction of safety and health hazards.

(4) The fire department safety officer shall maintain a liaison with staff officers regarding recommended changes in equipment, procedures, and recommended methods to eliminate unsafe practices and reduce existing hazardous conditions.

Note: NFPA 1521 Standard for Fire Department Safety Officer, may be used as a guide for duties and responsibilities relating to the safety officer.

NEW SECTION

WAC 296-305-01509 Management's responsibility.

(1) It shall be the responsibility of management to establish, supervise, maintain, and enforce, in a manner which is effective in practice:

(a) A safe and healthful working environment, as it applies to noncombat conditions or to combat conditions at the fire scene after fire has been extinguished, as determined by the officer in charge.

(b) An accident prevention program as required by this chapter.

(c) Programs for training employees in the fundamentals of accident prevention.

(d) Procedures the fire department safety officer and incident commander shall use to ensure that emergency care is provided for members on duty.

(e) An accident investigation program as required by this chapter.

(2) The fire department shall be responsible for providing suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers, or other suitable sources.

(3) Members under the influence of alcohol or narcotics shall not be permitted on the work site. This rule does not apply to persons taking prescription drugs and narcotics as directed by a physician or dentist providing such use shall not endanger the worker or others.

(4) Alcoholic beverages shall not be allowed in station houses, except at those times when station houses are used as community centers.

(5) A bulletin board or posting area exclusively for safety and health and large enough to display the required safety and health posters. The WISHA poster (WISHA form F416-081-000) and other safety education material shall be provided. A bulletin board of "white background" and "green trim" is recommended.

(6) The fire department shall develop and maintain a hazard communication program as required by chapter 296-62 WAC, Part C, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may routinely be exposed to, in the course of their employment.

(7) Organizational statement. The employer shall prepare and maintain a statement or written policy which establishes the existence of the fire service organization; the basic organizational structure; the type, amount, and frequency of training to be provided to members; the expected number of members; and the functions that the organization is to perform at the workplace. The organizational statement shall be available for inspection by the director and by employees or their designated representatives.

(8) Personnel. The employer shall assure that employees who are expected to do interior structural fire fighting are physically capable of performing duties which may be assigned to them during emergencies.

NEW SECTION

WAC 296-305-01511 Employee's responsibility. (1)

Fire fighters shall cooperate with the employer and other employees in efforts to eliminate accidents.

(2) Each fire fighter or other employee shall comply with the provisions of this chapter which are applicable to his/her own actions and conduct in the course of his/her employment.

(3) Fire fighters and other employees shall notify the appropriate employer representative of unsafe work practices and of unsafe conditions of equipment, apparatus, or work places.

(4) Fire fighters and other employees shall apply the principles of accident prevention in their work. They shall use all required safety devices, protective equipment, and safety practices, as provided and/or developed by management.

(5) Each fire fighter shall take proper care of all personal protective equipment.

(6) Fire fighters shall attend, when on duty, required training and/or orientation programs designed to increase their competency in occupational safety and health.

(7) Fire fighters and other employees shall not report to work under the influence of alcohol or controlled substances, with the exception of medications prescribed by a physician. These prescribed medications must not impair the performance of the individual.

NEW SECTION

WAC 296-305-01513 Safe place standards. (1)

Every employer shall furnish and require the use of appropriate safety devices and safeguards. All fire fighting methods, and operations shall be so designed as to promote the safety and health of employees. The employer shall do everything necessary to protect the safety and health of employees.

(2) No fire fighter or other employee, employer or employer representative shall:

(a) Remove, displace, damage, destroy or carry off any safety device, safeguard, notice or warning furnished for use in any employment or place of employment.

(b) Interfere in any way with the use of any safety device, method or process adopted for the protection of any employee.

NEW SECTION

WAC 296-305-01515 First-aid training and certification. (1) All fire fighters except directors of fire departments and the directors' designated personnel, shall have first-aid training as evidenced by a current, valid first-aid card.

(2) New fire fighters shall have such first-aid training within 90 days of the date of their employment or enroll for training within 30 days of the date of their employment.

(3) First-aid training and certification for other employees and directors of fire departments shall conform to the requirements of chapter 296-24 WAC, Part A-1.

(4) Fire service duties include exposure to bloodborne pathogens. The requirements of this section and chapter 296-62 WAC, Part J, Biological Agents, shall apply.

See Appendix B for sample reporting forms.

NEW SECTION

WAC 296-305-01517 First-aid kits. (1) To assure the emergency medical care of the fire fighters there shall be present at each emergency incident at least the following items:

- 1 (one) utility scissors, EMT-type
- 1 CPR barrier
- 3 (three) rolls 1 inch adhesive tape
- 6 (six) 4" x 4" sterile, individually wrapped gauze pads
- 4 (four) combination pads, sterile, individually wrapped
- 4 (four) soft roller bandages, assorted size, sterile, individually wrapped cling type
- 2 (two) burn sheets, sterile, individually wrapped
- 2 (two) triangular bandages
- 1 (one) multi-trauma dressing, sterile
- 2 (two) supply disposable gloves
- 2 (two) wire splints or equivalent
- (2) All fire stations shall maintain a first-aid kit. The kit shall contain at least the following items:
 - 6 (six) 4" x 4" sterile, individually wrapped gauze pads
 - 4 (four) combination pads, sterile, individually wrapped
 - 2 (two) rolls 1 inch adhesive tape
 - 4 (four) soft roller bandages, assorted size, sterile, individually wrapped cling type
 - 2 (two) triangular bandages
 - 1 (one) utility scissors, EMT-type
 - 1 (one) pair tweezers
 - 1 (one) package assorted adhesive bandages
- (3) All fire apparatus shall contain a first-aid kit as described in chapter 296-24 WAC, Part A-1.

(4) All fire departments providing emergency medical services to the public shall conform to the requirements of chapter 18.73 RCW Emergency Care and Transportation Services (and if applicable, chapter 248-17 WAC, Ambu-

lance Rules and Regulations) which require additional first-aid equipment.

Additional References: Chapter 294-24 WAC, Part A-1.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-017 ((~~Accident investigation.~~)) ~~((1))~~ The affected employer, or his representative, shall assist the department in any investigation of accidents involving fire fighters or other employees of that employer.

~~(2) When a fatality occurs to a fire fighter while on duty, the equipment involved shall not be moved until investigated by the authority having jurisdiction except where removal is essential in preventing further accidents or is essential in the continuance of emergency action.)~~ Reserved.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-020 ((~~Accident prevention programs.~~)) ~~((1))~~ The employers of fully manned fire departments shall establish safety programs with the following elements:

(a) The program shall have an assigned safety officer who is responsible for the following:

(i) Plan and direct all safety activities, work closely with the safety committee, and devise corrective measures to prevent accidents.

(ii) Be responsible for safety training of all employees.

(iii) Assist the safety committee in developing the agenda for the meeting.

(iv) See that safety recommendations are completed.

(v) Attend safety committee meetings and contribute accident prevention information and material. Where possible, assistants shall be appointed from other shifts or battalions to attend safety committee meetings.

(vi) Maintain records of accidents, injuries, inspections and other fire department safety activities.

~~Note: Clerical employees shall participate in the program proportionate to their degree of hazard exposure as prescribed by the safety officer.~~

(b) Safety committee. Each department shall have a safety committee comprised of equal employee-employer representation.

(i) The frequency of the safety committee meetings shall be determined by the employer, but shall not be less than one hour per calendar quarter.

(ii) Minutes of safety committee meetings shall be taken and transmitted to the fire department's director or his designee.

(c) Employee safety meetings.

(i) The programs shall include safety meetings, scheduled to involve all fire fighters. Different meetings may be scheduled for the fire fighters on different shifts.

(ii) The frequency of employee safety meetings shall be determined by the employer, but shall not be less than one hour per month.

~~(iii) Employee submitted written suggestions or complaints shall be considered. Action taken by committee shall be transmitted in writing to affected employee.~~

~~(iv) Minutes of the safety meetings shall be taken and maintained in a file for that purpose.~~

~~(v) The requirements of this subsection may be met by integrating the safety meeting into a regular training program.~~

~~(d) Inspections of manned fire stations shall be made at least monthly and records maintained to insure that stations are reasonably free of recognizable physical hazards. These inspections shall also include powered portable equipment, portable fire extinguishers, utility straps and life lines.~~

~~(2) Employers operating from unmanned or volunteer fire stations shall develop accident prevention programs that include recording injuries, scheduled safety meetings, facility and equipment inspections and a system for implementing safety recommendations from employees. These activities may be combined and performed on a schedule consistent with the other activities of the fire department.)) Reserved.~~

NEW SECTION

WAC 296-305-02001 Personal protective equipment and protective clothing.

Note: For wildland fire fighting personal protective equipment and clothing requirements see WAC 296-305-07003, Personal protective clothing and equipment for wildland fire fighting.

(1) Employers shall provide and maintain at no cost to the employee protective clothing and protective equipment as required by this standard. Employers shall ensure the use of all protective equipment and clothing required by this standard. Employers shall assure that the protective clothing and equipment ordered or purchased after the effective date of this standard meets the requirements of this standard. Full protective equipment designated for the task, shall be worn for all department activities.

(2) Fire fighters shall be trained in the function, donning and doffing, care, use, inspection, maintenance and limitations of the protective equipment assigned to them or available for their use.

(3) Protective clothing and protective equipment shall be used and maintained in accordance with manufacturer's instructions. A written maintenance, repair, retirement, servicing, and inspection program shall be established for protective clothing and equipment. Specific responsibilities shall be assigned for inspection and maintenance. This requirement applies to fire fighter's personally owned equipment as well as equipment issued by the employer.

(4) The fire department shall provide for the cleaning of protective clothing and contaminated station/work uniforms at no cost to the employee. Such cleaning shall be performed by either a cleaning service, or at a fire department facility, that is equipped to handle contaminated clothing. See Appendix E.

(5) Personal protective equipment and clothing shall be of a type specified by NIOSH, MSHA, NFPA, ANSI, or as specifically referenced in the appropriate section of this chapter.

(6) Station/work uniforms. Station/work uniforms are not themselves intended as primary protective garments.

(a) Station/work uniforms shall meet the requirements as specified in NFPA 1975, 1990 edition.

(b) All station/work uniforms purchased after the effective date of this regulation shall meet the requirements set forth in this standard.

(c) Station/work uniforms include trousers, and/or coveralls, but exclude shirts, underwear, and socks.

(d) Members shall not wear any clothing that is determined to be unsafe due to poor thermal stability or poor flame resistance. The characteristics of poor thermal stability or flame resistance are products which melt, drip, or stick to the skin.

(e) Garments meeting the requirements of NFPA, 1977 Wildland Fire Fighting, 1993 edition, meet the intent of this section.

(f) Station/work uniforms purchased prior to the effective date of this chapter shall be acceptable for a period of two years or until the employers current inventory has been exhausted, whichever comes first.

(7) Turnout clothing/pants and coat:

Proximity clothing:

(a) All turnout clothing used as proximity clothing shall meet the requirements of NFPA, 1976 Standard on Protective Clothing for Proximity Fire Fighting, 1992 edition.

(b) There shall be at least a two-inch overlap of all layers of the protective coat and the protective trousers so there is no gaping of the total thermal protection when the protective garments are worn. The minimum overlap shall be determined by measuring the garments on the wearer, without SCBA, with the wearer in the most stretched position, hands together reaching overhead as high as possible.

(c) Single piece protective coveralls shall not be required to have an overlap of all layers as long as there is continuous full thermal protection.

(d) Fire departments that provide protective coats with protective resilient wristlets secured through a thumb opening may provide gloves of the gauntlet type for use with these protective coats. Fire departments that do not provide such wristlets attached to all protective coats shall provide gloves of the wristlet type for use with these protective coats.

(e) Where the SCBA is worn over or outside the proximity protective garment, the fire department shall inform the member of the potential high levels of radiant heat that may result in the failure of the SCBA. The fire department shall require additional approved radiant reflective criteria, including but not limited to a protective cover, for the expected proximity fire fighting exposures when the SCBA is worn over or outside the proximity protective garment.

(8) Structural fire fighting clothing.

(a) All turnout clothing purchased after the effective date of these regulations shall meet the requirements of NFPA, Standard on Protective Clothing for Structural Fire Fighting 1971, 1991 edition. In no case, shall fire fighters wear personal protective clothing manufactured to NFPA, Standard on Protective Clothing for Structural Fire Fighting 1971, 1986 edition.

(b) Turnout clothing shall be maintained as specified by the manufacturer.

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(c) Repairs to turnout clothing shall be done by qualified individual(s) approved by the manufacturer.

(d) Turnout clothing which is damaged or does not comply with this section shall not be used.

(e) All turnout clothing shall be inspected semi-annually by an individual qualified by the employer. Inspection intervals shall not exceed six months.

NEW SECTION

WAC 296-305-02003 Eye and face protection. (1) Face and eye protection shall be provided for and used by fire fighters engaged in fire suppression and other operations involving hazards to the eye and face at all times when the face is not protected by the full facepiece of the SCBA.

(2) Persons whose vision requires the use of corrective lenses in spectacles, and who are required by this standard to wear eye protection, shall wear goggles or spectacles of one of the following types:

(a) Spectacles with protective lenses that provide optical correction.

(b) Goggles that can be worn over corrective spectacles without disturbing the adjustment of the spectacles.

(c) Goggles that incorporate corrective lenses mounted behind the protective lens.

(3) When limitations or precautions are indicated by the manufacturer, they shall be transmitted to the user and care taken to see such limitations and precautions are strictly observed.

(4) Care, use, and maintenance for any type of eye or face protection shall follow the manufacturers suggested recommendations.

(5) Goggles shall be inspected, cleaned and disinfected prior to being re-issued to other employees.

(6) For known eye and face hazards, such as (but not limited to) cutting with power saws, chopping, drilling, and using extraction equipment, the fire fighter helmet face shield shall be worn.

(7) Helmet face shields shall meet the requirements of NFPA, Standard Helmets for Structural Fire Fighting 1972, 1992 edition.

(8) For fire fighters that do not have a helmet face shield for eye and face protection, flexible or cushioned fitting goggles shall be provided.

(9) Goggles shall consist of a wholly flexible frame, forming a lens holder or a rigid frame with integral lens or lenses, having a separate, cushioned fitting surface on the full periphery of the facial contact area.

(a) Materials used shall be chemical-resistant, nontoxic, nonirritating and slow burning.

(b) There shall be a positive means of support on the face, such as an adjustable headband of suitable material or other appropriate means of support to retain the frame comfortable and snugly in front of the eyes.

(c) Goggles shall meet the requirements of ANSI Z87.1.

NEW SECTION

WAC 296-305-02005 Hearing protection. (1) Fire departments shall administer a continuing effective hearing conservation program, as described in chapter 296-62 WAC, Part K, Hearing Conservation, whenever employees noise exposure equal or exceed an eight-hour time-weighted

average (TWA) sound level of 85 decibels (dBA) measured on the A scale weighing at slow response or, equivalently, a noise dose of fifty percent.

(2) For the purpose of a hearing conservation program, employee noise exposure shall be computed in accordance with WAC 296-62-09055, Appendix E, Noise exposure computation, without regard to any attenuation provided by the use of personal protective equipment.

(3) The hearing conservation program shall be provided at no cost to the employee.

(4) Hearing protection shall be provided for and used by all members when exposed to noise in excess of 90 dBA from power tools, engine warm ups, drafting, or other such activities, except in situations where the use of such protective equipment would create an additional hazard to the user such as in fire suppression.

(5) Audiometric test shall be performed by a licensed or certified audiologist, otolaryngologist, or other qualified physician, or by a technician who is certified by the council of accreditation in occupational hearing conservation. A technician who performs audiometric tests must be responsible to an audiologist, otolaryngologist or other qualified physician.

(6) The fire department shall institute a hearing conservation training program for all employees and shall ensure their participation in such programs, meeting the minimum requirements specified in chapter 296-62 WAC, Part K.

(7) The use of personal protective equipment to limit noise exposure shall be considered as an interim approach until the noise levels produced by vehicles, warning devices, and radios can be reduced. Protective muffs are recommended for fire fighters, due to the difficulties of proper fit and insertion of ear plugs.

(8) Noise levels in new fire apparatus purchased after the effective date of this chapter, shall not exceed at any seated position to be a maximum of 90 dBA when measured, as specified in the standard, without any warning device in operation.

(a) Interior noise levels shall be measured with the vehicle in motion at the speed that produces the highest noise level, up to 55 mph.

(b) All windows should be closed and the noise level shall be measured in each passenger area.

(c) For existing apparatus, compliance with this section will be required within two years of the effective date of this chapter.

Note: In order to reduce noise levels, the following engineering controls may achieve such a reduction:

- a. Move siren speakers and air horns down onto the front bumper.
- b. Respond with windows closed.
- c. Install sound-attenuating insulation in cabs of apparatus.
- d. Lower the pitch of siren and air horns.
- e. Improve radio equipment with higher clarity and less output volume.

(9) For existing fire apparatus that cannot be brought into compliance, the employer shall be required to provide members with hearing protectors.

(10) The fire department shall provide training in the use and care of all hearing protectors provided to employees.

(11) The training program shall be repeated annually for each employee included in the hearing conservation program.

(12) Information provided in the training program shall be updated to be consistent with changes in protective equipment and work processes.

Additional References: Chapter 296-62 WAC, Part K.

NEW SECTION

WAC 296-305-02007 Hand protection. (1) Fire fighters' gloves shall when worn with turnout clothing, provide protection to the wrist area. In turnout clothing where wristlet protection is not provided fire fighters' gloves shall be closed at the top.

(2) Fire departments shall establish written policy and procedure for the care, use, cleaning, replacement and/or retirement criteria, and maintenance of gloves issued.

(3) Gloves purchased after the effective date of this chapter shall comply with this section.

(4) Fire fighters' gloves used during structural fire fighting operations including rescue of victims from fires, and emergency medical operations where sharp or rough surfaces are likely to be encountered such as victim extractions shall meet the requirements of NFPA, Standard on Gloves for Structural Fire Fighting 1973, 1993 edition.

(5) Fire fighters gloves are not designed to provide protection to all environments. For gloves desired to fill the needs of a specific requirement see that specific section of this chapter. It is the intent of this section to provide protection from intrusion throughout the glove body by certain common chemicals, and from bloodborne pathogens. Fire departments shall consult the manufacturer's recommendation.

(6) Fire fighters shall have their hands sized for compliance with the sizing chart as specified in NFPA, Standard on Gloves for Structural Fire Fighting 1973, 1993 edition.

NEW SECTION

WAC 296-305-02009 Body protection. (1) Body protection shall be coordinated with torso, hand, head, foot, respiratory, and face protection as outlined in WAC 296-305-02001 through 296-305-02019.

(2) Fire departments shall establish written procedures for the use of components of any or all portions of protective equipment.

(3) Fire departments that provide structural and wildfire suppression shall establish written procedures for the use of protective clothing on both structural and wildfire suppression activities.

NEW SECTION

WAC 296-305-02011 Body armor. (1) Fire departments that use protective body armor shall comply with the following:

(2) The fire department shall develop and have in place written guidelines for the care, use and maintenance of the protective body armor in conjunction with the manufacturer's recommendations.

(3) All protective body armor shall meet or exceed National Institute of Justice NIF 0101.03, Threat Level IIIA requirements, April 1987 edition, which is incorporated by reference (or shall be demonstrated by the employer to be

equally effective), for both wet and dry ballistic performance.

(4) Body armor shall be properly fitted and shall not be used beyond the manufacturer's warranty.

NEW SECTION

WAC 296-305-02013 Foot protection for structural fire fighting. (1) Fire fighters shall be provided with and use footwear that complies with NFPA 1974, Standard on Protective Footwear for Structural Fire Fighting, 1992 edition.

(2) Fire departments shall establish written policy and procedure, care, use, maintenance, and retirement criteria for footwear in conjunction with the manufacturer's recommendations.

(3) Fire departments shall establish cleaning and drying instruction including applicable warning regarding detergents, soaps, cleaning additives and bleaches for protective footwear.

(4) Fire departments shall request performance criteria from the manufacturer on the sole and vamp of footwear exposed to unleaded gasoline, battery acid (37% sulfuric acid), aqueous film forming foam (AFFF) 3% concentration, fire resistant hydraulic fluid, full strength, and swimming pool chlorinating chemicals containing at least 65% free chlorine (saturated solution). The chemical test protocol to be used should be ASTM F-903 "Test Method For Resistance of Protective Clothing to Penetration by Liquids using Exposure C." The results of such testing shall be reported as "Pass/Fail."

(5) Fire fighter footwear may be resoled but the footwear upon resoling shall meet the requirements specified in this section.

NEW SECTION

WAC 296-305-02015 Head protection. (1) Fire fighters who engage in or are exposed to the hazards of structural fire fighting shall be provided with and use helmets that meet the requirements of NFPA 1972, Standard on Helmets for Structural Fire Fighting, 1987 edition.

(2) Helmets purchased thirty days after the adoption of this chapter shall meet the requirements of NFPA, Standard on Helmets for Structural Fire Fighting 1972, 1992 edition.

(3) Fire departments shall establish a written policy and procedure for the care, use, maintenance, and retirement criteria for helmets.

(4) Helmets shall be provided with face shields or goggles.

(5) Helmet accessories shall not interfere with the function of the helmet or its components parts and shall not degrade the helmets performance.

(6) Helmets shall be maintained in accordance with the manufacturer's recommendations. No modifications shall be made without prior written approval from the manufacturer.

(7) Fire fighters shall follow the manufacturer's recommendations regarding cleaning, painting, marking, storage, and frequency and details of inspection.

Note: Helmets should be stored at room temperature and out of direct sunlight.

NEW SECTION

WAC 296-305-02017 Personal alert safety system (PASS) protection. (1) Each fire fighter working in a hazardous area requiring the use of SCBA shall wear and use a PASS device. PASS devices shall meet the requirements of NFPA, Standard on Personal Alert Safety Systems (PASS) for Fire Fighters 1982, 1993 edition. (See WAC 296-305-07001 through 296-305-07019 for wildland fire fighting application.)

(2) Each PASS device shall be tested weekly and prior to each use, and shall be maintained in accordance with the manufacturers' instructions.

(3) Fire departments shall provide written procedures for the use of PASS devices.

(4) Compliance with this section shall occur no later than two years after the effective date of this chapter.

Note: Fire departments should provide one spare PASS device for each ten units in service. If a department has less than ten devices they should have one spare.

(5) Fire departments shall establish a written procedure for the care, use, maintenance, and repair of PASS devices in conjunction with manufacturer's recommendations.

NEW SECTION

WAC 296-305-02019 Life safety ropes, harnesses, and hardware protection. (1) All life safety ropes, harnesses, and hardware used by fire departments shall meet the applicable requirements of NFPA 1983, Standard on Fire Service Life Safety Rope, Harness, and Hardware, 1990 edition.

(2) Ropes used to support the weight of members or other persons during rescue, fire fighting, other emergency operations, or during training evolutions shall be life safety rope.

(3) Life safety rope used for rescue at fires, or other emergency incidents, or for training, shall be permitted to be reused if inspected before, and after, each such use in accordance with the manufacturer's instructions and provided:

(a) The rope has not been visually damaged by the exposure to heat, direct flame impingement, chemical exposure, or abrasion.

(b) The rope has not been subjected to any impact load.

(c) The rope has not been exposed to chemical liquids, solids, gases, mists, or vapors of any materials, known to deteriorate rope.

(d) If the rope used for rescue at fires or other emergency incidents, or for training, has been subjected to (a), (b), or (c) of this section, or fails the visual inspection, it shall be destroyed after such use.

(e) If there is any question regarding the serviceability of the rope after consideration of the above, the safe course of action shall be taken and the rope shall be placed out of service. See Appendix C.

(f) Rope inspection shall be conducted by qualified inspectors in accordance with rope inspection procedures established and recommended as adequate by the rope manufacturer to assure rope is suitable for reuse.

(4) Fire departments shall establish written procedures for the use of life safety ropes and rescue operations utilizing harnesses and ropes.

(5) Records shall provide a history of each life safety and training rope.

(6) Rope used for training evolutions shall be designated as training rope and shall be permitted to be reused if inspected before and after each use in accordance with the manufacturer's instructions.

(7) The destruction of a rope means that it shall be removed from service and altered in such a manner that it could not be mistakenly used as a life safety rope. This includes disposal or removal of labels and cutting into short lengths to be used for utility purposes.

(8) All repairs to life safety harnesses shall be done by an authorized manufacturer's representative, or the manufacturer.

Note: See WAC 296-305-06003(3), (4), (5), and (6) for the testing of life belts, ropes, and harnesses.

(9) Class I safety harnesses shall be used for fire fighter attachment to ladders and aerial devices.

(10) Class II and Class III life safety harnesses shall be utilized for fall arrest and rappelling operations.

(11) Rescue ropes shall be padded when deployed over edges or rough surfaces.

Note: See WAC 296-305-05005 for high angle applications.

Additional References: Appendix C, Life Safety Rope

AMENDATORY SECTION (Amending WSR 94-16-145, filed 8/3/94, effective 9/12/94)

WAC 296-305-025 ((Management's responsibility.))
~~((1) It shall be the responsibility of management to establish, supervise, and enforce, in a manner which is effective in practice supervise:~~

~~(a) A safe and healthful working environment, as it applies to non-combat conditions or to combat conditions at the fire scene after fire has been extinguished, as determined by the officer in charge.~~

~~(b) An accident prevention program as required by this chapter.~~

~~(c) Programs for training employees in the fundamentals of accident prevention.~~

~~(2) The employer shall be responsible for providing suitable expertise to comply with all testing requirements in this chapter. Such expertise may be secured from within the fire department, from equipment and apparatus manufacturers or other suitable sources.~~

~~(3) Alcoholic beverages shall not be allowed in station houses, except at those times when station houses are used as community centers.~~

~~(4) Controlled substances shall not be allowed in station houses, with the exception of those used by the profession to be administered to patients or medication prescribed by a physician, unless such prescribed medication would impair the performance of the individual.~~

~~(5) A bulletin board or posting area exclusively for safety and health and large enough to display the required safety and health poster (Job safety and health protection, form F416-081-000) and other safety education material shall~~

be provided. A bulletin board of "white background" and "green trim" is recommended.

~~(6) The employer shall develop and maintain a hazard communication program as required by chapter 296-62 WAC, Part C, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.)) Reserved.~~

NEW SECTION

WAC 296-305-02501 Emergency medical protection.

(1) Fire fighters who perform emergency medical care or otherwise may be exposed to blood or other body fluids shall be provided with emergency medical face protection devices, and emergency medical garments that meet the applicable requirements of NFPA, Standard on Protective Clothing for Emergency Medical Operations 1999, 1993 edition.

(2) Prior to purchase, fire departments shall consult the technical data package prepared by the manufacturer to compare glove and garment performance data. This review shall provide the relative ranking of the performance data to aid in the selection process.

(3) Fire fighters shall don emergency medical gloves prior to initiating any emergency patient care.

(4) Fire fighters shall don emergency medical garments and emergency medical face protection devices prior to any patient care during which large splashes of body fluids can occur such as situations involving spurting blood or childbirth.

Note: Fire fighter turnout gear and gloves with vapor barriers may be used in lieu of emergency medical gloves and garments.

(5) Contaminated emergency medical garments, emergency medical face protection, gloves, devices, and emergency medical gloves shall be cleaned and disinfected, or disposed of, in accordance with chapter 296-62 WAC, Part J, Biological Agents.

(6) Fire departments shall establish a designated infection (exposure) control officer who shall ensure that an adequate infection control plan is developed and all personnel are trained and supervised on the plan.

(7) The infection control officer shall be responsible for establishing personnel exposure protocols so that a process for dealing with exposures is in writing and available to all personnel.

(8) The infection control officer or his/her designee will function as a liaison with area hospitals to provide notification that a communicable disease has been suspected/determined by fire or hospital personnel. The infection control officer will institute the established exposure protocols immediately after report of such.

(9) Fire departments shall have a written infection (exposure) control plan which clearly explains the intent, benefits, and purpose of the plan. The written document must cover the standards of exposure control such as establishing the infection control officer and all members affected; education and training; immunization requirements; documentation and record keeping; cleaning/disinfection of personnel and equipment; and exposure protocols.

(10) Policy statements and standard operating procedure guidelines shall provide general guidance and specific regulation of daily activities. Procedures shall include

delegation of specific roles and responsibilities, such as regulation of infection control, as well as procedural guidelines for all required tasks and functions.

(11) Fire departments shall establish a records system for members health and training.

(12) Fire fighters shall be trained in the proper use of PPE, exposure protection, post exposure protocols, disease modes of transmission as it related to infectious diseases.

(13) Infectious disease programs shall have a process for monitoring fire fighters compliance with established guidelines and a means for correcting noncompliance.

(14) Fire department members shall be required to annually review the infectious disease plan, updates, protocols, and equipment used in the program.

(15) Fire departments shall comply with chapter 296-62 WAC, Part J, Biological Agents, in its entirety.

(16) Tuberculosis (TB) exposure and respiratory protection requirements.

(a) Fire fighters shall wear a particulate respirator (PR) when entering areas occupied by individuals with suspected or confirmed TB, when performing high risk procedures on such individuals or when transporting individuals with suspected or confirmed TB in a closed vehicle.

(b) A NIOSH-approved high efficiency particulate air (HEPA) respirator is the minimum acceptable level of respiratory protection.

(i) Fit tests are required.

(ii) Fit tests shall be done by procedures recommended by the respirator manufacturer or the department.

Note 1: Emergency-response personnel should be routinely screened for tuberculosis at regular intervals. The tuberculin skin test is the only method currently available that demonstrates infection with Mycobacterium tuberculosis (M. tuberculosis) in the absence of active tuberculosis.

Note 2: If possible, the rear windows of a vehicle transporting patients with confirmed, suspected, or active tuberculosis should be kept open, and the heater or air conditioner set on a noncirculating cycle.

Additional References:

Chapter 296-62 WAC, Part J, Biological Agents-Bloodborne Pathogens.

WAC 296-62-08001(3), Exposure Control.

WRD 92-6, Enforcement Procedures for the Occupational Exposure to the Bloodborne Pathogens Standard.

WISHA Tuberculosis Compliance Memorandum, December 22, 1993.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-030 ((Employee's responsibility.))

~~((1) Fire fighters shall cooperate with the employer and other employees in efforts to eliminate accidents.~~

~~(2) Each fire fighter or other employee shall comply with the provisions of this chapter which are applicable to his own actions and conduct in the course of his employment.~~

~~(3) Fire fighters and other employees shall notify the appropriate employer representative of unsafe work practices and of unsafe conditions of equipment apparatus or work places.~~

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~~(4) Fire fighters and other employees shall apply the principles of accident prevention in their work. They shall use all required safety devices and protective equipment.~~

~~(5) Each fire fighter shall take proper care of all personal protective equipment.~~

~~(6) Fire fighters shall attend, when on duty, required training and/or orientation programs designed to increase their competency in occupational safety and health.~~

~~(7) Fire fighters and other employees shall not report to work under the influence of alcohol or controlled substances, with the exception of medications prescribed by a physician. These prescribed medications must not impair the performance of the individual.)) Reserved.~~

NEW SECTION

WAC 296-305-03001 Hazardous chemical protection.

(1) Structural fire fighting protective clothing shall not be used as primary protection for hazardous material incidents except as noted in the current edition of the Department of Transportation Emergency Response guidebook, which is incorporated by reference or shall be demonstrated by the employer to be equally effective. Use of this clothing as primary protection may result in serious injury or death.

(2) Fire departments shall use the technical data package provided by the clothing manufacturer when selecting the hazardous chemical protection.

(a) The approach to selecting personal protective clothing must encompass an ensemble of clothing items that are easily integrated to provide a level of protection and the ability to carry out emergency response activities.

(b) The following is a check list of components that may form the chemical protective ensemble:

(i) Protective clothing (suits, coveralls, hoods, gloves, boots)

(ii) Respiratory equipment (SCBA)

(iii) Cooling system (ice vest, air circulation, water circulation)

(iv) Head protection

(v) Ear protection

(vi) Inner garments

(vii) Outer protection (overgloves, overboots, flashcovers)

(3) Fire fighters who engage in operations or who are exposed to known chemicals in liquid-splash chemical environments during hazardous chemical material emergencies shall be provided with, and shall use, liquid splash-protective suits. Liquid splash-protective suits shall meet the requirements of NFPA, Standard on Liquid-Splash Protective Suits for Hazardous Chemical Emergencies 1992, 1991 edition.

(4) Fire department personnel involved in hazardous materials incident shall be protected against potential chemical hazards. Chemical protective clothing shall be selected and used to protect the respiratory system, skin, eyes, face, hands, feet, head, body, and hearing.

(5) Hazardous chemical protective equipment shall be classified by performance and for the purpose of this chapter are defined as:

(a) Vapor-Protective Suits

(b) Liquid Splash-Protective Suits

(c) Support Function Protective Suits

(6) Vapor protective and liquid splash-protective suits shall completely cover both the wearer and the wearer's breathing apparatus. Wearing a SCBA or other respiratory equipment outside the suit subjects this equipment to the chemically contaminated environment, increasing possible failure potentials and decontamination problems.

(7) Fire fighters who engage in operations or who are exposed to chemicals in vapor environments or unknown chemical environments shall be provided with, and shall use, vapor protective suits. Vapor protective suits shall meet the requirements of NFPA, Standard on Vapor Protective Suits for Hazardous Chemical Emergencies 1991, 1990 edition.

(8) Prior to the use of vapor protective suits, liquid splash-protective suits or support function protective suits, the department shall consult the technical data package to assure that the garment is appropriate for the specific hazardous chemical emergency.

(9) Vapor protective suits and liquid splash-protective suits shall not be used alone for any fire fighting applications or for protection from radiological, biological, or cryogenic agents or in flammable or explosive atmospheres.

(10) Liquid splash-protective suits shall not be used for protection from chemicals or specific chemical mixtures with known or suspected carcinogenicity as indicated by any one of the following documents:

(a) N. Irving Sax, Dangerous Properties of Industrial Chemicals, current edition.

(b) NIOSH Pocket Guide to Chemical Hazards, current edition.

(c) U.S. Coast Guard Chemical Hazard Response Information System (CHRIS), Volumes 13, Hazardous Chemical Data.

(11) Liquid splash-protection suits shall not be used for protection from chemicals or specific chemical mixtures with skin toxicity notations as indicated by the American Conference of Governmental Industrial Hygienists (ACGIH.), Threshold Limit Values and Biological Exposure Indices for 1988-1989.

(12) Fire fighters assigned to functional support operations outside the hot zone during hazardous chemical emergencies shall be provided with and shall use support function protective garments. Support function garments shall meet the requirements of NFPA, Standard on Support Function Protective Garments for Hazardous Chemical Operations 1993, 1990 edition.

(13) Support garments shall not be used in the hot zone of any hazardous material operation.

(14) Support function protective garments shall not be used for protection from chemical or specific chemical mixture with known or suspected carcinogenicity as indicated by (10)(a), (b), or (c).

(15) Support function protective garments shall not be used for protection from chemicals or specific chemical mixtures with skin toxicity notations as indicated in the American Conference of Governmental Industrial Hygienists, Threshold Values and Biological Exposure Indices for 1988-1989.

(16) Elements of emergency response, handling emergency response, training responder levels of responsibility, medical evaluation, and ICS functions are outlined in chapter 296-62 WAC, Part P, Hazardous Waste Operations and Emergency Response.

Note: Decontamination - See Appendix D.

Additional References: Chapter 296-62 WAC, Part P, Hazardous Waste Operations and Emergency Response.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-035 (~~Safe place standards.~~) ~~((1) Every employer shall furnish and require the use of appropriate safety devices and safeguards. All firefighting methods, and operations shall be so designed as to promote the safety and health of employees. The employer shall do everything reasonably necessary to protect the lives and safety of employees.~~

~~(2) No fire fighter or other employee, employer or employer representative shall:~~

~~(a) Remove, displace, damage, destroy or carry off any safety device, safeguard, notice or warning furnished for use in any employment or place of employment.~~

~~(b) Interfere in any way with the use of any safety device, method or process adopted for the protection of any employee.)~~ Reserved.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-040 (~~First aid training and certification.~~) ~~((1) All fully paid fire fighters and volunteers, except directors of fire departments and the directors' designated personnel, shall have first aid training as evidenced by a current, valid first aid card as issued by an organization approved by the director of the department of labor and industries or by documented evidence of equivalent training. New fire fighters shall have or be enrolled in such first aid training within 90 days of the date of their employment or enroll for training within 30 days of the date of their employment.~~

~~(2) First aid training and certification for other employees and directors of fire departments shall conform to the requirements of WAC 296-24-060.)~~ Reserved.

NEW SECTION

WAC 296-305-04001 Respiratory equipment protection. (1) Fire fighter's self-contained breathing apparatus (SCBA) shall:

- (a) Be pressure demand type (positive pressure);
- (b) Operate in the positive pressure mode only;
- (c) Have a minimum of thirty minutes service duration;
- (d) Be NIOSH/MSHA certified; and
- (e) Meet the requirements of NFPA, Standard on Open Circuit Self Contained Breathing Apparatus for Fire Fighters 1981, 1992 edition.

(2) Closed circuit SCBA shall:

- (a) Be positive pressure;
- (b) Be NIOSH/MSHA certified; and
- (c) Have a minimum thirty-minute service duration.

(3) Members using SCBA's shall operate in teams of two or more.

(4) Fire departments shall adopt and maintain a written respiratory protection program that addresses the requirements of chapter 296-62 WAC, Part E, Respiratory protec-

tion. This includes program administration, medical limitations, equipment limitations, equipment selection, inspection, use, maintenance, training, fit testing procedures, air quality, and program evaluation.

Note: Additional guidance on respirators and respirator usage can be found in ANSI Z88.2 - American National Standard for Respiratory Protection; ANSI Z88.5 - Practices for Respiratory Protection for Fire Service; various NFPA publications (1981, 1404, 1500, etc.), and the Washington State Fire Service Training Program for respiratory training and usage.

(5) When fire departments purchase compressed breathing air from a vendor, the fire department shall require the vendor to provide certification and documentation of breathing air quality quarterly as specified in (23) of this section.

(6) When the fire department makes its own breathing air or uses vendor purchased breathing air, the air quality from compressors, cascade systems cylinders, shall be tested at least quarterly as specified in subsection (23).

(7) Qualitative fit testing shall be conducted.

(a) Each new member shall be tested before being permitted to use SCBA's in a hazardous atmosphere.

(b) Only fire fighters with a properly fitting facepiece shall be permitted by the fire department to function in a hazardous atmosphere with SCBA. (Reference WAC 296-62-07115(3) Respiratory Sealing Problems.)

(c) Fit testing shall be repeated:

(i) At least once every twelve months.

(ii) Whenever there are changes in the type of SCBA or facepiece used.

(iii) Whenever there are significant changes in the user. Example: Weight change of ten percent or more, scarring of face seal area, dental changes, cosmetic surgery, or any other condition that may affect the fit of the facepiece seal.

(d) The fit testing is done only in a negative-pressure mode. If the facepiece is modified for fit testing, the modification shall not affect the normal fit of the device. Such modified devices shall only be used for fit testing.

(e) A fit factor of at least 100 shall be obtained.

(f) The fit test procedures and test exercises described in WAC 296-62-07739, Asbestos, Appendix C, shall be followed unless stated otherwise in this chapter.

(g) Respirator fit test records shall include:

(i) Written guidelines for the respirator fit testing program including pass/fail criteria;

(ii) Type of respirator tested including manufacturer, model, and size;

(iii) Type of fit test and instrumentation or equipment used;

(iv) Name or identification of test operator;

(v) Name of person tested;

(vi) Date of test; and

(vii) Results of test.

Note: Fire fighters should be issued individual facepieces.

(8) Facial hair, contact lenses, and eye and face protective devices.

(a) A negative pressure respirator, any self-contained breathing apparatus, or any respirator which is used in an atmosphere immediately dangerous to life or health (IDLH) equipped with a facepiece shall not be worn if facial hair

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comes between the sealing periphery of the facepiece and the face or if facial hair interferes with the valve function.

(b) The wearer of a respirator shall not be allowed to wear contact lenses if the risk of eye damage is increased by their use.

(c) If a spectacle, goggle, or face shield must be worn with a facepiece, it shall be worn so as to not adversely affect the seal of the facepiece to the face. See WAC 296-62-07115(3).

(d) Straps or temple bars shall not pass between the seal or surface of the respirator and the user's face.

(9) At the end of suppression activities (to include fire overhaul) and before returning to quarters:

(a) Fire fighters shall be decontaminated prior to removal of respirators whenever fire fighting activities resulted in exposure to a hazardous substance.

(b) When exchanging air supply bottles during suppression or overhaul activities, reasonable precautions shall be taken to maintain uncontaminated atmosphere to the breathing zone and facepiece supply hose.

(10) Self-contained respiratory equipment shall be available and used by all fire fighters who enter into hazardous atmospheres.

(a) Positive pressure air line respirators may be used only for atmospheres other than IDLH and must be equipped with a five minute positive pressure escape bottle.

(b) The self-contained air supply shall only be used for escape unless the service life of the air supply is greater than fifteen minutes.

(c) If the service life of the self-contained air supply is greater than fifteen minutes, it may be used to enter an IDLH atmosphere breathing from the self-contained air supply, provided that not more than twenty percent of the noted air supply is used during entry.

(11) All fire environments shall be considered IDLH until tested otherwise.

(12) The maximum length of hose for supplied air respirators is 300 feet (91 meters). Such hose shall be heavy duty nonkinking and NIOSH approved.

(13) Air supplied respirators shall be provided for, and shall be used by, all personnel working in areas where:

(a) The atmosphere is hazardous;

(b) The atmosphere is suspected of being hazardous; or

(c) The atmosphere may rapidly become hazardous;

(14) Anytime fire fighters are working inside a confined space, such persons shall be provided with SCBA or air line respirator with escape bottle, and shall use the equipment unless the safety of the atmosphere can be established by testing and continuous monitoring.

(15) Fire fighters using a properly functioning SCBA shall not compromise the protective integrity of the SCBA by removing the facepiece for any reason in hazardous atmospheres or in atmospheres where the quality of air is unknown.

(16) Fire fighters shall receive training for each type and manufacturer of respiratory equipment available for their use, the step-by-step procedure for donning the respirator and checking it for proper function. Required training shall include:

(a) Recognizing hazards that may be encountered;

(b) Understanding the components of the SCBA;

(c) Understanding the safety features and limitations of the SCBA; and

(d) Donning and doffing the SCBA.

(17) After completing such training, each fire fighter shall practice at least quarterly, for each type and manufacturer of respirator available for use, the step-by-step procedure for donning the respirator and checking it for proper function.

(18) Members shall be tested at least annually on the knowledge of SCBA equipment operation, safety, organizational policies and procedures, and facepiece seals, to the fire department's standard. Such records shall remain part of the member training file.

(19) Members shall be allowed to use only the make, model, and size respirator for which they have passed a fit test within the last twelve months.

Note: The use of long duration (60 minutes) SCBA's should be restricted to operations in tunnels and underground structures, on board ships, and other situations where the need for this capability is demonstrated. The use of such duration SCBA's as the primary attack SCBA increases the weight a fire fighter has to carry and thereby may increase his/her heat stress.

(20) In cases where there is a reported failure of an SCBA the unit shall be removed from service, tagged and recorded as such, and tested before being returned to service.

(21) Fire fighters shall be thoroughly trained in accordance with the manufacturer's instructions on emergency procedures such as use of regulator bypass valve, corrective action for facepiece and breathing tube damage, and breathing directly from the regulator (where applicable).

(22) Compressed gaseous breathing air in the SCBA cylinder shall meet the requirements of ANSI/CGA G7.1 - Commodity Specification for Air, with a minimum air quality of grade D, as well as meeting a water vapor level of 25 ppm or less.

(23) SCBA cylinders shall be hydrostatically tested within the periods specified by the manufacturer and the applicable governmental agencies.

(24) Physiological and psychological limitations for respirator wearers. The respirator program administrator or his or her designee, using guidelines established by a physician, shall determine whether or not a person may be assigned to a task requiring the use of a respirator. Persons with physical disabilities such as, but not limited to, respiratory impairments, or claustrophobia when wearing a respirator, shall not be assigned to tasks requiring the use of respirators unless it has been determined by a qualified physician that they are physically able to perform the work and use the equipment. All respirator user's medical status should be reviewed annually.

Additional References:

NFPA 1404, 1989 edition, Fire Department Self-Contained Breathing Apparatus Program.

NFPA 1582, 1992 edition, Medical Requirements for Fire Fighters.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

~~WAC 296-305-045 ((First aid kits.)) (((1) There shall be present at each fire scene or other emergency response~~

location, a first aid kit of packaged supplies, including at least the following items:

- ~~1—Bag mask or equivalent~~
- ~~2—Rolls of 3" bandages~~
- ~~4—Combination pads~~
- ~~4—Packaged 4" x 4" dressings~~
- ~~3—Rolls of 1" adhesive tape~~
- ~~1—Eye dressing (1 per package)~~

~~(2) All station houses while manned by employees shall maintain a first aid kit of packaged supplies containing at least the following items:~~

- ~~4 each—4" bandage compresses~~
- ~~4 each—2" bandage compresses~~
- ~~5 each—Triangular bandages~~
- ~~2 each—Gauze dressings~~
- ~~2 each—Wire splints or equivalent~~
- ~~1 pair—Bandage shears~~
- ~~1 pair—Tweezers~~
- ~~1 package—Assorted adhesive bandages~~
- ~~1 package—Eye dressing (1 per package)))~~ Reserved.

NEW SECTION

WAC 296-305-04501 Automotive fire apparatus design and construction. (1) All new fire apparatus with the exception of specialized equipment, shall conform to the following minimum safety standards contained in NFPA Booklets No. 1901, 1902, 1903, 1904, and other 1900's.

(2) Fire apparatus, purchased after December 17, 1977, weighing 10,000 pounds or more shall conform with the following U.S. Department of Transportation standards, when applicable:

- (a) 571-121 Standard 121, Air brake systems;
- (b) 571-106 Standard 106, Hydraulic brake hoses;
- (c) 571-211 Standard 211, Wheel nuts, wheel discs, hub caps.

(3) Employers acquiring used apparatus or used equipment shall not be required to bring it under a more stringent code than the one in force at the time the apparatus was manufactured. However, such vehicle must meet applicable U.S. Department of Transportation standards and WAC 296-24-233.

(4) Fire apparatus tailboards and steps shall have a nonskid rough surface.

(5) Exhaust systems shall be installed and maintained in proper condition, and shall be so designed as to minimize the exposure of the fire fighter to the exhaust gases and fumes.

(6) Spinner knobs shall not be attached to the steering handwheel of fire apparatus.

(7) The transmission shifting pattern of the apparatus shall be clearly stenciled or labeled and posted so it can be clearly read by the driver while operating the apparatus.

(8) The height of any apparatus, over seven feet in height from the ground to the top of the beacon or highest point of the apparatus, shall be clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

(9) All apparatus in excess of 10,000 pounds loaded weight, shall have the weight of the vehicle in pounds and tons clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.

NEW SECTION

WAC 296-305-04503 Automotive fire apparatus equipment. (1) Vehicles used to transport fire fighters and employer representatives shall have compartments for carrying sharp tools, saws, chisels, axes, etc., or if carried on the outside of the apparatus, equipment with sharp points and edges shall be covered to prevent injury to fire fighters and employer representatives.

(2) Personnel restraints for traveling.

(a) All persons riding on fire apparatus shall be seated and secured to the vehicle by seatbelts or safety harnesses at any time the vehicle is in motion.

(b) Seatbelts shall comply with U.S. Department of Transportation Part 49 CFR Section 571, Standards 209 and 210.

(c) Riding on tailsteps or in any other exposed position shall be specifically prohibited.

(d) Standing while riding shall be specifically prohibited.

Note: See WAC 296-305-07011(3) for exceptions for wildland vehicles.

(3) Each fire apparatus shall carry a current U.S. Department of Transportation chemical identification book or the equivalent.

(4) Ladders stowed on the sides of apparatus, which protrude past the tailboard, shall have guards over the protruding ends.

(5) No employer shall permit automotive fire apparatus equipment which has an obstructed view to the rear, to be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level.

NEW SECTION

WAC 296-305-04505 Automotive apparatus operational rules. (1) Each employer of staffed fire apparatus shall establish a written policy and procedure whereby the apparatus has a scheduled daily operational check. Each employer of unstaffed fire apparatus shall establish a schedule appropriate to that department's activities.

(2) Any item found to be in need of repair shall be reported immediately to the officer.

(3) Fire fighting apparatus shall be brought to a full stop before employees are allowed to step from the apparatus.

(4) Fire fighters shall not be in the apparatus hose bed while hose is being run out from the bed.

(5) Headlights shall be on at all times when any fire or emergency vehicle is responding to a call.

(6) All apparatus over 20,000 pounds (gross vehicle weight) shall utilize wheel blocks when parked at an emergency scene.

(7) Apparatus responding to alarms shall meet specifications in RCW 46.61.035, relating to operations of authorized emergency vehicles.

(8) All operators of emergency vehicles shall be trained in the operations of apparatus before they are designated as drivers of such apparatus. The training program shall be established by each fire department. All operators shall be made familiar with each piece of apparatus before operating equipment for even short periods of time.

(9) Apparatus speed shall be determined to be safe if in the judgment of the officer in charge, the following are taken into consideration:

(a) The particular attack methods being utilized including, but not limited to the nature of the fire, the type of terrain, weather conditions, equipment condition, the number of attack vehicles available, and whether personnel are positioned in wildland fire fighting enclosures;

(b) The forgoing provision shall not relieve the driver from the duty to drive with due regard for the safety of all persons;

(c) Nor shall such provision protect the driver from the consequences of his/her reckless disregard for the safety of others.

(10) When utilizing a ground mobile attack, the walker(s) shall be in either visual or audible communication with the driver while the vehicle is in motion.

NEW SECTION

WAC 296-305-04507 Fire apparatus maintenance and repair. (1) If at any time a fire apparatus is found to be in an unsafe condition, it shall be reported immediately to the officer on duty.

(2) If in the officer's determination, the apparatus cannot be used in a safe manner, it shall be taken out of service until it has been restored to a safe operating condition.

(3) All repairs and preventive maintenance to fire apparatus shall only be made by personnel deemed qualified by the registered owners of the fire apparatus.

(a) A preventive maintenance program shall be instituted and records maintained for each individual apparatus in order to record and track potential or on-going problems.

(b) A minimum annual service test of apparatus shall be made according to NFPA guidelines relating to pumper apparatus.

(c) Failure of any portion of the annual service test shall constitute the apparatus to be placed out of service until adequate repairs are made and the apparatus successfully completes said test.

NEW SECTION

WAC 296-305-04509 Aerial ladders. (1) When operating aerial ladders, the manufacturer's suggested procedures shall be followed.

(2) Aerial ladders shall be used according to the following requirements:

(a) The number of fire fighters permitted on aerial ladders shall be in accordance with the manufacturer's instructions.

(b) Aerial ladders shall not knowingly be positioned under dangerous cornices or other loose overhanging objects that may endanger fire fighters and fire fighters working on, or climbing the ladders, except where rescue operations are essential.

(c) When working on, or near energized electrical lines, the following minimum working clearances shall be observed:

(i) For lines rated 50 kv or below, the minimum clearance between the lines and any part of the equipment shall be ten feet.

(ii) For lines rated over 50 kv, the minimum clearance shall be ten feet plus 0.4 inch for each 1 kv.

(iii) For low voltage lines (operating at 750 volts or less), the work shall be performed in a manner to prevent the fire fighters contacting the energized conductor.

(d) Fire apparatus aerial ladders shall be positioned for the greatest stability feasible at the fire scene.

(e) The tip of the aerial ladder shall not be forcefully extended against a solid structure.

(f) Aerial ladders shall not be extended or retracted while fire fighters are climbing the ladder.

(g) Locking in shall not be permitted. If it is necessary for fire fighters to be positioned on the aerial, they shall be secured by a life belt.

(h) Ladder pipes, when in use, shall be secured to the aerial in such a manner so that the ladder pipe cannot accidentally be dislodged while in operation.

(i) The operator of the aerial shall remain at the turntable whenever fire fighters are working on the aerial except when it is used as a ground ladder.

(3) The following shall regulate the design and use of the operating turntable and ladder:

(a) Ladders shall be designed to have nonskid protection on the rungs.

(b) Turntable controls and valves for rotating, extending, or elevating the aerial ladder shall be clearly and distinctly marked as to function.

(c) Aerial controls shall be spring loaded and have a safety catch so that the controls shall return to the neutral position if the operator is incapacitated.

(d) The operator of the aerial shall be provided with a nonskid surface on the turntable surface.

(e) A railing of approximately 44 inches in height, and if possible, not less than 36 inches in length, shall be installed on the turntable in back of the operators position.

(f) A light of not less than 10,000 candlepower shall be provided at the base to illuminate the ladder at night in any position of operation.

(4) The following shall regulate the communication systems on the aerial ladder and on the automotive fire apparatus.

(a) A two-way voice communication system shall be installed between the top fly of the ladder and the lower control station.

(b) There shall be some type of electrical signal or voice communication located in the tractor of tillered aerial for communication signals between the tillerman and driver. The apparatus shall not be moved unless the proper signal, as shown in Appendix F, is received from the tillerman.

(5) When maintaining the aerial ladder, the manufacturer's instructions shall be followed.

(a) Cables, pulleys, rails and rungs of aerial ladders shall be inspected for wear and tightness on a monthly basis or every ten hours of operating time, whichever ever comes first.

(b) Pulleys on the aerial with cracks or pieces broken out of rims shall be replaced.

(c) Cables showing evidence of damage or wear shall be replaced.

(d) Rungs or rails that have been subjected to unusual impact shall be tested before usage.

(6) The automotive fire apparatus used in conjunction with aerial ladders shall be designed and used according to the following:

(a) Ground jacks or outriggers shall be deployed before an aerial ladder is put into operation.

(b) Ground plates shall be deployed under the outriggers or jacks at all times.

(c) Hand, airbrakes, and spring brakes for fifth wheel shall be set whenever an aerial ladder is in operation.

(d) In addition to ground jack supports and outriggers, wheel blocks shall be used whenever the aerial is in operation.

(e) Wheel chocks shall be rated by the manufacturer of the chock for the apparatus it is to be used on.

(f) Sand shall be put under jacks and outriggers when operating on ice or snow.

(7) Annual testing of metal aerial ladders shall follow the recommendations of the current National Fire Code.

(a) The aerial ladder, as well as the support section of the apparatus which supports the turntable, shall be nondestructively tested by a certified testing agency every five years.

(b) After any accident that causes structural damage, the test in (a) shall be performed and all defects detected shall be corrected before the apparatus is returned to service.

NEW SECTION

WAC 296-305-04511 Elevated platforms. (1) Elevated platform system design requirements:

(a) The platform shall have a minimum floor area of fourteen square feet.

(b) The platform shall be provided with a guard railing. The guard railing shall be 42 to 45 inches high on all sides.

(c) The railing shall be constructed so that there is no opening below it greater than 19 inches.

(d) There shall be two gates below the top railing, each of which shall be provided with suitable safety latches.

(e) A kick plate not less than four inches high shall be provided around the floor of the platform.

(f) Drain openings shall be provided to prevent water accumulation on the platform.

(g) A heat-protective shield shall be provided on the platform for the protection of the operator.

(h) Hydraulic or pneumatic systems shall have a minimum bursting strength of at least four times the operating pressure for which the system is designed.

(i) The basic structural elements of the hydraulic or articulating boom shall have a safety factor of three.

(j) Each hydraulic or pneumatic system for the boom shall be equipped with a pilot operated check valve or other appropriate device to prevent free fall in the event of hydraulic failure.

(2) Requirements related to the controlling of elevated platforms:

(a) A control or device shall be provided at both the lower control station and the platform control station to allow either operator to completely deactivate the platform controls.

(b) During the deactivation of the platform controls, the lower controls shall remain operable.

(c) A plate shall be located at the platform control unit or units listing the following information:

(i) Model and serial number of the manufacturer;

(ii) Rated capacity of the platform;

(iii) Operating pressure of the hydraulic or pneumatic systems or both;

(iv) Caution or restriction of operation or both; and

(v) Control instructions.

(vi) This plate shall be clearly visible to the operator at the lower control position.

(d) There shall be an operator at the lower controls at all times while the fire fighter is in the bucket.

(e) The operator at the lower controls shall make certain the fire fighter on the platform is secured by his life belt, or equivalent, before raising the platform.

(3) Testing of elevated platforms and related apparatus shall be conducted annually.

(a) Testing of elevated platforms and related apparatus shall be in accordance with NFPA, Standard for Testing Fire Department Aerial Ladders 1914, 1991 edition.

(b) It is recommended that the boom section as well as the support section of the apparatus which supports the turntable should be nondestructively tested by a certified testing agency every five years.

(c) After any accident that causes structural damage, testing shall be performed and all defects detected shall be corrected before the apparatus is returned to service.

(d) Elevated platform testing shall follow recommendations of the current National Fire Code.

(e) Fire apparatus elevated platforms shall be positioned for the greatest stability feasible at the fire scene.

(4) A two-way voice communication system shall be installed between the platform and the lower control station.

(5) Automotive apparatus used in conjunction with elevated platforms shall be used in accordance with the following:

(a) Hand or air brakes shall be set before the platform is operated.

(b) Jacks or outriggers shall be used if the platform is to be elevated.

(c) Wheel blocks shall also be used when the platform is in operation unless the type of apparatus is one that has wheels that lift off the ground when the jacks or outriggers are engaged.

(d) Ground plates shall be used under the outriggers or jacks.

(e) Sand shall be put under jacks and outriggers when operating on ice or snow.

(f) When working on or near energized electrical lines, the fire department shall develop operational procedures for observing the following minimum working clearances:

(i) For lines rated 50 kv or below, the minimum clearance shall be ten feet.

(ii) For lines rated over 50 kv, the minimum clearance shall be ten feet plus 0.4 inch for each 1 kv.

(iii) For low voltage lines (operating at 750 volts or less), the work shall be performed in a manner to prevent the fire fighters contacting the energized conductor.

(6) Appliances mounted on elevated platforms. Platform mounted monitors shall be operated in accordance with the manufacturer's instructions.

Additional References: WAC 296-24-885.

NEW SECTION

WAC 296-305-05001 Emergency fireground operations—Structural. (1) The fire department shall establish an incident command system (ICS) with written guidelines applying to all members involved in emergency operations. All members involved in emergency operations shall be familiar with the ICS system. Personnel shall be trained and qualified by their department in the incident command system prior to taking a supervisory role at an emergency scene.

(2) At an emergency incident, the incident commander shall be responsible for the overall safety of all members and all activities occurring at the scene.

(3) All emergency incidents shall be managed by an ICS, the incident commander shall establish an organization with sufficient supervisory personnel to control the position and function of all members operating at the scene and to ensure that safety requirements are satisfied.

(4) At an emergency incident, the incident commander shall have the responsibility to:

(a) Assume and confirm command and take an effective command position.

(b) Perform situation evaluation that includes risk assessment.

(c) Initiate, maintain, and control incident communication.

(d) Develop an overall strategy and attack plan and assign units to operations.

(e) Develop an effective incident organization by managing resources, maintaining an effective span of control, and maintaining direct supervision over the entire incident by creating geographic and functional sectors.

(f) Review, evaluate, and revise the attack plan as required.

(g) Continue, transfer, and terminate command.

(5) The fire department shall develop a risk management policy that can be implemented into the function of incident command and the development of incident strategies.

(a) The risk management policy should include direction and guidance to the incident commander in formulating incident planning relating to the level of risk that may be undertaken in any given incident to save lives and to save property of value in as safe a manner as dictated by the situation.

(b) The policy should contain guidance indicating that the risk to be undertaken in incidents involving property unsavable or of no value should be carefully evaluated by the incident commander.

(6) The fire department shall establish written procedures and guidelines for tracking all members operating at an emergency incident.

(7) The incident command system shall provide for control of access to hazardous areas of the incident scene by department members.

(8) Fire fighters operating in hazardous areas at emergency incidents shall operate in teams of two or more.

(a) Team members operating in hazardous areas shall be in communication with each other through visual, audible, physical, safety guide rope, or electronic means, or by other means in order to coordinate their activities.

(b) Team members shall be in close proximity to each other to provide assistance in case of emergency.

(9) The fire department shall provide personnel for the rescue of members operating at emergency incidents as the need arises.

(10) In the "initial stages" of a structure fire-incident where only one team is operating in the hazardous area, at least one additional fire fighter shall be assigned to stand by outside of the hazardous area where the team is operating.

(a) The responsibility of the standby fire fighter shall be the maintaining awareness of the status of fire fighters in the hazardous area.

(b) The standby fire fighter shall remain in positive communication with the entry team, in full protective clothing with SCBA donned, in the standby mode.

(c) The standby fire fighter shall be permitted to perform other duties outside the hazardous area, provided constant communications is maintained with the team in the hazardous area.

(11) Once subsequent teams are assigned or operating in the hazardous area, the incident shall no longer be considered in the "initial stage," and at least one rapid intervention team shall be required.

(12) The incident commander shall evaluate the situation and the risks to operating teams, and shall provide one or more rapid intervention crews commensurate with the needs of the situation.

(a) A rapid intervention crew shall consist of at least two members and shall be available for rescue of a member or a team if the need arises.

(b) Rapid intervention crews shall be fully equipped with the appropriate protective clothing, protective equipment, SCBA, and any specialized rescue equipment that might be needed given the specifics of the operation underway.

(c) The composition and structure of the rapid intervention crews shall be permitted to be flexible based on the type of incident and the size and complexity of operations.

(13) The fire department shall develop and maintain written guidelines for the safety of members at incidents that involve violence, unrest, or civil disturbance. Such situations may include but not be limited to riots, fights, violent crimes, drug related situations, family disturbances, deranged individuals, and people interfering with fire department operations.

(14) Officers at emergency scenes shall maintain an awareness of the physical condition of members operating within their span of control and ensure that adequate steps are taken to provide for their safety and health. The command structure shall be utilized to request relief and reassignment of fatigued crews.

(15) Wildfire suppression personal protective clothing/equipment shall not be utilized for interior attacks on structures.

(16) Teams in the hazardous area shall have positive communication capabilities with the incident command structure. Incident radio communication capabilities within the incident command structure shall include monitoring of incident-assigned frequencies (including mutual aid radio frequencies).

(17) Prior to overhaul, buildings shall be surveyed for possible safety and health hazards. Fire fighters shall be informed of hazards observed during the survey.

(18) During the overhaul phase officers shall identify materials likely to contain asbestos, limiting the breaching of structural materials to that which is necessary to prevent rekindle.

(19) Floatation devices shall be made available to fire fighters at incidents where drowning is a possibility. This is not intended to include pools and hot tubs.

(20) Fire fighters shall not cut the electrical drip loop providing power to the structure nor pull the electrical meter.

(21) Traffic cones or other traffic control devices shall be utilized when vehicular traffic hazards exist at an emergency operation.

NEW SECTION

WAC 296-305-05003 Confined space rescue operations. (1) Fire departments engaged in confined space entry or rescue shall comply with chapter 296-62 WAC, Part M.

(2) Fire departments shall establish written procedures/protocols for confined space entry. Fire departments engaged in confined space entry or rescue shall conduct an annual evaluation of the written operational procedures/protocols to ensure compliance with current state and federal requirements.

(3) At confined space incidents, at least two people shall be equipped with appropriate breathing appliances to act as the rescue team.

(a) The rescue team shall remain free of the contaminated area in order to afford rescue for exposed or disabled fire fighters.

(b) The rescue team shall be trained in such rescue operations and, in the abilities and limitations of the breathing appliances in use.

NEW SECTION

WAC 296-305-05005 High angle rescue operations. (1) Fire departments engaged in high angle rescue operations shall comply with the requirements of this section and WAC 296-305-02019.

(2) Employees engaged in high angle rescue operations shall be properly trained and qualified by the employer to perform such activities.

(3) Employers shall establish standard operational procedures for high angle rescue activities and training.

(4) When engaged in high angle activities, employees shall be provided and wear either structural fire fighting helmets and gloves, or helmets and gloves designed for, and recognized as, climbing helmets and gloves.

(5) Records shall be maintained of inspections and repairs made to high angle rescue equipment.

(a) Equipment shall be inspected after purchase and prior to placing in service, after each use, and at least semi-annually.

(b) Harnesses shall be inspected for worn or broken stitching, rivets worn out of holes, and damage from abrasion, cuts, or chemicals.

(c) Descending/ascending hardware shall be inspected for wear, cracks, distortion, sharp edges, and ease of operation.

(d) Equipment showing damage or wear that can affect employee safety, shall be either repaired prior to further use or retired.

(6) The manufacturer's recommended shelf life of ropes shall be followed. If no shelf life is specified, ropes greater than six years old, whether used or not, shall be taken out of service or destroyed.

NEW SECTION

WAC 296-305-05007 Trench rescue operations. (1) Fire departments that engage in trench rescue operations shall adopt and maintain a written response program that addresses training and procedures to follow in emergency life threatening situations.

(2) Employees that engage in trench rescue operations shall be properly trained in operational procedures according to the Washington state accredited sixteen-hour emergency trench rescue course.

NEW SECTION

WAC 296-305-05009 Watercraft rescue operations. (1) If a manufacturer's specifications are such that an engineer is required for the operation of a vessel, then one shall be provided.

(2) When fire boats perform rescue activities they shall have two dedicated deckhands.

(3) Watercraft load capabilities shall not exceed the manufacturer's specifications.

(4) Each fire department shall determine the function of their watercraft; as fire fighting, rescue, or both.

(5) Watercraft operating within navigable waters of the state of Washington (as defined by the United States Coast Guard) shall comply with all of the rules of the United States Coast Guard.

(6) Fire boats operating within navigable waters of the state of Washington (as defined by the United States Coast Guard) shall have a fully dedicated pilot.

(7) The operator (pilot) of the watercraft is responsible for its safe operation.

(8) Training for all personnel shall represent the intent of the employer and physical characteristics of the vessel involved and shall be included in the employer's accident prevention program.

(a) All assigned personnel shall be trained in safe operation of watercraft and the operations the craft is intended to perform.

(b) All employees involved in water rescue shall be trained in water rescue techniques and wear Coast Guard approved personal flotation devices, Type 2, minimum.

Exception: Employees working below deck or in enclosed cabins.

(9) All employers operating watercraft in nonnavigable waters shall be responsible for training all employees to local hazards.

NEW SECTION

WAC 296-305-05011 Hazardous materials operations. Fire departments engaged in emergency response to releases of hazardous substances shall comply with chapter 296-62 WAC, Part P, Hazardous Waste Operations and Emergency Response.

NEW SECTION

WAC 296-305-05013 Aircraft rescue and fire fighting. Fire departments engaged in aircraft rescue and fire fighting operations shall review NFPA, Manual for Aircraft Rescue and Fire Fighting Operations 402M, 1991 edition.

NEW SECTION

WAC 296-305-05501 Fire training. (1) All members who engage in emergency operations shall be trained commensurate with their duties and responsibilities. Training shall be as frequent as necessary to ensure that members can perform their assigned duties in a safe and competent manner but shall not be less than the frequencies specified in this standard. Minimum training shall be as specified in this part.

(2) Live structural-fire training: Prior to being permitted to participate in live structure-fire training evolutions, the student shall have received adequate training in safety, protective breathing apparatus, fire hose, nozzles and fire streams, ladders, and rescue as defined by the employer.

(a) Strict safety practices shall be applied to all structures selected for live fire training evolutions.

(b) In preparation for live training, an inspection of acquired buildings shall be made to determine that the floors, walls, stairs and other structure components are capable of withstanding the weight of contents, participants and accumulated water.

(c) Removal or neutralization of materials of all hazardous storage and conditions within the structure shall be accomplished.

(i) Closed containers and highly combustible materials shall be removed.

(ii) Oil tanks and similar closed vessels that cannot easily be removed shall be vented sufficiently to eliminate an explosion or overpressure rupture.

(iii) Any hazardous or combustible atmosphere within the tank or other vessel shall be rendered inert.

(iv) Hazards potentially dangerous to participants such as floor openings, missing stair tread and rails, and other such hazards shall be repaired or made inaccessible.

(d) If applicable, floors, railings and stairs shall be made safe. Special attention shall be given to potential chimney hazards.

(e) Debris hindering the access or egress of fire fighters shall be removed before continuing further operations.

(f) Buildings that cannot be made safe as required by this section shall not be utilized for interior live fire training.

Note: The water supply for any individual live fire training evolution should be assessed based on the extent of the evolution, size and structure of the building and contents to be involved, method of attack to be employed, protection of exposures and reserves for potential contingencies. Separate sources should be used for supply to attack and backup lines.

(g) Prior to conducting actual live fire training evolutions, a preburn briefing shall be conducted for all participants.

(i) All evolutions shall be discussed and assignments shall be made for all crews participating in the training sessions.

(ii) All participants shall have a knowledge and familiarity with the layout of the building.

(h) A safety officer shall be appointed for all live fire training evolutions.

(i) One person shall be designated to control the materials being burned and to ignite the training fire in the presence and under the direction of the safety officer. This person shall not be a student and shall wear full protective clothing, including SCBA.

(j) Unidentified materials such as debris which may burn in unanticipated ways, react violently, or create environmental hazards, shall not be used in live fire training evolutions.

(k) Each participant in a live fire training evolution shall be equipped with full protective clothing and SCBA. All participants shall be inspected by the safety officer to insure all protective clothing and SCBA are being properly worn prior to entry into a live fire training evolution.

(l) All instructors shall be deemed qualified to deliver structural fire fighting training by the employer. The instructor-student ratio shall not be greater than one to five.

(m) Officers shall make a head count both when entering and exiting a building during an actual attack.

(n) Supervisors at the training evolution shall maintain an awareness of the condition of members operating within the span of their control. They shall ensure adequate steps are taken to provide for the safety and health of the participants and relief or reassignment of fatigued persons.

(3) Fire fighters shall be trained in the function, donning and doffing, care, use, inspection, maintenance and limitations of the equipment assigned to them or available for their use.

(4) When fire fighters are engaged in training above the ten-foot level where use of life lines or similar activities are to be undertaken, a safety net shall be erected or other approved secondary means of fall protection such as recommended in chapter 296-155 WAC, Part C-1, Fall restraint and fall arrest, shall be used in lieu of nets.

(5) When fire fighters are sliding the life line, the life line shall pass through the center of the net and shall be attended by a fire fighter.

(6) During wet training exercises, fire hose meeting the 250 pound annual test shall be used.

NEW SECTION

WAC 296-305-05503 Additional training. (1) Training on hearing conservation shall conform to chapter 296-62 WAC, Part K, and WAC 296-305-02005.

(2) Training on medical procedures shall conform to WAC 296-305-040.

(3) Training on respiratory equipment shall conform to chapter 296-62 WAC, Part E, Respiratory protection, and WAC 296-305-04001.

(4) Training on employee right-to-know procedures shall conform to chapter 296-62 WAC, Part C, Hazard communication.

(5) Training on overhaul procedures and operations shall conform to WAC 296-305-05001.

(6) Training on wildland fires shall conform to WAC 296-305-07001 through 296-305-07019.

(7) Training on confined space entry and/or rescue shall conform to chapter 296-62 WAC, Part M, Permit-required confined spaces.

(8) Live fire training in structures shall conform to NFPA 1403 and this section.

(9) The employer shall provide training and education for all members commensurate with those duties and functions that members are expected to perform. Such training and education shall be provided to members before they perform emergency activities. Fire service leaders and training instructors shall be provided with training and education which is more comprehensive than that provided to the general membership of the fire department.

(10) The employer shall assure that training and education is conducted frequently enough to assure that each member is able to perform the member's assigned duties and functions satisfactorily and in a safe manner so as not to endanger members or other employees. All members shall be provided with training at least annually. In addition, members who are expected to perform interior structural fire fighting shall be provided with an education session or training at least quarterly.

(11) The quality of the training and education program for members shall be similar to that conducted by the Washington state protection bureau.

(12) The employer shall inform members about special hazards such as storage and use of flammable liquids and gases, toxic chemicals, radioactive sources, and water reactive substances, to which they may be exposed during fire and other emergencies. The members shall also be advised of any changes that occur in relation to the special hazards. The employer shall develop and make available for inspection by members, written procedures that describe the actions to be taken in situations involving the special hazards and shall include these in the training and education program.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-060 ((Personal protective equipment and clothing.)) ~~((1) Employers shall provide and maintain at no cost to the employee and assure the use of all protective clothing and equipment required by this standard. When the employer has agreed to provide funds in lieu of the actual clothing and equipment, funding shall be adequate to allow the purchase of such clothes and equipment without cost to the employee. The employer shall assure that the protective clothing ordered or purchased after the effective date of this standard meets the requirements of this standard. Four years after this effective date the employer shall assure that all fire fighters wear protective clothing meeting the requirements of this standard when performing interior structural fire fighting. Wearing anything less than full~~

~~protective clothing may be allowed by the employer's written policy as set forth in (3)(d) of this section.~~

~~(2) Personal protective equipment and clothing shall be of a type approved by NIOSH, MESA, NFPA, or as required by this section.~~

~~(3) Every fire fighter when working upon fire extinguishment on the emergency fire ground or training fire, shall wear a complete set of equipment and clothing, except when combating grass or wildland fires. Provided, clothing worn in place of full turnouts when fighting grass or wildland fires should comply with the following performance standard:~~

~~(a) Ancillary clothing:~~

~~(i) Flame resistance: When tested in accordance with Federal Test 191, Method 5903.2 "Flame Resistance of Cloth, Vertical" (standard small scale test), the test results shall not exceed the following limits:~~

~~(A) 2.0 seconds after flame~~

~~(B) 4.0 seconds after glow~~

~~(C) 6.0 inches average char length or 4.0 inches~~

~~Ignition of the material shall not produce any melting and dripping of molten or flaming material. It is specifically required that upon exposure to flaming ignition or intense heat, the material will not adhere to the skin of the wearer so as to cause serious skin burns.~~

~~Exception: Ancillary clothing of 100% wool, with a weight of at least 14 ounces per lineal yard of 54 inch width shall be considered to be flame resistant.~~

~~(ii) Laundering: Garments shall be capable of withstanding not less than 50 washings or 25 dry cleanings with no significant changes in fire retardancy.~~

~~(iii) A label must be permanently attached, and shall attest that the fabric has been tested and meets the requirements of this section. The label shall include:~~

~~(A) Lot number~~

~~(B) The name and number of the specified test~~

~~(C) The date of the successful test.~~

~~(b) All turnout clothing placed into service after the effective date of these regulations shall meet the requirements set forth in this standard.~~

~~(c) Ancillary clothing placed into service after the effective date of these regulations shall meet the requirements set forth in this standard.~~

~~(d) The use of ancillary clothing does not exclude each employee from having a full set of turnouts. A written policy and procedure specifying the conditions under which less than a complete set of personal protective equipment and clothing can be worn, such as grass or wildland fires, shall be established by each employer and distributed to both fully paid and volunteer fire fighters.~~

~~(4) Written procedures with regard to repair, maintenance and servicing shall be established for the conservation of personal protective equipment. This provision applies to the fire fighter's personally owned equipment as well as to the employer owned equipment.~~

~~(5) Fire fighters shall wear the personal protective clothing and equipment designated for the task.~~

~~(6) Turnout clothing as defined in WAC 296-305-007.~~

~~(a) New turnout clothing purchased thirty days after the effective date of this chapter shall be manufactured and labeled to comply with the specifications of this chapter and~~

NFPA Standard 1971, 1986 edition, "Protective Clothing for Structural Fire Fighting."

(b) All turnout clothing used by full time fire department personnel after January 1, 1989, shall be at least equivalent to the specifications of this chapter and NFPA Standard 1971, 1981 edition.

(c) All turnout clothing used by volunteer fire department personnel after January 1, 1991, shall be at least equivalent to the specifications of this chapter and NFPA Standard 1971, 1981 edition.

(7) Inspection and maintenance:

(a) All turnout clothing shall be inspected by qualified personnel at not less than one hundred eighty day intervals.

(b) Turnout clothing shall be maintained as required by the manufacturer.

(8) Turnout clothing which is damaged or does not comply with this section shall not be used.) Reserved.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-06001 (~~(Eye and face protection.)~~) Fire service equipment. (~~Eye and face protection worn by fire fighters at the fire ground shall comply with the following regulations:~~

(1) ~~General requirements.~~ Face protection shall be required where there is a reasonable probability of injury that can be prevented by such protection, when such face protection does not protect the eyes from foreign objects additional eye protection shall be provided.

(2) ~~When self-contained respiratory equipment is being utilized by fire fighters, additional eye and face protection will not be required.~~

Employers shall make conveniently available a type of protection suitable for the work to be performed, and employees shall use such protectors. Protectors shall meet the following minimum requirements:

(a) ~~Provide adequate protection against the particular hazards for which they are designed.~~

(b) ~~Be reasonably comfortable when worn under the designated conditions.~~

(c) ~~Be durable.~~

(d) ~~Capable of being disinfected.~~

(e) ~~Easily cleanable.~~

(f) ~~Protectors that can be worn over corrective lenses shall be available for those who need them.~~

(3) ~~Face shields.~~

(a) ~~Face shields shall accommodate any of the following styles of windows:~~

(i) ~~Clear transparent.~~

(ii) ~~Colored transparent.~~

(b) ~~Disinfection.~~ When a person is assigned protective equipment, it is recommended that this equipment be cleaned and disinfected regularly.

(c) ~~Face shields must be an integral part of the fire helmet and may be installed in a fixed position or hinged allowing adjustment of the shields.~~

(d) ~~In the event breathing apparatus is being used which incorporates a face mask, the face mask will be considered an acceptable face shield.~~

(4) ~~Goggles, flexible, or cushioned fitting.~~ Goggles shall consist of a wholly flexible frame, forming a lens

holder or a rigid frame with integral lens or lenses, having a separate, cushioned fitting surface on the full periphery of the facial contact area:

(a) ~~Materials used shall be chemical resistant, nontoxic, nonirritating and slow burning.~~

(b) ~~There shall be a positive means of support on the face, such as an adjustable headband of suitable material or other appropriate means of support to retain the frame comfortable and snugly in front of the eyes.~~

(5) ~~Design, testing and use of devices for eye and face protection shall be in accordance with current ANSI Z87.1 Occupational Eye and Face Protection.)~~ (1) All portable equipment shall be inspected prior to, and after use.

(2) Any defective equipment shall be removed from service.

(3) Nylon utility straps or straps of equivalent strength should be used instead of hose belts. The utility strap shall be of one-inch nylon, or equivalent belting, with a four-inch overlap and sewn with polyester thread and shall measure at least 102 inches on the outside circumference.

(4) The load capacity shall be stenciled on each portable jack and the load capacity shall not be exceeded.

(5) The instruction plate on portable jacks shall be maintained in a legible condition.

(6) Portable powered cut-off saws (rescue saws) shall be used in accordance with the manufacturer's recommendations.

Exception:

The lower blade guard described in WAC 296-24-65501 (1)(a) is not required on hand-held portable powered cut-off saws used by fire/rescue personnel for rescue procedures and/or roof ventilation for smoke removal, provided the operator is wearing appropriate eye, face, head, and body protection as specified in WAC 296-305-02001 through 296-305-02013. This exception also applies to qualified persons (e.g., instructors) wearing personal protective equipment as described herein to instruct personnel in safe roof ventilation/rescue techniques.

(7) When not in use, the cutting teeth on a chain saw shall be covered either by an old section of hose, a wooden scabbard, or an equivalent method.

(8) All axes worn by employees shall be provided with a scabbard to guard against injury from the blade and pick of the axe.

(9) The guards on smoke ejectors, as supplied by the manufacturer, shall not be removed and the operator of the ejector shall wear gloves.

(10) Acetylene cylinders. Handling, storage and utilization of acetylene in cylinders shall be in accordance with the Compressed Gas Association Pamphlet G-1 - 1966 edition.

(11) Powder activated life-line guns and accessories shall be stored in a box or container equipped with a lid or cover.

(a) The box shall be kept closed when not in use.

(b) A loaded life-line gun shall not be placed in the storage box.

(c) Instruction books, cleaning kits and hand tools needed for maintenance or breakdown purposes shall be kept in the life-line gun storage box.

(d) The words "powder activated tool" shall be conspicuously printed on the top of the storage box.

(12) Abrasive blades in storage shall be protected from contact with water, liquids, petroleum products and their fumes.

(13) Fiber rope that has been subjected to injurious chemicals or excessive heat shall not be used for load carrying purposes.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06003 ((Hearing protection.)) Testing fire service equipment. ((The hearing protection requirements of the general occupational health standards, chapter 296-62 WAC, shall be applicable whenever personnel are exposed to noise levels above the permissible limits including at the fire station, while in transit or at a fire scene.)) (1) When testing fire hose, a restricted orifice disc having not more than a 25% opening, shall be installed on the pumper discharge port. Or in the alternative, the pumper discharge valve may be opened not more than 25% to insure a minimum volume of water in case of a bursting hose.

(2) Safety nets shall be tested annually by dropping a weight of not less than 160 pounds from the highest point to be used above the net. The test weight object may consist of two tightly tied rolls of two and one-half inch hose, each 100 feet long, or any other object having similar weight and dimension.

(a) The net suspension system shall be designed and constructed with a safety factor of four and as a minimum, shall withstand the test loading without permitting contact between the net and any surface or object below the net.

(b) Forged steel safety hooks or shackles shall be used to fasten the net to its supports.

(c) Training requiring safety net protection shall not be undertaken until the net is in place and has been tested by the weight of three fire fighters on the net.

(d) Safety nets shall extend eight feet beyond the edge of the work surface.

(e) The mesh size of nets shall not exceed six inches by six inches.

(f) All nets shall meet accepted performance standards of 17,500 foot pounds minimum impact resistance as determined and certified by the manufacturer, and shall bear a label of proof test.

(g) Edge ropes shall provide a minimum breaking strength of 5,000 pounds.

(3) Life belts shall meet or exceed the strength requirements of ANSI A10.14 - Requirements for Safety Belts, Harnesses, Lanyards, Lifelines and Drop Lines for Industrial Use. Life belts shall be inspected after each use and not less than semi-annually in accordance with manufacturer's instructions.

(4) Rescue ropes shall be used for rescue purposes only.

(5) Rescue ropes shall meet the following requirements:

(a) Rescue ropes shall be constructed of rot-proof fiber with a melting point of not less than 400 degrees F;

(b) They shall be of abrasion resistant construction;

(c) They shall have a minimum breaking strength of not less than 9,000 pounds; and

(d) They shall have a breaking elongation of not less than twenty percent.

(6) Rescue ropes shall be inspected after each use and not less than semi-annually in accordance with manufacturer's instructions.

(7) The method of testing a life line gun shall be in accordance with the manufacturer's recommended procedure.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06005 ((Hand protection.)) Ground ladders. ((Any gloves purchased after the effective date of these standards shall meet the following criteria:

(1) Hand and wrist protection at the fire combat scene and during overhaul work shall consist of gloves or a glove system which complies with the requirements of this section.

(2) Gloves purchased after January 1, 1989, shall comply with NFPA Standard, 1973, 1983 edition.

(3) Gloves used after January 1, 1991, shall comply with NFPA Standard 1973, 1983 edition.

(4) Gloves used between January 1, 1989, and January 1, 1991, may comply with either NFPA Standard 1973, 1983 edition, or the 1976 NIOSH criteria document, Volume II: Glove Criteria and Test Methods.

(5) Fire fighters engaged in activities creating hazardous exposures to electricity shall wear approved hand protection.

(a) Electrical rubber gloves guaranteed by the manufacturer to pass a minimum dielectric test of 10,000 volts shall be worn.

(b) Rubber gloves shall be numbered and records kept for test purposes.

(c) Rubber gloves shall be tested by the following maximum retesting schedule:

	Natural Rubber (Months)	Synthetic Rubber (Months)
Rubber Protective Gloves		
New	12	18
Reissued	9	15

After use, the rubber protective gloves shall be cleaned, sanitized, tested and restored for future use. The test after use shall consist of an air pressure test which is performed by grasping the cuff at opposite sides and twirling the glove so as to roll it up the cuff to produce air pressure within the glove. The glove shall be inspected for leaks, cuts, abrasions and thin places in the rubber. Patching or vulcanizing of rubber protective gloves is prohibited. Any rubber gloves found to be defective shall be removed from service and marked as being defective.

(d) Protector gloves must be worn at all times over electrical rubber gloves.

(e) Electrical rubber gloves, when not in use, shall be carried in a suitable bag provided and designed for that purpose.

(f) When electrical rubber gloves are transported on apparatus, a compartment or box shall be used to store the gloves. No other equipment shall be placed in this compartment or box.)) This section establishes the minimum requirements for the construction, care and use of the common types of ladders used in fire combat.

(1) Ladder locks or pawls on extension ladders shall be so fastened or secured to the beams that vibration and use will not cause loosening of bolts and nuts.

PROPOSED

(a) Pawls or ladder locks shall be so constructed that the hook portion of the pawl that engages the rung shall have sufficient bearing surface or area to prevent the hook from cutting into rungs when engaged.

(b) Such hooks shall be properly finished to eliminate sharp edges and points.

(2) Staypoles or tormenters shall be furnished on all extension ladders extending over forty feet. Staypole or tormenters spikes shall not project beyond the end of the ladder when nested.

(3) All ladders shall be stored in a manner to provide ease of access for inspection, and to prevent danger of accident when withdrawing them for use.

(4) Fire fighters shall climb and descend ground ladders with the fly in, for safety purposes.

(5) All ladders regardless of type shall be inspected thoroughly after each use. Records shall be kept of the inspections and repairs.

(6) The following metal ladder components shall be checked:

(a) Rungs for welds, damage or weakness caused by overloading or bumping against other objects, looseness and cracks, etc.

(b) Beams for welds, rivets and bolts, signs of strain or metal fatigue, and deformation from heat or overloading.

(c) Bolts and rivets for tightness.

(d) Butt spurs for excessive wear or other defects.

(e) Halyards for the same defects listed for wood ladder halyards and cable halyards, for fraying or breaking.

(f) Heat sensor label, when provided, for change indicating heat exposure.

(7) The following wood ladder components shall be checked:

(a) Bolts for snugness and tightness without crushing the wood.

(b) Beams for dark streaks; when a wood ground ladder develops dark streaks in the beams, the ladder shall be removed from service and service tested as specified in this chapter, prior to further use.

(c) Protective varnish finish for damage or wear, at least once a month and redone annually or at such frequency as specified by the manufacturer. If the protective finish becomes charred or blistered, the ladder shall be removed from service and service tested as specified in this chapter, prior to further use.

(8) Methods of fastening ladder halyards, either of wire or fibrous material, shall be in a manner that the connection is stronger than the halyard.

(9) Any defect noted in above visual inspection shall be corrected prior to testing.

(10) Every portable ladder shall be tested following the correction of defects disclosed by the visual inspections.

(11) New ground ladders purchased after the effective date of this chapter shall be constructed and certified in accordance with the requirements of NFPA Standard 1931, 1984 edition.

(12) All fire ground ladders shall be inspected, tested, and maintained in accordance with the requirements of NFPA Standard 1932, 1984 edition.

Exception: Extension ladders that were constructed prior to the adoption of the 1984 edition of NFPA 1931, may, when tested in accordance with this chapter, be tested with a

minimum test load of 400 pounds and a preload of 300 pounds. Ladders tested under this exception shall be used with a maximum load limit of 500 pound distributed or 400 pound concentrated. Ladders shall be tested in the configuration they are used.

Note 1: Hardness testing and eddy current NDE testing is not required in the fire department annual maintenance inspection unless the individual ladder has been subjected to a high heat exposure which could have annealed the metal and diminished the structural integrity. The ladder manufacturer's recommendations should be followed with respect to hardness and eddy current testing.

Note 2: Testing should follow the recommended procedures taught by Washington State Fire Prevention Bureau.

Additional References: Chapter 296-24 WAC, Part J-1.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-06007 ((Foot protection.)) Electrical. ((1) Fire fighters' footwear when worn under fire combat conditions shall meet the following criteria:

(a) Protective footwear shall be water resistant for at least five inches above the bottom of the heel. Puncture resistant and rust resistant midsole that meet the puncture resistant requirements of MII-B-2885, Specification for fire fighter's boots.

(b) Safety toe able to withstand current ANSI classification Z41.1 at time of purchase.

(c) Reinforced ladder shank in turnout boots.

(d) Sole shall provide nonskid protection.

(e) Hip high boots shall have heat resistant knee protection or equivalent in addition to above requirements. Hip high boots may be worn with ancillary clothing in lieu of turnout pants.

(2) Fire fighters' boots may be resoled but the boot upon resoling shall meet the requirements as set forth in this section.

(3) This section shall apply to volunteer fire fighters for any new equipment purchased.)) (1) Temporary lighting with the use of 110 - 120 VAC equipment.

(a) All lighting equipment shall be used with heavy duty flexible (extension) cords with 12-3 conductors and SJTW jacket, or equivalent.

(b) Electrical cords shall have weather tight bodies and caps, 20 amp rated at 120 VAC.

(c) Temporary lights that are used in moist, damp, and/or other hazardous locations shall be approved for the purpose.

(d) Temporary lights shall be constructed so that water cannot enter or accumulate in wireways, lampholders or other electrical parts.

(e) Temporary lights that are used in moist and/or other hazardous locations shall have 120 VAC single-phase 15 and/or 20 amp in-line resettable ground fault circuit interrupters.

(f) Temporary lights shall be equipped with a handle and be insulated from heat and possible electrical shock.

(g) Temporary lights shall not be suspended by their electrical cords unless cords and lights are designed and labeled for this means of suspension.

(h) Temporary lights shall be protected by guards of a nonconductive or insulated material to prevent accidental contact with the bulb.

(2) 120 VAC cord reels shall be approved for use in damp or hazardous locations.

(a) Bodies and caps shall be weather tight, 20 amp rated at 120 VAC.

(b) Cords on cord reels that do not exceed 150 feet in length shall be 12-3 SJTW or equal.

(c) Cords that exceed 150 feet in length on reels, shall have 10-3 conductors.

(d) Cord reels that are not permanently mounted on a vehicle shall be insulated from the ground when in use.

(3) Twelve volt portable type hand lanterns shall be constructed of molded composition or other type approved for the purpose.

(a) Portable hand lanterns used in moist and/or other hazardous locations shall be operated at a maximum of 12 volts.

(b) Hand lamps shall be equipped with a handle and a substantial guard over the bulb and attached to the lampholder.

(4) Portable and vehicle-mounted generators.

(a) Portable generators. Under the following conditions, the frame of a portable generator shall not be required to be grounded and shall be permitted to serve as the grounding electrode for a system supplied by the generator:

(i) The generator supplies only equipment mounted on the generator or cord-connected and plug-connected equipment through receptacles mounted on the generator, or both, and

(ii) The noncurrent-carrying metal part of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

(b) Vehicle-mounted generators. Under the following conditions, the frame of a vehicle may serve as the grounding electrode for a system supplied by a generator located on the vehicle:

(i) The frame of the generator is bonded to the vehicle frame; and

(ii) The generator supplies only equipment located on the vehicle and/or cord-connected and plug-connected equipment through receptacles mounted on the vehicle or on the generator; and

(iii) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame.

Additional References: Article 250 National Electrical Code. Chapter 296-24 WAC, Part L.

AMENDATORY SECTION (Amending Order 91-01, filed 5/20/91, effective 6/20/91)

WAC 296-305-06009 ((Body protection.)) (((1) Body protection shall be coordinated with foot and leg protection to ensure full protection for the wearer. This shall be achieved by one of the following methods:

(a) Wearing of a fire resistive coat with fully extended hip boots meeting the requirements of WAC 296-305-06007; or

(b) Wearing of a fire resistant coat with fire resistant trousers; or

(c) Wearing of ancillary clothing as specified in WAC 296-305-060 (3)(a) of this chapter.

(2) Fire resistant coat and trousers shall be at least equivalent to the requirements of the NFPA Standard #1971, protective clothing for structural fire fighters.)) Reserved.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06011 ((Head protection.)) (((1) Head protection shall consist of a protective head device with chin strap. Ear flaps are optional. All protective head devices shall meet the performance, construction and testing requirements for configuration, frame and head construction, electrical insulation and visibility and reflectivity as established by the National Fire Prevention and Control Administration of the United States Department of Commerce and contained in "Model Performance Criteria for Structural Firefighters Helmets" printed August 1977.

(2) All helmets used by fire department personnel after January 1, 1991, shall be equivalent to the specifications of this chapter and NFPA 1972, 1980 edition.

(3) All helmets purchased thirty days after the adoption of this chapter shall be manufactured and labeled as complying with the specifications of this chapter and NFPA 1972, 1987 edition.

(a) Helmets shall be maintained in accordance with the manufacturers recommendations.

(b) Helmets which are damaged or do not comply with this section shall not be used.)) Reserved.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-305-063 ((Respiratory equipment.)) (((1) Approved self-contained respiratory equipment shall be available and used by all employees who enter into hazardous atmospheres. Filter canister masks are not approved.

(2) Respiratory protection equipment used in fire combat situations shall be classified as self-contained pressure demand type and shall have a minimum rating of one half hour nominal service life.

All respirators using compressed air shall have an audible warning device which will activate when the air pressure drops below twenty percent of the rated capacity.

(3) In structural or confined space fires at least one person trained in the use of self-contained breathing equipment and equipped with such equipment shall remain free of the contaminated area in order to afford rescue potential for exposed, disabled fire fighters.

(4) The respiratory protection requirements of the general occupational health standards—safety and health standards for carcinogens, chapter 296-62 WAC, shall apply. A respirator program shall be developed which includes standard operating procedures addressing the following:

(a) Respiratory equipment inspections. The step-by-step inspection procedures included in the Washington state fire service training program shall be considered the criteria for a minimum inspection procedure.

(b) Breathing air cylinder filling and testing. Only personnel trained, experienced, and knowledgeable in the equipment and procedures shall fill or test air cylinders.

(c) Respiratory equipment training.

(i) Training shall address the same subjects as those covered by the Washington state fire service training program and shall involve at least the same number of hours.

(ii) After completing such training, each fire fighter shall practice at least quarterly, for each type and manufacture of respirator available for use, the step by step procedure for donning the respirator and checking it for proper function.

(5) At the end of suppression activities to include fire overhaul and before returning to quarters.

(a) Fire fighters shall be decontaminated prior to removal of respirators whenever fire fighting activities result in exposure to hazardous substances.

(b) When exchanging air supply bottles during suppression or overhaul activities, reasonable precautions shall be taken to maintain an uncontaminated atmosphere to the breathing zone and facepiece supply hose.

(c) The effective date of this item shall be nine months after the effective date of this section.) Reserved.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-064 ((Fire overhaul)) ((1) Training shall be provided to fire fighters and officers in order that they will be knowledgeable in the identification and handling of asbestos containing materials likely to be encountered during a fire response.

(2) During the overhaul phase officers shall identify materials likely to contain asbestos, limiting the breaching of structural materials to that which is necessary to prevent the rekindle.) Reserved.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-065 ((Requirements for fire stations.)) ((All of WAC 296-305-065 pertains to fire stations as defined in WAC 296-305-007.) Reserved.

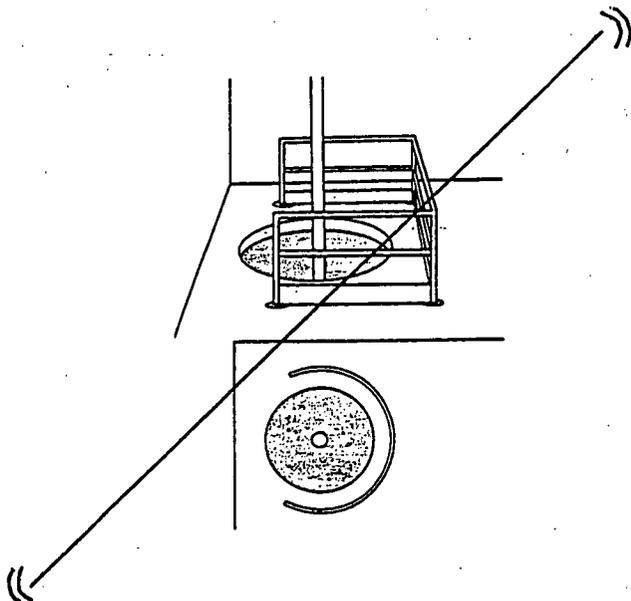
AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-06501 ((General)) Requirements for fire station facilities. ((1) Every new fire station built after the effective date of this standard, whether manned or unmanned shall be equipped with an approved emergency lighting system that will light dormitories, hallways and apparatus bay areas in case of electrical power failure.

(2) Stairway tread shall be of a nonskid design. Examples of nonskid: Grip strut grating, serrated edge grating, metal grating, aluminum safety tread, abrasive metal stair tread, or pressure sensitive nonskid type.

(3) Stations and administrative offices shall comply with the requirements of WAC 296-62-09003, Lighting and illumination of the Washington state general occupational health standards.

(4) Where sliding poles are used the pole hole shall be guarded in such a manner as to prevent an employee or employer from walking directly into the pole hole opening.



(5) To absorb the shock to sliding employees, the bottom of all slide poles shall have a 3-foot diameter cushioned rubber mat, or its equivalent. The aforementioned shall be complied with within one year of the effective date of this chapter.

(6) Nothing shall be stored or placed at the bottom of a pole hole for a radius of 3 feet from the pole. Doors shall not protrude within three feet of the pole.

(7) The requirements of WAC 296-24-145 shall be followed when employees are engaged in window washing operations.

(8) When charging batteries the vent caps shall be kept in place to avoid electrolyte spray. Care shall be taken to assure that vent caps are functioning.

(9) Smoking shall be prohibited in the battery charging area.) WAC 296-305-06501 through 296-305-06519 pertain to all fire department facilities as defined in WAC 296-305-01005.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-06503 ((Sanitation.)) General requirements. ((1) Toilet facilities:

(a) General:

(i) Except as otherwise indicated in this section, toilet rooms separate for each sex shall be provided in all places of employment in accordance with Table B-1 of this section. The number of facilities to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where toilet rooms will be occupied by no more than one person at a time, can be locked from the inside, and contain at least one water closet, separate toilet rooms for each sex need not be provided. Where such single occupancy rooms have more than one toilet facility, only one such facility in each toilet room shall be counted for the purpose of Table B-1.

PROPOSED

TABLE B-1

Number of employees on duty:	Minimum number of water closets
1 to 15	1
16 to 35	2
36 to 55	3
56 to 80	4
81 to 110	5
111 to 150	6
Over 150	One additional fixture for each additional 40 employees

(A) Where toilet facilities will not be used by women, urinals may be provided instead of water closets and in such cases shall not be reduced to less than 2/3 of the minimum specified.

(ii) The requirements of item (i) of this subdivision do not apply to mobile crews or to normally unattended work locations so long as employees working at these locations have transportation immediately available to nearby toilet facilities which meet the other requirements of this section.

(iii) The sewage disposal method shall not endanger the health of employees.

(iv) Toilet paper with holder shall be provided for every water closet.

(b) Construction of toilet rooms. Each water closet shall occupy a separate compartment with a door and walls or partitions between fixtures sufficiently high to assure privacy.

(2) Drinking water.

(a) A common drinking cup and other common utensils are prohibited.

(b) Drinking fountain surfaces which become wet during fountain operation shall be constructed of materials impervious to water and not subject to oxidation. The nozzle of the fountain shall be at an angle and so located to prevent the return of water in the jet or bowl to the nozzle orifice. A guard shall be provided over the nozzle to prevent contact with the nozzle by the mouth or nose of persons using the drinking fountain. The drain from the bowl of the fountain shall not have a direct physical connection with a waste pipe, unless it is trapped.

(3) Washing facilities.

(a) General. Facilities for maintaining personal cleanliness shall be provided. These shall be convenient for the employees for whom they are provided and shall be maintained in a sanitary condition.

(b) Lavatories.

(i) Lavatories shall be made available in accordance with the following table.

Number of employees on duty	Minimum number of lavatory fixtures
-----------------------------	-------------------------------------

Nonfire fighting personnel.	1 to 15	1
	16 to 35	2
	36 to 60	3
	61 to 90	4
Firefighters	1 to 100	1 fixture for each 10 employees

Note: In a multiple use lavatory, 24 lineal inches of wash sink or 20 inches of a circular basin, when provided with water outlets for each space, shall be considered equivalent to one lavatory.

(ii) Each lavatory shall be provided with hot and cold running water, or tepid running water.

(iii) Hand soap or similar cleansing agents shall be provided.

(iv) Individual hand towels or sections thereof, of cloth or paper, warm air blowers or clean individual sections of continuous cloth toweling, convenient to the lavatories, shall be provided.

(v) Receptacles shall be provided for disposal of used towels.

(e) Showers.

(i) Except as otherwise indicated in this section, shower rooms separate for each sex shall be provided in manned stations. The number of facilities to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where shower rooms will be occupied by no more than one person at a time and can be locked from the inside, separate shower rooms for each sex need not be provided.

(ii) One shower shall be provided for each 10 employees of each sex, or numerical fraction thereof, who are required to shower during the same shift.

(iii) Body soap or other appropriate cleansing agents convenient to the showers shall be provided as specified in this section.

(iv) Showers shall be provided with hot and cold water feeding a common discharge line.

(v) Shower floors shall be equipped with rubber mats or nonskid material.

(vi) Light switches and electrical appliances in the shower area shall be of the approved type for wet locations and shall not be located where they can be contacted by employees standing directly in water.) (1) Stations and administrative offices shall comply with the requirements of the general occupational health standards, WAC 296-62-09003, Lighting and illumination.

(2) Every new fire station built after the effective date of this chapter, whether manned or unmanned, shall be equipped with an approved emergency lighting system that will light dormitories, hallways, and apparatus bay areas in case of electrical power failure.

(3) No new fire station or new addition to an existing fire station, shall incorporate sliding poles or slides in their design or construction.

(4) The requirements of chapter 296-24 WAC, Part B-2, Window washing, shall be followed when employees are engaged in window washing operations.

(5) All new fire stations and other new fire department facilities which contain sleeping quarters shall be fully protected with automatic sprinkler systems.

(6) All existing fire stations and existing fire department facilities with sleeping quarters, that undergo a major renovation that consists of more than sixty percent of the assessed evaluation of the existing structure shall be fully protected with automatic sprinkler systems.

(7) Eye protection shall be worn when charging, changing or adding fluid to storage batteries. Personnel that will be charging storage batteries shall be qualified to

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perform this function by the employer. See WAC 296-24-23015.

(8) Stairway tread shall be of a nonskid design. Examples of nonskid: Grip strut grating, serrated edge grating, metal grating, aluminum safety tread, abrasive metal stair tread, or pressure sensitive nonskid type.

(9) In existing facilities where sliding poles or slides are used, the pole or slide hole shall be guarded in such a manner as to prevent anyone from walking directly into the pole or slide hole opening.

(10) To absorb the shock to sliding employees, the bottom of all slide poles or slides shall have a three-foot diameter cushioned rubber mat, or its equivalent.

(11) Nothing shall be stored or placed at the bottom of a pole or slide hole for a radius of three feet from the pole. Doors shall not protrude within three feet of the pole or slide.

(12) Stair and landing protection: Stairways, guardrails, landings, and handrails shall be constructed to the requirements of chapter 19.27 RCW the State Building Code Act, and chapter 296-24 WAC, Part J-1.

(13) A standard guard railing for a landing platform shall include a toeboard, which is a vertical barrier, at floor level erected along exposed edges of a floor opening, wall opening, platform, runway or ramp to prevent falls of material.

(14) Any new facility, or addition, alteration, or repair to an existing facility shall be in compliance with chapter 19.27 RCW, the State Building Code Act.

(15) New stations containing a kitchen, and station kitchens remodeled after the date of this chapter, shall have an alarm activated service disconnect of fixed cooking appliances.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06505 ((Sleeping)) Sanitation, disinfection, cleaning, and storage areas. ~~((1) Every fire station sleeping area shall be provided with approved detectors of products of combustion other than heat conforming to Uniform Building Code Standard 43-6, mounted in the sleeping room and on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes. Where sleeping rooms are on an upper level, a detector shall be placed at the center of the ceiling directly above the stairway and at the top of the pole hole openings. All detectors shall be located within 12 inches of the ceiling. Care shall be exercised to insure that the installation will not interfere with the operating characteristics of the detector. When activated, the detector(s) shall provide an audible alarm.~~

~~(2) Smoking shall not be allowed in sleeping area after fire fighters turn in.~~

~~(3) Dormitories for fire stations designed after December 17, 1977, shall be located in such a position that vehicular traffic adjacent to the station house does not present a hazard.~~

~~(4) The employer shall establish and implement a schedule for the cleaning of bedding.)~~ (1) Fire departments shall provide facilities for disinfecting, cleaning, and storage.

Note: This does not mean that every fire station must have a dedicated cleaning area. A fire department may have one designated cleaning area which will serve the needs of several fire stations.

(2) A designated cleaning area shall be provided for each fire station for the cleaning and disinfecting of protective clothing, protective equipment, portable equipment, and other clothing.

(a) Fire departments that engage in emergency medical operations shall provide or have access to disinfecting facilities for the cleaning and disinfecting of emergency medical equipment.

(b) Disinfecting shall not be conducted in fire station kitchen, living, sleeping, or personal hygiene areas.

(c) Disinfecting facilities in fire stations shall be vented to the outside environment, and designed to prevent contamination of other fire station areas.

(d) Disinfecting facilities shall contain a sink with hot and cold water faucets and a sprayer attachment. Sink faucets shall not require the user to grasp, with hands to turn on or off. All surfaces shall be nonporous material.

(3) Protective clothing or equipment that needs to be decontaminated and/or disinfected shall not be allowed in any kitchen, living, sleeping, or personal hygiene area.

(4) The designated cleaning area shall be physically separate from areas used for food preparation, cleaning of food and cooking utensils, personal hygiene, sleeping, and living areas.

(5) Drying areas for protective clothing shall be well ventilated.

(6) Storage Areas: Emergency medical supplies and equipment stored in fire stations, other than that stored on vehicles, shall be stored in a dedicated enclosure and maintained per manufacturer's instructions.

(7) Reusable emergency medical supplies and equipment, protective clothing, and protective equipment shall not be stored in kitchen, living, sleeping, or personal hygiene areas, nor shall it be stored in personal clothing lockers.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06507 ((Apparatus)) Sleeping areas. ~~((1) Three feet of clearance shall be maintained around apparatus parked within the station where the station's width permits.~~

~~(2) Stations built after December 17, 1977, shall have a minimum of three feet of clearance around the apparatus, which shall be maintained free of any storage or obstruction.~~

~~(3) The station's apparatus floors shall be kept free of grease, oil, water and all tripping hazards. The drying of hose on the apparatus floor shall not be considered a tripping hazard.~~

~~(4) No Class I or II flammable liquids shall be used for cleaning purposes to remove grease or dirt from apparatus.~~

~~(5) Exhaust fumes from diesel or gasoline apparatus shall be emitted to the outside air. Ventilation provided by fully opened apparatus bay doors shall be considered adequate.)~~

(1) All sleeping areas in fire stations shall be separated from vehicle storage areas by at least one-hour fire resistive assemblies.

(2) Sleeping areas shall be protected by smoke detectors.

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(3) The sleeping quarters in all new fire stations and other fire department facilities that contain sleeping quarters shall be fully protected with automatic sprinkler systems.

(4) The sleeping quarters in all existing fire stations, and existing fire department facilities with sleeping quarters that undergo a major renovation consisting of more than sixty percent of the assessed evaluation of the existing structure, shall be fully protected with automatic sprinkler systems.

Note: With the concurrence of the local building official(s) or fire marshal, the requirements of (3) and (4) may be satisfied with sprinkler systems that meet the requirements of NFPA 13D, 1994 edition.

(5) Compliance with this section shall be required within three years of the effective date of this chapter.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-06509 ((Refueling)) Apparatus areas. ~~((1) Refueling pumps, if installed, shall be in accordance with the provisions of the Uniform Fire Code 1985.~~

~~(2) Dispensing of Class 1 liquids shall be as required in the Uniform Fire Code 1985.~~

~~(3) Fuel tanks shall not be filled while the engine is running, except during fire ground operations. Spillage should be avoided.~~

~~(4) Spillage of oil or fuel shall be carefully washed away or completely evaporated and the fuel tank cap replaced before restarting engine.~~

~~(5) Fueling areas shall be posted - "NO SMOKING STOP YOUR MOTOR.")~~ (1) Three feet of clearance shall be maintained around apparatus parked within the station where the station's width permits.

(2) All fire stations built after December 17, 1977, shall have a minimum of three feet of clearance around the apparatus, which shall be maintained free of any storage or obstruction.

(3) The station's apparatus floors shall be kept free of grease, oil, water and tripping hazards.

(a) The drying of hose on the apparatus floor shall not be considered a tripping hazard.

(b) Floors shall have slip-resistant surfaces on areas where personnel would normally mount or dismount apparatus.

(4) No Class I or Class II flammable liquids shall be used for cleaning purposes to remove grease or dirt from apparatus.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-06511 ((Hose drying towers.)) Indoor air quality. ~~((1) The floor openings on hose tower platforms shall be equipped with a 42-inch guardrail with midrail and shall be capable of withstanding a force of 250 pounds applied in any direction at any point on the top rail.~~

~~(2) The toeboard requirements for elevated work platforms in hose drying towers shall not apply unless hand tools or objects other than hoses are carried onto the platforms.~~

~~(3) The requirements for offset ladder platforms and ladder cage guards, when ladders extend beyond 30 feet, shall apply to hose drying towers.~~

~~(4) Ropes used to hoist hose in the hose towers shall have a breaking strength of 3,000 pounds for a safe load strength of 600 pounds (5 to 1 safety factor.)~~ Air quality shall be consistent with WAC 296-62-075 through 296-62-07515, Air contaminants and WAC 296-62-12000 through 296-62-12009, Environmental tobacco smoke in office work environments.

Note: For extended work shifts all eight-hour PEL's shall be time-weighted to adjust for additional worker exposure during extended work shifts.

(1) If indoor air monitoring indicates over-exposure to contaminant PEL's, engineering controls shall be utilized to reduce fire fighter exposure to the lowest feasible level.

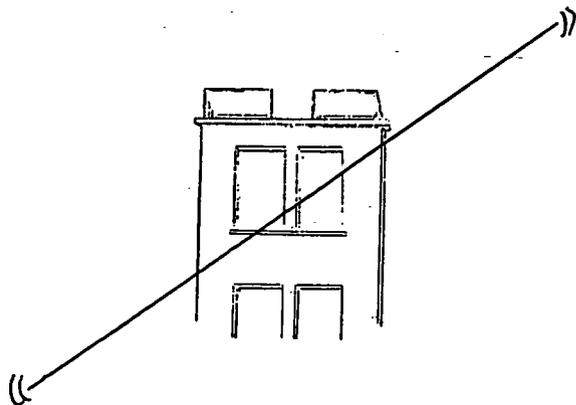
(2) All fixed internal combustion equipment such as, but not limited to emergency generators, shall be effectively exhausted to the exterior of the fire stations.

(3) All facilities dedicated to the maintenance and repair of internal combustion equipment shall have means for effective ventilation to the exterior of the building.

(4) All fire stations built after January 1, 1997, shall be designed and constructed to conform to ACGIH ventilation recommended criteria for exhaust of internal combustion engines.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-06513 ((Drill towers.)) Refueling areas. ~~((1) Permanent fixed ladders on the outside of drill towers and drill buildings are exempt from the requirements of offset platform landings and ladder cage guards.~~



(1) Refueling pumps, if installed, shall be in accordance with the provisions of the Uniform Fire Code and WAC 296-24-33015.

(2) Dispensing of Class 1 liquids shall be as required in the Uniform Fire Code.

(3) Spillage of oil or fuel shall be properly disposed of or completely evaporated and the fuel tank cap replaced before restarting engine.

(4) Fueling areas shall be posted - "NO SMOKING - STOP YOUR MOTOR."

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-06515 (~~(Fire station equipment and tools.)~~) Hose drying towers. (~~((1) Equipment and tools in maintenance and hobby shops shall be guarded as required by the guarding provisions of chapter 296-24 WAC.~~)

~~(2) Exposure of fan blades. When the periphery of the blades of a fan is less than ten feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one half inch.~~

~~(3) Abrasive wheels and grinders.~~

~~(a) All abrasive wheels and grinders, shall be guarded as required by WAC 296-24-18003.~~

~~(b) Abrasive wheel machinery guards shall meet the design specifications of the American National Standard Safety Code for the Use, Care and Protection of Abrasive Wheels, ANSI B7.1-1970. This requirement does not apply to natural sandstone wheels, or metal, wooden, cloth or paper discs having a layer of abrasive on the surface.~~

~~(c) Before it is mounted on the spindle, each abrasive wheel shall be given a "ring test" by the user. This test is performed by setting the unmounted wheel upright on a clean, hard floor and tapping it on the upper side with a light, nonmetallic instrument (such as screwdriver handle). A clear ringing tone indicates an undamaged wheel. A damaged, cracked wheel will emit a "dead" sound and shall be replaced.~~

~~(d) Grinding wheels shall fit freely on the spindle and remain free under all grinding conditions. The wheel hole shall be sufficiently larger than the spindle diameter to assure safety clearance under all conditions of operating heat and pressure.~~

~~(e) Before mounting, the user shall check the maximum operating speed marked on the wheel, and shall make certain that spindle speed does not exceed this maximum.~~

~~(f) All contact surfaces of wheels, blotters and flanges shall be flat and free of foreign matter.~~

~~(g) When a bushing is used in the wheel hole, it shall not exceed the width of the wheel and shall not contact the flanges.~~

~~(h) Work rests on bench mounted abrasive wheel grinders shall be used to support the work. These shall be of rigid construction and designed to be adjustable to compensate for wheel wear. Work rests shall be kept adjusted sufficiently close to the wheel with a maximum opening of one eighth inch to prevent the work from being jammed between the wheel and the rest. Adjustment of the work rest shall not be made while the wheel is turning.~~

~~(i) Goggles or face shields shall be used when grinding.~~

~~(j) Abrasive and composition blades shall be stored and protected against exposure to fuel and oil.)~~ (1) The floor openings on hose tower platforms shall be equipped with a forty-two inch guardrail with mid-rail and shall be capable of withstanding a force of 250 pounds applied in any direction at any point on the top rail. The work platform shall be equipped with toeboards.

(2) The requirements for offset ladder platforms and ladder cage guards, when ladders extend beyond twenty feet, shall apply to hose drying towers.

(3) Ropes and attachments used to hoist hose in the hose towers shall have a breaking strength of 1500 pounds for a safe load strength of 300 pounds (five-to-one safety factor).

(4) Approved head protection shall be worn by all persons in the hose tower whenever hose handling/hanging operations are taking place.

(5) Ropes utilizing a pulley block shall be appropriately sized for the sheave to prevent possible jamming or damage to the rope.

Additional Reference: Chapter 296-24 WAC, Part J-1.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-06517 (~~(Stair and landing protection.)~~) Drill tower training facilities. (~~((1) Stairway railings and handrails. Every flight of stairs having four or more risers shall be equipped with standard stair railings or standard handrails as follows:~~)

~~(a) On stairways less than 44 inches wide having both sides enclosed, at least one handrail, preferably on the right side descending.~~

~~(b) On stairways less than 44 inches wide having one side open, at least one stair railing on open side.~~

~~(c) On stairways less than 44 inches wide having both sides open, one stair railing on each side.~~

~~(d) On stairways more than 44 inches wide but less than 88 inches wide, one handrail on each enclosed side and one stair railing on each open side.~~

~~(e) On stairways 88 or more inches wide, one handrail on each enclosed side, one stair railing on each open side, and one intermediate stair railing located approximately midway of the width.~~

~~(2) A standard guard railing shall consist of top rail, intermediate rail, and posts, and shall have a vertical height of 36 to 42 inches from upper surface of top rail to floor, platform, runway, or ramp level. The top rail shall be smooth surfaced throughout the length of the railing. The intermediate rail shall be approximately halfway between the top rail and the floor, platform, runway, or ramp. The ends of the rails shall not overhang the terminal posts except where such overhang does not constitute a projection hazard.~~

~~(3) A standard guard railing for a landing platform shall include a toeboard which is a vertical barrier at floor level erected along exposed edges of a floor opening, wall opening, platform, runway or ramp to prevent falls of material.~~

~~(4) A stair railing shall be of construction similar to a standard railing but the vertical height shall be not more than 34 inches nor less than 30 inches from upper surface of top rail to surface of tread in line with face of riser at forward edge of tread.)~~ (1) Permanent fixed ladders on the outside of drill towers and drill buildings are exempt from the requirements of offset platform landings and ladder cage guards.

(2) Drill tower construction and operations shall comply with the following:

(a) Burn buildings used for live fire training shall be engineered for such use.

(b) Drill towers shall not be used for live fire training except when burn rooms are provided.

(c) Burn rooms, if included in the building, shall be engineered into drill towers.

(d) All walking surfaces in the drill tower shall be slip resistant.

(e) Railings shall be designed with a four-to-one safety ratio for 250 pound fire fighters who may be operating a charged hose line on the fire escape.

(f) Rappelling anchors shall be engineered to support 5000 pounds per person supported by the anchor.

(g) Rappelling anchors shall be readily identifiable.

(h) Rappelling anchors shall be certified by a structural engineer.

NEW SECTION

WAC 296-305-06519 Fire station equipment and tools. (1) Equipment and tools in maintenance and hobby shops shall be guarded as required by the guarding provisions of chapter 296-24 WAC, Part C, Machine guarding, and Part H-1, Hand and portable powered tools.

(2) Exposure of fan blades. When the periphery of the blades of a fan is less than ten feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one-half inch. This provision shall not apply to residential ceiling fans.

(3) Abrasive wheels and grinders.

(a) All abrasive wheels and grinders, shall be guarded as required by chapter 296-24 WAC, Part C.

(b) Goggles or face shields shall be used when grinding.

(c) Abrasive and composite blades shall be stored and protected against exposure to fuel and oil.

(d) Work rests on bench mounted abrasive wheel grinders shall be used to support the work. These shall be of rigid construction and designed to be adjustable to compensate for wheel wear. Work rests shall be kept adjusted sufficiently close to the wheel with a maximum opening of one-eighth inch to prevent the work from being jammed between the wheel and the rest. Adjustment of the work rest shall not be made while the wheel is turning.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-070 (~~(Automotive fire apparatus.)~~) (~~All of WAC 296-305-070 pertains to fire apparatus as defined in WAC 296-305-007.~~) Reserved.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-07001 (~~(Design and construction.)~~) **Wildland fire operations.** (~~(1) All fire apparatus with the exception of specialized equipment, shall conform to the minimum safety standards contained in N.F.P.A. Booklet No. 1901.~~)

~~(2) Fire apparatus, purchased after December 17, 1977, weighing 10,000 pounds or more shall conform with the following department of transportation standards, when applicable:~~

~~(a) 571-121 Standard 121, Air brake systems;~~

~~(b) 571-106 Standard 106, Hydraulic brake hoses;~~

~~(c) 571-211 Standard 211, Wheel nuts, wheel discs, hub caps;~~

~~(3) Employers purchasing used fire apparatus or used military equipment shall not be required to bring them under a more stringent code than the one in force at the time the apparatus was manufactured. The exception to this rule would be seat belts and communication systems between the tailboard or tiller's seat and driver compartment as stipulated in WAC 296-305-07003(2), 296-305-07007(1), 296-305-105(5)(a) and (b), and 296-305-110(4).~~

~~(4) Where practicable for the intended application and use, new apparatus purchased after December 17, 1977, shall have covered crew cabs.~~

~~(5) Fire apparatus tailboards and steps leading to the cab shall have a nonskid rough surface.~~

~~(6) Shields shall be provided for individuals who ride the side of city service apparatus to protect them from flying debris and weather.~~

~~(7) Exhaust systems shall be installed and maintained in proper condition, and shall be so designed as to eliminate the exposure of the fire fighter to the exhaust gases and fumes.~~

~~(8) Spinner knobs shall not be attached to steering handwheels of fire apparatus.~~

~~(9) The transmission shifting pattern of the apparatus shall be clearly stenciled or labeled and posted so it can be clearly read by the driver while operating the apparatus.~~

~~(10) The height of the apparatus from the ground to the top of the beacon or highest point of apparatus shall be clearly labeled in a place where it can be easily and clearly read by the driver while operating the apparatus.)~~ (1) This section shall apply to all personnel and agencies called on to provide services at any fire defined as a "wildland fire."

(2) This section shall not apply to suppression action taken on fires prior to the fire meeting the definition of a "wildland fire."

(3) Employers shall provide at no cost to the employee, protective equipment and protective clothing as required by this chapter.

(4) Suppression personnel assigned to a wildland fire shall be trained to a NWCGW fire fighter, Level II, or equivalent. See WAC 296-305-07019(1).

(5) Supervisory personnel shall be trained to a level commensurate to the position and responsibility they are assigned or assume.

(6) All personnel will be trained and capable of demonstrating competency in utilizing the incident command system (ICS).

(7) All suppression personnel shall review in training, the ten standard fire orders and the eighteen situations that shout "Watch out." See Appendix E.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-07003 (~~(Automotive fire apparatus equipment.)~~) **Personal protective clothing and equipment for wildland fire fighting.** (~~(1) Vehicles used to transport fire fighter and employer representatives shall have compartments for carrying sharp tools, saws, chisels, axes, etc., or if carried on the outside of the apparatus, sharp points and edges shall be covered to prevent injury to fire fighters and employer representatives.~~)

(2) Personnel restraints for traveling.

(a) All personnel shall ride in a seated position if adequate seats are available.

(b) While in transit, all operators and passengers shall be protected from accidental displacement out of or off the apparatus. Means of restraint may include but are not limited to:

(i) For seated passengers, correct use of at least a pelvic seatbelt. Seatbelts shall comply with Part 49 CFR Section 571, Standards 209 and 210, U.S. DOT Regulations;

(ii) For tailboard passengers, containment within a guardrail enclosure or correct use of a safety belt and short lanyard securely connected to the apparatus;

(iii) Safety belt lanyards shall be secured to an anchorage or structural member capable of supporting a minimum dead weight of 5400 pounds.

(e) Safety belts shall be constructed and maintained in compliance with ANSI A10.14 1975.

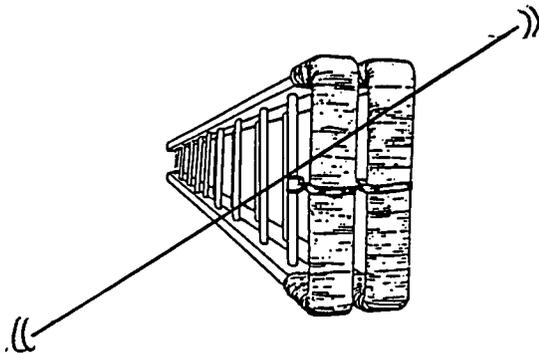
(d) Lanyards shall be a minimum of one half inch nylon or equivalent with a nominal breaking strength of 5400 pounds.

(c) Minimum structural members for tailboard enclosures shall be two inch diameter standard schedule 40 pipe or the equivalent. The enclosure shall be constructed to a minimum top rail height of forty two inches and shall include a midrail and a toeboard at least four inches high. Access door(s) shall be constructed and mounted to achieve structural integrity comparable to the remainder of the enclosure. The door(s) latch shall be equivalent to a one quarter inch by two inch solid steel bar.

(3) Each fire apparatus shall carry a United States Department of Transportation chemical identification book or the equivalent.

(4) Ladders stowed on the sides of apparatus, which protrude into a passage area of a fire station, shall have guards over the butt ends. This guard can be in the form of a short piece of 2 1/2 inch hose.

(5) No employer shall permit automotive fire apparatus equipment which has an obstructed view to the rear to be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level.



(1) Protective apparel and equipment for wildland fire fighters shall be designed to provide thermal protection for the fire fighters against external heat sources with flame resistant clothing and equipment without creating high heat stress loads due to the prolonged work periods they experi-

ence. Persons performing suppression on a wildland fire shall wear provided protective clothing complying with the performance requirements of NFPA 1977, 1993 edition. The combined protective ensemble includes:

(a) Hardhat/helmet

(b) Upper and lower torso clothing

(c) Boots

(d) Gloves

(e) Hood/neck, ear protection

(f) Goggles

(g) Fire shelters

(2) Any wildland personnel protective clothing purchased after the effective date of this chapter shall comply with this section.

(3) Wildland protective clothing purchased prior to the effective date of this chapter shall be acceptable for a period of two years or until current stocks have been exhausted, whichever comes first.

(4) During "mop up" operations the incident commander may approve the wearing of clothing other than those meeting NFPA 1977, 1993 edition.

(5) Personnel operating Type 1 or Type 2 engines assigned to structural protection will carry structural protective clothing on their assigned apparatus.

(6) Wildland personnel protective clothing shall not be used for interior structural fire fighting.

(7) Persons provided fire shelters shall be trained in their use and shall receive refresher training at least annually.

(8) Personnel wearing full structural fire fighting clothing while engaged in fighting wildland fires shall not expend more than one hour before rotating to rest and rehabilitation. Agencies may rotate crews to avoid the one-hour benchmark when containing and controlling wildland fires.

(9) Fire departments shall establish written procedures for the care, use, maintenance, and retirement criteria for protective equipment in conjunction with the manufacturers' recommendations.

(10) Fire departments shall establish written procedures for the use of protective clothing and protective equipment while performing fire fighting activities.

(11) Clothing, equipment, and procedures not covered by the NFPA, 1977 Standard, 1993 edition, shall be met by the applicable section of this chapter.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-07005 ((Apparatus operational rules:)) Respiratory protection for wildland fire fighters.

((1) Each employer of fully manned stations shall establish a written policy and procedure whereby the apparatus has a scheduled daily maintenance check. Each employer of an unmanned or volunteer station shall establish a schedule appropriate to that department's activities.

(2) Any item found to be in need of repair shall be reported immediately to his supervisor.

(3) Fire fighting apparatus shall be brought to a full stop when employees are required to step from the apparatus.

(4) Fire fighters shall ride in crew cabs when available.

(5) Fire fighters shall not be in the apparatus hose bed while hose is being run out from the bed.

(6) Headlights shall be on at all times when any fire or emergency vehicle is responding to a call.

(7) Whenever an apparatus is parked at a fire scene, wheel blocks shall be utilized.

(8) Apparatus responding to alarms shall meet specifications in RCW 46.61.035, relating to operations of authorized emergency vehicles.

(9) All operators of emergency vehicles shall be trained in the operation of their assigned apparatus before they are designated as drivers of such apparatus. The training program shall be established by each fire department.

(10) Stunt driving and horseplay shall not be allowed.)

Note: Wildland fire fighters may be subjected to numerous respiratory hazards.

(1) When it can be expected that fire fighters may enter a hazardous atmosphere, only members in self contained respiratory equipment shall combat such fires.

(2) When wildland fire fighters are exposed to dust concentrations that are irritating to the members, suitable respiratory protection shall be provided. When fire fighters are provided respiratory protection including particle masks, they shall be trained in the care and use of the respirator to be used.

Note: When the air quality on portions or all of the fire is in question, monitoring for carbon monoxide concentrations should be used to determine if crews may enter these areas.

(3) Employers shall adopt and maintain a written respiratory protection program that addresses inspection, use, maintenance, training, emergency procedures and atmospheric air quality.

Additional Reference: WAC 296-304-04001(3).

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-07007 ((Apparatus operation communications-)) Personal accountability. (((1) When fire fighters are required to ride on the tailboard, or tiller's seat, an electrical signal or voice communication system shall be installed between tailboard or tiller's seat and driver compartment. The following set of signals shall be used for communication between the driver and a tillerman, or between the driver and fire fighters riding the tailboard:

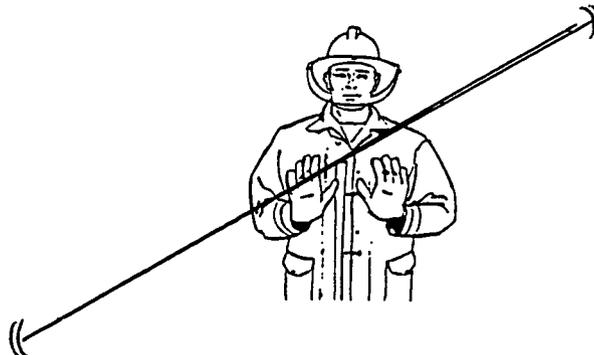
- (a) One long buzz means stop;
- (b) Two buzzes means forward;
- (c) Three buzzes means reverse.

Before any of the above functions are undertaken, with the exception of stopping, the same appropriate signal must be received from the tailboard. Example: If driver is responding to an alarm before starting out, two beeps on the horn will be sounded. Driver will not advance, however, until the same signal is sounded from the tailboard or tillerman.

(2) When using hand signals, these signals are as follows:

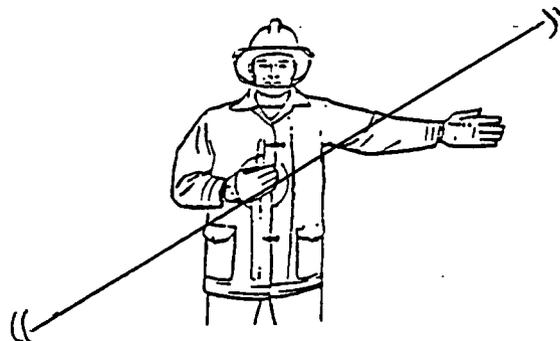
STOP

Hold hands to the side, shoulder high, exposing palms to driver. At night, hold hands in the same manner, with the addition of a flashlight in one hand, shining at the driver. This will indicate an immediate STOP.



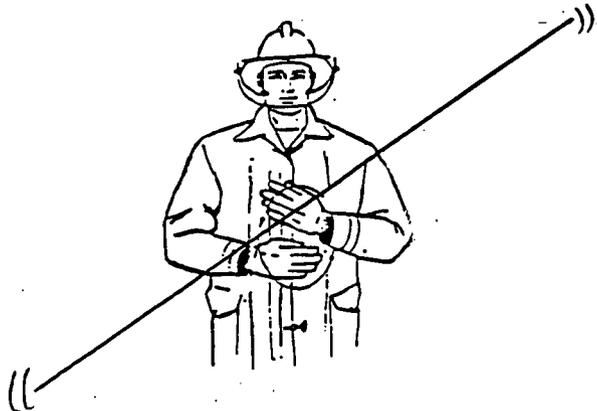
RIGHT OR LEFT

Point in the desired direction with one hand and motion in a circular "come on" gesture with the other at chest level. At night, direct a flashlight beam at the hand pointing in the desired direction.



AHEAD OR BACK UP

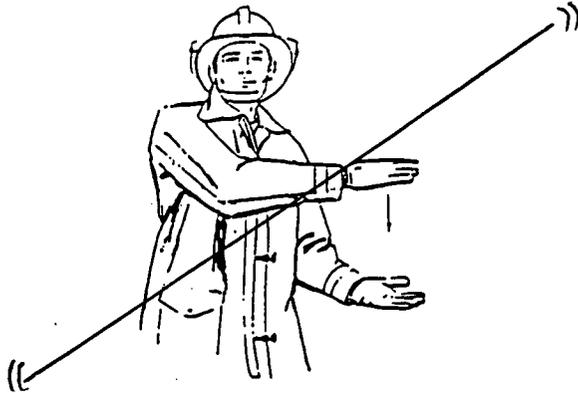
Hold hands directly in front, chest high, fingers on hands directed toward one another, and motion in a circular "come on" gesture. At night, hold a flashlight in one hand and direct the beam toward the other.



DIMINISHING CLEARANCE

PROPOSED

Hold the hands to one side of the body indicating the approximate amount of distance the apparatus is from the obstacle. Close hands accordingly as the driver slowly maneuvers his apparatus toward same. Close hands as the distance narrows to a point where the signalman indicates immediate STOP. Always allow enough for driver's reaction time. At night, indicate in the same manner with a flashlight in the upper hand and beam directed at the palm of the other. On STOP, cover the flashlight beam with the hands.



(1) Wildland fire fighters shall not be required to wear personnel alerting devices except when wearing self contained respiratory equipment.

(2) An officer shall maintain positive communication with any individual during those times that the member is assigned an ancillary fire fighting task (examples would include, but are not limited to, scout, safety officer, or watch person).

(3) Wildland fire fighters shall work in teams of two or more while working on or near the fire line of an active fire unless they are in visual or voice contact with an officer.

(4) On initial attack fires, the incident commander shall:

(a) Maintain the name and location of all personnel on the incident.

(b) On extended attack fires, ensure the maintenance of the name and location of all personnel within their unit, division, or branch.

(c) Transfer/confirm personnel and unit information to the appropriate incident command section (ICS) command staff as soon as possible.

(d) Ensure that personnel and unit information is recorded in the command post as soon as possible.

(5) When a fire "blows up" or makes a run that crosses planned control lines, officers shall conduct an accounting of all personnel assigned to fire suppression and report any missing personnel to the incident commander.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-07009 (~~Maintenance and repair.~~) **Apparatus standards for wildland fire fighting.** ~~(((1) If at any time, a fire apparatus is found to be in an unsafe condition, it shall be reported to the supervising officer on duty and, if in his opinion, the apparatus cannot be used in a safe manner, it shall be taken out of service until it has been restored to a safe operating condition.~~

~~(2) All repairs made to fire department apparatus shall only be made by personnel authorized by the employer.~~

~~(3) Tires on fire service apparatus shall be changed when the tread depth reaches 4/32 of an inch, measured in any two major tread grooves at three locations equally spaced around the circumference of the tire.)~~ This section applies to wildland fire apparatus meeting the NIIMS ICS typing of a Type 3 through Type 7 engine, and intended for use combating fires occurring in natural vegetation or occurring in natural vegetation and threatening improvements. See Appendix E for equipment types.

(1) In a wildland fire, an engine may provide the primary protection for a crew in the event of unexpected fire behavior or an action that places the engine crew in a position of being exposed to heat and smoke.

(2) Because of the sheltering offered by an engine, the following minimum standards shall be complied with:

(a) The number of individuals working/assigned as an engine crew shall not exceed the manufacturer's cab capacity.

(b) Any time an engine is moved when not directly attacking a fire, personnel shall ride in the vehicle's enclosed cabin area, in a seat-belted location, or be off the vehicle.

(c) Any time engines are used in a mobile attack configuration, and personnel other than the driver are on the apparatus, personnel shall ride in the manufacturer's enclosed cabin, or use the personnel restraints identified in WAC 296-305-07011.

(d) All personnel working on or around engines in a mobile attack mode or in riding positions shall have visual or voice contact with the driver.

(e) Vehicles operating in smoke or dust shall have their headlights, and if so equipped, a flashing or rotating roof light illuminated.

NEW SECTION

WAC 296-305-07011 Personnel restraints and enclosures for wildland fire fighting. (1) While in motion, the driver and passengers in the cab shall wear seatbelts.

(2) Seatbelts shall comply with U.S. Department of Transportation, Part 49 CFR, Section 571, Standards 209 and 210.

(3) Passengers on wildland vehicles shall use a safety belt or a short lanyard securely connected to the apparatus.

(a) Safety belts or lanyards shall be secured to an anchorage or structural member capable of supporting a minimum dead weight of 1500 pounds per person or a 4:1 safety factor.

(b) Safety lanyard lengths shall not allow for the fire fighter to reach the ground.

(4) Safety belts shall be constructed and maintained in compliance with ANSI A10.14-1975.

(5) Lanyards shall be a minimum of one-half inch nylon or equivalent with a nominal breaking strength of 5400 pounds.

(6) Minimum structural components for wildland vehicle enclosures shall be one-inch diameter, capable of supporting a minimum of 1500 pounds per person, a 4:1 safety ratio or the equivalent.

(7) The enclosure shall be constructed to a minimum top rail height of forty-two inches and shall include a midrail

and either a toeboard at least four inches high or a bottom rail a maximum of six inches from the platform.

(8) Access door(s) and latching mechanisms to tail board enclosures shall be constructed and mounted to achieve structural integrity comparable to the remainder of the enclosure.

(9) A strap or butt-bar utilized for the fourth side of the enclosure shall be a minimum of a four-inch nylon strap capable of supporting 1500 pounds dead weight.

NEW SECTION

WAC 296-305-07013 Equipment for wildland fire fighting.

Note: Equipment is considered in this section as those items not configured as a part or portion of the vehicle body.

(1) All equipment on an apparatus shall be carried in an enclosed compartment or otherwise securely mounted on the apparatus and guarded, so that individuals can not accidentally come in contact with equipment that may injure them.

(2) All hand tools, when not in use, shall have appropriate covers and guards to prevent injury.

(3) Wildland fire fighters whose duties require them to operate a power chain saw shall wear flexible ballistic nylon pads, sewn or otherwise fastened into the trousers, or other equivalent protection that shall protect the vulnerable areas of the legs. Additional trouser, eye, hearing, face and head protection as required by this chapter shall be worn.

(4) Employees shall not use the chainsaw to cut directly overhead, or at a distance that would require the operator to relinquish a safe grip on the saw.

(5) Only personnel trained in firing equipment shall handle and use such equipment, and observe the manufacturers' recommendations.

NEW SECTION

WAC 296-305-07015 Aircraft operations for fighting wildland fires. (1) Whenever fixed wing and rotary wing aircraft are being utilized on an incident, personnel trained in air operations management shall be assigned by the incident commander/operations section chief.

(2) Prior to the initiation of air operations, all personnel operating in close proximity to an air drop shall be notified of such activity.

(3) Personnel shall not intentionally operate in an area where it can reasonably be expected that they may be hit with retardants or suppressants from fixed wing or rotary aircraft.

(4) Radio communications shall be maintained between an aircraft/air attack officer and the appropriate ground officer.

(5) Personnel assigned to ride in rotary wing aircraft shall be briefed in the correct approach, riding and off-loading procedures for the particular type of aircraft.

NEW SECTION

WAC 296-305-07017 First-aid for wildland fire fighters. (1) At all wildland fires, members shall be provided with a minimum of one quart per two-hour time period of electrolyte drinks or potable water.

(2) Officers at wildland fires shall be trained in the symptoms of heat-related disorders and shall observe their crews for such behavior. Appropriate action shall be taken in the event a crew member displays such symptoms.

NEW SECTION

WAC 296-305-07019 Training for wildland fire fighting. (1) All fire fighters whose primary responsibility is to extinguish wildland fires shall be trained to a National Wildfire Coordinating Group (NWCG), wildland fire fighter, level II, or equivalent.

(a) "Equivalent" training shall be determined by the employer.

(b) Nothing in this section shall preclude the use of local residents, affected parties or contracted fire fighting resources to suppress wildland fires, if they are under the direct supervision of a qualified fire line officer.

Note: The NWCG performance tasks are listed in Appendix E.

(2) All suppression personnel shall annually review the ten standard operating orders and 18 "Watch Out" situations. See Appendix E.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-075 (~~Fire service equipment~~) ~~((1))~~ Before using portable equipment, the user shall inspect it to determine to his satisfaction that it is operable.

~~(2) When equipment develops a defect which would result in a hazard to the fire fighter, it shall immediately cease to be used.~~

~~(3) Nylon utility straps or straps of equivalent strength should be used instead of hose belts. The utility strap shall be of 1 inch nylon, or equivalent belting, with a 4 inch overlap and sewn with polyester thread and shall measure at least 102 inches outside circumference.~~

~~(4) The load capacity of each portable jack shall be stenciled on each portable jack and shall not be exceeded.~~

~~(5) The instruction plate on portable jacks shall be maintained in a legible condition.~~

~~(6) When not in use the cutting teeth on a chain saw shall be covered either by an old section of hose, a wooden scabbard, or an equivalent method.~~

~~(7) All axes worn by employees shall be provided with a scabbard to guard against injury from the blade and pick of the axe.~~

~~(8) The guards on smoke ejectors as supplied by the manufacturer shall not be removed and the operator of the ejector shall wear gloves.~~

~~(9) Acetylene cylinders. Handling, storage and utilization of acetylene in cylinders shall be in accordance with Compressed Gas Association Pamphlet G-1-1966.~~

~~(10) Fiber rope that has been subjected to injurious chemicals or excessive heat shall not be used for load carrying purposes.~~

~~(11) In using formed charge, explosive devices for forcible entry or ventilation, prescribed safety measures as stipulated by the manufacturer shall be followed.~~

~~(12) Each employer using formed charge, explosive devices shall establish and use a procedure by which~~

employees and the general public are notified and protected when explosive devices are to be fired.

(13) Formed charge, explosive devices shall not be used in an explosive or flammable atmosphere.

(14) A storage container shall be furnished for the formed charge device and the container labeled "EXPLOSIVE."

The shipping container shall suffice as a storage container when labeled "EXPLOSIVE."

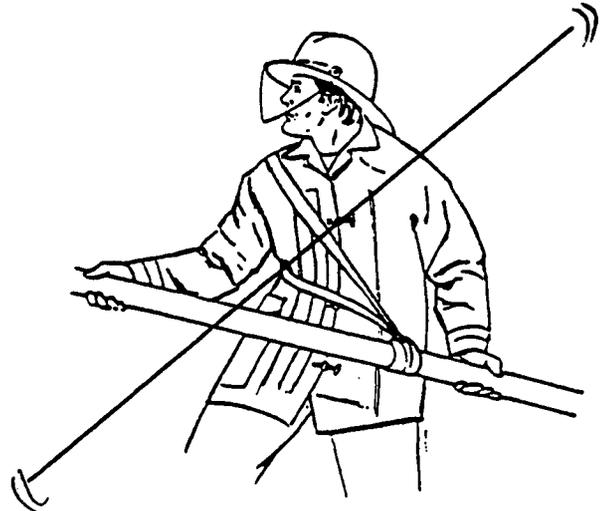
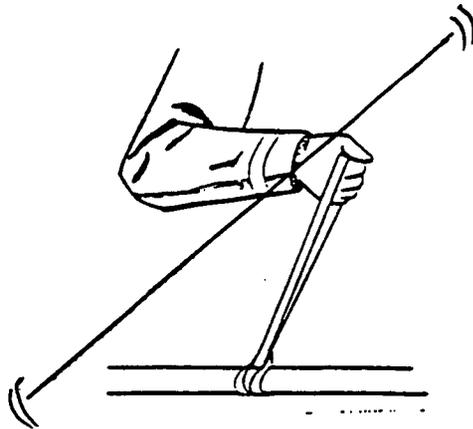
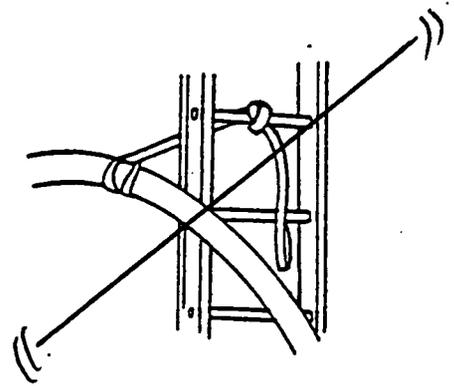
(15) Powder activated life line guns and accessories shall be stored in a box or container equipped with a lid or cover. When not in use the box shall be kept closed. A loaded life line gun shall not be placed in the storage box.

(16) Instruction books, cleaning kits and hand tools needed for maintenance or breakdown purposes shall be kept in the life line gun storage box.

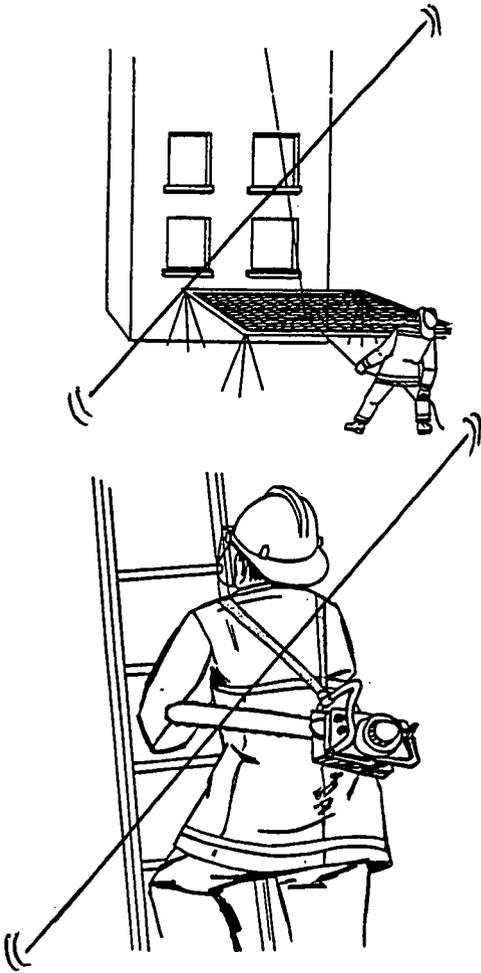
(17) The words "powder activated tool" shall be conspicuously printed on the top of the storage box.

(18) Portable abrasive saws shall have the upper half of the abrasive wheel guarded.

(19) Abrasive blades shall be protected from contact with oil, water, and liquids when stored.



PROPOSED



Reserved.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-080 ((Testing fire service equipment.))

~~((1) When testing fire hose, a restricted orifice disc, having not more than a 25% opening, shall be installed on the pumper discharge port, or in the alternative the pumper discharge valve may be opened not more than 25%, to insure a minimum volume of water in case of a bursting hose.~~

~~(2) Safety nets shall be tested annually by dropping a weight of not less than 160 pounds from the highest point to be used above the net. The test weight object may consist of two tightly tied rolls of 2 1/2 inch hose, each 100 feet long or any other object having similar weight and dimension.~~

~~(a) The net suspension system shall be designed and constructed with a safety factor of four and as a minimum shall withstand the test loading without permitting contact between the net and any surface or object below the net.~~

~~(b) Forged steel safety hooks or shackles shall be used to fasten the net to its supports.~~

~~(e) Training requiring safety net protection shall not be undertaken until the net is in place and has been tested by the weight of three fire fighters on the net.~~

~~(d) Safety nets shall extend 8 feet beyond the edge of the work surface.~~

~~(e) The mesh size of nets shall not exceed six inches by six inches.~~

~~(f) All nets shall meet accepted performance standards of 17,500 foot pounds minimum impact resistance as determined and certified by the manufacturer, and shall bear a label of proof test.~~

~~(g) Edge ropes shall provide a minimum breaking strength of 5,000 pounds.~~

~~(3) Life belts shall meet the strength requirements of ANSI A10.14 Requirements for Safety Belts, Harnesses, Lanyards, Lifelines and Drop Lines for Industrial Use. Life belts shall be inspected after each use and not less than semi annually in accordance with manufacturer's instructions.~~

~~(4) Rescue ropes shall be used for rescue purposes only.~~

~~(5) Rescue ropes shall meet the following requirements:~~

~~(a) Shall be constructed of rot proof fiber with a melting point of not less than 400 degrees F;~~

~~(b) Shall be of abrasion resistant construction;~~

~~(c) Shall have a minimum breaking strength of not less than 9,000 pounds; and~~

~~(d) Shall have a breaking elongation of not less than twenty percent.~~

~~(6) Rescue ropes shall be padded when deployed over edges or rough surfaces.~~

~~(7) Rescue ropes shall be inspected after each use and not less than semi annually in accordance with manufacturer's instructions.~~

~~(8) The method of testing a life line gun shall be in accordance with the manufacturer's recommended procedure.)) Reserved.~~

PROPOSED

NEW SECTION

WAC 296-305-08000 Appendices. These appendices are nonmandatory and are included to reference and information purposes only.

Appendix A—Sample OSHA Reporting Forms.

PROPOSED

Bureau of Labor Statistics
Supplementary Record of
Occupational Injuries and Illnesses

U.S. Department of Labor



This form is required by Public Law 91-598 and must be kept in the establishment for 5 years. Failure to maintain can result in the issuance of citations and assessment of penalties.

Case or File No.

Form Approved
O.M.B. No. 1220-U029

Employer
1. Name

See OMB Disclosure Statement on reverse.

2. Mail address (No. and street, city or town, State, and zip code)

3. Location, if different from mail address

Injured or Ill Employee

4. Name (First, middle, and last)

Social Security No.

5. Home address (No. and street, city or town, State, and zip code)

6. Age

7. Sex: (Check one)

Male

Female

8. Occupation (Enter regular job title, not the specific activity he was performing at time of injury.)

9. Department (Enter name of department or division in which the injured person is regularly employed, even though he may have been temporarily working in another department at the time of injury.)

The Accident or Exposure to Occupational Illness

If accident or exposure occurred on employer's premises, give address of plant or establishment in which it occurred. Do not indicate department or division within the plant or establishment. If accident occurred outside employer's premises at an identifiable address, give that address. If it occurred on a public highway or at any other place which cannot be identified by number and street, please provide place references locating the place of injury as accurately as possible.

10. Place of accident or exposure (No. and street, city or town, State, and zip code)

11. Was place of accident or exposure on employer's premises? Yes No

12. What was the employee doing when injured? (Be specific. If he was using tools or equipment or handling material, name them and tell what he was doing with them.)

13. How did the accident occur? (Describe fully the events which resulted in the injury or occupational illness. Tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led or contributed to the accident. Use separate sheet for additional space.)

Occupational Injury or Occupational Illness

14. Describe the injury or illness in detail and indicate the part of body affected. (E.g., amputation of right index finger at second joint; fracture of ribs; lead poisoning; dermatitis of left hand, etc.)

15. Name the object or substance which directly injured the employee. (For example, the machine or thing he struck against or which struck him; the vapor or poison he inhaled or swallowed; the chemical or radiation which irradiated his skin; or in cases of strains, hernias, etc., the thing he was lifting, pulling, etc.)

16. Date of injury or initial diagnosis of occupational illness

17. Did employee die? (Check one) Yes No

Other

18. Name and address of physician

19. If hospitalized, name and address of hospital

Date of report

Prepared by

Official position

OSHA No. 101 (Feb. 1981)

Bureau of Labor Statistics
Log and Summary of Occupational
Injuries and Illnesses

NOTE: This form is required by Public Law 91-508 and must be kept in the establishment for 5 years. Failure to maintain and post can result in the issuance of citations and assessment of penalties. (See posting requirements on the other side of form.)

RECORDABLE CASES: You are required to record information about every occupational death; every nonfatal occupational illness; and those nonfatal occupational injuries which involve one or more of the following: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment (other than first aid). (See definitions on the other side of form.)

Case or File Number	Date of Injury or Onset of Illness	Employee's Name	Occupation	Department	Description of Injury or Illness
Enter a nonduplicating number which will facilitate comparisons with supplementary records.	Enter Mo./day.	Enter first name or initial, middle initial, last name.	Enter regular job title, not activity employee was performing when injured or at onset of illness. In the absence of a formal title, enter a brief description of the employee's duties.	Enter department in which the employee is regularly employed or a description of normal workplace to which employee is assigned, even though temporarily working in another department at the time of injury or illness.	Enter a brief description of the injury or illness and indicate the part or parts of body affected. Typical entries for this column might be: Amputation of 1st joint right forefinger; Strain of lower back; Contact dermatitis on both hands; Electrocuton—body.
(A)	(B)	(C)	(D)	(E)	(F)
					PREVIOUS PAGE TOTALS →
					TOTALS (instructions on other side of form.) →

OSHA No. 200

PROPOSED

PROPOSED

Part 1: Summary of 1994 Occupational Injuries and Illnesses

All establishments must complete this part of the survey, even if there were no occupational injuries and illnesses during 1994. This form tells us about the number of employees in your establishment and the number of hours they worked. It also gives us a summary of any occupational injuries and illnesses that did occur during 1994.

To answer the questions on this form, you'll need

- ▶ information about employment and hours worked from your payroll, and
- ▶ your completed copy of the 1994 *Log and Summary of Occupational Injuries and Illnesses* (OSHA No. 200).

Tell us about your establishment's employees and the hours they worked

Be sure the information you supply refers only to the establishment(s) noted on the cover under *Reporting Site*.

1. What is the average number of employees who worked for your establishment during 1994?

If this number isn't available, you can estimate it this way:

Employment average

- ▶ Add together the number of employees your establishment paid in every pay period during 1994. Include all employees: full-time, part-time, temporary, seasonal, salaried, and hourly.
- ▶ Divide that answer by the number of pay periods your establishment had in 1994. Be sure to include any pay periods when you had no employees.
- ▶ Round the answer to the next highest whole number. Write the rounded number in the blank marked *Employment average*.

Example
Acme Construction pays its employees 26 times each year. During 1994,

in this pay period	Acme paid this many employees
1	10
2	0
3	15
4	30
5	40
↓	↓
24	20
25	15
26	10
	830 (sum)

Because Acme has 26 pay periods, it would divide its sum by 26.

830 divided by 26 = 31.92

Acme would round 31.92 to 32 and write that number in the blank marked *Employment average*.

2. How many hours did your employees (salaried as well as hourly employees) actually work during 1994?

Do not include vacation, sick leave, holidays, or any other non-work time, even if employees were paid for it. If your establishment keeps records of only the hours paid or if you have employees who are not paid by the hour, please estimate the hours that the employees actually worked.

Total hours worked

If this number isn't available, you can use this worksheet to estimate it.

Optional Worksheet

- _____ Find the number of full-time employees in your establishment for 1994.
- x _____ Multiply by the number of work hours for a full-time employee in a year.
- _____ This is the number of full-time hours worked.
- + _____ Add the number of any overtime hours as well as the hours worked by other employees (part-time, temporary, seasonal).
- _____ Round the answer to the next highest whole number. Write the rounded number in the blank marked *Total hours worked*.

3. Put an X in the box next to all the conditions that might have affected your answers to #1 and #2.

- Nothing unusual happened
- Strike or lockout
- Shutdown or layoff
- Seasonal work
- Natural disaster or adverse weather conditions
- Shorter work schedules or fewer pay periods than usual
- Longer work schedules or more pay periods than usual
- Other reason: _____

4. Did you have ANY occupational injuries or illnesses during 1994?

- Yes. Go to the next section, *Tell us about the injuries and illnesses during 1994.*
- No. Go to *Sign This Form* on the back cover.

Tell us about the injuries and illnesses during 1994

If you had occupational injuries or illnesses during 1994, follow these steps.

- 1 Go to your completed 1994 *Log and Summary of Occupational Injuries and Illnesses* (OSHA No. 200) form.
- 2 Look at the total line on the last page.
- 3 Copy the 1994 totals from your OSHA No. 200 form into the columns below. If more than one establishment is noted on the front cover under *Reporting Site*, add together the total lines from all your OSHA No. 200 forms to get the 1994 totals for all establishments. Then copy those totals into the columns below.

Total Injuries

Copy these totals from columns (1) – (6):

Deaths as a result of injury (column 1)	Injuries with days away from work, or restricted workdays or both (column 2)	Injuries with days away from work (column 3)	Total days away from work (column 4)	Total days of restricted work activity (column 5)	Injuries without lost workdays (column 6)
_____	_____	_____	_____	_____	_____

Total Types of Illnesses

Copy these totals from columns (7a) – (7g):

Skin diseases or disorders (column 7a)	Dust diseases of the lungs (column 7b)	Respiratory conditions due to toxic agents (column 7c)	Poisoning (column 7d)	Disorders due to physical agents (column 7e)	Disorders associated with repeated trauma (column 7f)	Other occupational illnesses (column 7g)
_____	_____	_____	_____	_____	_____	_____

Total Illnesses

Copy these totals from columns (8) – (13):

Deaths as a result of illness (column 8)	Illnesses with days away from work, or restricted workdays or both (column 9)	Illnesses with days away from work (column 10)	Total days away from work (column 11)	Total days of restricted work activity (column 12)	Illnesses without lost workdays (column 13)
_____	_____	_____	_____	_____	_____

What's next

Look at the totals you copied into columns (3) and (10) above (look for the bold lines).

- ▶ If you had NO cases in both columns (3) and (10), you are finished with the survey. Go to *Sign This Form* on the back cover.
- ▶ If you HAD cases in either column (3) or column (10), go to *Part 2: Reporting Cases with Days Away from Work.*

PROPOSED

Case with Days Away from Work

Tell us about a 1994 occupational injury or illness only if it resulted in days away from work. To find out which cases you should report, read the instructions at the beginning of *Part 2: Reporting Cases with Days Away from Work*. We will keep all information that you give us confidential.

Tell us about the case

Go to your completed OSHA No. 200 form. Copy the case information from that form into the columns below.

Date of injury or illness (column B)	Employee's last name, first initial (column C)	Injury		Illness	
		Days away from work (column 4)	Days of restricted work activity (column 5)	Days away from work (column 11)	Days of restricted work activity (column 12)
month / day / year					

If, as a result of the injury or illness, the employee did NOT return to regular work in 1994, tell us why.

- Still recovering; approximate return date month / day / year
- Other: _____

Tell us about the employee

Please answer the questions below.

1. Employee's approximate length of service at this establishment when the incident occurred (optional)

- Less than 3 months
 Between 3 and 12 months
 Between 1 and 5 years
 More than 5 years

2. Employee's race or ethnic background (optional)

- White, not of Hispanic origin
 Black, not of Hispanic origin
 Hispanic
 Asian or Pacific Islander
 American Indian, Aleut, or Eskimo

3. Go to *Summary of Standards for Workers' Compensation* at the back of this package and read the workers' compensation standards for your state. Does this case meet your State's standards for filing for workers' compensation?

- Yes. We can get the rest of the information on this case from our files. Write the employee's Social Security number below so we can find the information. Then go on to the next *Case with Days Away from Work* form.

Social Security number _____

- No. You may either answer the next questions or attach a copy of a supplementary document that answers them.

4. Employee's age _____ OR date of birth month / day / year

5. Employee's sex

- Male Female

6. Employee's occupation _____

N	P	S	E	SS	OCC
---	---	---	---	----	-----

Tell us about the incident

Answer the questions below or attach a copy of a supplementary document that answers them.

7. What was the employee doing just before the incident occurred? Tell us about the activity as well as the tools, equipment, or material the employee was using. Be specific. Examples: "climbing a ladder while carrying roofing materials"; "spraying chlorine from hand sprayer"; "daily computer key-entry."

8. What happened? Tell us how the injury or illness occurred. Examples: "When ladder slipped on wet floor, worker fell 20 feet"; "Worker was sprayed with chlorine when gasket broke during replacement"; "Worker developed soreness in wrist over time."

9. What was the injury or illness? Tell us the part of the body that was affected and how it was affected; be more specific than "hurt," "pain," or "sore." Examples: "strained back"; "chemical burn, hand"; "tendinitis, elbow"; "carpal tunnel syndrome."

10. What object or substance directly harmed the employee? Examples: "concrete floor"; "chlorine"; "radial arm saw." If this question does not apply to the incident, leave it blank.

Case with Days Away from Work

Tell us about a 1994 occupational injury or illness only if it resulted in days away from work. To find out which cases you should report, read the instructions at the beginning of *Part 2: Reporting Cases with Days Away from Work*. We will keep all information that you give us confidential.

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		Days away from work (column 4)	Days of restricted work activity (column 5)	Days away from work (column 11)	Days of restricted work activity (column 12)
month / day / year					

If, as a result of the injury or illness, the employee did NOT return to regular work in 1994, tell us why.

- Still recovering; approximate return date month / day / year
- Other: _____

Tell us about the employee

Please answer the questions below.

1. Employee's approximate length of service at this establishment when the incident occurred (optional)

- Less than 3 months
 Between 3 and 12 months
 Between 1 and 5 years
 More than 5 years

2. Employee's race or ethnic background (optional)

- White, not of Hispanic origin
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Social Security number _____

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5. Employee's sex

- Male Female

6. Employee's occupation _____

N	P	S	E	SS	OCC
---	---	---	---	----	-----

Tell us about the incident

Answer the questions below or attach a copy of a supplementary document that answers them.

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8. What happened? Tell us how the injury or illness occurred. Examples: "When ladder slipped on wet floor, worker fell 20 feet"; "Worker was sprayed with chlorine when gasket broke during replacement"; "Worker developed soreness in wrist over time."

9. What was the injury or illness? Tell us the part of the body that was affected and how it was affected; be more specific than "hurt," "pain," or "sore." Examples: "strained back"; "chemical burn, hand"; "tendinitis, elbow"; "carpal tunnel syndrome."

10. What object or substance directly harmed the employee? Examples: "concrete floor"; "chlorine"; "radial arm saw." If this question does not apply to the incident, leave it blank.

PROPOSED

**EXPOSURE REPORT FORM
BLOOD OR BODY FLUID**

(To be completed by emergency worker at the time of incident)

Exposed Employee Information:

Name: _____ Rank: _____
 Soc. Sec. #: _____ Telephone (H) _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Emergency Worker Category:
 _____ Ambulance Attendant _____ Law Enforcement _____ Firefighter

Incident Information:

Run #: _____ Shift: _____ Company: _____ District: _____
 Incident Location: _____
 Type of Incident (e.g., auto accident, Trauma, etc.) _____

Exposure Description:

Date of Exposure: _____ Time of Exposure: _____

1. What body fluid(s) were you in contact with?
 Blood: _____ Feces: _____ Saliva: _____ Sputum: _____
 Sweat: _____ Tears: _____ Urine: _____ Vomitus: _____
 Other (describe) _____
2. What was the method of contact?
 _____ Needlestick with contaminated needle
 _____ Blood or body fluids into natural body openings (e.g., nose, mouth, eye)
 _____ Blood or body fluids into cut, wound, sores, or rashes less than 24 hours old
 Please specify: _____
 _____ Other (describe specifically) _____
3. How did the exposure occur? Be specific.

4. What action was taken in response to the exposure to remove the contamination (e.g., handwashing)?

5. What personal protective equipment was being used at the time of exposure?

PROPOSED

**EXPOSURE REPORT FORM
BLOOD OR BODY FLUID (Continued)**

Exposure Description (Continued)

6. Please describe any other information related to the incident (use a separate piece of paper (if needed):

Source of Exposure:

Name of Patient (source of exposure): _____ Sex: _____

Receiving Health Care Facility: _____

Transported by: _____

Patient's Physician: _____

Medical Information:

1. Did you seek medical attention? _____ Date: _____
If yes, where? _____

2. Did you contact the infection control officer? _____
If yes, give date and time _____
Name of infection control officer: _____

Employee's Signature _____ Date _____

Infection Control Officer's Signature _____ Date _____

To Be Completed by the Infection Control Officer:

Communicable disease follow-up needed? Yes* _____ No _____

*If yes, infection control officer must complete the "Communicable Disease Exposure Follow-up Form." This procedure applies either if this is a known disease exposure or if such information is determined at a future date.

**INSTRUCTIONS FOR USING THE
EXPOSURE REPORT FORM**

For the Emergency Worker

When to Complete This Form: This form should be completed when an exposure occurs that may pose a health risk. This form should be completed so that the department infection control office and physician can advise you regarding appropriate medical actions.

Significant Exposure Defined: A situation in which the body fluids (such as blood, saliva, urine, feces, etc.) of a patient are suspected of having entered your body through either a body opening (such as your nose, mouth, or eye), or a break in your skin (such as cut, rash, or abrasion); a needlestick with a contaminated or used needle; intimate respiratory contact (such as CPR without a barrier); or any other situation in which a patient's body fluids may have entered your body.

What to Do With the Completed Form: Make on copy. Promptly give the original to your infection control officer and keep the copy for yourself.

For Physicians

Patient's Physician: This form indicates that an emergency worker (a member of an ambulance service, fire department, or law enforcement agency) was exposed to body fluids of the patient identified on the second page of this form. Should the exposure as described on this form pose a health risk to the emergency worker, the emergency worker's physician as identified on this form may contact you for information so the appropriate medical interventions may be initiated. If information pertinent to the exposure incident develops during the course of treatment (during hospitalization or post-treatment visits), please notify the emergency worker's physician so treatment for the emergency worker can be reevaluated. For further information, contact your local or state health department.

Emergency Worker's Physician: A copy of this report is being given to you as the primary physician of the emergency worker named on this form. This report is to notify you that your patient has sustained a significant exposure to blood or body fluids during his/her duties as an emergency worker. It does not necessarily mean that he/she was exposed to a contagious or communicable disease; however, should the exposure pose a health risk to your patient, please contact the source patient's physician as identified on this form so the appropriate medical interventions may be initiated. For further information, contact your local or state health department. A copy of this report has also been provided to the transported patient's physician through the health care facility to which the patient was taken.

PROPOSED

PROPOSED

INFORMED CONSENT FORM FOR HEPATITIS B VACCINE
--

Name (please print): _____ Employer Name: _____
--

I have read the vaccine manufacturer's printed information and have attended a departmental informational session on (date) _____ regarding hepatitis B and the hepatitis B vaccine.

I understand that due to my occupational exposure to blood or other potentially infectious materials, I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself.

I have had the opportunity to ask any questions and consult my personal physician. I understand that there is no guarantee that I will become immune to hepatitis B or that I will not experience any adverse side effects from the vaccine. I also understand that I must have all three (3) doses of the vaccine to derive the benefit of the vaccine and that it is my responsibility to keep my scheduled appointments to receive all three (3) of them.

Employee's Signature _____
Date

Witness of Employee's Signature _____
Date

	Date Vaccination Scheduled	Date Vaccination Received	Employee's Initials After Receiving Vaccination
1st dose	_____	_____	_____
2nd dose	_____	_____	_____
3rd dose	_____	_____	_____

Signature of Information Session Conductor _____
Date

Signature of Department Infection Control Officer _____
Date

PROPOSED

<p>INFORMED REFUSAL FORM FOR HEPATITIS B VACCINE</p>

Name (please print): _____

Employer Name: _____

I have read the vaccine manufacturer's printed information and have attended a departmental informational session on (date) _____ regarding hepatitis B and the hepatitis B vaccine.

I understand that due to my occupational exposure to blood or other potentially infectious materials, I may be at risk of acquiring hepatitis B (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can receive the vaccination series at no charge to myself.

Employee's Signature

Date

Witness of Employee's Signature

Date

Signature of Information Session Counselor

Date

Signature of Department Infection Control Officer

Date

EMPLOYEE VACCINE/IMMUNIZATION HISTORY

PROPOSED

Employee Name: _____ Hire Date: _____

1. **HBV** vaccination series completion date: _____
 Comments: _____

 Results of subsequent antibody testing: _____

2. **Tuberculosis** skin test: Pos _____ Neg _____ Date _____
 Comments: _____

3. **Measles:**
 Did you have measles as a child? Yes _____ No _____
 If yes, date: _____
 If no, were you vaccinated before 1957? Yes _____ No _____
 If yes, date: _____
 Have you had a second vaccination any time after 1956? Yes _____ No _____
 If yes, date: _____

4. **Mumps:** Vaccination date: _____ Contraction date: _____

5. **Rubella:** Vaccination date: _____ Contraction date: _____

6. **Polio:** Vaccination date: _____

7. **Chicken Pox:** Contraction date: _____

8. **Tetanus/Diphtheria:** Last known vaccination: _____

Appendix C — Recommended cleaning procedures for protective turnout clothing and station uniforms. (1) Protective clothing should be washed separately from other garments.

(2) Do not use chlorine bleach (sodium hypochlorite) as this will adversely affect the tear strength of your protective clothing and lessen its life. Oxygenated bleaches such as Liquid Clorox II, and Vivid may be used.

(3) Protective clothing may be spot treated or pretreated for hard to remove stains with products such as liquid Spray and Wash, liquid Tide, liquid dishwashing detergent or liquid Shout.

Note: The use of brand names is intended only to indicate a type of cleaning agent. All products listed by name must be used in accordance with the manufacturer's recommendations. Use of a brand name does not constitute an endorsement nor does omission of a particular product brand imply that a product is

inferior. Solvents should not be used as they lessen the life of the garment, reduce visibility on the trim, and degrade leather.

(4) When pretreating or spot treating a garment, apply the detergent onto the soiled area. Gently rub the fabric together until a light foam appears on the surface. Use a soft bristle brush (toothbrush type) and scrub the area for about one and one-half minutes. Reapply liquid detergent onto the soiled area and place the garment into the washing machine.

(5) When cleaning turnout clothing the garment should be turned inside out, the hooks and dees fastened, the liner removed, and the garment placed in a laundry bag. These instructions can be used for cleaning any wash loads in a large capacity (sixteen gallon) top loading or front loading machine. Load the machine with any one of the following combinations - do not overload:

- (a) One protective coat and one pair of trousers.
- (b) Two protective coats.
- (c) Two protective pair of trousers.

Note: Heavily soiled garments should be treated as outlined in (4).

(6) While the washing machine is filling with hot water (temperature between 120 degrees F and 130 degrees F), add one-half cup (four ounces) of liquid oxygenated bleach and one cup (eight ounces) of liquid detergent.

- (a) Fill washing machine to highest water level,
- (b) Add garments to be washed,
- (c) Set washing machine for normal cycle, cotton white, or similar setting.

(d) Machines should be programmed for a double rinse. If the machine will not automatically double rinse, a complete second cycle can be run without adding detergent or oxygenated bleach. Double rinse helps remove any residual dirt and ensures detergent removal.

(e) Remove garments from washing machine when done and dry by hanging in a shaded area that receives good cross ventilation, or hang on a line and use a fan to circulate air. A water extractor may be utilized.

(f) After the garments have been removed, run the laundry machine empty or with a dummy (rag) load with detergent at least once; but preferably several times to purge the machine of any residue.

(7) Inspect and examine the trim as to the effectiveness of the trim performance under daytime and nighttime conditions. It is important that a high visibility be maintained at all possible orientations to the light source.

(8) The above procedures can be used for any article of clothing issued that is not contaminated with bloodborne pathogens or any other infectious disease. For clothing exposed to hazardous materials, consult the manufacturer or the appropriate decontamination document.

(9) Procedure for clothing (except wool clothing) that has been exposed to bloodborne pathogens or infectious diseases.

(a) Disposable gloves should be used when handling contaminated clothing.

(b) Each station should have an area designated for the cleaning of equipment. The area designated should not be near kitchen, living, sleeping, or personal hygiene areas.

(c) Contaminated clothing should be handled as little as possible with a minimum of agitation. Contaminated clothing should be cleaned as soon as possible. When the on-coming shift has to clean contaminated clothing for the off-going shift, all contaminated clothing should be stored in red biohazard bags, properly sealed to prevent the spread of potential contamination.

(d) To clean clothing that has been contaminated, a germicidal detergent should be used. Such germicidal should be EPA approved and effective as staphylocidal, pseudomonacidial, virucidal, and fungicidal detergent.

(e) The germicidal detergent is intended to be a complete disinfecting and cleaning agent when mixed according to the manufacturer's directions. Do not add any chemical or detergent to the germicidal solution. After the clothing has been disinfected the clothing should be washed as outlined under normal use.

(f) Wool uniforms should be spot cleaned, placed in the red biohazard bags and sent to an industrial laundry for cleaning.

(10) Helmets, gloves, hoods, and boots should be cleaned as follows:

(a) Preclean using a germicidal solution and scrub all contaminated areas with a soft bristled brush. Rinse with clean water. Dispose of the precleaning solution by pouring it down the drain in the cleaning area.

(b) Using a fresh germicidal solution, repeat the above procedure allowing the areas to remain wet for a minimum of fifteen minutes. Double rinse with clean water and air dry. Dispose of the solution by pouring it down the drain in the cleaning area.

(c) For gloves, use a third fresh water rinse, squeezing and rinsing several times. Dispose of the solution by pouring it down the drain in the cleaning area.

(11) Front loading industrial laundry machines are designed for the type of cleaning required for protective clothing. Machines are available from Milnor, Model 30015C6M-AAC, for washing; or a Huabsch Originator, Model 3705H, for a dryer.

Note: The use of brand names is intended only to indicate a type of cleaning equipment. All products listed by name must be used in accordance with the manufacturer's recommendations. Use of a brand name does not constitute an endorsement nor does omission of a particular product brand imply that a product is inferior.

PROPOSED

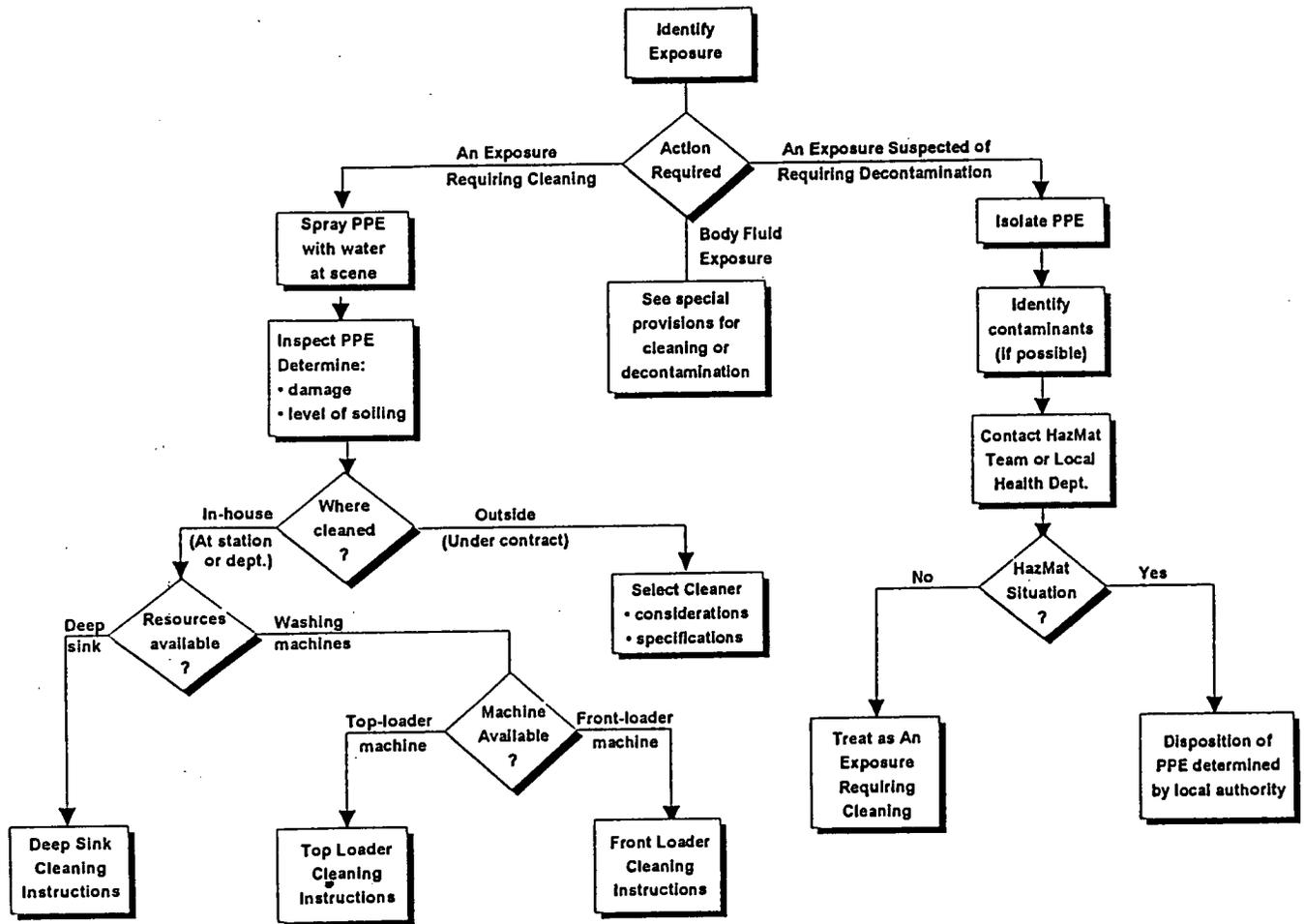


Figure 1. Decision Process for Cleaning or Decontaminating Fire Service PPE

Appendix D — Life Safety Ropes. (1) Life safety rope may be significantly weakened by abrasion, misuse, contamination, wear, and stresses approaching its breaking strength, particularly impact loading. Since there are no approved methods to service test a rope without compromising its strength, rope rescue and training operations should be carefully observed and monitored for conditions that could cause immediate failure or result in undetectable damage to the rope.

(2) If a rope has been used in a situation that could not be supervised or where potential damage may have occurred, it must be removed from service and destroyed.

(3) It is important that ropes be inspected for signs of wear by qualified individuals after each use. If indication of wear or damage are noted, or if the rope has been stressed in excess of the manufacturer's recommendation or impact loaded, it must be destroyed.

(4) The destruction of the rope means that it must be removed from service and altered in such a manner that it could not be mistakenly used as a life safety rope. This alteration could include disposing of the rope, or removal of identifying labels and attachments, and cutting the rope into short lengths that could be used for utility purposes.

(5) The assignment of "disposable" life safety ropes to members or to vehicles has proved to be an effective system to manage ropes that are provided for emergency use and are used infrequently. Special rescue teams, which train frequently and use large quantities of rope, should include members who are qualified to manage and evaluate the condition of their ropes and determine the limitations upon their reuse.

Appendix E — Decontamination. (1) A decontamination area should be established whenever civilians or fire department personnel have had known or suspected exposure to toxic chemicals.

(2) Such decontamination areas should be established before any personnel are allowed to enter the "Hot" zone.

(3) The decontamination area should be set up using the following guidelines:

(a) The decontamination area should be located uphill, upwind and at a right angle to the "Hot" zone.

(b) The decontamination area entry/exit point and boundaries should be clearly marked using flagging tape, ropes, cones, etc.

(3) Visqueene should be spread on the ground in the decontamination area to control runoff.

(4) The decontamination process is divided into stations. In most cases it will not be necessary to utilize all the stations. The decision to use all or part of the stations should be based on the following factors:

(a) The hazards associated with the product involved.

(b) The estimated levels of contamination.

(c) The type of protective equipment worn by contaminated responders.

(d) Recommendations from outside sources such as, but not limited to CHEMTREC, the agency for toxic substance and disease registry, poison control centers or the manufacturer of the product.

(5) The following is a list of all the stations in a nine-step decontamination area set up for a worst case scenario involving a hazardous materials response team member whose chemical suit has been breached:

(a) Station #1 - Segregated equipment drop: Contaminated equipment that will be used again in the "Hot" zone, disposed of, or decontaminated at a later time or place, will be deposited here.

(b) Station #2 - Wash/rinse: Entry personnel will be washed with appropriate decontamination solution and rinsed with water by attendant(s) to remove gross contamination. This station may consist of multiple wash/rinse steps depending on the severity of the hazards involved.

(c) Station #3 - Outer protective clothing removal: Attendant(s) will remove the outer protective clothing from entry personnel being cautious to avoid touching the inside of the suit while removing it. Protective clothing that has been removed at this step shall be placed in an overpack or other appropriate container for later testing and further decontamination, if needed.

(d) Station #4 - Removal of SCBA: The entry personnel are assisted in removing their SCBA by an attendant. The SCBA facepiece should be left in place and the low pressure hose held away from any potentially contaminated inner clothing.

(e) Station #5 - Removal of inner clothing: All clothing worn inside the suit must be removed in cases where the suit has been penetrated and the entry personnel are contaminated.

(f) Station #6 - Personal shower: Entry personnel should wash and rinse entire body with mild soap and water. Contain runoff water if possible, however this is an emergency situation and containment is secondary to removing contaminants from personnel.

(g) Station #7 - Drying off: Entry personnel that have showered should dry off using towels or whatever is available. Items used should be placed in an appropriate container for disposal. Emergency clothing such as disposable coveralls should be provided.

(h) Station #8 - Medical evaluation: Entry personnel should be evaluated by paramedics - checking vital signs including temperature and level of consciousness. Records of the evaluation must be kept and given to the team safety officer to be included in the members exposure records.

(i) Station #9 - Transport to emergency room: Any personnel exhibiting any signs or symptoms of exposure should be transported to the emergency room for evaluation and observation.

(6) The hazardous materials response team van should carry premeasured packets of decontamination solution mixes for the purpose of decontaminating chemical protective clothing and other equipment at the scene of a hazardous materials emergency. These solutions are not to be used to decontaminate turnouts or exposed skin under any circumstances.

(7) The primary solution used will be a simple detergent and water mixture. Other special decontamination solution mixes will only be used in those situations when it is determined that the detergent and water solution is inappropriate.

(8) Contaminated civilians that are exhibiting signs or symptoms of exposure should be treated as patients. Due to the risk of secondary contamination, all patients should undergo emergency field decontamination at the scene before being evaluated by medical personnel or being transported to the emergency room. Medical personnel should not accept any patient that has not been grossly decontaminated.

(9) The emergency field decontamination process should consist of removing the clothing from all affected body parts of the exposed person and flushing with copious quantities of water from a garden hose or low pressure one and three-quarter inch handline to remove gross contamination. Patients will be flushed for up to fifteen minutes, depending on the material recommendations on patient decontamination.

(10) Members performing patient decontamination should wear, at a minimum, full turnouts and SCBA and should avoid splashes and overspray to the extent possible. They should also undergo decontamination when they have finished decontaminating the patient.

(11) Containment of the runoff water from patient decontamination is not required. Do not delay decontamination of patients to set up containment. However, some form of privacy screen should be erected to protect the modesty of those being decontaminated.

(12) Responders that are contaminated in the process of performing rescue or other tasks will, at the minimum, be flushed with water for a minimum of one minute. Further flushing will be performed depending on the extent of contamination and subsequent adverse health effects.

Appendix F—Wildland Fire Fighting Equipment Typings.

	<i>PUMP RATE GMP MINIMUM</i>	<i>TANK CAPACITY IN GALLONS</i>
<i>PUMPER/BRUSH ENGINE:</i>		
ICS Type 7	20	125
ICS Type 6	50	200
ICS Type 5	50	500
ICS Type 4	70	750
ICS Type 3	120	300
<i>PUMPER/CLASS A RATED:</i>		
ICS Type 2	500	400
ICS Type 1	1000	400

- Ten standard fire orders
- Fight fire aggressively but provide for safety first.
- Initiate all action based on current and expected fire behavior.
- Recognize current weather conditions and obtain forecasts.
- Ensure instructions are given and understood.
- Obtain current information on fire status.
- Remain in communication with crew members, your supervisor, and adjoining forces.
- Determine safety zones and escape routes.
- Establish lookouts in potentially hazardous situations.
- Retain control at all times.
- Stay alert, keep calm, think clearly, act decisively.
- Four common denominators of tragedy fires
 1. Small fires or relatively quiet sectors of large fires.
 2. Light fuels.
 3. Steep slopes.
 4. Change in wind speed and/or direction.
- "Watch Out" Situations
 1. Fire not scouted and sized up.
 2. In country not seen in daylight.
 3. Safety zones and escape routes not identified.
 4. Unfamiliar with weather and local factors influencing fire behavior.
 5. Uninformed on strategy, tactics and hazards.
 6. Instructions and assignments not clear.
 7. No communication link with crew members or supervisor.
 8. Constructing line without safe anchor point.
 9. Building fire line downhill with fire below.
 10. Attempting frontal assault on fire.
 11. Unburned fuel between you and fire.
 12. Cannot see main fire, not in contact with someone who can.
 13. On a hillside where rolling material can ignite fuel below.
 14. Weather becoming hotter and drier.
 15. Wind increases and/or changes direction.
 16. Getting frequent spot fires across line.
 17. Terrain and fuels make escape to safety zones difficult.
 18. Taking nap near fire line.

National Wildlife Coordinating Group Fire Fighter II Performance Tasks

1. Agency policy for wildfires.
2. Extended attack fire orientation and dispatch.
3. Inmate orientation.
4. Fire line organization.
5. Tools and equipment.
6. Firing devices.
7. Wildland water delivery systems and pump use.
8. Introduction to wildland fire behavior.
9. Fire line safety.
10. Size up and initial attack.
11. Fire line construction.
12. Wildland fire investigation.
13. Structure protection.
14. Use of foam.
15. Mop up.
16. Compass use.
17. Map use.
18. Radio communications.
19. Incident command system.
20. Basic first-aid.
21. Hazardous materials awareness.

Appendix G—Standard apparatus operation communications.

When fire fighters ride in the tiller's seat or other remote location, an electrical signal or voice communication should be installed between the tiller's seat, work station, and driver's compartment.

(1) These signals should be used between the driver and the fire fighters:

- (a) One long buzz means stop;
- (b) Two buzzes mean forward;
- (c) Three buzzes mean reverse.

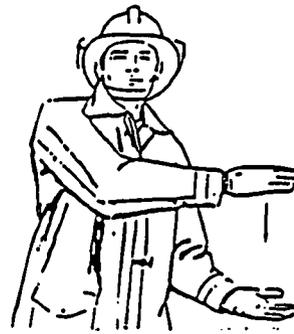
(2) Before any of the above functions are undertaken, with the exception of stopping, the same signal must be both sent and received. The driver should not act without sending and receiving a confirming signal.

(3) When using hand signals, these signals are as follows:

STOP

Hold hand to the side, shoulder high, exposing palm to the driver. At night, hold hands in the same manner, with

the addition of a flashlight in one hand shining at the driver. This will indicate an immediate STOP.



RIGHT or LEFT

Point in the desired direction with one hand and motion in a circular "come-on" gesture with the other hand at the chest level. At night direct a flashlight beam at the hand pointing in the desired direction.



DIMINISHING CLEARANCE

Hold the hands to one side of the body indicating the approximate amount of distance the apparatus is from the obstacle. Close hands accordingly as the driver slowly maneuvers the apparatus to point where the signal indicates immediate STOP. Always allow enough for drivers reaction time.

At night, indicate in the same manner with the flashlight in the upper hands and beam directed at the palm of the other. On STOP, cover the flashlight beam with the hands.



AHEAD or BACK-UP

Hold hand directly in front, chest high, fingers on hands directed toward one another, and motion in a circular "come-on" gesture. At night hold a flashlight in one hand and direct the beam toward the other.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

~~WAC 296-305-085 ((Fire combat training.)) (((+)) Each employer shall establish and follow a policy and procedure for drills and training so that fire fighters can remain proficient in the use of the fire department's equipment.~~

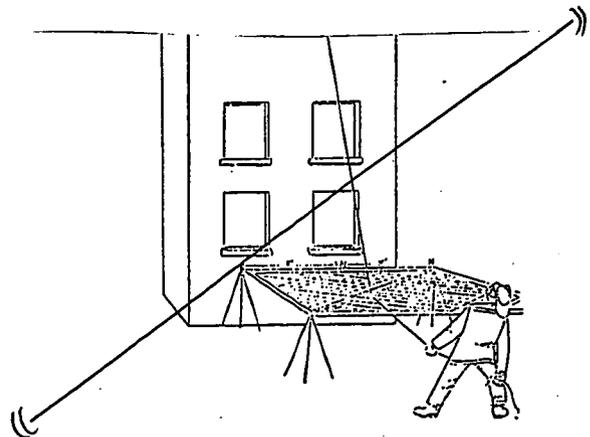
~~(2) Live fire training activities shall be conducted under the direction of the fire department training officer or by state fire service certified instructors who are qualified experts for fighting the specific type of fire.~~

~~(3) Gloves, helmets, boots or safety toe shoes shall be worn while training with ladders, appliances or hose.~~

~~(4) When fire fighters are engaged in training above the ten foot level at a drill tower where use of life lines, pompier ladders or similar activities are to be undertaken, a safety net shall be erected.~~

~~(5) When fire fighters are sliding the life line, the life line shall pass through the center of the net and shall be attended by a fire fighter.~~

~~(6) During wet training exercises, only fire hose meeting the 250 pound annual test shall be used.~~



Reserved.

PROPOSED

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-090 ((Operations:)) (((1) Special procedures to be used in the case of fires involving known hazardous materials shall be prepared in advance and made available to all fire fighters.

(2) Each fire department shall develop a set of tactical operating procedures to be used as guidelines for fire fighting operations including operating procedures for the use of life lines.

(3) Every fire department shall possess a means for identifying the specific hazards associated with fires involving hazardous materials.

(4) In cases where radioactive material is involved either through accidents, contamination or other related problems, the nearest United States Nuclear Regulatory Commission Field Inspection Unit or the Hanford Atomic Works shall be notified for information or help in disposing of the problem.

(5) When opening or closing hydrants, fire fighters shall stand at the rear of the hydrant whenever possible.

(6) If a fire fighter disappears from the fire ground, it shall be immediately reported to an officer at the scene who will then cause additional search or rescue operations.

(7) A life line gun shall be used according to the instructions along with the correct shield, guard, or attachment as recommended by the manufacturer.

(a) Life line guns shall not be loaded until just prior to the intended firing time.

(b) Neither loaded nor empty life line guns are to be pointed at any individual.

(c) A loaded life line gun shall not be left unattended.

(8) Traffic cones or other traffic control devices shall be utilized when vehicular traffic hazards exist at the fire scene.

(9) Scuba diving operations shall comply with the provisions of WISHA Commercial Diving Operations.

(10) Portable generators for temporary lighting at fire scenes shall be grounded, where practicable.

(11) Temporary cords to light fixtures shall be strung overhead where practical or against the walls of the room so as not to cause a tripping accident.) Reserved.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-095 ((Fire overhaul:)) (((1) Prior to overhaul, buildings shall be surveyed for possible safety hazards. Fire fighters shall be informed of hazards observed during survey.

(2) Once a fire involving a building which has been previously marked as unsafe by city, county or state inspectors has been extinguished, the overhaul operations shall be held to a minimum, as determined by the commanding officer.) Reserved.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-305-100 ((Ladders:)) ((This section establishes the minimum requirements for the construction, care and use of the common types of ladders used in fire combat.

(1) Ladder locks or pawls on extension ladders shall be so fastened or secured to the beams that vibration and use will not cause loosening of bolts and nuts. Pawls or ladder locks shall be so constructed that the hook portion of the pawl that engages the rung shall have sufficient bearing surface or area to prevent the hook from cutting into rungs when engaged. Such hooks shall be properly finished to eliminate sharp edges and points.

(2) Staypoles or tormenters shall be furnished on all extension ladders extending over 36 feet. Staypole or tormenters spikes shall not project beyond the end of the ladder when nested.

(3) All ladders shall be stored in a manner to provide ease of access for inspection, and to prevent danger of accident when withdrawing them for use.

(4) All ladders regardless of type must be inspected thoroughly after each use. Records shall be kept of the inspections and repairs.

(5) The following metal ladder components shall be checked:

(a) Rungs for welds, damage or weakness caused by overloading or bumping against other objects, looseness and cracks, etc.

(b) Beams for welds, rivets and bolts, signs of strain or metal fatigue, and deformation from heat or overloading.

(c) Halyards for the same defects listed for wood ladder halyards and cable halyards, for fraying or breaking.

(6) Methods of fastening ladder halyards, either of wire or fibrous material, shall be in a manner that the connection is stronger than the halyard.

(7) Any defect noted in above visual inspection shall be corrected prior to testing.

(8) Every portable ladder shall be tested following the correction of defects disclosed by the visual inspections.

(9) New ground ladders purchased after the effective date of this chapter shall be constructed and certified in accordance with the requirements of NFPA Standard 1931, 1984 edition.

(10) All fire ground ladders shall be inspected, tested, and maintained in accordance with the requirements of NFPA Standard 1932, 1984 edition. To include tentative interim amendment 1932-84-2.

Note 1: Hardness testing and eddy current NDE testing is not required in the fire department annual maintenance inspection unless the individual ladder has been subjected to a high heat exposure which could have annealed the metal and diminished the structural integrity. The ladder manufacturer's recommendations should be followed with respect to hardness and eddy current testing.

Note 2: Testing should follow the recommended procedures taught by Washington state fire service training.) Reserved.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-305-105 ((Aerial ladders:)) (((1) When operating aerial ladders, the manufacturer's suggested procedure shall be followed and the number of fire fighters permitted on aerial ladders shall be in accordance with the manufacturer's instructions.

(2) Ladders shall be designed to have nonskid protection on the rungs.

(3) Aerial ladders shall be used according to the requirements of the following:

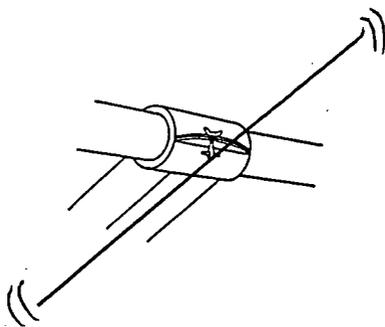
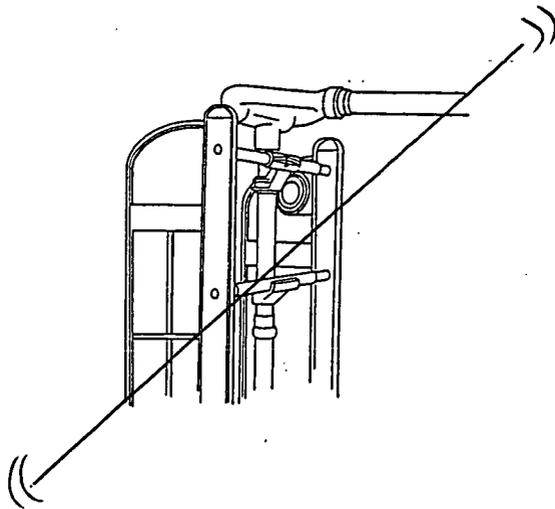
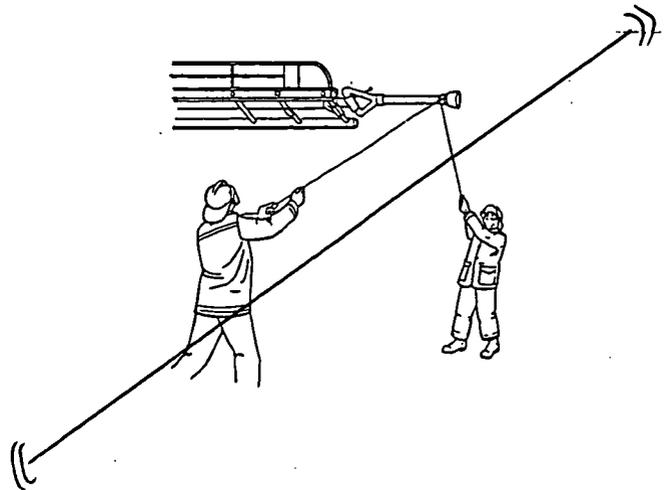
(a) Aerial ladders shall not knowingly be positioned under dangerous cornices or other loose overhanging objects that may endanger fire fighters and fire fighters working on or climbing the ladder, except where rescue operations are essential.

(b) The tip of the aerial ladder shall not be forcefully extended against a solid structure.

(c) Aerial ladders shall not be extended or retracted while fire fighters are climbing the ladder.

(d) Locking in shall not be permitted. If it is necessary for fire fighters to be positioned on the aerial, they shall be secured by a life belt.

(e) Ladder pipes, when in use, shall be secured to the aerial in such a manner so that the ladder pipe cannot be accidentally dislodged while in operation.



(4) The following shall regulate the design and use of the operating turntable:

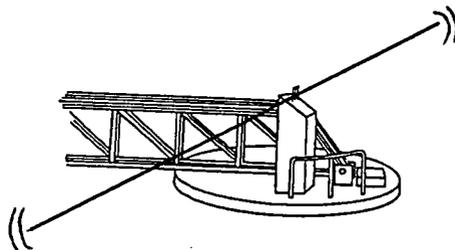
(a) Turntable controls and valves for rotating, extending, or elevating the aerial ladder shall be clearly and distinctly marked as to function.

(b) Aerial controls shall be spring loaded and have a safety catch so that the controls will return to the neutral position if the operator were incapacitated.

(c) The operator of the aerial shall be provided with a nonskid surface on the turntable surface.

(d) The aerial operator shall remain at the turntable whenever fire fighters are working on the aerial except when used as a ground ladder.

(e) A railing of approximately 44 inches in height and if possible, not less than 36 inches in length shall be installed on the turntable in back of the operator's position.



(f) A light of not less than 10,000 candlepower shall be provided at the base to illuminate the ladder at night in any position of operation.

(5) The following shall regulate the communication systems on the aerial ladders and on the automotive fire apparatus:

(a) A two-way voice communication system shall be installed between the top fly of the ladder and the lower control station.

(b) There shall be some type of electrical signal or voice communication located in the tractor of tillered aerial for communication signals between the tillerman and driver. The apparatus shall not be moved unless the proper signal, as shown in WAC 296-305-07007(1) is received from the tillerman.

(6) Cables, pulleys, rails and rungs of aerial ladders shall be inspected for wear and tightness on a monthly basis.

PROPOSED

(a) Pulleys on the aerial with cracks or pieces broken out of rims shall be replaced.

(b) Cables showing evidence of damage or wear shall be replaced.

(c) Rungs or rails that have been subjected to unusual impact shall be tested before usage.

(7) The automotive fire apparatus used in conjunction with aerial ladders shall be designed and used according to the following:

(a) The apparatus engine shall be able to be started from the main control panel in the event the engine dies.

(b) Ground jacks or outriggers shall be used when the aerial ladder is in operation.

(c) Ground plates shall be used under the outriggers or jacks anytime apparatus is not on a concrete paved street or alley.

(d) Hand, airbrakes and spring brakes for fifth wheel shall be set whenever aerial ladder is in operation.

(e) In addition to ground jack supports and outriggers, wheel blocks shall be used whenever the aerial is in operation.

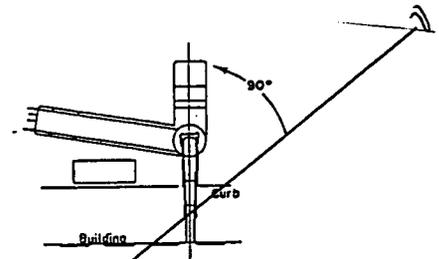
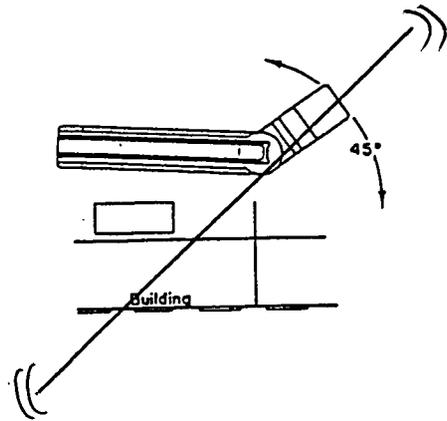
(f) Sand shall be put under jacks, outriggers and wheels when operating on ice or snow.

(8)(a) Annual testing of metal aerial ladders shall follow the recommendations of the current National Fire Code.

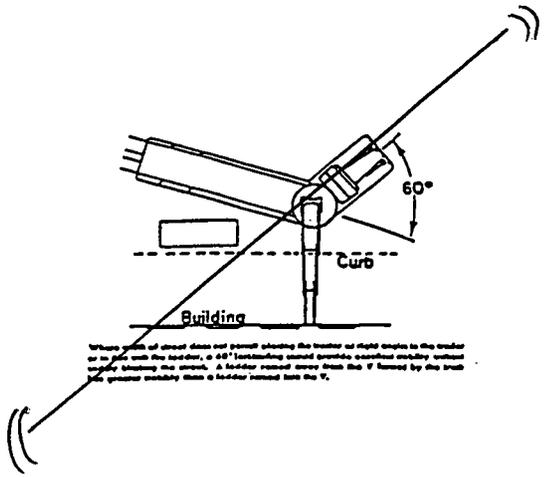
(b) It is recommended the aerial ladder as well as the support section of the apparatus which supports the turntable shall be nondestructively tested by a certified testing agency every five years. After any accident that causes structural damage this test shall be performed and all defects detected shall be corrected before apparatus is returned to service.

(9) Fire apparatus metal aerial ladders shall be positioned for the greatest stability feasible at the fire scene.

(10) The minimum size for wheel chocks shall be approximately 7 inches high, 8 inches wide and 15 inches long. It is suggested they be made of a metal alloy.



Using telescopic ladder of extension ladders:
 1. Minimum curb height is opposite ladder direction. Run or brace shall extend over curb.
 2. Curb height shall always equal load on. This will prevent sliding toward building and prevent curb from being used as a support.
 A ladder shall not be used unless the ladder is to be raised to the curb unless it is necessary to load it toward a building. On some ladders a warning signal is provided to guard against ladders in excess of 90° which is maximum safe angle and may result in collapse in the extension.



When angle of descent over curb is 60° or less, the ladder or its brace shall be placed on the curb or in place with the ladder, a 45° bracing board provides essential stability without unduly blocking the curb. A ladder raised more than the 4° formed by the curb will prevent stability than a ladder raised into the V.

Reserved.

AMENDATORY SECTION (Amending Order 90-18, filed 1/10/91, effective 2/12/91)

WAC 296-305-110 ((Elevated platforms.)) ((+)) Elevated platform systems shall meet the design requirements of this section.

(a) The platform shall have a minimum floor area of 14 square feet and shall be provided with a guardrailing between 42 and 45 inches high on all sides. The railing shall be constructed so that there is no opening below it greater than 24 inches. There shall be two gates below the top railing, each of which shall be provided with suitable safety latches. A kick plate not less than 4 inches high shall be provided around the floor of the platform. Drain openings shall be provided to prevent water accumulation on the platform. A heat protective shield shall be provided on the platform for the protection of the operator.

(b) Hydraulic or pneumatic systems shall have a minimum bursting strength of at least four times the operating pressure for which the system is designed.

(c) The basic structural elements of the hydraulic or articulating boom shall have a safety factor of three.

(d) Each hydraulic or pneumatic system for the boom shall be equipped with a pilot operated check valve or other appropriate device to prevent free fall in the event of hydraulic failure.

(2) The requirements related to the controlling of elevated platforms are addressed in this subsection:

(a) A control or device shall be provided at both the lower control station and the platform control station to allow either operator to completely deactivate the platform controls. During deactivation of the platform controls, the lower controls shall remain operable.

(b) A plate shall be located at the platform control unit or units listing the following information:

- (i) Model and serial number of the manufacturer;
- (ii) Rated capacity of the platform;
- (iii) Operating pressure of the hydraulic or pneumatic systems or both;
- (iv) Caution or restriction of operation or both;
- (v) Control instructions;
- (vi) This plate shall be clearly visible to the operator at the lower control position.

(c) There shall be an operator at the lower controls at all times while the fire fighter is in the bucket.

(d) The operator at the lower controls shall make certain the fire fighter on the platform is secured by his life belt or equivalent before raising platform.

(3) Testing of elevated platforms and related apparatus shall be conducted annually.

(a) Testing of elevated platforms and related apparatus shall be in accordance with the 1988 edition of NFPA 1914.

(b) It is recommended that the boom section as well as the support section of the apparatus which supports the turntable should be nondestructively tested by a certified testing agency every five years. After any accident that causes structural damage this test shall be performed and all defects detected shall be corrected before apparatus is returned to service.

(c) Elevated platform testing shall follow the recommendations of the current National Fire Code.

(d) Fire apparatus elevated platforms shall be positioned for the greatest stability feasible at the fire scene.

(4) Communications. A two-way voice communication system shall be installed between the platform and the lower control station.

(5) The automotive apparatus used in conjunction with elevated platforms shall be used in accordance with the following subdivisions:

(a) Hand or air brakes shall be set before the platform is operated.

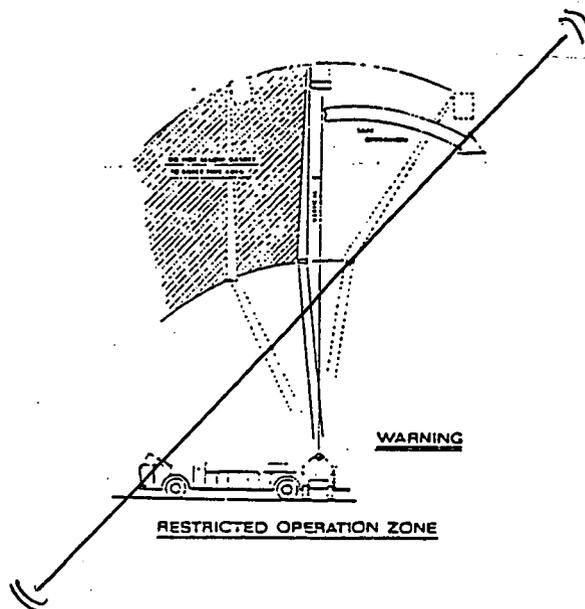
(b) Jacks or outriggers shall be used if the platform is to be elevated.

(c) Wheel blocks shall also be used when the platform is in operation unless the type of apparatus is one whose wheels lift off the ground when the jacks or outriggers are engaged.

(d) Ground plates shall be used under the outriggers or jacks any time apparatus is not on a concrete paved street or alley.

(e) Sand shall be put under jacks, outriggers and wheels when operating on ice or snow.

(6) Appliances mounted on elevated platforms. Platform mounted monitors shall be operated in accordance with the manufacturer's instructions.



Reserved.

AMENDATORY SECTION (Amending Order 77-20, filed 10/18/77 and Emergency Order 77-24, filed 11/17/77, effective 12/17/77)

WAC 296-305-115 ((Electrical)) (((1) Temporary lights shall be equipped with 20-ampere capacity electric cords with connections and insulation maintained in safe condition.

(2) Temporary lights shall be equipped with guards to prevent accidental contact with the bulb, except that guards are not required when the construction of the reflector is such that the bulb is deeply recessed.

(3) Portable type hand lamps shall be of the molded composition or other type approved for the purpose.

(4) Hand lamps shall be equipped with a handle and a substantial guard over the bulb and attached to the lampholder or the handle.)) Reserved.



WSR 95-15-004
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed July 5, 1995, 4:03 p.m.]

Date of Adoption: July 5, 1995.

Purpose: (1) To make maximum use of victim's Medicaid eligibility; (2) to eliminate a low priority claim review practice as a rule requirement; (3) to conform mental health treatment requirements to accepted standards of care; and (4) to update terms and references in rule.

Citation of Existing Rules Affected by this Order: Amending WAC 296-30-025, 296-30-081, 296-31-010, 296-31-020, 296-31-030, 296-31-050, 296-31-060, 296-31-065, 296-31-069, 296-31-070, 296-31-075, 296-31-080, and 296-31-090.

Statutory Authority for Adoption: RCW 7.68.030, 51.04.020(1), 51.04.030.

Pursuant to notice filed as WSR 95-10-091 on May 3, 1995.

Changes Other than Editing from Proposed to Adopted Version: (1) Erroneous publication reference corrected; and (2) report payment clarification language added.

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

July 5, 1995

Mike Watson

for Mark O. Brown

Director

AMENDATORY SECTION (Amending WSR 89-23-004, filed 11/3/89, effective 11/10/89)

WAC 296-30-025 Medical assistance eligibility. The benefits provided under chapter 7.68 RCW that are available and equivalent to those services provided under chapter 74.09 RCW or Title XIX of the Federal Social Security Act are not available to persons eligible for services provided under chapter 74.09 RCW or Title XIX of the Federal Social Security Act, except to the extent that costs for such services exceed service limits established by the department of social and health services. Accordingly:

(1) Applicants for benefits provided under chapter 7.68 RCW shall provide, concurrent with their application for crime victims' benefits, information requested by the department to determine the applicant's probable eligibility for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act. The applicant, or a person on behalf of the applicant, shall send the application and other requested information to the offices of the crime victims' compensation program in Olympia.

(2) The department shall provide application forms for crime victims' benefits, any forms used to determine probable eligibility for services provided under chapter 74.09 RCW or Title XIX of the Federal Social Security Act, and a pamphlet describing the crime victims' compensation program to hospitals, law enforcement agencies, community organizations, prosecutor based victim/witness units and, as requested, to other service groups. The pamphlet shall (a) explain the limitations of benefits provided under chapter 7.68 RCW; (b) provide assistance for an applicant in completing the forms; and (c) provide an applicant information about where additional assistance is available if the

instructions for completing the forms are not understood or if unusual circumstances exist.

(3) Any claimant who is eligible for benefits provided under chapter 7.68 RCW and who the department determines may be eligible for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act, based upon the completed eligibility form referenced above, shall apply to the department of social and health services for a conclusive determination of eligibility for such services.

~~(4) ((Because a claimant's circumstances can change and in order to assure that the department provides crime victims' benefits secondary to other available public and private insurance, persons receiving benefits provided under chapter 7.68 RCW but not initially eligible to receive services provided under chapter 74.09 RCW or Title XIX of the Federal Social Security Act shall annually provide information requested by the department to determine the applicant's probable eligibility for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act in order to continue receiving benefits under chapter 7.68 RCW.~~

~~(5))~~ The department shall not provide benefits for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act to persons who refuse or who otherwise fail to cooperate or comply in good faith with the requirements of this section, except to the extent that the costs for such services exceed service limits established by the department of social and health services.

~~((6)(a))~~ (5) Except for claims submitted pursuant to RCW 7.68.170 for sexual assault examinations, ~~((or as provided in (b) of this subsection))~~ the department shall not consider applications for benefits under chapter 7.68 RCW until the information requested to determine probable eligibility for services provided under chapter 74.09 RCW and Title XIX of the Federal Social Security Act is received by the department.

~~((b) If the applicant seeks only services that are covered under chapter 7.68 RCW but are not services provided under chapter 74.09 RCW or Title XIX of the Federal Social Security Act, such as appropriate counseling provided by a health care provider pursuant to WAC 296-30-080, the department shall consider applications for benefits under chapter 7.68 RCW without requiring information to determine probable eligibility for other services.))~~

AMENDATORY SECTION (Amending WSR 94-02-015, filed 12/23/93, effective 1/24/94)

WAC 296-30-081 Acceptance of rules and fees for medical and mental health services. Providing medical or counseling services to an injured crime victim whose claim for crime victims compensation benefits has been accepted by the department constitutes acceptance of the department's medical aid rules and compliance with its rules and fees. Maximum allowable fees shall be those fees contained in the publications entitled *Medical Aid Rules and Fee Schedules and Crime Victims Compensation Program Mental Health Treatment Rules and Fees*, less any available benefits of public or private collateral resources, except as follows:

The percentage of allowed charges authorized by WAC 296-23A-105: Payment for hospital inpatient and outpatient

services, WAC 296-23A-155: New hospitals, WAC 296-23A-160(3): Excluded and included services, and WAC 296-23A-165: Out-of-state hospitals shall be equal to the percentage of allowed charges established by the department of social and health services under Title 74 RCW and WAC 388-87-070(6): Payment hospital inpatient services.

If any of the maximum allowable fees in the publications entitled *Medical Aid Rules and Fee Schedules and Crime Victims Compensation Program Mental Health Treatment Rules and Fees* is lower than the maximum allowable fees for those procedures established by the department of social and health services under Title 74 RCW, the Title 74 RCW fees are the maximum allowable fees for those procedures.

Prior to the establishment or amendment of the fee schedules, the department will give at least thirty calendar days notice by mail to interested persons who have made timely request for advance notice of the establishment or amendment of the fee schedules. To request advance notice of the establishment or amendment of the medical fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries
Health Services Analysis
P.O. Box 44322
Olympia, WA 98504-4322

To request advance notice of the establishment or amendment of the mental health fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries
Crime Victims Compensation Section
P.O. Box 44520
Olympia, WA 98504-4520

An injured victim shall not be billed for his or her accepted injury. The department shall be billed only after available benefits of public or private insurance have been determined. Bills must be submitted within ninety days from the date of service to be considered for payment. If insurance or public agency collateral resources exist, bills must be received within ninety days following payment or rejection by the resource. A copy of the payment or rejection must accompany the bill.

If the service provider has billed the injured victim and is later notified that the department has accepted the victim's claim, the provider shall refund to the injured victim any amounts paid that are in excess of the amounts that the victim is entitled to from public or private insurers, and bill the department for services rendered at ~~((fee schedule rates))~~ their usual and customary fees if such rates are in excess of the public or private insurance entitlements.

AMENDATORY SECTION (Amending WSR 92-23-033, filed 11/13/92, effective 12/14/92)

WAC 296-31-010 Mental health treatment overview.

(1) The crime victim compensation program provides mental health treatment to victims of crime, except for the provisions of WAC 296-30-025 (6)(b), secondary to treatment available from any other public or private insurance, who are

eligible for compensation under the provisions of chapter 7.68 RCW. Eligible claimants are entitled to receive proper and necessary mental health treatment.

(2) Services and treatment are limited to those procedures which are proper and necessary, and at the least cost, consistent with accepted standards of mental health care which will enable the claimant to obtain maximum recovery and/or:

(3) In the case of a permanent partial disability, treatment or services are not to extend beyond the date when permanent partial impairment or disability compensation is awarded. No treatment or services will be authorized beyond the point that the accepted condition is fixed and stable.

(4) In the case of a permanent total disability, treatment is not to extend beyond the date on which the claimant is placed upon a permanent pension roll except that in the sole discretion of the department continued treatment for conditions previously accepted by the department may be allowed when such treatment is deemed necessary to protect the claimant's life or to provide for the administration of therapeutic measures. This includes payment of prescription medications necessary to alleviate continuing pain resulting from the accepted condition but does not include those controlled substances scheduled by the state board of pharmaceuticals as schedule I, II, III, IV substances under chapter 69.50 RCW.

(5) Mental health treatment requiring preauthorization:
Inpatient hospitalization;
~~((Therapy involving a regular single session exceeding one hour per week;))~~ Individual therapy exceeding one hour per week;

Group therapy exceeding one session per week;
Concurrent treatment;
Family therapy (including all therapy provided to family members) beyond twelve sessions;
~~((Multiple family group therapy beyond twelve sessions;))~~

Therapy for survivors of victims of homicide beyond twelve sessions;
Electroconvulsive therapy;
Neuropsychological evaluation (testing);
Day treatment for seriously ill persons less than eighteen years of age;

Referrals to special programs.
Requests for authorization must be in writing and include a statement of:

(a) The condition(s) diagnosed;
(b) ICD-9-CM and/or DSM-III-R or DSM-IV codes;
(c) The relationship of the condition(s) diagnosed to the assault, if any;
(d) An outline of the proposed treatment program, its length and components, procedure codes, and expected prognosis.

(6) Rejected and closed claims. Therapy for eligible survivors of victims of homicide can be provided on closed claims:

No payment will be made for treatment or medication on rejected claims or for services rendered after the date of closure of a claim.

When the department has denied responsibility for an alleged crime victim injury or condition, the only services

which will be paid are those which were carried out at the specific request of the department and/or those assessment or diagnostic services which served as a basis for the adjudication decision. Following the date of the order and notice of claim closure, the department will be responsible only for those services specifically requested or those assessments and/or diagnostic services necessary to complete and file a reopening application.

AMENDATORY SECTION (Amending WSR 94-02-015, filed 12/23/93, effective 1/24/94)

WAC 296-31-020 Definitions. This section explains the department's definitions of terms used throughout the sections as they apply to claimants.

Acceptance, accepted condition: Determination, in writing, by a qualified representative of the department, that reimbursement for the diagnosis and rehabilitative treatment of a claimant's mental health condition are the responsibility of the department. The condition being accepted must be specified by one or more diagnostic codes from the current edition of the International Classification of Diseases, Clinically Modified (ICD-CM), or by DSM III-R, or DSM IV and by use of words to describe the symptoms connected to or citing ICD-CM or DSM III-R or DSM IV diseases.

Authorization: Notification, in writing or by telephone, by a qualified representative of the department, that specific necessary treatment, services, or equipment recommended by a provider for the diagnosis or rehabilitative treatment of an accepted condition will be reimbursed by the department. Providers must insure they maintain records indicating the name of the qualified representative who authorizes treatment or equipment.

Claimant: A person who submits, or on whose behalf is submitted, an application for benefits under the Crime Victims Act.

Consultation: The services rendered by a mental health provider whose opinion or advice is requested by the attending (treating) mental health provider, or agency, or by the department in the evaluation and/or treatment of a claimant. Case management or case staffing does not constitute a consultation. Treatment of a claimant is not a consultation.

Crisis intervention: Therapy to alleviate the most pressing problems and attempt to use the crisis as an opportunity for positive change; the vital mental and safety functions of the client are stabilized by providing support, structure and, if necessary, restraint.

Disability awards for mental health conditions: Direct monetary compensation that may be provided to an eligible claimant who is either totally temporarily disabled, permanently partially disabled, or totally permanently disabled resulting from an accepted condition. Under Washington law, permanent disability awards are based solely on mental impairment due to the accepted injury or conditions without consideration of economic factors. Disability rating exams must be provided by a physician.

Elective nonemergent hospital admission: Placement of the claimant in an acute care hospital or residential treatment facility for mental health treatment of a claim related mental health condition which may be safely scheduled in advance without jeopardizing the claimant's health or treatment outcome.

Emergent hospital admission: Placement of the claimant in an acute care hospital, psychiatric hospital, or, residential treatment facility for treatment of a claim related mental health condition of an unforeseen or rapidly progressing nature which, if not treated in an inpatient setting, is likely to jeopardize the claimant's health or treatment outcome.

Family therapy: Therapy involving the therapist, and one or more members of the claimant's family (excluding the perpetrator if also a family member) and which centers on issues resulting from the claimant's sexual assault pursuant to WAC 296-30-080.

Group therapy: Therapy involving the claimant, the therapist, and one or more clients who are not related to the claimant and which includes issues both related to the claimant's assault and pertinent to other group members, not necessarily related to the claimant's assault.

Homicide survivor: An immediate family member of a homicide victim as the result of a criminal act committed on or after July 1, 1992. Homicide survivors may receive appropriate counseling to assist them with the immediate, near term consequences of the related effects of the homicide. Family members applying for survivor counseling benefits must complete and submit a Request for Homicide Survivor Counseling Benefits form (F800-057-000) once a claim has been established and allowed by the department. Maximum allowable fees shall be those fees contained in the publication entitled *Crime Victims Compensation Program Mental Health Treatment Rules and Fees*, less any benefits of public or private collateral resources available to each eligible family member.

Immediate family members: Any claimant's parents, spouse, child(ren), siblings, grandparents, and those members of the same household who have assumed the rights and duties commonly associated with a family and who hold themselves out as a family unit.

Individual therapy: Therapy provided on a one to one basis between a therapist and claimant.

Mental health services provider: Any person, firm, corporation, partnership, association, agency, institution, or other entity providing any kind of mental health services related to the treatment of a claimant. This includes, but is not limited to, hospitals, psychiatrists, psychologists, advanced registered nurse practitioners with a specialty in psychiatric and mental health nursing, registered and/or certified master level counselors, and other qualified service providers licensed, registered and/or certified with the department of health and registered with the crime victims program. (Refer to WAC 296-31-030 for specific details.)

Modified work status: When the claimant is not able to return to previous work, but is capable of carrying out work of a lighter, or otherwise different nature.

Necessary treatment: Those health services or treatments which, in the opinion of the director or his or her designee are:

Proper and necessary for the diagnosis or rehabilitative treatment of an accepted condition;

Reflective of accepted standards of good practice within the scope of the provider's license, certification, or registration;

Not delivered primarily for the convenience of the claimant, the claimant's attending provider, or any other provider; and

Provided at the least cost and in the least intensive setting of care consistent with accepted standards of care/accepted therapeutic practice and with the other provisions of this definition. Services which are inappropriate to the accepted condition, or which present hazards in excess of the expected mental health benefits, are not considered necessary. Services which are obsolete are not authorized. Services which are controversial, experimental, or investigational are presumed not to be consistent with accepted standards of care and shall only be authorized on an individual case basis with written authorization for the service from the department.

Office notes: Written records of treatment, or other work products, documenting specific charges billed, as opposed to reports of evaluation and progress independently submitted to the department or to other parties.

Permanent partial disability: Providers are required to notify the department of any claimant's accepted condition where permanent functional impairment or loss is indicated after maximum rehabilitation has been achieved, which is determined to be stable and fixed at the time the evaluation is made. The department will arrange to have impairments rated using the category system under WAC 296-20-200 et al.

Regular work status: When the injured claimant is capable of returning to his/her regular work, the attending provider must notify the claimant and the department of the specific date of release to return to regular work. Time loss compensation will be terminated on the release date. Further treatment may be allowed as requested by the attending provider if the condition is not stable or fixed and treatment is needed for the accepted condition.

Repressed memory: A condition of not having or had conscious memory of an act. For the purpose of these rules describing this condition under this section the definition means that a claimant regained conscious memory of victimization caused by a criminal act committed against them as a minor.

Temporary partial disability: Partial time loss may be paid when the claimant can return to work on a limited basis, or, return to a lesser paying job is necessitated by the accepted condition. However, the claimant must have a reduction in wages of at least five percent before loss of earning power can be paid.

Termination of treatment: When treatment is no longer required because the accepted condition for which the claim was allowed has become stable, the provider must submit a report indicating the date the condition became stable to the department. This is necessary to initiate closure of the crime victim's compensation claim.

Time loss certification: Certification from a physician based upon findings which are specific symptoms that an accepted condition of a claimant either partially or totally incapacitates the claimant from returning to work. Such symptoms may include, but are not limited to: Anxiety, depression, loss of appetite, weight loss, flat affect, inability to concentrate, inability to complete tasks. The department requires that all claims for time loss compensation must be certified by a physician.

Total permanent disability: A condition permanently incapacitating a claimant from performing any work at any gainful occupation.

Total temporary disability (time loss): The claimant is temporarily unable to return to any type of reasonably continuous gainful employment as a direct result of an accepted condition. Time loss compensation will be paid if the victim was employed on the date of their criminal injury, or, if not, if the victim was employed three or more consecutive months during the twelve months immediately preceding the date of the assault.

Utilization review: The assessment of a claimant's mental health care for assurance that it is necessary and of good quality. Assessments typically consider the appropriateness of the place of care, level of care, and the duration, frequency or quantity of services provided in relation to the accepted condition being treated.

Victim: A person who suffers bodily injury or death as the proximate result of a criminal act of another person, the claimant's own good faith and reasonable effort to prevent a criminal act, or his or her good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits, "victim" is interchangeable with "employee" or "worker" as defined in the Industrial Insurance Act. For the purpose of these rules "bodily injury" means any harmful or offensive touching, and includes severe emotional distress where no touching takes place as defined and under the conditions outlined in WAC 296-30-010(2).

AMENDATORY SECTION (Amending WSR 92-23-033, filed 11/13/92, effective 12/14/92)

WAC 296-31-030 General provider requirements—Who may treat. (1) Mental health providers who may treat claimants under the Crime Victims Act must register with the crime victims compensation program and qualify as an approved provider under these rules. The department must register the mental health provider before the mental health provider is eligible for payment for services.

(2) Washington permanently licensed psychiatrists, psychologists and advanced registered nurse practitioners with a specialty in psychiatric and mental health nursing, and registered and/or certified master level counselors whose master's degree is in a field of study related to mental health services including but not limited to, social work, marriage and family therapy or mental health counseling, who are registered with the crime victims program are authorized to provide treatment in accordance with these rules to claimants.

Out-of-state providers must be licensed, registered and/or certified in accordance to the licensing requirements within the state in which they practice. Copies of license, registration and/or certification must be provided when applying for approval to treat Washington state crime victims.

In areas where the department has determined licensed, registered and/or certified providers are not available, the department may consider registration exceptions on an individual case basis.

(3) The department has a duty to supervise provision of proper and necessary mental health care that is delivered promptly, efficiently, and economically. The department may deny, revoke, suspend, limit, or impose conditions on a mental health care provider's authorization to treat victims under the Crime Victims Act. Reasons for imposing any of the above restrictions include, but are not limited to the following:

(a) Negligence or incompetence which results in injury to a claimant or which creates an unreasonable risk that a claimant may be harmed.

(b) The illegal possession, use, prescription for use, or distribution of controlled substances, legend drugs, or addictive, habituating, or dependency-inducing substances in any way other than for therapeutic purposes.

(c) Any temporary or permanent probation, suspension, revocation, or other relevant type of limitation of a provider's license, certification or registration to practice by any court, board, or administrative agency.

(d) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the provider's profession. The act need not constitute a crime. If a conviction or finding of such an act is reached by a court or other tribunal pursuant to plea, hearing, or trial, a certified copy of the conviction or finding is conclusive evidence of the violation.

(e) Failure to comply with the department's orders, rules, or policies.

(f) Failure, neglect, or refusal to:

(i) Submit copies of license, certification and/or registration and degree to the department.

(ii) Maintain and provide records requested by the department pursuant to a health care services review or an audit.

(iii) Submit complete, adequate, and detailed reports or additional reports requested or required by the department regarding the treatment and condition of a claimant.

(g) The submission of, or collusion in the submission of, false or misleading reports or bills to any government agency.

(h) Billing a claimant for:

(i) Treatment of a condition for which the department has accepted responsibility; or

(ii) Any amount more than the amount paid by the department under the maximum allowable fee set forth in these rules and any other charge with the exception of "no show" appointment charges. The department has no provision to pay charges for missed appointments, except for independent assessments arranged by the department. Claimants may be billed directly for missed or "no show" appointments.

(i) Repeated failure to recognize emotional and social factors impeding recovery of a claimant who is being treated under the Crime Victims Act.

(j) Repeated unreasonable refusal to comply with the recommendations of board certified or qualified consultants who have examined or reviewed a claim for the department.

(k) Repeated use of:

(i) Treatment of controversial or experimental nature;

(ii) Contraindicated or hazardous treatment; or

(iii) Treatment past stabilization of the condition or after maximum mental health improvement has been obtained.

(l) Declaration of mental incompetency by a court or other tribunal.

(m) Failure to comply with the applicable code of professional conduct or ethics.

(n) Failure to inform the department of any disciplinary action issued by order or formal letter taken against the provider's license, certification or registration to practice.

(o) The finding of any peer group review body of reason to take action against the provider's practice privileges.

(p) Misrepresentation or omission of any material information in the application for authorization to treat claimants.

(q) Repeated billing of the department for services that are available to claimants from public or private insurance sources. The crime victims compensation program is a secondary insurer. Providers should bill the department only after all benefits available to the claimant from public or private insurance are exhausted.

(4) If the department finds reason to take corrective action, the department may also order one or more of the following:

(a) Recoupment of payments made to the provider, including interest; at the rate of one percent per month or portion of a month beginning on the thirty-first day after payment was made.

(b) Denial or reduction of payment;

(c) Placement of the provider on a prepayment review status requiring the submission of supporting documents prior to payment;

(d) Requirement to satisfactorily complete education courses and/or programs; and

(e) Imposition of other appropriate restrictions or conditions on the provider to include revocation of the privilege to be reimbursed for treating victims under the Crime Victims Act.

(5) The department shall forward a copy of any corrective action taken against a provider to the applicable disciplinary authority.

(6) Appeal and protest rights: A provider may file a written protest to any department order, decision, or award. An appeal or protest to an order or decision demanding repayment of sums must be submitted to the department or the board of industrial insurance appeals within twenty days from receipt of the order or decision. An appeal or protest to an order or decision regarding other issues, e.g., ongoing treatment or provider eligibility, must be filed within sixty days from receipt of the order or decision. Appeal and protest rights are governed under chapter 51.52 RCW and RCW 7.68.110.

AMENDATORY SECTION (Amending WSR 92-23-033, filed 11/13/92, effective 12/14/92)

WAC 296-31-050 Initial treatment and application for benefits. (1) It is the responsibility of the crime victim to notify the provider if the claimant has reason to believe his or her condition is related to a criminal assault. If the attending provider discovers a condition which he or she believes to be crime related or has reason to believe a condition is crime related, he or she must so notify the claimant. It is the provider's responsibility to ascertain

whether he or she is the first attending provider. If so, the following action shall be taken by the attending provider:

- (a) Provide crisis intervention if necessary.
- (b) Immediately complete the provider portion of the application for benefits.

(c) Instruct and give assistance to the crime victim in completing his or her portion of the application for benefits.

In completing a claim or application, the following information is necessary so there is no delay in adjudication of the claim or payment of compensation:

(i) Complete history of the condition, physical findings if appropriate, and symptomatology resulting from the crime.

(ii) Specific diagnosis with ICD-9-CM or DSM III-R or DSM IV code(s), including axes 1 through 5, or a description of symptoms, consistent with and connected to the diagnostic criteria contained within DSM III-R, or DSM IV, relating to the injury.

(iii) Type of treatment rendered.

(iv) Known emotional, or social conditions which may influence recovery or cause complications.

(v) Estimate of time loss (if any) due to the injury.

(2) If the claimant remains under the provider's care, continue with necessary treatment in accordance with mental health rules.

If the provider is not the original attending provider, he or she should question the claimant to determine whether an application for benefits has been filed for the condition. If no application has been previously filed, it should be completed immediately and forwarded to the department with information as to the name and address of the original provider if known, so that he/she may be contacted for necessary information. If an application has been filed, it is necessary to have the claimant submit in writing a request for transfer as outlined in WAC 296-31-065, if the claimant and provider agree that a change of provider is desirable.

AMENDATORY SECTION (Amending WSR 94-02-015, filed 12/23/93, effective 1/24/94)

WAC 296-31-060 Reporting requirements. The department may require reports at any time as is necessary in order to determine initial or continued authorization of benefits or services. However, the department requires the following reports at various stages of a claim in order to authorize mental health treatment or services, time loss compensation, and bill payments for innocent victims of crime:

(1) **Initial report of injury:** To establish a claim, an application for benefits must be completed and submitted to the department. The provider may bill under code ~~((90004))~~ 1040M for the filing of the application. In addition, the examination or assessment charge may be billed. Reimbursement of these services will be paid if the claim is allowed by the department. Billing for an extended or comprehensive visit of more than one hour may require submission of additional reports.

(2) **Initial evaluation report:** This report ~~((may))~~ must be submitted ~~((with the application for benefits))~~ by ~~((either))~~ the provider ~~((or claimant, or))~~ no later than thirty days from the date of first treatment or the date the claim is allowed, whichever is later. The report must include the preliminary diagnosis and symptoms, proposed treatment plan and

treatment goals, including the treatment modality or modalities to be employed, and expected length of treatment. It must also include a diagnosis of any preexisting conditions and their potential effect on the condition resulting from the assault. Any change in ~~((session frequency from that stated in this report will require authorization))~~ the treatment plan must be addressed either in a modified treatment plan submitted to the department or in a ninety-day narrative report. Absence of a response from the department to the proposed treatment plan or modification within fourteen days shall constitute authorization to proceed with the plan as long as the treatment plan does not contain measures requiring preauthorization per WAC 296-31-010(5).

(3) **Office notes and follow-up visits:** Legible copies of office or progress notes or other work products may be, as determined by the department, required documentation to substantiate all follow-up visits or treatment following the initial evaluation. Office notes are not acceptable in lieu of requested narrative reports.

(4) **Ninety-day narrative reports:** When treatment is to continue beyond ninety days from the first date of treatment, submission of a narrative report is required every ninety days to substantiate the need for continued care. A narrative report must contain the basic information outlined in these rules. A narrative report should be billed under code ~~((99080))~~ 0100C and described as a ninety-day report. Treatment in excess of ninety days may be authorized by the department only after receipt and review of the ninety-day narrative report. Absence of a response from the department to a report shall constitute authorization for continued treatment. When treatment beyond ninety days will not be authorized or is authorized with limits on frequency or provider type, notification will be sent by the department giving a thirty-day transition period. In the case of a contested decision, a claimant or a provider may file a written protest to the department or appeal to the board of industrial insurance appeals. ~~((The information required for the narrative report is contained under WAC 296-31-090.))~~ Ninety-day progress reports must include current DSM III, DSM IV, and/or ICD-9-CM diagnosis(es), their relationship (if any) to the conditions sustained as the result of the criminal act, a summary of the progress made toward therapy goals or issue resolutions established in the initial evaluation, an estimate of the duration and frequency of further sessions and an updated prognosis for recovery.

(5) **Hospital reports:** When the claimant is hospitalized, it is the responsibility of the attending mental health provider to submit his or her reports to the hospital for submission with the hospital billing. The attending mental health provider may bill for hospital visits without attaching copies of the reports.

(6) **Consultation reports:** To substantiate treatment of more than one hundred eighty days, a consultation with a consultant chosen by the attending mental health provider is required. The department may require the claimant to be examined by the consultant as part of the consultation process with supervisory approval. Although no prior authorization is required for such consultations, the consultant must meet crime victims compensation program's provider registration requirements and the department must be notified when such consultation is arranged. The consultant is responsible for submitting a copy of the report ~~((as~~

outlined in these rules)), following guidelines developed by the department, within fifteen days from the date of the consultation. Treatment may only be authorized to extend beyond one hundred eighty days in mental health cases after the department has received this report. Absence of response, by the department upon receipt of the report shall constitute authorization for additional treatment. When extended treatment will not be authorized or will be terminated, notification will be sent by the department giving a thirty-day transition period. ((See WAC 296-20-01002 for consultation report requirements.)) The department may request additional consultations and/or independent assessments as warranted by the individual case.

~~(7) ((Ninety-day follow-up reports: Following the one hundred eighty-day report and consultation, additional narrative reports are still required at ninety-day intervals. The department may request additional consultations and/or independent assessments as warranted by the individual case.~~

~~(8)) Termination reports: When a mental health practitioner discontinues treatment of a claimant because the condition for which treatment was provided is fixed and stable or for any other reason, a termination report shall be completed and provided to the program within sixty days of the last visit.~~

~~((9)) (8) Reopening application: On claims closed over sixty days, the department will pay for completion of a reopening application (Code ((90097)) 1041M), an office visit and diagnostic studies necessary to complete the application((see WAC 296-20-01002)). No other benefits will be paid until the adjudication decision is rendered. When reopening is granted, the department can pay benefits for a period not to exceed sixty days prior to the date the reopening application is received by the department.~~

AMENDATORY SECTION (Amending WSR 94-02-015, filed 12/23/93, effective 1/24/94)

WAC 296-31-065 Ongoing treatment. (1) Cases that remain open more than one hundred eighty days: When the claimant requires treatment beyond one hundred eighty days, a ~~((consult with another mental health provider is necessary to determine and/or establish the need for continued treatment and/or payment of time-loss compensation. This may be accomplished by the attending mental health provider in consultation with a provider who also satisfies the department requirements))~~ consultation with another mental health provider who meets the department's provider registration requirements, is necessary to determine and/or establish the need for continued treatment and/or payment of time-loss compensation. A detailed consultation report must be provided to the department.

Three levels of consultation are recognized: Limited, extensive and complex. Detailed descriptions of each type of consultation are included under procedure codes 0108C, 0109C and 0110C in the publication entitled *Crime Victims Compensation Mental Health Treatment Rules and Fees*.

(2) Procedures and/or continued treatment requiring consultation: In the event of complication, controversy, or dispute over the treatment aspects of any claim, the department will not authorize continued treatment until the complication, controversy, or dispute has been resolved and the

department has received notification of any findings and reviewed any recommendations.

(a) The department may consider claims as complicated, controversial or disputed when involving treatment or conditions as follows:

(i) All ~~((individual))~~ counseling or psychotherapy, pertaining to immediate family members, requiring treatment sessions of more than twelve visits.

(ii) All family therapy visits, not including the claimant, requiring more than twelve visits.

(iii) All conditions not related to the accepted condition involving emotional, psychiatric, or social problems which are likely to complicate recovery.

(iv) All therapeutic procedures of a controversial nature or type not in common use for the specific condition.

(v) Cases where there are complications or unfavorable circumstances such as age, preexisting conditions, or, because of occupational requirements, etc.

(vi) Elective nonemergent hospital admission,

(vii) Any other circumstance that the department may define.

(b) The department may resolve issues of claim complication, controversy, or dispute using consultants, independent assessments and/or requesting a review of policies or procedures by the department's mental health advisory committee. The committee may recommend courses of action to resolve these issues to including, but not limited to, recommendation of an independent assessment.

(c) In cases presenting diagnostic or therapeutic problems difficult to resolve to the attending mental health provider (psychiatrist, psychologist and/or counselor), consultation with a specialist will be allowed without prior authorization. The consultant must submit his or her findings and recommendations immediately to the attending provider and the department. ~~((See WAC 296-31-095 and 296-20-035 for report contents and requirements.))~~

(i) Whenever possible, the referring mental health provider should make his or her records available to the consultant to avoid unnecessary duplication. Consultants may proceed with indicated and reasonable diagnostic studies as permitted within their scope of practice.

(ii) Consultations must be held within the local geographic area of the claimant's residence, if possible, and with a consultant not having a mutual proprietary or business interest with the attending mental health provider. Exceptions to this requirement may be made only with department preauthorization. The department does not prohibit the use of members of the same professional or social associations.

(iii) The mental health provider will not arrange a consultation if notification has been received that an independent assessment is being arranged by the department. If a recent consultation has been completed and the attending mental health provider is notified that the department is arranging an assessment, the department must be advised immediately of the consultation.

(iv) The consultation fee will be paid only if a consultation report is complete ~~((see WAC 296-20-035))~~ and contains all psychological findings as well as all pertinent negative or normal findings. The report must be received in the department within fifteen days from the date of the consultation. No fee may be paid to the consultant, by the

department, if the claimant misses/fails to attend the appointment. However, the claimant may be billed directly.

(v) The consultant may not order, prescribe, or provide treatment without the consent of the claimant. No transfer will be made to the consultant without the written request of the claimant.

(3) **Concurrent treatment:** In some cases, treatment by more than one provider may be allowed. The department will consider authorization of concurrent treatment when the accepted condition requires specialty or multidisciplinary care. (Individual and group counseling sessions provided by more than one provider is not concurrent treatment.) When requesting consideration of concurrent treatment, the attending mental health provider must provide the department with the following: The name, address, discipline, and specialty of all other providers requested to assist in the treatment of the claimant and an outline of their responsibility in the case and an estimate of the length of the period of concurrent care. When concurrent care is allowed, the department will recognize one primary attending mental health provider, who will be responsible for directing the over-all treatment program; providing copies of all reports and other data received from the involved providers and, in time loss cases, providing the adequate certification evidence of the claimant's inability to work. The department will approve concurrent care on an individual case basis.

(4) **Transfer of attending provider:** All transfers from one provider to another must be approved by the department. Normally transfers will be allowed only after the claimant has been under the care of the attending mental health provider for sufficient time for the provider to: Complete the necessary diagnostic studies, establish an appropriate treatment regimen, and evaluate the efficacy of the therapeutic program. Under RCW 51.36.010 claimants are entitled to free choice of attending provider subject to the limitations of RCW 7.68.130. Except as provided under (a) through (g) of this subsection, no reasonable request for transfer will be denied. The claimant must be advised when and why a transfer is denied. The department reserves the right to require a claimant to select another provider for treatment, under the following conditions:

(a) When more conveniently located providers, qualified to provide the necessary treatment, are available.

(b) When the attending provider fails to cooperate in observance and compliance with the department rules.

(c) In time loss cases where reasonable progress towards return to work is not shown.

(d) Cases requiring specialized treatment, which the attending provider's authority is not qualified to render, or is outside the scope of the attending provider's authority to practice.

(e) Where the department finds a transfer of provider to be appropriate and has requested the claimant to transfer in accordance with this rule, the department may select a new attending provider if the claimant unreasonably refuses or delays in selecting another attending provider.

(f) In cases where the attending provider is not qualified to treat each of several accepted conditions. This does not preclude concurrent care where indicated.

(g) No transfer will be approved to a consultant without the written request of the claimant. Transfers will be authorized for the foregoing reasons or where the department

in its discretion finds that a transfer is in the best interest of returning the claimant to a productive role in society.

AMENDATORY SECTION (Amending WSR 92-23-033, filed 11/13/92, effective 12/14/92)

WAC 296-31-069 Independent assessments. (1) Independent assessments may be ordered by the department or requested of the department by the attending provider. Such assessments are usually ordered or requested after consultations for one of the following purposes:

(a) To establish a diagnosis. Prior diagnoses may be controversial or ill-defined.

(b) To outline the treatment rationale, where treatment or progress is vague or controversial.

(c) To establish therapeutic data to determine if the condition requiring treatment is related to conditions sustained and allowed by the department as a result of a specific criminal act.

(d) To determine the extent and duration of aggravation of any preexisting mental health condition.

(e) To establish when the claimant has reached maximum benefit from treatment.

(f) To establish a percentage rating of any permanent impairment, for mental health conditions when maximum recovery is reached.

(g) To determine indications for reopening of a claim for further treatment on basis of the aggravation of the accepted condition.

(h) To determine eligibility qualifications of claimants applying under RCW 7.68.060(3), the repressed memory provision of the Crime Victims Act.

(2) Independent assessments for mental health conditions may be ordered by claims adjudicators without supervisory approval to rate permanent impairment when treatment has been completed, to determine the department's responsibility for treatment that has been rendered retroactively where significant causal relationship questions exist and to determine eligibility qualifications of claimants applying under RCW 7.68.060(3), the repressed memory provision of the Crime Victims Act. All other reasons for ordering independent assessments for mental health conditions require supervisory approval.

(3) The following shall be reported by the assessing practitioner:

(a) Independent assessments must be specific and factual.

(b) The claimant's medical and mental health history must be checked for accuracy, variation or exaggeration compared to documented history provided to the examiner for this assessment.

(c) **Diagnosis:** Must be specific and describe the mental health condition and symptomatology found using DSM III-R, or DSM IV, and be substantiated by history.

(d) **Conclusions:** Must be specific and must definitely express an opinion concerning the purpose for which the assessment was requested, and should be consistent with the history and diagnosis reported.

(e) **Permanent disability:** Ratings must be supported by sufficient data to establish the category disability rating; also the report must demonstrate and articulate a definite causal

relationship to the accepted condition(s) on a more probable than not basis.

AMENDATORY SECTION (Amending WSR 92-23-033, filed 11/13/92, effective 12/14/92)

WAC 296-31-070 Provider obligations—Acceptance of rules and fees. (1) The filing of a crime victims compensation claim, or the rendering of treatment to a victim who comes under the department's jurisdiction constitutes acceptance of the department's crime victims compensation mental health rules and mental health fees and compliance with its rules and fees. In accordance with RCW 7.68.060(1) of the Crime Victims Act, when a mental health provider renders treatment to a victim entitled to benefits under the law, it shall be the duty of the mental health provider to inform the victim of his or her rights under this title and to lend all necessary assistance in making the application for compensation and such proof of other matters as required by the rules of the department without charge to the victim; a victim shall not be billed for treatment rendered for his or her accepted condition. The department may be contacted to obtain brochures and copies of the act.

When there is questionable eligibility, (e.g., service is not usually allowed for crime victims when a investigation or claim determination is pending), the provider may require the claimant to pay for the treatment rendered. In cases of questionable eligibility where the provider has billed the claimant or other insurance, and the claim is subsequently allowed, the provider shall refund the claimant in full within thirty days of notification of allowance of claim and bill the department for services rendered at usual and customary charges. Cases in which there is a question of ethics or quality of care will be referred to the department of health.

(2) The department must be notified immediately when an unrelated condition is being treated concurrently with an accepted condition. (~~See WAC 296-20-055 for specific information required.~~)

(3) Penalties. The reporting requirements and penalty provision for physicians contained in RCW 51.36.060 and 51.48.060 shall be the same for physicians under these rules pursuant to RCW 7.68.100.

(4) Conditions preexisting the accepted condition are not the responsibility of the department. When an unrelated condition is being treated concurrently with the accepted condition, the attending practitioner must notify the department immediately and submit the following:

- (a) Diagnosis and/or nature of unrelated condition.
- (b) Treatment being rendered.
- (c) The effect, if any, on accepted condition.

Temporary treatment of an unrelated condition may be allowed, upon prior approval by the department, provided these conditions directly retard recovery of the accepted condition. The department will not approve or pay for treatment for a known preexisting unrelated condition for which the claimant was receiving treatment prior to his or her crime victims claim, which is not retarding recovery from his or her accepted condition.

A thorough explanation of how the unrelated condition is affecting the accepted condition must be included with the request for authorization.

The department will not pay for treatment of an unrelated condition when it no longer exerts any influence upon the accepted condition. When treatment of an unrelated condition is being rendered, reports must be submitted monthly outlining the effect of treatment on both the unrelated and the accepted conditions.

The department will not pay for treatment of unrelated conditions unless specifically authorized, including purchases of drugs or medicines.

AMENDATORY SECTION (Amending WSR 92-23-033, filed 11/13/92, effective 12/14/92)

WAC 296-31-075 Excess recoveries. In cases where a recovery has been made resulting in an excess recovery subject to offset from the future benefits or compensation due, the department is not liable for payment for services rendered by providers. The claimant is responsible for payment at department fee schedule rates. The claimant should be treated and the department billed in accordance with these mental health treatment rules and instructions (~~and in accordance with the rules and instructions contained in chapters 296-20 through 296-23A WAC~~). When bills are processed against the amount of the excess recovery, the department will notify the provider. The department will resume financial responsibility to or on behalf of the claimant when the amount of such excess has been reduced to zero. Charges for reports, consultations and other actions required of providers by the department solely for the purpose of the department's management of claims will be paid by the department during the period within which the excess recovery is being reduced.

AMENDATORY SECTION (Amending WSR 94-02-015, filed 12/23/93, effective 1/24/94)

WAC 296-31-080 Billing procedures. (1) All services rendered must be in accordance with these mental health treatment rules. The department may reject bills for services rendered in violation of these rules. The claimant may not be billed for services rendered in violation of these rules. However, claimants may be billed if they fail to keep or miss a properly scheduled appointment.

Providers shall bill their usual and customary fee for services. If a usual and customary fee for any particular service is lower to the general public than listed in the fee schedules, the practitioner shall bill the department at the lower rate.

(a) Bills must be itemized on department forms or other forms which have been approved by the department. Physicians, advanced registered nurse practitioners, psychologists, and masters level mental health counselors may use the National Standard HCFA 1500 Health Insurance Claim Form or the department's statement for crime victim services. When billing for treatment of a family member other than the claimant, you must identify the family member by name and relationship to the claimant. Hospitals use the UB-92 billing form for institution services and the National Standard HCFA 1500 Health Insurance Claim Form for professional services.

(b) Bills must specify the date and type of service, the appropriate procedure code, the condition treated, and the charges for each service.

(c) Every bill submitted to the department must be completed to include the following:

- (i) Claimant's name and address;
- (ii) Claimant's claim number;
- (iii) Date of injury;
- (iv) Referring provider's name;
- (v) Dates of service;
- (vi) Place of service;
- (vii) Type of service;
- (A) Psychiatrists and psychologists use type of service

3.

(B) Master level counselors use type of service M.

(C) Advanced registered nurse practitioners (ARNP) use type of service N.

(viii) Appropriate procedure code or hospital revenue code,

(ix) Description of service; if mental health patient is not the claimant, give name and relationship to the claimant;

- (x) Charge;
- (xi) Units of service;
- (xii) Total bill charge;
- (xiii) Provider of service;
- (xiv) Group, clinic, center, or facility name;
- (xv) Billing address;
- (xvi) Federal tax information;
- (A) Federal tax identification number; or
- (B) Social Security number.

(xvii) Date of billing;

(xviii) Submission of supporting documentation required under (f) of this subsection;

(xix) Private or public insurance eligibility and amounts paid.

(d) Responsibility for the completeness and accuracy of the description of services and charges billed rests with the provider rendering the service, regardless of who actually completes the bill form.

(e) Providers are urged to bill on a monthly basis. Bills must be submitted within ninety days from the date of service to be considered for payment. If insurance or public agency collateral resources exist bills must be received within ninety days following payment or rejection by the resource. A copy of the payment or rejection must accompany the bill.

(f) The following supporting documentation must be maintained and submitted when billing for services, as may be appropriate:

- (i) Intake evaluation;
- (ii) Progress reports;
- (iii) Consultation reports;
- (iv) Special or diagnostic study reports;
- (v) Independent assessment or closing exam reports;
- (vi) For BR procedures - see WAC 296-31-090 for requirements;

(vii) Claimant public or private insurance information.

(g) The claim number must be placed in the upper right hand corner on each bill and on each page of reports and other correspondence.

(h) Rebills. If a provider does not receive payment or notification from the department within ninety days, services may be rebilled. Rebills must be submitted for services denied if a claim is closed or rejected and subsequently reopened or allowed. Rebills should be identical to the

original bill: Same charges, codes, and billing date. The statement "rebill" must appear on the bill.

(i) Any inquiries regarding adjustment of charges must be submitted within ninety days from the date of payment to be considered.

(j) Any denied charge may be protested in writing to the department or appealed to the board of industrial insurance appeals.

(2) Allowance and payment for medication. The department will pay for medications or supplies dispensed for the treatment of conditions resulting from a crime victim injury and/or conditions which are retarding the recovery from the claimant's condition, for which the department has accepted temporary responsibility. Specific information governing allowance and payment for medication is contained in WAC 296-20-17001.

(3) Payment of out-of-state providers.

(a) Providers of mental health services in the bordering states of Oregon and Idaho shall bill and be paid according to Washington state rules.

(b) Providers of health services in other states and other countries shall be paid at rates which take into account:

(i) Payment levels allowed under the state of Washington crime victims compensation program rules;

(ii) Payment levels allowed under crime victims compensation or workers compensation programs in the state of the provider's place of business; and

(iii) The usual, customary, and reasonable charges in the state and city of the provider's place of business.

(c) In all cases these payment levels are the maximum allowed to providers of services to claimants. Should a provider's charge exceed the payment amount allowed under the state of Washington crime victim compensation program rules, the provider is prohibited from charging the claimant for the difference between the provider's charge and the allowable rate. Providers violating this provision are ineligible to treat claimants as provided by these mental health rules and are subject to other applicable penalties.

(d) Only those diagnostic and treatment services authorized under the state of Washington mental health rules may be allowed by the department. As determined by the department, the scope of practice of providers in bordering states may be recognized for payment purposes, except that in all cases WAC 296-20-03002 (treatment not authorized) shall apply. Specifically, services permitted under crime victims compensation programs in the provider's place of business, but which are not allowed chapters 296-20, 296-30, and 296-31 WAC of the state of Washington, may not be reimbursed. When in doubt, the provider should verify coverage of a service with the department.

(e) Out-of-state hospitals will be paid according to WAC 296-30-081.

AMENDATORY SECTION (Amending WSR 94-02-015, filed 12/23/93, effective 1/24/94)

WAC 296-31-090 Mental health fees. (1) Rules and billing procedures are presented in detail in the previous sections, some commonalities are repeated here for the convenience of mental health providers referring to the mental health fee section. Definitions and items unique to billing procedures and fees are also included.

Psychiatric care may be billed without time dimensions according to the procedure or service as are medical or surgical procedures. In billing psychotherapy procedures, time is only one aspect and may be expressed as is customary in the local area. For example, the usual appointment length of an individual psychotherapy procedure may be signified by the procedure code alone. The modifier '-52' may be used to signify a service that is reduced or less extensive than the usual procedure. The modifier '-22' may be used to indicate a more extensive service. ~~((For example procedure code 90801 may be billed with modifier '-22' if the evaluation and report writing take more than an hour to complete.))~~ Thus, psychotherapy procedures may be reported by the procedure code alone or by the procedure code with a modifier.

Facility charges are not payable when a provider elects to use hospital facilities or other outpatient facilities in lieu of maintaining a private practice office.

(2) Definitions.

By report - BR (by report) in the value column indicates that the value of this service is too unusual, variable or new to be assigned a unit value. The report shall provide an adequate definition or description of the services or procedures that explain why the services or procedures are too unusual, variable, or complex to be assigned a relative value unit, using any of the following as indicated:

(a) Diagnosis - ICD9 - DSM III or DSM IV.

(b) Whenever possible, list the nearest similar procedure by number according to this schedule.

The department may adjust BR procedures when such action is indicated.

Maximum fees - The maximum allowable fee for a procedure is the fee contained in the publication entitled *Crime Victims Compensation Program Mental Health Treatment Rules and Fees*. Prior to the establishment or amendment of the fee schedules, the department will give at least thirty calendar days notice by mail to interested persons who have made timely request for advance notice of the establishment or amendment of the fee schedules. To request advance notice of the establishment or amendment of the fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries
Crime Victims Compensation Section
P.O. Box 44520
Olympia, WA 98504-4520

No fee is payable by the department for missed appointments unless the appointment is for an examination arranged by the department. Claimants may be billed directly for missed or "no show" appointments.

Mental health modifiers - Listed values for most procedures may be modified under certain circumstances. When applicable, the modifying circumstance should be identified by the addition of the appropriate "modifier code number" after the usual procedure number. The value should be listed as a single modified total for the procedure.

Report required - The values for procedures for which a report is required include the report fee. **Do not bill separately for these reports.**

Unusual or unlisted procedure - Value of unlisted services or procedures should be substantiated "by report"

(BR). Refer to the definition of **By report** for reporting requirements.

(3) Advanced registered nurse practitioners are reimbursed at ninety percent of values listed for psychologists or psychiatrists.

(4) Mental health services. The following graduated listing of services is an attempt to reflect the relative values of the time and skills required at the various service levels. The listed values apply only when performed by mental health providers registered with and authorized by the department to provide services to claimants through this program.

Modifier Unit Value

-22 UNUSUAL SERVICES: When the services provided are greater than those usually required for the listed procedure, identify by adding this modifier to the usual procedure number. Requires written justification BR

-52 REDUCED VALUES: Under certain circumstances, the listed value for a procedure is reduced or eliminated because of ground rules, common practice, or at the mental health provider's election. Under these or similar circumstances, the services provided can be identified by their usual procedure numbers and the use of a reduced value indicated by adding this modifier to the procedure number. (Use of this modifier provides a means of reporting services at a reduced charge without disturbing usual relative values.) BR

-8N CONCURRENT CARE, SERVICES RENDERED BY MORE THAN ONE PROVIDER: When the claimant's condition requires the additional services of more than one provider, each provider may identify his or her services by adding this modifier to the service procedure code BR

-96 SPECIAL AGREEMENT WITH CRIME VICTIMS COMPENSATION PROGRAM: This modifier is to be used by providers who have a special agreement with the crime victims compensation program for certain designated procedures. Any request for special agreement should be directed to:

Crime Victims Compensation Program
Special Claim Unit
PO Box 44523
Olympia WA 98504-4523

THE VALUES FOR PROCEDURES FOR WHICH A REPORT IS REQUIRED INCLUDE THE REPORT FEE. DO NOT BILL SEPARATELY FOR THESE REPORTS.

WSR 95-15-011
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3864—Filed July 7, 1995, 3:14 p.m.]

Date of Adoption: July 7, 1995.

PERMANENT

Purpose: Establishes in rule the contract requirements for assisted living services provided to Medicaid-eligible residents in licensed boarding homes. New sections WAC 388-15-900 Authority, 388-15-905 Assisted living services, 388-15-910 Definitions, 388-15-915 Facility structural requirements, 388-15-920 Service requirements, 388-15-925 External or additional services coordinated by the contractor, 388-15-935 Contract application process, 388-15-940 Change of parties to the contract, 388-15-945 Client eligibility, 388-15-950 Relocation criteria, and 388-15-955 Assisted living services contract payment procedures.

Citation of Existing Rules Affected by this Order: New sections WAC 388-15-900 Authority, 388-15-905 Assisted living services, 388-15-910 Definitions, 388-15-915 Facility structural requirements, 388-15-920 Service requirements, 388-15-925 External or additional services coordinated by the contractor, 388-15-935 Contract application process, 388-15-940 Change of parties to the contract, 388-15-945 Client eligibility, 388-15-950 Relocation criteria, and 388-15-955 Assisted living services contract payment procedures.

Statutory Authority for Adoption: RCW 74.39A.010.

Pursuant to notice filed as WSR 95-14-050 on June 28, 1995.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-15-910 (3) and (12) clarifies definitions. WAC 388-15-910(3) clarified role of resident and surrogate decision maker in definition. WAC 388-15-915 deleted (3)(b) and (c)(i). WAC 388-15-920 (2)(a), (5), and (9) clarifies resident and surrogate decision-maker role to ensure conformance with applicable statute, and deletes "quality of" services as same language is in WAC 388-15-925. WAC 388-15-945 has an added reference to boarding home regulations clarifying parameters of client eligibility.

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

July 7, 1995

Jeanette Sevedge-App

Acting Chief

Office of Vendor Services

ASSISTED LIVING SERVICES

NEW SECTION

WAC 388-15-900 Authority. The following rules are adopted under chapter 74.39A RCW, Long-term care services options.

NEW SECTION

WAC 388-15-905 Assisted living services. The rules in this chapter apply only to boarding homes licensed under chapter 18.20 RCW, or boarding homes located within the boundaries of a federally recognized Indian reservation and licensed by a tribe, that contract with the department to provide assisted living services to Medicaid-eligible residents.

NEW SECTION

WAC 388-15-910 Definitions. The terms used in this chapter shall have the same meaning as those in chapters 18.20, 70.129, and 74.39A RCW, and chapter 246-316 WAC, except as stated below.

(1) "Aging in place" means the process by which a person chooses to remain in his or her living environment despite the physical or mental decline that may occur with the aging process. For aging in place to occur, needed services are added, increased, or adjusted to compensate for the physical, or mental decline of the person. Services added may not exceed those allowed under chapter 246-316 WAC.

(2) "Assisted living services" means a combination of housing, health services, and assistance with personal care provided by a licensed boarding home in accordance with the assisted living services contract. The boarding home having an assisted living services contract shall design and provide services in response to each resident's individual needs and choices based on assisted living values.

(3) "Assisted living values" means providing services in a home-like setting which promotes the individual resident's privacy, dignity, choice, independence, individuality, and decision-making ability. Assisted living values promote the concept of "aging in place and managed risk."

(4) "Boarding home" as defined under RCW 18.20.020(2).

(5) "Contractor" means an individual, partnership, corporation or other entity which contracts with the department to provide assisted living services to Medicaid-eligible residents in a licensed boarding home.

(6) "Choice" means viable options created for a resident to enable the resident to exercise greater control over the resident's life.

(7) "Department" means the Washington state department of social and health services (DSHS).

(8) "Dignity" means providing support in such a way as to validate the self-worth of a resident. Dignity is supported by designing a structure which allows personal assistance to be provided in privacy, and the delivering of services in a manner which shows courtesy and respect for a resident's right to make a decision.

(9) "Home-like" means an environment which creates an atmosphere supportive of the resident's preferred lifestyle. Home-like is supported by encouraging the resident to use his or her own personal belongings.

(10) "Independence" means supporting the resident's capabilities and facilitating the use of the resident's abilities.

(11) "Individuality" means recognizing variability in a resident's individual needs and preferences, and having flexibility to organize services in response to these needs and preferences.

(12) "Managed risk" means balancing the resident's choice for independence against the safety of the resident and other persons in the facility. If the resident's decision or preference places the resident or others at risk or leads to adverse consequences, a formal plan is negotiated to decrease the probability of a poor outcome.

(13) "Negotiated service agreement" means a written plan of services developed with the resident to the maximum extent possible, and the family or surrogate decision maker, if applicable. The agreement includes recognition of the resident's capabilities and choices. The plan defines the division of responsibility in the implementation of the services and specifies measurable goals.

(14) "New facility" means a new building, or addition to a licensed boarding home, or change in use of an existing

building to a licensed boarding home, for which plans were submitted for construction review under WAC 246-316-070 after the effective date of this chapter.

(15) "Privacy" means a specific area and/or time over which the resident maintains a large degree of control. Privacy is supported by designing living space which is not shared, except by personal choice, with others.

(16) "Services" means activities which help a resident develop appropriate skills to increase or maintain his or her level of most independent psycho-social and physical functioning, or assist the resident in activities of daily living.

(17) "Unit" means a resident living area that is a private apartment space, including living and sleeping space, kitchen area, bathroom, and storage areas.

NEW SECTION

WAC 388-15-915 Facility structural requirements.

(1) A boarding home with an assisted living services contract shall provide each resident with an individual unit that consists of at least the following:

(a) In an existing facility, an individual unit with a minimum of one hundred eighty square feet, excluding the bathroom. In a new facility, an individual unit with a minimum of two hundred twenty square feet, excluding the bathroom;

(b) A separate bathroom, including a sink, a shower or bathtub, and a toilet;

(c) A locking entry door;

(d) A kitchen area, equipped at a minimum with a microwave oven, stove-top or other cooking appliance, and a refrigerator; and

(e) A living area wired for telephone and, where available in the geographic location, wired for television service.

(2) The contractor shall provide a private accessible mailbox that meets postal standards in which a resident may send or receive mail.

(3) A contractor may request an exception to subsections (1)(c), (d), (e), and (2) of this section for a facility constructed before the adoption of these regulations. Any such request shall be submitted in writing to the director for residential care services, aging and adult services administration. In the request, the contractor shall:

(a) Explain the need for the exception;

(b) Assure the exception will not adversely affect any resident's health and safety; and

(c) Demonstrate that granting the exception will be consistent with applicable local codes.

NEW SECTION

WAC 388-15-920 Service requirements. (1) The contractor shall provide a resident services in a manner which promotes:

(a) Assisted living values;

(b) An environment that allows residents to age in place; and

(c) Compliance with resident rights as set forth under chapter 70.129 RCW.

(2) In addition to the individual resident's plan completed before or upon move-in, the contractor shall complete a negotiated service agreement, based on the resident's needs

and choices within thirty days of move-in. The contractor shall include the following persons in the development of the negotiated service agreement:

(a) The resident, to the maximum extent possible, and the family or surrogate decision maker, if applicable;

(b) Facility staff;

(c) The department's case manager; and

(d) If the resident chooses, the resident's family or support system.

(3) The negotiated service agreement shall address, at a minimum, the following elements:

(a) Assessed needs and preferences, personal care tasks, limited nursing services, and medication services, including frequency of service and level of assistance;

(b) Resident's and department case manager's signature and approval of the agreement; and

(c) Date the agreement was approved, and the date the agreement will be reviewed.

(4) The contractor shall provide the resident a copy of the agreement, and place a copy in the resident's record.

(5) The contractor, the resident to the maximum extent possible, and the family or the resident's surrogate decision maker if applicable, and the department's case manager shall regularly review and evaluate the resident's service needs, which shall not exceed those services allowed under chapter 246-316 WAC. The agreement shall be updated when there are changes in the services the resident needs and agrees to receive. At a minimum, the negotiated service agreement shall be renegotiated annually.

(6) The contractor shall provide sufficient staff to meet the limited nursing service needs of a resident who requires daily nursing services. The contractor shall provide or arrange for the provision of limited nursing services according to WAC 246-316-265.

(7) The contractor shall allow the resident to obtain additional health care services, as provided under WAC 246-316-268.

(8) The contractor shall provide personal care services in accordance with chapter 246-316 WAC, based on the resident's negotiated service agreement as described in WAC 388-15-820 (4) and (6) and further defined in WAC 388-15-202.

(9) The contractor shall provide service coordination for residents and monitor the services provided. Service coordination includes providing services or arranging for community-based services.

(10) The contractor shall encourage:

(a) Residents and the resident council to participate in the development of a recreation and activity program that reflects the needs and choices of the residents;

(b) The resident council to participate in providing input to the facility about residents' preferences for food choices. The contractor shall ensure the menu preparation reflects nutritional recommended daily allowance (RDA) in accordance with WAC 246-316-170 and choices of the residents.

(11) The contractor shall retain a unit for a resident hospitalized or temporarily placed in a nursing home for up to thirty days who is likely to return. If notified prior to thirty days by the attending medical personnel that the resident will not be able to return to the residence, the facility may discharge the resident.

NEW SECTION

WAC 388-15-925 External or additional services coordinated by the contractor. The contractor shall coordinate and monitor services not covered by the assisted living services contract as needed to assist residents to maintain as much independence as possible. This does not include services listed under WAC 248-316-268.

NEW SECTION

WAC 388-15-935 Contract application process. (1) In order to provide assisted living services, an applicant shall:

(a) Complete and submit a contract application on department provided forms at least sixty days before the contract's requested effective date;

(b) Have a valid boarding home license for the facility at which the assisted living services will be provided before the department approves the contract;

(c) Include information regarding any facilities the applicant and any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has been affiliated with in the past ten years;

(d) When the applicant is a partnership, provide the requested information for each individual partner for the ten years preceding the date the application is submitted; and

(e) When the applicant is a corporation, provide the requested information for each individual with a five percent or greater interest in the corporation for the ten years preceding the application date.

(2) Within sixty days of receipt of the application the department shall approve or deny the application, or request additional information from the applicant. The department shall conduct an on-site review of the contracting facility before issuing a contract. The department may extend the sixty days to allow the applicant to supply or clarify information requested by the department.

(3) The department shall disqualify a contract applicant when one of the following has occurred in the past ten years:

(a) The applicant, acting independently or in association with others, had a license for the care of children or adults revoked, suspended, or canceled.

(b) The applicant, acting independently or in association with others, has been enjoined from operating a facility, for the care of children or adults, permanently or temporarily.

(c) The applicant, acting independently or in association with others, had a facility for the care of children or adults decertified, and some or all of the residents were removed.

(d) The applicant, acting independently or in association with others, was assessed a criminal fine, jail term (whether suspended or not), or any other criminal penalty in connection with the operation of any facility for the care of children or adults.

(e) The applicant, acting independently or in association with others, was convicted of any felony or crime against a person or an offense, as outlined under RCW 43.43.830.

(4) When determining whether to approve an assisted living services contract application the department shall consider the following information relevant if it involves the care provided to children or adults. The department may deny an application for contract when one of the following circumstances has occurred:

(a) The applicant, acting independently or in association with others, has been adjudged liable for civil damages by a court, or settled such an action out of court based on alleged negligent conduct or intentional misconduct on an individual's part or in association with others;

(b) The applicant, acting independently or in association with others, has been a party to a Medicaid or Medicare provider agreement, or a party to any other agreement with a public agency for the care or treatment of children or adults which was revoked, canceled, suspended, or not renewed (whether in part or in whole, temporarily or permanently) by such agency;

(c) The applicant, acting independently or in association with others, had sanction or corrective action taken by federal, state, county, or municipal health or safety officials;

(d) The applicant, acting independently or in association with others, filed for bankruptcy, reorganization, or receivership based on failure or inability to meet financial obligations in the regular course of business or has individually or in association with others, ever had a judgment obtained against the individual by a creditor;

(e) The applicant, acting independently or in association with others, was denied a license or license renewal to operate a facility that was licensed for the care of children or adults;

(f) The applicant, acting independently or in association with others had a stop-placement or stop-payment instituted in a facility for the care of children or adults;

(g) The applicant, acting independently or in association with others, was assessed a civil fine;

(h) The applicant, acting independently or in association with others, had resident trust funds or assets of an entity providing care to children or adults seized by the IRS or a state entity for failure to pay income taxes or payroll taxes; or

(i) The applicant, acting independently or in association with others, failed to properly maintain resident trust funds in accordance with accepted accounting practices and chapter 70.129 RCW.

NEW SECTION**WAC 388-15-940 Change of parties to the contract.**

(1) A change of contractor occurs when there is a substitution of the individual contractor or contracting entity ultimately responsible for the daily operational decisions of the assisted living service; or a substitution of control of such contracting entity.

(a) Events which constitute a change of contractor include but are not limited to the following:

(i) The form of legal organization of the operator is changed (e.g., a sole proprietor forms a partnership or corporation);

(ii) Assisted living services contracts rights and responsibilities are transferred by the initial contractor to another party regardless of whether ownership of some or all of the real property and/or personal property assets of the facility is also transferred;

(iii) If the contractor is a partnership, any event occurs which dissolves the partnership;

(iv) If the contractor is a corporation, and the corporation is dissolved, merges with another corporation which is

the survivor, or consolidates with one or more other corporations to form a new corporation;

(v) If the contractor is a corporation and, whether by a single transaction or multiple transactions within any continuous twenty-four-month period, fifty percent or more of the stock is transferred to one or more:

(A) New or former stockholders; or

(B) Present stockholders each having held less than five percent of the stock before the initial transaction; or

(vi) Any other event or combination of events which results in a substitution or substitution of control of the individual contractor or the contracting entity.

(b) The contractor does not change when the following, without more, occur:

(i) A party contracts with the contractor to manage the assisted living enterprise as the operator's agent, i.e., subject to the operator's general approval of daily operating and management decisions; or

(ii) The real property or personal property assets of the assisted living services contractor change ownership or are leased, or a lease of the real property or personal property assets is terminated, without a substitution of individual operator or operating entity and without a substitution of control of the operating entity.

(2) When a change of contractor is contemplated, the current contractor shall notify the department and all residents at least sixty days prior to the proposed date of transfer. The notice shall be in writing and shall contain the following information:

(a) Name of the present contractor and prospective contractor;

(b) Name and address of the assisted living services contract being transferred; and

(c) Date of proposed transfer.

(3) The operation or ownership of an assisted living services contract shall not be transferred until the new operator has entered into an assisted living services contract with the department. The new contractor shall comply with contract application requirements.

NEW SECTION

WAC 388-15-945 Client eligibility. The contractor shall provide assisted living services to a person eligible for COPEs services under WAC 388-15-202 through 388-15-205 and WAC 388-15-600 through 388-15-615 as determined by the department's case manager, and in compliance with chapter 246-316 WAC.

NEW SECTION

WAC 388-15-950 Relocation criteria. The contractor shall include the department's case manager in the development of any plan to relocate or discharge a resident. Relocation criteria are set forth in boarding home regulations under chapter 246-316 WAC, and long-term care resident rights under chapter 70.129 RCW.

NEW SECTION

WAC 388-15-955 Assisted living services contract payment procedures. (1) The resident shall pay nonexempt income directly to the facility. The department shall pay the remainder of the costs after deducting the resident's share in the cost of care, and allocate all nonexempt income of a person receiving COPEs assisted living services according to procedures under WAC 388-515-1505.

(2) The department shall pay for COPEs assisted living services provided in accordance with the resident's approved negotiated service agreement, a sum including the resident's cost share, not to exceed the COPEs assisted living rates set forth in the most recent schedule of department-established and published rates.

(3) The department shall pay to hold a resident's unit, held for the resident during a hospital or nursing facility stay not to exceed thirty days, at a unit hold rate set by the department.

WSR 95-15-013

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed July 7, 1995, 4:20 p.m.]

Date of Adoption: July 7, 1995.

Purpose: Update reporting rule for legal services to account for statutory additions and changes made in chapter 25, Laws of 1993 1st sp. sess. of RCW 82.04.055 and 82.04.290.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-207.

Statutory Authority for Adoption: General rule-making authority, RCW 82.32.300 and 34.05.410.

Pursuant to notice filed as WSR 95-11-040 on May 10, 1995.

Changes Other than Editing from Proposed to Adopted Version: Added clarification that expenses incurred in obtaining official copies of documents for litigation were not overhead expenses.

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

July 7, 1995

Russell W. Brubaker
Assistant Director
Legislative and Policy

AMENDATORY SECTION (Amending Order ET 85-4, filed 9/20/85)

WAC 458-20-207 ((Attorneys)) Legal, arbitration, and mediation services. ~~((The word "attorney" as used herein means an individual engaged in the practice of law. The term shall also include a professional service corporation organized under chapter 18.100 RCW for the purpose of engaging in the practice of law.~~

Business and Occupation Tax

~~Attorneys are taxable under the service and other activities classification upon the gross income of the business. Gross income of the business means the value proceeding or accruing by reason of the transaction of the business engaged in and includes compensation for the~~

rendition of services, all without any deduction on account of expenses or losses. (See RCW 82.04.070.) Value proceeding or accruing means consideration actually received or accrued. (See RCW 82.04.090.) Thus, under these statutes, the measure of the tax for attorneys includes compensation or consideration for the rendition of legal service.

Attorneys are bound by the rules of professional conduct. RPC 1.8c prohibits an attorney from financing the expenses of contemplated or pending litigation unless the client remains ultimately liable for such expenses. An attorney therefore normally acts solely as agent for the client when financing litigation. Accordingly, amounts received from a client for certain expenses of litigation do not constitute income to the attorney. Thus, such amounts are not part of the business and occupation tax measure.

Sometimes in the regular course of business an attorney may receive amounts from a client for expenses of third party providers incurred in connection with a legal matter other than litigation. Such amounts are also excluded from the business and occupation tax, but only if the attorney has no obligation for payment other than as agent for the client or equivalent commitment for their payment.

Thus, the following kinds of expenses are not subject to the business and occupation tax where the above requirements are satisfied:

- A. Filing fees and court costs.
- B. Process server and messenger fees.
- C. Court reporter fees.
- D. Expert witness fees.
- E. Costs of associate counsel.
- F. Costs of third party service providers (for example, accountants, appraisers, architects, artists, draftsmen, economists, engineers, investigators, physicians, surveyors, etc.) who provide services to the client which the attorney does not or cannot render, and to whom the attorney has no obligation for payment other than as agent for the client.
- G. Registration, licensing or maintenance fees.
- H. Title and other insurance premiums.
- I. Escrow fees paid to third party escrow agents.

In order to support the exclusion from taxable gross income of any of the foregoing expenses, the attorney must maintain records which indicate the amount of the payment received from the client, the name of the client, the name of the person to whom the attorney has made payment, and a description of the item for which payment was made. If the foregoing expenses are incurred outside the context of litigation or contemplated litigation, the attorney must maintain records which indicate the amount of the payment received, the name of the client, and the person to whom the attorney makes payment. In addition, the attorney must provide the person to whom payment is made with written notice that (1) payment is made, or will be made on behalf of a named client, and (2) the attorney assumes no liability for payment, other than as agent for the named client.

General overhead costs are includable in the tax measure even though an attorney may allocate those costs among particular clients. Likewise, any other costs for which the attorney assumes personal liability other than as stated above are includable in the tax measure.

Thus, amounts received to compensate for the following costs are fully subject to tax, even though they may be

separately stated on the billings or expressly denominated as costs of the client:

- A. Photocopy or other reproduction charges.
- B. Long distance telephone tolls.
- C. Secretarial expenses.
- D. Travel, meals and lodging.
- E. Third party service providers (for example, accountants, appraisers, architects, artists, draftsmen, economists, engineers, investigators, physicians, etc.) to whom the attorney assumes personal liability for payment.

Retail Sales Tax

Attorneys primarily render professional legal services and are not required to collect the retail sales tax from clients and others paying for such services. This is so even though the legal services rendered by attorneys may include abstract, title insurance, and escrow business activities which are "retail sales" under the law when performed by persons other than attorneys.

Sales of tangible personal property to attorneys for use in rendering professional services are retail sales upon which the retail sales tax must be collected. Such sales include, among others, sales of office furniture and equipment, stationery, office supplies, law books, and reference materials.

Use Tax

The use tax applies upon the use within this state of all articles of tangible personal property used in the performance of professional services when such articles have been purchased or acquired under conditions whereby the Washington retail sales tax has not been paid.) (1) Introduction. This section explains the taxability of amounts received for legal, arbitration, and mediation services.

(2) Definitions.

(a) "Arbitration" means the process by which the parties to a dispute submit to the hearing and judgment of an impartial person or group appointed by mutual consent or statute.

(b) "Arbitration services" means services relating to the resolution of a dispute submitted to arbitration.

(c) "Attorney" means an active member of a state Bar Association engaged in the practice of law. The term also includes a professional service corporation incorporated under chapter 18.100 RCW, a professional limited liability company formed under chapter 18.190 RCW, or a partnership, provided the ownership of these business entities are properly restricted to attorneys and organized primarily for engaging in the practice of law.

(d) "Collective investment fund" means:

(i) A mutual fund or other regulated investment company as defined in Internal Revenue Code section 851(a);

(ii) An "investment company" as that term is used in section 3(a) of the Investment Company Act of 1940 as well as an entity that would be an investment company under section 3(a) of the Investment Company Act of 1940 except for the section 3 (c)(1) or (11) exemptions, or except that it is a foreign country;

(iii) An "employee benefit plan," which includes any plan, trust, commingled employee benefit trusts, or custodial arrangement that is subject to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sec.

1001 et seq., or that is described in Internal Revenue Code sections 125, 401, 403, 408, 457, or 501 (c)(9) and (17) through (23), or similar plan maintained by state or local governments, or plans, trusts, or custodial arrangements established to self-insure benefits required by federal, state, or local law;

(iv) A fund maintained by a tax exempt organization as defined in Internal Revenue Code sections 501 (c)(3) or 509(a) for operating, quasi-endowment, or endowment purposes; or

(v) Funds that are established for the benefit of such tax exempt organization such as charitable remainder trusts, charitable lead trusts, charitable annuity trusts, or other similar trusts.

(e) "Legal services" means services relating to or concerned with the law. Such services include, but are not limited to, representation by an attorney (or other person, when permitted) in an administrative or legal proceeding, legal drafting, paralegal services, legal research services, and court reporting services.

(f) "Mediation" means the process by which the parties to a dispute or negotiations agree to have an intermediary hear their differences and/or positions and facilitate and/or make suggestions concerning an agreement and/or the resolution of their dispute.

(3) Business and occupation tax. Every person whose business is providing legal, arbitration or mediation services, is taxable under the selected business services classification upon the gross income of the business, unless such services are provided to a collective investment fund or related to the identification, investigation, or cleanup arising out of the release or threatened release of hazardous substances when done to determine if a release of hazardous substances has occurred or is likely to occur.

(a) Gross income. The gross income of the business generally includes the amount of compensation paid for legal, arbitration, or mediation services and amounts attributable to providing those services (i.e., charges for tangible personal property directly used or consumed in supplying legal, arbitration, or mediation services). Reimbursed general overhead costs are generally includable in the gross income of the business even though indirectly related to litigation. Any reimbursed costs (not directly related to litigation) for which the attorney assumes personal liability for payment are also includable in gross income.

(b) Overhead costs. Amounts received (or, for taxpayers reporting under the accrual accounting method, accrued) to compensate for overhead costs are fully subject to tax. Such overhead costs are taxable even though they may be separately stated on the billings or expressly denominated as costs of the client. Examples of such overhead costs include, but are not limited to:

(i) Photocopy or other reproduction charges, except charges paid to the provider, or the agent of the provider, for the official or original copy of a record, or other document, provided for litigation;

(ii) Long distance telephone tolls;

(iii) Secretarial expenses;

(iv) Office rent;

(v) Office supplies;

(vi) Travel, meals and lodging;

(vii) Utilities, including facsimile telephone charges; and

(viii) Postage, unless paid for service of legal papers as a direct cost of litigation.

(c) Excluded amounts. The following amounts are excluded from gross income if complete and accurate records are maintained of these amounts:

(i) Client trust accounts. The gross income of the business does not include amounts held in trust for the client.

(ii) Litigation expenses. Attorneys are bound by the rules of professional conduct. RPC 1.8(e) prohibits an attorney from financing the expenses of contemplated or pending litigation unless the client remains ultimately liable for these expenses. This means that an attorney normally acts solely as the agent for the client when financing litigation. Accordingly, amounts received from a client for the direct expenses of litigation do not constitute gross income to the attorney. Amounts received (or, for taxpayers reporting under the accrual accounting method, accrued) to compensate for the following direct litigation expenses are not included in gross income:

(A) Filing fees and court costs;

(B) Process server and messenger fees;

(C) Court reporter fees;

(D) Expert witness fees; and

(E) Costs of associate counsel.

A cash basis taxpayer cannot exclude or deduct amounts of unreimbursed litigation expenses. For example, an attorney advances all the litigation expenses for a contingency fee case. The case is ultimately resolved against the attorney's client and are not repaid because of the client's bankruptcy. The attorney cannot then deduct these expenses as a bad debt or otherwise exclude them against other income earned by the attorney.

(iii) Expense advances and reimbursements. Sometimes in the regular course of business an attorney may receive amounts from a client for expenses of third-party providers or other costs incurred in connection with a legal matter other than litigation. Such amounts are excluded from the business and occupation tax only if the attorney has no obligation for payment other than as agent for the client or equivalent commitment for their payment (see WAC 458-20-111, Advances and reimbursements). Generally, such amounts will be for third-party service providers (for example, accountants, appraisers, architects, artists, drafters, economists, engineers, investigators, physicians, etc.). However, these costs could also include client expenses for registration, licensing or maintenance fees, title and other insurance premiums, and escrow fees paid to third-party escrow agents. These costs are excludable only when the attorney does not have any personal liability to the third-party provider for their payment.

(iv) Records requirement. In order to support the exclusion from taxable gross income of any of the foregoing expenses, the attorney must maintain records which indicate the amount of the payment received from the client, the name of the client, the name of the person to whom the attorney has made payment, and a description of the item for which payment was made. If the foregoing expenses are incurred outside the context of litigation or contemplated litigation, the attorney must maintain records which indicate the amount of the payment received, the name of the client, and the person to whom the attorney makes payment. In

addition, the attorney must provide the person to whom payment is made with written notice that:

(A) Payment is made, or will be made on behalf of a named client; and

(B) The attorney assumes no liability for payment, other than as agent for the named client.

(d) Excluded services. The following legal services are excluded from the selected business services tax classification.

(i) Hazardous waste. Legal, arbitration, or mediation services related to the identification, investigation, or cleanup arising out of the release or threatened release of hazardous substances when the services are performed to determine if a release of hazardous substances has occurred or is likely to occur are not taxable as selected business services. Income from these excluded services are taxable under the service and other business activities classification (see WAC 458-20-224). For example, a legal opinion specifically determining whether and to what extent a client is subject to federal and state law as it concerns hazardous waste identification, investigation, and cleanup would not be taxable as a selected business service.

Also, arbitration or mediation services provided to resolve or negotiate settlement in a case determining the liability for or the release of hazardous substances are examples of excluded services which would not be taxable as selected business services.

(ii) Collective investment funds. Income derived from legal, arbitration, or mediation services provided to, performed for, on behalf of, or for the benefit of a collective investment fund is excluded from gross income under the selected business services classification. Income received from these clients is taxable under the service and other business activities classification (see WAC 458-20-224).

(e) Multiple business activities. Attorneys and other persons engaged in providing legal, arbitration, and mediation services sometimes engage in other business activities which are classified under a different tax classification (i.e., escrow services, acting as the trustee for a trust, acting as the personal representative of an estate, etc.). In some circumstances, income from these other business activities will be subject to tax under a tax classification other than selected business services.

(i) Independent business activities. If the other activities engaged in by the person are independent from the legal, arbitration, or mediation services provided to the client, these activities are taxed based on the tax classification that applies to each of those other activities, provided these other activities are separately accounted for and/or itemized as a separate amount in billings or invoices to the client. Failure to separately account and/or itemize for such activities will result in classification of all activities under the selected business services classification. Legal activities specifically excluded from the selected business services tax classification will be treated as an independent business activity taxable under the other services and business activities tax classification, provided the excluded service is separately accounted for and/or itemized as a separate amount in billings or invoices to the client.

(ii) Combined business activities. If the other activities are related to the legal, arbitration, or mediation services provided to the client, the primary activity provided the

client in each taxable period will determine the tax classification. Generally, the activity will be considered as related when there is some interaction between the two activities to reach an ultimate goal (i.e., a law firm which provides legal advice and brokers the financing of a business arrangement). There are a number of elements which may be examined to determine whether a sufficient relationship between the multiple activities exist. Some elements considered are the timing for the selection and provision of services, the relationship between the contracting parties, the procedure used in the selection process, the dependence of the relationship between the two or more activities, the relationship of the prices between the two activities, and the means of payment selected for the activities.

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

(A) A law firm has an escrow department. This escrow department is run by employees who are not attorneys (but the supervising employee is a limited practice officer who has experience as a certified escrow agent), has a separate phone number, separate bank account, separate trust account, separate computer system, and maintains its own accounting system. Contracts for the escrow services state that the law firm is being retained as an independent escrow agent and not to represent any person involved in the transaction. Further, the contract states that the law firm shall not offer legal advice upon the transaction. The escrow department of this law firm would be considered an independent business activity and be taxed separately under the retailing classification for escrow businesses (see WAC 458-20-156).

(B) A law firm limits its practice to real estate. It primarily provides escrow services and real estate closings. Even though this firm has chosen to limit its practice, it is the nature and the character of its activities which will determine the primary activity for each closing. When a closing includes the preparation, selection, or drafting of the deed between the purchaser and seller, drafting legal documents to obtain clear title, and/or the preparation, selection or drafting of the promissory notes, deeds of trust, mortgages, and agreements modifying these documents, it will be presumed that the primary activity performed for the client is providing these legal services.

(I) The law firm closed a real estate transaction performing all the escrow services. Except for the escrow services provided, the firm represented the buyer in the closing. Although an attorney from the firm reviewed and approved the legal documents provided by the seller, the attorney did not prepare any legal documents for the transaction. Since the firm was representing a specific client in this real estate closing, the escrow services are considered incidental to the legal services provided. Accordingly, the firm will report the income from this transaction under the selected business services classification.

(II) The firm was engaged by both parties in a real estate transaction to handle a real estate closing. An attorney for the firm selected and prepared the earnest money escrow agreement, the purchase and sales agreement, the closing agreement, and the deeds for the transfer. Title was clear and did not require any additional drafting. The firm also

entered into an escrow agreement with both parties and held in escrow the buyer's deposit and the seller's deed. Since an attorney for the law firm was required to select, analyze, and review the legal documents in this transaction, the escrow activity will be considered incidental. This closing is reported under the selected business services classification for legal services.

(III) A certified escrow agency, owned by a principal qualified under APR 12 (the limited practice rule for limited practice officers), provides both escrow and the limited legal services allowed under APR 12 to its clients. The escrow company itemizes the services provided. APR 12(d) allows a limited practice officer to select, prepare and complete documents in a form previously approved by the board for use in closing a loan, extension of credit, sale or other transfer of real or personal property. The nature of this limited license prevents an escrow company using limited practice officers from ever engaging in legal services as a primary activity in a real estate closing. Accordingly, the escrow company will report the income from escrow and closings under the retail sales classification (see WAC 458-20-156).

(IV) The same facts as above, but the escrow company hires employees who are attorneys to provide the allowable limited legal services. The result is the same. Under RPC 5.4, an attorney is prohibited from sharing legal fees with a nonlawyer and, under RPC 5.5, cannot assist a person who is not a member of the Bar Association in the performance of an activity that constitutes the unauthorized practice of law, and under RPC 7.1 a lawyer cannot make false or misleading communications about the lawyer or the lawyer's services. Accordingly, an attorney hired by an escrow company would not be providing legal services to the escrow companies' clients except to the extent authorized by a limited practice officer. Since only limited legal services can be offered, the escrow company would continue to report all fees from both the escrow and closing services under the retail sales tax classification.

(V) An attorney acts as the trustee for a testamentary trust which the attorney drafted. The attorney maintains the trust records, invests the assets of the trust, reviews distributions, accounts for trust assets, earnings, and distributions to the trust beneficiaries, and files all required returns and forms for the trust. The trust pays an annual fee for these services. On occasion, the attorney provides general legal advice to the trust which is billed to the trust at an hourly rate. After the death of the settlor, the primary activity engaged in by the attorney for this client is that of trustee. Accordingly, the gross income from the trust administration activities after the death of the settlor are taxed separately under the other service and business activities classification. The separately accounted for legal services are taxed under the selected business services rate.

(VI) An attorney acts as the trustee for an inter-vivos trust which the attorney drafted. After being appointed trustee, the attorney continues to represent the settlor of the trust (who is also the primary beneficiary) and provides legal advice to the trust. The attorney is paid an annual fee for duties as a trustee and an hourly rate for legal services. The initial relationship between the parties was that of attorney and client. The attorney continues to actively maintain this relationship and provides legal services to the settlor and the

trust. Accordingly, the primary activity engaged in by the attorney for this client is that of attorney. The gross income from this activity would be taxed under the selected business services classification. However, if the inter-vivos trust was an excluded services trust (i.e., a charitable lead trust) any legal services provided the trust would be reported under the other service and business activities classification.

(4) Retail sales tax. Sales of tangible personal property to attorneys for use in rendering professional services are retail sales upon which the retail sales tax must be collected. Such sales include, among others, sales of office furniture and equipment, stationery, office supplies, law books, and reference materials.

(5) Use tax.

(a) The use tax applies upon the use of articles purchased or manufactured for use upon which retail sales tax has not been paid or collected. This includes, but is not limited to, the following:

(i) Materials used and consumed while rendering legal, arbitration, or mediation services; and

(ii) Office supplies and office equipment purchased by the firm for its own use.

(b) The use tax also applies to all purchases of tangible personal property acquired without payment of retail sales tax and resold to clients but not separately stated from legal services rendered on the agency's billing.

WSR 95-15-014
PERMANENT RULES
LIQUOR CONTROL BOARD
 [Filed July 7, 1995, 4:25 p.m.]

Date of Adoption: July 5, 1995.

Purpose: Repeal of WAC 314-16-080 Food and beverage service workers permit. Eliminates duplication of health department regulations within liquor control regulations.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 314-16-080.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 95-11-023 on May 8, 1995.

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

July 7, 1995
 Joe McGavick
 Chair

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-16-080	Food and beverage service workers—Permit.
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**WSR 95-15-021
PERMANENT RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY**
[Filed July 10, 1995, 11:30 a.m.]

Date of Adoption: July 6, 1995.

Purpose: To amend existing fee schedules for registered air pollution sources, operating permit sources, and notices of construction. To add new miscellaneous fees and new definitions. To amend existing definitions and fee requirements.

Citation of Existing Rules Affected by this Order: Amending SCAPCA Regulation I, Article X, Fees and Charges.

Statutory Authority for Adoption: RCW 70.94.141, [70.94.]151, [70.94.]152, and [70.94.]162.

Pursuant to notice filed as WSR 95-11-106 on May 23, 1995.

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

July 7, 1995
Kelle R. Vigeland
Environmental Engineer

**ARTICLE X
FEES AND CHARGES**

ADOPTED: September 12, 1991

REVISION: ~~September 1, 1994~~

EFFECTIVE: ~~October 6, 1994~~

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

AMENDATORY SECTION

SECTION 10.01 DEFINITIONS

When used in Regulation I of the Spokane County Air Pollution Control Authority:

A. Air Operating Permit Source means any facility required to have an operating permit pursuant to Chapter 173-401 WAC.

B. Burn Out Oven means any oven used to clean or remove dirt, grease, grime, paint, varnish, or any other unwanted substance or contaminant, from any object by using controlled incineration.

A C. Criteria Pollutant means any one of the following: fine particulate matter (PM10), volatile organic compounds (VOC), nitrogen oxides, sulfur oxides, ozone, lead, or carbon monoxide.

B D. Emission Fee means the component of a registration fee or operating permit fee which is based on total actual annual emissions of criteria and toxic air pollutants. In the case of a new or modified source or a source being registered initially, the emission fee is based on projected emissions as presented in an approved Notice of Construction or registration form.

E. Emission Reduction Credit means a credit granted to a source for a voluntary reduction in actual emissions per 173-400-131 WAC.

D F. Fiscal Year has the same meaning as the term in RCW 70.94.161. Registration Period means the twelve

month period for which an annual fee has been assessed pursuant to Section 10.06.B.(1) or 10.06.B.(2).

E G. Source means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous properties, and are under the control of the same person, or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

F H. Significant Emissions means, in reference to a net emissions increase or the potential of a source to emit, any of the following pollutants, at a rate of emissions equal to or greater than any one of the following rates:

- increased emissions of 10 tons per year of any one toxic air pollutant; or,

- increased emissions of 25 tons per year of two or more toxic air pollutants; or,

Pollutant Tons/Year

Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate Matter (PM)	25
Fine particulate matter (PM10)	15
Volatile organic compounds	40
Lead	0.6
Fluorides	3
Sulfuric Acid Mist	7
Hydrogen sulfide (H ₂ S)	10
Total reduced sulfur (including H ₂ S)	10
Reduced sulfur compounds (including (H ₂ S))	10
Municipal waste combustor organics (measured as total tetra-through-octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	0.000035
Municipal waste combustor metals (measured as PM)	15
Municipal waste combustor acid gases (measured as SO ₂ and hydrogen chloride)	40

F I. Stage I Vapor Recovery means the capture of gasoline vapors at gasoline dispensing facilities during the transfer of gasoline from a transport tank into a stationary storage tank.

G J. Stage II Vapor Recovery means the capture of gasoline vapors at gasoline dispensing facilities during the transfer of gasoline from a stationary storage tank into a motor vehicle fuel tank.

K Total Actual Annual Emissions means the total of all criteria and toxic air pollutant emissions for the most recent complete calendar year that is available to SCAPCA.

H L. Toxic Air Pollutant means any toxic air pollutant (TAP) listed in WAC 173-460-150 and or 173-460-160. Toxic air pollutant does not include particulate matter and or volatile organic compounds as generic classes of substances.

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

AMENDATORY SECTION

SECTION 10.03 FEES OTHERWISE PROVIDED

All fees and charges provided for in this Article X are in addition to fees otherwise provided for or required to be paid by Regulation I, PROVIDED the Control Officer shall waive payment of any fee or service charge hereby required if the control officer determines that such fee is duplicative of a fee charged or required to be paid by another Article of this regulation.

AMENDATORY SECTION

SECTION 10.04 FEE WAIVER

A. Except for sources subject to the operating permit program, pursuant to RCW 70.94.161, the Control Officer may waive payment of any fee or service charge required by this Article ~~to be paid~~ upon a showing deemed sufficient by the Control Officer that payment of the fee would cause financial hardship upon the applicant.

B. The Control Officer may identify categories of sources, or groups of sources within a category, in Section 10.04.C. with similar emissions units and processes where the Control Officer determines that any of the following conditions exist:

1. Facility-wide emission rates are less than 1 ton per year of air contaminants; or
2. There are no specific regulations on the control of air contaminants; or
3. Compliance with control requirements is readily accomplished through nontechnical self-inspection techniques; or
4. The primary purpose for registration, pursuant to Article IV, is to inventory air contaminant emissions.

As categories are so identified, the Control Officer may waive one-half of the annual registration fee for owners or operators of individual facilities who provide emission inventory data, and other required information relative to compliance with applicable regulations, within 30 days of the request by the Authority, in a format acceptable to the Authority. In so doing, the owner or operator shall certify to the best of his/her knowledge, on forms provided by the Authority, that the emission inventory data is accurate and the facility is in compliance with applicable regulations. Owners or operators who fail to return the information within 30 days of the request will not qualify for a fee waiver under this Section. Notwithstanding the provision of required data by the owner or operator, the Authority reserves the right to conduct inspections of the facility.

C. The following categories of sources are eligible for the fee waiver specified in Section 10.04.B. However individual sources are not eligible if one or more Notices of Violation have been issued by the Authority, pursuant to Section 2.04 of Regulation I, to the facility in the previous 36 month period:

<u>Source Category</u>	<u>Rating</u>
Surface Coating	<1 ton/yr VOC emitted

Operations

Gasoline Dispensing Facilities	Exempt from stage II vapor recovery requirements
Boilers & Other Fuel Burning Equipment, With Air Contaminant Emissions Exclusively From Natural Gas Combustion	<10 ⁷ BTU/hr heat input
Boilers & Other Fuel Burning Equipment, With Air Contaminant Emissions Exclusively From Other Fossil Fuel Combustion	<10 ⁶ BTU/hr heat input
Dry Cleaning Plants	<140 gal/yr solvent consumption
Waste Oil Burners	<500,000 BTU/hr heat input
Tire Recapping Facilities	All units in the category
Grain Elevators	All units with no on-site processing capability

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

AMENDATORY SECTION

SECTION 10.06 REGISTRATION AND OPERATING PERMIT FEES FOR AIR CONTAMINANT SOURCES

A. All sources required by Article IV, Section 4.01 to be registered, all sources subject to the operating permit program pursuant to RCW 70.94.161, and all sources required by Article V, Section 5.02 to obtain an approved Notice of Construction and Application for Approval shall pay an annual fee for each year, or portion of each year, during which it operates. Fees received pursuant to the registration program or the operating permit program shall not exceed the actual costs of program administration.

B. The annual fee for each source shall be determined as follows:

(1) For sources that are not subject to Section 10.06.B. (3), (4), or (5), ~~or (6)~~ of this regulation and which emit less than 5 tons per year of criteria and toxic air pollutants:

- (a) a flat fee of ~~\$125~~ \$150; and
- (b) a \$30 fee for each stack and other emission point, not to exceed ~~\$600~~ \$300; and
- (c) an emission fee of \$10 per ton of each criteria and toxic air pollutant; and

(d) an additional fee of \$150 for each source which operated at least one incinerator or burn out oven during the registration period.

(2) For sources that are not subject to Section 10.06.B. (3), (4), or (5) ~~or (6)~~ of this regulation and which emit 5 tons or more per year of criteria and toxic air pollutants, but less than 100 tons per year of any one criteria pollutant; ~~excluding carbon monoxide:~~

- (a) a flat fee of ~~\$125~~ \$200; and

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(b) a \$30 fee for each stack and other emission point, not to exceed \$300; and

(b c) an emission fee of \$15 ~~\$10~~ per ton of each criteria and toxic air pollutant, including carbon monoxide; and

(d) an additional fee of \$150 for each source which operated at least one incinerator or burn out oven during the registration period.

~~(3) For sources that are not subject to Section 10.06.B. (4), or (5), and which emit 100 tons or more per year of criteria pollutants, excluding carbon monoxide, or 10 tons or more per year of a hazardous air pollutant or 25 tons or more per year of any combination of hazardous air pollutants listed pursuant to Section 112(b) of the Federal Clean Air Act (42 USC 7401 et seq):~~

~~(a) an emission fee of \$20 per ton, including carbon monoxide; and~~

~~(b) share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), which shall be remitted by the Authority to the Department of Ecology. Individual shares of the assessment shall be determined pursuant to Section 10.06.E of this regulation.~~

(3) For sources subject to the air operating permit program pursuant to Chapter 173-401 WAC, a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), determined pursuant to Section 10.06.D of this regulation, plus:

(a) for bulk gasoline loading terminals, Standard Industrial Classification 5171, a fee of \$11500;

(b) for secondary aluminum facilities, Standard Industrial Classification 3341, a fee of \$21100;

(c) for municipal solid waste incineration facilities, Standard Industrial Classification 4953, a fee of \$20400;

(d) for military bases, Standard Industrial Classification 9711, a fee of \$17850; or

(e) for sources not listed in (a), (b), (c), or (d) above
i. which have total annual actual emissions of less than 50 tons, a fee of \$1350;

ii. which have total annual actual emissions of greater than or equal to 50 tons but less than 100 tons, a fee of \$2025; or

(iii) which have total annual actual emissions of 100 tons or greater, a fee of \$3650.

(4) Effective July 1, 1994, for sources listed:

<u>a. Name Of Source</u>	<u>WEDS Number</u>	<u>a fee of:</u>
Kaiser Trentwood	K 063 0023	\$15600
Waste To Energy	K 063 0097	\$15100
Fairechild AFB	K 063 0025	\$13200
Tosco Corporation	K 063 0006	\$ 8500
Exxon Spokane Term	K 063 0002	\$ 8500
Columbia Lighting	K 063 0105	\$ 2700
Huntwood Industries	K 063 0106	\$ 2700
Crown Pacific	K 063 0019	\$ 1600
Pacific Gas Trans	K 063 0093	\$ 1600
Inland Empire Paper	K 063 0092	\$ 1600
Eastern Wash. Univ.	K 063 0065	\$ 1600
Wash. Water Power	K 063 0086	\$ 1600
U.S. Marine	K 063 0083	\$ 1500
Johnson Matthey Ele	K 063 0072	\$ 1000
Fiber Tech Industries	K 063 0087	\$ 1000
Boeing	K 063 0095	\$ 1000
Alloy Trailers	K 063 0104	\$ 1000; and

~~b. a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), which shall be remitted by the Authority to the Department of Ecology. Individual shares of the assessment shall be determined pursuant to Section 10.06.E of this regulation.~~

~~(5 4) For affected units under Section 404 of the Federal Clean Air Act (42 USC 7401 et seq):~~

~~(a) a fee of \$50 per hour of time expended in carrying out the fee eligible activities specified in RCW 70.94.; and~~

~~(b) a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), which shall be remitted by the Authority to the Department of Ecology. Individual shares of the assessment shall be determined pursuant to Section 10.06.E of this regulation. a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), determined pursuant to Section 10.06.D of this regulation.~~

~~(6 5) For gasoline dispensing facilities which are not subject to Section 10.06.B.(3) of this regulation, a flat fee of \$150.~~

~~C. On or before April 7, 1994, and annually thereafter, the Board of Directors shall annually review the fee schedule for sources subject to the operating permit program pursuant to RCW 70.94.161 and projected costs to implement the requirements of RCW 70.94.161 and determine if the total projected fee revenue to be collected pursuant to this Section is sufficient to recover program costs. Such review shall include opportunity for public review and comment on the projected costs and any changes to the operating permit fee schedule. Accordingly, the Authority shall account for program costs, including employee costs and overhead. If the Board of Directors determines that the total projected fee revenue is either significantly excessive or deficient for this purpose, then the Board of Directors shall amend the fee schedule to more accurately recover program costs.~~

~~D. After June 30, 1995, Sections 10.06.B. (3) and (4) of this regulation shall no longer be in effect and the Board shall adopt an amended fee schedule pursuant to Section 10.06.C. of this regulation. In the event that an amended fee schedule is not adopted by July 6, 1995, then the fee for sources subject to the operating permit program pursuant to RCW 70.94.161 shall be \$50 per hour of time expended in carrying out the fee eligible activities specified in RCW 70.94.162 until such time as a new fee schedule is adopted. When a new fee schedule is adopted, the source shall pay a prorated fee for the year, based on the respective portions of the year during which the source was subject to the two different fee schedules.~~

~~E D. Individual shares of the assessment pursuant to RCW 70.94.162(3) shall be determined by the following formula:~~

$$I = \frac{F_I}{F_T} \times A_E$$

Where,

I is the individual share of the assessment, and

F_I is the individual fee assessed pursuant to Section 10.06.B. (3); ~~or (4), or (5)~~ of this regulation, and

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A_E is the total assessment pursuant to RCW 70.94.-162(3), and

F_T is the sum of all the individual fees assessed pursuant to Sections 10.06.B. (3), and (4), and (5) of this regulation.

~~F. In the event that the Authority receives delegation of the operating permit program, pursuant to RCW 70.94.161 in Fiscal Year 1995, then half of the fees collected pursuant to Sections 10.06.B. (3), (4), and (5) of this regulation shall be applied to development and implementation of the operating permit program for Fiscal Year 1995.~~

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

AMENDATORY SECTION

SECTION 10.07 APPLICATION AND PERMIT FEES FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL AND FOR NOTICE OF INTENT TO INSTALL AND OPERATE A TEMPORARY SOURCE

A. For all ~~construction projects~~ required by Article V to file a Notice of Construction and Application for Approval (NOC) or a Notice of Intent to Install and Operate a Temporary Source, a filing fee of ~~\$125~~ \$150 shall be paid at the time of filing the ~~NOC application~~.

B. IN ADDITION to the filing fee provided in "A" above, a plan review and approval fee shall be paid according to one of the following:

(1) Fuel Burning Equipment With or Without Air Pollution Control Equipment:

<u>Design Input Size</u> (MMbtu/hr)	<u>Install Fee</u>	<u>Fuel-Change Fee</u>
.4 < 5	\$ 100 <u>200</u>	\$ 20
5 < 10	\$ 150 <u>250</u>	\$ 40
10 < 20	\$ 200 <u>300</u>	\$ 60
20 < 50	\$ 250 <u>350</u>	\$ 80
50 < 100	\$ 350 <u>400</u>	\$ 100
100 < 250	\$ 500	\$ 150
250 < 500	\$ 650	\$ 200
500 < UP	\$ 850	\$ 250

(2) Refuse Burning Equipment Including Air Pollution Control Equipment:

<u>Capacity (ton/day)</u>	<u>Fee</u>
0 < 12	\$ 500 1,000
12 < 250	\$ 1,000 1,500
250 < UP	\$ 2,500

(3) Process Equipment and/or Air Pollution Control Equipment or Uncontrolled Process Equipment:

<u>Actual ft³/min</u>	<u>Fee</u>
0 < 5,000	\$ 100 <u>150</u>
5,000 < 20,000	\$ 200 <u>250</u>
20,000 < 50,000	\$ 300 <u>350</u>
50,000 < 100,000	\$ 400 <u>450</u>
100,000 < 250,000	\$ 500 <u>550</u>
250,000 < 500,000	\$ 650

500,000 < UP \$ 800

(4) Gasoline dispensing facilities:

<u>Equipment Being Installed</u>	<u>Fee</u>
Stage I Vapor Recovery	\$ 50
Stage II Vapor Recovery	\$ 125
Stage I and Stage II	\$ 125 150

(5) For sources not included in (1), (2), (3), or (4) above, an hourly fee of \$50.00 per hour of time expended in plan review and approval.

~~C. For temporary portable sources required by Article V to notify the Agency of intent to operate at a new location, the filing fee shall be \$125 and the plan review and approval fee shall be one half (1/2) of the current fee for a Notice of Construction and Application for Approval. For sources applying for more than one emission point under one Notice of Construction application, as allowed in Section 5.02.C, the applicant shall pay one filing fee, plus a review fee for each emission unit and/or air pollution control system being installed or modified.~~

D. For sources seeking a change in conditions of an order of approval pursuant to Section 5.10.B. of this regulation, the fee shall be one half the current fee for a Notice of Construction and Application for Approval for that type of source or \$250 which ever is less.

E. Where a compliance investigation is conducted pursuant to Section 5.12 of this regulation, the compliance investigation fee shall be equal to 2 times the fee required in Section 5.03 of this regulation.

F. IN ADDITION to the other fees and costs herein above required any new source of air pollution to be constructed and anticipated to produce SIGNIFICANT EMISSIONS shall pay an additional fee of \$250.

G. IN ADDITION to the other fees and costs herein above required, any new or modified source of air pollution which requires review pursuant to Chapter 173-460 WAC shall pay an additional fee of \$100.

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

AMENDATORY SECTION

SECTION 10.08 MISCELLANEOUS FEES

A. A fee of \$50 per hour of time expended in review shall be paid by the applicant for each of the following:

(1) Emission reduction credit request pursuant to Chapter 173-400-131 WAC.

(2) Paving waiver request pursuant to Spokane County Zoning Code, Section 14.802.080 or City of Deer Park Code, Chapter 18.74.050.

(3) Alternate opacity limit request pursuant to RCW 70.94.331 (2)(c).

(4) Reasonably Available Control Technology (RACT) determination pursuant to Chapter 173-400-040 WAC and/or RCW 70.94.161.

(5) Variance request pursuant to SCAPCA Regulation II; Article III or RCW 70.94.181. In addition, the applicant shall pay a filing fee of \$125.

(6) Voluntary limits on emissions request pursuant to Chapter 173-400-091 WAC.

(7) Stack height exemption request pursuant to Section 6.13.1.7 of this regulation.

NEW SECTION

SECTION 10.12 AGRICULTURAL BURNING FEES

A. For agricultural burning permits issued by the Authority pursuant to Section 6.11 of this regulation, a fee shall be paid by the applicant according to the following:

1. Portion for local administration: the greater of a minimum fee of \$12.50 per year per farm, based on burning up to and including 10 acres or equivalent, or a variable fee of \$1.25 per acre; and

2. The state administration and research portions, as provided in WAC 173-430-040 (3)(b).

B. Refunds of fees collected by the Authority may be provided at the discretion of the Authority for portions of acreage, of equivalent, unburned, provided that the total adjusted fee is no less than \$25.

C. Acreage equivalency shall be in accordance with the determination of the agricultural burning practices and research task force pursuant to WAC 173-430-040 (3)(d).

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

WSR 95-15-022
PERMANENT RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY
 [Filed July 10, 1995, 11:35 a.m.]

Date of Adoption: July 6, 1995.

Purpose: To require specified levels of oxygen in gasoline in the Spokane control area to aid in attainment of the federal carbon monoxide standard.

Citation of Existing Rules Affected by this Order: Amending SCAPCA Regulation I, Article VI.

Statutory Authority for Adoption: RCW 70.94.141.

Pursuant to notice filed as WSR 95-12-060 (continuance of WSR 95-09-048) on June 5, 1995.

Changes Other than Editing from Proposed to Adopted Version: A nonsubstantive change was made to allow other test methods for compliance verification as approved by the Washington State Department of Ecology.

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

July 7, 1995

Eric Skelton

Director

NEW SECTION

SECTION 6.16 MOTOR FUEL SPECIFICATIONS FOR OXYGENATED GASOLINE

A. Purpose. This Section establishes motor fuel specifications for oxygenated gasoline in order to reduce wintertime carbon monoxide emissions from gasoline powered motor vehicles.

B. Applicability. This Section applies to all blenders and to all retail sellers of oxygenated gasoline,

intended as a final product for fueling of motor vehicles within the Spokane Control Area and supplied to purchasers within the Spokane Control Area, as defined in Chapter 173-492-070 of the Washington Administrative Code (WAC).

C. Definitions. Unless a different meaning is clearly required by context, words and phrases used in Section 6.16 shall have the following meaning:

1. Authority means the Spokane County Air Pollution Control Authority.
2. Conform and Conformity have the same meanings as the terms are used in Section 176(c) of the Federal Clean Air Act.
3. Ecology means the Washington Department of Ecology.
4. EPA means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency or his/her designated representative.
5. Federal Clean Air Act means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.
6. Forecast Of Vehicle Miles Traveled has the same meaning as in Section 187 (a)(2) of the Federal Clean Air Act.
7. Implementation Plan has the same meaning as in Section 110 of the Federal Clean Air Act, as it pertains to the Spokane Carbon Monoxide Nonattainment Area.
8. Maintenance Plan has the same meaning as in Section 175A of the Federal Clean Air Act, pertaining to revisions of the applicable implementation plan.
9. Maximum Allowable Oxygenate means the maximum amount of an oxygenate which may be added to gasoline without exceeding the limits for fuel additives established under Section 211(f) of the Federal Clean Air Act.
10. Metropolitan Planning Organization has the same meaning as in Chapter 173-420 WAC.
11. Reasonable Further Progress has the same meaning as in Section 171(1) of the Federal Clean Air Act.
12. Spokane Carbon Monoxide Nonattainment Area has the same meaning as in CFR Title 40, Part 81.
13. Transportation Improvement Program has the same meaning as in Chapter 173-420 WAC, to the extent that it applies to the Spokane Carbon Monoxide Nonattainment Area.
14. Transportation Plan has the same meaning as in Chapter 173-420 WAC, to the extent that it

applies to the Spokane Carbon Monoxide Nonattainment Area.

- D. Adoption of state regulation by reference. Except for Subsections 173-492-040 (1) and (2), Chapter 173-492 WAC is hereby adopted by reference, to the extent that it applies to the Spokane Control Area.
- E. Blend and retail sale requirements for gasoline with non-ethanol oxygenates. Gasoline shall contain the maximum allowable oxygenate for the control period, unless the oxygenate is ethanol.
- F. Blend and retail sale requirements for gasoline with ethanol as an oxygenate. The following requirements shall apply:
1. Oxygen in the gasoline shall be no less than 3.2% by weight for the control period beginning on September 1, 1995 and ending February 29, 1996.
 2. Oxygen in the gasoline shall be no less than 2.7% by weight for the control period beginning in 1996 and for all subsequent control periods.
- G. Conformity blend and retail sale requirement for gasoline with ethanol as an oxygenate. Notwithstanding Subsection F., the following requirement shall apply after the applicable Metropolitan Planning Organization, Ecology, and the Authority determine, after consultation that, due solely to an exceedance of a forecast of vehicle miles traveled, a higher level of oxygen in gasoline than what is required in Subsection F., is necessary in order for the Transportation Plan or the Transportation Improvement Program to conform to the Implementation Plan or Maintenance Plan:
1. Oxygen in the gasoline shall be no less than 3.2% by weight, for the control period beginning in the year for which the higher level of oxygen is projected as necessary to show conformity, and for all subsequent control periods.
- H. Contingency blend and retail sale requirements for gasoline with ethanol as an oxygenate. Notwithstanding Subsections F. or G., gasoline shall contain the maximum allowable oxygenate, as of the initial control period beginning after EPA makes any one of the following findings in Subsection H.1., H.2., or H.3., relative to the Spokane Carbon Monoxide Nonattainment Area, in conjunction with the finding in Subsection H.4.:
1. Failure to make Reasonable Further Progress.
 2. Failure to timely attain a National Ambient Air Quality Standard for carbon monoxide.
 3. Violation of a National Ambient Air Quality Standard for carbon monoxide after 1995.
 4. Wintertime emissions from gasoline powered motor vehicles are determined by the EPA, in

consultation with Ecology and the Authority to be a contributing factor to such failure or violation.

The maximum allowable oxygenate requirement shall remain in effect for the duration of the initial control period and all subsequent control periods until the Authority proposes and EPA determines that subsequent reductions in carbon monoxide emissions, achieved through other control measures or strategies, are sufficient to correct the referenced failure or violation. Upon such determination by EPA, the applicable oxygenate requirement in Subsection F. or G. shall apply, as of the beginning of the control period immediately following the determination.

- I. Test method. Compliance with requirements in this Section for oxygen in gasoline, including maximum allowable oxygenate, shall be determined by ASTM 4815-89; Determination of C₁ and C₂ Alcohols and MTBE in Gasoline by Gas Chromatography, or other test methods as approved by Ecology.

WSR 95-15-026

PERMANENT RULES

HIGHLINE COMMUNITY COLLEGE

[Filed July 11, 1995, 9:25 a.m.]

Date of Adoption: July 6, 1995.

Purpose: To amend WAC 132I-160-110 to reflect changes created by SSB 6002 and RCW 28B.15.600.

Citation of Existing Rules Affected by this Order: Amending WAC 132I-160-110.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Pursuant to notice filed as WSR 95-11-102 on May 23, 1995.

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

July 10, 1995

Laura Saunders

Vice-President

for Administration

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92)

WAC 132I-160-110 Refunds. Refunds resulting from official withdrawal from courses will be computed as follows for state supported courses:

(1) One hundred percent. The refund will be one hundred percent of the amount paid if an official withdrawal form is received in the registration office or at the Highline College Federal Way ~~((center))~~ Center before the ~~((close of business on the fifth))~~ sixth ((calendar)) day of instruction of the quarter for which the fees have been paid. The deadlines vary for summer quarter courses, late-starting courses, or short courses. Deadlines are published in ~~((“The Quarterly.”))~~ the quarterly class schedule.

(2) Cancelled courses. When Highline Community College cancels a course, Highline will refund the total amount paid for the course unless the student enrolls in a

course to replace the cancelled course. If the new course is for fewer credits, Highline will refund the difference.

(3) ~~((Fifty))~~ Forty percent. Highline Community College will refund ~~((fifty))~~ forty percent of the total amount paid if an official withdrawal form is received in the registration office or at the Highline Community College Federal Way ~~((center))~~ Center ~~((after the fifth calendar day, but before the close of business on the 30th calendar day of the quarter))~~ on or after the sixth day of instruction, provided such withdrawal occurs within the first twenty calendar days following the beginning of instruction. The deadlines vary for summer quarter courses, late-starting courses, or short courses. Deadlines are published in ~~((“The Quarterly.”))~~ the quarterly class schedule.

(4) Summer quarter, late starting, and short courses. Refunds for these courses will be determined by the registrar.

(5) Continuing education classes. To obtain refunds for self-support courses, withdrawals must be received forty-eight hours before the first scheduled course meeting. Other refunds, except for course cancellation, will be made at the discretion of the director of continuing education.

(6) There is no refund of the ~~((twenty-five dollars))~~ nonrefundable fall quarter registration deposit to students who did not pay the total amount of their tuition and fees before the deadline. This deadline is published in ~~((“The Quarterly.”))~~ the quarterly class schedule.

(7) A processing fee will be withheld from all refunds issued, except when Highline Community College cancels a course, in accordance with chapter 131-28 WAC and under regular college fiscal processes.

WSR 95-15-028
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed July 11, 1995, 10:30 a.m.]

Date of Adoption: July 11, 1995.

Purpose: Adopt rental car registration requirements pursuant to RCW 46.87.023 as amended by section 2, chapter 117, Laws of 1994.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-88-060 through 308-88-160; and amending WAC 308-88-010, 308-88-030, and 308-88-040.

Statutory Authority for Adoption: RCW 46.01.110 and 46.87.023.

Pursuant to notice filed as WSR 95-11-078 on May 16, 1995.

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

July 7, 1995
 Kathy Baros Friedt
 Director

AMENDATORY SECTION (Amending WSR 93-01-066, filed 12/11/92, effective 1/11/93)

WAC 308-88-010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) ~~((“Department” means department of licensing.~~

~~(2) “Rental car” means a passenger car, as defined in RCW 46.04.382, which states “passenger car” means every motor vehicle except motorcycles and motor driven cycles, designed to carry passengers and used for the transportation of persons.~~

~~The rental car is used solely by a rental car business for daily or monthly rental to others, without a driver provided by the rental car business.~~

~~“Rental car” does not include:~~

~~(a) Vehicles rented or loaned to customers by automotive repair businesses while the customer’s vehicle is under repair;~~

~~(b) Vehicles licensed and operated as taxicabs;~~

~~(c) Vehicles that are leased.~~

~~(3)) “Retail car rental” means renting a rental car to a consumer.~~

~~((4)) (2) “Rental car business” means any person, firm, corporation, or other business in this state engaged in the retail car rental ((car)) business.~~

A rental car business must be the legal and/or registered owner of at least five Washington titled rental cars. These rental cars must be offered and available for rent at all times. A rental car business must generate, at a minimum, twenty-five thousand dollars in annual gross revenue~~((s))~~ from retail car rental~~((s))~~.

~~((5) “Certificate of title” means a certificate of ownership as defined in chapter RCW 46.12 RCW.~~

~~(6) “Registration credential” is a certificate and/or other authorizing credential or validation tab or sticker which allows the vehicles to operate in this state.~~

~~(7)) (3) “International Registration Plan” (IRP) means the multistate proportional agreement which prescribes procedures for the proportional registration and reciprocity of interstate commercial vehicles as described in chapter 46.87 RCW.~~

~~((8)) (4) “Place of business” means a location within the state of Washington or other jurisdiction. Such place of business shall be in a building easily accessible at all reasonable times. The books, records, and files of the business shall be kept and maintained at that place. The business shall display an exterior sign with the business name and nature of the business affixed to the land or building.~~

~~((9)) (5) “Franchise operation” means a rental car business operating pursuant to a franchise agreement or other similar licensing agreement with a ((franchisor)) franchiser or related business.~~

AMENDATORY SECTION (Amending WSR 93-01-066, filed 12/11/92, effective 1/11/93)

WAC 308-88-030 Application for registration. Every application for a rental car business registration shall contain the following information:

(1) The business name and address of the principal place of business of the firm and the business names and addresses of every additional place of business ~~((in Washington))~~ where the applicant conducts rental car business in this state. ~~((If requested by the department, the applicant shall provide evidence of leasehold or ownership.))~~

(2) The business name and address on the registration application and all required supporting documents must be

the same. The sign at the business location must identify the business name or doing business as (dba), if any, and that name shall appear on all documents as the applicant's name. The business telephone listing must also reflect the business name or the ~~((doing business as))~~ dba name.

The department may require ~~((proof concerning the applicant's identity or the identity))~~ applicant identification including identification of any partner, or ~~((of the))~~ officer~~((s))~~ of a corporation making the application. ~~((This))~~ Corporations shall ((include proof)) provide evidence that the corporation is ~~((licensed))~~ authorized to do business in this state.

(3) The names and titles of the principal owners ~~((or))~~, including principal officers of a corporation.

(4) Whether the applicant is licensed as a vehicle dealer ~~((in the state of Washington))~~ pursuant to chapter 46.70 RCW.

(5) Whether the applicant is ~~((involved in mechanical or auto body repairs of vehicles for customers))~~ in the automobile repair business and if the business rents vehicles to customers ~~((when))~~ while their vehicle is being repaired. The department may require additional information from the business to determine whether this type of business operation may register as a rental car business.

(6) The total number of ~~((vehicles in the))~~ rental cars in the business fleet and the ~~((estimated))~~ gross revenue from the retail car rental ((of the rental cars)) for ~~((a))~~ the past twelve-month period ((during which the rental car business will register rental cars in this state)).

(7) ~~((The proof of state approved))~~ Applicant's liability insurance (self-insured) ((or the name of the businesses liability)) coverage pursuant to RCW 46.30.020, including the department of licensing issued self-insurance number or insurance company name, ((its address, phone, the)) policy number, and agent's name and address. The department may require additional information to verify the businesses insurance.

(8) Whether the applicant elects to apply and/or renew registration and participation in the International Registration Plan (IRP). If the rental car business is eligible to register its rental cars pursuant to the provisions of the IRP, the business shall properly register with the department in accordance with the IRP. IRP registered rental car businesses shall maintain retail car rental locations in two or more IRP jurisdictions.

AMENDATORY SECTION (Amending WSR 93-01-066, filed 12/11/92, effective 1/11/93)

WAC 308-88-040 Issuance of rental car business registration. The application in proper form and having been accepted and approved, the department will issue to the applicant a registration credential and account number which will exempt the payment of the motor vehicle excise tax on properly registered rental cars. The registration credential must be retained in the business's records ~~((for a period of five years)).~~ ~~((This))~~ The annual registration ((will be)) is valid until canceled or revoked by the department.

The registration issued by the department is not assignable, and ~~((will be))~~ is valid only for the rental car business in whose name it ~~((was))~~ is issued.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-88-060	Registration denial appeal procedure.
WAC 308-88-070	Methods for registration of rental cars.
WAC 308-88-080	Registration of rental cars.
WAC 308-88-090	Rental car reciprocity.
WAC 308-88-100	Use of rental cars restricted.
WAC 308-88-110	Rental car temporary permits.
WAC 308-88-120	Rental car license plates.
WAC 308-88-130	Use of rental car plates.
WAC 308-88-140	Removal/reassignment of rental car plates.
WAC 308-88-150	Return of rental car plates.
WAC 308-88-160	Vehicles removed from rental car operations.

NEW SECTION

WAC 308-96A-180 Registration of rental cars. (1) Rental car businesses, registered pursuant to RCW 46.87.023 and chapter 308-88 WAC, shall register their rental cars prior to the vehicles being operated upon the roadways of this state. Registrations must be maintained for the period in which the rental car is operated as part of the rental car business fleet.

(2) Rental cars properly registered in another jurisdiction may be operated in this state without being titled and registered in this state when:

(a) Rented by a customer at a location outside of the state of Washington;

(b) The vehicle was dropped off at a Washington rental car business by its previous renter and is being rented for a one-way trip out of Washington; or

(c) The vehicle is part of a properly registered International Registration Plan (IRP) rental car business fleet.

(3) If the rental car business is registered pursuant to the provisions of the IRP, the rental car business will allocate rental car registrations according to the provisions of section 1116 of the IRP, as now or hereafter amended. Franchised businesses, receiving vehicles from their franchiser who is a registered IRP rental car business, may engage in retail car rentals for one-way trips into the state when receiving the vehicle and out of the state when returning it to the franchiser.

(4) Rental car usage is restricted to operations by rental customers, except when the rental car is being moved by the business to another business site, to or from maintenance or repair facilities, or for testing purposes.

(5) Vehicles that cease to be used for rental car purposes shall be reregistered for the appropriate usage and pay the proper motor vehicle excise tax pursuant to RCW 82.44.023 prior to further operation on the public roadways of this state.

WSR 95-15-031
PERMANENT RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed July 11, 1995, 11:31 a.m.]

Date of Adoption: June 30, 1995.

Purpose: Establish state paydates for calendar year 1996.

Citation of Existing Rules Affected by this Order: Amending WAC 82-50-021.

Statutory Authority for Adoption: RCW 42.16.010(1) and 42.16.017.

Pursuant to notice filed as WSR 95-11-116 on May 24, 1995.

Effective Date of Rule: Thirty-one days after filing. July 10, 1995

G. Dewey Harris III
Assistant Director

AMENDATORY SECTION (Amending WSR 94-13-097, filed 6/15/94, effective 7/16/94)

WAC 82-50-021 Official lagged, semimonthly pay dates established. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years ((1994)) 1995 and ((1995)) 1996:

Table with 2 columns: ((CALENDAR YEAR 1994)) and CALENDAR YEAR 1995. Lists dates from January 10, 1994 to December 23, 1994 on the left, and corresponding dates from January 10, 1995 to December 22, 1995 on the right.

CALENDAR YEAR 1995. Lists dates from Tuesday, January 10, 1995 to Monday, June 26, 1995.

CALENDAR YEAR 1996. Lists dates from Wednesday, January 10, 1996 to Tuesday, June 25, 1996.

Table with 1 column: Lists dates from Monday, July 10, 1995 to Friday, December 22, 1995.

Table with 1 column: Lists dates from Wednesday, July 10, 1996 to Tuesday, December 24, 1996.

WSR 95-15-034
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed July 12, 1995, 11:45 a.m., effective August 14, 1995]

Date of Adoption: July 12, 1995.

Purpose: Chapter 296-401 WAC, Certification of competency for journeyman electricians, amendments to chapter 296-401 WAC are made to notify the public of all charges, fees, and certification periods associated with application, examination, and renewal of electricians certificates of competency as required by chapter 19.28 RCW and to clarify the actual cost to accomplish and maintain electricians certification. Amendments are also made to incorporate amendments previously made to chapter 19.28 RCW not currently in the WAC rule. The amendments adjust the renewal fees for electricians to reflect the three year renewal period. Amendments to WAC 296-401-175(1) reflect the lengthened renewal period from twenty-four months to thirty-six months and add an additional \$20.00 to the fee for the additional twelve month period. Amendments to WAC 296-401-175(2) reflect the lengthened late renewal period from twenty-four months to thirty-six months and add an additional \$40.00 to the fee for the additional twelve month period. The fees are not increased, but are adjusted to allow for the extended renewal periods. These amendments were previously taken to public hearing on October 26, 1993, and October 29, 1993, but were inadvertently omitted from the adoption filing package filed with the Code Reviser. These amendments were returned to public hearing to complete the adoption process required by the Administrative Procedure Act. Other amendments add subsection (7) to WAC 296-401-175 to reflect the current vendor testing/retesting fee for journeyman/specialty electrician testing not currently indicated in the standard. A fee study of the application processing fee was conducted by the department in order to comply with an audit request. The result of the study found the current \$25 fee was appropriate. Therefore, no change will be made to the existing fee.

Citation of Existing Rules Affected by this Order: Amending chapter 296-401 WAC, Certification of competency for journeyman electricians, WAC 296-401-175 Journeyman, specialty and trainee certificate, and examination fees.

Statutory Authority for Adoption: Chapter 19.28 RCW (RCW 19.28.060, [19.28].550, [19.28].600).

Pursuant to notice filed as WSR 95-09-009 on April 7, 1995.

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Changes Other than Editing from Proposed to Adopted Version: WAC 296-401-175 Journeyman, specialty and trainee certificate, and examination fees, due to a fee study being conducted by the department in order to comply with an audit request which was in process at the time of the CR-102 filing, the application processing fee indicated in WAC 296-401-175(3) was proposed for possible adjustment up or down not more than \$10 per adjustment pending results of the study. The fee study was to be completed and announced at the hearings. The result of the study found the current \$25 fee was appropriate. Therefore, no change will be made to the existing fee and the amendments will be adopted as proposed.

Effective Date of Rule: August 14, 1995.

July 12, 1995
 Mark O. Brown
 Director

Purpose: Current rule does not provide for an eligibility review process for most nongrant medical clients. Provides only for an application process. This revision is necessary to add language to allow for the nongrant medical eligibility review process in use by the centralized medical eligibility section. The ACES system will require the use of an eligibility review process.

Citation of Existing Rules Affected by this Order: Amending WAC 388-522-2230 Eligibility reviews.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 95-12-031 on June 1, 1995.

Effective Date of Rule: Thirty-one days after filing.
 July 12, 1995

Jeanette Sevedge-App
 Acting Chief
 Office of Vendor Services

[AMENDATORY SECTION (Amending WSR 92-09-010, filed 4/2/92)]

WAC 296-401-175 Journeyman, specialty and trainee certificate, and examination fees.

- (1) Journeyman or specialty electrician certificate renewal (per ~~24~~ 36-month period) - \$ ~~40~~ \$ 60
- (2) Late renewal of journeyman or specialty electrician certificate (per ~~24~~ 36-month period) - \$ ~~80~~ \$120
- (3) Journeyman or specialty electrician examination application (nonrefundable) - \$ 25
- (4) Journeyman or specialty electrician original certificate - \$ 40
- (5) Trainee certificate (expires one year after purchase) - \$ 20
- (6) Trainee certificate renewal or update of hours - \$ 20
- (7) Journeyman or specialty electrician test or retest fee - \$ 45

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

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

WSR 95-15-039
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3870—Filed July 12, 1995, 3:28 p.m.]

Date of Adoption: July 12, 1995.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-522-2230 Eligibility reviews. (1) When a client is receiving cash assistance, the department shall ~~(redetermine)~~ not require a separate eligibility review for the related medical assistance ~~((the same as for the related cash assistance))~~ program ~~((for clients:~~

~~(1) Under eighteen years of age and not related to SSI, eligibility shall be redetermined every six months using AFDC financial criteria; or)~~

(2) ~~((~~1~~))~~ When a client is in a medical institution~~((~~1~~))~~ or receiving medical assistance, the department shall redetermine eligibility ~~((shall be redetermined))~~:

(a) Every twelve months for a person receiving categorically needy medical assistance; or

(b) Each three or six months, at the client's option, for a person receiving the medically needy program.

(3) The department shall terminate eligibility for a medical program when a person:

(a) Does not complete and return to the department a department-designated eligibility review form before the last day of the certification period; or

(b) Is determined ineligible for a medical program.

WSR 95-15-040
PERMANENT RULES
ARTS COMMISSION
 [Filed July 12, 1995, 3:29 p.m.]

Date of Adoption: July 11, 1995.

Purpose: Amend, adopt, and repeal Title 30 WAC. Amending chapter 30-01 WAC, Washington State Arts Commission; adopting chapter 30-02 WAC, Definitions; amending chapter 30-04 WAC, Public records; amending chapter 30-08 WAC, Practice and procedure; amending chapter 30-12 WAC, General rules; adopting chapter 30-14 WAC, Awards program; repealing chapter 30-16 WAC, partnership program; adopting chapter 30-18 WAC, Arts in education; repealing chapter 30-20 WAC, Institutional support program; adopting chapter 30-22 WAC, Folk arts; repealing chapter 30-24 WAC, Artist fellowship program; adopting chapter 30-26 WAC, Community arts development

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programs; repealing chapter 30-28 WAC, State-wide services; repealing chapter 30-32 WAC, Cultural enrichment program; repealing chapter 30-36 WAC, Artists-in-residence program; amending chapter 30-40 WAC, Art in public places program; amending chapter 30-44 WAC, Governor's arts awards; and repealing chapter 30-48 WAC, Community development program.

Citation of Existing Rules Affected by this Order: Repealing chapters 30-16, 30-20, 30-24, 30-28, 30-32, 30-36 and 30-48 WAC; and amending chapters 30-01, 30-04, 30-08, 30-12, 30-40, and 30-44 WAC.

Statutory Authority for Adoption: RCW 43.46.040.

Pursuant to notice filed as WSR 95-12-098 on June 7, 1995.

Changes Other than Editing from Proposed to Adopted Version: In WAC 30-01-050(2), the word "calendar" was changed to "fiscal" and the word "each" in the second sentence was changed to "the next."

WAC 30-01-060(1) was changed to reflect the correct zip code of 98504-2675.

A new subsection (10) was added to WAC 30-08-030 which reads: (10) "Program guidelines" are guidelines and/or applications booklets which are published by the commission and constitute policy and/or interpretive statements and substantive changes cannot be added to or changed except at open public meetings.

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

July 12, 1995

Karen Kamara Gose
Executive Director

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-01-010 Purpose. The purpose of this chapter is to ensure compliance by the Washington state arts commission with the provisions of chapters 43.46, 34.05, and 42.17 RCW.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-01-020 Authority. The Washington state arts commission is authorized by RCW 43.46.040 to adopt rules under the provisions of the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

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 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 ~~((statement of purpose: To improve the growth, development, and preservation of the arts, striving in all programs to maintain the highest possible quality.~~

~~(3) Goals. The commission has adopted the following goals:~~

~~(a) To improve the availability and access to the arts for all Washington residents;~~

~~(b) To conserve and develop the state's artistic resources, its artists, works of art, and arts institutions;~~

~~(c) To advocate society's need for the arts;~~

~~(d) To enhance education through the involvement of professional artists in all arts disciplines in schools and other educational settings))~~ 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 Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-01-050 Organization. (1) Officers. The officers of the commission shall be chairperson, first vice-chairperson, and second vice-chairperson.

(2) Election of officers. At ~~((each mid-year))~~ the last meeting of the ((calendar)) fiscal year, the current chairperson shall appoint a nominating committee. At the first meeting of ~~((each))~~ the next fiscal year, the nominating committee will report its recommendations for officers, after which nominations shall be open to the floor. An election shall be held ~~((by secret ballot))~~ and the member receiving the highest number of votes for each of the three positions shall be declared elected to the position for the coming year. The officers shall act as chairperson, first vice-chairperson, and second vice-chairperson until the next election or successors are elected. Vacancies may be filled by the chairperson between annual elections of officers.

(3) Duties of officers.

(a) The chairperson shall preside at all meetings of the commission, shall act as principal spokesperson for the commission, represent the commission between meetings, appoint standing and ad hoc committees, appoint committee chairpersons, remove members of committees, act as an ex officio member of all standing committees, provide a regular report to the commission regarding recent actions and activities, and perform other duties that pertain to the office. The chairperson shall lead commission activities in close partnership with the executive director, and coordinate with the executive director in the planning and arrangements for

all meetings of the commission. ~~((The chairperson shall inform the executive director or prospective executive director of the terms of his/her employment and shall be responsible for the supervision of the executive director.))~~

(b) The vice-chairperson shall act as chairperson in the absence or incapacity of the chairperson.

(c) The second vice-chairperson shall act as chairperson in the absence or incapacity of both the chairperson and the first vice-chairperson.

(d) All officers can act as an ex officio member of all standing committees.

(4) Interim committee. The chairperson, first vice-chairperson, second vice-chairperson, and one commissioner at-large appointed by the chairperson shall constitute the interim committee. The interim committee may act on behalf of the commission between regular meetings when such action is necessary to authorize staff implementation of a required function in a timely manner. Any committee action shall be ratified at the next regular meeting of the commission.

(5) Committees. The chairperson shall appoint such committees as the commission or the chairperson shall deem necessary to carry on the business of the commission. A committee may act on behalf of the commission between regular meetings when such action is necessary to authorize staff implementation of a required function in a timely manner, and when such action has been specifically authorized in advance by a majority vote taken at a regular meeting of the commission. Any committee action shall be ratified at the next regular meeting of the commission.

(6) The executive director is appointed by the governor.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-01-060 Office location and hours—Correspondence to staff. (1) The official administrative location of the commission and its staff is at the Washington State Arts Commission, ~~((9th and Columbia Building, Room 110, Olympia, Washington, 98504 4111))~~ 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 ~~((including but not limited to the submission of materials pertaining to its operations and these rules, requests for copies of the commission's decisions and other matters))~~ shall be addressed as follows: Washington State Arts Commission, ~~((9th and Columbia Building, Room 110, Mailstop GH 11, Olympia, Washington, 98504 4111, 206/753-3860))~~ 234 E. 8th Avenue, P.O. Box 42675, Olympia, Washington, 98504-2675.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 30-01-030 Definitions.

Chapter 30-02 WAC DEFINITIONS

NEW SECTION

WAC 30-02-010 Definitions. The following definitions shall apply throughout this title:

(1) "Agency" means the agency with one-half of one percent of its capital construction appropriations designated for the acquisition of works of art under RCW 43.17.200, 43.19.455, 28A.335.210, and 28B.10.025, as follows:

(a) RCW 43.17.200 designates all state agencies, departments, boards, councils, commissions, and quasi-public corporations.

(b) RCW 43.19.455 designates all state agencies under the department of general administration.

(c) RCW 28A.335.210 designates "common schools" (public schools) recognized by the state of Washington.

(d) RCW 28B.10.025 designates the University of Washington, Washington State University, regional universities, The Evergreen State College and community college districts.

(2) "Agency project committee" means an advisory committee that works with the commission to develop a designated art project. The agency project committee shall be appointed at the commission's request by the administration of the agency receiving the project and may consist of members representing: Agency administration, artists or art professionals, community members, and building users. Committee nominations should strive to be balanced by gender, ethnically diverse, and represent the constituencies of the agency. The commission may recommend representatives to the agency project committee.

(3) "Appeal" means any request by an applicant to the commission for reconsideration of a previous decision on a program application.

(4) "Applicant" means a legally incorporated organization, unit of government, or individual.

(5) "Art scholar" means a folklorist, art historian, aesthetician, art critic, or other scholar of the arts recognized as a professional by peers in the field.

(6) "Art selection panel" means a body appointed by the commission to review, recommend, and select artists for projects according to project specifications. Panels will vary in size and be comprised of artists and/or art professionals. Panel nominations should strive to be balanced by gender, ethnically diverse, and represent the variety of contemporary artistic production.

(7) The "artists resource bank" means a file of artists' slides and materials maintained by the commission. Artists included in the artists resource bank are selected by art selection panels through competitions and considered for project selection by agency project committees.

(8) "Award" means the financial assistance committed through a contract or paid to an eligible applicant.

(9) "Chairperson" means that person elected pursuant to RCW 43.46.040.

(10) "Commission" means the Washington state arts commission.

(11) "Commissioners" mean the members of the commission who are appointed pursuant to RCW 43.46.015.

(12) "Committee chairpersons" mean those persons appointed by the chairperson of the commission as described in WAC 30-01-050(3).

(13) "Committees" mean those subgroups of the commission appointed by the chairperson as described in WAC 30-01-050(5).

(14) "Complimentary tickets" are any free admissions provided by arts organizations to commissioners or staff for evaluation purposes.

(15) "Deaccessioning" means the removal of a work of art from the state art collection by the commission.

(16) "Evaluators" are individuals requested to make recommendations regarding programs, selections, and issues before the commission based on their expertise, training, or experience in a given field.

(17) "Executive director" means that person employed pursuant to RCW 43.46.045 to carry out the functions of that chapter.

(18) "Financial assistance" means money provided to applicants from federal, state, or private funds of the commission.

(19) "Fiscal year" means the period beginning July 1 and ending June 30 of the following year.

(20) "Folk artist" means those most valuable and most authentic practitioners of the folk and traditional arts that have been brought up within a traditional community, learning the repertoire from their own seniors and absorbing the style as they live the life that the style and the repertoire represent.

(21) "Grant" means award or financial assistance.

(22) "Grantee" means an institution, organization, arts group, or individual receiving a grant.

(23) "Literary arts" shall include poetry, fiction, and literary or arts criticism.

(24) "Local arts commission" means a governmental agency created to represent, serve, and promote interdisciplinary arts, artists, and arts organizations within its legal jurisdiction.

(25) "Local arts council" means a private, nonprofit organization, designated under Section 501 (c)(3) as a tax-exempt organization by the Internal Revenue Service, created to represent, serve and promote multidisciplinary arts, artists, and arts organizations within its community jurisdiction.

(26) "Maintenance" means the ongoing upkeep required for artworks to retain their structural and aesthetic integrity.

(27) "Matching component" means an amount of money or the value of materials or services provided by the applicant.

(28) A "Native American" is a person of recognized North American Indian descent through tribal affiliation or general tribal community recognition.

(29) "Nonprofit" means incorporation under the nonprofit laws of the state of Washington or another state, and determination by the Internal Revenue Service (IRS) that the incorporated entity is exempt from taxation under Section 501 (c)(3) of the IRS code.

(30) "Panels" mean those individuals from which the commission, as a part of its regular practice, may seek advice in order to provide a comprehensive professional perspective in the decision-making process, and may include commissioners.

(31) "Performing arts" mean the broad disciplines of music, dance, and drama and the various forms of expression and performances associated within them.

(32) "Postmark" means the date affixed to letters, parcels or packages by the United States Postal Service (USPS), either through the USPS postmark stamp or USPS meter tape.

(33) "Professional artist" means a person generally recognized by critics and peers as a professional producing high quality work on a regular basis. Other indicators of professionalism include frequent or consistent exhibitions, performances, readings, publications, purchases by museums, commissions, honors and awards, and art training. Students enrolled in an ongoing formal art education program and avocational practitioners are not considered professional. Hereinafter, professional artist will be referred to as "artist."

(34) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(35) "Special populations" mean public or nonprofit institutions serving prison programs, incarcerated youth programs, and programs serving the mentally or physically disabled, and youth-at-risk.

(36) "Sponsor" means any Washington state public school, school district, educational service district, private nonparochial school, college or university, or any cultural or community organization including local arts councils and commissions, retirement centers, libraries, hospitals, correctional centers, and other facilities for special populations.

(37) "Staff" means those persons employed by the executive director pursuant to RCW 43.46.045.

(38) The "state art collection" means all works of art and select design models commissioned or purchased under RCW 43.17.200, 28A.58.055, 28A.335.210, 43.46.090, and 43.19.455. Individual works are held in trust under the terms of an interagency agreement by agencies working in partnership with the commission. Development, administration, and management of the overall collection, including maintenance if funded, deaccessioning and loan policies, archival recordkeeping and documentation, shall be carried out by the commission.

(39) "Support" means financial, technical, or information assistance provided by the commission and the staff to individuals or organizations.

(40) "Technical assistance" means the transmittal of information, skills, and/or resources that help to improve the ability of an institution, organization, arts group, or individual to accomplish its purpose.

(41) "Three-dimensional visual arts" shall include relief and sculpture in the round and three-dimensional crafts.

(42) "Traditional artist" means those most valuable and most authentic practitioners of the folk and traditional arts that have been brought up within a traditional community, learning the repertoire from their own seniors and absorbing the style as they live the life that the style and the repertoire represent.

(43) "Two-dimensional visual arts" shall include painting, drawing, print-making, photography, multimedia, and two-dimensional crafts.

(44) "Washington state arts commission" means the commission established pursuant to RCW 43.46.015.

(45) "Writing" means handwriting, typewriting, printing, photostating, and every other means of recording, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-04-040 (~~(Office hours.)~~) **Inspection and copying.** Public records shall be available for inspection and copying (~~(during the customary office hours. For the purposes of this chapter, the customary office hours shall be)~~) 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 legal holidays). All public records of the commission are located at the Washington State Arts Commission, (~~(9th and Columbia Building, Room 110)~~) 234 E. 8th Avenue, Olympia, Washington.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-04-050 Requests for public records. In accordance with the requirements of chapter 42.17 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 (~~(herein)~~) by the commission which shall be available at the location indicated (~~(in WAC 30-04-040)~~) above. 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 (~~(during customary office hours)~~). 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. 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), 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 30-04-060 Copying. No fee shall be charged for the inspection of public records. The commission shall charge (~~(twenty-five cents per page)~~) an appropriate cost determined by the agency for copies of public records and the use of commission copy equipment. This charge is the amount necessary to reimburse the commission for its actual cost incident to such copying. If the public records officer deems it more efficient to have copying done outside the agency, the charges will be based on the actual cost of such outside copying service. For all copying service charges incurred, an invoice will be sent to the requestor. Reimbursement is payable within fifteen days of receipt of invoice payable to the Washington state arts commission.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-04-090 Protection of public records. (1) Records are available for inspection and copying at the location and during office hours identified in WAC 30-04-040 and then only in the presence of an authorized

staffperson of the commission and with the aid and assistance of such staffperson.

(2) The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission office and the availability of authorized staff to operate that equipment.

(3) The viewing of those public records that require specialized equipment shall be by appointment only. The request for an appointment shall be made on the request for public record form as provided ~~((in WAC 30-04-100 and 30-04-110))~~ by the commission. Staff shall acknowledge such request for an appointment within two working days of the receipt of such request and will provide the requester with the date(s) that such an appointment could be kept by an authorized staffperson.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 30-04-100 Adoption of form.

WAC 30-04-110 Request for public record form.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-08-030 Commission meetings. (1) General schedule. The commission shall meet at least five times each year and at such other times as determined to be necessary. The meetings of the commission shall all be "regular" or "special meetings" as those designations are applied in chapter 42.30 RCW. Meetings may be called, subject to the notice requirements of chapter 42.30 RCW, at any time and place by the chairperson or a majority of the commissioners.

(2) Notice. Twenty days notice of all meetings shall be given by mailing a copy of the notice and draft agenda to each commissioner and to any person who has made a written request to the commission to receive meeting notices.

(3) Special or emergency meetings. The twenty-day notice may be waived for special or emergency meetings upon consent of a majority of the commission. In such cases, the provisions of RCW 42.30.080 will govern due notification of the time, place and business to be transacted.

(4) Executive session. An executive session may be called by the chairperson or a majority of the commission. Executive sessions shall deal only with matters authorized by chapter 42.30 RCW.

(5) ~~((Ballots by mail—))~~Conference calls. Given the geographic distribution of the commissioners, the chairperson may ~~((call for a ballot by mail when an item calls for consideration by the full commission. The results of the vote shall be made available at the next regular meeting of the commission. The chairperson may also))~~ convene a meeting by conference call if the situation warrants immediate action by the full commission, subject to the notice requirements of chapter 42.30 RCW.

(6) Rules of order. The commission shall generally follow *Roberts Rules of Order*, newly revised, in conducting its business meetings.

(7) Quorum. A simple majority of the regularly appointed and acting members of the commission shall

constitute a quorum. If all twenty-one positions are filled, the quorum shall be eleven.

(8) Voting rights. All officers of the commission shall have the right to vote on all matters before the commission, just as any other commissioner.

(9) Minutes. Minutes shall be kept of the proceedings of all commission meetings.

(10) "Program guidelines" are guidelines and/or applications booklets which are published by the commission and constitute policy and/or interpretive statements and substantive changes cannot be added to or changed except at open public meetings.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-08-040 Commission meetings—Public participation. Any person or organization is encouraged to offer its points of view to the commission.

(1) Any person or organization wishing to make a formal presentation at a scheduled meeting of the commission shall notify the executive director in writing at least ten days prior to the time of the meeting. The commission or executive director may waive the ten-day notice period in the event the proposed presentation is of critical importance to the operation of the commission.

(a) Such notification shall contain the name of the person or organization that desires to make a presentation; the address and phone number of the person or organization; and the topic to be presented or discussed.

(b) Permission to make a presentation to the commission shall be granted by the executive director in consultation with the chairperson, as authorized by the commission.

(c) Confirmation of permission to make a presentation to the commission shall be made if at all possible, by the staff prior to the meeting of the commission, and shall include the date and time of the meeting, and the time set for the formal presentation.

(2) The chairperson shall have the discretion to recognize anyone in the audience who indicates at the time of the meeting a desire to speak at such meeting. Depending on the number of individuals wishing to speak or the commission's sense of the business it must conduct, the chairperson may limit the time for comment to a reasonable period ~~((but not less than five minutes))~~.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-12-010 Purpose. The purpose of this chapter is to provide the public and the commission's constituents with those rules that apply generally to all commission programs and services, specifically, those that involve competitive application for support, awards or contracts for artistic services. In addition, each commission program ~~((or service))~~ has additional rules that apply which are contained in this chapter. ~~((Those specific program rules are contained in chapters 30-16 through 30-52 WAC.))~~

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-12-030 ~~((Advisors and)) Panels.~~ (1) ~~((Advisory and selection)) Panels are ((generally)) comprised of ((three to seven)) individuals whose expertise can address specific issues and program needs.~~

(2) ~~((Advisors and)) Panel members are authorized to serve by the executive director, and may be reimbursed for their services and/or their travel expenses.~~

(3) ~~((Advisors and)) Panels may refrain from making a recommendation, if, in their opinion, there is insufficient information or merit in the material under review.~~

(4) All ~~((advisor and))~~ panel recommendations are subject to the review and approval of the commission.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-12-050 Support of ((primary)) arts institutions. The commission recognizes ~~((certain)) arts institutions as primary components of the state's cultural life ((deserving first consideration for financial support. The commission will provide general operations support)).~~ This assistance will contribute to the continued economic stability of the ~~((primary)) arts institutions and therefore full service to the general public.~~

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-12-060 Support of Washington artists and organizations. The commission may give~~((s))~~ priority to projects involving resident artists and arts organizations; this does not preclude the use of outside artists/arts organizations capable of providing programs or services to Washington residents that are not available within Washington state or those that supplement the artists/arts organizations available in the state.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-12-080 Special ((audiences)) populations. The commission encourages projects designed to reach special ~~((audiences or citizens)) populations~~ who are not regularly served by arts events. ~~((Whenever possible, the commission favors opportunities for these citizens to be served in the same manner as the general public, emphasizing mainstreaming versus special or exceptional treatment. These audiences may include the handicapped, institutionalized, elderly, or lower income groups.))~~

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-12-090 Native American arts. The commission encourages the maintenance, continuance and promotion of Native American cultural art forms whether traditional or contemporary, existing or new creations. Preference will be given to Native American artists in projects involving their culture. ~~((Native American projects (visual arts, music, legends, dances, etc.) must clearly represent or be influenced by the Native American culture and heritage to be consid-~~

~~ered for support. Development of a project should include determination of proper ownership of any work involved, and written permission from the artist must precede any reproduction of works.))~~

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-12-100 Ethnic ((minorities)) communities. The commission encourages projects by ethnic ~~((minorities)) communities~~ who have been under~~((-)served~~ by traditional funding sources. The commission is particularly supportive of projects that promote ethnic cultures through their traditional art forms and those that promote cross-cultural exposure within the community.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

WAC 30-12-160 Credits and endorsements of local programs. The commission recognizes its potential for serving its constituents by the inclusion of credits in promotional information or documentation, to encourage funding from other sources. These credits shall not be considered an endorsement of the organization or individual but will constitute a factual accounting of past and/or present support to the organization or individual by the commission.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 30-12-020 Definitions.
- WAC 30-12-070 Commissioning or purchase—
Works of art.
- WAC 30-12-120 School, college and university activities.
- WAC 30-12-140 Conflict of interest—
Subcontractor's board members.

**Chapter 30-14 WAC
AWARDS PROGRAM**NEW SECTION

WAC 30-14-010 Scope of chapter. This chapter contains general rules affecting the awards program including eligibility, application requirements, application review criteria, and the review process for awards funded by or through the commission. Further rules are in chapter 30-01 WAC (Washington state arts commission), chapter 30-08 WAC (practice and procedure), and chapter 30-12 WAC (general rules).

NEW SECTION

WAC 30-14-020 Purpose. The commission provides awards to develop, sponsor, and promote the growth and development of the arts in the state of Washington. These awards may include but are not limited to operating support; specific arts projects; artist fellowships; technical assistance services; staff support; conference travel; or services coordi-

nated at a regional, statewide, multistate, or national level for a targeted audience or public benefit.

NEW SECTION

WAC 30-14-030 Eligibility. Nonprofit arts or community organizations, units of government, or artists may be eligible to apply for an award from the commission. Eligibility for specific awards varies and is published in the program guidelines. The commission establishes and publishes guidelines on an annual or biennial basis.

NEW SECTION

WAC 30-14-040 Application form. The general public is notified of competitions by announcement to the media and notices in other regular publications. All applications must be completed and submitted in the format prescribed by the commission. The forms are available from the commission at the agency's official address and are included with the published guidelines. Printed copies of the guidelines will be distributed by direct mail to award applicants for the last three fiscal years and those who request an application.

NEW SECTION

WAC 30-14-050 Application deadlines. Applications must be filed by the deadlines determined by the commission and published in the guidelines.

NEW SECTION

WAC 30-14-060 Application review process. The evaluation and review of applications is based on the written response and support materials provided with the application. Applications are reviewed initially by staff for eligibility. Once eligibility is determined, applications are then reviewed by a panel that makes funding recommendations. The panel's recommendations are presented to a commission committee, which makes recommendations to the commission for final review, approval, and funding amounts. The executive director may make decisions on award contracts which do not exceed two thousand dollars without a specific delegation, with those actions to be reviewed and ratified at the next regular meeting of the commission. The commission may make specific delegations to the executive director which exceed two thousand dollars, at their discretion.

NEW SECTION

WAC 30-14-070 Application review criteria. Applications will be reviewed according to the current guideline criteria for the type of award sought. Criteria may include but not be limited to state residency; type of nonprofit status; length of history of arts programming; type of organization; type of proposal; timing of the proposal; artistic discipline; artistic excellence, quality, and merit; artistic credentials and professional work experience; prevailing wages; public benefit; benefit to state residents; public or community involvement; operating budget size; management practices; long-range planning; compliance with previous award contracts; financial stability; community support; access to other sources of financial and technical

assistance; geographic isolation; distribution of cultural and artistic opportunities state-wide; opportunities for culturally diverse presentations or events; preservation of culturally specific artistic traditions; arts education opportunities; social relevance or other nonpolitical considerations.

NEW SECTION

WAC 30-14-080 Appeals procedure. Award appeals will be conducted in accordance with chapter 30-08 WAC.

NEW SECTION

WAC 30-14-090 Contracting. Applicants who have been approved for funding will be issued contracts based on a fiscal year beginning July 1 and ending June 30, or within the biennium. The commission may establish a matching component in the award contract.

NEW SECTION

WAC 30-14-100 Disbursement of funds. Applicants should be prepared to finance their projects until reimbursed by the commission. The award contract will contain a payment schedule attachment. All requests for payment(s) must be made on the state of Washington invoice voucher provided by the commission with the contract.

NEW SECTION

WAC 30-14-110 Evaluation methods. Award recipients will be required to submit a written final report in the format prescribed by the commission, no later than forty-five days following completion of the award contract. Future funding is contingent upon receipt and acceptance of the final report by the commission. Failure to provide an acceptable final report will result in the ineligibility of the award recipient for a length of time to be determined by the commission. Each award recipient must be prepared to provide access to events for members of the commission, agency staff, or independent reviewers, if an on-site evaluation is requested by the commission.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 30-16-010 Purpose.
- WAC 30-16-020 Definitions.
- WAC 30-16-030 Description—Program purpose and goals.
- WAC 30-16-040 Applicant eligibility.
- WAC 30-16-050 Project eligibility.
- WAC 30-16-060 Project limitations and exclusions.
- WAC 30-16-070 Funding categories, deadlines and application procedures.
- WAC 30-16-080 Financial responsibility of applicants and subapplicants.
- WAC 30-16-090 Review procedures.
- WAC 30-16-100 Special conditions.
- WAC 30-16-110 Payment procedures.
- WAC 30-16-120 Evaluation methods.

**Chapter 30-18 WAC
ARTS IN EDUCATION**

NEW SECTION

WAC 30-18-010 Scope of chapter. This chapter contains general rules affecting arts in education program eligibility, review criteria, and application requirements for projects funded by or through the commission. Further rules are in chapter 30-01 WAC (Washington state arts commission), chapter 30-08 WAC (practice and procedure), and chapter 30-12 WAC (general rules).

NEW SECTION

WAC 30-18-020 Program purpose. Arts in education (AIE) program supports the unique contributions to arts education made by artists and arts organizations, offers arts curriculum grants to public schools, and supports other activities that promote the arts as basic to the education of all Washington citizens. The major emphasis is K-12 education.

NEW SECTION

WAC 30-18-030 Eligibility for artists in residence. All professional artists and art scholars residing in Washington state or within a fifty-mile radius of a Washington state city are eligible to apply to be rostered as artists in residence. Once rostered, artists in residence may select folk artists to work with them during the residency.

NEW SECTION

WAC 30-18-040 Eligibility for grantees. (1) Residency sponsors are any Washington school, school district, private nonparochial school, preschool, college, or university. In addition, any Section 501 (c)(3) of the IRS Code (non-profit) or government agency may apply as a sponsor. This includes local arts councils and commissions, retirement homes, hospitals, correctional facilities, libraries, museums, and agencies serving special populations.

(2) Arts curriculum grantees are Washington state public school districts and schools. Government and other non-profit agencies working in collaboration with their local schools, incorporated as not-for-profit in the state of Washington, and having federal IRS tax-exempt status, also are eligible to apply.

(3) Arts education project grantees are Washington arts organizations and may apply to fund arts education projects developed in partnership with schools.

(4) Performing artists and arts organizations are professional performing artists residing in Washington state and arts organizations located in Washington state and they may apply to perform in schools and to serve one-week, rural residencies that combine performances and workshops. Professional performing arts organizations with facilities in Washington state may apply to provide mainstage performances for students.

(5) Applications are competitive on a state-wide basis and grants are subject to the level of funds available to the commission.

NEW SECTION

WAC 30-18-050 Application form. (1) Public notice of competitions will be made through the media and in other agency publications. Application forms are available from the commission and published with the program guidelines.

(2) Applications shall be sent by direct mail to those who have requested placement on the AIE mailing list or to those who request an application.

(3) All applications must be completed and submitted in the format prescribed by the commission. Applications must be submitted by the deadline determined by the commission.

NEW SECTION

WAC 30-18-060 Application review process. Applications will be reviewed by a panel. The recommendations of the panel are presented to the commission's education committee which makes recommendations to the commission for final approval.

NEW SECTION

WAC 30-18-070 Application review criteria. Applications will be reviewed according to the current guideline criteria to ensure that the applicant(s) will promote a comprehensive and sequential arts education program at the site(s) of service.

NEW SECTION

WAC 30-18-080 Contracting of artists. Artists who have been selected for inclusion in the roster may be contracted by the commission or directly by grantees within a fiscal year beginning July 1 and ending June 30 or within the biennium.

NEW SECTION

WAC 30-18-090 Contracting of grantees. Grantees that have been selected based on panel recommendations and approved by the commission may be contracted within a fiscal year beginning July 1 and ending June 30 or within the biennium. The commission may establish a matching component in the contract.

NEW SECTION

WAC 30-18-100 Disbursement of funds. Reimbursement must be requested on state of Washington invoice voucher forms and must include all final documentation as required in the contract.

NEW SECTION

WAC 30-18-110 Evaluation methods. Evaluation forms provided by the commission are required to be completed and returned by each grantee, artist, and school. Also, on-site monitoring of events will be conducted by the commission and/or staff. When appropriate, outside professional evaluators may be hired, advise staff, and prepare evaluation reports.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 30-20-010 Purpose.
- WAC 30-20-020 Definitions.
- WAC 30-20-030 Description—Program purpose and goals.
- WAC 30-20-040 Applicant eligibility.
- WAC 30-20-050 Funding intent—Limitations and exclusions.
- WAC 30-20-060 Funding formula.
- WAC 30-20-070 Application procedures.
- WAC 30-20-080 Financial responsibility of institutions.
- WAC 30-20-090 Review procedures.
- WAC 30-20-100 Special conditions.
- WAC 30-20-110 Payment procedures.
- WAC 30-20-120 Evaluation methods.

**Chapter 30-22 WAC
FOLK ARTS**

NEW SECTION

WAC 30-22-010 Scope of chapter. This chapter contains general rules affecting folk arts program eligibility, review criteria, and application requirements for projects funded by or through the commission. Further rules are in chapter 30-01 WAC (Washington state arts commission), chapter 30-08 WAC (practice and procedure), and chapter 30-12 WAC (general rules).

NEW SECTION

WAC 30-22-020 Program purpose. The folk arts (FA) program supports and preserves a variety of diverse traditional artists and cultures in the state of Washington.

NEW SECTION

WAC 30-22-030 Eligibility. All traditional artists are eligible to apply to participate.

NEW SECTION

WAC 30-22-040 Application form. (1) Public notice of competitions will be made through the media and in other agency publications. Application forms are available from the commission and published with the program guidelines.

(2) Applications shall be sent by direct mail to those who have requested placement on the FA mailing list or to those who request an application.

(3) All applications must be completed and submitted in the format prescribed by the commission. Applications must be submitted by the deadline determined by the commission.

NEW SECTION

WAC 30-22-050 Application review process. Artist applications are reviewed by a panel. The recommendations of the panel are presented to the commission's underserved committee which makes recommendations to the commission for final approval.

NEW SECTION

WAC 30-22-060 Application review criteria. Applications will be reviewed according to the current guideline criteria to ensure that the applicant(s) fosters the preservation of traditional folk arts.

NEW SECTION

WAC 30-22-070 Contracting. Artists who have been approved by the commission for funding will be issued contracts based on available funding. Partners who collaborate on specific projects with the approval of the executive director will be issued contracts based on available funding. Contracts will be issued within a fiscal year beginning July 1 and ending June 30 or within the biennium.

NEW SECTION

WAC 30-22-080 Disbursement of funds. Reimbursement must be requested on state of Washington invoice voucher forms and must include all documentation as required in the contract. The commission may establish a matching component in the contract.

NEW SECTION

WAC 30-22-090 Evaluation methods. Final reports will be required by the commission and must be completed and returned by each contractor by the ending date of the contract. Also, on-site monitoring of events will be conducted by the commission and/or its staff.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 30-24-010 Purpose.
- WAC 30-24-020 Definitions.
- WAC 30-24-030 Program purpose and goals.
- WAC 30-24-040 Eligibility.
- WAC 30-24-050 Selection criteria.
- WAC 30-24-060 Program procedures.
- WAC 30-24-070 Ownership of work.
- WAC 30-24-080 Commission liability.
- WAC 30-24-090 Responsibilities—Recipients.
- WAC 30-24-100 Evaluation methods.

**Chapter 30-26 WAC
COMMUNITY ARTS DEVELOPMENT PROGRAMS**

NEW SECTION

WAC 30-26-010 Scope of chapter. This chapter contains general rules affecting community arts development programs eligibility, review criteria, and application requirements for projects funded by or through the commission. Further rules are in chapter 30-01 WAC (Washington state arts commission), chapter 30-08 WAC (practice and procedure), and chapter 30-12 WAC (general rules).

NEW SECTION

WAC 30-26-020 Program purpose. The community arts development (CAD) programs assist the citizens of Washington, in the communities where they live, in enhancing their individual and community sense of well-being, and in making their lives more meaningful through the arts. The CAD program works to fulfill this mission by providing leadership, financial support, technical assistance, information and general guidance and encouragement to the varied constituencies, and by forming working community development partnerships with other local, regional, state and national organizations.

NEW SECTION

WAC 30-26-030 Eligibility. All citizens of the state of Washington including but not limited to local arts councils and commissions, arts producing and presenting organizations, and artists are eligible for assistance under these programs. New and emerging organizations are the first priority of the programs, along with those which are rural, inner-city or serve other underserved communities. Eligibility for specific funded programs varies and is published in the program guidelines.

NEW SECTION

WAC 30-26-040 Application form. (1) Public notice of competitions will be made through the media and in other agency publications. Application forms are available from the commission and published with the program guidelines.

(2) Applications shall be sent by direct mail to those who request an application.

(3) All applications must be completed and submitted in the format prescribed by the commission. Applications must be submitted by the deadline determined by the commission.

NEW SECTION

WAC 30-26-050 Application review process. Applications are reviewed by a panel. The recommendations of the panel are presented to the commission's underserved committee which makes recommendations to the commission for final approval.

NEW SECTION

WAC 30-26-060 Application review criteria. Applications will be reviewed according to the current guideline criteria to ensure that the stated CAD purposes are accomplished.

NEW SECTION

WAC 30-26-070 Contracting. Applicants which have been approved by the commission for funding will be issued contracts based on available funding. Contracts will be issued within a fiscal year beginning July 1 and ending June 30 or within the biennium. The commission may establish a matching component in the contract.

NEW SECTION

WAC 30-26-080 Disbursement of funds. Reimbursement must be requested on state of Washington invoice voucher forms and must include all documentation as required in the contract.

NEW SECTION

WAC 30-26-090 Evaluation methods. Final reports will be required by the commission and must be completed and returned by each contractor by the date specified in the contract. On-site monitoring of events may be conducted by the commission, its staff, and/or outside professional evaluators.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 30-28-010 Purpose.
- WAC 30-28-020 Program purpose and goals.
- WAC 30-28-030 Criteria.
- WAC 30-28-040 Evaluation methods.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 30-32-010 Purpose.
- WAC 30-32-020 Definitions.
- WAC 30-32-030 Program purpose and goals.
- WAC 30-32-040 Eligibility and delivery of program services—Schools.
- WAC 30-32-050 Eligibility—Artists.
- WAC 30-32-060 Application review process—Artists.
- WAC 30-32-070 Contracting of artists.
- WAC 30-32-080 Evaluation methods.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 30-36-010 Purpose.
- WAC 30-36-020 Definitions.
- WAC 30-36-030 Program purpose and goals.
- WAC 30-36-040 Eligibility—Sponsors.
- WAC 30-36-050 Eligibility—Artists.
- WAC 30-36-060 Application review process—Sponsors.
- WAC 30-36-070 Application review process—Artists.
- WAC 30-36-080 Responsibilities—Sponsors.
- WAC 30-36-090 Matching requirements.
- WAC 30-36-100 Residency requirements.
- WAC 30-36-110 Evaluation methods.

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-40-020 Authority. The Washington state arts commission is authorized by RCW 43.46.040 to adopt rules and is authorized under RCW 43.46.090 to administer the art in public places program. Under this authority, the commission develops, inventories, maintains and presents to the public the state art collection. The specific statutes these rules are intended to implement are: RCW 43.46.090, 43.46.095, 43.17.200, 43.17.205, 43.17.210, 43.19.455, ~~((28A.58.055))~~ 28A.335.210, 28B.10.025, and 28B.10.027.

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-40-050 Fiscal procedures/eligibility. (1) Construction eligibility. Funding for works of art are generated through the capital budget under the following statutes:

(a) RCW 43.17.200 (state agencies) - applies to construction of any new building and/or additions to an existing building (structure). ~~((Excludes))~~ Excluded are highway construction sheds, warehouses ~~((and))~~ or other buildings of a temporary nature.

(b) RCW ~~((28A.58.055))~~ 28A.335.210 (common schools) - applies to construction of any new building and/or additions to an existing building (structure). Excluded are sheds, warehouses, or other buildings of a temporary nature.

(c) RCW 28B.10.027 (universities, colleges and community colleges) - applies to construction of any new building and/or additions to an existing building (structure). Renovation and remodel work exceeding two hundred thousand dollars are included. Excluded are sheds, warehouses and other buildings of a temporary nature.

(2) Calculation of funds. The amount to be made available for works of art is to be calculated as follows:

(a) (RCW 43.17.200 and 28B.10.027) For each eligible appropriation, the one-half of one percent formula is to be applied to architecture and engineering fees, total building cost and equipment costs.

(b) (RCW ~~((28A.58.055))~~ 28A.335.210) For each eligible appropriation, the one-half of one percent formula is to be applied to the total moneys appropriated for state ~~((matching funds))~~ assistance to school districts.

(3) Determination of funds. The commission, in consultation with the director of general administration and/or the directors of state agencies, the superintendent of public instruction, and school district boards of directors, and the boards of regents or trustees of universities, colleges and community colleges, shall determine the funds to be made available for art under RCW 43.17.210, 43.19.455, ~~((28A.58.055))~~ 28A.335.210, and 28B.10.025.

(4) Supplementing funds for art. The one-half of one percent expenditure is a required minimum for works of art. State agencies, universities, colleges and community colleges, and common schools may designate more than this amount in planning for a project. Other private and public funding sources may provide supplemental grants and matching funds.

(5) Transfer of funds. The commission maintains the fiscal system for all one-half of one percent funds for art. After project funds for art have been determined, the

commission requests transfer of the funds for art to the commission. The transaction is made through an ~~((invoice voucher))~~ appropriate billing from the commission to the agency, and the agency transfers the funds to the commission ~~((through a journal voucher))~~.

The funds are transferable to the commission at the time the law providing for the appropriation becomes effective. In the case of projects governed by the sale of bonds, the funds for art shall be eligible for transfer thirty days after the sale of the bond(s).

(6) Reappropriation of funds. Upon timely notification by the commission, the agency shall request reappropriation of the unspent funds for art in the coming biennium. ~~((The reappropriation of funds is made by the commission transferring the funds back to the agency through a journal voucher, and upon reappropriation, requesting the return transfer of funds for art to the commission.))~~

(7) Use of funds for art. The one-half of one percent funds for art may be used for expenses incurred in the design, fabrication and installation of works of art, artists' expenses and the commission's administrative expenses.

Funds for art may not be used for administrative expenses of the agency or architect; expenses of the agency as agreed upon for the preparation and installation of the work, dedication, and insurance, or for the maintenance of the works of art.

(8) Determination of projects and sites. The commission, in consultation with the director of general administration and/or the directors of state agencies, the superintendent of public instruction, and school district boards of directors, and the boards of regents or trustees of universities, colleges and community colleges, shall determine the projects and sites to be designated for works of art under RCW 43.17.210, 43.19.455, ~~((28A.58.055))~~ 28A.335.210, and 28B.10.025.

(9) Contracting and expenditure.

(a) The commission is responsible for contracting and expending the one-half of one percent funds for art.

(b) The artists enter into a contract with the commission to create a new work or transfer title of an existing work according to the terms of the contract.

(c) The agency will comply with the terms of the interagency agreement as negotiated with the commission.

(10) Waiver of funds. School districts under the superintendent of public instruction may elect to waive their use of art funds. Waiver of funds for art will not cause loss of or otherwise endanger state construction funds. These funds ~~((are subsequently not available to the school district but))~~ shall be applied to works of art according to RCW ~~((28A.58.055))~~ 28A.335.210 at the discretion of the commission.

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-40-060 Maintenance/deaccessioning. (1) Maintenance responsibilities. The agency is responsible for all routine maintenance operations required on a periodic basis as specified by the artist in his/her maintenance specifications report. The commission is responsible as funded for any extraordinary repair or unscheduled mainte-

nance required to restore a structurally or aesthetically diminished artwork to its original intent and function.

(2) Deaccessioning. Works of art will be removed and disposed of according to the process established in the commission's deaccession policy from the state art collection if it has been determined by the commission that the work:

(a) Has been lost or stolen;
(b) Presents a safety hazard in its present condition; or that

(c) The restoration of the work's structural or aesthetic integrity is:

(i) Technically (~~infeasible~~) unfeasible;
(ii) Disproportionate to the value of the work.

(d) The environment/architectural support (on which a site-specific work depends) is to be destroyed or modified as to distort the artist's initial intent.

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-40-070 Program procedures. (1) Placement of works of art/projects and sites. Artwork may be placed on public lands; integral to or attached to a public building or structure; detached within or outside a public building or structure; part of a portable exhibition or collection; part of a temporary exhibition; or loaned or exhibited in other public facilities. Funds are designated for projects and sites as follows:

(a) State agencies - funds may be used within the jurisdiction of the agency or on any public land, building or structure (~~of any state agency~~), including new and existing buildings, (~~state~~) park lands, and structures which may include bridges and waterways.

(b) Common schools - funds may be used within the jurisdiction of the school district or at any common school facility within the state. Funds under this section may not be designated to projects and sites outside of the common schools system.

(c) Universities, colleges and community colleges - funds may be used within the jurisdiction of the university, college or community college which generated the funds for art, and with the permission of the board of regents or trustees, designated to other projects and sites at other institutions of higher education. Funds under this section may not be designated to projects and sites at other state agencies or within the common school system.

(d) Any temporary relocation of an artwork initiated by the agency must be registered with the commission. Placement of works of art outside the agency must be processed through the loan procedures of the commission.

(2) Project specifications. The commission works with the agency project committee to develop the project specifications considering the available budget, sites and project approach.

The commission will determine whether a project is to be a commission or purchase of art. Design fees will be paid according to the commission's fee structure for design proposals and may vary according to the number of artist finalists and scope of design work as agreed upon by the commission, artist(s) and agency.

(3) Method of selection of artists. The commission, in consultation with the director of general administration and/

or the directors of state agencies, the superintendent of public instruction, and school district boards of directors, and the boards of regents or trustees of universities, colleges and community colleges, is responsible for the selection of artists and determines the method of selection which may be:

(a) Open competition - participation is open to any qualified professional artist.

(b) Limited competition - the art selection panel and members of the agency and the commission will recommend (~~to the commission~~) a list of artists who will be invited to submit.

(c) Direct selection - the artist will be recommended as the artist(s) by the art selection panel.

(d) Artist resource bank - the agency project committee will select the artist or works of art from a resource bank of available artists and works of art screened by art selection panels and approved by the commission. The artist is responsible for submitting slides, materials, and/or proposals in accordance with specifications set forth by the commission.

(4) Selection criteria. The highest priority is given to quality, the artistic (~~excellence~~) merit of the artist and proposed artwork, and evidence of the artist's ability to execute the work. Consideration will also be given to the structural and aesthetic integrity of any existing or proposed work.

In order to achieve (~~diversity in the~~) a diverse state art collection, which represents the varied means of contemporary art-making processes, priority consideration may be given to artists who are not currently under contract, have not recently had work purchased or commissioned, or who are not represented in the state art collection. (~~Diversity of individual artists may be represented by scale, style or geographic placement.~~)

(a) Special considerations for selection of projects under the superintendent of public instruction - the school district board of directors may appoint a representative to the agency project committee in order to participate in the selection of artists through the commission's artist resource bank selection process. (~~In some cases, a separate art selection panel will be established by the commission to which the school district board of directors may appoint a representative.~~)

(5) Reviewing of design, execution, placement and acceptance. The commission, in consultation with the director of general administration and/or the directors of state agencies, the superintendent of public instruction, and school district boards of directors, and the boards of regents or trustees of universities, colleges and community colleges, is responsible for reviewing the design, execution, placement and acceptance of the works of art under the art in public places program.

(6) Artist responsibilities. The artists enter into a contract with the commission to create a new work of art or transfer title of an existing work according to the terms of the contract.

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-40-080 Rejection of art. (1) Selections by school districts. The school district board of directors and the superintendent of public instruction may reject the results

of the selection process or reject the placement of a work of art if the work is portable. Works that are integrated into the structure of the building, commissioned for a specific site where the aesthetic integrity of the work is dependent upon the site and/or works that physically cannot be moved without incurring a large expense are not considered portable. The determination as to whether a work of art is portable or not shall be made by the commission in consultation with the school district and artist. If the selection process or a work of art is rejected, the unspent art funds are subsequently not available to the school district for uses other than art. The funds for art and/or works of art ~~((will))~~ may be used in other school districts at the discretion of the commission in consultation with the office of the superintendent of public instruction.

(2) Selections by state agencies and universities, colleges and community colleges. The agency may request the commission to reconsider the selection of an artist or work of art based on the original project ~~((specifications))~~ proposal. On receipt of such a request, the commission will review the project and may meet with the artist, agency representative, member(s) of the art selection panel and commission staff. These participants may elect to reschedule the unspent project, request an alternative design from the artist, or reassign project funds to another artist, or the selected work to an alternative site.

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-40-090 Evaluation methods. The commission ~~((with))~~ may review the art in public places program through reports of the state agencies, common schools, universities, colleges and community colleges on a form provided by the commission, reports submitted by artists and program staff, and by periodic reviews by the commission's visual arts committee.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 30-40-030 Definitions.

Chapter 30-44 WAC GOVERNOR'S ARTS AND HERITAGE AWARDS

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-44-010 ((Purpose)) Scope of chapter. ~~((The purpose of this chapter is to provide the public and the commission's constituents with those rules that apply to the governor's arts awards.))~~ This chapter contains general rules affecting the governor's arts and heritage awards (GAHA) program eligibility, review criteria, and nomination requirements. Further rules are in chapter 30-01 WAC (Washington state arts commission), chapter 30-08 WAC (practice and procedure), and chapter 30-12 WAC (general rules).

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-44-020 Program purpose ((and goals)). ~~The governor's arts awards ((is a program sponsored and administered by the commission. The commission recommends the award recipients to the governor who has final approval authority. The governor's arts awards recognize those individuals and organizations who have contributed significantly to the arts and cultural development))~~ recognizes those individuals and organizations who have contributed significantly to the arts and cultural development of the state of Washington. The governor's heritage awards recognizes those individuals and organizations who have contributed significantly to the cultural heritage and traditional arts of the state of Washington.

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-44-030 Eligibility. In order for the commission to consider an individual or organization for a governor's arts or heritage award, the nominee must:

- (1) Be a current resident of the state of Washington, or have been a resident of the state of Washington during the time the contributions were made and/or achievements accomplished;
- (2) Not have been a previous recipient.

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-44-040 Nomination ((procedures)) form. ~~((Nominations will be made on a form provided by the commission. In addition to the form, nominations should include information outlining the significant achievements and/or contributions of the nominee. The nomination form is available at the commission office.))~~ (1) Public notice of nominations will be made through the media and in other agency publications. Nomination forms are available from the commission and published with the program guidelines.

(2) Nomination forms shall be sent by direct mail to every Washington address on the agency mailing list, and to those who request a nomination form.

(3) All nomination forms must be completed and submitted in the format prescribed by the commission. Nominations must be submitted by the deadline determined by the commission.

(4) The commission may recommend individuals or organizations not nominated in a current year, but who have been nominated in past years. ((The commission may recommend as many recipients as it deems appropriate.))

AMENDATORY SECTION (Amending Order 2, Resolution No. 87-1, filed 5/7/87)

WAC 30-44-050 ((Program procedures)) Nomination review process. ~~((The commission will generally use the following procedures for notification and selection of recipients:~~

(1) The commission will notify the public that nominations are open, including the deadline and a sample of the form. The notification will be made through the use of the commission's mailing lists and notice to the general media.

~~(2))~~ (1) An ad hoc committee of commissioners and/or panel advisors will review the nominations and ~~((make))~~ will present their recommendations to the commission.

~~((3))~~ (2) The commission will review the committee's recommendations for nominations and advise the governor of its decisions. The governor has final approval authority.

~~((4))~~ (3) Following the governor's ~~((acceptance))~~ approval of the award recipients, the staff will make arrangements for the presentation of the awards and notify the recipients of the time and place.

~~((5))~~ (4) Each year the commission will ~~((select one or more works of art to))~~ present to the recipients a certificate, medallion, or work of art in token of their achievement.

~~((6))~~ (5) The governor's arts awards may be suspended for a period of time due to circumstances beyond the commission's control.

NEW SECTION

WAC 30-44-060 Nomination review criteria.

Nominations will be reviewed according to the current guideline criteria to ensure that significant contributions, and/or artistic accomplishments, and/or preservational and promotional achievements are demonstrated.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 30-48-010 Purpose.
- WAC 30-48-020 Definitions.
- WAC 30-48-030 Program purpose and goals.
- WAC 30-48-040 Eligibility.
- WAC 30-48-050 Application review process—
Technical assistance.
- WAC 30-48-060 Application—Community challenge award.
- WAC 30-48-070 Evaluation methods.

**WSR 95-15-080
PERMANENT RULES
STATE INVESTMENT BOARD**

[Filed July 18, 1995, 12:40 p.m.]

Date of Adoption: June 15, 1995.

Purpose: Describes day, time and place for regular monthly meetings of the Washington State Investment Board, to provide additional notice to the public.

Statutory Authority for Adoption: RCW 43.33A.110.

Other Authority: RCW 43.33A.040(2).

Pursuant to notice filed as WSR 95-10-101 on May 3, 1995.

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

July 13, 1995

James F. Parker
Executive Director

CHAPTER 287-01 WAC

BOARD ORGANIZATION AND ADMINISTRATION

NEW SECTION

WAC 287-01-030 Regular board meetings. The regular meetings of the state investment board are held on the third Thursday of each month, beginning at 9:30 a.m. at the board's offices at 2424 Heritage Court S.W., Olympia, Washington 98504-0916.

**WSR 95-15-081
PERMANENT RULES
STATE INVESTMENT BOARD**

[Filed July 18, 1995, 12:42 p.m.]

Date of Adoption: June 15, 1995.

Purpose: To conform the board's code of conduct to the new chapter 42.52 RCW, Ethics In Public Service Act and update the board's code.

Citation of Existing Rules Affected by this Order:
Amending WAC 287-04-031.

Statutory Authority for Adoption: RCW 43.33A.110.

Pursuant to notice filed as WSR 95-10-102 on May 3, 1995.

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

July 13, 1995

James F. Parker
Executive Director

AMENDATORY SECTION (Amending WSR 93-04-008, filed 1/22/93)

WAC 287-04-031 Rules of conduct. This section is promulgated pursuant to RCW 43.33A.110 to ensure compliance with chapter ~~((42-18))~~ 42.52 RCW and the code of conduct, as adopted by the board. All employees of the board and board members must comply with the code of conduct.

(1) "Gifts" and "Thing of Economic Value"

(a) No employee of the board or member of the board shall receive, accept, seek or solicit, directly or indirectly, any gift as defined in ~~((chapter 42-18))~~ RCW 42.52.010(18) if such employee or member of the board has reason to believe that ~~((:))~~ it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the officer or employee, or be considered as part of a reward for action or inaction.

~~((a) The donor would not have given the gift but for the employee's or member's office or position with the board;~~

~~((b) The donor has or is seeking to obtain a contractual or other business or financial relationship with the board;~~

~~((c) The donor has interests which may be affected by the employee's or board's performance or nonperformance of its official duty;~~

~~((d) Except that gifts may be accepted as permitted by Executive Order 92-04 (1992).)~~

(b) No employee of the board or member of the board shall accept gifts, except those specified in RCW 42.52.150 (2) and (5), with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources.

(c) Notwithstanding the above exception found in RCW 42.52.150 (2) and (5), a board member or an employee of

the board who participates in the acquisition of goods and services cannot accept things of economic value from a person who seeks to provide goods or services to the board, except for those items specifically listed in RCW 42.52.-150(4).

(2) No employee of the board or board member may accept honorarium under the circumstances set forth in RCW 42.52.130. An employee or board member may accept honorarium if all of the following are met:

(a) The employee or board member will not be carrying out their agency duties nor engaging in activity which focuses specifically on the board's responsibilities, policies or programs;

(b) The honorarium is not being offered because of the employee's or board member's official position in the board;

(c) The topic is such that it does not appear that the employee or board member could have used information acquired in the course of employment or membership on the board;

(d) The honorarium is not being offered by a person or entity which does business with or can reasonably be expected to seek business with the board; and

(e) No use of government time or resources was used by the employee or board member to produce the materials or prepare for the article, appearance, or item for which the honorarium is being given.

((2))3) Personal investments.

(a) "Permissible investment" means any mutual fund or deposit account, certificate of deposit or money market fund maintained with a bank, broker, or other financial institution, any security publicly traded in an organized market if the interest in the security at acquisition is ten thousand dollars or less or an interest in real estate unless such interest involves a related party transaction.

(b) "Other investment" means any investment not defined as a permissible investment in (a) of this subsection.

(c) "Immediate family" includes the spouse, dependent children, other dependent relatives if living in the household and any other household member, whether or not related.

(d) Board members and employees may purchase "permissible investments" without prior approval.

(e) No employee of the board shall or shall permit any member of his or her immediate family to, purchase ((or sell)) any "other investment," without the written prior approval of the executive director or his or her designee. The executive director shall not purchase ((or sell)) or permit any member of his or her immediate family to purchase ((or sell)) any "other investment," without the prior written approval of the chair or his or her designee who shall report to the board any approval granted or denied ((audit committee of the board)). No member of the board shall or shall permit any member of his or her immediate family to purchase ((or sell)) any "other investment," without the prior written approval of the executive director or his or her designee, who shall report to the board any approval granted or denied ((audit committee of the board)).

(f) No employee of the board or board member shall participate in an LBO or venture capitol IPO of which the board has an interest until such shares are available to the general public.

((3))4) No board member or employee shall participate in any discussion or shall vote in a matter before the board

which involves a business, contract, property, or other substantial investment directly or indirectly held by such person if it is reasonably foreseeable that board action on the matter would confer a benefit to such person by or through the business, contract, property, or investment.

((4))5) No board member or employee shall participate in any discussion or shall vote in a matter before the board if such participation is motivated by something other than the best interests of the board, its members and beneficiaries, in violation of that person's duty of loyalty.

((5))6) No board member or employee shall borrow from investment managers, outside service providers, professional advisors or consultants, banks, or other financial institutions with which the board has a business relationship, except and unless such entities are normally engaged in such lending in the usual course of their business, and then only on terms offered to others under similar circumstances.

((6))7) Confidential information shall be used solely for the board's purposes and under no circumstances revealed to unauthorized persons, except as may be otherwise required to be disclosed as a public record pursuant to the requirements of chapter 42.17 RCW. If a document is subject to disclosure pursuant to chapter 42.17 RCW, there is an affirmative duty to properly release the document upon request.

((7))8) No board member or employee shall divulge state agency or board information or proprietary information in the board's possession, whether labeled confidential or not, to any unauthorized person or in advance of the time prescribed for its authorized issuance, or otherwise making use of, or permitting others to make use of, information not available to the general public.

((8))9) No board member or employee shall use his or her position or employment with the board, or use board facilities, equipment, or supplies, to obtain or attempt to obtain private gain or advantage, either for themselves or for other persons ((especially if a detriment to the board will result)).

((9))10) No board member or employee shall use his or her position or employment with the board, or use board facilities, equipment, or supplies, to assist another in a transaction involving the board, or use his or her influence over the board to obtain or attempt to obtain gain or advantage for the person or entity seeking to transact business with the board.

~~((10) No member of the board or its staff shall, within a period of two years after termination of such service or employment, appear before the board or receive compensation for any services rendered for or on behalf of any person, firm, corporation, or association in relation to any case, proceeding, or application with respect to which such person was directly concerned and in which that person personally participated during the period of his or her service or employment.)~~

(11) No member of the board or its staff shall accept employment or engage in business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position.

~~(12) ((No member of the board or its staff shall have an account with an institutional salesman serving the state.~~

(13)) A board member or employee who is found by the board to have violated this code of conduct may be subject to official reprimand by vote of the board. In the event that the board determines a violation of the code to be so egregious or apparent as to constitute malfeasance, misfeasance, inefficiency, neglect of duty, incapacity, or unfitness to perform his or her fiduciary duties and responsibilities in the exclusive interest of the board and its beneficiaries, and if the offending person is:

(a) A voting board member: The board, in its sole discretion, may refer the matter to the proper appointing authority or the attorney general, as deemed appropriate; or if

(b) A nonvoting board member: The board, in its sole discretion, may take the appropriate steps necessary to and remove the offending member from the board; or if

(c) The executive director: The board, in its sole discretion, may take the appropriate steps to remove the director in compliance with RCW 43.33A.100; or if

(d) An employee of the board governed by the Merit Systems Rules: The executive director may take such disciplinary action as authorized under Title 356 WAC up to and including termination of employment; or if

(e) An exempt employee of the board: The executive director may take whatever disciplinary action deemed appropriate, up to and including termination of employment.

(13) The board may refer the alleged violation to the executive ethics board for further investigation as provided under RCW 42.52.360.

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

WSR 95-15-101
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Filed July 19, 1995, 9:44 a.m.]

Date of Adoption: July 19, 1995.

Purpose: To amend procedures for allocation and allow the director of agriculture to waive application requirements and adjust the basic allocation for area fairs, beginning January 1, 1994, and ending June 30, 1997.

Citation of Existing Rules Affected by this Order: Amending chapter 16-700 WAC.

Statutory Authority for Adoption: RCW 15.76.180.

Pursuant to notice filed as WSR 95-12-091 on June 7, 1995.

Effective Date of Rule: Thirty-one days after filing.
July 19, 1995

William E. Brookreson
for Jim Jesernig
Director

NEW SECTION

WAC 16-700-011 Fair reorganization. Beginning January 1, 1994, and until June 30, 1997, the director may waive applications requirements, as defined in WAC 16-700-010 and adjust the basic annual allocation as defined in

WAC 16-700-021, when a county fair reorganizes and makes application for allocation from the fair fund as an area fair.

WSR 95-15-102
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Filed July 19, 1995, 9:45 a.m.]

Date of Adoption: July 19, 1995.

Purpose: To establish a commodity commission to represent Puget Sound gillnet salmon license holders with authority to collect assessments to carry out activities in promotion, research, and public information programs and to take necessary action to prevent unfair trade practices.

Citation of Existing Rules Affected by this Order: This is a new chapter 16-585 WAC, Puget Sound Gillnet Salmon Commission.

Statutory Authority for Adoption: RCW 15.65.050.

Other Authority: Chapter 16.65 WAC [15.65 RCW].

Pursuant to notice filed as WSR 95-05-071 on February 14, 1995.

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

July 19, 1995

William E. Brookreson
for Jim Jesernig
Director

Chapter 16-585 WAC
PUGET SOUND GILLNET SALMON COMMISSION

NEW SECTION

WAC 16-585-010 Definition of terms. For the purpose of this marketing order:

(1) "Act" means the Washington Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

(2) "Affected area" means Western Washington.

(3) "Affected commodity" means salmon harvested pursuant to Washington, Puget Sound commercial salmon gillnet license or with gear now or hereafter lawfully permitted for use pursuant to Puget Sound commercial salmon gillnet licenses.

(4) "Affected producer" means any person who is a commercial harvester of commercial quantities of salmon taken pursuant to Washington state Puget Sound commercial salmon gillnet license or with gear lawfully permitted for use pursuant to Puget Sound commercial salmon gillnet licenses in the waters of the state of Washington in areas lawfully permitted for such licenses, including in and adjacent to the areas of Puget Sound, the San Juan Islands, Georgia Strait, and the Strait of Juan de Fuca east of Cape Flattery.

(5) "Commercial quantity" means any Puget Sound salmon produced by an affected producer which producer produces an annual quantity greater than zero and sufficient for sale and entry into the stream of commerce for salmon.

(6) "Commission" means the Puget Sound gillnet salmon commission formed pursuant to this order.

(7) "Department" means the department of agriculture of the state of Washington.

(8) "Director" means the director of agriculture of the state of Washington or the duly appointed representative.

(9) "Fiscal year" means the twelve-month period beginning with January 1 of any year and ending with December 31st, both dates being inclusive.

(10) "Order" means this marketing order.

(11) "Person" means any person, firm, association, or corporation.

(12) "Production area" means the waters of the state of Washington in and adjacent to the areas of Puget Sound, the San Juan Islands, Georgia Strait, and the Strait of Juan de Fuca east of Cape Flattery and in which fishing is lawfully permitted pursuant to a Puget Sound commercial salmon gillnet license.

(13) "Puget Sound gillnet salmon" means salmon taken in the waters of the state of Washington in and adjacent to the areas of Puget Sound, the San Juan Islands, Georgia Strait, and the Strait of Juan de Fuca east of Cape Flattery, or other lawful area permitted pursuant to Puget Sound commercial salmon gillnet license and taken pursuant to Washington state Puget Sound commercial gillnet license or with gear lawfully permitted for use pursuant to Puget Sound commercial salmon gillnet license.

(14) "Puget Sound gillnet salmon commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of this marketing order.

(15) "Purchase" means obtain through sale, exchange, barter, or trade.

(16) "Salmon" means Puget Sound salmon and salmon products which have been harvested by affected producers as defined in this marketing order. "Salmon" does not include privately farmed or cultivated salmon or salmon products nor salmon harvested pursuant to license issued by the various Treaty Indian Tribes. Nothing herein shall prevent the board from engaging in cooperative marketing of tribal and nontribal salmon.

(17) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade, whether directly or through agents.

(18) "Handler" or "processor" shall mean those who purchase, process for market, or otherwise obtain from affected producers the affected commodity for further handling or sale in the course of commerce. "Handler" and "processor" includes those who catch and then obtain from themselves, process, or further handle for subsequent direct sale to the public the affected commodity after having themselves produced that commodity as affected producers.

(19) "Process" means to prepare the affected commodity or product therefrom by filleting, heading, gutting, canning, cooking, smoking, fermenting, dehydrating, drying or packaging.

(20) "Affected unit" means one pound landed weight of salmon.

NEW SECTION

WAC 16-585-020 Puget Sound gillnet salmon commodity board. (1) Administration. The provisions of this marketing order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) Board membership. The board shall consist of seven members, six of whom shall be affected producers. The director shall appoint one additional member who is not

an affected producer to represent the department and the general public.

(3) Qualifications for board membership. The producer members of the board shall be practical producers of the affected commodity and shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actually engaged in producing such commodity within the state of Washington for a period of five years and has during that period derived a substantial portion of their income therefrom and who is not primarily engaged in business directly as a handler or other dealer. The qualification of members of the board as herein set forth must continue during their terms of office.

(4) Term of office.

(a) The term of office for members of the board shall be three years unless the marketing order is terminated earlier. One-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically as follows: Affected producers shall have positions one through six and, the member appointed by the director shall have position seven.

(c) The term of office for the initial board members shall be as follows:

Positions one and four shall be for one year from the date of first election or until the first subsequent annual election is held.

Positions two and five shall be for two years from the date of first election or until the second subsequent annual election is held.

Positions three and six shall be for three years from the date of first election or until the third subsequent annual election is held.

(5) Nominations for election of board members. Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation in Western Washington not less than ten days in advance of the date of such meeting; and, in addition, written notice of every such meeting shall be given to all affected producers according to the list maintained by the director pursuant to RCW 15.65.200. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

Nominations may also be made within five days after any such meeting by written petition filed with the director signed by not less than five affected producers entitled to have participated in said meeting.

If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the vacancy by mail to all affected producers. The notice shall call for nominations in accordance with this marketing order and shall give the final date for filing nominations which shall not be less than twenty days after the notice was mailed.

When only one nominee is nominated for any position on the board the director shall deem that said nominee satisfies the requirements of the position and then it shall be deemed that said nominee has been duly elected.

(6) Election of board members.

(a) The members of the board shall be elected by secret mail ballot held during the month of February of each year under the supervision of the director. Producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the affected area defined in this marketing order not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each producer entitled to vote whose name appears upon the list thereof compiled and maintained by the director in accordance with RCW 15.65.200. Any other producer entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications. Nonreceipt of a ballot by any person entitled to vote shall not invalidate the election of a board member.

(7) Removal of board members. A board member may be removed by a vote of the board if that member fails to attend any three consecutive meetings of the board, duly noticed.

(8) Vacancies prior to election. In the event of a vacancy on the board, the board shall appoint a qualified person to fill the unexpired term.

(9) Quorum. A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(10) Board compensation. No member of the board shall receive any salary or other compensation, but each member may be compensated for each day in actual attendance at or traveling to and from meetings of the board or on special assignment for the board in accordance with RCW 43.03.230 together with travel expenses in accordance with RCW 43.03.050 and 43.03.060. A board member may, in the discretion of the board, serve and be compensated as an employee of the commission.

(11) Powers and duties of the board. The board shall have the following powers and duties:

(a) To administer, enforce, and control the provisions of this order as the designee of the director;

(b) To elect a chairperson and such other officers as it deems advisable;

(c) To employ and discharge at its discretion such assistance and personnel, including attorneys engaged in private practice of law, subject to the approval and supervision of the attorney general, as the board determines necessary and proper to carry out the purpose of the order and to effectuate the policies of the act;

(d) To pay from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration, and enforcement of the order. Such expenses may be paid by check, draft, or voucher in such form and in such manner and upon the signature of such person as the board may prescribe;

(e) To reimburse any applicant who has deposited funds with the director in order to defray the costs of formulating the order;

(f) To establish a fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day;

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, disbursements, moneys, and other financial transactions made and done pursuant to this order. Such records, books, and accounts shall be audited as provided in the act subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor, and each member of the board;

(h) To require bond of board members and employees of the board in positions of trust in an amount the board deems necessary. Premiums for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington;

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year;

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books, and minutes of board meetings shall be kept at such headquarters;

(k) To recommend to the director, administrative rules, orders and amendments thereto for the exercise of his or her power in connection with this order;

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of this order and the act, along with the necessary authority and procedure for obtaining such information;

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction, or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon the person by the act or this order;

(n) To confer with and cooperate with the legally constituted authorities of other states of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements, or orders;

(o) To authorize the members of the commodity board, or their agents or designees, to participate in federal or state hearings or other proceedings concerning regulation of the manufacture, distribution, sale, or use of any pesticide as defined in RCW 15.38.030(1) or any agricultural chemical which is of use or potential use in producing the affected commodity, and may authorize the expenditure of commission funds for this purpose;

(p) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section;

(q) To sue or be sued;

(r) To borrow money and incur indebtedness.

(12) Procedures for board.

(a) The board shall hold regular meetings, at least semiannually, and such meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act).

(b) The board shall hold an annual membership meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by notifying the regular news media.

(c) The board shall establish by resolution, the time, place, and manner of calling special meetings of the board with reasonable notice to the members.

NEW SECTION

WAC 16-585-030 Marketing order purposes. This marketing order is to promote the general welfare of the state, to enable producers of commercially harvested Puget Sound gillnet salmon to help themselves establish orderly, fair, sound, efficient, unhampered marketing and to fulfill the purposes of the act. To carry out the purposes of this marketing order, the board may provide for programs in the following areas:

(1) Establish plans and conduct programs for advertising, labeling, sales, promotion, public relations, and consumer education, and/or other programs for maintaining present markets and/or creating new or larger markets for Puget Sound commercially harvested gillnet salmon and salmon products. Such programs shall be directed toward increasing the sale, improving the markets, or promoting Puget Sound gillnet salmon and salmon products without reference to any particular brand or trade name and shall neither make use of false or unwarranted claims in behalf of commercial gillnet salmon products nor disparage the quality, value, sale, or use of any other agricultural commodity.

(2) Provide for research in the production, management, harvest, harvest management, harvest selectivity, harvest regulation or proposed regulation, protection against harvest impact on habitat or other species, processing and/or marketing of commercial gillnet salmon products and expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried on by experiment stations of Washington State University or the University of Washington, but if in the judgment of the board, said experiment stations do not have the facilities for a particular project or if some other research agency has better facilities therefore, the project may be carried out by other research agencies selected by the board.

(3) Provide for marketing information and services to affected producers.

(4) Investigate and take necessary action to prevent unfair trade practices and to correct where possible, trade practices which hinder marketing of Washington gillnet salmon products.

(5) Allocation of assessments collected from affected producers shall be made by the board using the following formula:

(a) All operating costs will be borne by all affected producers.

(b) All programs, plans, research, and marketing deemed by the board to be in the collective best interest of all affected producers, regardless of salmon or salmon product produced, will be borne by all affected producers.

NEW SECTION

WAC 16-585-040 Assessments and collections. (1) The assessment on all commercial gillnet salmon harvested in the production area shall be as follows: Two percent of the landed value of salmon shall be assessed to the producer.

(2) For the purpose of collecting assessments, the board may require the person subject to the assessment or the person responsible for collection of producer assessments to give adequate assurance or security for its collection and/or payment.

(3) For the purpose of assuring and verifying compliance with the recordkeeping and reporting requirements of this order and the act, the director and the board through its duly authorized employees, shall have access to and the authority to audit and examine such records.

(4) All reports and records furnished or submitted by producers, handlers or processors to, or obtained by, the board or employees of the board which contain data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular producer or handler or processor from whom received, shall be treated as confidential, and the reports shall not be disclosed to board members and shall at all times be kept in the custody and under the control of one or more employees of the board who shall not disclose such information to any person other than the director, or his authorized agents. Disclosure of compilations of general reports from data and information submitted by producers is authorized subject to the prohibition of revealing individual producers' or handlers' identities or operations.

(5) Any moneys collected or received by the board pursuant to the provisions of this marketing order during or with respect to any year, may be refunded on a pro rata basis at the close of such year or at the close of such period as the board determines to be reasonably adapted to effectuate the declared policies of the act and the purposes of this marketing order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding year.

(6) Any due and payable assessment herein levied in such specified amount as provided under the act and this marketing order and any assessment which is required hereunder to be collected, shall constitute a personal debt of every person so assessed, responsible for collection, or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to, add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the

collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent plus the costs and expenses of suit and a reasonable attorney's fee therein, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

(7) Assessments may, with the concurrence of the affected producer, be collected prospectively.

NEW SECTION

WAC 16-585-050 Time—Place—Method for payment and collection of assessments—Landing reports. The following procedure is established for the reporting and paying of assessments:

(1) At the time of salmon landing, first sale and/or completion of a Washington department of fish and wildlife landing receipt (fish ticket), the producer shall pay and the handler shall collect and deduct from the price paid to the producer the producer's two percent assessment on the landed value of the salmon. This collection and deduction shall be accurately reported on the fish ticket.

(2) No later than thirty days from the last day of any month in which any Puget Sound salmon has been obtained by a handler, each such handler shall:

(a) Remit to the board all sums required to be collected and deducted from affected producers upon their landings during that month for a total of two percent of the landed value of Puget Sound gillnet salmon obtained by that handler during that month.

(b) Provide to the board with such remittance a report indicating the full name, address, and commercial salmon fishing license number of each affected producer from whom the said handler has purchased or obtained affected commodity during the said month and for each such affected producer, indicate the landed value of the salmon purchased or obtained, and the amount of the producer's two percent assessment which has been collected from that producer.

(3) The board may require cold storage facilities storing Puget Sound gillnet salmon to file with the board information and reports regarding the amount of the affected commodity in storage, the date of receipt, and the name, address, and commercial salmon fishing license number of each such owner, and may require that such salmon not be shipped from a cold storage facility until the facility has been notified by the commission that the commodity owner has paid the commission for any assessments imposed by this marketing order.

(4) All assessments due from affected producers under this order shall be payable at the time of completion of a Washington department of fish and wildlife landing receipt (fish ticket) and shall be paid by the producer and collected by the handler at that time and shall be remitted to the board as provided in this order.

(5) Producer-handlers shall pay the producer assessments and shall fulfill all the responsibilities of handlers and producers under this order including the collection, recordkeeping, reporting, and remittance of assessments.

(6) When, in the judgment of the board, a particular handler or producer-handler has demonstrated its unreliability to make the collection or remittance of the producer assessments called for in this order, the board may require that said handler or producer-handler not transport, carry, ship, sell, market or otherwise handle or dispose of any of the affected commodity until every due and payable assessment provided for under this order has been paid to the board and the receipt issued.

NEW SECTION

WAC 16-585-060 Obligations of the board. Obligations incurred by the board or employees or agents thereof pertaining to their performance or nonperformance or misperformance of any matters or things authorized, required, or permitted them by the act or this order, and any other liabilities or claims against them or any of them shall be enforced in the same manner as if the whole organization under this order were a corporation. No liability for the debts or actions of the board, employees, or agents incurred in their official capacity under this order shall exist either against the board, officers, employees, and/or agents in their individual capacity, nor against the state of Washington or any subdivision or instrumentality thereof nor against any other organization, administrator, or board (or employee or agent thereof) established pursuant to this act or the assets thereof. The board, and its agents and employees, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other board, member of the board, or other person. The liability of the members of the board shall be several and not joint and no member shall be liable for the default of any other member.

NEW SECTION

WAC 16-585-070 Termination of this order. This order shall be terminated if the director finds that fifty-one percent by number and fifty-one percent by volume of production of the affected producers assent to such action. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is assented to whenever twenty percent by number or twenty percent by volume of production of the affected producers file written applications with the director for termination. The termination shall become effective at the end of the fiscal year.

NEW SECTION

WAC 16-585-080 Effective time. This marketing order for Puget Sound salmon shall become effective on or after April 1, 1995, and shall remain in full force and effect until terminated under the provisions of the act.

NEW SECTION

WAC 16-585-090 Separability. If any provisions hereof are declared invalid, or the applicability thereof to any person, circumstances, or thing is held invalid, the validity of the remainder hereof or of the applicability thereof to other person, circumstances, or thing shall not be affected thereby.

PERMANENT

WSR 95-14-060
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3866—Filed June 28, 1995, 2:06 p.m., effective July 1, 1995,
12:01 a.m.]

Date of Adoption: June 28, 1995.

Purpose: Proposed amendments implement the legislative changes to the MI and MI [MN] program, to correct a typographical error and to move the rules concerning cataracts from WAC 388-86-095 to 388-86-030. Inform department staff of the legislated MI and MN program changes. Restricts MI covered services. Increases the MI EMER from \$1500 to \$2000. Restricts MI certification to three months. Eliminates the MN program for AFDC-related adults effective December 31, 1995.

Citation of Existing Rules Affected by this Order: Amending WAC 388-86-005 Services available to recipients of categorically needy medical assistance, 388-86-030 Vision care, 388-86-073 Occupational therapy, 388-86-075 Outpatient and emergency care, 388-86-090 Physical therapy, 388-86-098 Speech therapy services, 388-500-0005 Medical definitions, 388-503-0370 Medically indigent eligible persons, 388-519-1905 Base period, 388-518-1805 LCP-MI eligibility, 388-518-1810 LCP-MI emergency medical expense requirement (EMER), 388-518-1840 LCP-MI spenddown, 388-521-2140 Effective date for the medically indigent, and 388-529-2950 Scope of care—Medically indigent.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: Section 209.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Proposed amendments implement the legislative changes to the MI and MN program, correct a typographical error, and move rules concerning cataracts from WAC 388-86-095 to 388-86-030.

Effective Date of Rule: July 1, 1995, 12:01 a.m.

June 28, 1995

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AMENDATORY SECTION (Amending Order 3620, filed 8/11/93, effective 9/11/93)

WAC 388-86-005 Services available to recipients of ((categorically)) categorically needy medical assistance. (1) The department shall provide the following Title XIX mandatory services:

- (a) Early and periodic screening diagnosis and treatment services to an eligible person twenty years of age or under;
- (b) Family planning services;
- (c) Federally qualified health center services;
- (d) Home health agency services;
- (e) Inpatient and outpatient hospital care;
- (f) Medicare certified rural health clinic services;
- (g) Other laboratory and x-ray services;
- (h) Skilled nursing home care;

- (i) Certified registered nurse practitioner services; and
- (j) Physicians' services in the office or away from the office as needed for necessary and essential medical care.

(2) The department shall provide the following Title XIX optional services:

- (a) Anesthesia services;
- (b) Blood;
- (c) Chiropractic services;
- (d) Drugs and pharmaceutical supplies;
- (e) Eyeglasses and examination;
- (f) Hearing aids and examinations;
- (g) Hospice services;
- (h) Licensed midwife services;
- (i) Maternity support services;
- (j) Oxygen;
- (k) Personal care services;
- (l) Physical therapy services;
- (m) Private duty nursing services;
- (n) Surgical appliances;
- (o) Prosthetic devices and certain other aids to mobility;

and

- (p) Dental services.

(3) The department shall limit organ transplants to the cornea, heart, heart-lung, kidney, kidney-pancreas, liver, pancreas, single lung, and bone marrow.

(4) The department shall provide treatment, dialysis, equipment, and supplies for acute and chronic nonfunctioning kidneys when the client is in the home, hospital, or kidney center as described under WAC 388-86-050(12).

(5) The department shall provide detoxification and medical stabilization to chemically using pregnant women in a hospital.

(6) The department shall provide detoxification of acute alcohol or other drug intoxication only in a certified detoxification center or in a general hospital having a detoxification provider agreement with the department.

(7) The department shall provide outpatient chemical dependency treatment in programs qualified under chapter 275-25 WAC and certified under chapter 275-19 WAC or its successor.

(8) For services available under the:

(a) Limited casualty program-medically needy, see chapter ((388-99)) 388-529 WAC; and

(b) Limited casualty program-medically indigent, see chapter ((388-100)) 388-529 WAC.

(9) The department may require a second opinion and/or consultation before the approval of any elective surgical procedure.

(10) The department shall designate diagnoses that may require surgical intervention:

(a) Performed in other than a hospital in-patient setting; and

(b) Requiring prior approval by the department for a hospital admission.

(11) The department shall assure the availability of necessary transportation to and from medical services covered under a client's medical program.

AMENDATORY SECTION (Amending Order 3711, filed 3/22/94, effective 4/22/94)

WAC 388-86-030 (~~(Eyeglasses and examinations)~~)
Vision care. (1) The medical assistance administration (MAA) shall reimburse a provider for medically necessary eye care services for a client:

(a) Twenty-one years of age or over, one each of the services listed under subsection (2) of this section, in a twenty-four-month period; or

(b) Twenty years of age or under, one each of the services listed under subsection (2) of this section, in a twelve-month period.

(2) The MAA's eye care services shall include:

(a) Eye examinations;

(b) Refractions;

(c) Fitting fees; and

(d) Eyeglass lenses and/or frames.

(3) The department shall not apply the time period limitation (~~does not apply~~) when the:

(a) Eye examination is medically necessary for diagnosing and/or treating a medical condition; or

(b) Client described under subsection (5) of this section requires replacement glasses due to loss or breakage.

(4) MAA shall limit the choice of frames and lenses to frames and lenses listed under contract in the current MAA numbered memoranda and/or MAA provider's billing instructions on that subject.

(5) MAA shall only reimburse for replacement of broken or lost eyeglasses for a:

(a) Client of the division of developmental disabilities;

(b) Child twenty years of age or under; or

(c) Client residing in an institution.

(6) MAA shall reimburse for replacement of lenses for a change in refractive error in sphere, cylinder, or spherical equivalent of a plus or minus of one diopter and which result in an improvement of visual acuity. The change in prescription shall not apply to providing separate pairs of eyeglasses for distance and reading or for two pairs of eyeglasses in place of multifocals.

(7) MAA shall not reimburse a provider for eyeglasses when the client's prescription is over two years old.

(8) MAA shall reimburse for:

(a) Specialized lenses only for conditions as listed in MAA provider's billing instructions; and

(b) Contact lenses:

(i) Only when medically justified; and

(ii) As allowed in a twelve-month period with the conditions specified in MAA provider's billing instructions.

(9) MAA shall consider cataract surgery medically necessary without prior authorization when the client has a documented cataract with:

(a) The best correctable visual acuity in the affected eye is 20/50 or worse as measured on a snellen test chart; or

(b) Other visual impairment conditions which include:

(i) Double vision;

(ii) Phacogenic glaucoma;

(iii) Phacogenic uveitis;

(iv) Phacoanaphylactic endophthalmitis;

(v) Intraocular foreign body;

(vi) Ocular trauma; or

(vii) Dislocated or subluxated lens causing glaucoma, monocular diplopia, aphakia, myopia, or astigmatism.

(10) MAA shall consider cataract surgery as a nonemergent procedure, except when the client is determined statutorily blind as defined under WAC 388-511-1105 (1)(b).

(11) The provider shall document and maintain in the client's record medical justification of the eye care services.

~~((40))~~ (12) Except for services as defined in WAC 388-86-027, the department shall not permit group screening for eyeglasses.

~~((44))~~ (13) The department shall reimburse for eye care services provided to clients eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs; or

(b) Medically needy program(~~or~~

~~(c) Medically indigent program only as treatment for emergent services as specified in MAA provider's billing instructions).~~

~~((42))~~ (14) The department shall not cover orthoptics and visual training therapy (~~are not covered~~). See WAC 388-86-200.

AMENDATORY SECTION (Amending Order 3714, filed 3/9/94, effective 4/9/94)

WAC 388-86-073 Occupational therapy. (1) The department shall pay for occupational therapy when the occupational therapy is provided:

(a) By a licensed occupational therapist;

(b) By a licensed occupational therapy assistant supervised by a licensed occupational therapist; or

(c) In schools, by an occupational therapy aide trained and supervised by a licensed occupational therapist.

(2) The department shall pay for occupational therapy:

(a) Effective September 1, 1993, as part of an outpatient treatment program for adults and children;

(b) By a home health agency as described under WAC 388-86-045;

(c) As part of the physical medicine and rehabilitation program as described under WAC 388-86-112;

(d) In a neuromuscular center; or

(e) By a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

(3) The department shall not pay for occupational therapy when payment for occupational therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services or nursing facility services.

(4) The department shall pay for the following occupational therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

(a) One occupational therapy assessment;

(b) Two durable medical equipment needs assessments;

(c) Twelve occupational therapy sessions;

(d) Twenty-four additional outpatient occupational therapy sessions if the diagnosis is associated with:

(i) A medically necessary condition for developmentally delayed clients;

(ii) Surgeries involving extremities:

(A) Fractures; or

- (B) Open wounds with tendon involvement.
- (iii) Intracranial injuries;
- (iv) Burns;
- (v) Traumatic injuries;
- (vi) Cerebral palsy;
- (vii) Downs Syndrome;
- (viii) Meningomyelocele;
- (ix) Severe oral/motor problems:
 - (A) Dyspraxia;
 - (B) Cleft palate and/or cleft lip; or
 - (C) That interfere with adequate nutrition.
- (x) Symptoms involving nervous and musculoskeletal systems:

- (A) Abnormality of gait; or
- (B) Lack of coordination; or
- (xi) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing services, but continues to require specialized outpatient therapy.

(e) Additional one hundred twenty-four outpatient occupational therapy sessions if the condition is post-surgery diplegic/congenital diplegia; and

(f) Additional sessions when requested and approved through department of health's children with special health care needs program;

(g) Subject to department approval, additional occupational therapy services regardless of diagnosis when such services are medically necessary.

(5) For the purposes of this section, a "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(6) The department shall pay for occupational therapy provided to a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age or younger and referred by a screening provider under the early and periodic screening, diagnosis and treatment program/healthy kids program as described under WAC 388-86-027; or

(ii) Receiving home health care services as described under WAC 388-86-045.

~~((e) Medically indigent program as part of the treatment program under home health care services as described under WAC 388-86-045))~~

(7) The department shall pay for occupational therapy provided to a client receiving services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

AMENDATORY SECTION (Amending Order 2649, filed 7/8/88)

WAC 388-86-075 Outpatient and emergency care.

~~((+))~~ The department shall require no authorization for categorically needy or limited casualty program-medically needy ~~((recipients))~~ clients to receive outpatient service, emergent outpatient surgical care, and other emergency care performed on an outpatient basis in a hospital. The provider shall present justification for the service with the request for payment.

~~((2) A recipient of the limited casualty program-medically indigent shall have medical consultant approval for emergency room services.))~~

AMENDATORY SECTION (Amending Order 3714, filed 3/9/94, effective 4/9/94)

WAC 388-86-090 Physical therapy. (1) The department shall pay for physical therapy as an outpatient service when:

(a) The attending physician prescribes physical therapy;

(b) A licensed physical therapist or physiatrist, a physical therapist assistant supervised by a licensed physical therapist, or, in schools, a physical therapy aide trained and supervised by a licensed physical therapist provides the treatment; and

(c) The therapy assists the client:

(i) In avoiding hospitalization or nursing facility care; or

(ii) In becoming employable; or

(iii) Who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or

(iv) As part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.

(2) The department shall pay for the following physical therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

(a) One medical diagnostic evaluation;

(b) Twelve physical therapy sessions; and

(c) Twenty-four additional outpatient sessions, when the services are for:

(i) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing services but continues to require specialized outpatient therapy; or

(ii) Medically necessary conditions for developmentally delayed clients;

(iii) Surgeries involving extremities:

(A) Fractures;

(B) Open wounds with tendon involvement.

(iv) Intracranial injuries;

(v) Burns;

(vi) Cerebral palsy;

(vii) Downs Syndrome;

(viii) Meningomyelocele;

(ix) Traumatic injuries; or

(x) Symptoms involving nervous and musculoskeletal systems with abnormality of gait and lack of coordination.

(d) Additional sessions when requested and approved through department of health's children with special health care needs program;

(e) Additional one hundred twenty-four outpatient physical therapy sessions if the condition is post-surgery diplegic/congenital diplegia; and

(f) Subject to department approval, additional physical therapy services regardless of diagnosis when such services are medically necessary.

(3) For the purposes of this section, "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(4) The department shall not pay for physical therapy when payment for physical therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services and nursing facility services.

(5) The department shall pay for outpatient physical therapy for a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age or under and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program/healthy kids program as described under WAC 388-86-027; or

(ii) Receiving home health care services as described under WAC 388-86-045.

~~((c) Medically indigent program when receiving home health care services as described under WAC 388-86-045.))~~

(6) The department shall pay for outpatient physical therapy for a client receiving services provided by a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

AMENDATORY SECTION (Amending Order 3714, filed 3/9/94, effective 4/9/94)

WAC 388-86-098 Speech therapy services. (1) The department shall pay for speech therapy for conditions which are the result of medically recognized diseases and defects.

(2) The department shall pay for speech therapy when the services are provided:

(a) By a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American Speech, Hearing and Language Association;

(b) By a person who completed the equivalent educational and work experience necessary for such a certificate; or

(c) In schools as described under WAC 388-86-022, by a person:

(i) Who has completed the academic program and is acquiring supervised work experience to qualify for a certificate of clinical competence from the American speech, hearing and language association; or

(ii) Trained and supervised by a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American speech, hearing and language association or a person who has completed the equivalent educational and work experience necessary for such a certificate.

(3) The department shall pay for the following speech therapy services in a calendar year when the health professional determines the services are medically appropriate:

(a) One medical diagnostic evaluation;

(b) Twelve speech therapy sessions;

(c) Twenty-four additional speech therapy sessions if the speech therapy service is for:

(i) Medically necessary conditions for developmentally delayed clients;

(ii) Cerebral Palsy;

(iii) Severe oral/motor problems:

(A) Dyspraxia;

(B) Cleft palate and/or cleft lip; or

(C) That interfere with adequate nutrition.

(iv) Meningomyelocele;

(v) Neurofibromatosis;

(vi) Downs Syndrome;

(vii) Traumatic head/brain injury (TBI);

(viii) Cerebral vascular accident (recent only) of dominant hemisphere; or

(ix) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing, but continues to require specialized outpatient therapy.

(d) Subject to department approval, additional speech therapy services regardless of diagnosis when such services are medically necessary.

(4) The department shall not pay for speech therapy when the speech therapy payment is part of the reimbursement for another treatment program including, but not limited to:

(a) Hospital inpatient diagnosis related group services; and

(b) Nursing facility services.

(5) The department shall pay for speech therapy provided to a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age and under and referred by a screening provider under the early and periodic screening, diagnosis and treatment program/healthy kids program; or

(ii) Receiving home health care services as described under WAC 388-86-045.

~~((c) Medically indigent program when receiving home health care services as described under WAC 388-86-045.))~~

(6) The department shall pay for speech therapy provided to a client receiving medical services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-500-0005 Medical definitions. Unless defined in this chapter or specifically defined in other chapters of the *Washington Administrative Code*, the department shall use definitions found in the *Webster's New World Dictionary*. This section contains definitions of words and phrases the department uses in rules for medical programs. Definitions of words used for both medical and financial programs are defined under WAC 388-22-030.

"**Application**" for eligibility for medical programs means a written request to the department of social and health services (DSHS) on a department form, from the applicant, an authorized representative, or if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant.

"**Assignment Medicare**" means the method by which the provider receives payment for services under Part B of Medicare.

"Assignment of rights" means the client gives the state the right to payment and support for medical care from a third party.

"Assistance unit" means a person or members of a family unit who are eligible for medical care.

"Authorization" means official approval for department action.

"Base period" means the time period used in the limited casualty program which corresponds with the months considered for eligibility.

"Beneficiary" means an eligible person who receives:

- * A federal cash Title XVI benefit; and/or
- * State supplement under Title XVI; or
- * Benefits under Title XVIII of the Social Security Act.

"Benefit period" means the time period used in determining whether Medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. The benefit period ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary may receive. Benefit period also means a "spell of illness" for Medicare payments.

"Cabulance" means a for-hire vehicle designed and used to transport a person confined to a wheelchair or persons otherwise physically restricted.

"Carrier" means an organization contracting with the federal government to process claims under Part B of Medicare.

"Categorical assistance unit (CAU)" means one or more family members whose eligibility for medical care is determined separately or together based on categorical relatedness.

"Categorically needy" means the status of a person who is eligible for medical care under Title XIX of the Social Security Act and is:

- * A client receiving or eligible to receive cash assistance under:
 - * Aid to families with dependent children (AFDC);
 - * Supplemental security income (SSI), including a grandfathered person and a person with an essential spouse:
 - * State supplement;
 - * Continuing state-funded cash assistance who is blind or disabled under SSI criteria, as described under WAC 388-511-1105; or
 - * Special categories.
 - * A financially eligible person under twenty-one years of age who would be eligible for AFDC but does not qualify as a dependent child and who is in:
 - * Foster care;
 - * Subsidized adoption;
 - * A nursing facility or intermediate care facility for mentally retarded; or
 - * An approved inpatient psychiatric facility.
 - * A person who would be eligible for cash assistance except for the person's institutional status.
 - * A person who is SSI categorically related and would not be eligible for cash assistance if the person was not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap.

* A qualified severely impaired disabled person under sixty-five years of age who works.

* A person during a temporary period who lost AFDC because of increased earnings, increased hours, loss of earned income disregards, or by receiving child or spousal support payments.

* A pregnant woman:

* Who meets AFDC financial eligibility standards;

* Who would qualify for AFDC if the baby was already born;

* Whose family income does not exceed one hundred eighty-five percent of the federal poverty level; or

* Who was eligible for and receiving Medicaid while pregnant continues to be eligible through a sixty-day postpartum period that extends through the month that contains the sixtieth day after birth.

* An infant until the infant's first birthday when the infant lives with the mother and the mother was Medicaid eligible at the time the infant was born;

* An infant under one year of age whose family income does not exceed one hundred eighty-five percent of the federal poverty level;

* A child under six years of age or until the child is no longer an inpatient if the inpatient stay began before six years of age and whose family income does not exceed one hundred thirty-three percent of the federal poverty level.

* A child born after September 30, 1983, who has attained six years of age or until the child is no longer an inpatient if the inpatient stay began before eighteen years of age, but not attained eighteen years of age whose family income does not exceed one hundred percent of the federal poverty level.

* A child up to eighteen years of age or until the child is no longer an inpatient if the inpatient stay began before eighteen years of age, born before September 30, 1983, with income allowed by AFDC.

* A certain widow, widower, and other qualified person who fails to meet SSI standards because of Social Security coverage or increase in Social Security coverage.

* A Medicare-eligible person whose income does not exceed one hundred percent of the federal poverty level and whose resources do not exceed twice the SSI resource eligibility level.

* A disabled working person entitled to enroll in Medicare Part A, whose income does not exceed two hundred percent of the federal poverty level and whose resources do not exceed twice the SSI resource eligibility level.

* An alien as defined under WAC 388-510-1020; or

* A person whose categorical eligibility is protected by statute.

"Children's health program" means a state-funded medical program for children under eighteen years of age:

* Whose family income does not exceed one hundred percent of the federal poverty level; and

* Who are not otherwise eligible under Title XIX of the Social Security Act.

"Client" means an applicant for or recipient of DSHS medical care programs.

"Coinsurance-Medicare" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which Medicare does not pay. Under Part

A, coinsurance is a per day dollar amount. Under Part B, coinsurance is twenty percent of reasonable charges.

"**Community services office (CSO)**" means an office of the department which administers social and health services at the community level.

"**Copayment**" means a fixed dollar amount that is the responsibility of the client.

"**Couple**" means, for the purposes of an SSI-related client, an SSI-related client living with a person of the opposite sex and both presenting themselves to the community as husband and wife. The department shall consider the income and resources of such couple as if the couple were married.

"**Deductible-Medicare**" means an initial specified amount that is the responsibility of the client.

* "**Part A of Medicare-inpatient hospital deductible**" means an initial amount of the medical care cost in each benefit period which Medicare does not pay.

* "**Part B of Medicare-physician deductible**" means an initial amount of Medicare Part B covered expenses in each calendar year which Medicare does not pay.

"**Delayed certification**" means a department approval of a person's eligibility for medicaid made after the established application processing time limits.

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

"**Early and periodic screening, diagnosis and treatment (EPSDT)**" also known as the "healthy kids" program, means a program providing early and periodic screening, diagnosis and treatment to persons under twenty-one years of age who are eligible for Medicaid or the children's health program.

"**Electronic fund transfers**" means automatic bank deposits to a client's account.

"**Emergency medical condition**" means a medical condition (including labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- * Placing the patient's health in serious jeopardy;
- * ((**Serious**)) Impairment to bodily functions; or
- * ((**Serious**)) Dysfunction of any bodily organ or part.

"**Emergency medical expense requirement**" means a specified amount of expenses for ambulance, emergency room or inpatient hospital services, including physician services, incurred for an emergency medical condition((s)) that a client must incur prior to certification for the medical-indigent program.

"**Essential spouse**" see "spouse."

"**Extended care patient**" means a recently hospitalized Medicare patient needing relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

"**Garnishment**" means withholding an amount from earned or unearned income to satisfy a debt or legal obligation.

"**Grandfathered client**" means:

- * A noninstitutionalized person who meets all current requirements for Medicaid eligibility except the criteria for blindness or disability; and
- * Was eligible for Medicaid in December 1973 as blind or disabled whether or not the person was receiving cash assistance in December 1973; and

* Continues to meet the criteria for blindness or disability and other conditions of eligibility used under the Medicaid plan in December 1973; and

* An institutionalized person who was eligible for Medicaid in December 1973 or any part of that month, as an inpatient of a medical institution or resident of an intermediate care facility that was participating in the ((**Medicare**)) Medicaid program and for each consecutive month after December 1973 who:

* Continues to meet the requirements for Medicaid eligibility that were in effect under the state's plan in December 1973 for institutionalized persons; and

* Remains institutionalized.

"**Health insuring organization (HIO)**" means an entity that arranges and pays for medical services provided to an eligible enrolled client in exchange for a premium or subscription charge paid by the department on a prepaid capitation risk basis.

"**Health maintenance organization (HMO)**" means an entity that provides comprehensive medical services directly to an eligible enrolled client in exchange for a premium paid by the department on a prepaid capitation risk basis.

"**Healthy kids,**" see "EPSDT."

"**Home health agency**" means an agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence.

"**Hospital**" means an institution licensed as a hospital by the official state licensing authority.

"**Income**" means, for an SSI-related client, the receipt by an individual of any property or service which the client can apply either directly, by sale, or conversion to meet the client's basic needs for food, clothing, and shelter.

* "**Earned income**" means gross wages for services rendered and/or net earnings from self-employment. Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.

* "**Unearned income**" means all other income.

"**Institution**" means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. This includes medical facilities, nursing facilities, and institutions for the mentally retarded, but does not include correctional institutions.

* "**Institution-public**" means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

* "**Institution for mental diseases**" means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases including medical attention, nursing care, and related services.

* "**Institution for the mentally retarded or a person with related conditions**" means an institution that:

* Is primarily for the diagnosis, treatment or rehabilitation of the mentally retarded or a person with related conditions; and

* Provides, in a protected residential setting, on-going care, twenty-four hour supervision, evaluation, and planning to help each person function at the greatest ability.

* **"Institution for tuberculosis"** means an institution for the diagnosis, treatment, and care of a person with tuberculosis.

* **"Medical institution"** means an institution:

* Organized to provide medical care, including nursing and convalescent care;

* With the necessary professional personnel, equipment and facilities to manage the health needs of the patient on a continuing basis in accordance with acceptable standards;

* Authorized under state law to provide medical care; and

* Staffed by professional personnel. Services include adequate physician and nursing care.

"Intermediary" means an organization having an agreement with the federal government to process Medicare claims under Part A.

"Legal dependent" means a person whom another person is required by law to support.

"Limited casualty program (LCP)" means a medical care program for medically needy as defined under WAC 388-503-0320 and for medically indigent as defined under WAC 388-503-0370.

"Medicaid" means the federal aid Title XIX program under which medical care is provided to:

* Categorically needy as defined in WAC 388-503-0310 and 388-503-1105; or

* Medically needy as defined in WAC 388-503-0320.

"Medical assistance" means the federal aid Title XIX program under which medical care is provided to the categorically needy as defined in WAC 388-503-0310 and 388-503-1105.

"Medical assistance administration (MAA)" means the unit within the department of social and health services authorized to administer the Title XIX Medicaid and the state-funded medical care programs.

"Medical assistance unit (MAU)" means one or more family members whose eligibility for medical care is determined separately or together based on financial responsibility.

"Medical care services" means the limited scope of care financed by state funds and provided to general assistance (GAU) and ADATSA clients.

"Medical consultant" means a physician employed by the department.

"Medical facility" see **"Institution."**

"Medically indigent (MI)" means a state-funded medical program, part of the limited casualty program, for a person with limited income and resources who has an emergency medical condition requiring emergency room or inpatient hospital-based services.

"Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purpose of this section, "course of treatment" may include mere observation or, where appropriate, no treatment at all.

"Medically needy (MN)" is the status of a person who is eligible for a federally matched medical program under Title XIX of the Social Security Act, who, but for income and/or resources above the categorically needy level, would be eligible as categorically needy.

"Medicare" means the federal government health insurance program for certain aged or disabled clients under Titles II and XVIII of the Social Security Act. Medicare has two parts:

* **"Part A"** covers the Medicare inpatient hospital, post-hospital skilled nursing facility care, home health services, and hospice care.

* **"Part B"** is the supplementary medical insurance benefit (SMIB) covering the Medicare doctor's services, outpatient hospital care, outpatient physical therapy and speech pathology services, home health care, and other health services and supplies not covered under Part A of Medicare.

"Month of application" means the calendar month a person files the application for medical care unless the application is for the medically needy program, then, at the person's request and if the application is filed in the last ten days of that month, the month of application may be the following month.

"Nursing facility" means any institution or facility the department of health licenses as a nursing facility, or a nursing facility unit of a licensed hospital, that the:

* Department certifies; and

* Facility and the department agree the facility may provide skilled nursing facility care.

"Outpatient" means a nonhospitalized patient receiving care in a hospital outpatient or hospital emergency department, or away from a hospital such as in a physician's office, the patient's own home, or a nursing facility.

"Patient transportation" means client transportation to and from covered medical services under the federal Medicaid and state medical care programs.

"Physician" means a doctor of medicine, osteopathy, or podiatry who is legally authorized to perform the functions of the profession by the state in which the services are performed.

"Professional activity study (PAS)" means a compilation of inpatient hospital data by diagnosis and age, conducted by the commission of professional and hospital activities, to determine the average length of hospital stay for patients. These data were published in a book entitled, *Length of Stay in PAS Hospitals, Western*. The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for clients of state-funded programs, or where no memorandum of understanding with a professional review organization (PRO) exists.

"Professional review organization for Washington (PRO-W)" means the state level organization responsible for determining whether health care activities:

* Are medically necessary;

* Meet professionally acceptable standards of health care; and

* Are appropriately provided in an outpatient or institutional setting for beneficiaries of Medicare and clients of Medicaid and maternal and child health.

"Prosthetic devices" mean replacement, corrective, or supportive devices prescribed by a physician or other

licensed practitioner of the healing arts within the scope of his or her practice as defined by state law to:

- * Artificially replace a missing portion of the body;
- * Prevent or correct physical deformity or malfunction;

or

- * Support a weak or deformed portion of the body.

"Provider" or **"provider of service"** means an institution, agency, or person:

* Having a signed agreement with the department to furnish medical care and goods and/or services to clients; and

- * Eligible to receive payment from the department.

"Resources" mean, for an SSI-related client, cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

* If an individual can reduce a liquid asset to cash, it is a resource.

* If an individual cannot reduce an asset to cash, it is not considered an available resource.

* **Liquid** - Properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash in hand, stocks, savings, checking accounts, mutual fund shares, mortgage, promissory notes.

* **Nonliquid** - All other property both real and personal shall be evaluated according to the price the item can reasonably be expected to sell for on the open market in the particular geographical area involved.

"Retroactivity" means the period of no more than three calendar months before the application month of an otherwise eligible person under the Federal aid Title XIX program.

"Spell of illness" see **"benefit period."**

"Spendedown" means the process by which a person uses incurred medical expenses to offset income and/or resources to meet the financial standards established by the department.

"Spouse" means:

* **"Community spouse"** means a person living in the community and married to an institutionalized person or to a person receiving services from a home and community-based waived program.

* **"Eligible spouse"** means an aged, blind or disabled husband or wife of an SSI-eligible person with whom such spouse lives.

* **"Essential spouse"** means, for the purposes of SSI, a spouse whose needs were taken into account in determining the need of an old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) client for December 1973, who continues to live in the home and to be the spouse of such client.

* **"Ineligible spouse"** means the husband or wife of an SSI-eligible person, who lives with the SSI-eligible person and who has not applied or is not eligible to receive SSI.

* **"Institutionalized spouse"** means a married person in an institution or receiving services from a home or community-based waived program.

* **"Nonapplying spouse"** means the husband or wife, who has not applied for assistance, of an SSI-eligible person.

"SSI-related" means an aged, blind or disabled person.

"State office or SO" means the medical assistance administration of the department of social and health services.

"Supplemental security income (SSI) program, Title XVI" means the federal grant program for aged, blind, and disabled established by section 301 of the Social Security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

"Supplementary payment (SSP)" means the state money payment to persons receiving benefits under Title XVI, or who would, but for the person's income, be eligible for such benefits, as assistance based on need in supplementation of SSI benefits. This payment includes:

* **"Mandatory state supplement"** means the state money payment to a person who, for December 1973, was a client receiving cash assistance under the department's former programs of old age assistance, aid to the blind and disability assistance; and

* **"Optional state supplement"** means the elective state money payment to a person eligible for SSI benefits or who, except for the level of the person's income, would be eligible for SSI benefits.

"Third party" means any entity that is or may be liable to pay all or part of the medical cost of care of a federal Medicaid or state medical care client.

"Title XIX" is the portion of the federal Social Security Act that authorizes grants to states for medical assistance programs. Title XIX is also called Medicaid.

"Transfer" means any act or omission to act when title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

* An intentional act or transfer; or

* Failure to act to preserve title to the resource.

"Value-fair market" means, for SSI-related medical eligibility, the current value of a resource at the going price for which the resource can reasonably be expected to sell on the open market in the particular geographic area involved.

"Value of compensation received" means, for SSI-related medical eligibility, the gross amount paid or agreed to be paid by the purchaser.

"Value-uncompensated" means, for SSI-related medical eligibility, the fair market value of a resource minus the amount of compensation received in exchange for the resource.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-503-0370 Medically indigent eligible persons. (~~For applications filed on or after July 1, 1991,)~~ The department shall determine a person eligible for the medically indigent program when the person:

(1) Has an emergency medical condition requiring hospital-based services.

(a) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in serious:

- (i) Jeopardy to the patient's health;
 - (ii) Impairment to bodily functions; or
 - (iii) Dysfunction of any bodily organ or part.
- (b) For the purposes of this section, the department shall consider pregnancy and treatment under the Involuntary Treatment Act (ITA) as emergency medical conditions.
- (2) Meets the financial eligibility, emergency medical expense and spenddown requirements under chapter 388-518 WAC; and
- (3) Is not an inmate of a federal or state prison.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-519-1905 Base period. (1) Medically needy clients in their own homes shall have a choice of a three-month or a six-month base period which shall begin with the month of application. The department shall use a complete base period unless:

- (a) A previous certification period overlaps; or
- (b) The client is not resource eligible for the medically needy program for the full base period; or
- (c) The client is not categorically related for the full base period; or
- (d) The client becomes eligible for categorically needy Medicaid(-

~~2) The department shall not certify a client for more than six months.~~

~~(3)); or~~

(e) The base period would extend beyond:

- (i) December 31, 1995, for an AFDC-related caretaker adult medically needy client; or
 - (ii) June 30, 1996, for a medically indigent client.
- (2) Effective July 1, 1995, the department shall consider the base period for a LCP-MI client:

(a) To be the three months beginning with the first month of emergency ambulance or emergency hospital-based services; and

(b) May begin up to three calendar months:

(i) Before the date of application; or

(ii) July 1, 1995, whichever is later.

(3) Subject to the limitation described under subsection (1)(e) of this section, the department shall not certify a client for more than:

(a) Six months for a medically needy client; or

(b) Three months for a medically indigent client. See WAC 388-518-1805 for LCP-MI program limitations.

(4) The department shall certify a client who is required to spenddown from the day the client meets the spenddown requirement through the last day of the chosen base period when the client has not incurred hospital expenses equal to the spenddown liability.

~~((4))~~ (5) The department shall certify a client who is required to spenddown from the first day of the base period when the client has incurred hospital expenses equal to the spenddown liability.

~~((5))~~ (6) When the client requests retroactive medical coverage at the time of application, the retroactive period shall begin three months before the application month unless exceptions in subsection (1)(a), (b), (c), or (d) of this section exist. The department shall certify a client with spenddown in retroactive period effective:

(a) The day the spenddown requirement was met through the last day of the retroactive period when the client has not incurred hospital expenses equal to the spenddown liability; or

(b) The first day of the retroactive period when the client has incurred hospital expenses equal to the spenddown liability.

~~((6))~~ (7) The department shall require an application for any subsequent period of eligibility for the medically needy program.

AMENDATORY SECTION (Amending Order 3828, filed 1/25/95, effective 2/25/95)

WAC 388-518-1805 LCP-MI eligibility. (1) The department shall not require as a condition of eligibility:

- (a) A person's citizenship;
- (b) Social Security number; and
- (c) Residency.

(2) A person shall not be eligible for LCP-MI when the person:

- (a) Is eligible for medical care from another state; or
- (b) Enters Washington state specifically for the purpose of obtaining medical care.

(3) A person receiving LCP-MI shall meet the following eligibility criteria:

(a) The person is not:

- (i) Receiving continuing cash assistance; or
- (ii) Eligible for any other medical program.

(b) The person must have an emergency medical condition as defined in WAC 388-500-0005; and

(c) For a pregnant woman, the department shall increase the number in the household by the number of unborn before comparing the pregnant woman's income to the:

- (i) Income requirements of WAC 388-518-1850(1); and
- (ii) Resource requirements of WAC 388-518-1850(2).

(4) For a client applying for LCP-MI on or after July 1, 1995, the department shall:

(a) Limit the client to three months of LCP-MI eligibility during the period of July 1, 1995 through June 30, 1996; and

(b) Not consider the months of a certification period beginning prior to July 1, 1995 as counting toward the program limitations described under subsection (4)(a) of this section.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-518-1810 LCP-MI emergency medical expense requirement (EMER). (1) The client shall satisfy the EMER as described in this section.

(2) The department shall require documentation of emergency medical expenses of ~~((one))~~ two thousand ~~((five hundred))~~ dollars per family over a twelve-month period.

(3) Only family members meeting the eligibility requirements in WAC 388-518-1805, 388-518-1820, 388-518-1830 and 388-518-1850 can accumulate expenses against the EMER.

(4) For a client applying for services received on or before June 30, 1995, the department shall allow the accumulation of emergency medical expenses to begin up to seven working days before the application date. The

department may waive the seven-day rule if a person fails to apply for medical reasons or other good cause.

(5) The department shall ~~((ensure))~~ consider only the following emergency medical services~~((, including the usual and customary amounts charged for inpatient and outpatient hospital services, count))~~ toward the EMER:

- (a) Emergency ground or aid ambulance;
- (b) Emergency inpatient hospitalization and related physician services; and
- (c) Hospital emergency room services and related physician services.

(6) Other than expenses qualifying as hospital charity care under RCW 70.170.060, the emergency medical expense requirement and spenddown are the liability of the client.

(7) If the client does not satisfy the EMER during the three-month base period ~~((beginning with the month of application))~~, the department shall apply the incurred amount to any subsequent applications within twelve months of the initial application.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-518-1840 LCP-MI spenddown. (1) The department shall ensure all countable income above the MNIL described under WAC 388-507-0710 and nonexempted resources above the ~~((MNIL and))~~ resource levels described ~~((in WAC 388-507-0710 and))~~ under 388-507-0720 ~~((shall))~~ apply toward spenddown.

(2) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from excess countable income as described in WAC 388-519-1930. These expenses cannot have been used toward a previous spenddown, deductible, or emergency medical expense requirement.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-521-2140 Effective date for the medically indigent program. (1) The department shall ensure the effective date of eligibility is the date the client meets spenddown, if any, and the emergency medical expense requirement.

(2) The department shall pay for emergency medical care ~~((the client received in the seven working days before the application date))~~ as described under WAC 388-529-2950 when:

- (a) The condition was an emergency medical condition requiring hospital-based care; and
 - (b) The person was otherwise eligible.
- (3) The department shall determine the certification ~~((date))~~ period does not exceed three calendar months ~~((beginning with the month of application.~~

~~((4) A verified pregnant client may apply and be certified for separate three-month periods through the duration of the pregnancy. The three-month limitation in subsection (3) of this section may extend up to six weeks after delivery to cover the postpartum care, which includes routine care for the newborn. Beyond this period of time, the department~~

~~shall determine eligibility for the mother or newborn separately.~~

~~((5) The department may waive the seven-day rule in subsection (2) of this section if a person fails to apply for medical reasons or other good cause)).~~

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-529-2950 Scope of care—Medically indigent. (1) The department shall provide coverage under the limited casualty program-medically indigent to an eligible person for treatment of emergency medical conditions requiring hospital-based care only. Services available are limited to:

- ~~((a) ((Rural health clinic services))~~ Medically necessary emergency air or ground ambulance; and
- ~~((b) ((Physical medicine and rehabilitation services;~~
- ~~((c) Physician and clinic services;~~
- ~~((d) Prescribed drugs;~~
- ~~((e) Dentures;~~
- ~~((f) Prosthetic devices;~~
- ~~((g) Eyeglasses;~~
- ~~((h) Nursing facilities, and intermediate care facilities for the mentally retarded;~~
- ~~((i) Home health services;~~
- ~~((j) Laboratory and x-ray services;~~
- ~~((k) Podiatric services; and~~
- ~~((l) Medically necessary transportation))~~ Physician services related to hospital emergency room services and emergency inpatient hospitalization.

(2) The department shall not pay for covered services until the client has medical expenses equal to the total of the emergency medical expense requirement of ~~((one))~~ two thousand ~~((five hundred))~~ dollars and the spenddown, if any.

(3) The emergency medical expense requirement in WAC 388-518-1850 does not apply for treatment under the Involuntary Treatment Act (ITA). When any other medical need is identified for clients undergoing treatment under the ITA, the department shall apply the emergency medical expense requirement to the services other than ITA.

(4) ~~((When a client indicates that an urgent undefined medical illness exists, the department shall:~~

- ~~((a) Regard the condition as an emergency medical condition;~~
- ~~((b) Allow one office visit for diagnosis, provided all financial eligibility criteria are met; and~~
- ~~((c) Allow treatment only when the condition meets the criteria for an emergency medical condition.~~

~~((5)))~~ For other conditions and limitations under which the department may provide these services, refer to appropriate service in chapter 388-86 WAC.

~~((6))~~ (5) The department shall not provide a client out-of-state care except in the designated bordering cities.

EMERGENCY

**WSR 95-15-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 95-86—Filed July 5, 1995, 3:24 p.m.]

Date of Adoption: July 3, 1995.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-56-38000Z; and amending WAC 220-56-380.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of oysters are available for a recreational harvest at Quilcene Bay.

Effective Date of Rule: Immediately.

July 3, 1995
Edward P. Manary
for Robert Turner
Director

NEW SECTION

WAC 220-56-38000A Oysters—Areas and seasons. Notwithstanding the provisions of WAC 220-56-380, effective immediately until further notice, it is unlawful to harvest or possess oysters taken for personal use from the following tidelands except during the times shown:

(1) Quilcene Bay (WDFW tidelands) accessed by Linger Longer Road and identified by signs and marker posts - **Open** July 8 through September 15, 1995.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-38000Z Oysters—Areas and seasons. (95-84)

**WSR 95-15-009
EMERGENCY RULES
DEPARTMENT OF HEALTH
(Health Professions Quality Assurance Division)
(Board of Massage)**

[Filed July 7, 1995, 1:40 p.m.]

Purpose: To adopt emergency rules allowing smooth transition in the licensure examination process because of changes in statute removing the requirement for a practical examination and adoption of the National Certification Examination for Therapeutic Massage and Bodywork. New rules are included to implement current department policies and to provide new sections to allow for site review of massage schools, programs, and apprenticeship programs.

Citation of Existing Rules Affected by this Order:
Repealing WAC 246-830-230, 246-830-240 and 246-830-250; and amending WAC 246-830-201, 246-830-220, 246-830-255, 246-830-260, 246-830-270, 246-830-280, 246-830-420, 246-830-475, and 246-830-990.

Statutory Authority for Adoption: RCW 18.108.025 (1) and (3).

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adoption will allow a smooth transition from former examination process to a new process.

Effective Date of Rule: Immediately.

July 7, 1995
Bruce Miyahara
Secretary

NEW SECTION

WAC 246-830-025 Licensure/certification/registration, renewal, late penalty and CPR. (1) A license shall be renewed annually. The date of renewal shall be the licensee's birthdate. An initial license shall expire on the licensee's next birthdate. The secretary may prorate the initial license fee based on 1/12 of the annual renewal fee for each full calendar month between the initial issue date and the next anniversary of the applicant's birthdate.

(2) A licensee may renew his/her license at the annual renewal rate, for one year. Any renewal that is postmarked or presented to the department after midnight on the expiration date is late, and subject to a late renewal penalty fee.

(3) Failure to timely renew a license shall invalidate the license and all privileges granted by the license. Any licensee subject to the Uniform Disciplinary Act who submits a late renewal that is postmarked or presented to the department more than thirty days after its expiration date, shall be subject to investigation for unprofessional conduct in accordance with RCW 18.130.180(7) for unlicensed practice.

(4) Late renewal penalty fees, reinstatement of licensure. A license holder who fails to renew his or her license on or before its expiration date may be issued a license to practice during the first three years that the license has been allowed to lapse. The licensee shall remit to the department a completed reinstatement application, all back renewal fees, and proof of completion of the continuing education requirement for the time the license was lapsed. Late renewal penalty fees shall be based on the following formula:

If the annual renewal is:	The late renewal penalty fee is:
From \$1 to \$50	100% of the renewal fee
From \$51 to \$100	\$50 flat fee
\$101 or more	50% of the renewal fee, but no more than \$300

(5) Any late renewal penalty fee due and payable on or after the effective date of this rule shall be assessed and paid

EMERGENCY

according to the above late renewal fee schedule and any other fee rule then in effect.

(6) Licensees shall maintain valid certification in American Heart Association CPR or the equivalent at all times. Hours for CPR certification shall not be applied to continuing education requirement. Applications for renewal shall include proof satisfactory to the secretary that this requirement has been met.

NEW SECTION

WAC 246-830-037 Temporary practice permit. A temporary practice permit to practice massage shall be issued if an individual holds a current license in good standing to practice massage in another jurisdiction that has examination and education requirements substantially equivalent to those in Washington.

(1) The examination requirements of a jurisdiction shall be deemed substantially equivalent to those of Washington if they meet or exceed the criteria outlined in WAC 246-830-201 and 246-830-220.

(2) The education requirements of a jurisdiction shall be deemed substantially equivalent if they meet or exceed the minimum five hundred hour criteria outlined in WAC 246-830-430.

(3) An individual applying for a massage license without examination under WAC 246-830-035 may be issued a temporary practice permit by the disciplining authority pending completion of the required documentation: Provided,

- (a) The applicant holds a license to practice massage that is current and without restrictions and/or conditions; and
- (b) It has been established by the board that the jurisdiction of the applicant has education and examination requirements substantially equivalent to those in Washington; or
- (c) The education and examination requirements appear to be substantially equivalent to those of Washington and are pending approval by the board.

(4) An individual who is a graduate of a Washington state board approved massage school or program and who has been licensed in another jurisdiction for a minimum of three years shall be issued a temporary practice permit by the disciplining authority pending passing of the licensing examination: Provided,

- (a) The applicant holds a license to practice massage that is current and without restrictions and/or conditions.
- (b) Documentation of successful completion of an approved program has been submitted.
- (5) Once approved and issued, the temporary practice permit shall expire after a maximum of six months and shall be returned to the department within five working days upon any of the following and shall become void immediately upon any of the following:

- (a) Issuance of a license to practice.
- (b) Failure of the licensing examination.
- (c) Determination that education and examination requirements are not substantially equivalent and/or have not been met.
- (6) A temporary practice permit shall not be renewed. A temporary practice permit shall not be issued to any individual who has failed the Washington state massage examination.

AMENDATORY SECTION (Amending Order 102B, filed 12/17/90, effective 1/31/91)

WAC 246-830-201 ((Scope of) Approved examination. ~~((1) The examination for a massage practitioner's license shall, except as noted in subsection (2) of this section, consist of written questions as well as a practical demonstration of massage therapy.~~

~~(2) An applicant handicapped by blindness will not be subject to a written examination. A blind applicant will be asked questions orally to appropriately test the range and depth of his/her knowledge of the subjects shown in subsection (3) of this section.~~

~~(3) Questions will be sufficient in number to satisfy the board of massage that the applicant has been given an adequate opportunity to express his or her knowledge relating to subjects as stated in RCW 18.108.073(2).~~

~~(4) The practical demonstration of massage will be conducted before the examiner(s) and the applicant will be required to perform massage therapy. The following will be evaluated:~~

- ~~(a) Professional manner;~~
- ~~(b) Lubrication;~~
- ~~(c) Overall demonstration of work: Pressure, rhythm, smoothness, organization;~~
- ~~(d) Interaction with client;~~
- ~~(e) Effleurage;~~
- ~~(f) Petrissage;~~
- ~~(g) Friction;~~
- ~~(h) Vibration;~~
- ~~(i) Tapotement;~~
- ~~(j) Joint demonstration and Swedish gymnastics;~~
- ~~(k) Specific muscle demonstration;~~
- ~~(l) Client endangerment;~~
- ~~(m) Draping and turning;~~
- ~~(n) Treatment of various conditions.)~~ Effective July 1, 1995, the board approves and adopts the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) as the written licensing examination for the state of Washington.

AMENDATORY SECTION (Amending Order 102B, filed 12/17/90, effective 1/31/91)

WAC 246-830-220 Grading of examinations. Each applicant ~~((must obtain a grade of 70 or better on each portion of the examination before being considered by the board to be technically qualified for licensing as a massage practitioner.))~~ shall pass the NCETMB with a passing point established by the National Certification Board for Therapeutic Massage and Bodywork.

AMENDATORY SECTION (Amending WSR 94-13-181, filed 6/21/94, effective 7/22/94)

WAC 246-830-255 Time limitation on initial application for licensure. If an applicant does not apply for a license within three years of the successful completion of the license examination, reexamination shall be required. An individual who has been notified of his/her passing score(§) has three years from the date of notification to obtain a license. If a license is not obtained, the passing score(§) shall be declared null and void and the applicant shall

reapply (~~and pay the fee~~) for (~~full~~) examination, meeting all current requirements and submitting original documents as needed.

AMENDATORY SECTION (Amending Order 102B, filed 12/17/90, effective 1/31/91)

WAC 246-830-260 Special examination. An applicant who states that the applicant cannot read or speak the English language with sufficient facility to take the (~~written or practical~~) examination may elect one of the following options:

(1) To have the examination read in English; or

(2) To take the examination with the assistance of a (~~translator~~) strict translation dictionary approved in advance by the department.

The applicant must notify the department of the applicant's need for a (~~translator~~) special examination at the time of filing an application to take the massage (~~exam~~) examination.

The (~~translator~~) translation dictionary shall not define or translate from English to the requested language any medical terms, conditions, or treatments.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-830-270 Reexamination for assurance of competency. (1) An applicant for licensure who has been previously licensed in Washington shall retake (~~both~~) the (~~practical and~~) written (~~portions of the~~) examination and achieve a passing score(~~s~~) before relicensure (~~under any one of the following circumstances:~~

(~~a~~) if the applicant has been unlicensed voluntarily for more than thirty-six calendar months(~~or~~

(~~b~~) ~~The applicant's license has been revoked or suspended by reason of a disciplinary action by the secretary of the department of health.~~

(2) The secretary may require reexamination in any disciplinary order, based upon findings and conclusions relative to the competency of a licensee to practice massage before issuing an unconditional license.

(3) Whenever reexamination is required, the licensee shall pay the appropriate fees (~~set forth in WAC 246-830-990~~).

AMENDATORY SECTION (Amending WSR 94-13-181, filed 6/21/94, effective 7/22/94)

WAC 246-830-280 Dismissal from examination. Any applicant whose conduct interferes with the testing process may be dismissed from the examination and that applicant's examination will be rejected. Disciplinary action may be taken by the secretary in response to a report of an applicant's dismissal from the examination. Such conduct will include but not be limited to the following:

(1) Giving or receiving examination data, either directly or indirectly, during the examination process;

(2) Failure to follow written or oral instructions relative to (~~conducting~~) conduction of the examination, including termination times and procedures;

(3) Endangering the life or health of (~~a model~~) other applicants or examination (~~staff~~) personnel;

(4) The introduction of unauthorized materials during any portion of the examination;

(5) Any attempt to remove examination materials or notations from the testing site.

NEW SECTION

WAC 246-830-423 Site review intent and procedures. To ensure continued compliance with the approval criteria for massage education, massage schools, programs and apprenticeship programs shall be site reviewed at a frequency set forth in WAC 246-830-426. More frequent visits may occur as deemed necessary by the board or at the request of a school, program, or apprenticeship program. The board may accept proof of an accrediting agency's approval and review of a school, program or apprenticeship program based on standards and requirements which are substantially equivalent to those identified in this chapter.

(1) Site reviews shall be made by representatives of the board on dates agreeable to the board, the site review team and the school, program or apprenticeship program.

(2) Notice of a site review shall be made three months in advance. Shorter notice may be given if deemed necessary by the board.

(3) At least thirty days prior to site review a school, program or apprenticeship program shall submit a copy of the Standards Evaluation form provided by the department of health.

(4) After a site review, a copy of the site review report shall be sent to the school, program or apprenticeship program within thirty days following the visit. The school, program or apprenticeship program must respond to the report within thirty days.

(5) Following the board's evaluation of the site review report and the school, program or apprenticeship programs response, written notification regarding approval status with board comments and/or recommendations shall be sent to the administrative head of the school, program or apprenticeship program.

NEW SECTION

WAC 246-830-425 Frequency and cost responsibilities of site reviews. (1) Site reviews may be conducted on all board approved schools:

(a) At least once within the first three years after initial board approval and at least once every five years thereafter;

(b) At least once every two years for a five-year period after conditions of an initial unsatisfactory site review have been corrected and at least once every five years thereafter;

(c) Prior to reinstatement of approval status after the conditions leading to probation status have been corrected and at least once every five years thereafter;

(d) Prior to reinstatement of approval status after withdrawal of approval, at least once every two years for the following five years and at least once every five years thereafter.

(2) The cost of a site review shall be the responsibility of the school, program, or apprenticeship program.

NEW SECTION

WAC 246-830-427 School, program or apprenticeship program appeal procedures. A school, program or apprenticeship program deeming itself aggrieved by a decision of the board affecting its approval status shall have the right to appeal the board's decision in accordance with the provisions of chapter 18.108 RCW and the Administrative Procedure Act, chapter 34.05 RCW.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-830-230	Frequency and location of examinations.
WAC 246-830-240	Examination appeal procedures.
WAC 246-830-250	Reexamination.

AMENDATORY SECTION (Amending WSR 95-11-108, filed 5/23/95, effective 6/23/95)

WAC 246-830-420 Approval of school, program, or apprenticeship program. The board shall consider for approval any completed school, program, or apprenticeship program application submitted to the board. To be approved, applications must meet the requirements outlined in this chapter. The board may accept proof of ~~((a national professional association's))~~ an accrediting agency's approval of a school, program, or apprenticeship program based on standards and requirements which are substantially equivalent to those identified in this chapter ~~((, in lieu of the requirements contained in this chapter. Approval in this manner may be requested on a form provided by the department. The board will consider for approval any school, program, or apprenticeship program which meets the requirements as outlined in this chapter)).~~

~~(1) ((Approval of any other school or program may be requested on a form provided by the department.~~

~~(2))~~ Application for approval of a school, program, or apprenticeship program, shall be made by the authorized representative of the school, program, or ~~((the administrator of the))~~ apprenticeship ((agreement)) program on a form provided by the department.

~~((3))~~ (2) The authorized representative of the school or the administrator of the apprenticeship program may request approval of the school or program, as of the date of the application or retroactively to a specified date.

~~((4))~~ (3) The application for approval of a school, program, or apprenticeship program shall include, but not be limited to, documentation required by the board pertaining to: Syllabus, qualifications of instructors, training locations, and facilities, outline of curriculum plan specifying all subjects and length in hours such subjects are taught, class objectives, and a sample copy of one of each of the following exams: Anatomy, physiology, and massage therapy.

~~((5))~~ (4) Any school, program, or apprenticeship program that is required to be licensed by private vocational education (see chapter 28C.10 RCW or Title 28B RCW), or any other statute, must complete these requirements before being considered by the board for approval.

~~((6))~~ (5) The board ~~((will))~~ shall evaluate the application and, if necessary, conduct a site inspection of the school, program, or apprenticeship program, prior to granting approval by the board.

~~((7))~~ (6) Upon completion of the evaluation of the application, the board may grant or deny approval or grant approval conditioned upon appropriate modification to the application.

~~((8))~~ (7) In the event the ~~((department))~~ board denies an application or grants conditional approval, the authorized representative of the applicant's school, program, or apprenticeship program may request a review ~~((within thirty days))~~ of the board's ~~((adverse))~~ decision ~~((action. Should a request for review of an adverse action be made after thirty days following the board's action, the contesting party may obtain review only by submitting a new application))~~ in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

~~((9))~~ (8) The authorized representative of an approved school, program, or ~~((the administrator of an))~~ apprenticeship ((agreement)) program shall notify the board of significant changes with respect to information provided on the application, to include the school or program offering approved programs at additional locations, within sixty days.

~~((10))~~ (9) The board may inspect or review an approved school, program, or apprenticeship program at reasonable intervals for compliance. Approval may be withdrawn if the board finds failure to comply with the requirements of law, administrative rules, or representations in the application.

~~((11))~~ (10) The authorized representative of a school, program, or ~~((administrator of an))~~ apprenticeship ((agreement)) program must immediately correct the deficiencies which resulted in withdrawal of the board's approval.

AMENDATORY SECTION (Amending WSR 95-11-108, filed 5/23/95, effective 6/23/95)

WAC 246-830-475 Qualification of program for continuing education credit. Completion of a formal program of learning which serves to enhance the professional knowledge and development of the licensee shall qualify as continuing education credit. For the purposes of this chapter, a formal program of learning shall be defined as any of the following:

(1) Attendance at a local, state, national or international continuing education program having a featured speaker;

(2) First aid ~~((CPR))~~ or emergency related classes; except CPR courses;

(3) Viewing of educational video tapes not to exceed four credits;

(4) Teaching a seminar for the first time, not to exceed eight hours;

(5) Business and management courses not to exceed six hours;

(6) Specialized training in an aspect of massage therapy provided by an individual who has expertise in that area, has been licensed in this state for no less than three years, and who charges a fee;

(7) Courses from a state, county, or city school or program or approved massage school, program, or apprenticeship trainer in massage therapy or related topics; or

(7) Courses from a state, county, or city school or program or approved massage school, program, or apprenticeship trainer in massage therapy or related topics; or

(8) Training provided by a health care professional certified or licensed in their area of expertise.

WSR 95-15-030
EMERGENCY RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed July 11, 1995, 10:46 a.m.]

AMENDATORY SECTION (Amending WSR 95-11-108, filed 5/23/95, effective 6/23/95)

WAC 246-830-990 Massage fees. The following fees shall be charged by the health professions quality assurance division of the department of health:

Title of Fee	Fee
((Written examination and reexamination	\$ 65.00
Practical examination and reexamination	50.00))
Initial license	55.00
Renewal	65.00
Late renewal penalty	50.00
Certification	15.00
Duplicate license	15.00
<u>Temporary practice permit</u>	<u>75.00</u>
<u>License without examination</u>	<u>145.00</u>

WSR 95-15-010
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
 (Fisheries)

[Order 95-87—Filed July 7, 1995, 2:37 p.m.]

Date of Adoption: July 7, 1995.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-07100X.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvestable surplus of sea cucumbers in Sea Cucumber Districts 2 and 4 have been taken.

Effective Date of Rule: Immediately.

July 7, 1995
 Edward P. Manary
 for Robert Turner
 Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100X Sea cucumbers. (95-83)

Date of Adoption: July 10, 1995.

Purpose: To amend WAC 392-122-900 General provision—Carryover prohibition, and allow for up to 10% annual carryover of learning assistance program funds.

Citation of Existing Rules Affected by this Order: Amending WAC 392-122-900.

Statutory Authority for Adoption: Section 519 of ESHB 1410.PL.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: To allow school districts the opportunity to carry over learning assistance program funds for the 94-95 school year, as per legislative revision.

Effective Date of Rule: Immediately.

July 10, 1995
 Judith A. Billings
 Superintendent of
 Public Instruction

AMENDATORY SECTION (Amending Order 92-08, filed 9/21/92, effective 10/22/92)

WAC 392-122-900 General provision—Carryover prohibition. Categorical apportionment moneys shall not be carried over by a school district from one school district fiscal year to another, except for learning assistance program moneys as provided in subsection (4) of this section.

(1) The superintendent of public instruction shall recover categorical program allocations made pursuant to this chapter which are not expended by the school district during the school year for allowable program costs:

(a) Moneys recovered at the end of the school year beginning during the first year of each biennium shall be available for reallocation by the superintendent of public instruction.

(b) Moneys recovered at the end of the school year beginning during the second year of each biennium shall revert to the state treasurer: *Provided*, That if prior to recovery, insufficient moneys are available to fully fund those programs operating in the second year of the biennium, any moneys recovered shall first be allocated to fully fund these programs.

(2) Except as provided in subsection (3) of this section, the amount recovered pursuant to subsection (1) of this section shall be determined as follows:

(a) Determine the state allocation for the categorical program;

(b) Determine the district's expenditures for the program including indirect expenditures and abatements deemed allowable by the superintendent of public instruction as reported on Year-End Financial Statement F-196, Part III or such other document filed by the district pursuant to instructions provided by the superintendent of public instruction;

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(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference shall be recovered.

(3) The amount recovered pursuant to subsection (1) of this section for the institutional education program for the 1992-93 school year and thereafter shall be determined as follows:

(a) Determine the state allocation for the institutional education program excluding any amount provided for indirect costs;

(b) Determine the district's direct expenditures for the institutional education program as reported on Year-End Financial Statement F-196 or such other document filed by the district pursuant to instructions provided by the superintendent of public instruction;

(c) If the amount of (a) of this subsection exceeds the amount of (b) of this subsection, the difference shall be recovered.

(4) Notwithstanding other provisions of this section to the contrary, a school district may carry over from one school district fiscal year to the next up to ten percent of the preceding fiscal year's learning assistance program state allocation. Carryover moneys shall be expended solely for learning assistance program purposes.

**WSR 95-15-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)**

[Order 95-88—Filed July 14, 1995, 8:08 a.m., effective July 14, 1995, 12:01 a.m.]

Date of Adoption: July 13, 1995.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-44-05000R; and amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary to maintain consistency with regulations adopted by the National Marine Fisheries Service pursuant to the Pacific Fisheries Management Council.

Effective Date of Rule: July 14, 1995, 12:01 a.m.

July 13, 1995
Robert Turner
Director

NEW SECTION

WAC 220-44-05000S Coastal bottomfish catch limits. Notwithstanding the provisions of WAC 220-44-050, effective 12:01 a.m. July 14, 1995 until further notice it is unlawful to possess, transport through the waters of the state

or land in any Washington State port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 29, 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the following species:

(1) The following definitions apply to this section:

(a) **Cumulative limit** - A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per calendar month, without a limit on the number of landings or trips. The cumulative limit includes all fish harvested by a vessel during the month, whether taken in limited entry or open access fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative limit.

(b) **Daily trip limit** - The maximum amount of fish that may be taken and retained, possessed or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours.

Groundfish limited entry fishery - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National Marine Fisheries Service endorsed for the qualifying gear type.

(d) **Groundfish open access fishery** - Fishing activity by a vessel equipped with setline or bottomfish pot gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

(e) **Vessel trip** - A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

(f) **Vessel trip limit** - The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

(g) **Dressed length** - The dressed length of a fish is the distance from the anterior insertion of the first dorsal fin to the tip of the tail.

(2) **Groundfish limited entry fishery limits.** The following limits apply to the groundfish limited entry fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63, and apply to all listed bottomfish species and species complexes taken in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29:

(a) **Pacific ocean perch** - Cumulative limit 6,000 pounds. No minimum size.

(b) **Widow rockfish** - Cumulative limit of 45,000 pounds. No minimum size.

(c) **Shortbelly rockfish** - No minimum size. No maximum poundage.

(d) **Black rockfish** - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

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(e) **Sebastes complex** - All species of rockfish except Pacific ocean perch, widow, shortbelly, and thornyhead (*Sebastes* spp.)

(I) North of Cape Lookout and south of Cape Lookout if no declaration has been made - Cumulative limit of 35,000 pounds, of which no more than 18,000 pounds may be yellowtail rockfish and no more than 6,000 pounds may be canary rockfish. No minimum size on any species in this category.

(ii) South of Cape Lookout - Cumulative limit of 50,000 pounds of which no more than 40,000 pounds may be yellowtail rockfish and no more than 6,000 pounds may be canary rockfish, provided the licensee has made a declaration as follows:

(A) The declaration must be made at least 12 hours prior to departing from port by telephoning the Department Montesano Office at (360) 249-4628, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The declarer will receive a declaration number from the department.

(B) The declaration must include: vessel name; federal limited entry permit number; operator's name, phone number and address; anticipated date and port of departure; anticipated date and port of return.

(C) Phone declarations must be followed by a written declaration, signed by the operator and mailed or delivered to the Montesano Office at 48 Devonshire Road, Montesano, WA 98563, prior to the day of departure. Forms are available at that office or from coastal processors.

(D) No fishing north of Cape Lookout is allowed after declaring for fishing south of Cape Lookout until the vessel has landed at a Washington or Oregon port and notified the Montesano Office during business hours.

(iii) There is a maximum cumulative limit for landings from both north and south of Cape Lookout of 50,000 pounds of which no more than 30,000 pounds may be yellowtail rockfish and no more than 6,000 pounds may be canary rockfish.

(iv) Wholesale fish dealers purchasing more than 30,000 pounds of sebastes complex or 18,000 pounds of yellow tail rockfish must enter the declaration number on the fish receiving ticket.

(f) **DTS Complex - (Sablefish, Dover sole and thornyhead rockfish)** - Cumulative monthly limit of 35,000 pounds of which no more than 15,000 pounds may be thornyhead rockfish. Of the thornyhead, no more than 3,000 pounds may be shortspine thornyheads.

(g) **Sablefish** -

(I) **Trawl vessels** - Cumulative limit of 7,000 pounds.

In any vessel trip no more than 500 pounds may be sablefish less than 22 inches total length. Sablefish total length of 22 inches is equivalent to dressed length of 15.5 inches. To convert sablefish from dressed weight to round weight, multiply dressed weight by 1.6.

(ii) **Non-trawl vessels** - Daily trip limit of 300 pounds (round weight). No minimum size.

(h) **Pacific Whiting** - Vessel trip limit of 10,000 pounds through April 14, 1995. No minimum size. No vessel trip limit beginning 12:01 a.m. April 15, 1995. no minimum size.

(i) **Lingcod** - Cumulative limit of 20,000 pounds. Total length minimum size limit of 22 inches. Lingcod total

length of 22 inches is equivalent to dressed length of 18 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed, head on (gutted only), weight, multiply the dressed weight by 1.1.

(3) **Groundfish open access fishery limits.** The following limits apply to the groundfish open access fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63, and apply to all listed species and species complexes taken in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29. Notwithstanding the provisions of this subsection, no groundfish open access fishery limit may exceed a groundfish limited entry fishery daily, vessel or cumulative limit:

(a) **Sablefish** - Daily trip limit of 300 pounds (round weight). No minimum size.

(b) **Rockfish** - Vessel trip limit of 10,000 pounds. Cumulative limit of 35,000 pounds.

(c) **Lingcod** - cumulative limit of 20,000 pounds. Total length minimum size limit of 22 inches. Lingcod total length of 22 inches is equivalent to dressed length of 18 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed, head on (gutted only), weight, multiply the dressed weight by 1.1.

(4) It is unlawful during the unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species or category of bottomfish having a cumulative limit, vessel trip limit or daily trip limit.

(5) The fisher's copy of all fish receiving tickets showing landings of species provided for in this section shall be retained aboard the landing vessel for 90 days after landing.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000R Coastal bottomfish catch limits (95-34)

WSR 95-15-049
EMERGENCY RULES
HIGHER EDUCATION
COORDINATING BOARD
[Filed July 14, 1995, 10:28 a.m.]

Date of Adoption: July 13, 1995.

Purpose: To amend the board's procedure for determining the 1995-96 state need grant "income cutoff."

Citation of Existing Rules Affected by this Order: Amending WAC 250-20-021(11).

Statutory Authority for Adoption: Chapter 28B.80 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Proposed adoption of emergency rule Washington state need grant program administration 1995-96.

Declaration

The Higher Education Coordinating Board finds that immediate adoption of an emergency rule amending WAC 250-20-021(11) of the state need grant program is necessary for the preservation of the general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Findings and Concise Statement of Reasons

WHEREAS, the Higher Education Coordinating Board, through a survey of national literature, finds that the academic persistence and success of low income students appear to be most positively influenced by the receipt of financial assistance in the form of grants (Higher Education Coordinating Board, "The Impact of Student Financial Assistance on Persistence," March 1995, citing Edward P. St. John, 1991, and others); and

WHEREAS, the Higher Education Coordinating Board seeks to strengthen access and persistence among the state's lowest income students by targeting 1995-96 state need grant program funds to those who are at or below an income cutoff equal to 40 percent of the state's median family income; and

WHEREAS, Washington state need grant program rule WAC 250-22-021(11) stipulates that "... in no case will the minimum income cutoff be less than sixty-five percent of the state's median family income, regardless of program funding;" and

WHEREAS, state need grant appropriations for the 1995-97 biennium were established late (signed into law by the governor and filed June 16, 1995), making it critically important to advise institutions in a timely manner of funds available, and student eligibility parameters, so that they may award grants to students (permitting students and families to plan for the start of school in Fall 1995); and

WHEREAS, state need grant program appropriations are projected to be insufficient to award all students statewide at an income cutoff level higher than 40 percent - a procedure which would conflict with existing administrative rules;

THEREFORE, BE IT RESOLVED, that the Higher Education Coordinating Board enters with the code reviser an order to amend, through the emergency rule process, the text of WAC 250-20-021(11) to read, in part, "... With the exception of the 1995-96 academic year, in no case will the minimum income cutoff be less than sixty-five percent of the state's median family income, regardless of program funding." (See below.) Permanent rules will subsequently be adopted by the board in accordance with the Administrative Procedure Act.

FURTHER, the board directs the staff to conduct a comprehensive study of state and federal student financial aid policies and programs to assess the extent to which they impact students and contribute to the achievement of state-wide goals. The study shall be guided by a policy advisory committee consisting of senior level officials and administrators who shall be named by the executive director of the Higher Education Coordinating Board no later than August 15, 1995. Staff will report the results of the study in December 1995. Following board action on staff recommendations, an advisory committee comprised primarily of student financial aid administrators shall be named to work with board staff to implement program changes and propose corresponding amendments to administrative rules.

Effective Date of Rule: Immediately.

July 13, 1995
John Klacik
Associate Director
Student Financial Aid

[AMENDATORY SECTION (Amending WSR 95-10-007, filed 4/24/95)]

WAC 250-20-021 Program definitions. (1) The term "needy student" shall mean a post-high school student of an institution of postsecondary education who demonstrates to the higher education coordinating board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter. The determination of need shall be made in accordance with federal needs analysis formulas and provisions as recognized and modified by the board.

(2) The term "disadvantaged student" shall mean a student who by reasons of adverse cultural, educational, environmental, experiential, or familial circumstance is unlikely to aspire to, or enroll in, higher education. Generally, this shall mean a dependent student whose parents have not attained a college education and/or whose family income is substantially below the state's median.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of one of the following accrediting associations: The Northwest Association of Schools and Colleges, the Career College Association, or the Cosmetology Accrediting Commission, and if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of one of the above named accrediting associations.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15.011 through 28B.15.013 and board-adopted rules and regulations pertaining to the determination of residency.

(5) "Dependent student" shall mean any post-high school student who does not qualify as an independent student in accordance with WAC 250-20-021(6).

(6) "Independent student" shall mean any student who qualifies as an independent student for the receipt of federal aid. These qualifications include a student who has either:

- (a) Reached his or her twenty-fourth birthday before January 1st of the aid year; or,
- (b) Is a veteran of the U.S. Armed Forces; or,
- (c) Is an orphan or ward of the court; or,
- (d) Has legal dependents other than a spouse; or,
- (e) Is a married student or a graduate/professional student; or,
- (f) Is determined to be independent for the receipt of federal aid on the basis of the professional judgment of the aid administrator.

(7) Definitions of "undergraduate students" will be in accord with definitions adopted for institutional use by the board.

(8) "Student budgets" shall consist of that amount required to support an individual as a student for nine months and may take into consideration cost factors for maintaining the student's dependents. This should be the amount used to calculate the student's total need for all state and federal funds.

(9) "State need grant cost-of-attendance" is the standard student cost per sector, as developed by the board.

(a) The costs-of-attendance for each sector are calculated by adding together a standard maintenance allowance for books, room, board, transportation and personal items, for all undergraduate students statewide as developed by the Washington Financial Aid Association, and the sector's regular tuition and fees for full-time, resident, undergraduate students.

(b) In no case may the costs-of-attendance exceed the statutory ceiling established by RCW 28B.10.808(4). The ceiling is calculated by adding together the same standard maintenance allowance used in determining the state need grant cost-of-attendance, plus the regular tuition and fees charged for a full-time resident undergraduate student at a research university, plus the current average state appropriation per student for operating expenses in all public institutions.

(c) For example, in the 1992-93 academic year, the value of the statutory ceiling is \$13,783. This value is composed of the Washington Financial Aid Association's maintenance budget of \$6,964, plus the regular tuition and fees charged for a resident undergraduate student at a research university of \$2,274, plus the current average state appropriation per student for operating expenses in all public institutions of \$4,545.

(d) The value of each element used in the construction of the statutory ceiling will be updated annually.

The higher education coordinating board will consult with appropriate advisory committees and the representative association of student financial aid administrators, to annually review and adjust the costs-of-attendance. The costs-of-attendance for each sector will be published concurrent with annual guidelines for program administration.

(10) "Family income" is the student's family income for the calendar year prior to the academic year for which aid is being requested.

(a) Income means adjusted gross income and nontaxable income as reported on the federally prescribed application for federal student aid.

(b) For the dependent student family income means parental income.

(c) For the independent student family income means the income of the student and any other adult, if any, reported as part of the student's family.

(d) The institutional aid administrator may adjust the family's income up or down to more accurately reflect the family's financial situation during the academic year. When such adjustments are made they shall be consistent with guidelines for making changes to determine federal student aid eligibility.

(11) "Income cutoff" means the amount of family income below which a student is determined to be eligible for the state need grant. The cutoff shall be expressed as a percent of the state's median family income. The exact point of cutoff shall be determined each year by the board based on available funding. With the exception of the 1995-1996 academic year, ((F))in no case will the minimum income cutoff be less than sixty-five percent of the state's median family income, regardless of program funding.

(12) "Median family income" is the median income for Washington state, adjusted by family size and reported annually in the federal register.

(13) "Maximum base grant" is a percentage of the state need grant costs-of-attendance for each sector. The percentage will be no less than fifteen percent and no more than twenty percent, dependent each year upon available funding. The maximum base grant may be further adjusted according to the student's family income level and rate of enrollment as described in WAC 250-20-041.

For certain students who have completed board approved early awareness and preparation programs such as the Washington National Early Intervention Scholarship Program or a Trio program, the base grant will be an amount fixed annually by the board. Generally the base grant, in these cases, will be no less than the current value of the federal PELL grant program.

(14) "Dependent care allowance" is a flat grant amount, to be determined by the board, which is in addition to the student's eligibility for the base grant. The allowance is awarded to those students who have dependents in need of care. The dependent must be someone (other than a spouse) living with the student. Care must be that assistance provided to the dependent which is paid to and provided by someone outside of the student's household.

(15) "State need grant award" is the maximum base grant adjusted according to level of family income, plus a dependent care allowance, if applicable.

(16) "Academic year" is that period of time between July 1 and the following June 30 during which a full-time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(17) "Clock hours" means a period of time which is the equivalent of either:

- (a) A 50 to 60 minute class, lecture, or recitation, or
- (b) A 50 to 60 minute period of faculty-supervised laboratory shop training or internship.

(18) "Gift equity packaging policy" is the institution's policy for assigning gift aid to all needy, eligible students.

(19) "Satisfactory progress" is the student's successful completion of a minimum number of credits for each term in which the grant was received. Each school's policy for

measuring progress of state need grant recipients must define satisfactory as the student's completion of the minimum number of credits for which the aid was disbursed.

(a) The minimum satisfactory progress standard for full-time students is twelve credits per term or 300 clock hours per term. Satisfactory progress for three-quarter time students is nine credits per term or 225 clock hours per term. Satisfactory progress for half-time students is six credits per term or 150 clock hours per term.

(b) Each school's policy must deny further disbursements of the need grant at the conclusion of any term in which he or she fails to complete at least one-half (50%) of the minimum number of credits for which the aid was disbursed or otherwise fails to fulfill the conditions of the institution's satisfactory progress policy.

(c) The school may make disbursements to a student who is in a probationary status. "Probation" is defined as completion of at least one-half (50%), but less than all (100%) of the minimum number of credits for which the aid was calculated and disbursed. The school must have a probation policy, approved by the board, which limits the number of terms in which a student may receive the need grant while in a probationary status.

(d) The school's aid administrator may at any time, using professional judgment exercised on a case-by-case basis, reinstate a student back into a satisfactory progress status, in response to an individual student's extenuating circumstances.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 95-15-061
EMERGENCY RULES
COLUMBIA RIVER
GORGE COMMISSION**

[Filed July 14, 1995, 11:58 a.m.]

Date of Adoption: July 11, 1995.

Purpose: To amend existing land use ordinance to make rule applicable to several portions of the gorge that are not currently covered.

Citation of Existing Rules Affected by this Order: Amending 350-80-020 Land use ordinance - Area affected.

Statutory Authority for Adoption: RCW 43.97.015.

Other Authority: 16 USC 544, ORS 196.150.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Without immediate action, the scenic area's management plan cannot be implemented in several portions of the gorge. It is not in the public interest to delay the action which creates uncertainty and doubt regarding the applicable standards.

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

In the Matter of Temporary) STATEMENT OF NEED
Amendment of Commission Rule) FOR TEMPORARY RULE
350-80, Land Use Ordinance)

The Columbia River Gorge Commission intends to temporarily amend Commission Rule 350-80, Land Use Ordinance.

Legal Authority:

ORS 196.160, RCW 43.97.015, 16 USC § 544. The proposed amendment is necessary as a result of federal law, 16 USC § 544 et seq. The amendment is proposed by the Columbia River Gorge Commission.

Need of Rule and How this Rule will Meet the Need:

- (1) The proposed amendment ensures the standards of the management plan are applicable to the entire scenic area.
- (2) Delay in adoption of the proposed amendment will cause the Commission to be out of compliance with the National Scenic Area Act.

Justification for Emergency Action: (1) Harm due to existing circumstances and (2) prejudice predicted if delay: Without immediate action, the scenic area's management plan cannot be implemented in portions of the gorge. It is not in the public interest to delay action which creates uncertainty and doubt regarding the applicable standards, and, results in lack of compliance with the National Scenic Area Act.

Documents Relied Upon and Location for Inspection: Columbia River Gorge National Scenic Area Act, 16 USC 544; ORS 196.150; RCW 43.97.015; and management plan for the Columbia River Gorge national scenic area. All documents are available at the Columbia River Gorge Commission, 288 East Jewett Boulevard, White Salmon, WA 98672.

Fiscal Impact: State agencies: A number of state agencies are given an opportunity to comment on proposed development projects. In most cases, comments are not required. It is not expected that the role of these state agencies will differ from their current roles, particularly since they are already participating in the land use ordinance process.

County/Local Governments: The proposed amendment will not have an effect on county governments. It should not have an impact on those local governments with lands that are not covered by an approved county ordinance. The gorge commission will continue to make land use permitting decisions in those areas and the local governments will continue to be an important part of the land use decision process. Local governments would not be liable for any costs related to implementing land use decisions made by the gorge commission.

Columbia River Gorge Commission: The gorge commission will review land use applications in those areas not covered by an approved land use ordinance. The decision-making process is already in place through the existing rule. Administering the land use ordinance in areas not covered by approved county ordinances will slightly limit the time the commission can spend on other functions.

Landowners and the Public: Implementing the management plan will institute uniformity in regulations, predictability in decision making and simplification of the permit process. Potential economic costs to landowners include a somewhat longer decision-making process and some addi-

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tional information requirements for major development projects, but greater ease in compliance with specific standards.

Small Businesses: The majority of commercial and industrial activity in the scenic area occurs in the urban areas which are exempt from the regulations of the management plan and the land use ordinances. The proposed amendment will not change the current or future operations of these activities.

Existing business outside of urban areas are grandfathered and will not require new use permits.

Dated this 11th day of July, 1995.

Robert P. Thompson, Chair
Columbia River Gorge Commission
Effective Date of Rule: Immediately.

July 12, 1995

Jan Brending
Rules Coordinator

**COLUMBIA RIVER GORGE COMMISSION
TEMPORARY AMENDMENT (as of 7/11/95)**

Chapter 350
Division 80

Land Use Ordinance

Amended December 13, 1995

350-80-020. Area Affected.

Commission Rule 350-80 shall apply to all lands (~~in Klickitat County, Washington, Clark County, Washington, and Hood River County, Oregon~~) within the Columbia River Gorge National Scenic Area (~~as designated by~~) not administered by a land use ordinance approved pursuant to sections 7(b) and 8(h) through 8(k) of the Columbia River Gorge National Scenic Area Act.

~~((Commission Rule 350-80 becomes effective 30 days after adoption and filing by the Columbia River Gorge Commission with the exception of those portions of Commission Rule 350-80 pertaining to the Special Management Areas, which become effective upon concurrence by the Secretary of Agriculture.))~~

~~((Those portions of Commission Rule 350-80 pertaining to the General Management Area shall no longer be effective in a county which has adopted and put into effect a land use ordinance which has been found to be consistent by the Columbia River Gorge Commission.))~~

~~((Those portions of Commission Rule 350-80 pertaining to the Special Management Area shall no longer be effective in a county which has adopted and put into effect a land use ordinance which has been found to be consistent by the Columbia River Gorge Commission and concurred on by the Secretary of Agriculture.))~~

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

WSR 95-15-077

EMERGENCY RULES

DEPARTMENT OF AGRICULTURE

[Order 5072—Filed July 18, 1995, 9:02 a.m.]

Date of Adoption: July 17, 1995.

Purpose: To aid in preventing the spread of vesicular stomatitis (VS) to Washington state livestock from affected states which at this time are Arizona, Colorado and New Mexico.

Citation of Existing Rules Affected by this Order:
Amending WAC 16-54-030(1).

Statutory Authority for Adoption: RCW 16.36.040.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The outbreak of VS began the first week of June 1995 in New Mexico and as of July 13 over 200 investigations with over 100 positive cases have occurred with extension of the disease to Arizona and Colorado. VS is a serious viral disease of livestock and can also be transmitted to humans. The disease caused serious animal health and financial problems in Washington in 1983/84 prior to its elimination from the state.

Effective Date of Rule: Immediately.

July 17, 1995

Jim Jesernig

Director

AMENDATORY SECTION (Amending WSR 94-23-121 [92-21-039], filed 11/22/94 [10/15/92], effective 12/23/94 [11/15/92])

WAC 16-54-030 Health certificate. (1) All animals entering Washington shall be accompanied by an official health certificate except:

(a) Dogs and cats originating in Washington and visiting Canada for thirty days or less.

(b) Those classes of animals specifically exempted in laws or regulations of this state.

(2) Official health certificate shall contain the following information:

(a) Date of inspection. All health certificates void after thirty days, except breeding cattle forty-five days from date of issue: *Provided*, The director may give special exemption for show animals.

(b) Names and addresses of the consignor and consignee.

(c) Certification that the animals are apparently free from evidence of infectious and communicable disease.

(d) Test or vaccination status when required.

(e) Description of each animal to include species, breed, age, sex, tag or tattoo and for cattle, only an official ear tag will be accepted or if registered, the registry name, number and tattoo for individual identification.

(f) Certification of disinfection of cars and trucks when required.

(g) An owner/agent statement which says "the animals in this shipment are those certified to and listed on this

certificate" and is signed and dated by the owner, agent, or veterinarian.

(h) Vesicular Stomatitis

(i) No livestock. (equine, bovine, porcine, caprine, ovine, camelid, cervidae or captive ungulate wildlife) may enter Washington from another state if Vesicular Stomatitis has been diagnosed within ten (10) miles of the premise of origin within the last thirty (30) days.

(ii) Any livestock entering Washington from a state where Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a certificate of veterinary inspection with the following statement written by the accredited veterinarian on the certificate:

"All animals identified on this certificate of veterinary inspection have been examined and found to be free from Vesicular Stomatitis. During the last thirty (30) days, these animals have neither been exposed to Vesicular Stomatitis nor located within ten (10) miles of an area where Vesicular Stomatitis has been diagnosed."

(iii) Livestock from states in which Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a permit for entry into Washington issued by the Washington state veterinarian. The permit number shall be written on the certificate of veterinary inspection.

(iv) This emergency rule pertaining to Vesicular Stomatitis is reasonably necessary to protect the public health, safety or welfare by preventing the reintroduction into the state of Washington of Vesicular Stomatitis, a serious viral disease of livestock. The disease can also be transmitted to humans. This disease caused serious animal health and financial problems in Washington in 1983/1984, prior to its elimination from the state.

(3) All health certificates shall be approved by the livestock sanitary official of the state of origin and a copy shall be forwarded immediately to the department of agriculture, Olympia, Washington.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 95-15-092
EMERGENCY RULES
HEALTH CARE AUTHORITY
(Public Employees Benefits Board)
[Filed July 19, 1995, 8:09 a.m.]

Date of Adoption: July 19, 1995.

Purpose: To amend the Health Care Authority eligibility rules to allow enrollment in the WSGPA caregivers health plan.

Citation of Existing Rules Affected by this Order: New sections WAC 182-14-010, 182-14-020, 182-14-030, 182-14-040, 182-14-050, 182-14-060, 182-14-070, 182-14-080, 182-14-090, and 182-14-100.

Statutory Authority for Adoption: Chapter 41.05 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon

adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Proposed legislation would repeal this program.

Effective Date of Rule: Immediately.

July 19, 1995

Elin Meyer

Rules Coordinator

Chapter 182-14 WAC
WASHINGTON STATE GROUP PURCHASING
ASSOCIATION CAREGIVERS HEALTH PLAN

NEW SECTION

WAC 182-14-010 Purpose. The purpose of this chapter is to establish eligibility for the Washington state group purchasing association caregivers health plan, hereafter referred to as the WSGPA caregivers health plan. The WSGPA caregivers health plan merges the health care purchasing power of child care workers, home care workers, foster parents and eligible employees of non-profit human services organizations that contract with state agencies. The WSGPA caregivers health plan will be administered by the health care authority administrator.

NEW SECTION

WAC 182-14-020 Definitions. The following definitions apply to WAC 182-14-010 through 182-14-100.

(1) Administrator. The administrator of the health care authority.

(2) Effective date. The day on which coverage begins.

(3) Continuous coverage. Continuous group or individual health insurance plan coverage in effect for at least three months immediately prior to the effective coverage date of the WSGPA caregivers health plan.

(4) Open enrollment. That period of time, set by the health care authority, when eligible employees may sign up for coverage of their choice, change plans or add eligible dependents.

(5) Full-time employee. Those employees working thirty or more hours per week or one hundred twenty hours per calendar month.

(6) Part-time employee. Those employees working between eight and twenty-nine hours per week or thirty-two to one hundred nineteen hours per calendar month.

(7) Permanent employees. Those employees who are expected to be employed for more than six months.

(8) Nonpermanent employees. Those employees who are in pay status at least twenty hours per week and are expected to be employed for no more than six months. A nonpermanent employee becomes a permanent employee on the first day of the seventh month of employment.

(9) Dependents. Eligible dependents include:

(a) Lawful spouse.

(b) Dependent children through age nineteen. As used in these rules, "children" includes natural children, stepchildren, legally adopted children, and foster children approved by the health care authority. To qualify for HCA approval, a foster child must:

(i) Be living with the subscriber in a parent-child relationship;

(ii) Be dependent upon the subscriber for financial support;

(iii) Not be eligible for coverage under Medicare, Medicaid, or similar government health care entitlement programs; and

(iv) Not be a foster child for whom support payments are made to the subscriber through the state department of social and health services (DSHS) foster care program.

(c) Dependent children age twenty through age twenty-three who are dependent upon the employee for maintenance and support, and who are registered students in full-time attendance at an accredited secondary school, college, university, vocational school, or school of nursing. Dependent student eligibility continues year-round for those who attend three of the four school quarters and for the quarter following graduation provided the employee is covered at the same time; the dependent limiting age has not been exceeded; and the dependent meets all other eligibility requirements.

(d) Dependent children of any age who are incapable of self-support due to developmental disability or physical handicap, provided such condition occurs prior to age twenty or during the time the dependent was covered under a WSGPA caregivers health plan as a full-time student. Evidence of such disability and dependency must be furnished to the HCA upon application, and as periodically requested thereafter.

NEW SECTION

WAC 182-14-030 Eligible entities or individuals. The following entities or individuals are eligible to participate in the WSGPA caregivers health plan subject to the terms and conditions set forth in WAC 182-14-040:

(1) Owners and operators of licensed child day care centers, licensed family child care homes and preschools or other child care education programs exempted from licensing as provided in chapter 74.15 RCW on behalf of themselves, their eligible employees, employees' spouses and dependents;

(2) Individuals providing in-home long-term care services to persons whose care is financed in whole or in part through the following department of social and health services (DSHS) programs may apply on behalf of themselves, their eligible employees, employees' spouses and dependent children:

(a) Personal care as provided in chapter 74.09 RCW;

(b) Community options program entry system (COPES), as provided in chapter 74.09 RCW;

(c) Chore services as provided in chapter 74.08 RCW;

(3) Foster parents contracting with DSHS under chapter 74.13 RCW and licensed by DSHS under chapter 74.15 RCW on behalf of themselves and their spouses and dependent children;

(4) Private nonprofit human services provider organizations under contract with Washington state agencies on behalf of their eligible employees, employees' spouses and dependent children.

NEW SECTION

WAC 182-14-040 Terms and conditions of participation. Eligible entities, or individuals may participate in the WSGPA caregivers health plan provided:

(1) The administrator approves the individual's or entity's application;

(2) The entity enrolls at least seventy-five percent of its full-time employees, who do not have other health insurance coverage, in the WSGPA caregivers health plan;

(3) The entity submits to the administrator the number of hours each eligible employee works per week/month and the employees' current group health coverage, if any, and its termination date;

(4) The WSGPA caregivers health plan is the only group health care insurance coverage provided by the entity to its employees.

NEW SECTION

WAC 182-14-050 Ineligible employees. Employees working for eligible entities which do not participate in the WSGPA caregivers health plan will be ineligible for individual coverage under the WSGPA caregivers health plan. Employees who are employed by an eligible entity for fewer than eight hours per week or thirty-two hours per calendar month are ineligible for coverage under the WSGPA caregivers health plan.

NEW SECTION

WAC 182-14-060 Enrollment and effective date of coverage. (1) Permanent employee. Permanent employees and their dependents shall enroll within ninety days of their employment and coverage becomes effective on the first date of the month after receipt of application and the first month's premium.

Employees not enrolled within ninety days of employment may not enroll until the next open enrollment period unless they can provide evidence of continuous coverage under another health plan. If such evidence of coverage is provided, the employee may enroll and pay the premium within thirty-one days of the termination date of the previous plan and, coverage would begin on the date following the expiration date of previous coverage.

(2) Nonpermanent employee. Nonpermanent employees and their dependents may enroll in their sixth month of employment and coverage will be effective the first day of the seventh month of employment.

(3) Dependents.

(a) New dependents without previous coverage whose enrollment results in premium adjustments. New dependents whose enrollment will result in a premium adjustment shall enroll within sixty days of the date of marriage, birth, or placement of an adopted or foster child. New dependents not enrolled within sixty days may not enroll until the next open enrollment period. Upon receipt of application and premium, coverage begins for new dependents on the date of birth for newborn (natural or adopted), date of placement for adopted child or foster child, or date of marriage for spouse.

(b) New dependents without previous coverage whose enrollment does not result in premium adjustments. Children whose enrollment will not result in a premium adjustment

may enroll at any time and coverage will begin at the date of birth or placement of an adopted or foster child.

(c) New dependents or spouses with continuous coverage. A new dependent or spouse with continuous health care coverage shall enroll within thirty-one days of the termination date of their previous coverage. Upon receipt of the application and premium, coverage becomes effective the date following the expiration date of previous coverage.

(4) Eligible employees and dependents who discontinue WSGPA caregivers health plan. Eligible employees and dependents who discontinue WSGPA caregivers health plan may enroll during the first open enrollment following a twelve-month waiting period.

(5) Confined enrollee. If an enrollee or dependent (other than a newborn child) is confined in a hospital, skilled nursing facility, approved chemical dependency facility or other approved inpatient facility when coverage would normally begin, no benefits will be provided for services rendered prior to discharge.

NEW SECTION

WAC 182-14-070 Preexisting condition restriction. Enrollees in the WSGPA caregivers health plan are subject to a twelve-month preexisting condition period. A preexisting condition is any illness, injury, or condition for which the enrollee received medical or surgical treatment, consultations, diagnostic testing or prescription drugs in the three months immediately preceding the enrollee's effective date of coverage. Persons who have continuous coverage shall have the twelve-month preexisting period reduced for each month of prior continuous coverage.

NEW SECTION

WAC 182-14-080 Contribution to the Washington state group purchasing association account. (1) Permanent employees:

(a) Full-time employees. Employers must pay at least fifty percent of the premium rate established by the HCA for full-time permanent employees enrolled in the WSGPA caregivers health plan.

(b) Part-time employees working at least twenty hours per week. Employers must pay a prorated share of their contribution for full-time employees for part-time employees working between twenty and thirty hours a week, or between eighty and one hundred twenty hours a month.

(c) Part-time employees working less than twenty hours per week. Eligible employees working between eight and twenty hours per week, or between thirty-two and eighty hours per calendar month are eligible for an employer premium contribution according to the employer's written benefits policy. The employer contribution shall be a prorated share of the full-time contribution.

(2) Nonpermanent employees. Employer contributions for nonpermanent employees who become eligible for the WSGPA caregivers health plan shall be the same rate as those set forth for permanent employees in subsection (1) of this section.

(3) Individual enrollees. Individual enrollees in the WSGPA caregivers health plan are responsible for payment of their entire premium.

NEW SECTION

WAC 182-14-090 Termination of coverage. WSGPA caregivers health plan ends on the earliest of the following dates:

- (1) The date the plan terminates;
- (2) At midnight, the last day of the last month for which the premium has been paid;
- (3) At midnight on the last day of the month in which a dependent's eligibility ceases; or
- (4) For any subscriber or dependent confined in an inpatient facility on the date when coverage would otherwise terminate, until discharge from that facility or until benefits are exhausted, whichever occurs first.

NEW SECTION

WAC 182-14-100 Continued medical coverage under COBRA and group conversion. (1) COBRA. Eligible employees and eligible dependents who become ineligible for WSGPA caregivers health plan and who qualify for continued coverage under the Federal Consolidated Omnibus Budget Reconciliation Act (COBRA), including any amendments hereinafter enacted, may continue their WSGPA caregivers health plan coverage by self-payment of plan premiums in accordance with federal COBRA statutes and regulations.

(2) Group conversion policies. Group conversion policies are available to all enrollees upon termination of the WSGPA caregivers health plan or COBRA coverage if application is made within thirty-one days after termination of their group or COBRA plan.

WSR 95-15-112
EMERGENCY RULES
HEALTH CARE AUTHORITY
 (Public Employees Benefits Board)
 [Filed July 19, 1995, 10:39 a.m.]

Date of Adoption: July 19, 1995.

Purpose: Amend PEBB eligibility rules to permit: (1) Enrollment by school district and educational service district bargaining units; (2) enrollment by retirees of school districts; (3) require Medicare eligible retirees to enroll in both Parts A and B of Medicare as a condition of eligibility. These changes are required by chapter 386, Laws of 1993 (SHB 1784).

Citation of Existing Rules Affected by this Order: Amending WAC 182-12-110, 182-12-111, 182-12-115, and 182-12-122.

Statutory Authority for Adoption: Chapter 41.05 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The drafted permanent rules are still under legal review.

Effective Date of Rule: Immediately.

EMERGENCY

July 19, 1995
Elin Meyer
Rules Coordinator

[AMENDATORY SECTION (Amending Order 5646, filed 2/9/76)]

WAC 182-12-110 Purpose. The purpose of this chapter is to establish criteria of employee eligibility for all ~~((state))~~ public employees' ~~((insurance))~~ benefits board approved plans.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

[AMENDATORY SECTION (Amending WSR 92-03-040, filed 1/10/92)]

WAC 182-12-111 Eligible entities. Eligibility. The Individuals, as defined in (4) below, and the employees and retirees of eligible entities and their dependents must meet the individual eligibility requirements set forth in WAC 182-12-115 in order to participate in ~~((SEBB))~~ PEBB insurance plans. Only individuals who participated in ~~((SEBB))~~ PEBB insurance plans as an active employee and their dependents are eligible to participate in ~~((SEBB))~~ PEBB insurance plans upon disability or retirement, except as provided in WAC 182-12-115(8) and 182-12-122 (1)(d) or (e). The following entities and individuals shall be eligible to participate in ~~((SEBB))~~ PEBB insurance plans subject to the terms and conditions set forth below:~~((:))~~

(1)(a) State agencies. Every department, division, or separate agency of state government including the higher education personnel board, higher education coordinating board, vocational-technical institutions, and the state board for community and technical colleges is eligible and required to participate in all board approved plans.

(b) Employees of employee organizations representing state civil service employees, at the option of each such employee organization. ~~((provided:~~

~~Employees of vocational-technical institutions who belong to collective bargaining units may participate in SEBB insurance plans only if the entire collective bargaining unit enrolls in the plans and such participation is consistent with section 83, chapter 238, Laws of 1991.)~~

(2) Employees, of a county ~~((Counties)),~~ municipalities~~((ies)),~~ ~~((and))~~ or other political subdivision~~((s)),~~ ~~((including K-12 school districts))~~ of the state may participate in ~~((SEBB))~~ PEBB insurance programs provided:

(a) All eligible employees of the entity transfer to ~~((SEBB))~~ PEBB plan coverage as a unit.

(b) The legislative authority or the board of directors obligates itself to participate in all ~~((SEBB))~~ PEBB insurance plans.

(c) The legislative authority of the entity ~~((or the board of directors of the school district))~~ submits an application together with employee census data and, if available, prior claims experience of the entity to the health care authority;

(d) The legislative authority or the board of directors agrees to maintain its ~~((SEBB))~~ PEBB plan participation through the end of the plan year;

(e) The legislative authority or the board of directors shall provide the health care authority written notice of its

intent to terminate ~~((SEBB))~~ PEBB plan participation no later than thirty days prior to the effective date of termination. If a county, municipality, ~~((or))~~ political subdivision, ~~((including a K-12 school district))~~ or employees of employee organizations representing state civil service employees terminates coverage in ~~((SEBB))~~ PEBB insurance plans, retired, and disabled employees who began participating after September 15, 1991, will no longer be eligible to participate in ~~((SEBB))~~ PEBB insurance plans beyond the mandatory extension requirements specified in WAC 182-12-215.

(f) The health care authority administrator approves the entity's application.

(3)(a) School districts and educational service districts. Bargaining units and nonrepresented employees of school districts and educational services districts of the state may participate in PEBB insurance programs provided:

(i) The PEBB plans must be the only plans made available to the members of the bargaining unit through their employment by the school district or educational service district.

(ii) All eligible employees of the bargaining unit transfer as a unit and all nonrepresented employees transfer as a unit.

(iii) A bargaining unit employee or nonrepresented employee who would otherwise be considered an eligible employee under the rules established by the board may voluntarily waive enrollment in the programs and will no longer be considered an eligible employee for purposes of effectuating the transfer of the unit.

(iv) The terms and conditions for the payment of insurance premiums shall be set forth in the provisions of the bargaining agreement and shall comply with the employer contribution requirements specified in RCW 28A.400.280. These provisions of the collective bargaining agreement, including eligibility, shall be subject to review and approval by the PEBB at the time of application for participation.

(v) The application to participate in the PEBB plans is subject to the approval of the HCA.

(vi) The eligibility requirements for dependents of school district and educational service district employees shall be the same as the requirements for dependents of the state employees and retirees as defined in WAC 182-12-115(10).

(vii) The bargaining unit or unit of nonrepresented employees must agree to maintain its PEBB plan participation through the end of the plan year.

(4) Eligible non-employees: (a) Dislocated Forest Products Workers. Dislocated forest products workers enrolled in the employment and career orientation program pursuant to chapter 50.70 RCW shall be eligible for PEBB medical and dental plan coverage while enrolled in that program.

(b) School board members or students eligible to participate under RCW 28A.400.350.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published

above varies from its predecessor in certain respects not indicated by the use of these markings.

[AMENDATORY SECTION (Amending WSR 92-08-003, filed 3/18/92)]

WAC 182-12-115 Eligible employees, retirees, and dependents. The following definitions of eligible employees, retirees, and dependents of an eligible entity, as defined in WAC 182-12-111 shall apply for all ~~((SEBB))~~ PEBB approved plans except as otherwise stated in this chapter~~(+)~~. For purposes of defining eligible employees of school districts and educational service districts, the collective bargaining agreement will supersede all definitions provided under this rule if a approved by the PEBB and the authority in accordance with WAC 182-12-111 (3)(a)(iv).

(1) "Permanent employees." Those who are scheduled to work at least half-time per month and are expected to be employed for more than six months. Such employees shall be eligible effective with their first day of employment.

(2) "Nonpermanent employees." Those who are scheduled to work at least half-time and are expected to be employed for no more than six months. Such employees shall be eligible effective the first day of the seventh calendar month of employment.

(3) "Seasonal employees." Those who work at least half-time per month during a designated season for a minimum of three months but less than nine months per year and who have an understanding of continued employment with their agency season after season. These employees become eligible on the first day of such employment, however, they are not eligible for the employer contribution during the break between seasons of employment.

(4) "Career Seasonal/Instructional Employees." Employees who work half-time or more on an instructional year (school year) or equivalent nine-month seasonal basis are eligible on their first day of employment and are eligible to receive the employer contribution for insurance during the off-season following each period of seasonal employment.

~~((4))~~ (5) "Part-time faculty." Faculty who are employed on a quarter/semester to quarter/semester basis become eligible beginning with the second consecutive quarter/semester of half-time or more employment at one or more state institutions of higher education, provided that:

(a) For determining eligibility, spring and fall may be considered consecutive quarters/semesters; and

(b) "Half-time or more employment" will be determined based on each institution's definition of "full-time"; and

(c) At the beginning of each quarter/semester, the employers of part-time faculty shall notify, in writing, all current and newly hired part-time faculty of their potential right to benefits under this section. The employee shall have the responsibility, each quarter, to notify the employers, in writing, of the employee's multiple employment. In no case will there be a requirement for retroactive coverage or employer contribution if a part-time faculty member fails to inform all of his/her employing institutions about employment at all institutions within the current quarter; and

(d) Where concurrent employment at more than one state higher education institution is used to determine total part-time faculty employment of half-time or more, the employing institutions will arrange to prorate the cost of the

employer insurance contribution based on the employment at each institution. However, if the part-time faculty member would be eligible by virtue of employment at one institution, that institution will pay the entire cost of the employer contribution regardless of other higher education employment. In cases where the cost of the contribution is prorated between institutions, one institution will forward the entire contribution monthly to ~~((SEBB))~~ HCA; and

(e) Once enrolled, if a part-time faculty member does not work at least a total of half-time in one or more state institutions of higher education, eligibility for the employer contribution ceases.

~~((5))~~ (6) "Appointed and elected officials." Legislators are eligible on the date their term begins. All other elected and full-time appointed officials of the legislative and executive branches of state government are eligible on the date their term begins or they take the oath of office, whichever occurs first.

~~((6))~~ (7) "Judges." Justices of the supreme court and judges of the court of appeals and the superior courts become eligible on the date they take the oath of office.

~~((7))~~ (8) "Retirees and disabled employees." Eligible employees who terminate state service after becoming vested in a Washington state sponsored retirement system are eligible for retiree medical, dental and life coverages provided the person:

(a) Immediately begins receiving a monthly retirement income benefit from such retirement system; or

(b) If not retiring under the public employees retirement system (PERS), would have been eligible for a monthly retirement income benefit because of age and years of service had the person been employed under the provisions of PERS I or PERS II for the same period of employment; or

(c) Must take a lump sum benefit because their monthly benefit would have been under fifty dollars.

Employees who are permanently and totally disabled and eligible for a deferred monthly retirement income benefit are likewise eligible, provided they apply for retiree coverage before their ~~((SEBB))~~ PEBB active employee coverage ends. Persons retiring who do not have waiver of premium coverage from any ~~((SEBB))~~ PEBB life insurance plan are eligible for retiree life insurance, subject to the same qualifications as for retiree medical coverage. Retirees and disabled employees are not eligible for an employer premium contribution. The Federal Civil Service Retirement System shall be considered a Washington state sponsored retirement system for Washington State University cooperative extension service employees who hold a federal civil service appointment and who are covered under the ~~((SEBB))~~ PEBB program at the time of retirement or disability.

(9) "Retired and disabled school district and educational service district employees." The following persons are eligible to participate in PEBB medical and dental plans only, provided they meet the enrollment criteria stated below and if eligible for Medicare, be enrolled in Medicare Parts A and B or enroll in the next Medicare open enrollment period:

(a) Persons receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993, and who enroll in PEBB plans not later than the end of the open

enrollment period established by the authority for the plan year beginning January 1, 1995;

(b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation begin to receive a retirement allowance under chapter 41.32 or 41.40 RCW. Such persons who retire on or after October 1, 1993, must elect PEBB coverage not later than the end of the open enrollment period established by the authority for the plan year beginning January 1, 1995, or sixty days following retirement whichever is later;

(c) Persons who separate from employment with a school district or educational service district due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32 or 41.40 RCW. Such persons must enroll in PEBB plans not later than the end of the open enrollment period established by the authority for the plan year beginning January 1, 1995, or sixty days following retirement, whichever is later.

~~((8))~~ (10) "Eligible dependents." The following are eligible as dependents under the medical and dental plans:

(a) Lawful spouse except that as of November 1, 1991, a lawful spouse who works full time and who is eligible for coverage as a subscriber on a plan or plans offered by a K-12 school district and who has waived that coverage is not eligible for employer-paid coverage as a dependent on a ~~(SEBB)~~ PEBB plan.

(b) Dependent children through age nineteen. As used in this section, "children" includes natural children, stepchildren, legally adopted children, and married children who qualify as dependents of the employee/retiree under the Internal Revenue Code or as specified in a court order or divorce decree, and foster children approved by the health care authority. To qualify for HCA approval, a foster child must:

(i) Be living with the subscriber in a parent-child relationship;

(ii) Be dependent upon the subscriber for financial support;

(iii) Not be eligible for coverage under Medicare, Medicaid, or similar government entitlement programs; and

(iv) Not be a foster child for whom support payments are made to the subscriber through the state department of social and health services (DSHS) foster care program.

(c) Dependent children age twenty through age twenty-three who are dependent upon the employee/retiree for maintenance and support, and who are registered students in full-time attendance at an accredited secondary school, college, university, vocational school, or school of nursing. Dependent student eligibility continues year-round for those who attend three of the four school quarters and for the quarter following graduation provided the employee/retiree is covered at the same time; the dependent limiting age has not been exceeded; and the dependent meets all other eligibility requirements.

(d) Dependent children of any age who are incapable of self-support due to developmental disability or physical handicap, provided such condition occurs prior to age twenty or during the time the dependent was covered under a ~~(SEBB)~~ PEBB plan as a full-time student. Proof of such disability and dependence must be furnished prior to the

dependent's attainment of age twenty or loss of eligibility for student coverage, and as periodically requested thereafter.

(e) "Dependent parents." Parents of the employee/retiree or their spouse who qualify as dependents under the Internal Revenue Code and who were covered as dependents under ~~((SEBB))~~ PEBB medical/dental plans prior to July 1, 1990, may continue ~~((SEBB))~~ PEBB coverage on a self-pay basis.

~~((9))~~ (11) Notwithstanding any of the foregoing, employees who are not mandatorily, by election, or otherwise covered by industrial insurance under Title 51 RCW shall not be considered "eligible employees" within the meaning of this section.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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

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

AMENDATORY SECTION (Amending Resolution No. 86-3, filed 8/5/86)

WAC 182-12-122 Surviving dependents eligibility.

(1) The following classes of surviving eligible dependents may continue their medical and dental coverages (~~up to the age limits for dependent children by premium withholding or direct payment of premium~~) on a self-pay basis: ~~((1))~~

(a) Surviving spouse and/or eligible dependent children of a deceased state retiree who were covered as dependents under ~~((these coverages))~~ a PEBB plan at the time of the retiree's death ~~((and (2)))~~ ;

(b) Surviving spouse and/or eligible dependent children of a deceased state employee who were covered ~~((as dependents))~~ under ~~((these coverages))~~ a PEBB plan at the time of the employee's death ~~((and who will immediately begin receiving a monthly retirement income benefit))~~ provided they are eligible to receive an allowance from a Washington state sponsored retirement system ~~((Application for surviving dependents coverage must be made within sixty days from the date of death of the retiree/employee. Coverage is retroactive to the date retiree/employee medical coverage terminated. Surviving dependents are not eligible for an employer premium contribution. Surviving dependents are not eligible for retiree life insurance.))~~;

(c) Surviving spouses and/or eligible dependent children of deceased retired or disabled school district and educational service employees who were enrolled under a PEBB plan at the time of the retiree's death;

(d) Surviving spouses and/or eligible dependent children of a deceased school district or educational school district employee who was not enrolled in a PEBB plan at the time of death; provided, the employee died on or after October 1, 1993 and the dependents immediately began receiving a retirement benefit allowance under chapter 41.32 or 41.40 RCW;

(e) Surviving spouses and/or eligible dependent children of deceased retired or disabled school district or educational

service district employees who died prior to October 1, 1993, and who would have been eligible to enroll pursuant to WAC 182-12-115 (8)(a).

(2)(a) Applications for surviving dependents coverage under subsections (1)(a), (b) and (c) must be made in writing on the enrollment form approved by the health care authority within sixty days from the date of death of the employee or retiree. Coverage is retroactive to the date the employee or retiree coverage terminated subject to the payment of premium.

(b) Application for surviving dependents coverage under (1)(d) and (e) must be made before the end of the open enrollment period established by the authority for the plan year beginning January 1, 1995. The effective date of coverage will be the first day of the month following the receipt of the completed application.

(3) The Federal Civil Service Retirement System shall be considered a Washington state sponsored retirement system under subsection (1)(b) of this section for Washington State University cooperative extension service employees who held a federal civil service appointment and who were covered under the ((SEIB)) PEBB program at the time of death.

WSR 95-13-036
RULES OF COURT
STATE SUPREME COURT
[June 13, 1995]

GR 15 (c), (d)

IN THE MATTER OF THE ADOPTION OF THE AMENDMENTS TO GR 15; RPC 1.7(c); RLD 2.4(d); RLD 11.1; CrR 2.2(a); CrR 2.3(c); CrR 3.2 (a) and (m); CrR 3.2A; CrR 3.4(c); CrR 4.3 (a), (b), (c) and (d); NEW CrR 4.3A; CrR 4.5(a) and (d); CrR 6.16(a); CrR 7.2(b); CrR 8.2; JuCR 7.3 (a) and (b); RALJ 2.4: RALJ 2.6 (a), (b), (c) and (d); RALJ 2.7; RALJ 4.1(c); RALJ 4.2(b); RALJ 4.3(b); RALJ 5.4; RALJ 6.1(a); RALJ 6.2 (a); RALJ 6.3A(d); CRLJ 73(b); CrRLJ 2.2(a); CrRLJ 2.3(c); CrRLJ 2.4(b); CrRLJ 3.2 (a), (1); CrRLJ 3.2.1(b); CrRLJ 3.3(f); CrRLJ 4.1(a); NEW CrRLJ 4.5; CrRLJ 6.3; CrRLJ 6.16(a); CrRLJ 7.2(b); CrRLJ 8.2; CrRLJ 8.3(b); IRLJ 5.2 and IRLJ 6.1

ORDER

NO. 25700-A-562

The Washington State Bar Association having recommended the adoption of the proposed amendments to GR 15; RPC 1.7(c); RLD 2.4(d); RLD 11.1; CrR 2.2(a); CrR 2.3(c); CrR 3.2 (a) and (m); CrR 3.2A; CrR 3.4(c); CrR 4.3 (a), (b), (c) and (d); NEW CrR 4.3A; CrR 4.5 (a) and (d); CrR 6.16(a); CrR 7.2(b); CrR 8.2; JuCR 7.3 (a) and (b); RALJ 2.4: RALJ 2.6 (a), (b), (c) and (d); RALJ 2.7; RALJ 4.1(c); RALJ 4.2(b); RALJ 4.3(b); RALJ 5.4; RALJ 6.1(a); RALJ 6.2(a); RALJ 6.3A(d); CRLJ 73(b); CrRLJ 2.2(a); CrRLJ 2.3(c); CrRLJ 2.4(b); CrRLJ 3.2(a), (1); CrRLJ 3.2.1(b); CrRLJ 3.3(f); CrRLJ 4.1(a); NEW CrRLJ 4.5; CrRLJ 6.3; CrRLJ 6.16(a); CrRLJ 7.2(b); CrRLJ 8.2; CrRLJ 8.3(b); IRLJ 5.2 and IRLJ 6.1, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That the amendments will be published in the special rules edition of the Washington Reports in July 1995, and will become effective September 1, 1995.

DATED at Olympia, Washington this 13th day of June, 1995.

Durham, C. J.

Dolliver, J.

Johnson, J.

Smith, J.

Pekelis, J.

Guy, J.

Madsen, J.

Talmadge, J.

Alexander, J.

(c) Grounds and Procedure for Requesting the Sealing or Destruction of Court Records.

(1) Criminal Cases or Juvenile Proceedings.

(A) Destruction of Files or Records. On motion of any interested person in a criminal case or juvenile proceeding, or on the court's own motion, and after a hearing, the court may order the files and records in the proceeding, or any part thereof, to be destroyed if the court finds that such action is expressly permitted by statute. Reasonable notice of the hearing shall be given to: (1) the prosecuting authority of the city or county; (2) the affected adult or juvenile defendant; (3) the victim, if ascertainable; and (4) the person or agency having probationary, custodial, community placement, or community supervision over the affected adult or juvenile defendant.

(B) Sealing of Files and Records. Subject to the provisions of RCW 4.24 and CR 26(j), on ~~On~~ motion of any interested person in a criminal case or juvenile proceeding, or on the court's own motion, and after a hearing, the court may order the files and records in the proceeding, or any part thereof, to be sealed if the court finds that such action is expressly permitted by statute or that there are compelling circumstances requiring such action. Reasonable notice of the hearing shall be given by the moving party to: (1) the prosecuting authority of the city or county; (2) the affected adult or juvenile defendant; (3) the victim, if ascertainable; and (4) the person or agency having probationary, custodial, community placement, or community supervision over the affected adult or juvenile defendant.

(2) Civil Cases.

(A) Destruction of Files or Records. After entry of final judgment, no civil case file or any part thereof may be destroyed, except after files have been microfilmed as provided in RCW 36.23.065. Before entry of final judgment, civil case files or parts thereof may be destroyed only if the destruction is expressly permitted by statute.

(B) Sealing of Files or Records. On motion of any party to a civil proceeding, or on the court's own motion, and after reasonable notice to the nonmoving party and a hearing, the court may order the sealing of any files and records in the proceeding (i) to further an order entered under CR 12(f) or a protective order entered under CR 26(c); or (ii) under compelling circumstances where justice so requires.

(d) Grounds and Procedure for Requesting the Opening of Sealed Records.

(1) Criminal Cases or Juvenile Proceedings. After the entry of an order to seal all or part of a court file in a criminal or juvenile proceeding, the records sealed shall be opened only upon proof of compelling circumstances, unless otherwise provided by statute, and only upon motion and written notice to the persons entitled to notice under subsection (c)(1) of this rule.

(2) Civil Cases. After the entry of an order to seal all or part of a court file in a civil proceeding, the records sealed shall be opened only upon stipulation of all parties or upon motion and written notice to all parties and proof of compelling circumstances, or pursuant to RCW 4.24 or CR 26(j).

MISCELLANEOUS

RPC 1.7(c)

(c) For purposes of this rule, when a lawyer who is not a public officer or employee represents a discrete governmental agency or unit that is part of a broader governmental entity, the lawyer's client is the particular governmental agency or unit represented, and not the broader governmental entity of which the agency or unit is a part, unless:

(1) Otherwise provided in a written agreement between the lawyer and the governmental agency or unit; or

(2) The broader governmental entity gives the lawyer timely written notice to the contrary, in which case the client shall be designated by such entity. Notice under this subsection shall be given by the person designated by law as the chief legal officer of the broader governmental entity, or in the absence of such designation, by the chief executive officer of the entity.

RLD 2.4(d)

(d) Authority of Review Committees. Each review committee shall have the power and authority to:

(1) Review reports on investigations of alleged acts of misconduct by a lawyer, and upon such review order a hearing on the alleged misconduct, issue an admonition, dismiss the matter, issue an advisory letter, or direct such further investigation as may appear appropriate;

(2) Order that an investigation into an alleged act of misconduct by a lawyer be deferred when it appears that the allegations are substantially similar to those in pending civil or criminal litigation, or when the lawyer against whom a grievance is filed is physically or mentally unable to respond to the investigation, or for other good cause, where it appears that such deferral will not endanger the public;

(3) Review reports on investigations into allegations that a lawyer is mentally or physically unable to conduct the practice of law, and upon such review order a hearing into the capacity of the lawyer to conduct the practice of law, dismiss the matter, or direct such further investigation as may appear appropriate;

(4) Reconsider grievances conditionally dismissed by disciplinary counsel, when the grievant has disputed the dismissal and the grievance has not been reopened, and upon such reconsideration affirm the dismissal, order a hearing on the alleged misconduct, issue an admonition, issue an advisory letter, or direct such further investigation as may appear appropriate;

(5) Make determinations of whether a crime is a "serious crime" under rule 3.1 and authorize proceedings for suspension of a lawyer upon finding of risk to the public pursuant to rule 3.2(a);

(6) Perform such other functions and take such other actions as provided in these rules or as may be delegated to it by the Disciplinary Board or the Board of Governors, or as may be necessary and proper to carry out its duties.

RLD 11.1(f)

(f) Protective Orders. In order to protect a compelling interest of a grievant, witness, third party, or respondent, the hearing officer or panel chairperson to whom a matter is assigned, the chairperson of a review committee or of the Board when a matter is before a committee or the Board for

review, or the ~~president of the Association~~ chairperson of the Character and Fitness Committee in the case of a petition for reinstatement after disbarment, may, upon motion and for good cause shown, issue a protective order prohibiting the disclosure of specific information or specific documents or pleadings, and direct that the proceedings be conducted so as to implement the order.

CrR 2.2(a)

(a) Warrant of Arrest. If an indictment is found or an information is filed, the court may direct the clerk to issue a warrant for the arrest of the defendant. Before ruling on a request for a warrant the court may require the complainant to appear personally and may examine under oath the complainant and any witnesses the complainant may produce. A warrant of arrest ~~must be supported by~~ may not issue unless the court determines that there is probable cause to believe that the defendant committed the offense charged. The court shall determine probable cause based on an affidavit, ~~or affidavits~~ a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. Sworn testimony shall be recorded electronically or stenographically. ~~The court must determine that there is probable cause before issuing the warrant.~~ The finding of evidence shall be preserved and shall be subject to constitutional limitations for probable cause determinations and may be based on evidence which is hearsay in whole or in part, subject to constitutional limitations.

CrR 2.3(c)

(c) Issuance and Contents. A search warrant may be issued only if the court determines there is probable cause for the issuance of a warrant. There must be an affidavit, ~~or affidavits~~ a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. The sworn testimony may be an electronically recorded telephonic statement. The recording or a duplication of the recording shall be a part of the court record and shall be transcribed if requested by a party if there is a challenge to the validity of the warrant or if ordered by the court. The evidence in support of the finding of probable cause ~~may be based on evidence which is hearsay in whole or in part,~~ shall be preserved and shall be subject to constitutional limitations for such determinations and may be hearsay in whole or in part. If the court finds that probable cause for the issuance of a warrant exists, it shall issue a warrant or direct an individual whom it authorizes for such purpose to affix the court's signature to a warrant identifying the property or person and naming or describing the person, place or thing to be searched. The court shall record a summary of any additional evidence on which it relies. The warrant shall be directed to any peace officer. It shall command the officer to search, within a specified period of time not to exceed 10 days, the person, place, or thing named for the property or person specified. It shall designate to whom it shall be returned. The warrant may be served at any time.

CrR 3.2 (a), (m)

(a) Release in Noncapital Cases. Any person, other than a person charged with a capital offense, shall at the

preliminary appearance or reappearance pursuant to rule 3.2A or CrRLJ 3.2.1 be ordered released on the accused's personal recognizance pending trial unless the court determines that such recognizance will not reasonably assure the accused's appearance, when required, or if there is shown a likely danger that the accused will commit a violent crime, or that the accused will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice. For the purpose of this rule, "violent crimes" are not limited to crimes defined as violent offenses in RCW 9.94A.030. If the court finds that release without bail should be denied or that conditions should attach to the release on personal recognizance, other than the promise to appear for trial, the court shall proceed to determine whether probable cause exists to believe that the accused committed the offense charged, unless this determination has previously been made by a court. Before making the determination, the court may consider an affidavit, ~~or affidavits filed a document as provided in RCW 9A.72.085 or any law amendatory thereto,~~ or sworn testimony, and further may examine under oath the affiant and any witnesses the affiant may produce. Sworn testimony shall be electronically or stenographically recorded. The evidence shall be preserved and shall be subject to constitutional limitations for probable cause determinations, and may be hearsay in whole or in part. The court shall impose the least restrictive of the following conditions that will reasonably assure that the accused will be present for later hearings, will not significantly interfere with the administration of justice and not pose a substantial danger to others or the community or, if no single condition gives that assurance, any combination of the following conditions:

- (1) Place the accused in the custody of a designated person or organization agreeing to supervise the accused;
- (2) Place restrictions on the travel, association, or place of abode of the accused during the period of release;
- (3) Require the execution of an unsecured bond in a specified amount;
- (4) Require the execution of a bond in a specified amount and the deposit in the registry of the court in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the performance of the conditions of release or forfeited for violation of any condition of release;
- (5) Require the execution of a bond with sufficient solvent sureties, or the deposit of cash in lieu thereof;
- (6) Require the accused to return to custody during specified hours; or
- (7) Impose any condition other than detention deemed reasonably necessary to assure appearance as required, assure noninterference with the trial and reduce danger to others or the community.

...
(m) Accused Discharged Released on Recognizance or Bail—Absence—Forfeiture. If the accused has been discharged released on the accused's own recognizance, on bail, or has deposited money instead thereof, and does not appear when the accused's personal appearance is necessary or violated conditions of release, the court, in addition to the forfeiture of the recognizance, or of the money deposited, may direct the clerk to issue a bench warrant for the accused's arrest.

CrR 3.2A

PROCEDURE FOLLOWING ARREST WITHOUT WARRANT

(a) Probable Cause Determination. A person arrested without a warrant shall have a judicial determination of probable cause no later than 48 hours following the person's arrest.

(b) How determined. The court shall determine probable cause ~~on the sworn testimony of a peace officer or prosecuting attorney. The sworn testimony may be by written affidavit or electronically recorded, and in either case the testimony evidence presented by a peace officer or a prosecuting attorney in the same manner as provided for a warrant of arrest in rule 2.2.~~ The evidence shall be preserved.

CrR 3.4(c)

(c) Defendant Not Present. If in any case the defendant is not present when his personal attendance is necessary, the court may order the clerk to issue a warrant ~~for his arrest, which may be served as a warrant of arrest in other cases.~~

CrR 4.3 (a), (b), (c), (d)

(a) Joinder of Offenses. Two or more offenses may be joined in one charge charging document, with each offense stated in a separate count, when the offenses, whether felonies or misdemeanors or both:

(1) Are of the same or similar character, even if not part of a single scheme or plan; or

(2) Are based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan.

(b) Joinder of Defendants. Two or more defendants may be joined in the same charge charging document:

(1) When each of the defendants is charged with accountability for each offense included;

(2) When each of the defendants is charged with conspiracy and one or more of the defendants is also charged with one or more offenses alleged to be in furtherance of the conspiracy; or

(3) When, even if conspiracy is not charged and all of the defendants are not charged in each count, it is alleged that the several offenses charged:

(i) were part of a common scheme or plan; or

(ii) were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others.

(c) Failure To Join Related Offenses.

~~(1) Two or more offenses are related offenses, for purposes of this rule, if they are within the jurisdiction and venue of the same court and are based on the same conduct.~~

~~(2) When a defendant has been charged with two or more related offenses, the timely motion to join them for trial should be granted unless the court determines that because the prosecuting attorney does not have sufficient evidence to warrant trying some of the offenses at that time, or for some other reason, the ends of justice would be defeated if the motion were granted. A defendant's failure to so move constitutes a waiver of any right of joinder as to related offenses with which the defendant knew he was charged.~~

~~(3) A defendant who has been tried for one offense may thereafter move to dismiss a charge for a related offense, unless a motion for joinder of these offenses was previously denied or the right of joinder was waived as provided in this rule. The motion to dismiss must be made prior to the second trial, and shall be granted unless the court determines that because the prosecuting attorney was unaware of the facts constituting the related offense or did not have sufficient evidence to warrant trying this offense at the time of the first trial, or for some other reason, the ends of justice would be defeated if the motion were granted.~~

~~(4) Entry of a plea of guilty to one offense does not bar the subsequent prosecution of a related offense unless the plea of guilty was entered on the basis of a plea agreement in which the prosecuting attorney agreed to seek or not to oppose dismissal of other related charges or not to prosecute other potential related charges. [Reserved.]~~

~~(d) Authority of Court To Act on Own Motion. The court may order consolidation for trial of two or more indictments or informations if the offenses or defendants could have been joined in a single charge. [Reserved.]~~

CrR 4.3A

[NEW RULE]

CONSOLIDATION FOR TRIAL

(a) **Consolidation Generally.** Offenses or defendants properly joined under rule 4.3 shall be consolidated for trial unless the court orders severance pursuant to rule 4.4.

(b) **Failure To Join Related Offenses.**

(1) Two or more offenses are related offenses, for purposes of this rule, if they are within the jurisdiction and venue of the same court and are based on the same conduct.

(2) When a defendant has been charged with two or more related offenses, the timely motion to consolidate them for trial should be granted unless the court determines that because the prosecuting attorney does not have sufficient evidence to warrant trying some of the offenses at that time, or for some other reason, the ends of justice would be defeated if the motion were granted. A defendant's failure to so move constitutes a waiver of any right of consolidation as to related offenses with which the defendant knew he or she was charged.

(3) A defendant who has been tried for one offense may thereafter move to dismiss a charge for a related offense, unless a motion for consolidation of these offenses was previously denied or the right of consolidation was waived as provided in this rule. The motion to dismiss must be made prior to the second trial, and shall be granted unless the court determines that because the prosecuting attorney was unaware of the facts constituting the related offense or did not have sufficient evidence to warrant trying this offense at the time of the first trial, or for some other reason, the ends of justice would be defeated if the motion were granted.

(4) Entry of a plea of guilty to one offense does not bar the subsequent prosecution of a related offense unless the plea of guilty was entered on the basis of a plea agreement in which the prosecuting attorney agreed to seek or not to oppose dismissal of other related charges or not to prosecute other potential related charges.

(c) **Authority of Court To Act on Own Motion.** The court may order consolidation for trial of two or more indictments or informations if the offenses or defendants could have been joined in a single charging document under rule 4.3.

CrR 4.5 (a), (d)

(a) **When Required.** When a plea of not guilty is entered, the court may shall set and time for an omnibus hearing.

...

(d) **Motions.** All motions and other requests prior to trial should ordinarily be reserved for and presented orally at the omnibus hearing unless the court otherwise directs. Failure to raise or give notice at the hearing of any error or issue of which the party concerned has knowledge may constitute waiver of such error or issue. Checklist forms substantially like the memorandum required by section (h) shall be made available by the court and utilized at the hearing to ensure that all requests, errors and issues are then considered.

CrR 6.16(a)

(a) **Verdicts.**

(1) *Several Defendants.* If there are two or more defendants, the jury at any time during its deliberations may return a verdict or verdicts with respect to a defendant or defendants as to whom it has agreed; if a jury cannot agree with respect to all, the defendant or defendants as to whom it does not agree may be tried again.

(2) *Return of Verdict.* When all members of the jury agree upon a verdict, the ~~foreman~~ presiding juror shall complete and sign the verdict form and return it to the judge in open court.

(3) *Poll of Jurors.* When a verdict or special finding is returned and before it is recorded, the jury shall be polled at the request of any party or upon the court's own motion. If at the conclusion of the poll, all of the jurors do not concur, the jury may be directed to retire for further deliberations or may be discharged by the court.

CrR 7.2(b)

(b) **Procedure at Time of Sentencing.** The court shall, ~~at the time of~~ immediately after sentencing, advise the defendant: (1) of the right to appeal the conviction; (2) of the right to appeal a sentence outside the standard sentence range; (3) that unless a notice of appeal is filed within 30 days after the entry of the judgment or order appealed from, the right to appeal is irrevocably waived; (4) that the superior court clerk will, if requested by the defendant appearing without counsel, supply a notice of appeal form and file it upon completion by the defendant; (5) of the right, if unable to pay the costs thereof, to have counsel appointed and portions of the trial record necessary for review of assigned errors transcribed at public expense for an appeal; and (6) of the time limits on the right to collateral attack imposed by RCW 10.73.090 and .100. These proceedings shall be made a part of the record.

MISCELLANEOUS

CrR 8.2

MOTIONS

Rules 3.5 and 3.6 and CR 7(b) shall govern motions in criminal cases.

JuCR 7.3 (a), (b)

(a) Time for First Appearance Generally. ~~Any A~~ juvenile who has been taken into custody ~~and without a warrant and who is to be detained or released on any conditions other than the promise to appear in court at subsequent hearings~~ must receive a judicial determination on the issues of probable cause no later than 48 hours following the juvenile's arrest.

(b) Determination of Probable Cause. The court shall determine probable cause ~~based on the an affidavit, a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony of a peace officer or prosecuting attorney.~~ The sworn testimony ~~may shall~~ be by ~~written affidavit or electronically or stenographically recorded, and in either case the testimony~~ The evidence shall be preserved. The evidence shall be subject to constitutional limitations for probable cause determinations and may be hearsay in whole or in part.

RALJ 2.4

HOW TO INITIATE AN APPEAL

(a) Review Initiated by Filing Notice of Appeal in ~~Superior Court.~~ A party appealing a decision subject to these rules must file a notice of appeal in the ~~superior court of limited jurisdiction~~ within the time provided by rule 2.5. This is the only jurisdictional requirement for an appeal.

(b) Filing Fee in ~~Superior Court.~~ The first party to file a notice of appeal shall, at the time the notice is filed, pay the statutory filing fee to the clerk of the ~~superior court of limited jurisdiction~~ in which the notice is filed, unless the party filing the notice is excused from paying a filing fee by statute or by the constitution.

(c) Notice in ~~Court of Limited Jurisdiction and Service.~~ A party filing a notice of appeal in ~~superior court~~ shall immediately serve a copy of the notice on all other parties. ~~The superior court clerk shall immediately upon filing of a notice of appeal file a copy of the notice with the court of limited jurisdiction that entered the decision. The clerk of the court of limited jurisdiction shall immediately upon filing of a notice of appeal and payment of the filing fee, if required, file a copy of the notice with the superior court.~~

RALJ 2.6 (a), (b), (c), (d)

(a) Content of Notice of Appeal Generally. A notice of appeal should (1) be titled "Notice of Appeal", (2) identify the party or parties appealing, (3) designate each decision which the party wants reviewed, (4) name the ~~superior~~ court to which the appeal is taken, (5) provide the identifying material required by section (b), (6) ~~designate the claimed errors as required by section (e), (7) state whether the case appealed is criminal (include charge description), civil, or an infraction, and (8) (7) name the court and cause number from which the appeal is taken.~~

(b) Identification of Parties, Lawyers, and Address of Defendant in Criminal Case. The first party to file a notice of appeal should include on the notice the name and address of the lawyer for each of the parties represented by a lawyer and the address of parties who are not represented by counsel. If a defendant in a criminal case appeals, the notice of appeal ~~should shall~~ include the defendant's address. The defendant in a criminal case must file a statement in the superior court ~~and the court of limited jurisdiction~~ indicating any changes in the defendant's address during the appeal.

(c) Designation of Claimed Errors. ~~The notice of appeal shall include a statement of the errors the appealing party claims were made by the court of limited jurisdiction. If an electronic recording is to be reviewed, the notice of appeal must identify, in accordance with local court rule or if there is no local court rule, in accordance with procedures established by the Administrator for the Courts, the location of claimed errors on the recording. [Reserved.]~~

(d) Amending Claims of Error. ~~A party filing a notice of appeal may, without court permission, file one statement including additional claims of error or amending those claims previously included on the notice of appeal. The statement shall be served on all parties and be filed in the superior court at least 14 days before the scheduled hearing of the appeal. Additional claims of error may be added or claims of error modified only with permission of the superior court. [Reserved.]~~

RALJ 2.7

ADVICE OF RIGHT TO APPEAL IN CRIMINAL CASE

~~In a criminal case, the judge of the court of limited jurisdiction shall advise the defendant of the defendant's right to appeal a final decision by filing a notice of appeal in the superior court and of the defendant's right to counsel on appeal. The judge shall also advise the defendant that the notice must be served on all other parties and filed in the superior court within 14 days after the final decision in the case, and that the notice must specify the errors claimed by the defendant. Upon request, the court shall supply the defendant with a standard form of notice of appeal. [Reserved.]~~

RALJ 4.1(c)

(c) Questions Relating to Indigency. The court of limited jurisdiction has authority to decide questions relating to indigency.

RALJ 4.2(b)

(b) Criminal Case. A sentence in a criminal case will be enforced by the court of limited jurisdiction if the defendant ~~does not appeal or if the defendant~~ appeals and fails to stay enforcement of sentence as provided in rule 4.3(b).

RALJ 4.3(b)

(b) Criminal Case. ~~Notwithstanding RCW 9.95.062 and 9.95.064, the court of limited jurisdiction shall stay enforcement of a sentence in a criminal case if a notice of appeal is filed by the defendant and (1) the defendant posts cash bail or files a bond to the State in a reasonable sum fixed by the court of limited jurisdiction, with sureties as the~~

~~court may require, or (2) the court of limited jurisdiction determines that enforcement of the sentence should be stayed without cash bail or a bond. A stay must be conditioned on the defendant's timely prosecution of the appeal. In a criminal case, the trial court of limited jurisdiction has authority to fix conditions of release of a defendant and to revoke a suspended or deferred sentence authority, subject to RCW 9.95.062 and 9.95.064, to fix conditions of release of a defendant and to revoke a suspended or deferred sentence if the enforcement of the sentence is not stayed pending appeal. Where the sentence is stayed pending appeal, the court of limited jurisdiction has authority to revoke the stay upon proof of violation of the conditions of release.~~

RALJ 5.4

LOSS OR DAMAGE OF ELECTRONIC RECORD

In the event of loss or damage of the electronic record, or any significant or material portion thereof, the appellant, upon motion to the superior court, shall be entitled to a new trial, but only if the loss or damage of the record is not attributable to the appellant's malfeasance. In lieu of a new trial, the parties may stipulate to a nonelectronic record as provided in rule 6.1(b). The court of limited jurisdiction shall have the authority to determine whether or not significant or material portions of the electronic record have been lost or damaged, subject to review by the superior court upon motion.

RALJ 6.1(a)

(a) **Generally.** Except as provided in section (b), the record of proceedings in the court of limited jurisdiction for appeal shall include ~~the original of the recording of the proceedings in the court of limited jurisdiction, the original or a copy of the log prepared for the recording((s)) and the originals or copies of the docket, pleadings, exhibits, orders, and other papers filed with the clerk of the court of limited jurisdiction.~~

RALJ 6.2(a)

(a) **Transmittal Generally.** The party seeking review shall, within 14 days of filing the notice of appeal, serve on all other parties and file with the clerk of the court of limited jurisdiction a designation of those portions of the record that the party wants the clerk to transmit to the superior court. Any party may supplement the designation of the record prior to or with the party's last brief. Thereafter, a party may supplement the designation only by order of the superior court, upon motion. Each party is encouraged to designate only documents and exhibits needed to review the issues presented to the superior court. Within 14 days after the notice of appeal designation is filed in the superior court, the clerk of the court of limited jurisdiction shall prepare the record and notify the parties each party that the record is ready to transmit and the amount to be paid by each party. The appellant Each party shall pay for the cost of preparing the portion of the record designated by that party within 10 days of the notice clerk's notification, unless the appellant party has been excused from paying by the court. Promptly after receiving payment, or after preparing the record in cases where payment is excused, the clerk of the court of limited jurisdiction shall certify that the record is true and

complete, transmit it to the superior court, and notify the parties that the record has been transmitted.

RALJ 6.3A(d)

(d) **Transcript Generally.**

(1) *Form.* The transcript may be printed, typed, or neatly handwritten, and need not be certified by a notary public.

(2) *Certification.* The person preparing the transcript shall certify or declare under penalty of perjury that it is true and correct in accordance with RCW 9A.72.085 or any law amendatory thereof.

(3) *Disputes.* Disputes concerning the completeness or accuracy of the transcript shall be decided by the superior court judge hearing the appeal.

CRLJ 73(b)

(b) **Filing Notice of Appeal Jurisdiction—Service.**

When an appeal is permitted by law from a court of limited jurisdiction to a superior court such appeal shall be taken by filing in the court of limited jurisdiction a notice of appeal within ~~44~~ 30 days after the judgment is rendered or decision made. Filing the notice of appeal is the only jurisdictional requirement for an appeal. A party filing a notice of appeal shall also, within the same ~~44~~ 30 days, serve a copy of the notice of appeal on all other parties or their lawyers and file an acknowledgment or affidavit of service in the court of limited jurisdiction.

CrRLJ 2.2(a)

(a) **Issuance of Warrant of Arrest.** If a complaint is filed and if the offense charged may be tried in the jurisdiction in which the warrant issues, and if the sentence for the offense charged may include confinement in jail, the court may direct the clerk to issue a warrant for the arrest of the defendant unless the defendant has already been arrested in connection with the offense charged and is in custody or has been released on obligation to appear in court. A warrant of arrest must be supported by an affidavit, a certificate a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. Sworn testimony shall be recorded electronically or stenographically. The evidence shall be preserved. The court must determine there is probable cause to believe that the defendant has committed the crime alleged before issuing the warrant. Subject The evidence shall be subject to constitutional limitations, the finding of probable cause for probable cause determinations and may be based on evidence which is hearsay in whole or in part.

CrRLJ 2.3(c)

(c) **Issuance and Contents.** A search warrant may be issued only if the court determines there is probable cause for the issuance of a warrant. There must be an affidavit, ~~or affidavits~~ a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. The sworn testimony may be an electronically recorded telephonic statement. The sworn testimony must be in writing, recorded electronically, or otherwise preserved. The record shall include any additional evidence relied upon by the court. The recording,

or a duplication of the recording, shall be a part of the court record and shall be provided if requested by a party or if ordered by the court, subject to the provisions of rule 8.10. The evidence in support of the finding of probable cause may be based upon evidence which is hearsay in whole or in part, shall be preserved and shall be subject to constitutional limitations for such determinations and may be hearsay in whole or in part. If the court finds that probable cause for the issuance of a warrant exists, it shall issue a warrant or direct an individual whom it authorizes for such purposes to affix the court's signature to a warrant. The warrant may be directed to any peace officer. The warrant shall command the officer to search, within a specified period of time not to exceed 10 days, the person, place or thing named for the property or person specified. It shall designate the court to which it shall be returned. It shall be returned to the issuing court, and filed in the public files of the court unless ordered sealed by the court. Unless otherwise designated by the issuing court, the warrant may be served at any time of day or night.

CrRLJ 2.4(b)

~~(b) Citation and Notice. No citation and notice issued pursuant to rule 2.1 shall be deemed insufficient for failure to contain a definite statement of the essential facts constituting the specific offense with which the defendant is charged, nor by reason of defects or imperfections which do not tend to prejudice substantial rights of the defendant. [Reserved.]~~

CrRLJ 3.2 (a), (l)

(a) **Release in Noncapital Cases.** Any person, other than a person charged with a capital offense, shall at the preliminary appearance or reappearance pursuant to rule 3.2.1 be ordered released on the accused's personal recognizance pending trial unless the court determines that such recognizance will not reasonably assure the accused's appearance, when required, or if there is shown a likely danger that the accused will commit a violent crime, or that the accused will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice. For the purpose of this rule, "violent crimes" may include misdemeanors and gross misdemeanors and are not limited to crimes defined as violent offenses in RCW 9.94A.030. If the court finds that release without bail should be denied or that conditions should attach to the release on personal recognizance, other than the promise to appear for trial, the court shall proceed to determine whether probable cause exists to believe that the accused committed the offense charged, unless this determination has previously been made by a court. Before making the determination, the court may consider any an affidavit, or affidavits filed a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony and further may examine under oath the affiant and any witnesses the affiant may produce. Sworn testimony shall be electronically or stenographically recorded. The evidence shall be preserved and shall be subject to constitutional limitations for probable cause determinations, and may be hearsay in whole or in part. The court shall impose the least restrictive of the following conditions that will reasonably assure that the accused will be present for later hearings, will not significantly interfere with the administration of justice and not pose a substantial danger to

others or the community or, if no single condition gives that assurance, any combination of the following conditions:

- (1) Place the accused in the custody of a designated person or organization agreeing to supervise the accused;
- (2) Place restrictions on the travel, association, or place of abode of the accused during the period of release;
- (3) Require the execution of an unsecured bond in a specified amount;
- (4) Require the execution of a bond in a specified amount and the deposit in the registry of the court in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the performance of the conditions of release or forfeited for violation of any condition of release;
- (5) Require the execution of a bond with sufficient solvent sureties, or the deposit of cash in lieu thereof;
- (6) Require the accused to return to custody during specified hours; or
- (7) Impose any condition other than detention deemed reasonably necessary to assure appearance as required, assure noninterference with the trial and reduce danger to others or the community.

A court of limited jurisdiction may adopt a bail schedule for persons who have been arrested on probable cause but have not yet made a preliminary appearance before a judicial officer. With the exception of offenses specified in CrRLJ 3.2(m), the adoption of such a schedule or whether to adopt a schedule, is in the discretion of each court of limited jurisdiction, and may be adopted by majority vote. Bail schedules are not subject to GR 7.

...
(l) ~~Accused Discharged Released on Recognizance or Bail—Absence—Forfeiture.~~ If the accused has been ~~discharged released~~ on the accused's own recognizance, on bail, or has deposited money instead thereof, and does not appear when the accused's personal appearance is necessary or violates conditions of release, the court, in addition to the forfeiture of the recognizance, or of the money deposited, may direct the clerk to issue a bench warrant for the accused's arrest.

CrRLJ 3.2.1(b)

(b) **How Determined.** The court shall determine probable cause on the sworn testimony of evidence presented by a peace officer or prosecuting authority in the same manner as provided for a warrant of arrest in rule 2.2(a). The sworn testimony may be by written affidavit or may be electronically or telephonically recorded, and in any case the testimony. The evidence shall be preserved and may consist of an electronically recorded telephonic statement.

CrRLJ 3.3(f)

(f) **Setting of Trial Date—Notice to Parties—Objection to Trial Date—Waiver of Objection.**

(1) The court shall, within 15 days of the defendant's arraignment, or at the pretrial hearing, set a date for trial which is within the time limits prescribed by this rule, and notify the lawyer for each party of the date set. ~~A party who objects to the failure of the court to set a trial date within 15 days of the defendant's actual arraignment shall move the court for a trial date.~~ If a party is not represented by a lawyer, the notice of the trial date shall be given to the

party, and may be mailed to the party's last known address. The notice shall set forth the proper date of the defendant's arraignment as established at the time of arraignment, and the date set for trial. A party who objects to the date set upon the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set a trial within those time limits. Such motion shall be promptly noted for hearing by the moving party in accordance with local procedures. Failure of a party, for any reason, to make such a motion shall be a waiver of the objection that a trial commenced on such a date, or on an extension of such date properly granted pursuant to this rule, is not within the time limits prescribed by this rule.

(2) When the court determines that the trial date should be reset for any reason, including but not limited to the applicability of a period of extension pursuant to section (d) or a period of exclusion pursuant to section (g), the court shall set a new date for trial which is within the time limits prescribed and notify each lawyer or party of the date set as provided in subsection (f)(1). A party who objects to the date set on the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set a trial date within those time limits. Failure of a party, for any reason, to make such a motion shall be a waiver of the objection that a trial commenced on such a date, or on any extension of such date granted pursuant to subsection (d)(8), is not within the time limits prescribed by this rule.

CrRLJ 4.1(a)

(a) **Procedures.** After the complaint or the citation and notice has been filed, the defendant shall be arraigned thereon in open court.

(1) **Reading and Plea.** Arraignment shall consist of reading the complaint or the citation and notice to the defendant or stating to him or her the substance of the charge and calling on the defendant to plead thereto. The defendant shall be given a copy of the complaint or the citation and notice before being called upon to plead, unless a copy has previously been supplied. The defendant shall not be required to plead to the complaint or the citation and notice until he or she shall have had a reasonable time to examine it and to consult with a lawyer, if requested.

(2) **Advisement.** At arraignment, unless the defendant appears with a lawyer, the court shall advise the defendant on the record:

- (i) of the right to trial by jury if applicable; and
- (ii) of the right to be represented by a lawyer at arraignment and to have an appointed lawyer for arraignment if the defendant cannot afford one.

CrRLJ 4.5

[NEW RULE]

PRETRIAL HEARING

When a plea of not guilty is entered, the court may set a time for a pretrial hearing. The time set for the pretrial hearing should allow sufficient time for the lawyers to initiate and complete discovery, conduct further investigation of the case as needed, and continue plea discussions.

CrRLJ 6.3

SELECTING THE JURY

~~When the action is called for trial, the clerk shall prepare separate ballots containing the names of the jurors summoned who have appeared and not been excused, and deposit them in a box. The clerk shall draw the required number of names for purposes of voir dire examination. Any necessary additions to the panel shall be drawn from the clerk's list of qualified jurors. The clerk shall thereupon prepare separate ballots and deposit them in the trial jury box.~~ When the case is called for trial, the jurors shall be selected at random from the jurors summoned who have appeared and have not been excused.

CrRLJ 6.16(a)

(a) Verdicts.

(1) **Several Defendants.** If there are two or more defendants, the jury at any time during its deliberations may return a verdict or verdicts with respect to a defendant or defendants as to whom it has agreed; if a jury cannot agree with respect to all, the defendant or defendants as to whom it does not agree may be tried again.

(2) **Return of Verdict.** When all members of the jury agree upon a verdict of guilty or not guilty, the ~~foreman~~ presiding juror shall complete and sign the verdict form and return it to the judge in open court.

(3) **Poll of Jurors.** When a verdict or special finding is returned and before it is recorded, the jury shall be polled at the request of any party or upon the court's own motion. If at the conclusion of the poll, all of the jurors do not concur, the jury may be directed to retire for further deliberations or may be discharged by the court.

CrRLJ 7.2(b)

(b) **Procedure at Time of Sentencing.** The court shall, ~~at the time of~~ immediately after sentencing, unless the judgment and sentence are based on a plea of guilty, advise the defendant: (1) of the right to appeal the conviction pursuant to the RALJ 2.7 or CrRLJ 9.1; (2) that unless a notice of appeal is filed in the court of limited jurisdiction within ~~14~~ 30 days after the entry of the judgment and sentence or order appealed from, the right to appeal is waived; (3) that the notice of appeal must be served on all other parties; ~~(3)~~ (4) that the court clerk will, if requested by the defendant appearing without a lawyer, supply a notice of appeal form; ~~(4)~~ (5) of the defendant's right to a lawyer on appeal, and, if unable to pay the costs thereof, to have a lawyer appointed and portions of the trial record necessary for review ~~of assigned errors~~ prepared at public expense for an appeal; and ~~(5)~~ (6) of the time limits on the right to collateral attack imposed by RCW 10.73.090 and .100. These proceedings shall be made a part of the record.

CrRLJ 8.2

MOTIONS

Rules 3.5 and 3.6 and CrRLJ 7(b) shall govern motions in criminal cases.

CrRLJ 8.3(b)

(b) **On Motion of Court.** The court, in the furtherance of justice after notice and hearing, may dismiss any criminal

prosecution due to arbitrary action or governmental misconduct; when there has been prejudice to the rights of the accused which materially affect the accused's right to a fair trial. The court and shall set forth its reasons in a written order.

IRLJ 5.2

PROCEDURE TO APPEAL

~~The Civil Rules for Courts of Limited Jurisdiction govern the procedure to appeal an infraction case. The time appeal under CRLJ 73 begins to run from the date the court makes its disposition under rule 3.3(e).~~

APPEAL TO SUPERIOR COURT

An appeal from a court of limited jurisdiction is governed by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. Under RALJ 1.1 the appeal from some courts is an appeal for error on the record, and the appeal from other courts is conducted as a trial de novo. The procedures for an appeal for error on the record are defined by RALJ. The procedures for a trial de novo are defined by CRLJ 73 and 75.

IRLJ 6.1

TIME

Time shall be computed or enlarged as provided in CRLJ 6, except that the time in which to respond to the notice of infraction under rule 2.4 and the time in which to file an appeal ~~under CRLJ 73~~ may not be enlarged.

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

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

WSR 95-15-006

**NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION**

[Memorandum—July 3, 1995]

This letter will serve as notice of the following changes to meeting dates for the remainder of 1995.

Please change the August meeting date from August 25 to August 18. The meeting will still be held [in] Wenatchee, Washington.

The meeting for November is changed from a videoconference to a conference call. The call will originate from Olympia, on November 17.

WSR 95-15-015

SHORELINE COMMUNITY COLLEGE

[Filed July 10, 1995, 10:30 a.m.]

1995-1996 Significant Rule-Making Agenda

Approximate Preproposal	Purpose of the Rule Why is this Significant	Rule(s) Mandate	Other Agencies who may have interest in the Subject of Rule(s)
1. Date			
2. Subject Area			
3. Contact/Telephone Number			
1. CR-101 to be filed 7/95	To conform to Substitute Senate Bill 6002 which references the need for College Boards to establish rules... concerning refunds. It is significant in that it deals with student refunds and finances.	Substitute Senate Bill 6002	
2. Refund of Tuition and Fees, WAC 132-160-075			
3. Chuck Fields, (206) 546-4641			

Contact/telephone: Vice-President for Student Services, (206) 546-4641.

WSR 95-15-017

**NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD**

[Memorandum—July 7, 1995]

WASHINGTON STATE
WORKFORCE TRAINING AND EDUCATION
COORDINATING BOARD
BOARD PLANNING SESSION
MEETING NO. 38
JULY 26-27, 1995

WESTERN WASHINGTON UNIVERSITY
516 HIGH STREET
VIKING UNION BUILDING

HALL OF FAME ROOM
BELLINGHAM, WA 98225
(360) 650-3000

July 26, 1995, Viking Union Building, 3:00 - 5:00 p.m., informal briefing for board members on "Evaluation Assignments in SB 5992: Process and Progress."

Lakeway Inn, 714 Lakeway Drive, 6:00 - 8:30 p.m., Workforce Training and Education Coordinating Board members will meet for dinner to discuss planning session agenda.

July 27, 1995, Viking Union Building, 8:00 a.m. - 3:00 p.m., at its annual planning session, board members will review accomplishments from the previous year, discuss expectations, set goals for the upcoming year, and discuss federal

workforce policy changes and public awareness strategies for the 90s. No action will be taken.

The meeting site is barrier free. People needing special accommodations, please call Anne Townsend at least ten days in advance at (360) 753-5677.

WSR 95-15-018

**NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD**

[Memorandum—July 7, 1995]

MEETING NOTICE FOR JULY 1995
TRANSPORTATION IMPROVEMENT BOARD
OLYMPIA, WASHINGTON 98504-0901

Legislative Subcommittee, 11:00 a.m.-12:00 p.m., Thursday, July 27, 1995, at the Red Lion Inn/Yakima Valley, 1507 North First Street, Yakima.

Mitigation Subcommittee, 1:00 p.m.-2:00 p.m., Thursday, July 27, 1995, at the Red Lion.

Public Transportation Subcommittee, 2:00 p.m.-3:00 p.m., Thursday, July 27, 1995, at the Red Lion.

Increase Subcommittee, 3:00 p.m.-5:00 p.m., Thursday, July 27, 1995, at the Red Lion.

Sidewalk Subcommittee, 5:00 p.m.-5:30 p.m., Thursday, July 27, 1995, at the Red Lion.

Work Session, 7:00 p.m., Thursday, July 27, 1995, at the Red Lion.

Board Meeting, 9:00 a.m., Friday, July 28, 1995, at the Red Lion.

Special Needs: For special accommodations or to request an auxiliary aid, please contact the TIB office at (360) 705-7300 by July 18, 1995.

There are no TIB meetings in August or September. The next scheduled meeting is October 27, 1995, in Spokane. A notice with further detail of the October meeting will be mailed October 6, 1995.

WSR 95-15-019

**RULES COORDINATOR
HUMAN RIGHTS COMMISSION**

[Filed July 10, 1995, 10:34 a.m.]

This letter will serve as notice that Jean A. Ciallella has replaced Sherri Kasishian-Apilado as the commission clerk and the rules coordinator for the Washington State Human Rights Commission.

Merritt D. Long
Executive Director

WSR 95-15-020

**NOTICE OF PUBLIC MEETINGS
PUBLIC EMPLOYEES
BENEFITS BOARD**

[Memorandum—July 6, 1995]

The July 11 Public Employees Benefits Board meeting is canceled. We are at a stage in the procurement process where we do not have final information to provide you so that you could make decisions.

The next meeting will be on August 1 beginning at 1:00 p.m. at the Attorney General Conference Room in Lacey. Since all decisions concerning 1996 benefits will need to be made at the August 1 meeting, it may be a long meeting. Please make arrangements to stay late if that should become necessary. We shall try to give you materials to review as far in advance as we can.

If you have any questions, please feel free to contact Margaret T. Stanley or the board assistant, Judy Lamm, at (360) 923-2828.

WSR 95-15-025
UNIVERSITY OF WASHINGTON

[Filed July 11, 1995, 9:24 a.m.]

Significant Rule-Making Agenda for 1995-1996

Approximate Preproposal	Purpose of the Rule Why is this Significant	Rule(s) Mandate	Other Agencies who may have interest in the Subject of Rule(s)
1. Date 2. Subject Area 3. Contact/Telephone number 1. Fall 1995 2. Student Conduct Code/ General Conduct Code 3. Rebecca Goodwin Deardorff, (206) 543-9199	The state hazing law requires the University of Washington to adopt rules for students and others that provide sanctions for conduct defined as hazing. The proposed rules will be included in the student conduct code and general conduct code because the hazing law applies to all segments of the University of Washington community. In addition, the federal Campus Security Act requires the inclusion of a clear statement in campus disciplinary procedures regarding rights afforded to the accuser and the accused in allegations of sexual offenses. The proposed rule changes are significant due to legal impact on those affected by the proposed rules and the adopting agency.	Compliance with the state hazing law (SSB 5075) and the federal Campus Security Act (20 USC 1092).	N/A

Contact/telephone: Rebecca Goodwin Deardorff, Administrative Procedures Officer, (206) 543-9199.

WSR 95-15-027
ATTORNEY GENERAL OPINION
Cite as: AGO 1995 No. 9
 [June 30, 1995]

MUNICIPAL JUDGES - MUNICIPAL COURTS - MUNICIPAL DEPARTMENTS - CITIES - COUNTIES - ELECTIONS - FILLING VACANT MUNICIPAL COURT OR MUNICIPAL DEPARTMENT POSITIONS

1. If a vacancy occurs in a municipal court position established under Chapter 35.20 RCW (cities of over four hundred thousand population), or Chapter 3.50 RCW (all other cities), the vacancy will be filled by appointment for the remainder of the term, with no midterm special election.
2. If a vacancy occurs in a municipal department of a district court operating pursuant to Chapter 3.46 RCW, the vacancy in the district court position will be filled by appointment by the county legislative authority with subsequent special election for the remainder of the term served (but any such election must occur only in an even-numbered year); the city will subsequently decide which judges on the district court will be designated as municipal department judges.
3. If a city creates a new municipal court position or a new municipal department position, to take effect during the term prescribed by statute for such positions, the new position will be filled in the same manner as if a vacancy had occurred in an existing position in the same court.
4. If a city creates a new municipal court position pursuant to Chapter 3.50 of Chapter 35.20 RCW, effective as of the beginning of the next statutory term for such a judgeship, the initial judge will be chosen by election if

it is a full-time position or a part-time position covered by RCW 3.50.055; otherwise, the city may elect to make the position elective or appointive.

5. If a city creates a new municipal department position within a district court pursuant to Chapter 3.46 RCW, and the judge is to serve the municipal department full-time, and the position will take effect with the beginning of the next term for district court judges, the initial judge will be nominated and elected in the manner for district court judges but with only electors of the city voting for the position.
6. If a city creates a new municipal department position within a district court pursuant to Chapter 3.46 RCW, to take effect with the beginning of the next term for district court judges, and the judge is to serve the municipal department part-time, the city may either designate an existing district judge to serve the municipal department, or provide that a new district judge nominated and elected by the judicial district will serve in the new municipal department position.

Requested by:
 The Honorable Ralph Munro
 Secretary of State
 P.O. Box 40232
 Olympia, WA 98504-0232

MISCELLANEOUS

WSR 95-15-033
NOTICE OF PUBLIC MEETINGS
PUBLIC INFORMATION
ACCESS POLICY TASK FORCE
 [Memorandum—July 10, 1995]

The Public Information Access Policy Task Force (PIAPTF) will meet as listed below:

DATE: Wednesday, July 26, 1995
TIME: 9:00 a.m.-3:00 p.m.
LOCATION: Sea-Tac Towers
 Legislative Conference Room
 Suite 500
 18000 Pacific Highway South
 Seattle, WA 98188

DATE: Tuesday, August 29, 1995
TIME: 9:00 a.m.-3:00 p.m.
LOCATION: Sea-Tac Towers
 Legislative Conference Room
 Suite 500
 18000 Pacific Highway South
 Seattle, WA 98188

For additional information, please contact Cathy M. Stussy at (360) 753-2914.

WSR 95-15-041
NOTICE OF PUBLIC MEETINGS
LIQUOR CONTROL BOARD
 [Memorandum—July 11, 1995]

PUBLIC MEETING TO BE HELD
 ON LIMITING TOBACCO SAMPLES

On May 11, 1995, the Washington State Liquor Control Board filed CR-101 pertaining to limiting the quantity of samples of tobacco products which a licensed sampler may provide to an individual. The notification appeared as WSR 95-11-053. The Liquor Control Board will conduct a public meeting beginning at 9:30 a.m. on August 23, 1995, at the Samuelson Union Building, Central Washington University, 400 East 8th Avenue, Ellensburg. The purpose of the meeting will be to take public testimony on the proposal and obtain input as to the possible limits which may be included when the board entertains formal rule making. Questions should be directed to the board's Public Information Office, at (360) 753-6276. This is not a formal rule-making hearing. It is a meeting to gather suggestions, recommendations and ideas that may be used to develop rules. This will be the second of two meetings for this purpose. The first meeting is scheduled for the Board's Distribution Center, 4401 East Marginal Way South, Seattle, on August 9.

WSR 95-15-042
DEPARTMENT OF ECOLOGY
 (Energy Facility Site Evaluation Council)
 [Filed July 13, 1995, 10:18 a.m.]

NOTICE OF PUBLIC HEARING
 Energy Facility Site Evaluation Council
 Regulation into the Washington State

Implementation Plan
 August 14, 1995

The Washington State Department of Ecology will be conducting a public hearing with the Energy Facility Site Evaluation Council (EFSEC) on August 14, 1995, at the Department of Labor and Industries' Auditorium at 7273 Linderson Way S.W., Tumwater, WA, at 2:00 p.m. Ecology is conducting this public hearing to solicit comment on inclusion of EFSEC's amended chapter 463-39 WAC into the Washington state implementation plan (SIP). Upon final adoption and request from EFSEC, this amended regulation will be submitted by ecology to the Environmental Protection Agency for inclusion into the Washington SIP.

Interested persons may provide oral comments at the hearings. For ecology's purposes, comments must be limited to the inclusion of the amended regulation into the state implementation plan. Written comments are encouraged and will be considered if postmarked no later than August 18, 1995, and should be sent to Lydia L. Blalock, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

For more information on the content of the draft regulation prior to the hearing, please contact Allen Fiksdal, EFSEC, (360) 956-2152.

For information on the SIP submittal, for a copy of the draft document prior to the hearings, or for a listing of locations where this document is available for review, please contact Lydia Blalock at (360) 407-6860.

* Ecology is an equal opportunity and affirmative action employer. If you have special accommodation needs, please call Lydia Blalock (360) 407-6860 (voice) or (360) 407-6006 (TDD only).

WSR 95-15-044
DEPARTMENT OF CORRECTIONS
 [Filed July 13, 1995, 1:19 p.m.]

Reviser's note: The following material has *not* been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

The following Department of Corrections rules, WAC 137-28-140, 137-28-150, 137-28-160, 137-28-170, 137-28-180, 137-28-190, 137-28-200, 137-28-210, 137-28-220, 137-28-230, 137-28-240, 137-28-250, 137-28-260, 137-28-270, 137-28-280, 137-28-290, 137-28-300, 137-28-310, 137-28-320, 137-28-330, 137-28-340, 137-28-350, 137-28-360, 137-28-370, 137-28-380, 137-28-390, 137-28-400, 137-28-410, 137-28-420, and 137-28-430 are submitted for publication in the Register and the Washington Administrative Code. WAC 137-28-005 is submitted for repeal. Pertinent information is as follows:

a. Amended WAC 137-28-140 through 137-28-430 were adopted on June 15, 1995.

b. The effective date of these amended rules and repeal of WAC 137-28-005 is August 15, 1995.

c. I certify pursuant to RCW 34.05.030(c) that WAC 137-28-140 through 137-28-430 are exempt from the Administrative Procedure Act.

d. The purpose is to provide a standardized system to determine whether misconduct by an inmate of an adult correctional institution has occurred.

Chase Riveland
Secretary

NEW SECTION

WAC 137-28-140 Purpose. The rules in this chapter provide a standardized system to determine whether misconduct by an inmate of an adult correctional institution has occurred.

The rules in this chapter shall not apply to proceedings of the indeterminate sentence review board or the division of community corrections.

The following rules set forth procedural guidelines. They do not create any procedural or substantive rights in any person, including any liberty interests in time credits, levels of custody, classification status, or other privileges. In accordance with Washington statutes, such matters are governed solely by the discretion of the department of corrections.

NEW SECTION

WAC 137-28-150 Authority. The authority for this chapter is RCW 72.01.090.

NEW SECTION

WAC 137-28-160 Definitions. For the purposes of this chapter, the following words have the following meanings:

Adult correctional institution and institution - a facility identified in RCW 72.01.050(2) and any similar facility hereinafter established.

Aggravated assault - an assault resulting in physical injury and requiring medical care (see definition of medical care).

Assault - a physical attack upon the body of another person. The attack may be made with any instrument including, but not limited to weapons, body parts, food products or bodily secretions.

Attempt - putting forth an effort to commit any infraction shall be considered the same as commission of the infraction. However, attempted aggravated assault shall be considered an attempted assault.

Bodily harm - physical pain or injury, illness, or impairment of physical condition.

Cell tag - if contraband or other violation is discovered in an area under control of the inmate (such as within the confines or contents of a cell), the contraband or other violation shall be constructively attributed to the inmate(s) assigned to that area, unless the inmate(s) can establish a lack of involvement in the infraction at the disciplinary hearing.

Conspiracy - an agreement between two or more persons to commit an infraction. Conspiracy to commit an infraction shall be considered the same as commission of the infraction.

Director - the director of the division of prisons of the Washington state department of corrections, or the director's designee.

Discovery - when a staff member discovers that an infraction has occurred or when an investigation into the incident is concluded.

Good conduct time credits - that portion of an inmate's potential reduction to minimum term which is authorized by RCW 9.95.070 and 72.09.130 and which may be lost by receiving serious infractions.

Hearing officer - Staff member(s) designated by the superintendent to conduct disciplinary hearings.

Infraction - commission of, attempt to commit, or conspiracy with another to commit any violation of prison rules as enumerated in this code. Aiding or abetting another to commit an infraction will be considered the same as commission of the infraction.

Lesser included offense - any infraction that must necessarily have been committed in order to commit another infraction.

Medical care - any care conducted in a medical facility/treatment center by medical staff to treat a documented, physical injury, including, but not limited to bandaging, suturing, surgery, etc. An examination conducted by medical staff to determine whether an injury has been sustained shall not be considered medical care.

Possession - established when an item(s) is found on a person or in an area which is under the control of the individual(s) charged.

Promptly - to act as soon as reasonably possible, consistent with institutional goals of safety, security, and rehabilitation.

Sexual harassment - any word, action, gesture or other behavior that is sexual in nature and that would be offensive to a reasonable person.

Staff member - for purposes of this chapter includes employees of the department of corrections, contract employees, and volunteers.

Superintendent - superintendent of an adult correctional institution or the superintendent's designee.

Working days - Monday through Friday, excluding weekends and holidays.

NEW SECTION

WAC 137-28-170 Supplementary rules. (1) The superintendent may promulgate local supplementary rules, policies, and procedures including:

(a) The creation of new infractions, either general or serious;

(b) The reclassification of any infractions set out in these rules;

(c) The creation of new sanctions.

(2) All new or reclassified supplemental infractions and sanctions shall be approved in writing by the director before being put into effect.

(3) The secretary, department of corrections, or designee, has the authority to amend or supplement the rules set forth in this chapter by written policy or directive.

NEW SECTION

WAC 137-28-180 Notification. (1) All inmates of an adult correctional institution shall have access to policies and rules regarding:

(a) Their rights and responsibilities in disciplinary matters;

(b) Acts prohibited in the institution; and

(c) Disciplinary action that may be taken in the event of misconduct.

(2) All inmates shall have access to a copy of the local disciplinary policies of the institution to which they are assigned.

(3) Inmates unable to read or understand English shall be provided access to a written or tape recorded translation of these rules in their accustomed language.

(4) Inmates should be provided access to changes to disciplinary policies or rules in advance of their effective date.

(a) Under normal circumstances, announcements of these changes should be posted at designated places for at least thirty days prior to their effective date or sent to the affected inmates.

(b) Complete and up-to-date copies of these rules and all local policies shall be available at each institution for inmate examination.

(c) Inmates shall be responsible to take steps necessary to inform themselves of changes and posted updates.

(5) All infraction(s) should be heard at the facility where the infraction(s) occurred. If it is necessary to transfer an inmate to another facility prior to resolution of unheard infractions, his/her infraction(s) will be forwarded to the new facility for hearing.

NEW SECTION

WAC 137-28-190 Reporting to law enforcement authorities. (1) The superintendent shall report any felony under state or federal law to law enforcement authorities.

(2) If a violation has been reported to law enforcement authorities, inmates who have been charged with an infraction shall not be questioned about the incident outside of a formal disciplinary hearing or an administrative segregation hearing until after it has been determined that no prosecution will occur or until a finding of guilty is made.

(3) No provisions of these rules shall prevent the administrative segregation of any inmate.

NEW SECTION

WAC 137-28-200 Out-of-state inmates. (1) Inmates committed to the department of corrections who have been transferred to a prison in another state shall be subject to the disciplinary rules and procedures applicable to the prison to which they have been transferred. That prison may, in its discretion, use any presumptive sanction guidelines in current effect in Washington state institutions.

(2) Inmates committed from other jurisdictions to the control of the Washington department of corrections shall be subjected to the disciplinary rules and procedures applicable to the facility to which they are assigned. In addition:

(a) A summary of all serious infraction reports, including sanctions, shall be forwarded to the originating jurisdiction.

(b) Loss of good time shall be handled in accordance with this policy. A copy of all infraction reports resulting in loss of good time shall be forwarded to the originating jurisdiction by the institution record office with a request for

approval. The loss of good time shall be considered pending until confirmed or modified by the originating jurisdiction.

NEW SECTION

WAC 137-28-210 Hearing officers. (1) Each hearing shall be conducted by a hearing officer(s) within the rank/classification of lieutenant or above, designated by the superintendent.

(2) The hearing officer(s) will receive training in the disciplinary process and in the identification of inmates who may be impaired in their ability to understand the hearing process and participate in their own defense.

(3) Hearing officers may not function in that capacity when they have direct personal involvement in the infraction under consideration. Such officers must disqualify themselves by giving notice to the superintendent, who will select a replacement.

(4) Direct personal involvement as that phrase is used in this section shall mean knowledge or interest acquired through witnessing or directly participating in the incident under consideration. This rule shall not preclude hearing officer participation where the hearing officer has acquired knowledge or interest indirectly or through review of the incident conducted as part of regular institutional responsibilities.

(5) Hearing officers may disqualify themselves or may be disqualified by the superintendent if actually biased for or against any inmate so that they cannot render a fair judgment in the hearing.

(6) Hearing officers must notify an infractioned inmate if they are related to the infracting officer or the victim. The inmate may request another hearing officer or continue with the same hearing officer.

NEW SECTION

WAC 137-28-220 General infractions. Any of the following types of behavior constitutes a general infraction:

Unauthorized possession/theft

- 051 - Unauthorized possession of money, stamps or negotiable instruments the total value of which is less than five dollars.
- 053 - Possession of anything not authorized for retention or receipt by an inmate and/or not issued to an inmate by regular institutional channels.
- 255 - Misuse or waste of issued supplies, goods, services or property, the replacement value of which is less than ten dollars.
- 310 - Pretending or failing to take prescribed medication that the inmate has accepted by concealing or retaining a single or daily dose.
- 354 - Theft of food, the value of which is five dollars or less.
- 356 - Possession of unauthorized amount of otherwise authorized clothing, bedding, or issued supplies.

Loaning/trading

- 052 - Loaning of property for profit.

MISCELLANEOUS

- 351 - Giving, selling, borrowing, lending, or trading money or anything of value to, or accepting or purchasing money or anything of value from, another inmate or that inmate's friend(s) or family the value of which is less than ten dollars.

Altering/destroying property

- 055 - Mutilating, altering, defacing or destroying any item valued at less than ten dollars and that is not the personal property of the inmate.

Disruptive behavior/lying

- 202 - Abusive language, harassment or other offensive behavior directed to or in the presence of staff, visitors, inmates, or other persons or groups.
 203 - Lying to a staff member.
 244 - Unauthorized displays of sexual affection with another inmate.
 353 - Disruptive behavior.
 355 - Horseplay, roughhousing or any other unauthorized physical contact between inmates.

Failure to follow rules and orders

- 102 - Failure to follow any written rules or policies adopted by the institution and not specified within this chapter or in local disciplinary rules.
 103 - Refusing or failing to obey an order, oral or written, of any staff member.
 210 - Out of bounds; being in an area where the presence of the inmate is unauthorized.
 214 - Interfering or failing to comply with count procedures.
 251 - Smoking where prohibited.
 301 - Failure to keep your person or your quarters in accordance with institution rules or policies.

Unauthorized communication/visitor contact

- 303 - Unauthorized use of mail or telephone.
 304 - Unwanted written and telephonic communications to any person.
 305 - Correspondence or conduct with a visitor in violation of published or posted rules and policies.
 309 - Unauthorized display of affection with a visitor.

Inappropriate use of equipment

- 212 - Using any equipment or machinery when not specifically authorized.
 213 - Using any equipment or machinery contrary to instructions or safety standards.

Unexcused absence/feigning illness

- 104 - Unexcused absence from work or any assignment, scheduled meeting, appointment, or call out.
 352 - Pretending to be ill or injured contrary to medical/mental health screening results.

NEW SECTION

WAC 137-28-230 General infraction procedure. Infraction report.

(1) In the event of a general infraction, a staff member may make an on-site adjustment. An on-site adjustment may consist of counselling, warning, or reprimanding the inmate and/or causing the inmate to remove him/herself from the situation immediately. An on-site adjustment under this rule cannot be considered a general infraction for the purposes of determining whether a #657 serious infraction has occurred.

(2) In the event of a general infraction where a staff member does not make an on-site adjustment, the staff member may prepare and submit an infraction report. The infraction report shall include:

- (a) Name, number and housing location of the offender;
- (b) A description of the incident;
- (c) The time and place of the incident;
- (d) The names of witnesses, victims, and other persons involved;
- (e) The specific rule(s) alleged to have been violated;
- (f) A description of any action taken and copies of any relevant documentation or supplemental reports;
- (g) Name and signature of reporting staff.

(3) The general infraction report shall be submitted promptly to the supervisor or unit team designated by the superintendent to receive such reports.

(4) The supervisor or unit team receiving a general infraction report shall decide whether the inmate is guilty or not guilty within five working days of receipt of the report. An extension to the five days may be granted by the hearing officer. This decision of the supervisor or unit team can be reached by:

(a) Taking no further action, in which case the report shall not be retained in the inmate's files, but may be retained in other institutional files designated for statistical, recordkeeping, or litigation purposes;

(b) Deciding the infraction without a hearing upon a determination that the inmate is guilty, the supervising employee or unit team may impose any appropriate sanction; or

(c) Scheduling an informal hearing with the inmate present at which the supervising employee or unit team may allow witnesses and documentary evidence. Upon finding that an inmate is guilty, the supervising employee or unit team may impose any appropriate sanction.

NEW SECTION

WAC 137-28-240 General infractions. Sanctions.

For being found guilty of any general infraction, one or more of the following sanctions may be imposed:

- (1) Reprimand or warning;
- (2) Issuance of a written order to cease a problematic behavior. The order will include a warning that if the behavior is repeated within a specified period (not to exceed one hundred eighty days) the inmate will be charged with violation of serious violation (WAC 137-28-260) #658.

(3) Loss of a privilege or privileges as specified by the supervisor or unit team for not more than ten days on a first offense, twenty days on a second offense, and thirty days on a third offense within a six-month period;

(4) Confinement to room or cell except for attendance at work or school assignment, religious service, or meals, or law library if a documented court deadline has been imposed, not to exceed ten days;

(5) Up to one hundred twenty hours of extra work duty.

NEW SECTION

WAC 137-28-250 Appeals. (1) The sanctions for a finding of guilty of a general infraction may be appealed by the inmate to the major hearing officer of the institution.

(a) The appeal must be in writing and must include the reason why the inmate believes the action taken was incorrect.

(b) The appeal must be delivered to the hearing officer within twenty-four hours after the inmate receives notice of the action taken.

(c) Failure to follow appeal procedures will be deemed a waiver of the appeal.

(2) Within ten working days after receipt of the appeal, unless the time is extended by the superintendent, the hearing officer will decide either to:

(a) Schedule a hearing on the appeal; or

(b) Affirm, modify downward, or reverse the finding of guilty without a hearing.

(3) Once a decision of the hearing officer is made, the inmate shall be notified within seventy-two hours, unless the time period is extended by the superintendent.

NEW SECTION

WAC 137-28-260 Serious infractions.

Assault/threatening actions/causing injury to another person

- 501 - Committing homicide.
- 502 - Aggravated assault on another offender.
- 503 - Extortion, blackmail, or demanding or receiving money or anything of value in return for protection against others, or under threat of informing.
- 505 - Fighting with any person.
- 506 - Threatening another with bodily harm or with any offense against another person, property or family.
- 508 - Throwing objects, materials, substances or spitting at staff, visitors, or other inmates.
- 511 - Aggravated assault on a visitor.
- 520 - Unauthorized demonstration, practice or use of martial arts.
- 521 - Taking or holding any person hostage.
- 588 - Causing a valid and documented threat of transmission of a contagious disease to any person due to intentional, negligent or reckless action.
- 599 - Careless behavior that causes injury to another offender.
- 604 - Aggravated assault on a staff member.
- 633 - Assault on another offender.
- 663 - Using physical force, intimidation or coercion against any person.
- 699 - Careless behavior that causes injury to a staff member.

- 704 - Assault on a staff member.
- 711 - Assault on a visitor.
- 717 - Causing a threat of injury to another person by disregard of orders, careless behavior, resisting assisted movement or physical efforts to restrain.
- 777 - Causing injury to a staff member by resisting orders, resisting assisted movement or physical efforts to restrain.
- 799 - Careless behavior that causes injury to a visitor.

Unauthorized possession

- 559 - Gambling; possession of gambling paraphernalia.
- 601 - Possession, manufacture or introduction of an explosive device or any ammunition, or any components of an explosive device or ammunition.
- 602 - Possession, manufacture or introduction of any gun, firearm, weapon, sharpened instrument, knife, or poison or any components thereof.
- 660 - Unauthorized possession of money, stamps, or negotiable instruments, the value of which is five dollars or more.
- 702 - Possession, manufacture or introduction of an unauthorized tool.
- 736 - Possession, manufacture or introduction of unauthorized keys.
- 738 - Possession of the clothing of a staff member.

Tattooing

- 710 - Being tattooed while incarcerated, tattooing another, or possessing tattoo paraphernalia.

Theft/possession of stolen property

- 555 - Theft of property or possession of stolen property.
- 741 - Theft of food, the value of which is more than five dollars.
- 755 - Misuse or waste of issued supplies, goods, services or property, the replacement value of which is ten dollars or more.

Forgery

- 654 - Counterfeiting, forging, altering or unauthorized reproduction of any document, article of identification, money, security, or official paper.

Setting fire, damaging or destroying property

- 553 - Setting a fire.
- 554 - Mutilating, altering, defacing or destroying any item, the value of which is ten dollars or more and that is not the personal property of the inmate.
- 563 - Making a false fire alarm or tampering with, damaging, blocking or interfering with fire alarms, fire extinguishers, fire hoses, fire exits, or other fire fighting equipment or devices.

MISCELLANEOUS

- 600 - Tampering with, damaging, blocking, or interfering with any locking or security device.
- 720 - Flooding a cell or other area of the institution.

Inciting others/participation in unacceptable group behavior

- 650 - Rioting.
- 651 - Inciting others to riot.
- 652 - Engaging in or inciting a group demonstration.
- 661 - Performing or taking part in an unauthorized marriage.
- 682 - Engaging in an organized work stoppage.
- 708 - Organizing or participating in an unauthorized group activity or meeting.
- 734 - Participating or engaging in the activities of any unauthorized club, organization, gang or security threat group; or wearing or possessing the symbols of an unauthorized club, organization, gang or security threat group.
- 746 - Participating in or inciting others to go on a hunger strike.

Inappropriate sexual behavior

- 504 - Engaging in sexual acts with others with the exception of spouses during approved extended family visits.
- 659 - Sexual harassment; any word, action, gesture or other behavior that is sexual in nature and that would be offensive to a reasonable person.
- 728 - Possession of any written, photographic or hand drawn material that depicts sexually explicit acts as defined in DOC 450.100.
- 750 - Indecent exposure.

Providing false statements

- 551 - Lying to the disciplinary hearing officer or lying on a disciplinary appeal.
- 552 - Causing an innocent person to be penalized or proceeded against by lying.
- 706 - Lying or giving false information about proposed community residence when proposing a release plan, community placement, etc.

Interfering with staff/impersonating

- 558 - Interfering with staff members, medical personnel, fire fighters, or law enforcement personnel in the performance of their duties.
- 605 - Impersonating any staff member, other inmate or visitor.

Failure to follow orders and rules

- 509 - Refusing a direct order by any staff member to proceed to or disperse from a particular area.
- 556 - Refusing to submit to or cooperate in a search when ordered to do so by a staff member.
- 557 - Refusing or failing to comply with a work or mandatory programming assignment.
- 609 - Refusing or failing to submit to testing required by policy, statute, or court order, such as DNA blood tests, when ordered to do so by a staff member.

- 658 - Failing to comply with any administrative or posthearing sanction imposed for committing any general or serious infraction.

- 724 - Refusing a cell or housing assignment.
- 745 - Refusing a transfer to another facility.

Counts/unauthorized absence

- 653 - Causing an inaccurate count by means of unauthorized absence, hiding, concealing ones self or other form of deception or distraction.

Escape/attempted escape

- 525 - Violating conditions of furlough.
- 550 - Escape or attempted escape.
- 560 - Unauthorized possession of items or materials likely to be used in an escape attempt.

Committing crimes/excess infractions

- 507 - Committing any act that is a felony under state or federal law that is not otherwise included in these rules.
- 517 - Committing any act that is a misdemeanor under local, state, or federal law that is not otherwise included in these rules.
- 657 - Being found guilty of four or more general infractions which have been reported in writing arising out of separate incidents, all of which occur within a six-month period.

Unacceptable communication

- 718 - Use of mail or telephone in violation of court order or local, state or federal law.
- 726 - Telephoning or sending written communication or otherwise initiating communication with a minor without the approval of that minor's parent or guardian.
- 727 - Telephoning or sending written communications to any person contrary to previous written warnings and/or documented disciplinary actions.

Misuse of controlled substances, drugs, alcohol and related programs

- 603 - Possession, introduction, or transfer of any narcotic, controlled substance, illegal drug, unauthorized drug or drug paraphernalia.
- 607 - Refusing to submit to a urinalysis and/or failure to provide a urine sample when ordered to do so by a staff member.
- 608 - Refusing or failing to submit to a breathalyzer or other standard sobriety test when ordered to do so by a staff member.
- 610 - Unauthorized accumulation of prescribed medication greater than a single or daily dose.
- 655 - Making intoxicants, alcohol, controlled substances, narcotics, or the possession of ingredients, equipment, items, formulas or instructions that are used in making intoxicants, alcohol, controlled substances, or narcotics.

- 707 - Possession, introduction, or transfer of any alcoholic or intoxicating beverage.
- 716 - Unauthorized use of drugs, alcohol or other intoxicants.
- 752 - Receiving a positive test for use of unauthorized drugs, alcohol, or other intoxicants.

Soliciting/fraud

- 656 - Giving, offering or receiving from any person a bribe or anything of value for an unauthorized favor or service.
- 662 - Soliciting goods or services for which the provider would expect payment when the inmate knows or should know that no funds are available to pay for those goods or services.
- 714 - Giving, selling, borrowing, lending, or trading money or anything of value to, or accepting or purchasing money or anything of value from, another inmate or that inmate's friend(s) or family, the value of which is ten dollars or more.
- 740 - Fraud, embezzlement, or obtaining goods, services, money, or anything of value under false pretense.

Creating an emergency situation

- 712 - Attempted suicide or self-mutilation.
- 742 - Creating a false emergency by feigning illness when contrary to medical/mental health screening results.
- 744 - Making a bomb threat.

NEW SECTION

WAC 137-28-270 Serious infraction procedure. Infraction report.

(1) In the event of a serious infraction, the staff member who discovers such violation shall prepare and submit an infraction report. The infraction report shall be submitted promptly upon discovery of the incident or upon completion of an investigation. The infraction report must include:

- (a) Name, number and housing assignment of offender;
 - (b) A description of the incident;
 - (c) The time and place of the incident;
 - (d) The names of witnesses, victims, and other persons involved;
 - (e) The specific rule alleged to have been violated;
 - (f) A description of any action taken;
 - (g) Copies of any relevant documentation or supplemental reports. Confidential information and the identities of confidential informants shall not be included;
 - (h) Name and signature of reporting staff.
- (2) The infracting staff member may recommend action to be taken on the infraction to the hearing officer. This may include a recommendation that the inmate be referred for a mental health consultation.

(3) Serious infraction reports may be reviewed by the infracting staff member's supervisor who may:

- (a) Approve the report and forward it to the hearing clerk;

(b) Require the report be revised, rewritten or reinvestigated by the reporting staff member to ensure that the alleged facts support the charges;

(c) Add, delete or reduce the indicated WAC violations as appropriate, based upon the information and/or evidence provided by the reporting staff member;

(d) Recommend referral to a mental health professional for consultation if there is a question whether:

- (i) Mental illness contributed to the behavior that led to the infraction; or
- (ii) The inmate's mental health status may need to be monitored.

(4) If a negotiated hearing process is in place in the facility, the report may be forwarded to the designated hearings officer.

NEW SECTION

WAC 137-28-280 Temporary prehearing confinement. (1) Before a hearing, an inmate may be temporarily confined to his/her cell or demoted to a higher custody level or housing assignment, such as segregation, when it is reasonably believed that the inmate presents a risk to the security of the institution, a risk of escape, danger to themselves or to others, or is in danger from others.

(2) Confinement decisions under this rule shall be made by the shift commander in writing. All segregation placement must be approved by the superintendent within one working day of the confinement.

(3) Confinement imposed under this section may not be for more than three working days unless either the inmate or the institution, for good cause, requires additional time to prepare for the disciplinary hearing, or there is an administrative segregation hearing.

(4) An inmate confined under this section shall be subject to the same rules and restrictions as other inmates in the unit or status.

(5) An inmate confined under this rule shall be afforded reasonable opportunities to prepare a defense to the charges against him/her.

(6) An inmate confined on prehearing confinement or restricted under this rule shall receive credit against the sanction for time served if found guilty of the infraction.

(7) If an inmate is on prehearing confinement and a sanction of further segregation or isolation is given and the inmate indicates he/she wishes to appeal, the inmate may remain on prehearing confinement status pending disposition of the appeal, unless released by the superintendent.

NEW SECTION

WAC 137-28-290 Preparations for hearing. In preparation for the hearing, the hearing clerk or designee shall, at least twenty-four hours in advance of the hearing:

- (1) Provide copies of the infraction report to the inmate;
- (2) Advise the inmate in writing:
 - (a) Of his/her right to have a hearing;
 - (b) That if he/she chooses not to testify at or attend the hearing, his/her silence may be used against him/her;
 - (c) To present written statements from other inmates, staff, or other persons only if those statements would be relevant to the infraction and have a tendency to demonstrate his/her innocence;

(d) To request that staff members, other inmates, and other persons be present as witnesses in his/her defense for the hearing if it is determined by the hearing officer that to do so would not be unduly hazardous to institutional safety or correctional goals. Limitations may be made by the hearing officer if the information to be presented by the witnesses is deemed to be irrelevant, duplicative, or unnecessary to the adequate presentation of the inmate's case;

(e) To have a staff advisor assist in preparation of the inmate's case when it is determined by appropriate staff that the inmate is unable to adequately represent him/herself on the basis of literacy, competence, or other disability;

(f) To have access to nonconfidential reports and records used by the hearing officer during the fact-finding stage. However, where reports and records contain information that might reasonably compromise the security or safety of the institution or its inmates, these reports and records shall be identified as confidential and withheld. A summary of the confidential information shall be provided to the inmate. This summary may be included in the infraction report.

(g) The inmate must establish that any requested witness has relevant and exculpatory evidence to present at the hearing. The inmate must list all intended witnesses on the notice of hearing. The hearing officer may, in his/her discretion, allow additional witnesses for good cause shown;

(3) Advise the inmate that he/she does not have a right:

(a) To cross-examine witnesses;

(b) To have the infracting staff member present at the hearing;

(c) To a polygraph or other supplemental tests;

(4) Obtain written acknowledgement of the inmate's receipt of the information;

(5) Determine from the inmate whether the inmate wishes to contest the allegation;

(6) Schedule the hearing within ten working days after discovery of the incident. If an inmate is placed in prehearing confinement, a hearing shall be held within three working days after the day of placement, unless the time is extended by the superintendent. If the hearing is continued, a determination shall be made whether the inmate should remain on prehearing confinement and the reasons for that confinement.

NEW SECTION

WAC 137-28-300 Conduct of hearing. (1) The hearing officer shall ensure that the inmate is capable of understanding the charge against him/her, the nature of the proceedings, and is able to adequately take part in the hearing. If there is reason to doubt the inmate's understanding or ability, the hearing officer may order a continuance of the hearing in order to obtain additional information. If the hearing officer determines that the inmate is not able to understand or take part in the proceedings, the hearing officer shall assign a staff advisor to the inmate. If the inmate's mental status impairs the inmate's ability to participate in the hearing, the staff advisor appointed should be a mental health professional or a staff member with mental health training or experience.

(2) The inmate shall be present at all stages of the hearing except during deliberations and any inquiry the

hearing officer may make concerning the source of confidential information.

(3) The hearing officer may consider relevant evidence presented outside the hearing when not feasible to present that evidence within the hearing. The inmate shall be apprised of the content of that evidence and shall be allowed to rebut that evidence during the hearing. An inmate may waive his/her presence at a hearing. Failure without good cause to attend a scheduled hearing may be deemed a waiver of personal attendance. An inmate may be removed from his/her disciplinary hearing and the hearing may be continued in the inmate's absence if the inmate's behavior disrupts the disciplinary hearing.

(4) Where institution staff members are witnesses against the inmate, a written statement from the staff member may be considered by the hearing officer instead of in-person testimony, except where the hearing officer determines that the staff member's presence is necessary to an adequate understanding of the issues in the case.

(5) The hearing officer has the authority to question all witnesses. The inmate may submit proposed questions to be asked of witnesses, but the hearing officer has discretion over the questions asked.

(6) The inmate shall be allowed to present witnesses in his/her defense and to present documentary evidence in his/her defense when permitting him/her to do so will not be unduly hazardous to institutional safety or correctional goals. Testimony of witnesses from outside the facility will be submitted in writing.

(a) The hearing officer may deny the admission of evidence or testimony if the hearing officer determines that the testimony or evidence is irrelevant, immaterial, unnecessarily duplicative of other information before the hearing officer, or otherwise found to be unnecessary to the adequate presentation of the inmate's case.

(b) The testimony of witnesses that is adverse to the inmate may be given in person, in writing, or by telephone.

(c) The hearing officer shall document on the written record the reasons for denial of in-person testimony that is requested in writing by the inmate.

(7) If the hearing officer determines that a source of information would be subject to risk of harm if his/her identity were disclosed, testimony of the confidential source may be introduced by the testimony of a staff member. The confidential testimony may be provided by the source or by the written and signed statement of the source. If the staff member to whom the source provided information is unavailable, the written statement of this staff member may be used.

(a) The hearing officer shall, out of the presence of all inmates and off the record, identify the confidential source, and how the testifying staff member received the confidential information.

(b) The staff member presenting the information from a confidential source shall identify the source and the circumstances surrounding the receipt of the confidential information to the hearing officer, off the record. The hearing officer shall make an independent determination regarding the reliability of the confidential source, the credibility of the information, and the necessity of not revealing the source of the confidential information. In determining whether the confidential source is reliable and

the confidential information is credible, the hearing officer should consider all relevant circumstances including, but not limited to:

- (i) Evidence from other staff members that the confidential source has previously given reliable information;
- (ii) Evidence that the confidential source had no apparent motive to fabricate information;
- (iii) Evidence that the confidential source received no benefit from providing the information;
- (iv) Whether the confidential source is giving first-hand information;
- (v) Whether the confidential information is internally consistent and is consistent with other known facts; and
- (vi) The existence of corroborating evidence.

The hearing officer shall also determine whether safety concerns justify nondisclosure of the source of confidential information. The reliability and credibility determination and the need for confidentiality must be made on the record.

NEW SECTION

WAC 137-28-310 Decision of hearing officer. (1) A report of the hearing shall be made.

- (a) The report shall include:
 - (i) The charge;
 - (ii) Names of witnesses;
 - (iii) Inmate plea(s);
 - (iv) Summary of the testimony and cross-examination;
 - (v) A description of the physical evidence used;
 - (vi) Reasons for denying witnesses or the fact that written witness statements were not returned to the hearing officer; and

- (vii) The decisions and reasons.

- (b) The written report shall be placed in the inmate's institutional file if he/she is found guilty.

- (c) All reports and attachments shall be maintained by the clerk as part of the hearing officer's permanent records. A complete taped record of the hearing shall be taken but the tape shall not become a part of the inmate's file, and may be destroyed one hundred twenty days after the date of the hearing unless the hearing officer becomes aware that an appeal or court proceeding is pending.

- (2) In reaching a decision on the guilt or innocence of the inmate, the hearing officer must rely solely on evidence considered at the hearing. However, during the dispositional stage of the hearing, other factors, such as the inmate's institutional file, prior conduct, mental status, and overall institution adjustment, may be considered.

- (3) The inmate shall be informed of the decision of the hearing officer in writing within three working days of the hearing, unless extended by the superintendent.

- (4) The inmate shall be informed of his/her right to appeal the decision of the hearing officer to the superintendent.

NEW SECTION

WAC 137-28-320 Lesser included and related infractions. (1) The hearing officer is authorized to find an inmate guilty of a lesser included offense without issuing a new infraction report or conducting a new hearing.

- (2) Where the evidence suggests an inmate is guilty of an offense not charged and which is not a lesser included

offense to a charged offense, the hearing officer may recommend that new charges be filed to address such offenses. The inmate may waive the right to a separate hearing on the new charges and may allow the hearing officer to enter a finding of guilty or not guilty and impose sanctions.

NEW SECTION

WAC 137-28-330 Finding of not guilty. If the hearing officer determines that the inmate is not guilty of all charged infractions, disciplinary sanctions shall not be imposed on the inmate and all records pertaining to the charge(s) shall not be placed in the inmate's central file but may be retained for statistical, litigation, and recordkeeping purposes.

NEW SECTION

WAC 137-28-340 Staff advisors. (1) An inmate may have a staff advisor appointed by the hearing officer to prepare for a hearing. The hearing officer shall consider the following factors prior to assigning a staff advisor:

- (a) The inmate's literacy;
- (b) The complexity of the issue;
- (c) The inmate's overall ability to speak for himself/herself and adequately present his/her case;
- (d) The mental status of the inmate, in which case the staff advisor should be a mental health professional or other staff member with mental health training or experience;
- (e) The inmate's ability to communicate in English;
- (f) Any disability that might impair the inmate's ability to adequately defend him/herself.

- (2) The assignment of a staff advisor will only be necessary after considering these factors. This section should not be construed to mean that a staff advisor must be assigned.

- (3) The staff advisor will be a staff member who is not involved in the observation or investigation of the infraction.

- (4) The staff advisor shall attend the hearing, in person or telephonically, but shall not be responsible for presenting the inmate's case, questioning witnesses, or making other oral presentation, unless requested to do so by the hearing officer.

- (5) Where a hearing is continued under this section, an advisor shall be appointed immediately and instructed to help the inmate in preparing his case to the extent necessary to present a valid defense.

- (6) A list of approved staff advisors will be maintained by the superintendent.

- (7) Staff advisors shall be provided with:

- (a) An opportunity to meet and confer with inmates they are representing;

- (b) Access to written information to be used by the hearing officer in the fact-finding stage as far in advance of the hearing as is reasonably possible;

- (c) Reasonable access to all witnesses; and

- (d) Copies of the written decisions of the hearing officer and the superintendent in cases in which the staff advisors are involved.

- (8) Conversations between staff advisors and inmates are neither confidential nor privileged.

NEW SECTION**WAC 137-28-350 Sanctions—Authority to impose.**

(1) If the hearing officer determines that an inmate is guilty of a serious infraction, he/she may impose one or more of the following sanctions:

(a) Any of the sanctions available for general infractions;

(b) Any of the sanctions available under DOP 320.150 disciplinary sanctions directive;

(c) Loss of a privilege or privileges as specified by the hearing officer not to exceed: Thirty days on a first offense, ninety days on a second offense, and one hundred eighty days on a third offense, within a one-year period;

(d) Evening lockup or confinement to quarters for ten days;

(e) Weekend and/or holiday lockup or confinement to quarters for a period of one or more weekends but not to exceed twelve consecutive weekends per incident. For purposes of this rule, a "weekend" shall begin at the end of the Friday workday and terminate at the beginning of the Monday workday;

(f) Confinement to quarters except for meals, or with meals in cell, with or without curtailment of job assignment for a period not to exceed thirty days;

(g) Recommendation to the unit team/classification committee/assignment officer for reconsideration of custody classification or program change;

(h) Recommendations to the classification committee/classification officer for transfer to another institution when, as a result of the infraction committed, the inmate is unable to function in the institution of present confinement, or if other disciplinary methods have been attempted and failed;

(i) Confinement on segregation status for a period not to exceed thirty consecutive days;

(j) Confinement on isolation status for a period not to exceed ten consecutive days; however, where a serious infraction occurs during a period of isolation imposed under this rule, additional periods of isolation not to exceed ten days may be imposed. In situations where an inmate is in isolation for more than ten consecutive days, the director's prior approval is required unless the inmate is released from isolation for at least seventy-two consecutive hours between the end of one isolation sanction and the beginning of another;

(k) Restitution;

(l) Recommendation to the superintendent that he/she not certify good conduct time credit for an inmate subject to the jurisdiction of the indeterminate sentence review board, pursuant to RCW 9.95.070 or that he/she approve the denial of good conduct time credit for those inmates not under the jurisdiction of the board.

(i) The recommendation will be consistent with guidelines established by the secretary of the department of corrections.

(ii) Any sanctions for loss of good conduct credits in excess of the guidelines established by the secretary of the department of corrections must have final approval by the director, division of prisons.

(iii) For inmates not under the board's jurisdiction, all awards of good conduct time shall be considered tentative

and therefore all good conduct time credits earned or to be earned may be addressed under this rule;

(m) Recommendation to the indeterminate sentence review board for a disciplinary hearing or reconsideration of minimum term should occur only with infractions providing for actual time loss of twelve months or more and consistent with guidelines established by the department;

(n) Interruption of visitation between the offender and a specified individual(s) for a period of up to one hundred eighty consecutive days when there has been an infraction for visit related behavior or behavior that presents a security or safety threat. In cases of multiple or very serious offenses, recommendations may be made to the superintendent for extended or permanent loss of the privilege of visitation with a specified individual(s);

(o) Restrictions, interruption or termination of correspondence, and/or telephone privileges with specified individuals. Sanctions for offense(s) within any one-year period may not exceed: Up to ninety consecutive days for the first offense, one hundred eighty consecutive days for the second offense and permanent loss for the third offense. Termination of correspondence and/or telephone privileges may be permanent for the first offense if:

(i) The recipient so requests; or

(ii) A parent or guardian of the recipient, if a minor or an incompetent person, so requests; or

(iii) A felony was involved in the incident; or

(iv) If the contact violates a court order.

(2) If the hearing officer determines that more than one infraction occurred as a result of the same incident, he/she shall not impose consecutive sanctions for the separate infractions but shall consider them together and impose penalties for the group of infractions.

(3) The hearing officer may suspend the execution of a disciplinary sanction for a fixed period of time, not to exceed three hundred sixty-five consecutive days, subject to the good behavior of the inmate or to meeting other conditions as specified by the hearing officer. If the subsequent behavior of the inmate is appropriate, the hearing officer may, at or before the end of the fixed period, cancel the sanction. A suspended sanction may be imposed if the inmate has been found guilty of a general or serious infraction or of violating the conditions attached to the original suspension. A suspended sanction may be imposed by the hearing officer following notice to, and an in-person meeting with, the inmate.

(4) The hearing officer may review any decision he/she previously made and may modify downward any sanction previously imposed.

(5) Sanctions shall not be imposed while an appeal from the hearing officer's decision is under consideration by the superintendent.

(6) In all cases, regardless whether an appeal is taken, the superintendent may review a sanction imposed and may reduce its severity.

(7) Nothing in this section limits the superintendent's discretion to grant, deny, suspend, or revoke any privilege.

NEW SECTION

WAC 137-28-360 Sanctions and mental status. In determining an appropriate sanction, the hearing officer should consider the inmate's mental health and his/her intellectual, emotional, and maturity levels and what effect a particular sanction might have on the inmate in light of such factors. The hearing officer may request the assistance of other department staff, including mental health staff, in determining appropriate sanctions.

NEW SECTION

WAC 137-28-370 Sanctions—Limitations. (1) No inmate shall be subject to discipline for violation of inmate conduct rules unless there has been reasonable advance notice to the inmate of the prohibited behavior unless the rule was adopted on an emergency basis.

(2) Lowering the quantity or nutritional value of food or deprivation of clothing, bedding, bed, or normal hygienic implements shall not be used as disciplinary sanctions.

(3) Corporal punishment or physical restraint shall not be used as disciplinary sanctions.

(4) An inmate placed in disciplinary segregation shall be:

(a) Confined to an environment with healthful temperatures in cells substantially similar to those used for general population;

(b) Provided reasonable opportunities for personal hygiene;

(c) Afforded correspondence, reading, and access to the courts in accordance with written policy and procedure;

(d) Provided daily opportunity for at least one hour of exercise unless staffing, space, institutional security, order and/or safety, or other similar circumstances make this unfeasible, in which cases the inmate shall be allowed as much exercise as is feasible in the judgment of staff. Any limitations of exercise shall be approved in advance by a staff member with the rank of lieutenant or higher; and

(e) Provided adequate medical treatment.

(5) An inmate placed in isolation shall be:

(a) Confined in an environment with healthful temperatures in cells substantially similar to those used for the general population;

(b) Provided reasonable opportunities for personal hygiene;

(c) Afforded correspondence, reading, and access to courts in accordance with written policy and procedure. Reading literature may be limited to educational, religious, legal, or program involvement material;

(d) Provided adequate medical treatment;

(e) Upon approval by the superintendent, released immediately to an appropriate setting when medical personnel recommend such release on medical or psychological grounds; and

(f) Have reasonable access to a counselor and religious staff member.

NEW SECTION

WAC 137-28-380 Appeal to superintendent. (1) An inmate or the inmate's staff advisor may appeal the decision of the hearing officer to the superintendent by filing a written request for review with his/her reasons with the clerk within twenty-four hours, exclusive of weekends and holidays, after receiving notice of the decision of the hearing officer. The superintendent may consider appeals filed beyond the twenty-four-hour period.

(2) The clerk shall promptly transmit the appeal and the hearing record to the superintendent.

(3) The superintendent shall act on the appeal within ten working days of its receipt. The superintendent may affirm the decision of the hearing officer; reduce the charge to a lesser included offense; reduce the severity of the sanctions imposed; vacate the judgment of the hearing officer; or remand the matter for a new hearing. Any new hearing may not result in an increase in the severity of the sanctions originally imposed unless the inmate is charged with related or additional offenses.

(4) Pending the decision of the superintendent, disciplinary sanctions shall not be imposed on the inmate.

(5) The inmate shall be notified promptly of the decision of the superintendent.

NEW SECTION

WAC 137-28-390 Reports to the indeterminate sentence review board. (1) Whenever the hearing officer finds an inmate guilty of a serious infraction and recommends either loss of good conduct time credits or an increase in the inmate's minimum term, the records office must inform the indeterminate sentence review board of that decision within ten days or, if an appeal is taken, within ten days of the superintendent's decision. This report shall include a copy of the summary of the hearing prepared by the hearing officer.

(2) In all other cases where a finding of guilty is made for a serious infraction, the records office must inform the indeterminate sentence review board of that decision within thirty days, or if an appeal is taken, within thirty days of the superintendent's decision. This report shall include a copy of the summary of the hearing prepared by the hearing officer reporter.

(3) Where an inmate is found guilty of a serious infraction within forty-five days of an apparent release date, the indeterminate sentence review board shall be notified promptly with written notification to follow.

(4) This section shall apply only to inmates who are under the jurisdiction of the indeterminate sentence review board.

NEW SECTION

WAC 137-28-400 Time limitations. The time limitations expressed in these regulations are not jurisdictional and failure to adhere to any particular time limit shall not be grounds for reversal or dismissal of a disciplinary proceeding.

NEW SECTION

WAC 137-28-410 Restitution. (1) If restitution has been imposed as a sanction, a hearing officer shall determine the amount of restitution owed. A determination of the amount of restitution owed shall be made at the infraction hearing. However, the hearing officer may continue the hearing in order to secure additional evidence. If continued, the inmate shall be present at the continued/reconvened hearing.

(2) The amount of restitution normally shall be the replacement value of the item, the cost of repair, or the cost of any unnecessary expense caused by the inmate's misconduct.

(3) The inmate shall be given an opportunity to appeal the amount of restitution within the time limits of this policy. If under appeal, the amount of restitution will be held in the inmate's account but funds will not be withdrawn from the inmate's account until the superintendent has decided the appeal.

(4) Funds may be:

(a) Withdrawn from the inmate's account to make restitution provided the inmate's account shall not be reduced to less than ten dollars; or

(b) Twenty percent of all funds being placed into the inmate's account may be taken until the restitution is paid in full.

NEW SECTION

WAC 137-28-420 Continuances. (1) At any time during the disciplinary process, the hearing officer may continue the hearing for any reasons, including the following:

(a) To determine the inmate's mental status or competency.

(b) To appoint a staff advisor.

(c) To obtain an interpreter.

(d) To obtain witnesses or witness statements.

(e) To order an investigation into the incident.

(f) To correct errors.

(g) To obtain a replacement hearing officer.

(h) To obtain crime lab reports or other documentation.

(i) Due to the inmate's and/or witness' unavailability.

(j) Because the inmate is on escape, court-ordered custody, at a non-DOC facility, in transit, etc.

(k) A reasonable request by the inmate.

(l) To determine restitution costs.

(2) Continuances shall be for no longer than necessary, but shall not exceed twenty working days, unless approved by the superintendent.

(3) Hearings for inmates on escape status, court-ordered custody, in transit at a nondivision of prisons facility or otherwise unavailable may be continued up to a period not to exceed twenty working days after their return to the facility where the infraction originated.

NEW SECTION

WAC 137-28-430 Evidence. (1) Physical evidence of infractions shall be secured and protected from contamination, loss, or damage, when possible.

(2) A documented record of the chain of custody of physical evidence shall be maintained by the evidence custodian. The evidence custodian shall be supervised by the hearing officer.

(3) When physical evidence is no longer needed for appeal or litigation, it may be disposed of according to policy.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 137-28-005	Purpose.
WAC 137-28-006	Definitions.
WAC 137-28-010	Supplementary rules.
WAC 137-28-015	Notification.
WAC 137-28-020	Definition of misconduct.
WAC 137-28-025	General infractions.
WAC 137-28-030	Serious infractions.
WAC 137-28-031	Cell tag.
WAC 137-28-032	Earned time, granting and denial.
WAC 137-28-035	Reporting to law enforcement authorities.
WAC 137-28-040	Infractions—On-site adjustment.
WAC 137-28-045	Infractions—Report on.
WAC 137-28-050	General infraction report—Action on report.
WAC 137-28-055	Appeal to hearing officer.
WAC 137-28-065	Appointment and disqualification of hearing officer.
WAC 137-28-072	Out-of-state inmates.
WAC 137-28-075	Prehearing procedures—Rights of inmates.
WAC 137-28-080	Temporary prehearing confinement.
WAC 137-28-085	Hearing officer—Preparation for hearing.
WAC 137-28-090	Conduct of hearing.
WAC 137-28-093	Decision of hearing officer.
WAC 137-28-094	Lesser included and related infractions.
WAC 137-28-095	Finding of no infraction.
WAC 137-28-097	Staff advisors.
WAC 137-28-100	Sanctions—Authority to impose.
WAC 137-28-105	Sanctions—Types.
WAC 137-28-107	Sanctions and mental status.
WAC 137-28-110	Sanctions—Limitations.
WAC 137-28-115	Appeal to superintendent.
WAC 137-28-120	Reports to the board of prison terms and paroles.
WAC 137-28-130	Time limitations.

MISCELLANEOUS

WSR 95-15-060
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[Memorandum—July 13, 1995]

A regular meeting of the board of directors of the Washington State Convention and Trade Center (WSCTC) will be held on Saturday, July 22, 1995, at 8:15 a.m. in the Boardroom at the Inn at Port Ludlow, One Heron Road, Port Ludlow, WA.

A special meeting of the Washington State Convention and Trade Center board of directors will be held at the Inn at Ludlow Bay on Saturday, July 22 and Sunday July 23 at 9:00 a.m. respectively to discuss Convention Center expansion.

The Operating Goals, Measurements and Performance Committee will meet on Wednesday, July 26 at 1:30 p.m. in the 5th Floor Board Room of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding these meetings, please call 447-5000.

WSR 95-15-069
NOTICE OF PUBLIC MEETINGS
WALLA WALLA
COMMUNITY COLLEGE

[Memorandum—July 13, 1995]

Because of schedule conflicts, the board of trustees of Walla Walla Community College District No. 20 has deviated from their 1995 meeting schedule. Noted below are the revised dates for their meetings in August and September.

Wednesday, August 30, 1995	10:30 a.m.	WWCC Board Room
Wednesday, September 27, 1995	10:30 a.m.	WWCC Board Room

WSR 95-15-070
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE

[Memorandum—July 13, 1995]

There will a special study session meeting of the Edmonds Community College board of trustees, Monday, July 17, at 5 p.m., in SKB 103, to confer with Jun Maeda, sponsor for the Kobe Campus.

WSR 95-15-071
NOTICE OF PUBLIC MEETINGS
OLYMPIC COLLEGE

[Memorandum—July 12, 1995]

The board of trustees has cancelled the regular board meeting that was scheduled to be held on July 25, 1995, 7:30 p.m., at Olympic College, District No. 3, Bremerton, Washington.

WSR 95-15-072
NOTICE OF PUBLIC MEETINGS
BEEF COMMISSION

[Memorandum—July 13, 1995]

The board of commissioners of the Washington State Beef Commission have cancelled the September 7, 1995, board meeting. An additional meeting has been scheduled for December 15, 1995, in Pasco.

WSR 95-15-073
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY

[Memorandum—July 17, 1995]

BOARD OF TRUSTEES
 July 21, 1995, 9:00 a.m.
 Spokane Center
 Second Floor Mall

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in the Second Floor Board Room, Room 222.

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling President's Office, 359-2371.

WSR 95-15-074
RULES COORDINATOR
CENTRAL WASHINGTON UNIVERSITY

[Filed July 17, 1995, 11:58 a.m.]

In accordance with RCW 34.05.312, the rules coordinator for Central Washington University is Jill M. Orcutt, Administrative Assistant, President's Office, Central Washington University, 400 East 8th Avenue, Ellensburg, WA 98926-7502, (509) 963-2111.

Ivory V. Nelson
 President

WSR 95-15-079
NOTICE OF PUBLIC MEETINGS
PARKS AND RECREATION
COMMISSION

[Memorandum—July 18, 1995]

The September meeting of the Washington State Parks and Recreation Commission has been changed from Friday, September 15 to Saturday, September 16 at 9:00 a.m. in Issaquah.

**WSR 95-15-113
DEPARTMENT OF ECOLOGY**

[Filed July 19, 1995, 10:53 a.m.]

ANNOUNCEMENT

**INTENT to ISSUE INDUSTRIAL and CONSTRUCTION
STORMWATER GENERAL PERMITS to REPLACE ECOLOGY
BASELINE STORMWATER GENERAL PERMIT**

Introduction:

The Washington Department of Ecology is developing two general permits for stormwater discharges applicable state-wide: one for industrial activities and the other for construction activities which disturb 5 acres or more of land. These two permits will replace Ecology's Baseline General Permit for Stormwater Discharges Associated with Industrial Activities issued on November 18, 1992 and expiring on November 18, 1995. The permit duration for these two permits will be 5 years rather than the 3 year duration of the Baseline General Permit.

These two permits are being developed to meet the requirements of section 402(p) of the Federal Clean Water Act, state of Washington Chapter 90.48 RCW-Water Pollution Control, and regulations adopted by the United States Environmental Protection Agency (amendments to Title 40 of the Code of Federal Regulations (CFR), Part 122, published in the federal register, on November 16, 1990).

Ecology intends to issue these two general permits by November 18, 1995.

Industrial Categories and Construction Sites Needing Permits:

Facilities in the categories listed below which discharge stormwater either directly to a surface water or indirectly through a municipal or private storm sewer, must be covered under either of these two permits, an individual permit or another general permit.

The following is a general description of those categories which will be covered by the two general permits:

A. The Stormwater General Permit for Industrial Activities

- Manufacturing facilities in Standard Industrial Classification (SIC) codes 24, 26, 28, 29, 32, 33, 3441, 373;
- Mining and Oil and Gas Extraction facilities in SIC codes 10 through 14;
- Hazardous waste treatment, storage or disposal facilities;
- Landfills, land application sites and open dumps that receive or have received industrial wastes;
- Recycling facilities including metal scrap yards, battery reclaimers, salvage yards, and automobile recyclers; including but limited to those classified as Standard Industrial Classification codes 5015 and 5093.
- Steam electric power generating facilities;
- Transportation facilities in SIC codes 40 through 45, and 5171, which have vehicle maintenance shops, equipment cleaning operations or airport deicing operations;

- Sewage treatment plants with a design flow of 1.0 million gallons per day or more, or required to have an approved industrial pretreatment program, except those sewage treatment plants owned or operated by a municipality with a population less than 100,000.

- Facilities listed in SIC codes 20 through 42, not otherwise listed above, which have an industrial activity exposed to stormwater.

B. The Stormwater General Permit for Construction Sites

Construction activity, including clearing, grading, and excavating activities except: operations that result in the disturbance of less than 5 acres of total land area which are not a part of a larger common plan of development or sale.

Application and Reapplication Requirements:

The following are the types of industrial facilities and construction sites needing to apply or reapply for coverage under the applicable general permit:

1. Permittees covered under the existing Baseline General Permit still needing coverage after November 18, 1995, were to have reapplied by May 23, 1995 for coverage under the reissued permits. Those industrial facilities or construction sites (except those sites stabilized before November 18, 1995) that have not yet reapplied and still need coverage are out of compliance with the existing permit and need to apply as expeditiously as possible.
2. New industrial facilities or construction sites shall apply and obtain coverage no later than 30 days before commencement of the activity at the facility or the site.
3. Industrial facilities or construction sites determined to be significant contributors of pollutants, shall apply within 30 days of notification by Ecology.
4. Ecology proposes that facilities previously not applying for coverage under the existing permit because the primary SIC of the business or entity was not listed, now need to apply if the primary SIC of the facility is listed in the reissued industrial permit. Application will be required within 30 days after the effective date of the permit.

How to Apply for Coverage under These Two General Permits:

Owners or operators of industrial facilities and owners of construction sites may apply or reapply by submitting a Notice of Intent to the following address:

Washington Department of Ecology
Stormwater Unit
P.O. Box 47696
Olympia, WA 98504-7696

Permit Requirements for Industrial Facilities and for Construction Sites:

The two general permits will require owners/operators of industrial facilities and construction sites to implement Storm Water Pollution Prevention Plans (SWPPP). The SWPPP identifies pollutants and sources of pollution, and describes

appropriate Best Management Practices (BMP's) to reduce pollutants in stormwater at industrial facilities and at construction sites.

New industrial facilities and construction sites will be required to develop and implement a SWPPP before commencement of the stormwater discharges. Existing industrial facilities determined to need coverage under the industrial general permit will be required to complete and implement a SWPPP within a schedule acceptable to Ecology.

Small Business Economic Impact Statement

An SBEIS was prepared to project the economic impact of the current baseline industrial and construction general permit on small businesses. Because major changes in pollution control systems are not required by the two proposed permits, Ecology has decided not to prepare another SBEIS.

Permit Fees:

State law requires Ecology to recover the cost of the Water Quality Permit Program. An annual fee for coverage under these general permits will be assessed all permittees during the 1995-1997 biennium.

Other Available Information:

The Department of Ecology has prepared Fact Sheets which describe reasons for the permit requirements, who must apply, and other background information. Copies of public drafts of the two permits, Fact Sheets and the Notice of Intent form will be available at the public workshops and hearings listed below. Copies of these documents will be available on August 7, 1995 and can also be obtained by calling the document request line at (360) 407-7156.

Public Workshops and Hearings:

At the workshops Ecology plans to brief the audience on the pertinent aspects of the two draft permits and allow some time for questions and discussion.

The hearings will be a formal process for presenting a public record of comments on the draft permits. Responses to comments will follow in accordance with regulations. The workshops will start at 7:00 P.M. and the formal hearings will start at 8:30 P.M. and continue until all public comments have been recorded. Written comments will be accepted for the official record until September 21, 1995.

The locations and dates of the public workshops and hearings are listed below.

OLYMPIA

Ecology Headquarters
Building
300 Desmond Drive
Lacey, WA

Location: Auditorium ROA36
First Floor

DATE & TIME

September 6, 1995
Workshop, 7:00-8:15 P.M.
Hearing, 8:30 P.M.-
Completion

BELLEVUE

Ecology Northwest
Regional Office
3190 160th Avenue SE
Bellevue, WA

September 7, 1995
Workshop, 7:00-8:15 P.M.
Hearing, 8:30 P.M.-
Completion

Location: Main Conference Room
Through Lobby

SPOKANE

Ecology Eastern
Regional Office
North 4601 Monroe,
Suite 100
Spokane, WA

September 12, 1995
Workshop, 7:00-8:15 P.M.
Hearing, 8:30-Completion

YAKIMA

Ecology Central
Regional Office
15 West Yakima Avenue
Suite 200
Yakima, WA

September 13, 1995
Workshop, 7:00-8:15 P.M.
Hearing, 8:30-Completion

Where to Submit Written Comments:

If you wish to submit written comments on the proposed general permits, you may mail them to the following address:

Peter Birch
Washington Department of Ecology
Stormwater unit
P.O. Box 47696
Olympia, WA 98504-7696

Written comments must be postmarked by September 21, 1995

Final Determination:

Ecology intends to issue these permits by November 18, 1995. A final determination to issue these permits and responsiveness summaries will be sent to all persons who submitted written comments or gave public testimony. In addition, Ecology will publish a notice of issuance of the general permits in the State Register.

Ecology is an equal opportunity agency. If you have special accommodation needs or require this document in an alternative format, please contact Linda Matlock at (360) 407-6437 or (360) 407-6006 (TDD).

**WSR 95-15-115
NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND
COMMUNITY COLLEGE**

[Memorandum—July 17, 1995]

At their July 6, 1995, meeting, the board of trustees of Community College District 24 discovered a conflict with the August 31, 1995, regular meeting date and have changed that meeting to September 7, 1995, to be held in the boardroom of Building 25 on our campus.

MISCELLANEOUS

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
1-21	PREP	95-11-115	16-158-120	AMD	95-13-072	16-354-070	AMD-P	95-15-099
1-21-010	AMD-P	95-14-044	16-158-130	AMD-P	95-10-098	16-414-010	AMD-P	95-09-038
1-21-020	AMD-P	95-14-044	16-158-130	AMD	95-13-072	16-414-010	AMD	95-13-038
1-21-040	AMD-P	95-14-044	16-158-150	NEW-P	95-10-098	16-414-015	NEW-P	95-09-038
1-21-050	AMD-P	95-14-044	16-158-150	NEW	95-13-072	16-414-015	NEW	95-13-038
1-21-170	AMD-P	95-14-044	16-164	PREP	95-07-017	16-414-020	AMD-P	95-09-038
1-21-180	NEW-P	95-14-044	16-164	AMD-P	95-10-099	16-414-020	AMD	95-13-038
4-25-710	AMD-P	95-09-066	16-164	AMD	95-13-073	16-414-030	AMD-P	95-09-038
16-08-002	AMD-P	95-15-100	16-164-010	AMD-P	95-10-099	16-414-030	AMD	95-13-038
16-08-021	AMD-P	95-15-100	16-164-010	AMD	95-13-073	16-414-085	NEW-P	95-09-038
16-54-030	AMD-E	95-15-077	16-164-020	AMD-P	95-10-099	16-414-085	NEW	95-13-038
16-101-700	AMD-W	95-04-036	16-164-020	AMD	95-13-073	16-414-090	AMD-P	95-09-038
16-101-700	AMD-P	95-10-020	16-164-030	AMD-P	95-10-099	16-414-090	AMD	95-13-038
16-101-700	AMD-W	95-11-082	16-164-030	AMD	95-13-073	16-414-095	NEW-P	95-09-038
16-144-001	AMD-E	95-10-049	16-164-035	NEW-P	95-10-099	16-414-095	NEW	95-13-038
16-144-001	AMD-P	95-12-084	16-164-035	NEW	95-13-073	16-461-010	AMD-P	95-09-038
16-144-015	NEW-E	95-10-049	16-164-040	AMD-P	95-10-099	16-461-010	AMD	95-13-038
16-144-145	NEW-P	95-12-084	16-164-040	AMD	95-13-073	16-493-001	NEW-P	95-15-097
16-144-146	NEW-P	95-12-084	16-164-060	AMD-P	95-10-099	16-493-005	NEW-P	95-15-097
16-144-147	NEW-P	95-12-084	16-164-060	AMD	95-13-073	16-493-010	NEW-P	95-15-097
16-144-148	NEW-P	95-12-084	16-164-070	AMD-P	95-10-099	16-493-015	NEW-P	95-15-097
16-144-149	NEW-P	95-12-084	16-164-070	AMD	95-13-073	16-493-020	NEW-P	95-15-097
16-144-150	NEW-P	95-12-084	16-164-080	AMD-P	95-10-099	16-493-025	NEW-P	95-15-097
16-144-151	NEW-P	95-12-084	16-164-080	AMD	95-13-073	16-493-030	NEW-P	95-15-097
16-158	PREP	95-07-015	16-164-090	AMD-P	95-10-099	16-493-035	NEW-P	95-15-097
16-158	AMD-P	95-10-098	16-164-090	AMD	95-13-073	16-493-040	NEW-P	95-15-097
16-158	AMD	95-13-072	16-164-100	AMD-P	95-10-099	16-493-045	NEW-P	95-15-097
16-158-010	AMD-P	95-10-098	16-164-100	AMD	95-13-073	16-493-050	NEW-P	95-15-097
16-158-010	AMD	95-13-072	16-166	PREP	95-07-016	16-495-200	NEW-P	95-11-118
16-158-020	AMD-P	95-10-098	16-166-010	REP-P	95-10-100	16-495-200	NEW	95-14-034
16-158-020	AMD	95-13-072	16-166-010	REP	95-13-074	16-495-205	NEW-P	95-11-118
16-158-025	NEW-P	95-10-098	16-166-020	REP-P	95-10-100	16-495-205	NEW	95-14-034
16-158-025	NEW	95-13-072	16-166-020	REP	95-13-074	16-495-210	NEW-P	95-11-118
16-158-027	NEW-P	95-10-098	16-166-030	REP-P	95-10-100	16-495-210	NEW	95-14-034
16-158-027	NEW	95-13-072	16-166-030	REP	95-13-074	16-495-215	NEW-P	95-11-118
16-158-030	AMD-P	95-10-098	16-166-040	REP-P	95-10-100	16-495-215	NEW	95-14-034
16-158-030	AMD	95-13-072	16-166-040	REP	95-13-074	16-495-220	NEW-P	95-11-118
16-158-040	AMD-P	95-10-098	16-166-050	REP-P	95-10-100	16-495-220	NEW	95-14-034
16-158-040	AMD	95-13-072	16-166-050	REP	95-13-074	16-495-225	NEW-P	95-11-118
16-158-050	AMD-P	95-10-098	16-166-060	REP-P	95-10-100	16-495-225	NEW	95-14-034
16-158-050	AMD	95-13-072	16-166-060	REP	95-13-074	16-495-230	NEW-P	95-11-118
16-158-060	AMD-P	95-10-098	16-166-070	REP-P	95-10-100	16-495-230	NEW	95-14-034
16-158-070	REP-P	95-10-098	16-166-070	REP	95-13-074	16-495-235	NEW-P	95-11-118
16-158-070	REP	95-13-072	16-166-080	REP-P	95-10-100	16-495-235	NEW	95-14-034
16-158-080	AMD-P	95-10-098	16-166-080	REP	95-13-074	16-495-240	NEW-P	95-11-118
16-158-080	AMD	95-13-072	16-166-090	REP-P	95-10-100	16-495-240	NEW	95-14-034
16-158-090	AMD-P	95-10-098	16-166-090	REP	95-13-074	16-495-245	NEW-P	95-11-118
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16-158-100	AMD	95-13-072	16-354-005	AMD-P	95-15-099	16-495-250	NEW	95-14-034
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Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
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16-497-030	AMD-P	95-15-098	30-04-090	AMD-P	95-12-098	30-16-090	REP	95-15-040
16-532-035	PREP	95-09-079	30-04-090	AMD	95-15-040	30-16-100	REP-P	95-12-098
16-532-035	AMD-P	95-10-095	30-04-100	REP-P	95-12-098	30-16-100	REP	95-15-040
16-532-040	PREP	95-09-079	30-04-100	REP	95-15-040	30-16-110	REP-P	95-12-098
16-532-040	AMD-P	95-10-095	30-04-110	REP-P	95-12-098	30-16-110	REP	95-15-040
16-532-101	PREP	95-09-079	30-04-110	REP	95-15-040	30-16-120	REP-P	95-12-098
16-532-120	PREP	95-09-079	30-08-030	AMD-P	95-12-098	30-16-120	REP	95-15-040
16-532-120	AMD-P	95-10-095	30-08-030	AMD	95-15-040	30-18-010	NEW-P	95-12-098
16-536-020	PREP	95-08-005	30-08-040	AMD-P	95-12-098	30-18-010	NEW	95-15-040
16-536-020	AMD-P	95-12-089	30-08-040	AMD	95-15-040	30-18-020	NEW-P	95-12-098
16-557-010	PREP	95-08-003	30-12-010	AMD-P	95-12-098	30-18-020	NEW	95-15-040
16-557-020	AMD-P	95-12-090	30-12-010	AMD	95-15-040	30-18-030	NEW-P	95-12-098
16-580	PREP	95-08-004	30-12-020	REP-P	95-12-098	30-18-030	NEW	95-15-040
16-580-020	AMD-P	95-10-096	30-12-020	REP	95-15-040	30-18-040	NEW-P	95-12-098
16-580-070	AMD-P	95-10-096	30-12-030	AMD-P	95-12-098	30-18-040	NEW	95-15-040
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16-585-020	NEW-P	95-05-071	30-12-050	AMD	95-15-040	30-18-060	NEW-P	95-12-098
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16-585-030	NEW	95-15-102	30-12-070	REP-P	95-12-098	30-18-070	NEW	95-15-040
16-585-040	NEW-P	95-05-071	30-12-070	REP	95-15-040	30-18-080	NEW-P	95-12-098
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16-585-050	NEW-P	95-05-071	30-12-080	AMD	95-15-040	30-18-090	NEW-P	95-12-098
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16-585-090	NEW	95-15-102	30-12-160	AMD-P	95-12-098	30-20-020	REP	95-15-040
16-674-059	NEW-P	95-09-090	30-12-160	AMD	95-15-040	30-20-030	REP-P	95-12-098
16-674-059	NEW-W	95-11-070	30-14-010	NEW-P	95-12-098	30-20-030	REP	95-15-040
16-674-060	AMD-P	95-09-090	30-14-010	NEW	95-15-040	30-20-040	REP-P	95-12-098
16-674-060	AMD-W	95-11-070	30-14-020	NEW-P	95-12-098	30-20-040	REP	95-15-040
16-674-080	AMD-P	95-09-090	30-14-020	NEW	95-15-040	30-20-050	REP-P	95-12-098
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16-675-030	AMD-W	95-11-071	30-14-050	NEW-P	95-12-098	30-20-070	REP	95-15-040
16-675-039	REP-P	95-09-089	30-14-050	NEW	95-15-040	30-20-080	REP-P	95-12-098
16-675-039	REP-W	95-11-071	30-14-060	NEW-P	95-12-098	30-20-080	REP	95-15-040
16-675-040	AMD-P	95-09-089	30-14-060	NEW	95-15-040	30-20-090	REP-P	95-12-098
16-675-040	AMD-W	95-11-071	30-14-070	NEW-P	95-12-098	30-20-090	REP	95-15-040
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16-750-011	AMD	95-06-002	30-14-090	NEW-P	95-12-098	30-20-110	REP	95-15-040
16-750-015	AMD	95-06-002	30-14-090	NEW	95-15-040	30-20-120	REP-P	95-12-098
30	PREP	95-11-095	30-14-100	NEW-P	95-12-098	30-20-120	REP	95-15-040
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30-01-010	AMD	95-15-040	30-14-110	NEW-P	95-12-098	30-22-010	NEW	95-15-040
30-01-020	AMD-P	95-12-098	30-14-110	NEW	95-15-040	30-22-020	NEW-P	95-12-098
30-01-020	AMD	95-15-040	30-16-010	REP-P	95-12-098	30-22-020	NEW	95-15-040
30-01-030	REP-P	95-12-098	30-16-010	REP	95-15-040	30-22-030	NEW-P	95-12-098
30-01-030	REP	95-15-040	30-16-020	REP-P	95-12-098	30-22-030	NEW	95-15-040
30-01-040	AMD-P	95-12-098	30-16-020	REP	95-15-040	30-22-040	NEW-P	95-12-098
30-01-040	AMD	95-15-040	30-16-030	REP-P	95-12-098	30-22-040	NEW	95-15-040
30-01-050	AMD-P	95-12-098	30-16-030	REP	95-15-040	30-22-050	NEW-P	95-12-098
30-01-050	AMD	95-15-040	30-16-040	REP-P	95-12-098	30-22-050	NEW	95-15-040
30-01-060	AMD-P	95-12-098	30-16-040	REP	95-15-040	30-22-060	NEW-P	95-12-098
30-01-060	AMD	95-15-040	30-16-050	REP-P	95-12-098	30-22-060	NEW	95-15-040
30-02-010	NEW-P	95-12-098	30-16-050	REP	95-15-040	30-22-070	NEW-P	95-12-098
30-02-010	NEW	95-15-040	30-16-060	REP-P	95-12-098	30-22-070	NEW	95-15-040
30-04-040	AMD-P	95-12-098	30-16-060	REP	95-15-040	30-22-080	NEW-P	95-12-098
30-04-040	AMD	95-15-040	30-16-070	REP-P	95-12-098	30-22-080	NEW	95-15-040
30-04-050	AMD-P	95-12-098	30-16-070	REP	95-15-040	30-22-090	NEW-P	95-12-098
30-04-050	AMD	95-15-040	30-16-080	REP-P	95-12-098	30-22-090	NEW	95-15-040

TABLE

Table of WAC Sections Affected

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30-24-010	REP	95-15-040	30-36-070	REP-P	95-12-098	50-60-080	AMD-P	95-05-084
30-24-020	REP-P	95-12-098	30-36-070	REP	95-15-040	50-60-080	AMD	95-13-091
30-24-020	REP	95-15-040	30-36-080	REP-P	95-12-098	50-60-08001	NEW-P	95-05-084
30-24-030	REP-P	95-12-098	30-36-080	REP	95-15-040	50-60-08002	NEW-P	95-05-084
30-24-030	REP	95-15-040	30-36-090	REP-P	95-12-098	50-60-08003	NEW-P	95-05-084
30-24-040	REP-P	95-12-098	30-36-090	REP	95-15-040	50-60-08004	NEW-P	95-05-084
30-24-040	REP	95-15-040	30-36-100	REP-P	95-12-098	50-60-08005	NEW-P	95-05-084
30-24-050	REP-P	95-12-098	30-36-100	REP	95-15-040	50-60-08005	NEW	95-13-091
30-24-050	REP	95-15-040	30-36-110	REP-P	95-12-098	50-60-08006	NEW-P	95-05-084
30-24-060	REP-P	95-12-098	30-36-110	REP	95-15-040	50-60-08007	NEW-P	95-05-084
30-24-060	REP	95-15-040	30-40-020	AMD-P	95-12-098	50-60-08008	NEW-P	95-05-084
30-24-070	REP-P	95-12-098	30-40-020	AMD	95-15-040	50-60-08010	NEW	95-13-091
30-24-070	REP	95-15-040	30-40-030	REP-P	95-12-098	50-60-08015	NEW	95-13-091
30-24-080	REP-P	95-12-098	30-40-030	REP	95-15-040	50-60-08020	NEW	95-13-091
30-24-080	REP	95-15-040	30-40-050	AMD-P	95-12-098	50-60-08025	NEW	95-13-091
30-24-090	REP-P	95-12-098	30-40-050	AMD	95-15-040	50-60-08030	NEW	95-13-091
30-24-090	REP	95-15-040	30-40-060	AMD-P	95-12-098	50-60-08035	NEW	95-13-091
30-24-100	REP-P	95-12-098	30-40-060	AMD	95-15-040	50-60-08040	NEW	95-13-091
30-24-100	REP	95-15-040	30-40-070	AMD-P	95-12-098	50-60-09001	NEW-P	95-05-084
30-26-010	NEW-P	95-12-098	30-40-070	AMD	95-15-040	50-60-09002	NEW-P	95-05-084
30-26-010	NEW	95-15-040	30-40-080	AMD-P	95-12-098	50-60-09003	NEW-P	95-05-084
30-26-020	NEW-P	95-12-098	30-40-080	AMD	95-15-040	50-60-09004	NEW-P	95-05-084
30-26-020	NEW	95-15-040	30-40-090	AMD-P	95-12-098	50-60-09005	NEW	95-13-091
30-26-030	NEW-P	95-12-098	30-40-090	AMD	95-15-040	50-60-09010	NEW	95-13-091
30-26-030	NEW	95-15-040	30-44	AMD-P	95-12-098	50-60-09015	NEW	95-13-091
30-26-040	NEW-P	95-12-098	30-44	AMD	95-15-040	50-60-09020	NEW	95-13-091
30-26-040	NEW	95-15-040	30-44-010	AMD-P	95-12-098	50-60-100	AMD-P	95-05-084
30-26-050	NEW-P	95-12-098	30-44-010	AMD	95-15-040	50-60-100	AMD	95-13-091
30-26-050	NEW	95-15-040	30-44-020	AMD-P	95-12-098	50-60-110	AMD-P	95-05-084
30-26-060	NEW-P	95-12-098	30-44-020	AMD	95-15-040	50-60-110	AMD	95-13-091
30-26-060	NEW	95-15-040	30-44-030	AMD-P	95-12-098	50-60-120	AMD-P	95-05-084
30-26-070	NEW-P	95-12-098	30-44-030	AMD	95-15-040	50-60-120	AMD	95-13-091
30-26-070	NEW	95-15-040	30-44-040	AMD-P	95-12-098	50-60-125	NEW-P	95-05-084
30-26-080	NEW-P	95-12-098	30-44-040	AMD	95-15-040	50-60-125	NEW	95-13-091
30-26-080	NEW	95-15-040	30-44-050	AMD-P	95-12-098	50-60-130	AMD-P	95-05-084
30-26-090	NEW-P	95-12-098	30-44-050	AMD	95-15-040	50-60-130	AMD	95-13-091
30-26-090	NEW	95-15-040	30-44-060	NEW-P	95-12-098	50-60-140	AMD-P	95-05-084
30-28-010	REP-P	95-12-098	30-44-060	NEW	95-15-040	50-60-140	AMD	95-13-091
30-28-010	REP	95-15-040	30-48-010	REP-P	95-12-098	50-60-145	NEW	95-13-091
30-28-020	REP-P	95-12-098	30-48-010	REP	95-15-040	50-60-150	AMD-P	95-05-084
30-28-020	REP	95-15-040	30-48-020	REP-P	95-12-098	50-60-150	AMD	95-13-091
30-28-030	REP-P	95-12-098	30-48-020	REP	95-15-040	50-60-160	AMD-P	95-05-084
30-28-030	REP	95-15-040	30-48-030	REP-P	95-12-098	50-60-160	AMD	95-13-091
30-28-040	REP-P	95-12-098	30-48-030	REP	95-15-040	50-60-165	AMD-P	95-05-084
30-28-040	REP	95-15-040	30-48-040	REP-P	95-12-098	50-60-165	AMD	95-13-091
30-32-010	REP-P	95-12-098	30-48-040	REP	95-15-040	50-60-180	REP-P	95-05-084
30-32-010	REP	95-15-040	30-48-050	REP-P	95-12-098	50-60-180	REP	95-13-091
30-32-020	REP-P	95-12-098	30-48-050	REP	95-15-040	50-60-190	NEW-P	95-05-084
30-32-020	REP	95-15-040	30-48-060	REP-P	95-12-098	50-60-190	NEW	95-13-091
30-32-030	REP-P	95-12-098	30-48-060	REP	95-15-040	50-60-200	NEW-P	95-05-084
30-32-030	REP	95-15-040	30-48-070	REP-P	95-12-098	50-60-200	NEW	95-13-091
30-32-040	REP-P	95-12-098	30-48-070	REP	95-15-040	50-60-210	NEW-P	95-05-084
30-32-040	REP	95-15-040	50-20	PREP	95-13-090	50-60-210	NEW	95-13-091
30-32-050	REP-P	95-12-098	50-60-010	AMD-P	95-05-084	51-20	PREP	95-03-086
30-32-050	REP	95-15-040	50-60-010	AMD	95-13-091	51-20-001	REP-P	95-04-106
30-32-060	REP-P	95-12-098	50-60-020	AMD-P	95-05-084	51-20-001	REP	95-11-107
30-32-060	REP	95-15-040	50-60-020	AMD	95-13-091	51-20-002	REP-P	95-04-106
30-32-070	REP-P	95-12-098	50-60-030	AMD-P	95-05-084	51-20-002	REP	95-11-107
30-32-070	REP	95-15-040	50-60-030	AMD	95-13-091	51-20-003	REP-P	95-04-106
30-32-080	REP-P	95-12-098	50-60-035	NEW-P	95-05-084	51-20-003	REP	95-11-107
30-32-080	REP	95-15-040	50-60-035	NEW	95-13-091	51-20-004	REP-P	95-04-106
30-36-010	REP-P	95-12-098	50-60-040	AMD-P	95-05-084	51-20-004	REP	95-11-107
30-36-010	REP	95-15-040	50-60-040	AMD	95-13-091	51-20-005	REP-P	95-04-106
30-36-020	REP-P	95-12-098	50-60-042	NEW-P	95-05-084	51-20-005	REP	95-11-107
30-36-020	REP	95-15-040	50-60-042	NEW	95-13-091	51-20-007	REP-P	95-04-106
30-36-030	REP-P	95-12-098	50-60-045	AMD-P	95-05-084	51-20-007	REP	95-11-107
30-36-030	REP	95-15-040	50-60-045	AMD	95-13-091	51-20-008	REP-P	95-04-106
30-36-040	REP-P	95-12-098	50-60-050	AMD-P	95-05-084	51-20-008	REP	95-11-107
30-36-040	REP	95-15-040	50-60-050	AMD	95-13-091	51-20-009	REP-P	95-04-106
30-36-050	REP-P	95-12-098	50-60-060	AMD-P	95-05-084	51-20-009	REP	95-11-107
30-36-050	REP	95-15-040	50-60-060	AMD	95-13-091	51-20-0100	REP-P	95-04-106
30-36-060	REP-P	95-12-098	50-60-070	AMD-P	95-05-084	51-20-0100	REP	95-11-107

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WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
51-22-005	REP	95-11-107	51-24-78000	REP	95-11-107	51-35-52504	NEW-W	95-05-054
51-22-007	REP-P	95-04-106	51-24-78201	REP-P	95-04-106	51-35-52505	NEW-W	95-05-054
51-22-007	REP	95-11-107	51-24-78201	REP	95-11-107	51-35-52506	NEW-W	95-05-054
51-22-008	REP-P	95-04-106	51-24-79000	REP-P	95-04-106	51-35-52507	NEW-W	95-05-054
51-22-008	REP	95-11-107	51-24-79000	REP	95-11-107	51-35-52508	NEW-W	95-05-054
51-22-0400	REP-P	95-04-106	51-24-79601	REP-P	95-04-106	51-35-52509	NEW-W	95-05-054
51-22-0400	REP	95-11-107	51-24-79601	REP	95-11-107	55-01	PREP	95-04-058
51-22-0423	REP-P	95-04-106	51-24-79603	REP-P	95-04-106	55-01-010	AMD-E	95-04-075
51-22-0423	REP	95-11-107	51-24-79603	REP	95-11-107	55-01-010	AMD-E	95-12-016
51-22-0500	REP-P	95-04-106	51-24-79809	REP-P	95-04-106	55-01-020	AMD-E	95-04-075
51-22-0500	REP	95-11-107	51-24-79809	REP	95-11-107	55-01-020	AMD-E	95-12-016
51-22-0504	REP-P	95-04-106	51-24-79901	REP-P	95-04-106	55-01-030	AMD-E	95-04-075
51-22-0504	REP	95-11-107	51-24-79901	REP	95-11-107	55-01-030	AMD-E	95-12-016
51-22-0800	REP-P	95-04-106	51-24-80000	REP-P	95-04-106	55-01-040	AMD-E	95-04-075
51-22-0800	REP	95-11-107	51-24-80000	REP	95-11-107	55-01-040	AMD-E	95-12-016
51-22-0807	REP-P	95-04-106	51-24-80101	REP-P	95-04-106	55-01-050	AMD-E	95-04-075
51-22-0807	REP	95-11-107	51-24-80101	REP	95-11-107	55-01-050	AMD-E	95-12-016
51-22-1000	REP-P	95-04-106	51-24-80103	REP-P	95-04-106	55-01-060	AMD-E	95-04-075
51-22-1000	REP	95-11-107	51-24-80103	REP	95-11-107	55-01-060	AMD-E	95-12-016
51-22-1002	REP-P	95-04-106	51-24-80108	REP-P	95-04-106	55-01-070	AMD-E	95-04-075
51-22-1002	REP	95-11-107	51-24-80108	REP	95-11-107	55-01-070	AMD-E	95-12-016
51-22-1100	REP-P	95-04-106	51-24-80109	REP-P	95-04-106	60-12-010	PREP	95-04-090
51-22-1100	REP	95-11-107	51-24-80109	REP	95-11-107	60-12-010	AMD-P	95-06-085
51-22-1104	REP-P	95-04-106	51-24-80110	REP-P	95-04-106	60-12-010	AMD	95-10-097
51-22-1104	REP	95-11-107	51-24-80110	REP	95-11-107	67-25-005	AMD	95-06-057
51-22-1500	REP-P	95-04-106	51-24-80111	REP-P	95-04-106	67-25-010	AMD	95-06-057
51-22-1500	REP	95-11-107	51-24-80111	REP	95-11-107	67-25-015	AMD	95-06-057
51-22-1508	REP-P	95-04-106	51-24-80113	REP-P	95-04-106	67-25-020	AMD	95-06-057
51-22-1508	REP	95-11-107	51-24-80113	REP	95-11-107	67-25-025	AMD	95-06-057
51-22-1900	REP-P	95-04-106	51-24-80114	REP-P	95-04-106	67-25-030	AMD	95-06-057
51-22-1900	REP	95-11-107	51-24-80114	REP	95-11-107	67-25-050	AMD	95-06-057
51-22-1903	REP-P	95-04-106	51-24-80120	REP-P	95-04-106	67-25-055	AMD	95-06-057
51-22-1903	REP	95-11-107	51-24-80120	REP	95-11-107	67-25-056	NEW	95-06-057
51-24	PREP	95-03-086	51-24-80202	REP-P	95-04-106	67-25-070	AMD	95-06-057
51-24-001	REP-P	95-04-106	51-24-80202	REP	95-11-107	67-25-075	AMD	95-06-057
51-24-001	REP	95-11-107	51-24-80301	REP-P	95-04-106	67-25-077	AMD	95-06-057
51-24-002	REP-P	95-04-106	51-24-80301	REP	95-11-107	67-25-080	AMD	95-06-057
51-24-002	REP	95-11-107	51-24-80303	REP-P	95-04-106	67-25-085	AMD	95-06-057
51-24-003	REP-P	95-04-106	51-24-80303	REP	95-11-107	67-25-090	AMD	95-06-057
51-24-003	REP	95-11-107	51-24-80305	REP-P	95-04-106	67-25-095	AMD	95-06-057
51-24-007	REP-P	95-04-106	51-24-80305	REP	95-11-107	67-25-100	AMD	95-06-057
51-24-007	REP	95-11-107	51-24-80315	REP-P	95-04-106	67-25-105	REP	95-06-057
51-24-008	REP-P	95-04-106	51-24-80315	REP	95-11-107	67-25-110	AMD	95-06-057
51-24-008	REP	95-11-107	51-24-80401	REP-P	95-04-106	67-25-120	REP	95-06-057
51-24-04000	REP-P	95-04-106	51-24-80401	REP	95-11-107	67-25-255	AMD	95-06-057
51-24-04000	REP	95-11-107	51-24-80402	REP-P	95-04-106	67-25-257	AMD	95-06-057
51-24-04123	REP-P	95-04-106	51-24-80402	REP	95-11-107	67-25-260	AMD	95-06-057
51-24-04123	REP	95-11-107	51-24-99500	REP-P	95-04-106	67-25-270	AMD	95-06-057
51-24-09000	REP-P	95-04-106	51-24-99500	REP	95-11-107	67-25-275	AMD	95-06-057
51-24-09000	REP	95-11-107	51-24-99510	REP-P	95-04-106	67-25-280	AMD	95-06-057
51-24-09105	REP-P	95-04-106	51-24-99510	REP	95-11-107	67-25-281	REP	95-06-057
51-24-09105	REP	95-11-107	51-25	PREP	95-03-086	67-25-284	NEW	95-06-057
51-24-09107	REP-P	95-04-106	51-25-001	REP-P	95-04-106	67-25-288	NEW	95-06-057
51-24-09107	REP	95-11-107	51-25-001	REP	95-11-107	67-25-300	AMD	95-06-057
51-24-09110	REP-P	95-04-106	51-25-002	REP-P	95-04-106	67-25-325	AMD	95-06-057
51-24-09110	REP	95-11-107	51-25-002	REP	95-11-107	67-25-326	AMD	95-06-057
51-24-09117	REP-P	95-04-106	51-25-003	REP-P	95-04-106	67-25-350	AMD	95-06-057
51-24-09117	REP	95-11-107	51-25-003	REP	95-11-107	67-25-360	AMD	95-06-057
51-24-10000	REP-P	95-04-106	51-25-007	REP-P	95-04-106	67-25-380	AMD	95-06-057
51-24-10000	REP	95-11-107	51-25-007	REP	95-11-107	67-25-384	AMD	95-06-057
51-24-10201	REP-P	95-04-106	51-25-008	REP-P	95-04-106	67-25-385	REP	95-06-057
51-24-10201	REP	95-11-107	51-25-008	REP	95-11-107	67-25-388	AMD	95-06-057
51-24-10507	REP-P	95-04-106	51-30-0311	NEW-W	95-05-055	67-25-390	AMD	95-06-057
51-24-10507	REP	95-11-107	51-30-0417	NEW-W	95-05-055	67-25-392	REP	95-06-057
51-24-25000	REP-P	95-04-106	51-30-0502	NEW-W	95-05-055	67-25-394	AMD	95-06-057
51-24-25000	REP	95-11-107	51-34-7901	NEW-W	95-05-054	67-25-396	AMD	95-06-057
51-24-25107	REP-P	95-04-106	51-35-09000	NEW-W	95-05-054	67-25-398	NEW	95-06-057
51-24-25107	REP	95-11-107	51-35-52404	NEW-W	95-05-054	67-25-399	NEW	95-06-057
51-24-45000	REP-P	95-04-106	51-35-52411	NEW-W	95-05-054	67-25-400	AMD	95-06-057
51-24-45000	REP	95-11-107	51-35-52417	NEW-W	95-05-054	67-25-404	AMD	95-06-057
51-24-45211	REP-P	95-04-106	51-35-52501	NEW-W	95-05-054	67-25-408	AMD	95-06-057
51-24-45211	REP	95-11-107	51-35-52502	NEW-W	95-05-054	67-25-412	AMD	95-06-057
51-24-78000	REP-P	95-04-106	51-35-52503	NEW-W	95-05-054	67-25-416	AMD	95-06-057

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WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
67-25-418	NEW	95-06-057	131-28-025	AMD-E	95-07-004	132G-126-270	REP	95-07-103
67-25-420	REP	95-06-057	131-28-025	PREP	95-10-088	132G-126-280	REP-P	95-04-008
67-25-428	REP	95-06-057	131-28-025	AMD-P	95-10-090	132G-126-280	REP	95-07-103
67-25-432	AMD	95-06-057	131-28-025	AMD	95-13-070	132G-126-290	REP-P	95-04-008
67-25-436	NEW	95-06-057	131-28-02501	NEW-E	95-07-004	132G-126-290	REP	95-07-103
67-25-440	AMD	95-06-057	131-28-02501	PREP	95-10-088	132G-126-300	REP-P	95-04-008
67-25-444	AMD	95-06-057	131-28-02501	NEW-P	95-10-090	132G-126-300	REP	95-07-103
67-25-446	AMD	95-06-057	131-28-02501	NEW	95-13-070	132G-126-310	REP-P	95-04-008
67-25-448	AMD	95-06-057	131-28-026	AMD-E	95-07-004	132G-126-310	REP	95-07-103
67-25-452	AMD	95-06-057	131-28-026	PREP	95-10-088	132G-126-320	REP-P	95-04-008
67-25-500	REP	95-06-057	131-28-026	AMD-P	95-10-090	132G-126-320	REP	95-07-103
67-25-505	REP	95-06-057	131-28-026	AMD	95-13-070	132G-126-330	REP-P	95-04-008
67-25-510	REP	95-06-057	131-28-028	REP-E	95-07-004	132G-126-330	REP	95-07-103
67-25-525	REP	95-06-057	131-28-028	PREP	95-10-088	132G-126-340	REP-P	95-04-008
67-25-530	REP	95-06-057	131-28-028	REP-P	95-10-090	132G-126-340	REP	95-07-103
67-25-540	AMD	95-06-057	131-28-028	REP	95-13-070	132G-126-350	REP-P	95-04-008
67-25-545	AMD	95-06-057	131-28-030	AMD-E	95-07-004	132G-126-350	REP	95-07-103
67-25-550	AMD	95-06-057	131-28-030	PREP	95-10-088	132G-126-360	REP-P	95-04-008
67-25-560	AMD	95-06-057	131-28-030	AMD-P	95-10-090	132G-126-360	REP	95-07-103
67-25-570	AMD	95-06-057	131-28-030	AMD	95-13-070	132G-126-370	REP-P	95-04-008
67-25-590	AMD	95-06-057	131-28-040	AMD-E	95-07-004	132G-126-370	REP	95-07-103
67-35-030	PREP	95-04-012	131-28-040	PREP	95-10-088	132G-126-380	REP-P	95-04-008
67-35-030	AMD-P	95-05-040	131-28-040	AMD-P	95-10-090	132G-126-380	REP	95-07-103
67-35-030	AMD	95-12-007	131-28-040	AMD	95-13-070	132G-126-390	REP-P	95-04-008
67-35-210	PREP	95-04-012	131-28-045	AMD-E	95-07-004	132G-126-390	REP	95-07-103
67-35-210	AMD-P	95-05-040	131-28-045	PREP	95-10-088	132G-126-400	REP-P	95-04-008
67-35-210	AMD	95-12-007	131-28-045	AMD-P	95-10-090	132G-126-400	REP	95-07-103
67-35-215	PREP	95-04-012	131-28-045	AMD	95-13-070	132G-160-075	PREP	95-15-016
67-35-215	NEW-P	95-05-040	131-28-080	AMD-E	95-07-004	132H-121-020	NEW-P	95-14-069
67-35-215	NEW	95-12-007	131-28-080	PREP	95-10-088	132H-160-052	NEW-P	95-14-070
67-35-220	PREP	95-04-012	131-28-080	AMD-P	95-10-090	132H-160-093	REP-P	95-14-070
67-35-220	AMD-P	95-05-040	131-28-080	AMD	95-13-070	132H-160-094	REP-P	95-14-070
67-35-220	AMD	95-12-007	131-28-085	AMD-E	95-07-004	132H-160-095	REP-P	95-14-070
67-35-230	PREP	95-04-012	131-28-085	PREP	95-10-088	132H-160-182	AMD-E	95-11-098
67-35-230	AMD-P	95-05-040	131-28-085	AMD-P	95-10-090	132H-160-182	PREP	95-14-068
67-35-230	AMD	95-12-007	131-28-085	AMD	95-13-070	132I-130	PREP	95-06-004
67-35-350	PREP	95-04-012	131-28-090	AMD-E	95-07-004	132I-130-030	NEW-P	95-06-083
67-35-350	REP-P	95-05-040	131-28-090	PREP	95-10-088	132I-130-030	NEW	95-09-072
67-35-350	REP	95-12-007	131-28-090	AMD-P	95-10-090	132I-160	PREP	95-10-021
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173-354-090	NEW-P	95-15-104	173-420-055	NEW-P	95-10-052	174-116-119	PREP	95-05-010
173-354-100	NEW-P	95-15-104	173-420-060	AMD-P	95-10-052	174-116-119	AMD-P	95-07-132
173-354-150	NEW-P	95-15-104	173-420-065	NEW-P	95-10-052	174-116-121	PREP	95-05-010
173-354-200	NEW-P	95-15-104	173-420-070	AMD-P	95-10-052	174-116-121	AMD-P	95-07-132
173-354-230	NEW-P	95-15-104	173-420-080	AMD-P	95-10-052	174-116-122	PREP	95-05-010
173-354-300	NEW-P	95-15-104	173-420-110	AMD-P	95-10-052	174-116-122	AMD-P	95-07-132
173-354-320	NEW-P	95-15-104	173-420-120	NEW-P	95-10-052	174-116-123	PREP	95-05-010
173-354-340	NEW-P	95-15-104	173-422-020	AMD	95-06-068	174-116-123	AMD-P	95-07-132
173-354-360	NEW-P	95-15-104	173-422-030	AMD	95-06-068	174-116-124	PREP	95-05-010
173-354-380	NEW-P	95-15-104	173-422-035	AMD	95-06-068	174-116-124	AMD-P	95-07-132
173-354-400	NEW-P	95-15-104	173-422-050	AMD	95-06-068	174-116-125	PREP	95-05-010
173-354-440	NEW-P	95-15-104	173-422-060	AMD	95-06-068	174-116-126	PREP	95-05-010
173-354-460	NEW-P	95-15-104	173-422-065	AMD	95-06-068	174-116-127	PREP	95-05-010
173-354-500	NEW-P	95-15-104	173-422-070	AMD	95-06-068	174-116-127	AMD-P	95-07-132
173-354-515	NEW-P	95-15-104	173-422-090	AMD	95-06-068	178-01	PREP	95-04-016

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178-01-010	REP	95-08-008	180-77-070	AMD-P	95-08-058	182-14-040	NEW-E	95-08-001
180-10	PREP	95-11-069	180-77-070	AMD	95-12-056	182-14-040	NEW-E	95-15-092
180-16-222	PREP	95-13-047	180-77-075	AMD-P	95-08-058	182-14-050	NEW-E	95-08-001
180-27	PREP	95-05-038	180-77-075	AMD	95-12-056	182-14-050	NEW-E	95-15-092
180-27-019	AMD-P	95-05-083	180-77-080	AMD-P	95-08-058	182-14-060	NEW-E	95-08-001
180-27-019	AMD	95-08-032	180-77-080	AMD	95-12-056	182-14-060	NEW-E	95-15-092
180-27-019	PREP	95-12-075	180-77-085	REP-P	95-08-058	182-14-070	NEW-E	95-08-001
180-27-040	PREP	95-12-073	180-77-085	REP	95-12-056	182-14-070	NEW-E	95-15-092
180-27-05605	AMD-E	95-11-092	180-77-090	REP-P	95-08-058	182-14-080	NEW-E	95-08-001
180-27-05605	AMD-P	95-12-074	180-77-090	REP	95-12-056	182-14-080	NEW-E	95-15-092
180-27-05605	PREP	95-12-043	180-77-095	REP-P	95-08-058	182-14-090	NEW-E	95-08-001
180-27-600	PREP	95-14-042	180-77-095	REP	95-12-056	182-14-090	NEW-E	95-15-092
180-27-605	PREP	95-14-042	180-77-100	REP-P	95-08-058	182-14-100	NEW-E	95-08-001
180-27-610	PREP	95-14-042	180-77-100	REP	95-12-056	182-14-100	NEW-E	95-15-092
180-27-615	PREP	95-14-042	180-77-105	REP-P	95-08-058	182-16	PREP	95-04-057
180-29-015	PREP	95-05-036	180-77-105	REP	95-12-056	182-18	PREP	95-04-057
180-29-015	AMD-P	95-05-081	180-77-106	NEW-P	95-08-058	182-20-001	NEW-P	95-08-060
180-29-015	AMD	95-08-033	180-77-106	NEW	95-12-056	182-20-001	NEW	95-12-010
180-29-095	PREP	95-05-037	180-77-110	AMD-P	95-08-058	182-20-010	NEW-P	95-08-060
180-29-095	AMD-P	95-05-082	180-77-110	AMD	95-12-056	182-20-010	NEW	95-12-010
180-29-095	AMD	95-08-031	180-77-120	NEW-P	95-08-058	182-20-100	NEW-P	95-08-060
180-29-125	PREP	95-05-035	180-77-120	NEW	95-12-056	182-20-100	NEW	95-12-010
180-29-125	AMD-P	95-05-080	180-77-122	NEW-P	95-08-058	182-20-130	NEW-P	95-08-060
180-29-125	AMD	95-08-030	180-77-122	NEW	95-12-056	182-20-130	NEW	95-12-010
180-43-010	AMD-P	95-05-077	180-78-145	PREP	95-06-024	182-20-160	NEW-P	95-08-060
180-43-010	AMD	95-08-028	180-78-145	AMD-P	95-08-057	182-20-160	NEW	95-12-010
180-43-015	AMD-P	95-05-077	180-78-145	AMD	95-12-055	182-20-200	NEW-P	95-08-060
180-43-015	AMD	95-08-028	180-78-160	PREP	95-13-048	182-20-200	NEW	95-12-010
180-51-050	AMD-P	95-12-025	180-79-062	PREP	95-13-046	182-20-300	NEW-P	95-08-060
180-57-080	PREP	95-12-024	180-79-230	PREP	95-13-047	182-20-300	NEW	95-12-010
180-75-070	PREP	95-05-043	180-79-241	PREP	95-13-049	182-20-320	NEW-P	95-08-060
180-77-001	NEW-P	95-08-058	180-85	PREP	95-05-042	182-20-320	NEW	95-12-010
180-77-001	NEW	95-12-056	180-95	AMD-P	95-05-076	182-20-400	NEW-P	95-08-060
180-77-002	NEW-P	95-08-058	180-95	AMD	95-08-029	182-20-400	NEW	95-12-010
180-77-002	NEW	95-12-056	180-95-005	AMD-P	95-05-076	192-04-060	AMD-P	95-15-063
180-77-003	AMD-P	95-08-058	180-95-005	AMD	95-08-029	192-04-063	NEW-P	95-15-063
180-77-003	AMD	95-12-056	180-95-050	AMD-P	95-05-076	192-04-090	AMD-P	95-15-063
180-77-004	NEW-P	95-08-058	180-95-050	AMD	95-08-029	192-04-170	AMD-P	95-15-063
180-77-004	NEW	95-12-056	180-95-070	NEW-P	95-05-076	192-04-175	NEW-P	95-15-063
180-77-005	AMD-P	95-08-058	180-95-070	NEW	95-08-029	192-12	PREP	95-10-053
180-77-005	AMD	95-12-056	182-04	PREP	95-04-057	192-12-130	PREP	95-04-104
180-77-010	REP-P	95-08-058	182-08	PREP	95-04-057	192-12-130	AMD-P	95-15-094
180-77-010	REP	95-12-056	182-12	PREP	95-04-057	192-12-141	PREP	95-04-104
180-77-012	NEW-P	95-08-058	182-12-110	AMD-E	95-08-002	192-12-141	PREP	95-07-075
180-77-012	NEW	95-12-056	182-12-110	AMD-E	95-15-112	192-12-141	AMD-P	95-15-094
180-77-014	NEW-P	95-08-058	182-12-111	AMD-E	95-08-002	192-12-184	AMD-P	95-06-081
180-77-014	NEW	95-12-056	182-12-111	AMD-E	95-15-112	192-12-184	AMD	95-09-085
180-77-015	AMD-P	95-08-058	182-12-115	AMD-E	95-08-002	192-12-190	AMD-P	95-06-081
180-77-015	AMD	95-12-056	182-12-115	AMD-E	95-15-112	192-12-190	AMD	95-09-085
180-77-020	AMD-P	95-08-058	182-12-122	AMD-E	95-08-002	192-12-320	AMD-P	95-06-081
180-77-020	AMD	95-12-056	182-12-122	AMD-E	95-15-112	192-12-320	AMD	95-09-085
180-77-030	REP-P	95-08-058	182-13-010	NEW-P	95-03-063	192-12-340	AMD-P	95-06-081
180-77-030	REP	95-12-056	182-13-010	NEW-W	95-03-074	192-12-340	AMD	95-09-085
180-77-031	NEW-P	95-08-058	182-13-010	NEW-P	95-03-075	192-16	PREP	95-11-128
180-77-031	NEW	95-12-056	182-13-010	NEW	95-07-011	192-16-002	PREP	95-11-128
180-77-035	REP-P	95-08-058	182-13-020	NEW-P	95-03-063	192-16-007	REP-P	95-06-081
180-77-035	REP	95-12-056	182-13-020	NEW-W	95-03-074	192-16-007	REP	95-09-085
180-77-040	REP-P	95-08-058	182-13-020	NEW-P	95-03-075	192-16-017	AMD-P	95-06-081
180-77-040	REP	95-12-056	182-13-020	NEW	95-07-011	192-16-017	AMD	95-09-085
180-77-041	NEW-P	95-08-058	182-13-030	NEW-P	95-03-063	192-16-019	AMD-P	95-06-081
180-77-041	NEW	95-12-056	182-13-030	NEW-W	95-03-074	192-16-019	AMD	95-09-085
180-77-045	REP-P	95-08-058	182-13-030	NEW-P	95-03-075	192-16-021	AMD-P	95-06-081
180-77-045	REP	95-12-056	182-13-030	NEW	95-07-011	192-16-021	AMD	95-09-085
180-77-050	REP-P	95-08-058	182-13-040	NEW-P	95-03-063	192-16-024	NEW-E	95-14-091
180-77-050	REP	95-12-056	182-13-040	NEW-W	95-03-074	192-16-025	AMD-P	95-06-081
180-77-055	REP-P	95-08-058	182-13-040	NEW-P	95-03-075	192-16-025	AMD	95-09-085
180-77-055	REP	95-12-056	182-13-040	NEW	95-07-011	192-16-050	AMD-P	95-06-081
180-77-060	REP-P	95-08-058	182-14-010	NEW-E	95-08-001	192-16-050	AMD	95-09-085
180-77-060	REP	95-12-056	182-14-010	NEW-E	95-15-092	192-16-051	PREP	95-11-128
180-77-065	REP-P	95-08-058	182-14-020	NEW-E	95-08-001	192-16-051	AMD-E	95-14-091
180-77-065	REP	95-12-056	182-14-020	NEW-E	95-15-092	192-16-052	NEW-E	95-14-091
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192-23-019	NEW-P	95-08-077	220-32-05500L	NEW-E	95-10-041	220-56-103	NEW-P	95-14-133
192-23-019	NEW	95-12-014	220-32-05500L	REP-E	95-11-061	220-56-105	AMD	95-04-066
192-28-100	REP-P	98-06-081	220-32-05500M	NEW-E	95-11-061	220-56-115	AMD	95-04-066
192-28-100	REP	95-09-085	220-32-05500M	REP-E	95-14-062	220-56-116	AMD	95-04-066
192-28-110	AMD-P	98-06-081	220-32-05500N	NEW-E	95-14-062	220-56-124	AMD	95-12-027
192-28-110	AMD	95-09-085	220-32-05700Q	NEW-E	95-03-002	220-56-12000B	NEW-E	95-13-040
192-28-120	AMD-P	98-06-081	220-32-06000A	NEW-E	95-10-041	220-56-12000B	REP-E	95-13-040
192-28-120	AMD	95-09-085	220-33-03000J	NEW-E	95-11-062	220-56-125	REP	95-04-066
192-32	PREP	95-12-085	220-33-04000A	NEW-E	95-03-013	220-56-126	AMD	95-12-027
192-32-001	AMD-P	95-06-081	220-36-021	AMD-P	95-10-105	220-56-127	REP	95-04-066
192-32-001	AMD	95-09-085	220-36-021	AMD-C	95-13-062	220-56-128	AMD	95-12-027
192-32-010	AMD-P	95-06-081	220-36-021	AMD	95-13-065	220-56-130	AMD	95-04-066
192-32-010	AMD	95-09-085	220-36-023	AMD-P	95-10-105	220-56-134	NEW	95-12-027
192-32-015	AMD-P	95-06-081	220-36-023	AMD-C	95-13-062	220-56-180	AMD	95-04-066
192-32-015	AMD	95-09-085	220-36-023	AMD	95-13-065	220-56-185	AMD	95-04-066
192-32-025	AMD-P	95-06-081	220-40-021	AMD-P	95-10-105	220-56-190	AMD	95-12-027
192-32-025	AMD	95-09-085	220-40-021	AMD-C	95-13-062	220-56-191	AMD	95-12-027
192-32-045	AMD-P	95-06-081	220-40-021	AMD	95-13-065	220-56-19100H	REP-E	95-02-069
192-32-045	AMD	95-09-085	220-40-027	AMD-P	95-10-105	220-56-19100I	NEW-E	95-02-069
192-42-005	REP	95-05-048	220-40-027	AMD-C	95-13-062	220-56-19100I	REP-E	95-10-006
192-42-010	REP	95-05-048	220-40-027	AMD	95-13-065	220-56-19100J	NEW-E	95-10-006
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192-42-030	REP	95-05-048	220-44-050	AMD	95-08-069	220-56-19100K	NEW-E	95-12-028
192-42-056	REP	95-05-048	220-44-05000M	REP-E	95-05-007	220-56-195	AMD	95-12-027
192-42-057	REP	95-05-048	220-44-05000N	NEW-E	95-05-007	220-56-196	AMD	95-12-027
192-42-058	REP	95-05-048	220-44-05000N	REP-E	95-05-021	220-56-199	AMD	95-12-027
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196-12	PREP	95-15-120	220-44-05000P	REP-E	95-08-034	220-56-210	AMD	95-04-066
196-16	PREP	95-15-120	220-44-05000Q	NEW-E	95-08-034	220-56-225	AMD	95-04-066
196-20	PREP	95-15-120	220-44-05000Q	REP-E	95-10-001C	220-56-235	AMD	95-04-066
196-24	PREP	95-15-120	220-44-05000R	NEW-E	95-10-001C	220-56-240	AMD	95-04-066
197-11-200	NEW-W	95-08-061	220-44-05000R	REP-E	95-15-048	220-56-245	AMD	95-12-027
197-11-210	NEW	95-07-023	220-44-05000S	NEW-E	95-15-048	220-56-255	AMD	95-12-027
197-11-220	NEW	95-07-023	220-47-262	AMD-P	95-09-081	220-56-25500X	NEW-E	95-12-012
197-11-225	NEW-E	95-03-059	220-47-262	AMD	95-13-056	220-56-25500X	REP-E	95-14-073
197-11-228	NEW-E	95-03-059	220-47-304	AMD-P	95-09-081	220-56-25500Y	NEW-E	95-14-073
197-11-228	NEW	95-07-023	220-47-304	AMD	95-13-056	220-56-25500Y	REP-E	95-14-098
197-11-230	NEW-E	95-03-059	220-47-307	AMD-P	95-09-081	220-56-25500Z	NEW-E	95-14-098
197-11-230	NEW	95-07-023	220-47-307	AMD	95-13-056	220-56-265	AMD	95-04-066
197-11-232	NEW-E	95-03-059	220-47-311	AMD-P	95-09-081	220-56-282	AMD	95-04-066
197-11-232	NEW	95-07-023	220-47-311	AMD	95-13-056	220-56-285	AMD	95-12-027
197-11-235	NEW-E	95-03-059	220-47-401	AMD-P	95-09-081	220-56-28500D	NEW-E	95-05-049
197-11-235	NEW	95-07-023	220-47-401	AMD	95-13-056	220-56-28500E	NEW-E	95-10-001B
197-11-250	NEW	95-08-041	220-47-411	AMD-P	95-09-081	220-56-305	AMD	95-12-027
197-11-253	NEW	95-08-041	220-47-411	AMD	95-13-056	220-56-310	AMD	95-04-066
197-11-256	NEW	95-08-041	220-47-412	AMD-P	95-09-081	220-56-312	AMD	95-04-066
197-11-259	NEW	95-08-041	220-47-412	AMD	95-13-056	220-56-32500B	NEW-E	95-10-056
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197-11-748	REP	95-07-023	220-52-04600B	REP-E	95-07-027	220-56-35000C	REP-E	95-04-086
197-11-890	AMD	95-07-023	220-52-04600C	NEW-E	95-09-027	220-56-35000D	NEW-E	95-04-086
197-11-904	AMD	95-07-023	220-52-04600Z	NEW-E	95-05-056	220-56-35000D	REP-E	95-10-040
197-11-908	AMD	95-07-023	220-52-04600Z	REP-E	95-06-001	220-56-35000E	NEW-E	95-10-040
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220-57-13000T	REP-E	95-14-035	220-57-395	AMD	95-12-027	222-10-040	NEW-C	95-04-073
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220-57-13500R	REP-E	95-14-035	220-57-410	AMD	95-12-027	222-16-010	AMD-E	95-04-074
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236-15-010	REP-P	95-13-108	245-03-080	NEW-W	95-12-047	245-03-830	NEW-W	95-07-034
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236-15-015	REP-P	95-13-108	245-03-120	NEW-W	95-07-037	245-03-840	NEW-P	95-06-074
236-15-050	NEW	95-05-044	245-03-120	NEW-W	95-12-047	245-03-840	NEW-W	95-07-034
236-15-050	REP-P	95-13-108	245-03-140	NEW-P	95-06-075	245-03-840	NEW-W	95-12-047
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236-15-200	NEW	95-05-044	245-03-160	NEW-P	95-06-075	245-03-860	NEW-W	95-12-047
236-15-200	REP-P	95-13-108	245-03-160	NEW-W	95-07-037	245-03-880	NEW-P	95-06-074
236-15-300	NEW	95-05-044	245-03-160	NEW-W	95-12-047	245-03-880	NEW-W	95-07-034
236-15-300	REP-P	95-13-108	245-03-180	NEW-P	95-06-075	245-03-880	NEW-W	95-12-047
236-15-700	NEW	95-05-044	245-03-180	NEW-W	95-07-037	245-04-010	NEW-P	95-06-077
236-15-700	REP-P	95-13-108	245-03-180	NEW-W	95-12-047	245-04-010	NEW-W	95-07-033
236-15-800	NEW	95-05-044	245-03-200	NEW-P	95-06-075	245-04-010	NEW-W	95-12-047
236-15-800	REP-P	95-13-108	245-03-200	NEW-W	95-07-037	245-04-020	NEW-P	95-06-077
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245-01-010	DECOD	95-12-009	245-03-240	NEW-P	95-06-075	245-04-025	NEW-W	95-12-047
245-01-020	DECOD	95-12-009	245-03-240	NEW-W	95-07-037	245-04-030	NEW-P	95-06-077
245-01-030	DECOD	95-12-009	245-03-240	NEW-W	95-12-047	245-04-030	NEW-W	95-07-033
245-01-040	DECOD	95-12-009	245-03-260	NEW-P	95-06-075	245-04-030	NEW-W	95-12-047
245-01-050	DECOD	95-12-009	245-03-260	NEW-W	95-07-037	245-04-040	NEW-P	95-06-077
245-01-060	DECOD	95-12-009	245-03-260	NEW-W	95-12-047	245-04-040	NEW-W	95-07-033
245-01-070	DECOD	95-12-009	245-03-280	NEW-P	95-06-075	245-04-040	NEW-W	95-12-047
245-01-080	DECOD	95-12-009	245-03-280	NEW-W	95-07-037	245-04-050	NEW-P	95-06-077
245-01-090	DECOD	95-12-009	245-03-280	NEW-W	95-12-047	245-04-050	NEW-W	95-07-033
245-01-100	DECOD	95-12-009	245-03-300	NEW-P	95-06-075	245-04-050	NEW-W	95-12-047
245-01-110	DECOD	95-12-009	245-03-300	NEW-W	95-07-037	245-04-060	NEW-P	95-06-077
245-01-120	DECOD	95-12-009	245-03-300	NEW-W	95-12-047	245-04-060	NEW-W	95-07-033
245-01-130	DECOD	95-12-009	245-03-320	NEW-P	95-06-075	245-04-060	NEW-W	95-12-047
245-01-140	DECOD	95-12-009	245-03-320	NEW-W	95-07-037	245-04-070	NEW-P	95-06-077
245-01-150	DECOD	95-12-009	245-03-320	NEW-W	95-12-047	245-04-070	NEW-W	95-07-033
245-02-010	NEW	95-04-115	245-03-390	NEW-P	95-06-075	245-04-070	NEW-W	95-12-047
245-02-020	NEW	95-04-115	245-03-390	NEW-W	95-07-037	245-04-080	NEW-P	95-06-077
245-02-025	NEW	95-04-115	245-03-390	NEW-W	95-12-047	245-04-080	NEW-W	95-07-033
245-02-030	NEW	95-04-115	245-03-520	NEW-W	95-07-035	245-04-080	NEW-W	95-12-047
245-02-035	NEW	95-04-115	245-03-520	NEW-W	95-12-047	245-04-090	AMD-P	95-03-101
245-02-040	NEW	95-04-115	245-03-540	NEW-W	95-07-035	245-04-090	AMD	95-06-048
245-02-045	NEW	95-04-115	245-03-540	NEW-W	95-12-047	245-04-090	DECOD	95-12-009
245-02-050	NEW	95-04-115	245-03-560	NEW-W	95-07-035	245-04-100	AMD-P	95-03-101
245-02-100	NEW	95-04-112	245-03-560	NEW-W	95-12-047	245-04-100	AMD	95-06-048
245-02-110	NEW	95-04-112	245-03-580	NEW-W	95-07-035	245-04-100	DECOD	95-12-009
245-02-115	NEW	95-04-112	245-03-580	NEW-W	95-12-047	245-04-110	AMD-P	95-03-101
245-02-120	NEW	95-04-112	245-03-610	NEW-P	95-06-076	245-04-110	AMD	95-06-048
245-02-125	NEW	95-04-112	245-03-610	NEW-W	95-12-047	245-04-110	DECOD	95-12-009
245-02-130	NEW	95-04-112	245-03-620	NEW-P	95-06-076	245-04-115	AMD-P	95-03-101
245-02-131	NEW	95-04-112	245-03-620	NEW-W	95-07-036	245-04-115	AMD	95-06-048
245-02-135	NEW	95-04-112	245-03-620	NEW-W	95-12-047	245-04-115	DECOD	95-12-009
245-02-140	NEW	95-04-112	245-03-630	NEW-P	95-06-076	245-04-125	NEW-P	95-04-113
245-02-145	NEW	95-04-112	245-03-630	NEW-W	95-12-047	245-04-125	NEW-W	95-12-047
245-02-150	NEW	95-04-112	245-03-640	NEW-P	95-06-076	245-04-130	NEW-P	95-04-113
245-02-155	NEW	95-04-112	245-03-640	NEW-W	95-07-036	245-04-130	NEW-W	95-12-047
245-02-160	NEW	95-04-112	245-03-640	NEW-W	95-12-047	245-04-135	NEW-P	95-04-113
245-02-165	NEW	95-04-112	245-03-650	NEW-P	95-06-076	245-04-135	NEW-W	95-12-047
245-02-170	NEW	95-04-112	245-03-650	NEW-W	95-07-036	245-04-140	NEW-P	95-04-113
245-02-175	NEW	95-04-112	245-03-650	NEW-W	95-12-047	245-04-140	NEW-W	95-12-047
245-02-180	NEW	95-04-112	245-03-660	NEW-P	95-06-076	245-04-145	NEW-P	95-04-113
245-03-010	NEW-P	95-06-075	245-03-660	NEW-W	95-07-036	245-04-145	NEW-W	95-12-047
245-03-010	NEW-W	95-07-037	245-03-660	NEW-W	95-12-047	245-04-150	NEW-P	95-04-113
245-03-010	NEW-W	95-12-047	245-03-670	NEW-P	95-06-076	245-04-150	NEW-W	95-12-047
245-03-020	NEW-P	95-06-075	245-03-670	NEW-W	95-12-047	245-04-155	NEW-P	95-04-113
245-03-020	NEW-W	95-07-037	245-03-680	NEW-P	95-06-076	245-04-155	NEW-W	95-12-047
245-03-020	NEW-W	95-12-047	245-03-680	NEW-W	95-07-036	245-04-160	NEW-P	95-04-113
245-03-040	NEW-P	95-06-075	245-03-680	NEW-W	95-12-047	245-04-160	NEW-W	95-12-047
245-03-040	NEW-W	95-07-037	245-03-810	NEW-P	95-06-074	245-04-165	NEW-P	95-04-113
245-03-040	NEW-W	95-12-047	245-03-810	NEW-W	95-07-034	245-04-165	NEW-W	95-12-047
245-03-050	NEW-P	95-06-075	245-03-810	NEW-W	95-12-047	245-04-170	NEW-P	95-04-113
245-03-050	NEW-W	95-07-037	245-03-820	NEW-P	95-06-074	245-04-170	NEW-W	95-12-047

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245-04-175	NEW-W	95-12-047	246-130-070	AMD-P	95-15-109	246-322-090	REP-P	95-12-096
245-04-180	NEW-P	95-04-113	246-170	AMD	95-04-035	246-322-100	AMD-P	95-12-096
245-04-180	NEW-W	95-12-047	246-170-001	REP	95-04-035	246-322-110	REP-P	95-12-096
245-04-185	NEW-P	95-04-113	246-170-002	NEW	95-04-035	246-322-120	AMD-P	95-12-096
245-04-185	NEW-W	95-12-047	246-170-010	REP	95-04-035	246-322-130	REP-P	95-12-096
245-04-190	NEW-P	95-04-113	246-170-011	NEW	95-04-035	246-322-140	NEW-P	95-12-096
245-04-190	NEW-W	95-12-047	246-170-020	REP	95-04-035	246-322-150	NEW-P	95-12-096
245-04-195	NEW-P	95-04-113	246-170-021	NEW	95-04-035	246-322-160	NEW-P	95-12-096
245-04-195	NEW-W	95-12-047	246-170-030	REP	95-04-035	246-322-170	NEW-P	95-12-096
245-04-200	NEW-P	95-06-079	246-170-031	NEW	95-04-035	246-322-180	NEW-P	95-12-096
245-04-200	NEW-W	95-07-032	246-170-040	REP	95-04-035	246-322-190	NEW-P	95-12-096
245-04-200	NEW-W	95-12-047	246-170-041	NEW	95-04-035	246-322-200	NEW-P	95-12-096
245-04-210	NEW-P	95-06-079	246-170-050	REP	95-04-035	246-322-210	NEW-P	95-12-096
245-04-210	NEW-W	95-07-032	246-170-051	NEW	95-04-035	246-322-220	NEW-P	95-12-096
245-04-210	NEW-W	95-12-047	246-170-055	NEW	95-04-035	246-322-230	NEW-P	95-12-096
245-04-220	NEW-P	95-06-079	246-170-060	REP	95-04-035	246-322-240	NEW-P	95-12-096
245-04-220	NEW-W	95-07-032	246-170-061	NEW	95-04-035	246-316-250	NEW-P	95-12-096
245-04-220	NEW-W	95-12-047	246-170-065	NEW	95-04-035	246-322-500	NEW-P	95-12-096
245-04-230	NEW-P	95-06-079	246-170-070	REP	95-04-035	246-322-990	AMD-P	95-09-059
245-04-230	NEW-W	95-07-032	246-170-080	REP	95-04-035	246-322-990	AMD	95-12-097
245-04-230	NEW-W	95-12-047	246-170-090	REP	95-04-035	246-322-991	AMD-P	95-09-059
245-04-240	NEW-P	95-06-079	246-249-020	AMD-P	95-04-100	246-322-991	REP-P	95-12-096
245-04-240	NEW-W	95-07-032	246-249-020	AMD	95-13-094	246-322-991	AMD	95-12-097
245-04-240	NEW-W	95-12-047	246-249-080	AMD-P	95-04-100	246-323	PREP	95-07-073
245-04-300	NEW-P	95-06-078	246-249-080	AMD	95-13-094	246-323-990	AMD-P	95-09-059
245-04-300	NEW-W	95-07-031	246-254	PREP	95-05-058	246-323-990	AMD	95-12-097
245-04-300	NEW-W	95-12-047	246-254-053	AMD-P	95-08-066	246-324-001	NEW-P	95-12-094
245-04-310	NEW-P	95-06-078	246-254-053	AMD	95-12-004	246-324-010	NEW-P	95-12-094
245-04-310	NEW-W	95-07-031	246-254-070	AMD-P	95-08-066	246-324-020	NEW-P	95-12-094
245-04-310	NEW-W	95-12-047	246-254-070	AMD	95-12-004	246-324-025	NEW-P	95-12-094
245-04-320	NEW-P	95-06-078	246-254-080	AMD-P	95-08-066	246-324-030	NEW-P	95-12-094
245-04-320	NEW-W	95-07-031	246-254-080	AMD	95-12-004	246-324-035	NEW-P	95-12-094
245-04-320	NEW-W	95-12-047	246-254-090	AMD-P	95-08-066	246-324-040	NEW-P	95-12-094
245-04-330	NEW-P	95-06-078	246-254-090	AMD	95-12-004	246-324-050	NEW-P	95-12-094
245-04-330	NEW-W	95-07-031	246-254-100	AMD-P	95-08-066	246-324-060	NEW-P	95-12-094
245-04-330	NEW-W	95-12-047	246-254-100	AMD	95-12-004	246-324-100	NEW-P	95-12-094
245-04-340	NEW-P	95-06-078	246-254-120	AMD-P	95-08-066	246-324-120	NEW-P	95-12-094
245-04-340	NEW-W	95-07-031	246-254-120	AMD	95-12-004	246-324-140	NEW-P	95-12-094
245-04-340	NEW-W	95-12-047	246-255	PREP	95-05-058	246-324-150	NEW-P	95-12-094
245-04-350	NEW-P	95-06-078	246-272-25001	AMD-P	95-04-034	246-324-160	NEW-P	95-12-094
245-04-350	NEW-W	95-07-031	246-272-25001	AMD	95-09-018	246-324-170	NEW-P	95-12-094
245-04-350	NEW-W	95-12-047	246-290-990	PREP	95-05-059	246-324-180	NEW-P	95-12-094
245-08-010	NEW-P	95-04-114	246-290-990	AMD-P	95-15-108	246-324-190	NEW-P	95-12-094
245-08-010	NEW-W	95-07-030	246-291	PREP	95-09-017	246-324-200	NEW-P	95-12-094
245-08-010	NEW-W	95-12-047	246-291-010	AMD-P	95-15-107	246-324-210	NEW-P	95-12-094
245-08-020	NEW-P	95-04-114	246-291-020	AMD-P	95-15-107	246-324-220	NEW-P	95-12-094
245-08-020	NEW-W	95-07-030	246-291-025	AMD-P	95-15-107	246-324-230	NEW-P	95-12-094
245-08-020	NEW-W	95-12-047	246-291-030	AMD-P	95-15-107	246-324-240	NEW-P	95-12-094
245-08-030	NEW-P	95-04-114	246-291-100	AMD-P	95-15-107	246-324-250	NEW-P	95-12-094
245-08-030	NEW-W	95-07-030	246-291-110	AMD-P	95-15-107	246-324-500	NEW-P	95-12-094
245-08-030	NEW-W	95-12-047	246-291-130	AMD-P	95-15-107	246-324-990	NEW-P	95-12-094
245-08-040	NEW-P	95-04-114	246-291-140	AMD-P	95-15-107	246-325	PREP	95-07-073
245-08-040	NEW-W	95-07-030	246-314	PREP	95-07-073	246-325-990	AMD-P	95-09-059
245-08-040	NEW-W	95-12-047	246-314-990	AMD-P	95-09-059	246-325-990	AMD	95-12-097
245-08-050	NEW-P	95-04-114	246-314-990	AMD	95-12-097	246-326	PREP	95-07-073
245-08-050	NEW-W	95-07-030	246-316	PREP	95-07-073	246-326-990	AMD-P	95-09-059
245-08-050	NEW-W	95-12-047	246-316-990	AMD-P	95-09-059	246-326-990	AMD	95-12-097
246-01-040	AMD-P	95-07-054	246-316-990	AMD	95-12-097	246-327	PREP	95-07-073
246-01-040	AMD	95-10-043	246-318	PREP	95-07-073	246-327-990	AMD-P	95-09-059
246-01-080	AMD-P	95-07-054	246-318-990	AMD-P	95-09-059	246-327-990	AMD	95-12-097
246-01-080	AMD	95-10-043	246-318-990	AMD	95-12-097	246-331	PREP	95-07-073
246-08-400	NEW-E	95-14-108	246-322	PREP	95-07-073	246-331-990	AMD-P	95-09-059
246-100-166	PREP	95-05-012	246-322-001	NEW-P	95-12-096	246-331-990	AMD	95-12-097
246-100-236	AMD-S	95-08-026	246-322-010	AMD-P	95-12-096	246-336	PREP	95-07-073
246-100-236	AMD	95-13-037	246-322-020	AMD-P	95-12-096	246-336-990	AMD-P	95-09-059
246-130	AMD-P	95-15-109	246-322-025	NEW-P	95-12-096	246-336-990	AMD	95-12-097
246-130-001	AMD-P	95-15-109	246-322-030	NEW-P	95-12-096	246-358	PREP	95-11-072
246-130-010	AMD-P	95-15-109	246-322-035	NEW-P	95-12-096	246-358-001	AMD-E	95-13-093
246-130-020	AMD-P	95-15-109	246-322-040	AMD-P	95-12-096	246-358-010	AMD-E	95-08-018
246-130-030	AMD-P	95-15-109	246-322-050	AMD-P	95-12-096	246-358-010	AMD-E	95-13-093
246-130-040	AMD-P	95-15-109	246-322-060	AMD-P	95-12-096	246-358-020	AMD-E	95-08-018
246-130-050	REP-P	95-15-109	246-322-070	REP-P	95-12-096	246-358-020	AMD-E	95-13-093

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246-358-025	AMD-E	95-13-092	246-812-360	NEW-E	95-09-029	246-816-350	REP-P	95-12-068
246-358-030	AMD-E	95-13-092	246-812-360	NEW-P	95-15-110	246-816-360	REP-P	95-12-068
246-358-045	AMD-E	95-13-093	246-812-390	NEW-E	95-09-029	246-816-370	REP-P	95-12-068
246-358-055	AMD-E	95-13-093	246-812-390	NEW-P	95-15-110	246-816-380	REP-P	95-12-068
246-358-065	AMD-E	95-13-093	246-812-400	NEW-E	95-09-029	246-816-390	REP-P	95-12-068
246-358-075	AMD-E	95-13-093	246-812-400	NEW-P	95-15-110	246-816-400	REP-P	95-12-068
246-358-085	AMD-E	95-08-018	246-812-410	NEW-E	95-09-029	246-816-410	REP-P	95-12-068
246-358-085	AMD-E	95-13-093	246-812-410	NEW-P	95-15-110	246-816-501	REP-P	95-12-068
246-358-090	NEW-E	95-13-093	246-812-420	NEW-E	95-09-029	246-816-510	REP-P	95-12-068
246-358-095	AMD-E	95-13-093	246-812-420	NEW-P	95-15-110	246-816-520	REP-P	95-12-068
246-358-100	NEW-E	95-13-093	246-812-430	NEW-E	95-09-029	246-816-530	REP-P	95-12-068
246-358-105	REP-E	95-13-093	246-812-430	NEW-P	95-15-110	246-816-701	REP-P	95-12-068
246-358-115	REP-E	95-13-093	246-812-440	NEW-E	95-09-029	246-816-710	REP-P	95-12-068
246-358-125	AMD-E	95-13-093	246-812-440	NEW-P	95-15-110	246-816-720	REP-P	95-12-068
246-358-135	AMD-E	95-13-093	246-812-450	NEW-E	95-09-029	246-816-730	REP-P	95-12-068
246-358-140	AMD-E	95-08-018	246-812-450	NEW-P	95-15-110	246-816-740	REP-P	95-12-068
246-358-140	AMD-E	95-13-093	246-812-460	NEW-E	95-09-029	246-816-990	REP-P	95-12-067
246-358-145	AMD-E	95-13-093	246-812-460	NEW-P	95-15-110	246-816-990	REP-P	95-12-068
246-358-155	AMD-E	95-13-093	246-812-501	NEW-E	95-09-029	246-817-001	NEW-P	95-12-068
246-358-175	AMD-E	95-13-093	246-812-501	NEW-P	95-15-110	246-817-010	NEW-P	95-12-068
246-380	PREP	95-07-073	246-812-510	NEW-E	95-09-029	246-817-015	NEW-P	95-12-068
246-430	PREP	95-12-005	246-812-510	NEW-P	95-15-110	246-817-101	NEW-P	95-12-068
246-430-010	PREP	95-12-005	246-812-520	NEW-E	95-09-029	246-817-110	NEW-P	95-12-068
246-430-030	PREP	95-12-005	246-812-520	NEW-P	95-15-110	246-817-120	NEW-P	95-12-068
246-430-040	PREP	95-12-005	246-812-601	NEW-E	95-09-029	246-817-130	NEW-P	95-12-068
246-560-001	PREP	95-06-073	246-812-601	NEW-P	95-15-110	246-817-135	NEW-P	95-12-068
246-560-010	PREP	95-06-073	246-812-610	NEW-E	95-09-029	246-817-140	NEW-P	95-12-068
246-560-015	PREP	95-06-073	246-812-610	NEW-P	95-15-110	246-817-150	NEW-P	95-12-068
246-560-020	PREP	95-06-073	246-812-620	NEW-E	95-09-029	246-817-160	NEW-P	95-12-068
246-560-030	PREP	95-06-073	246-812-620	NEW-P	95-15-110	246-817-170	NEW-P	95-12-068
246-560-040	PREP	95-06-073	246-812-630	NEW-E	95-09-029	246-817-175	NEW-P	95-12-068
246-560-050	PREP	95-06-073	246-812-630	NEW-P	95-15-110	246-817-180	NEW-P	95-12-068
246-560-060	PREP	95-06-073	246-812-990	NEW-E	95-09-029	246-817-185	NEW-P	95-12-068
246-560-070	PREP	95-06-073	246-812-990	NEW-P	95-15-110	246-817-186	NEW-P	95-12-068
246-560-080	PREP	95-06-073	246-815	PREP	95-12-020	246-817-201	NEW-P	95-12-068
246-560-090	PREP	95-06-073	246-815-020	AMD-P	95-13-110	246-817-210	NEW-P	95-12-068
246-560-100	PREP	95-06-073	246-815-050	AMD-P	95-03-018	246-817-301	NEW-P	95-12-068
246-780	PREP	95-07-055	246-815-050	AMD	95-07-003	246-817-310	NEW-P	95-12-068
246-812	PREP	95-06-017	246-815-050	AMD-P	95-13-110	246-817-320	NEW-P	95-12-068
246-812-001	NEW-E	95-09-029	246-815-060	AMD-P	95-13-110	246-817-330	NEW-P	95-12-068
246-812-001	NEW-P	95-15-110	246-815-070	AMD	95-02-056	246-817-340	NEW-P	95-12-068
246-812-010	NEW-E	95-09-029	246-815-070	AMD-P	95-13-110	246-817-350	NEW-P	95-12-068
246-812-010	NEW-P	95-15-110	246-815-100	AMD-P	95-13-110	246-817-360	NEW-P	95-12-068
246-812-015	NEW-E	95-09-029	246-815-990	AMD-P	95-13-110	246-817-370	NEW-P	95-12-068
246-812-015	NEW-P	95-15-110	246-816-015	REP-P	95-12-068	246-817-380	NEW-P	95-12-068
246-812-101	NEW-E	95-09-029	246-816-020	REP-P	95-12-068	246-817-390	NEW-P	95-12-068
246-812-101	NEW-P	95-15-110	246-816-030	REP-P	95-12-068	246-817-400	NEW-P	95-12-068
246-812-120	NEW-E	95-09-029	246-816-040	REP-P	95-12-068	246-817-410	NEW-P	95-12-068
246-812-120	NEW-P	95-15-110	246-816-050	REP-P	95-12-068	246-817-420	NEW-P	95-12-068
246-812-125	NEW-E	95-09-029	246-816-060	REP-P	95-12-068	246-817-430	NEW-P	95-12-068
246-812-125	NEW-P	95-15-110	246-816-070	REP-P	95-12-068	246-817-501	NEW-P	95-12-068
246-812-130	NEW-E	95-09-029	246-816-075	REP-P	95-12-068	246-817-510	NEW-P	95-12-068
246-812-130	NEW-P	95-15-110	246-816-080	REP-P	95-12-068	246-817-520	NEW-P	95-12-068
246-812-140	NEW-E	95-09-029	246-816-090	REP-P	95-12-068	246-817-530	NEW-P	95-12-068
246-812-140	NEW-P	95-15-110	246-816-100	REP-P	95-12-068	246-817-540	NEW-P	95-12-068
246-812-150	NEW-E	95-09-029	246-816-110	REP-P	95-12-068	246-817-550	NEW-P	95-12-068
246-812-150	NEW-P	95-15-110	246-816-120	REP-P	95-12-068	246-817-560	NEW-P	95-12-068
246-812-155	NEW-E	95-09-029	246-816-130	REP-P	95-12-068	246-817-570	NEW-P	95-12-068
246-812-155	NEW-P	95-15-110	246-816-140	REP-P	95-12-068	246-817-601	NEW-P	95-12-068
246-812-160	NEW-E	95-09-029	246-816-150	REP-P	95-12-068	246-817-610	NEW-P	95-12-068
246-812-160	NEW-P	95-15-110	246-816-201	REP-P	95-12-068	246-817-620	NEW-P	95-12-068
246-812-170	NEW-E	95-09-029	246-816-210	REP-P	95-12-068	246-817-630	NEW-P	95-12-068
246-812-170	NEW-P	95-15-110	246-816-220	REP-P	95-12-068	246-817-701	NEW-P	95-12-068
246-812-301	NEW-E	95-09-029	246-816-225	REP-P	95-12-068	246-817-710	NEW-P	95-12-068
246-812-301	NEW-P	95-15-110	246-816-230	REP-P	95-12-068	246-817-720	NEW-P	95-12-068
246-812-320	NEW-E	95-09-029	246-816-240	REP-P	95-12-068	246-817-730	NEW-P	95-12-068
246-812-320	NEW-P	95-15-110	246-816-250	REP-P	95-12-068	246-817-740	NEW-P	95-12-068
246-812-330	NEW-E	95-09-029	246-816-260	REP-P	95-12-068	246-817-750	NEW-P	95-12-068
246-812-330	NEW-P	95-15-110	246-816-301	REP-P	95-12-068	246-817-760	NEW-P	95-12-068
246-812-340	NEW-E	95-09-029	246-816-310	REP-P	95-12-068	246-817-770	NEW-P	95-12-068
246-812-340	NEW-P	95-15-110	246-816-320	REP-P	95-12-068	246-817-780	NEW-P	95-12-068
246-812-350	NEW-E	95-09-029	246-816-330	REP-P	95-12-068	246-817-790	NEW-P	95-12-068
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246-817-830	NEW-P	95-12-068	246-830-610	AMD	95-11-108	246-851-560	NEW	95-04-084
246-817-990	NEW-P	95-12-067	246-830-990	AMD-P	95-07-013	246-851-990	PREP	95-09-056
246-818-015	REP-P	95-12-068	246-830-990	AMD	95-11-108	246-851-990	AMD-P	95-11-109
246-818-020	REP-P	95-12-068	246-830-990	AMD-E	95-15-009	246-851-990	AMD	95-14-111
246-818-030	REP-P	95-12-068	246-838-090	PREP	95-06-018	246-858-020	PREP	95-06-036
246-818-040	REP-P	95-12-068	246-838-100	PREP	95-06-018	246-858-020	AMD-P	95-14-113
246-818-050	REP-P	95-12-068	246-838-140	REP-P	95-12-095	246-861	AMD-C	95-03-070
246-818-060	REP-P	95-12-068	246-838-150	REP-P	95-12-095	246-861-010	AMD	95-08-019
246-818-070	REP-P	95-12-068	246-838-160	REP-P	95-12-095	246-861-020	AMD	95-08-019
246-818-080	REP-P	95-12-068	246-838-170	REP-P	95-12-095	246-861-030	REP-W	95-08-062
246-818-090	REP-P	95-12-068	246-838-180	REP-P	95-12-095	246-861-040	AMD	95-08-019
246-818-100	REP-P	95-12-068	246-838-190	REP-P	95-12-095	246-861-050	AMD	95-08-019
246-818-120	REP-P	95-12-068	246-838-200	REP-P	95-12-095	246-861-055	NEW	95-08-019
246-818-130	REP-P	95-12-068	246-838-210	REP-P	95-12-095	246-861-060	AMD	95-08-019
246-818-140	REP-P	95-12-068	246-838-220	REP-P	95-12-095	246-861-090	AMD-W	95-08-051
246-818-142	REP-P	95-12-068	246-838-230	REP-P	95-12-095	246-861-090	PREP	95-12-019
246-818-143	REP-P	95-12-068	246-838-240	REP-P	95-12-095	246-861-090	PREP	95-12-093
246-818-150	REP-P	95-12-068	246-838-990	PREP	95-04-069	246-863-095	NEW-P	95-14-112
246-818-991	REP-P	95-12-067	246-838-990	REP-P	95-08-049	246-869-240	REP-P	95-14-112
246-818-991	REP-P	95-12-068	246-838-990	REP	95-12-021	246-881-040	AMD-P	95-14-115
246-828-040	AMD-P	95-11-111	246-839-030	PREP	95-09-058	246-887-160	PREP	95-07-086
246-828-070	AMD-P	95-11-111	246-839-080	PREP	95-06-018	246-887-160	AMD-P	95-13-109
246-828-075	NEW-P	95-11-111	246-839-090	PREP	95-06-018	246-891-020	AMD-P	95-04-099
246-828-080	AMD-P	95-11-111	246-839-090	PREP	95-09-058	246-891-020	AMD	95-08-020
246-828-090	AMD-P	95-11-111	246-839-505	REP-P	95-12-095	246-891-030	AMD-P	95-04-099
246-828-100	AMD-P	95-11-111	246-839-506	REP-P	95-12-095	246-891-030	AMD	95-08-020
246-828-120	AMD-P	95-11-111	246-839-525	REP-P	95-12-095	246-924-080	PREP	95-09-028
246-828-295	NEW-P	95-11-111	246-839-530	REP-P	95-12-095	246-924-250	PREP	95-09-028
246-828-300	AMD-P	95-11-111	246-839-535	REP-P	95-12-095	246-924-470	PREP	95-09-028
246-828-320	AMD-P	95-11-111	246-839-540	REP-P	95-12-095	246-924-500	PREP	95-09-028
246-828-360	AMD-P	95-11-111	246-839-545	REP-P	95-12-095	246-924-990	PREP	95-08-050
246-828-370	AMD-P	95-11-111	246-839-550	REP-P	95-12-095	246-928-015	NEW-P	95-14-110
246-828-400	AMD-P	95-11-111	246-839-555	REP-P	95-12-095	246-928-990	PREP	95-10-042
246-828-410	AMD-P	95-11-111	246-839-560	REP-P	95-12-095	246-928-990	AMD-P	95-14-110
246-828-530	AMD-P	95-11-111	246-839-565	REP-P	95-12-095	246-937-010	NEW	95-04-083
246-828-550	AMD-P	95-11-111	246-839-570	REP-P	95-12-095	246-937-020	NEW	95-04-083
246-828-560	AMD-P	95-11-111	246-839-575	PREP	95-09-058	246-937-030	NEW	95-04-083
246-828-990	AMD-P	95-11-111	246-839-575	REP-P	95-12-095	246-937-040	NEW	95-04-083
246-830-005	NEW-P	95-07-013	246-839-990	PREP	95-04-069	246-937-050	NEW	95-04-083
246-830-005	NEW	95-11-108	246-839-990	REP-P	95-08-049	246-937-060	NEW	95-04-083
246-830-025	NEW-E	95-15-009	246-839-990	REP	95-12-021	246-937-070	NEW	95-04-083
246-830-037	NEW-E	95-15-009	246-840-500	NEW-P	95-12-095	246-937-080	NEW	95-04-083
246-830-201	AMD-E	95-15-009	246-840-505	NEW-P	95-12-095	246-937-090	NEW	95-04-083
246-830-220	AMD-E	95-15-009	246-840-510	NEW-P	95-12-095	246-937-100	NEW	95-04-083
246-830-230	AMD-P	95-07-013	246-840-520	NEW-P	95-12-095	246-937-110	NEW	95-04-083
246-830-230	AMD	95-11-108	246-840-525	NEW-P	95-12-095	246-976-010	PREP	95-13-052
246-830-230	REP-E	95-15-009	246-840-530	NEW-P	95-12-095	246-976-010	AMD-E	95-13-053
246-830-240	REP-E	95-15-009	246-840-535	NEW-P	95-12-095	246-976-045	NEW-E	95-13-053
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246-830-255	AMD-E	95-15-009	246-840-545	NEW-P	95-12-095	250-20-011	AMD-P	95-03-014
246-830-260	AMD-E	95-15-009	246-840-550	NEW-P	95-12-095	250-20-011	AMD	95-10-007
246-830-270	AMD-E	95-15-009	246-840-555	NEW-P	95-12-095	250-20-011	AMD-P	95-13-111
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246-830-410	REP-P	95-07-013	246-840-575	NEW-P	95-12-095	250-20-021	AMD	95-10-007
246-830-410	REP	95-11-108	246-840-990	NEW-P	95-08-049	250-20-021	AMD-P	95-13-111
246-830-420	AMD-P	95-07-013	246-840-990	NEW	95-12-021	250-20-021	AMD-E	95-15-049
246-830-420	AMD	95-11-108	246-843-010	AMD	95-07-128	250-20-031	AMD-P	95-13-111
246-830-420	AMD-E	95-15-009	246-843-090	AMD	95-07-128	250-20-037	AMD-P	95-13-111
246-830-423	NEW-E	95-15-009	246-843-205	AMD	95-07-128	250-20-041	AMD-P	95-13-111
246-830-425	NEW-E	95-15-009	246-843-240	REP	95-07-128	250-20-051	AMD-P	95-13-111
246-830-427	NEW-E	95-15-009	246-843-320	AMD	95-07-128	250-28-020	AMD	95-11-059
246-830-430	AMD-P	95-07-013	246-851-060	REP-P	95-11-110	250-28-030	AMD	95-11-059
246-830-430	AMD	95-11-108	246-851-060	REP	95-14-114	250-28-060	AMD	95-11-059
246-830-440	AMD-P	95-07-013	246-851-070	REP-P	95-11-110	250-28-060	AMD-P	95-11-125
246-830-440	AMD	95-11-108	246-851-070	REP	95-14-114	250-28-070	AMD	95-11-059
246-830-450	AMD-P	95-07-013	246-851-080	REP-P	95-11-110	250-28-090	NEW-P	95-11-125
246-830-450	AMD	95-11-108	246-851-480	AMD-P	95-11-110	250-28-100	NEW-P	95-11-125
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250-44-130	AMD	95-07-087	284-20-200	NEW-S	95-06-086	292-09-010	NEW	95-05-031
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250-79-010	AMD-P	95-10-061	284-22-030	AMD-E	95-14-097	292-09-030	NEW	95-05-031
250-79-020	NEW-P	95-10-061	284-22-030	PREP	95-14-128	292-09-040	NEW	95-05-031
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251-04-050	AMD-P	95-14-131	284-30	NEW-C	95-06-019	292-09-060	NEW	95-05-031
251-04-060	AMD-P	95-10-077	284-30-900	NEW-P	95-02-075	292-09-070	NEW	95-05-031
251-04-060	AMD-C	95-12-071	284-30-900	NEW-S	95-06-086	292-09-080	NEW	95-05-031
251-04-060	AMD-C	95-13-014	284-30-900	NEW	95-09-014	292-09-090	NEW	95-05-031
251-06-020	AMD-E	95-14-056	284-30-905	NEW-P	95-02-075	292-09-100	NEW	95-05-031
251-06-020	AMD-P	95-14-131	284-30-905	NEW-S	95-06-086	292-09-110	NEW	95-05-031
251-08-005	AMD-E	95-14-056	284-30-905	NEW	95-09-014	292-09-120	NEW	95-05-031
251-08-005	AMD-P	95-14-131	284-30-910	NEW-P	95-02-075	292-09-130	NEW	95-05-031
251-08-090	AMD-E	95-14-056	284-30-910	NEW-S	95-06-086	292-09-140	NEW	95-05-031
251-08-090	AMD-P	95-14-131	284-30-910	NEW	95-09-014	292-09-150	NEW	95-05-031
251-09-020	AMD-P	95-10-078	284-30-920	NEW-P	95-02-075	292-09-160	NEW	95-05-031
251-09-020	AMD-C	95-12-071	284-30-920	NEW-S	95-06-086	292-09-170	NEW	95-05-031
251-09-020	AMD-C	95-13-014	284-30-920	NEW	95-09-014	292-100-010	NEW-E	95-04-004
251-17-010	AMD-P	95-10-079	284-30-930	NEW-P	95-02-075	292-100-010	NEW-E	95-11-068
251-17-010	AMD-C	95-12-071	284-30-930	NEW-S	95-06-086	292-100-020	NEW-E	95-04-004
251-17-010	AMD-C	95-13-014	284-30-930	NEW	95-09-014	292-100-020	NEW-E	95-11-068
251-17-020	AMD-P	95-10-080	284-30-940	NEW-P	95-02-075	292-100-030	NEW-E	95-04-004
251-17-020	AMD-C	95-12-071	284-30-940	NEW-S	95-06-086	292-100-030	NEW-E	95-11-068
251-17-020	AMD-C	95-13-014	284-30-940	NEW	95-09-014	292-100-040	NEW-E	95-04-004
251-17-110	AMD-P	95-10-081	284-30-950	NEW-P	95-02-075	292-100-040	NEW-E	95-11-068
251-17-110	AMD-C	95-12-071	284-32-010	PREP	95-15-043	292-100-050	NEW-E	95-04-004
251-17-110	AMD-C	95-13-014	284-32-020	PREP	95-15-043	292-100-050	NEW-E	95-11-068
251-17-200	AMD-P	95-10-082	284-32-030	PREP	95-15-043	292-100-060	NEW-E	95-04-004
251-17-200	AMD-C	95-12-071	284-32-040	PREP	95-15-043	292-100-060	NEW-E	95-11-068
251-17-200	AMD-C	95-13-014	284-32-050	PREP	95-15-043	292-100-070	NEW-E	95-04-004
251-19-070	AMD-P	95-10-083	284-32-060	PREP	95-15-043	292-100-070	NEW-E	95-11-068
251-19-070	AMD-C	95-12-071	284-32-070	PREP	95-15-043	292-100-080	NEW-E	95-04-004
251-19-070	AMD-C	95-13-014	284-32-080	PREP	95-15-043	292-100-080	NEW-E	95-11-068
251-19-157	AMD-P	95-10-084	284-32-090	PREP	95-15-043	292-100-090	NEW-E	95-04-004
251-19-157	AMD-C	95-12-071	284-32-100	PREP	95-15-043	292-100-090	NEW-E	95-11-068
251-19-157	AMD-C	95-13-014	284-32-110	PREP	95-15-043	292-100-100	NEW-E	95-04-004
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251-22-040	AMD-C	95-12-071	284-32-130	PREP	95-15-043	292-100-110	NEW-E	95-04-004
251-22-040	AMD-C	95-13-014	284-32-140	PREP	95-15-043	292-100-110	NEW-E	95-11-068
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253-16-010	AMD-P	95-12-072	284-32-170	PREP	95-15-043	296-04-005	AMD	95-07-117
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284-13-310	PREP	95-15-043	284-54-205	NEW-W	95-03-076	296-17-91902	AMD	95-06-069
284-13-320	PREP	95-15-043	284-54-253	NEW-P	95-15-082	296-17-91903	AMD	95-06-069
284-13-330	PREP	95-15-043	284-54-270	AMD-W	95-03-076	296-17-91904	AMD	95-06-069
284-13-340	PREP	95-15-043	284-54-270	AMD-P	95-15-082	296-17-91905	AMD	95-06-069
284-13-350	PREP	95-15-043	284-54-300	AMD-W	95-03-076	296-17-91905	AMD	95-06-069
284-13-360	PREP	95-15-043	284-54-300	AMD-P	95-15-082	296-20-135	AMD	95-10-092
284-13-370	PREP	95-15-043	284-54-350	AMD-W	95-03-076	296-20-135	AMD-P	95-05-072
284-13-380	PREP	95-15-043	284-54-350	AMD-P	95-15-082	296-20-17003	REP-P	95-11-091
284-13-390	PREP	95-15-043	284-87-030	AMD-P	95-02-076	296-20-17003	AMD	95-10-092
284-13-400	PREP	95-15-043	284-87-030	AMD	95-05-034	296-23-220	AMD	95-05-072
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296-23-265	AMD	95-04-056	296-52-555	NEW	95-07-014	296-104-025	PREP	95-11-003
296-23A-400	AMD	95-05-072	296-56-60001	AMD	95-04-007	296-104-025	AMD-P	95-15-103
296-24	PREP	95-09-086	296-56-60003	AMD	95-04-007	296-104-030	PREP	95-11-003
296-24-12001	AMD-P	95-10-093	296-56-60005	AMD	95-04-007	296-104-030	AMD-P	95-15-103
296-24-13501	PREP	95-09-010	296-56-60009	AMD	95-04-007	296-104-035	PREP	95-11-003
296-24-13501	AMD-P	95-10-093	296-56-60062	AMD	95-04-007	296-104-035	AMD-P	95-15-103
296-24-14011	AMD-P	95-10-093	296-56-60073	AMD	95-04-007	296-104-040	PREP	95-11-003
296-24-19501	PREP	95-06-090	296-56-60083	AMD	95-04-007	296-104-040	AMD-P	95-15-103
296-24-19501	AMD-P	95-09-008	296-56-60093	AMD	95-04-007	296-104-045	PREP	95-11-003
296-24-19514	PREP	95-06-090	296-56-60095	AMD	95-04-007	296-104-045	AMD-P	95-15-103
296-24-19514	NEW-P	95-09-008	296-56-60097	AMD	95-04-007	296-104-100	PREP	95-11-003
296-24-19517	PREP	95-06-090	296-56-60098	AMD	95-04-007	296-104-100	AMD-P	95-15-103
296-24-19517	AMD-P	95-09-008	296-56-60235	AMD	95-04-007	296-104-105	PREP	95-11-003
296-24-33003	AMD-P	95-10-093	296-59-060	AMD	95-04-007	296-104-105	AMD-P	95-15-103
296-24-58503	AMD-P	95-10-093	296-62-054	PREP	95-05-030	296-104-110	PREP	95-11-003
296-24-73501	AMD-P	95-10-093	296-62-05403	AMD-P	95-05-061	296-104-110	AMD-P	95-15-103
296-30-025	AMD-E	95-09-019	296-62-05403	PREP	95-09-011	296-104-115	PREP	95-11-003
296-30-025	PREP	95-09-020	296-62-05403	AMD-W	95-10-019	296-104-115	AMD-P	95-15-103
296-30-025	AMD-P	95-10-091	296-62-05403	AMD-P	95-10-093	296-104-120	PREP	95-11-003
296-30-025	AMD	95-15-004	296-62-05405	AMD-P	95-05-061	296-104-120	REP-P	95-15-103
296-30-081	AMD-P	95-10-091	296-62-05405	PREP	95-09-011	296-104-125	PREP	95-11-003
296-30-081	AMD	95-15-004	296-62-05405	AMD-W	95-10-019	296-104-130	PREP	95-11-003
296-31-010	AMD-P	95-10-091	296-62-05405	AMD-P	95-10-093	296-104-130	AMD-P	95-15-103
296-31-010	AMD	95-15-004	296-62-05407	PREP	95-09-011	296-104-135	PREP	95-11-003
296-31-020	AMD-P	95-10-091	296-62-05407	AMD-P	95-10-093	296-104-135	AMD-P	95-15-103
296-31-020	AMD	95-15-004	296-62-05411	AMD	95-04-006	296-104-140	PREP	95-11-003
296-31-030	AMD-P	95-10-091	296-62-05413	AMD-P	95-05-061	296-104-140	AMD-P	95-15-103
296-31-030	AMD	95-15-004	296-62-05413	PREP	95-09-011	296-104-145	PREP	95-11-003
296-31-050	AMD-P	95-10-091	296-62-05413	AMD-W	95-10-019	296-104-145	AMD-P	95-15-103
296-31-050	AMD	95-15-004	296-62-05413	AMD-P	95-10-093	296-104-150	PREP	95-11-003
296-31-060	AMD-P	95-10-091	296-62-07105	AMD	95-04-007	296-104-150	AMD-P	95-15-103
296-31-060	AMD	95-15-004	296-62-07521	AMD	95-04-078	296-104-155	AMD-P	95-15-103
296-31-065	AMD-P	95-10-091	296-62-07711	AMD	95-04-007	296-104-160	AMD-P	95-15-103
296-31-065	AMD	95-15-004	296-62-11001	AMD	95-04-007	296-104-165	AMD-P	95-15-103
296-31-069	AMD-P	95-10-091	296-62-145	AMD	95-04-007	296-104-411	NEW-W	95-07-029
296-31-069	AMD	95-15-004	296-62-14500	NEW	95-04-007	296-115-015	AMD	95-04-007
296-31-070	AMD-P	95-10-091	296-62-14501	AMD	95-04-007	296-116-185	PREP	95-04-061
296-31-070	AMD	95-15-004	296-62-14501	PREP	95-06-091	296-116-185	AMD-P	95-04-096
296-31-075	AMD-P	95-10-091	296-62-14501	AMD-P	95-09-008	296-116-185	AMD-C	95-07-120
296-31-075	AMD	95-15-004	296-62-14503	AMD	95-04-007	296-116-185	AMD-E	95-10-028
296-31-080	AMD-P	95-10-091	296-62-14505	AMD	95-04-007	296-116-185	AMD	95-13-054
296-31-080	AMD	95-15-004	296-62-14507	AMD	95-04-007	296-116-300	AMD-P	95-08-065
296-31-090	AMD-P	95-10-091	296-62-14509	AMD	95-04-007	296-116-300	AMD	95-12-018
296-31-090	AMD	95-15-004	296-62-14511	AMD	95-04-007	296-155-012	AMD	95-04-007
296-45-65047	AMD-P	95-05-061	296-62-14513	AMD	95-04-007	296-155-100	AMD	95-04-007
296-45-65047	AMD	95-10-016	296-62-14513	AMD	95-04-007	296-155-17621	AMD-W	95-04-082
296-52-401	AMD	95-07-014	296-62-14517	AMD	95-04-007	296-155-17623	AMD-W	95-04-082
296-52-409	AMD	95-07-014	296-62-14519	AMD	95-04-007	296-155-17652	AMD-W	95-04-082
296-52-413	AMD	95-07-014	296-62-14520	NEW	95-04-007	296-155-17654	AMD-W	95-04-082
296-52-417	AMD	95-07-014	296-62-14521	AMD	95-04-007	296-155-20301	AMD	95-04-007
296-52-419	AMD	95-07-014	296-62-14523	AMD	95-04-007	296-155-20301	PREP	95-06-091
296-52-421	AMD	95-07-014	296-62-14525	AMD	95-04-007	296-155-20301	AMD-P	95-09-008
296-52-423	AMD	95-07-014	296-62-14527	AMD	95-04-007	296-155-245	NEW-P	95-05-061
296-52-425	AMD	95-07-014	296-62-14529	AMD	95-04-007	296-155-245	NEW	95-10-016
296-52-429	AMD	95-07-014	296-62-14529	PREP	95-06-091	296-155-24501	AMD-P	95-05-061
296-52-433	AMD	95-07-014	296-62-14529	AMD-P	95-09-008	296-155-24501	AMD	95-10-016
296-52-437	AMD	95-07-014	296-62-3010	AMD	95-04-007	296-155-24503	AMD-P	95-05-061
296-52-441	AMD	95-07-014	296-62-3040	AMD	95-04-007	296-155-24503	AMD	95-10-016
296-52-449	AMD	95-07-014	296-62-3170	AMD	95-04-006	296-155-24505	AMD-P	95-05-061
296-52-453	AMD	95-07-014	296-62-3195	NEW	95-04-006	296-155-24505	AMD	95-10-016
296-52-461	AMD	95-07-014	296-65	PREP	95-13-022	296-155-24507	NEW-P	95-05-061
296-52-465	AMD	95-07-014	296-78	PREP	95-14-072	296-155-24507	NEW	95-10-016
296-52-469	AMD	95-07-014	296-81-007	AMD	95-04-005	296-155-24510	AMD	95-04-007
296-52-477	AMD	95-07-014	296-81-306	NEW	95-04-005	296-155-24510	AMD-P	95-05-061
296-52-481	AMD	95-07-014	296-81-350	AMD	95-04-005	296-155-24510	AMD	95-10-016
296-52-487	AMD	95-07-014	296-86-060	AMD	95-04-005	296-155-24515	AMD-P	95-05-061
296-52-489	AMD	95-07-014	296-95-130	AMD	95-04-005	296-155-24515	AMD	95-10-016
296-52-493	AMD	95-07-014	296-95-272	AMD	95-04-005	296-155-24519	NEW-P	95-05-061
296-52-497	AMD	95-07-014	296-95-318	AMD	95-04-005	296-155-24519	AMD	95-10-016
296-52-501	AMD	95-07-014	296-104-015	PREP	95-11-003	296-155-24520	AMD-P	95-05-061
296-52-509	AMD	95-07-014	296-104-015	AMD-P	95-15-103	296-155-24520	AMD	95-10-016
296-52-550	NEW	95-07-014	296-104-020	PREP	95-11-003	296-155-24521	AMD-P	95-05-061
296-52-552	NEW	95-07-014	296-104-020	AMD-P	95-15-103	296-155-24521	AMD	95-10-016

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296-155-24522	NEW	95-10-016	296-305-01007	NEW-P	95-15-118
296-155-24523	NEW-P	95-05-061	296-305-01009	NEW-P	95-15-118
296-155-24523	NEW	95-10-016	296-305-015	AMD-P	95-15-118
296-155-24524	NEW-P	95-05-061	296-305-01501	NEW-P	95-15-118
296-155-24524	NEW	95-10-016	296-305-01503	NEW-P	95-15-118
296-155-24525	AMD-P	95-05-061	296-305-01505	NEW-P	95-15-118
296-155-24525	AMD	95-10-016	296-305-01507	NEW-P	95-15-118
296-155-325	AMD-P	95-05-061	296-305-01509	NEW-P	95-15-118
296-155-325	AMD	95-10-016	296-305-01511	NEW-P	95-15-118
296-155-407	AMD	95-04-007	296-305-01513	NEW-P	95-15-118
296-155-477	AMD-P	95-05-061	296-305-01515	NEW-P	95-15-118
296-155-477	AMD	95-10-016	296-305-01517	NEW-P	95-15-118
296-155-480	AMD-P	95-05-061	296-305-017	AMD-P	95-15-118
296-155-480	AMD	95-10-016	296-305-020	AMD-P	95-15-118
296-155-485	AMD-P	95-05-061	296-305-02001	NEW-P	95-15-118
296-155-485	AMD	95-10-016	296-305-02003	NEW-P	95-15-118
296-155-48531	AMD-P	95-05-061	296-305-02005	NEW-P	95-15-118
296-155-48531	AMD	95-10-016	296-305-02007	NEW-P	95-15-118
296-155-48533	AMD-P	95-05-061	296-305-02009	NEW-P	95-15-118
296-155-48533	AMD	95-10-016	296-305-02011	NEW-P	95-15-118
296-155-500	AMD-P	95-05-061	296-305-02013	NEW-P	95-15-118
296-155-500	AMD	95-10-016	296-305-02015	NEW-P	95-15-118
296-155-505	AMD-P	95-05-061	296-305-02017	NEW-P	95-15-118
296-155-505	AMD	95-10-016	296-305-02019	NEW-P	95-15-118
296-155-50503	AMD-P	95-05-061	296-305-025	AMD-P	95-15-118
296-155-50503	AMD	95-10-016	296-305-02501	NEW-P	95-15-118
296-155-515	AMD-P	95-05-061	296-305-030	AMD-P	95-15-118
296-155-515	AMD	95-10-016	296-305-03001	NEW-P	95-15-118
296-155-525	AMD-P	95-09-008	296-305-035	AMD-P	95-15-118
296-155-527	NEW-P	95-09-008	296-305-040	AMD-P	95-15-118
296-155-655	AMD-P	95-05-061	296-305-04001	NEW-P	95-15-118
296-155-655	AMD	95-10-016	296-305-045	AMD-P	95-15-118
296-155-682	AMD-P	95-05-061	296-305-04501	NEW-P	95-15-118
296-155-682	AMD	95-10-016	296-305-04503	NEW-P	95-15-118
296-155-715	AMD-P	95-05-061	296-305-04505	NEW-P	95-15-118
296-155-715	AMD	95-10-016	296-305-04507	NEW-P	95-15-118
296-155-730	AMD	95-04-007	296-305-04509	NEW-P	95-15-118
296-155-740	AMD-P	95-05-061	296-305-04511	NEW-P	95-15-118
296-155-740	AMD	95-10-016	296-305-05001	NEW-P	95-15-118
296-155-745	AMD-P	95-05-061	296-305-05003	NEW-P	95-15-118
296-155-745	AMD	95-10-016	296-305-05005	NEW-P	95-15-118
296-304-010	AMD	95-04-006	296-305-05007	NEW-P	95-15-118
296-304-010	AMD-P	95-10-093	296-305-05009	NEW-P	95-15-118
296-304-01001	AMD	95-04-006	296-305-05011	NEW-P	95-15-118
296-304-01005	NEW	95-04-006	296-305-05013	NEW-P	95-15-118
296-304-020	AMD	95-04-006	296-305-05501	NEW-P	95-15-118
296-304-02001	AMD	95-04-006	296-305-05503	NEW-P	95-15-118
296-304-02003	AMD	95-04-006	296-305-060	AMD-P	95-15-118
296-304-02003	AMD-P	95-10-093	296-305-06001	AMD-P	95-15-118
296-304-02005	AMD	95-04-006	296-305-06003	AMD-P	95-15-118
296-304-02007	AMD	95-04-006	296-305-06005	AMD-P	95-15-118
296-304-02007	AMD-P	95-10-093	296-305-06007	AMD-P	95-15-118
296-304-02009	AMD	95-04-006	296-305-06009	AMD-P	95-15-118
296-304-02009	AMD-P	95-10-093	296-305-06011	AMD-P	95-15-118
296-304-02011	AMD	95-04-006	296-305-063	AMD-P	95-15-118
296-304-02013	NEW	95-04-006	296-305-064	AMD-P	95-15-118
296-304-02015	NEW	95-04-006	296-305-065	AMD-P	95-15-118
296-304-03001	AMD	95-04-006	296-305-06501	AMD-P	95-15-118
296-304-03005	AMD	95-04-006	296-305-06503	AMD-P	95-15-118
296-304-03007	AMD	95-04-006	296-305-06505	AMD-P	95-15-118
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296-304-04005	AMD	95-04-006	296-305-06509	AMD-P	95-15-118
296-304-06013	AMD	95-04-006	296-305-06511	AMD-P	95-15-118
296-304-08009	AMD	95-04-006	296-305-06513	AMD-P	95-15-118
296-305-001	AMD-P	95-15-118	296-305-06515	AMD-P	95-15-118
296-305-003	AMD-P	95-15-118	296-305-06517	AMD-P	95-15-118
296-305-005	AMD-P	95-15-118	296-305-06519	NEW-P	95-15-118
296-305-007	AMD-P	95-15-118	296-305-070	AMD-P	95-15-118
296-305-010	AMD-P	95-15-118	296-305-07001	AMD-P	95-15-118
296-305-01001	NEW-P	95-15-118	296-305-07003	AMD-P	95-15-118
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296-305-07009	AMD-P	95-15-118	296-305-07011	NEW-P	95-15-118
296-305-07011	NEW-P	95-15-118	296-305-07013	NEW-P	95-15-118
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296-305-07017	NEW-P	95-15-118	296-305-07019	NEW-P	95-15-118
296-305-07019	NEW-P	95-15-118	296-305-075	AMD-P	95-15-118
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296-305-080	AMD-P	95-15-118	296-305-08000	NEW-P	95-15-118
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296-305-110	AMD-P	95-15-118	296-305-115	AMD-P	95-15-118
296-305-115	AMD-P	95-15-118	296-306-010	AMD	95-10-045
296-306-010	AMD	95-10-045	296-306-012	AMD	95-10-045
296-306-012	AMD	95-10-045	296-306-015	AMD	95-10-045
296-306-015	AMD	95-10-045	296-306-025	AMD	95-10-045
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296-306-092	NEW-W	95-10-046	296-306-09201	NEW-W	95-10-046
296-306-09201	NEW-W	95-10-046	296-306-09203	NEW-W	95-10-046
296-306-09203	NEW-W	95-10-046	296-306-095	AMD	95-10-045
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296-306-170	AMD	95-10-045	296-306-26001	AMD	95-10-045
296-306-26001	AMD	95-10-045	296-306-330	NEW-W	95-10-046
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296-401	PREP	95-05-029	296-401-175	AMD-P	95-09-009
296-401-175	AMD-P	95-09-009	296-401-175	AMD	95-15-034
296-401-175	AMD	95-15-034	304-12-010	PREP	95-15-111
304-12-010	PREP	95-15-111	308-12-025	AMD	95-04-080
308-12-025	AMD	95-04-080	308-12-083	REP	95-04-080
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388-49-670	AMD-P	95-15-058	388-73-400	REP-W	95-11-051	388-77-820	REP-P	95-15-068
388-51-210	AMD	95-03-047	388-73-402	REP-S	95-07-024	388-77-900	REP-P	95-15-068
388-51-220	NEW	95-03-047	388-73-402	REP-W	95-11-051	388-77A	PREP	95-15-036
388-51-250	AMD	95-03-047	388-73-403	REP-S	95-07-024	388-77A-010	REP-P	95-15-068
388-60	PREP	95-10-024	388-73-403	REP-W	95-11-051	388-77A-020	REP-P	95-15-068
388-73	AMD-C	95-05-024	388-73-404	REP-S	95-07-024	388-77A-030	REP-P	95-15-068
388-73-010	AMD-S	95-07-024	388-73-404	REP-W	95-11-051	388-77A-040	REP-P	95-15-068
388-73-010	AMD-W	95-11-051	388-73-406	REP-S	95-07-024	388-77A-041	REP-P	95-15-068
388-73-012	AMD-S	95-07-024	388-73-406	REP-W	95-11-051	388-77A-050	REP-P	95-15-068
388-73-012	AMD-W	95-11-051	388-73-408	REP-S	95-07-024	388-77A-055	REP-P	95-15-068
388-73-014	AMD-S	95-07-024	388-73-408	REP-W	95-11-051	388-86	PREP	95-15-008
388-73-014	AMD-W	95-11-051	388-73-409	REP-S	95-07-024	388-86-005	PREP	95-13-020
388-73-01950	AMD-S	95-07-024	388-73-409	REP-W	95-11-051	388-86-005	AMD-P	95-14-058
388-73-01950	AMD-W	95-11-051	388-73-410	REP-S	95-07-024	388-86-005	AMD-E	95-14-060
388-73-026	AMD-S	95-07-024	388-73-410	REP-W	95-11-051	388-86-009	REP-P	95-15-023
388-73-026	AMD-W	95-11-051	388-73-412	REP-S	95-07-024	388-86-00902	REP-P	95-15-023
388-73-036	AMD-S	95-07-024	388-73-412	REP-W	95-11-051	388-86-022	PREP	95-15-012
388-73-036	AMD-W	95-11-051	388-73-414	REP-S	95-07-024	388-86-030	PREP	95-08-043
388-73-054	AMD-S	95-07-024	388-73-414	REP-W	95-11-051	388-86-030	PREP	95-13-020
388-73-054	AMD-W	95-11-051	388-73-430	REP-S	95-07-024	388-86-030	AMD-P	95-14-058
388-73-074	AMD-S	95-07-024	388-73-430	REP-W	95-11-051	388-86-030	AMD-E	95-14-060
388-73-074	AMD-W	95-11-051	388-73-432	REP-S	95-07-024	388-86-073	PREP	95-13-020
388-73-076	AMD-S	95-07-024	388-73-432	REP-W	95-11-051	388-86-073	AMD-P	95-14-058
388-73-076	AMD-W	95-11-051	388-73-434	REP-S	95-07-024	388-86-073	AMD-E	95-14-060
388-73-118	AMD-S	95-07-024	388-73-434	REP-W	95-11-051	388-86-075	PREP	95-13-020
388-73-118	AMD-W	95-11-051	388-73-436	REP-S	95-07-024	388-86-075	AMD-P	95-14-058
388-73-144	AMD-S	95-07-024	388-73-436	REP-W	95-11-051	388-86-075	AMD-E	95-14-060
388-73-144	AMD-W	95-11-051	388-73-438	REP-S	95-07-024	388-86-090	PREP	95-13-020
388-73-146	AMD-S	95-07-024	388-73-438	REP-W	95-11-051	388-86-090	AMD-P	95-14-058
388-73-146	AMD-W	95-11-051	388-73-440	REP-S	95-07-024	388-86-090	AMD-E	95-14-060
388-73-200	AMD-S	95-07-024	388-73-440	REP-W	95-11-051	388-86-095	PREP	95-08-043
388-73-200	AMD-W	95-11-051	388-73-510	REP-S	95-07-024	388-86-098	PREP	95-13-020
388-73-212	AMD-S	95-07-024	388-73-510	REP-W	95-11-051	388-86-098	AMD-P	95-14-058
388-73-212	AMD-W	95-11-051	388-73-511	NEW-S	95-07-024	388-86-098	AMD-E	95-14-060
388-73-213	REP-S	95-07-024	388-73-511	NEW-W	95-11-051	388-87	PREP	95-15-008
388-73-213	REP-W	95-11-051	388-73-512	REP-S	95-07-024	388-87-020	PREP	95-15-047
388-73-214	REP-S	95-07-024	388-73-512	REP-W	95-11-051	388-87-072	AMD	95-04-033
388-73-214	REP-W	95-11-051	388-73-513	NEW-S	95-07-024	388-91	PREP	95-15-032
388-73-216	REP-S	95-07-024	388-73-513	NEW-W	95-11-051	388-91-007	PREP	95-13-021
388-73-216	REP-W	95-11-051	388-73-516	NEW-S	95-07-024	388-91-007	REP-P	95-14-059
388-73-250	NEW-S	95-07-024	388-73-516	NEW-W	95-11-051	388-91-007	REP-E	95-14-061
388-73-250	NEW-W	95-11-051	388-73-522	NEW-S	95-07-024	388-91-010	PREP	95-13-021
388-73-252	NEW-S	95-07-024	388-73-522	NEW-W	95-11-051	388-91-010	AMD-P	95-14-059
388-73-252	NEW-W	95-11-051	388-73-524	NEW-S	95-07-024	388-91-010	AMD-E	95-14-061
388-73-254	NEW-S	95-07-024	388-73-524	NEW-W	95-11-051	388-91-020	PREP	95-13-021
388-73-254	NEW-W	95-11-051	388-73-606	AMD-S	95-07-024	388-91-020	AMD-P	95-14-059
388-73-256	NEW-S	95-07-024	388-73-606	AMD-W	95-11-051	388-91-020	AMD-E	95-14-061
388-73-256	NEW-W	95-11-051	388-77	PREP	95-15-036	388-96	PREP	95-12-022
388-73-258	NEW-S	95-07-024	388-77-005	REP-P	95-15-068	388-96-010	AMD-E	95-14-119
388-73-258	NEW-W	95-11-051	388-77-006	REP-P	95-15-068	388-96-010	AMD-P	95-14-120
388-73-260	NEW-S	95-07-024	388-77-010	REP-P	95-15-068	388-96-032	AMD-E	95-14-119
388-73-260	NEW-W	95-11-051	388-77-015	REP-P	95-15-068	388-96-032	AMD-P	95-14-120
388-73-262	NEW-S	95-07-024	388-77-045	REP-P	95-15-068	388-96-108	AMD-E	95-14-119
388-73-262	NEW-W	95-11-051	388-77-200	REP-P	95-15-068	388-96-108	AMD-P	95-14-120
388-73-264	NEW-S	95-07-024	388-77-210	REP-P	95-15-068	388-96-204	AMD-E	95-14-119
388-73-264	NEW-W	95-11-051	388-77-220	REP-P	95-15-068	388-96-204	AMD-P	95-14-120
388-73-266	NEW-S	95-07-024	388-77-255	REP-P	95-15-068	388-96-210	AMD-E	95-14-119
388-73-266	NEW-W	95-11-051	388-77-270	REP-P	95-15-068	388-96-210	AMD-P	95-14-120
388-73-268	NEW-S	95-07-024	388-77-285	REP-P	95-15-068	388-96-216	REP-E	95-14-119
388-73-268	NEW-W	95-11-051	388-77-320	REP-P	95-15-068	388-96-216	REP-P	95-14-120
388-73-270	NEW-S	95-07-024	388-77-500	REP-P	95-15-068	388-96-220	AMD-E	95-14-119
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388-96-221	AMD-P	95-14-120	388-165-090	NEW	95-11-048	388-265-1750	AMD-E	95-09-055
388-96-224	AMD-E	95-14-119	388-165-100	NEW-P	95-08-044	388-265-1750	AMD	95-11-119
388-96-224	AMD-P	95-14-120	388-165-100	NEW	95-11-048	388-290	PREP	95-13-061
388-96-229	AMD-E	95-14-119	388-215-1000	PREP	95-09-013	388-300	PREP	95-08-021
388-96-229	AMD-P	95-14-120	388-215-1000	PREP	95-11-066	388-300-0100	NEW-P	95-15-001
388-96-384	AMD-E	95-14-119	388-215-1000	AMD-P	95-11-067	388-300-0200	NEW-P	95-15-001
388-96-384	AMD-P	95-14-120	388-215-1000	AMD	95-14-048	388-300-0300	NEW-P	95-15-001
388-96-501	AMD-E	95-14-119	388-215-1510	PREP	95-11-066	388-300-0400	NEW-P	95-15-001
388-96-501	AMD-P	95-14-120	388-215-1510	NEW-P	95-11-067	388-300-0500	NEW-P	95-15-001
388-96-585	AMD-E	95-14-119	388-215-1510	NEW	95-14-048	388-300-0600	NEW-P	95-15-001
388-96-585	AMD-P	95-14-120	388-216-2150	PREP	95-09-012	388-300-0700	NEW-P	95-15-001
388-96-704	AMD-E	95-14-119	388-216-2150	AMD-P	95-11-050	388-300-0800	NEW-P	95-15-001
388-96-704	AMD-P	95-14-120	388-216-2150	AMD	95-14-049	388-300-0900	NEW-P	95-15-001
388-96-709	AMD-E	95-14-119	388-216-2350	PREP	95-14-081	388-300-1000	NEW-P	95-15-001
388-96-709	AMD-P	95-14-120	388-216-2450	PREP	95-09-012	388-300-1100	NEW-P	95-15-001
388-96-710	AMD-E	95-14-119	388-216-2450	AMD-P	95-11-050	388-300-1200	NEW-P	95-15-001
388-96-710	AMD-P	95-14-120	388-216-2450	AMD	95-14-049	388-300-1300	NEW-P	95-15-001
388-96-713	AMD-E	95-14-119	388-216-2650	PREP	95-09-012	388-300-1400	NEW-P	95-15-001
388-96-713	AMD-P	95-14-120	388-216-2650	AMD-P	95-11-050	388-300-1500	NEW-P	95-15-001
388-96-716	AMD-E	95-14-119	388-216-2650	AMD	95-14-049	388-300-1600	NEW-P	95-15-001
388-96-716	AMD-P	95-14-120	388-216-2800	PREP	95-09-012	388-300-1700	NEW-P	95-15-001
388-96-719	AMD-E	95-14-119	388-216-2800	AMD-P	95-11-050	388-300-1800	NEW-P	95-15-001
388-96-719	AMD-P	95-14-120	388-216-2800	AMD	95-14-049	388-300-1900	NEW-P	95-15-001
388-96-722	AMD-E	95-14-119	388-218-1050	AMD	95-04-048	388-300-2000	NEW-P	95-15-001
388-96-722	AMD-P	95-14-120	388-218-1050	PREP	95-11-007	388-300-2100	NEW-P	95-15-001
388-96-727	AMD-E	95-14-119	388-218-1050	AMD-P	95-11-101	388-300-2200	NEW-P	95-15-001
388-96-727	AMD-P	95-14-120	388-218-1050	AMD	95-14-047	388-300-2300	NEW-P	95-15-001
388-96-735	AMD-E	95-14-119	388-218-1200	PREP	95-08-023	388-300-2400	NEW-P	95-15-001
388-96-735	AMD-P	95-14-120	388-218-1200	AMD-P	95-09-035	388-300-2500	NEW-P	95-15-001
388-96-737	AMD-E	95-14-119	388-218-1200	AMD	95-11-124	388-300-2600	NEW-P	95-15-001
388-96-737	AMD-P	95-14-120	388-218-1350	PREP	95-08-023	388-300-2700	NEW-P	95-15-001
388-96-745	AMD-E	95-14-119	388-218-1350	AMD-P	95-09-035	388-300-2800	NEW-P	95-15-001
388-96-745	AMD-P	95-14-120	388-218-1350	AMD	95-11-124	388-300-2900	NEW-P	95-15-001
388-96-753	REP-E	95-14-119	388-218-1400	AMD	95-04-048	388-300-3000	NEW-P	95-15-001
388-96-753	REP-P	95-14-120	388-218-1450	PREP	95-08-023	388-300-3100	NEW-P	95-15-001
388-96-754	AMD-E	95-14-119	388-218-1450	AMD-P	95-09-035	388-200-3200	NEW-P	95-15-001
388-96-754	AMD-P	95-14-120	388-218-1450	AMD	95-11-124	388-300-3300	NEW-P	95-15-001
388-96-763	AMD-E	95-14-119	388-218-1500	AMD	95-04-048	388-300-3400	NEW-P	95-15-001
388-96-763	AMD-P	95-14-120	388-218-1510	PREP	95-11-007	388-300-3500	NEW-P	95-15-001
388-96-765	AMD-E	95-14-119	388-218-1510	AMD-P	95-11-101	388-300-3600	NEW-P	95-15-001
388-96-765	AMD-P	95-14-120	388-218-1510	AMD	95-14-047	388-300-3700	NEW-P	95-15-001
388-96-769	AMD-E	95-14-119	388-218-1515	PREP	95-11-007	388-300-3800	NEW-P	95-15-001
388-96-769	AMD-P	95-14-120	388-218-1515	REP-P	95-11-101	388-300-3900	NEW-P	95-15-001
388-96-776	AMD-E	95-14-119	388-218-1515	REP	95-14-047	388-330	PREP	95-11-006
388-96-776	AMD-P	95-14-120	388-218-1520	AMD	95-04-048	388-500-0005	PREP	95-13-020
388-96-813	AMD-E	95-14-119	388-218-1605	PREP	95-08-023	388-500-0005	AMD-P	95-14-058
388-96-813	AMD-P	95-14-120	388-218-1605	AMD-P	95-09-035	388-500-0005	AMD-E	95-14-060
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388-96-901	AMD-P	95-14-120	388-218-1610	PREP	95-08-023	388-503-0370	PREP	95-13-020
388-96-902	REP-E	95-14-119	388-218-1610	AMD-P	95-09-035	388-503-0370	AMD-P	95-14-058
388-96-902	REP-P	95-14-120	388-218-1610	AMD	95-11-124	388-503-0370	AMD-E	95-14-060
388-96-904	AMD-E	95-14-119	388-218-1630	PREP	95-08-023	388-504-0470	PREP	95-14-005
388-96-904	AMD-P	95-14-120	388-218-1630	AMD-P	95-09-035	388-505-0590	AMD	95-04-047
388-165	PREP	95-05-068	388-218-1630	AMD	95-11-124	388-505-0590	PREP	95-07-090
388-165-005	NEW-P	95-08-044	388-218-1680	PREP	95-08-023	388-505-0590	AMD-P	95-13-085
388-165-005	NEW	95-11-048	388-218-1680	AMD-P	95-09-035	388-505-0590	AMD-P	95-14-037
388-165-010	NEW-P	95-08-044	388-218-1680	AMD	95-11-124	388-505-0590	AMD-W	95-14-038
388-165-010	NEW	95-11-048	388-218-1695	PREP	95-14-080	388-506-0610	AMD-P	95-07-049
388-165-020	NEW-P	95-08-044	388-218-1730	PREP	95-08-023	388-506-0610	AMD	95-10-025
388-165-020	NEW	95-11-048	388-218-1730	AMD-P	95-09-035	388-506-0610	PREP	95-15-038
388-165-030	NEW-P	95-08-044	388-218-1730	AMD	95-11-124	388-507-0710	AMD	95-05-022
388-165-030	NEW	95-11-048	388-219-3000	PREP	95-06-035	388-507-0710	PREP	95-08-009
388-165-040	NEW-P	95-08-044	388-225-0020	PREP	95-05-039	388-507-0710	AMD-P	95-13-087
388-165-040	NEW	95-11-048	388-225-0020	AMD-P	95-08-010	388-507-0710	AMD-W	95-14-038
388-165-050	NEW-P	95-08-044	388-225-0300	AMD	95-11-046	388-508-0805	PREP	95-06-071
388-165-050	NEW	95-11-048	388-225-0300	REP-P	95-08-010	388-508-0805	AMD-P	95-08-045
388-165-060	NEW-P	95-08-044	388-235-9000	REP	95-11-046	388-508-0805	AMD-E	95-08-046
388-165-060	NEW	95-11-048	388-250-1200	AMD	95-03-048	388-508-0805	AMD	95-11-045
388-165-070	NEW-P	95-08-044	388-250-1200	AMD-P	95-05-014	388-508-0820	AMD-P	95-13-086
388-165-070	NEW	95-11-048	388-250-1700	AMD	95-07-123	388-509-0920	PREP	95-06-071
388-165-080	NEW-P	95-08-044	388-265-1750	AMD	95-03-046	388-509-0920	AMD-P	95-08-045
388-165-080	NEW	95-11-048		PREP	95-09-044	388-509-0920	AMD-E	95-08-046

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388-509-0960	AMD	95-05-023	388-527-2730	NEW-E	95-14-117	392-140-570	NEW-P	95-15-054
388-509-0960	PREP	95-06-071	388-527-2740	NEW-P	95-14-116	392-140-571	NEW-P	95-15-054
388-509-0960	AMD-P	95-08-045	388-527-2740	NEW-E	95-14-117	392-140-572	NEW-P	95-15-054
388-509-0960	AMD-E	95-08-046	388-527-2742	NEW-P	95-14-116	392-140-573	NEW-P	95-15-054
388-509-0960	AMD	95-11-056	388-527-2742	NEW-E	95-14-117	392-140-574	NEW-P	95-15-054
388-511-1105	AMD-P	95-06-072	388-527-2744	NEW-P	95-14-116	392-140-575	NEW-P	95-15-054
388-511-1105	AMD	95-08-070	388-527-2744	NEW-E	95-14-117	392-140-576	NEW-P	95-15-054
388-511-1130	AMD-P	95-06-072	388-527-2770	NEW-P	95-14-116	392-140-577	NEW-P	95-15-054
388-511-1130	AMD-W	95-08-071	388-527-2770	NEW-E	95-14-117	392-140-578	NEW-P	95-15-054
388-511-1140	AMD-P	95-06-072	388-527-2790	NEW-P	95-14-116	392-140-580	NEW-P	95-15-054
388-511-1140	AMD	95-08-070	388-527-2790	NEW-E	95-14-117	392-140-581	NEW-P	95-15-054
388-511-1160	AMD-P	95-06-072	388-529-2950	PREP	95-13-020	392-140-582	NEW-P	95-15-054
388-511-1160	AMD	95-08-070	388-529-2950	AMD-P	95-14-058	392-140-583	NEW-P	95-15-054
388-513-1300	NEW-P	95-03-084	388-529-2950	AMD-E	95-14-060	392-140-584	NEW-P	95-15-054
388-513-1300	NEW	95-06-025	388-535	PREP	95-15-008	392-140-585	NEW-P	95-15-054
388-513-1315	PREP	95-15-038	388-538	PREP	95-12-033	392-140-586	NEW-P	95-15-054
388-513-1330	PREP	95-07-072	388-538-050	AMD-P	95-15-023	392-140-588	NEW-P	95-15-054
388-513-1350	AMD	95-05-022	388-538-060	AMD-P	95-15-023	392-140-590	NEW-P	95-15-054
388-513-1380	AMD	95-05-022	388-538-070	AMD-P	95-15-023	392-140-592	NEW-P	95-15-054
388-513-1380	PREP	95-06-071	388-538-080	AMD-P	95-15-023	392-140-594	NEW-P	95-15-054
388-513-1380	AMD-P	95-08-045	388-538-090	AMD-P	95-15-023	392-141-115	AMD-P	95-15-075
388-513-1380	AMD-E	95-08-046	388-538-095	AMD-P	95-15-023	392-141-135	AMD-P	95-15-075
388-513-1380	AMD	95-11-045	388-538-100	AMD	95-04-033	392-141-145	REP-P	95-15-075
388-513-1380	PREP	95-14-002	388-538-100	AMD-P	95-15-023	392-141-151	NEW-P	95-15-075
388-513-1395	PREP	95-15-037	388-538-110	AMD-P	95-15-023	392-141-170	AMD-P	95-15-075
388-515-1505	PREP	95-12-011	388-538-120	AMD-P	95-15-023	392-141-176	NEW-P	95-15-075
388-515-1530	PREP	95-11-077	388-538-130	AMD-P	95-15-023	392-141-185	AMD-P	95-15-075
388-515-1530	AMD-P	95-15-035	388-538-140	AMD-P	95-15-023	392-142-005	AMD-P	95-13-100
388-517-1710	AMD-P	95-11-049	388-538-150	AMD-P	95-15-023	392-142-010	AMD-P	95-13-100
388-517-1710	AMD	95-14-046	390-05-190	AMD-E	95-14-076	392-142-095	AMD-P	95-13-100
388-517-1715	AMD-P	95-11-049	390-05-210	AMD-E	95-14-076	392-142-115	AMD-P	95-13-100
388-517-1715	AMD	95-14-046	390-05-245	NEW-E	95-14-076	392-142-125	AMD-P	95-13-100
388-517-1720	PREP	95-06-071	390-16-038	AMD-E	95-14-076	392-142-130	AMD-P	95-13-100
388-517-1720	AMD-P	95-08-045	390-16-313	NEW-E	95-14-076	392-142-135	AMD-P	95-13-100
388-517-1720	AMD-E	95-08-046	390-16-314	NEW-E	95-14-076	392-142-155	AMD-P	95-13-100
388-517-1720	AMD	95-11-056	390-17-050	REP-E	95-14-076	392-142-162	NEW-P	95-13-100
388-517-1730	AMD-P	95-11-049	390-17-052	REP-E	95-14-076	392-142-163	NEW-P	95-13-100
388-517-1730	AMD	95-14-046	391-35-300	NEW-E	95-07-026	392-142-165	AMD-P	95-13-100
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388-517-1740	AMD-P	95-08-045	391-45-560	NEW-E	95-07-026	392-142-175	REP-P	95-13-100
388-517-1740	AMD-E	95-08-046	392-121	PREP	95-10-032	392-142-205	AMD-P	95-13-100
388-517-1740	AMD	95-11-056	392-121	PREP	95-14-015	392-142-210	AMD-P	95-13-100
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388-517-1750	AMD	95-14-046	392-121-106	AMD-P	95-06-059	392-142-240	AMD-P	95-13-100
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388-517-1760	AMD	95-11-056	392-121-188	AMD-P	95-14-140	392-162-043	NEW-P	95-15-076
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388-518-1805	PREP	95-13-020	392-122	PREP	95-15-089	392-162-049	AMD-P	95-15-076
388-518-1805	AMD-P	95-14-058	392-122-205	AMD-P	95-05-020	392-162-052	AMD-P	95-15-076
388-518-1805	AMD-E	95-14-060	392-122-205	AMD	95-08-025	392-162-055	REP-P	95-15-076
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388-518-1810	AMD-P	95-14-058	392-122-214	REP	95-08-025	392-162-062	AMD-P	95-15-076
388-518-1810	AMD-E	95-14-060	392-122-221	AMD-P	95-05-020	392-162-067	AMD-P	95-15-076
388-518-1840	PREP	95-13-020	392-122-221	AMD	95-08-025	392-162-070	REP-P	95-15-076
388-518-1840	AMD-P	95-14-058	392-122-230	AMD-P	95-05-020	392-162-075	AMD-P	95-15-076
388-518-1840	AMD-E	95-14-060	392-122-230	AMD	95-08-025	392-162-080	AMD-P	95-15-076
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388-519-1905	AMD-P	95-14-058	392-122-260	REP	95-08-025	392-162-095	AMD-P	95-15-076
388-519-1905	AMD-E	95-14-060	392-122-275	AMD-P	95-05-020	392-162-105	PREP	95-15-051
388-521-2140	PREP	95-13-020	392-122-275	AMD	95-08-025	392-162-105	AMD-P	95-15-053
388-521-2140	AMD-P	95-14-058	392-122-900	PREP	95-13-081	392-162-110	AMD-P	95-15-076
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388-522-2230	AMD	95-15-039	392-127	PREP	95-14-013	392-169-015	AMD	95-09-042
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388-527-2710	REP-E	95-14-117	392-139	PREP	95-14-011	392-169-020	AMD	95-09-042
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415-113-059	NEW	95-03-001	434-110-075	AMD-P	95-12-099	434-135-070	PREP	95-11-133
415-113-060	REP	95-03-001	434-120-025	PREP	95-06-049	434-135-070	NEW-P	95-12-101
415-113-065	NEW	95-03-001	434-120-025	AMD-P	95-08-073	434-135-080	PREP	95-11-133
415-113-070	NEW	95-03-001	434-120-025	AMD	95-11-135	434-135-080	NEW-P	95-12-101
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415-113-084	NEW	95-03-001	434-120-105	PREP	95-06-049	434-135-100	PREP	95-11-133
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415-115-030	AMD	95-12-058	434-120-125	AMD-P	95-08-073	434-135-120	NEW-P	95-12-101
415-115-050	AMD-P	95-09-068	434-120-125	AMD	95-11-135	434-135-130	PREP	95-11-133
415-115-050	AMD	95-12-058	434-120-130	PREP	95-06-049	434-135-140	PREP	95-11-133
415-115-060	AMD-P	95-09-068	434-120-130	AMD-P	95-08-073	434-135-150	NEW-P	95-12-101
415-115-060	AMD	95-12-058	434-120-130	AMD-C	95-12-017	434-135-160	PREP	95-11-133
415-115-070	AMD-P	95-09-068	434-120-140	PREP	95-06-049	434-135-160	NEW-P	95-12-101
415-115-070	AMD	95-12-058	434-120-140	AMD-P	95-08-073	434-135-170	PREP	95-11-133
415-115-080	AMD-P	95-09-068	434-120-140	AMD	95-11-135	434-135-170	NEW-P	95-12-101
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415-115-120	AMD-P	95-09-068	434-120-145	AMD-P	95-08-073	434-135-190	PREP	95-11-133
415-115-120	AMD	95-12-058	434-120-145	AMD	95-11-135	434-135-190	NEW-P	95-12-101
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419-18	AMD	95-06-066	434-120-200	NEW	95-11-135	446-65-010	PREP	95-09-075
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419-18-020	AMD	95-06-066	434-120-215	PREP	95-06-049	446-65-010	AMD	95-13-080
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419-18-040	AMD	95-06-066	434-120-218	NEW	95-11-135	446-65-020	NEW	95-13-080
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419-18-070	AMD	95-06-066	434-120-265	PREP	95-06-049	456-09-350	AMD	95-05-033
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419-70-030	REP	95-09-049	434-120-300	AMD	95-11-135	456-09-725	AMD	95-05-033
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458-08-130	REP	95-07-067	458-20-258	AMD-C	95-14-085	458-40-670	PREP	95-08-078
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458-14-005	PREP	95-07-139	458-30-305	AMD-P	95-13-066	458-53-120	PREP	95-09-083
458-14-005	AMD-P	95-12-087	458-30-310	AMD-P	95-13-066	458-53-130	PREP	95-09-083
458-14-015	PREP	95-07-139	458-30-315	AMD-P	95-13-066	458-53-135	PREP	95-09-083
458-14-015	AMD-P	95-12-087	458-30-317	NEW-P	95-13-066	458-53-140	PREP	95-09-083
458-14-056	PREP	95-07-139	458-30-320	AMD-P	95-13-066	458-53-141	PREP	95-09-083
458-14-056	AMD-P	95-12-087	458-30-325	AMD-P	95-13-066	458-53-142	PREP	95-09-083
458-14-066	PREP	95-07-139	458-30-330	AMD-P	95-13-066	458-53-150	PREP	95-09-083
458-14-066	AMD-P	95-12-087	458-30-335	AMD-P	95-13-066	458-53-160	PREP	95-09-083
458-14-116	PREP	95-07-139	458-30-340	AMD-P	95-13-066	458-53-163	PREP	95-09-083
458-14-116	AMD-P	95-12-086	458-30-345	AMD-P	95-13-066	458-53-165	PREP	95-09-083
458-14-127	PREP	95-07-139	458-30-350	AMD-P	95-13-066	458-53-180	PREP	95-09-083
458-14-127	AMD-P	95-12-086	458-30-355	AMD-P	95-13-066	458-53-200	PREP	95-09-083
458-14-146	PREP	95-07-139	458-30-360	NEW-P	95-13-066	458-53-210	PREP	95-09-083
458-14-146	AMD-P	95-12-086	458-30-500	AMD-P	95-13-066	460-10A-015	AMD-P	95-11-079
458-14-160	PREP	95-07-139	458-30-510	AMD-P	95-13-066	460-10A-035	PREP	95-15-091
458-14-160	AMD-P	95-12-086	458-30-520	AMD-P	95-13-066	460-10A-050	PREP	95-15-091
458-14-170	PREP	95-07-139	458-30-525	NEW-P	95-13-066	460-10A-055	PREP	95-15-091
458-14-170	AMD-P	95-12-086	458-30-530	AMD-P	95-13-066	460-10A-060	PREP	95-15-091
458-14-171	PREP	95-07-139	458-30-540	AMD-P	95-13-066	460-10A-065	PREP	95-15-091
458-14-171	AMD-P	95-12-086	458-30-550	AMD-P	95-13-066	460-10A-075	PREP	95-15-091
458-16-265	REP	95-06-042	458-30-560	AMD-P	95-13-066	460-10A-080	PREP	95-15-091
458-16A-010	NEW	95-06-041	458-30-570	AMD-P	95-13-066	460-10A-090	PREP	95-15-091
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460-10A-105	PREP	95-15-091	460-22B-060	NEW-P	95-11-079	478-168-140	REP-P	95-08-053
460-10A-110	PREP	95-15-091	460-22B-070	NEW-P	95-11-079	478-168-140	REP	95-14-045
460-10A-115	PREP	95-15-091	460-22B-080	NEW-P	95-11-079	478-168-150	REP-P	95-08-053
460-10A-120	PREP	95-15-091	460-22B-090	NEW-P	95-11-079	478-168-150	REP	95-14-045
460-10A-125	PREP	95-15-091	460-23B-010	NEW-P	95-11-079	478-168-160	AMD-P	95-08-053
460-10A-130	PREP	95-15-091	460-23B-020	NEW-P	95-11-079	478-168-160	AMD	95-14-045
460-10A-135	PREP	95-15-091	460-23B-030	NEW-P	95-11-079	478-168-170	AMD-P	95-08-053
460-10A-140	PREP	95-15-091	460-23B-040	NEW-P	95-11-079	478-168-170	AMD	95-14-045
460-10A-145	PREP	95-15-091	460-23B-050	NEW-P	95-11-079	478-168-180	AMD-P	95-08-053
460-10A-150	PREP	95-15-091	460-23B-060	NEW-P	95-11-079	478-168-180	AMD	95-14-045
460-10A-155	PREP	95-15-091	460-24A-046	NEW-P	95-11-079	478-168-200	AMD-P	95-08-053
460-10A-170	PREP	95-15-091	460-24A-050	AMD-P	95-11-079	478-168-200	AMD	95-14-045
460-10A-180	PREP	95-15-091	460-24A-055	AMD-P	95-11-079	478-168-270	AMD-P	95-08-053
460-10A-185	PREP	95-15-091	460-33A-080	AMD-P	95-11-079	478-168-270	AMD	95-14-045
460-10A-190	PREP	95-15-091	460-33A-081	NEW-P	95-11-079	478-168-280	AMD-P	95-08-053
460-10A-195	PREP	95-15-091	460-33A-085	AMD-P	95-11-079	478-168-280	AMD	95-14-045
460-10A-200	PREP	95-15-091	460-33A-086	NEW-P	95-11-079	478-168-290	AMD-P	95-08-053
460-10A-205	PREP	95-15-091	460-42A-081	PREP	95-14-052	478-168-290	AMD	95-14-045
460-10A-210	PREP	95-15-091	460-46A-050	AMD-P	95-14-053	478-168-294	AMD-P	95-08-053
460-16A-101	REP-P	95-14-053	460-52A-010	AMD-P	95-08-016	478-168-294	AMD	95-14-045
460-16A-102	REP-P	95-14-053	460-52A-010	AMD	95-12-003	478-168-300	AMD-P	95-08-053
460-16A-103	REP-P	95-14-053	460-80-315	AMD-P	95-04-097	478-168-300	AMD	95-14-045
460-16A-104	REP-P	95-14-053	460-80-315	AMD	95-08-015	478-168-310	AMD-P	95-08-053
460-16A-105	REP-P	95-14-053	463-39	PREP	95-09-078	478-168-310	AMD	95-14-045
460-16A-106	REP-P	95-14-053	463-39-005	AMD-P	95-13-039	478-168-320	AMD-P	95-08-053
460-16A-108	REP-P	95-14-053	463-39-020	AMD-P	95-13-039	478-168-320	AMD	95-14-045
460-16A-109	REP-P	95-14-053	463-39-030	AMD-P	95-13-039	478-168-325	NEW-P	95-08-053
460-16A-205	AMD-P	95-14-053	463-39-090	AMD-P	95-13-039	478-168-325	NEW	95-14-045
460-20A-005	REP-P	95-11-079	463-39-095	NEW-P	95-13-039	478-168-330	AMD-P	95-08-053
460-20A-008	REP-P	95-11-079	463-39-105	NEW-P	95-13-039	478-168-330	AMD	95-14-045
460-20A-010	REP-P	95-11-079	463-39-120	AMD-P	95-13-039	478-168-340	AMD-P	95-08-053
460-20A-015	REP-P	95-11-079	468-32-010	PREP	95-04-070	478-168-340	AMD	95-14-045
460-20A-020	REP-P	95-11-079	468-32-010	NEW-P	95-04-071	478-168-345	NEW-P	95-08-053
460-20A-025	REP-P	95-11-079	468-32-010	NEW	95-07-106	478-168-345	NEW	95-14-045
460-20A-030	REP-P	95-11-079	468-51	PREP	95-10-001A	478-168-350	AMD-P	95-08-053
460-20A-035	REP-P	95-11-079	468-95-100	AMD-E	95-07-051	478-168-350	AMD	95-14-045
460-20A-045	REP-P	95-11-079	468-95-100	AMD-P	95-07-081	478-168-360	AMD-P	95-08-053
460-20A-050	REP-P	95-11-079	468-95-100	AMD	95-11-022	478-168-360	AMD	95-14-045
460-20A-100	REP-P	95-11-079	478-168	PREP	95-07-101	478-168-380	AMD-P	95-08-053
460-20A-105	REP-P	95-11-079	478-168-010	AMD-P	95-08-053	478-168-380	AMD	95-14-045
460-20A-200	REP-P	95-11-079	478-168-010	AMD	95-14-045	478-168-390	AMD-P	95-08-053
460-20A-205	REP-P	95-11-079	478-168-020	AMD-P	95-08-053	478-168-390	AMD	95-14-045
460-20A-210	REP-P	95-11-079	478-168-020	AMD	95-14-045	479-01-010	AMD	95-04-072
460-20A-215	REP-P	95-11-079	478-168-030	REP-P	95-08-053	479-01-020	AMD	95-04-072
460-20A-220	REP-P	95-11-079	478-168-030	REP	95-14-045	479-01-030	AMD	95-04-072
460-20A-230	REP-P	95-11-079	478-168-035	NEW-P	95-08-053	479-01-040	AMD	95-04-072
460-20A-235	REP-P	95-11-079	478-168-035	NEW	95-14-045	479-02-030	AMD	95-04-072
460-20A-400	REP-P	95-11-079	478-168-040	REP-P	95-08-053	479-02-070	AMD	95-04-072
460-20A-405	REP-P	95-11-079	478-168-040	REP	95-14-045	479-02-100	AMD	95-04-072
460-20A-410	REP-P	95-11-079	478-168-050	REP-P	95-08-053	479-02-110	AMD	95-04-072
460-20A-415	REP-P	95-11-079	478-168-050	REP	95-14-045	479-02-120	AMD	95-04-072
460-20A-420	REP-P	95-11-079	478-168-060	REP-P	95-08-053	479-02-130	AMD	95-04-072
460-20A-425	REP-P	95-11-079	478-168-060	REP	95-14-045	479-12-005	NEW	95-04-072
460-20B-010	NEW-P	95-11-079	478-168-070	AMD-P	95-08-053	479-12-008	NEW	95-04-072
460-20B-020	NEW-P	95-11-079	478-168-070	AMD	95-14-045	479-12-010	AMD	95-04-072
460-20B-030	NEW-P	95-11-079	478-168-080	AMD-P	95-08-053	479-12-020	AMD	95-04-072
460-20B-040	NEW-P	95-11-079	478-168-080	AMD	95-14-045	479-13-010	AMD	95-04-072
460-20B-050	NEW-P	95-11-079	478-168-090	AMD	95-08-053	479-13-011	NEW	95-04-072
460-20B-060	NEW-P	95-11-079	478-168-090	REP-P	95-08-053	479-13-025	AMD	95-04-072
460-21B-008	NEW-P	95-11-079	478-168-092	AMD-P	95-08-053	479-13-035	AMD	95-04-072
460-21B-010	NEW-P	95-11-079	478-168-092	AMD	95-14-045	479-13-060	REP	95-04-072
460-21B-020	NEW-P	95-11-079	478-168-094	AMD-P	95-08-053	479-13-070	AMD	95-04-072
460-21B-030	NEW-P	95-11-079	478-168-094	AMD	95-14-045	479-16-010	AMD	95-04-072
460-21B-040	NEW-P	95-11-079	478-168-094	AMD	95-08-053	479-16-015	AMD	95-04-072
460-21B-050	NEW-P	95-11-079	478-168-096	AMD	95-14-045	479-16-016	AMD	95-04-072
460-21B-060	NEW-P	95-11-079	478-168-096	AMD	95-08-053	479-16-030	AMD	95-04-072
460-21B-070	NEW-P	95-11-079	478-168-100	REP-P	95-14-045	479-16-035	AMD	95-04-072
460-21B-080	NEW-P	95-11-079	478-168-100	REP	95-08-053	479-16-040	AMD	95-04-072
460-22B-010	NEW-P	95-11-079	478-168-110	REP-P	95-08-053	479-16-045	AMD	95-04-072
460-22B-020	NEW-P	95-11-079	478-168-110	REP	95-14-045	479-16-060	AMD	95-04-072
460-22B-030	NEW-P	95-11-079	478-168-120	REP-P	95-08-053	479-16-070	REP	95-04-072
460-22B-040	NEW-P	95-11-079	478-168-120	REP	95-14-045	479-16-072	REP	95-04-072
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479-16-090	REP	95-04-072	479-412-300	NEW	95-04-072	480-14-160	NEW-E	95-10-038
479-16-091	REP	95-04-072	479-412-310	NEW	95-04-072	480-14-170	NEW-E	95-10-038
479-16-092	REP	95-04-072	479-416-010	NEW	95-04-072	480-14-180	NEW-E	95-10-038
479-16-094	REP	95-04-072	479-416-015	NEW	95-04-072	480-14-190	NEW-E	95-10-038
479-16-096	REP	95-04-072	479-416-016	NEW	95-04-072	480-14-200	NEW-E	95-10-038
479-16-098	AMD	95-04-072	479-416-018	NEW	95-04-072	480-14-210	NEW-E	95-10-038
479-20-007	AMD	95-04-072	479-416-020	NEW	95-04-072	480-14-220	NEW-E	95-10-038
479-20-010	AMD	95-04-072	479-416-030	NEW	95-04-072	480-14-230	NEW-E	95-10-038
479-20-011	AMD	95-04-072	479-416-035	NEW	95-04-072	480-14-240	NEW-E	95-10-038
479-20-013	AMD	95-04-072	479-416-040	NEW	95-04-072	480-14-250	NEW-E	95-10-038
479-20-016	AMD	95-04-072	479-416-045	NEW	95-04-072	480-14-260	NEW-E	95-10-038
479-20-020	AMD	95-04-072	479-416-050	NEW	95-04-072	480-14-270	NEW-E	95-10-038
479-20-025	AMD	95-04-072	479-420-010	NEW	95-04-072	480-14-280	NEW-E	95-10-038
479-20-027	AMD	95-04-072	479-420-011	NEW	95-04-072	480-14-290	NEW-E	95-10-038
479-20-031	AMD	95-04-072	479-420-013	NEW	95-04-072	480-14-300	NEW-E	95-10-038
479-20-033	REP	95-04-072	479-420-016	NEW	95-04-072	480-14-320	NEW-E	95-10-038
479-20-036	REP	95-04-072	479-420-020	NEW	95-04-072	480-14-330	NEW-E	95-10-038
479-20-037	AMD	95-04-072	479-420-025	NEW	95-04-072	480-14-340	NEW-E	95-10-038
479-20-075	REP	95-04-072	479-420-027	NEW	95-04-072	480-14-350	NEW-E	95-10-038
479-20-086	AMD	95-04-072	479-420-031	NEW	95-04-072	480-14-360	NEW-E	95-10-038
479-20-095	AMD	95-04-072	479-420-037	NEW	95-04-072	480-14-370	NEW-E	95-10-038
479-24-030	AMD	95-04-072	479-420-086	NEW	95-04-072	480-14-380	NEW-E	95-10-038
479-112	AMD	95-04-072	479-420-089	NEW	95-04-072	480-14-390	NEW-E	95-10-038
479-112-001	NEW	95-04-072	479-420-095	NEW	95-04-072	480-14-400	NEW-E	95-10-038
479-112-003	NEW	95-04-072	480-09	PREP	95-06-089	480-14-410	NEW-E	95-10-038
479-112-005	REP	95-04-072	480-09-520	PREP	95-06-088	480-14-420	NEW-E	95-10-038
479-112-0055	NEW	95-04-072	480-12-001	NEW-E	95-10-038	480-14-900	NEW-E	95-10-038
479-112-008	AMD	95-04-072	480-12-075	REP-E	95-10-038	480-50	PREP	95-14-025
479-112-009	AMD	95-04-072	480-12-082	REP-E	95-10-038	480-93-005	AMD-E	95-05-047
479-112-017	AMD	95-04-072	480-12-085	REP-E	95-10-038	480-93-005	AMD-P	95-08-067
479-113-010	AMD	95-04-072	480-12-090	REP-E	95-10-038	480-93-005	AMD	95-13-082
479-113-011	AMD	95-04-072	480-12-095	REP-E	95-10-038	480-93-010	AMD-E	95-05-047
479-113-029	AMD	95-04-072	480-12-105	REP-E	95-10-038	480-93-010	AMD-P	95-08-067
479-113-031	AMD	95-04-072	480-12-110	REP-E	95-10-038	480-93-010	AMD	95-13-082
479-113-032	REP	95-04-072	480-12-131	REP-E	95-10-038	480-110-023	PREP	95-14-135
479-113-035	AMD	95-04-072	480-12-137	REP-E	95-10-038	480-120-081	AMD	95-05-003
479-113-070	NEW	95-04-072	480-12-140	REP-E	95-10-038	480-120-141	PREP	95-05-046
479-116-010	NEW	95-04-072	480-12-155	REP-E	95-10-038	480-120-141	AMD-P	95-07-130
479-116-016	AMD	95-04-072	480-12-160	REP-E	95-10-038	480-120-141	AMD	95-10-039
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479-116-080	NEW	95-04-072	480-12-205	REP-E	95-10-038	480-146-020	AMD-P	95-08-068
479-120-010	NEW	95-04-072	480-12-225	REP-E	95-10-038	480-146-030	AMD-P	95-08-068
479-120-011	NEW	95-04-072	480-12-230	REP-E	95-10-038	480-146-050	AMD-P	95-08-068
479-120-013	NEW	95-04-072	480-12-233	REP-E	95-10-038	480-146-060	AMD-P	95-08-068
479-120-016	NEW	95-04-072	480-12-240	REP-E	95-10-038	480-146-070	PREP	95-03-094
479-120-025	NEW	95-04-072	480-12-245	REP-E	95-10-038	480-146-070	AMD-P	95-08-068
479-120-027	NEW	95-04-072	480-12-253	REP-E	95-10-038	480-146-080	PREP	95-03-094
479-120-031	NEW	95-04-072	480-12-260	REP-E	95-10-038	480-146-080	AMD-P	95-08-068
479-120-033	REP	95-04-072	480-12-305	REP-E	95-10-038	480-146-100	PREP	95-03-094
479-120-037	NEW	95-04-072	480-12-310	REP-E	95-10-038	480-146-100	REP-P	95-08-068
479-120-086	NEW	95-04-072	480-12-321	REP-E	95-10-038	480-146-200	PREP	95-03-094
479-120-089	NEW	95-04-072	480-12-322	REP-E	95-10-038	480-146-200	AMD-P	95-08-068
479-120-095	NEW	95-04-072	480-12-380	REP-E	95-10-038	480-146-210	PREP	95-03-094
479-216	AMD	95-04-072	480-12-500	REP-E	95-10-038	480-146-210	AMD-P	95-08-068
479-216-050	AMD	95-04-072	480-12-510	REP-E	95-10-038	480-146-220	PREP	95-03-094
479-310-050	AMD	95-04-072	480-12-520	REP-E	95-10-038	480-146-220	AMD-P	95-08-068
479-310-200	AMD	95-04-072	480-14-010	NEW-E	95-10-038	480-146-230	NEW-P	95-08-068
479-312-100	AMD	95-04-072	480-14-020	NEW-E	95-10-038	484-20-065	AMD-P	95-02-072
479-410-010	NEW	95-04-072	480-14-030	NEW-E	95-10-038	484-20-065	AMD	95-07-082
479-410-020	NEW	95-04-072	480-14-040	NEW-E	95-10-038	484-20-085	AMD	95-03-053
479-410-100	NEW	95-04-072	480-14-050	NEW-E	95-10-038	490-500	AMD	95-04-050
479-410-150	NEW	95-04-072	480-14-060	NEW-E	95-10-038	490-500-005	AMD	95-04-050
479-410-160	NEW	95-04-072	480-14-070	NEW-E	95-10-038	490-500-010	AMD	95-04-050
479-410-170	NEW	95-04-072	480-14-080	NEW-E	95-10-038	490-500-015	AMD	95-04-050
479-410-180	NEW	95-04-072	480-14-090	NEW-E	95-10-038	490-500-020	REP	95-04-050
479-410-200	NEW	95-04-072	480-14-100	NEW-E	95-10-038	490-500-022	NEW	95-04-050
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490-500-205	NEW	95-04-050	504-15-100	AMD	95-13-003	504-25-310	NEW	95-07-001
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490-500-260	AMD	95-04-050	504-15-250	AMD-P	95-06-061	504-25-325	NEW	95-07-001
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Redmond-Bear Creek	MISC	95-03-079	water conservation and management	PROP	95-06-055
Growth Management Act integration with State Environmental Policy Act (SEPA)	EMER	95-03-059		EMER	95-07-009
	PERM	95-07-023		PREP	95-12-059
				PROP	95-12-065
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integration with State Environmental Policy Act (SEPA)	PERM	95-08-041	waters	PERM	95-02-066
	PROP	95-08-061			
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Oil			Policies	PREP	95-04-016
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Practice and procedure	PREP	95-03-080		PERM	95-08-008
	PROP	95-03-081	EDMONDS COMMUNITY COLLEGE		
	PERM	95-07-058	Meetings	MISC	95-01-036
				MISC	95-04-009
Recycling				MISC	95-06-005
used oil management standards	PROP	95-15-104		MISC	95-07-079
Rules coordinator	MISC	95-01-088		MISC	95-09-046
Shoreline master programs				MISC	95-11-013
Bainbridge Island, city of	PREP	95-14-136		MISC	95-11-100
Chelan County	PREP	95-11-087		MISC	95-11-105
King County	PREP	95-04-101		MISC	95-13-008
	PROP	95-07-144		MISC	95-14-041
Kitsap County	PREP	95-04-076		MISC	95-15-070
	PROP	95-05-064			
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Lake Forest Park, city of	PREP	95-05-063	Administrators		
Mercer Island, city of	PREP	95-07-020	compliance with request to transfer		
Orting, city of	PROP	95-03-082	student records	PREP	95-15-050
	PERM	95-08-042	Certification		
Port Angeles, city of	PERM	95-12-057	fees, use	PREP	95-05-043
Redmond, city of	PREP	95-07-022	preparation programs	PREP	95-13-048
	PROP	95-12-092	preparation requirements	PREP	95-13-046
San Juan County	PREP	95-07-019	Educational clinics	PROP	95-05-076
	PERM	95-07-125		PERM	95-08-029
	PROP	95-09-052	High school credit	PROP	95-12-025
Seattle, city of	PREP	95-07-021	Internship certificate program	PREP	95-13-049
	PROP	95-11-088	Interscholastic activities	PROP	95-05-077
Shelton, city of	PERM	95-10-051		PERM	95-08-028
Skagit County	PERM	95-12-026	Meetings	MISC	95-06-058
Spokane, city of	PREP	95-11-086		MISC	95-11-114
Tacoma, city of	PROP	95-03-078	Public records, availability	PREP	95-11-069
	PERM	95-11-008	School construction		
Thurston County	PROP	95-11-089	contracts, award	PREP	95-05-035
Tumwater, city of	PROP	95-11-089		PROP	95-05-080
Solid waste			emergency repair projects, funding	PERM	95-08-030
municipal landfills, criteria	PREP	95-13-088	funding	PREP	95-14-042
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	PERM	95-07-023		PROP	95-05-083
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	PROP	95-08-061		PREP	95-12-073
Stormwater				PREP	95-12-075
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municipal discharge permits	MISC	95-06-082	project approval	PREP	95-05-036
	MISC	95-13-104	public works compliance	PROP	95-05-082
	MISC	95-13-105		PERM	95-08-031
	MISC	95-13-106	state support level, additional		
Underground storage tanks			assistance	PROP	95-01-016
contractor certification program	PERM	95-04-102		EMER	95-11-092
Water quality				PROP	95-12-074
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wastewater discharge permit program				PERM	95-08-033
fees	PROP	95-15-045	School profile	PREP	95-12-024
Water resources			Small school plants, designation as		
Columbia River			remote and necessary	PREP	95-11-073
withdrawal of unappropriated			Student records, compliance with		
waters	PERM	95-02-066	request to transfer	PREP	95-15-050
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	PERM	95-12-055			PERM	95-08-015			
	PREP	95-13-048		Mobile messenger services	PREP	95-14-127			
Vocational certification	PREP	95-05-042		Mortgage brokers					
	PROP	95-08-058		licensing	PROP	95-05-084			
	PERM	95-12-056			PERM	95-13-091			
Waiver policies and procedures	PREP	95-15-003		registration and examination	PROP	95-11-079			
EMPLOYMENT SECURITY DEPARTMENT				Rule-making agenda	MISC	95-14-082			
Appeals	PROP	95-15-063		Securities					
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	PROP	95-15-094		exchange and national market					
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	PREP	95-03-098		investment advisers	PROP	95-11-079			
	PROP	95-08-077		nonprofit organization registration					
	PERM	95-12-014		exemption	PROP	95-08-016			
mail-in applications	PREP	95-07-075		promotional shares	PERM	95-12-003			
Community and technical college				real estate investments	PROP	95-14-053			
instructors, unemployment insurance					PROP	95-14-053			
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	EMER	95-14-091		Paydates for 1996, establishment	PREP	95-10-106			
Dislocated worker program					PROP	95-11-116			
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timber industry workers	PREP	95-12-085		Rules coordinator	MISC	95-03-052			
Hearings	PROP	95-15-063		FIRE PROTECTION POLICY BOARD					
Housekeeping changes	PROP	95-06-081		(See COMMUNITY, TRADE AND ECONOMIC					
	PERM	95-09-085		DEVELOPMENT, DEPARTMENT OF)					
Family independence program				FISH AND WILDLIFE, DEPARTMENT OF					
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	PERM	95-05-048		or destruction	EMER	95-01-030			
Reemployment services, directive				<u>Fishing, commercial</u>					
to report for	PROP	95-08-077		coastal bottomfish					
	PERM	95-12-014		catch limits	EMER	95-02-012			
Salmon fishing workers					EMER	95-05-007			
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and services	PREP	95-12-085			PROP	95-06-094			
Temporary total disability					EMER	95-08-034			
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Implementation plan	MISC	95-15-042		herring					
Meetings	MISC	95-02-006		areas and seasons	EMER	95-04-088			
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	EMER	95-11-068		coastal harbor net season	PREP	95-10-103			
Meetings	MISC	95-01-117			PROP	95-10-105			
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	EMER	95-03-064	Palouse River	PROP	95-06-093
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Badger Lake	EMER	95-14-063		PERM	95-10-027
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	EMER	95-12-039	elk, 1994-97	PERM	95-03-033
	EMER	95-13-040	elk, 1995-96	PROP	95-06-098
	EMER	95-14-029		PERM	95-11-038
	EMER	95-14-030	hunting hours, 1995-97	PROP	95-14-104
	EMER	95-14-035	hunting hours and small game seasons, 1994-97		
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	EMER	95-12-035		PROP	95-06-102
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	EMER	95-04-086	moose, 1995	PROP	95-06-103
	EMER	95-10-040	mountain goat, 1995	PERM	95-11-031
	EMER	95-14-099			
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	EMER	95-04-086	special closures and firearm restriction areas	PROP	95-06-099
	EMER	95-15-002		PERM	95-11-028
razor clams	EMER	95-07-028	special closures and firearm restriction areas, 1995-96	PERM	95-11-028
	EMER	95-10-104		PERM	95-03-038
	EMER	95-13-057		PROP	95-06-106
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	EMER	95-12-035	special hunting and trapping seasons	PROP	95-06-099
sport fishing	PERM	95-05-008	special species, 1994-95	PERM	95-11-028
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	EMER	95-02-053	Road killed animals	PROP	95-06-095
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salmon			Trapping		
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	EMER	95-10-041	Wildlife doing damage, removal	PREP	95-12-037
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	PERM	95-03-025		PROP	95-04-073
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	PERM	95-03-040	critical wildlife habitats	PROP	95-04-073
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Hunter orange clothing requirement	PROP	95-14-100	Amusement games conduct	PROP	95-06-010
				PERM	95-09-064
<u>Hunting seasons</u>			Assistant directors	PREP	95-03-057
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	PERM	95-11-029	Cardrooms		
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Enrollee costs	PROP	95-07-036	hospitals, requirements	PROP	95-12-094
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St. Luke's rehabilitation institute	PROP	95-07-031		EMER	95-15-009
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	PROP	95-07-036	reasonable fee for searching and		
health services, required offerings	PROP	95-06-075	duplicating	EMER	95-14-108
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	PROP	95-13-110	examinations	PROP	95-01-106
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examination	PROP	95-12-068		PERM	95-07-128
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Denturists			standards of conduct	PROP	95-01-106
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	PERM	95-10-043	sewage additives	PROP	95-04-034
Emergency medical services			Opticians	PERM	95-09-018
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	EMER	95-13-053	meetings	MISC	95-04-098
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Farmer's market nutrition program	PREP	95-07-055	adjudicative procedures		
Farmworker housing	PREP	95-06-056	examination	PERM	95-04-084
	EMER	95-08-018		PREP	95-09-057
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	PROP	95-11-078	Instant game number 139 - 100 Grands	PERM	95-03-062
	PERM	95-15-028	Instant game number 140 - Joker's Wild	PROP	95-03-100
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	PROP	95-11-078	Instant game number 141 - Go Bananas	PROP	95-03-100
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	PROP	95-01-017	Instant game number 142 - Lucky Queen	PROP	95-07-135
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(See Issue 95-01 for a complete list of rules coordinators designated as of 12/21/94)

Asian American affairs, commission on
Bellingham Technical College
Central Washington University
Centralia College
Clark College
Eastern Washington historical society
Ecology, department of

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Health, department of Hispanic affairs, commission on Human rights commission Outdoor recreation, interagency committee for Pollution liability insurance agency Public employment relations commission Traffic safety commission Tax appeals, board of University of Washington	MISC 95-03-041 MISC 95-14-064 MISC 95-05-009 MISC 95-03-073 MISC 95-01-009 MISC 95-12-015	JOBES unemployed parent program participation medical programs, eligibility	PREP 95-12-078 PROP 95-14-078 EMER 95-14-079 PROP 95-07-049 PREP 95-08-009 PERM 95-10-025 PROP 95-13-087 PREP 95-15-037 PREP 95-15-038 PREP 95-09-044 PROP 95-09-054 EMER 95-09-055 PERM 95-11-119 PREP 95-09-012 PREP 95-11-007 PROP 95-11-101 PERM 95-14-047
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	PERM 95-07-122	children, eligibility	PREP 95-01-059
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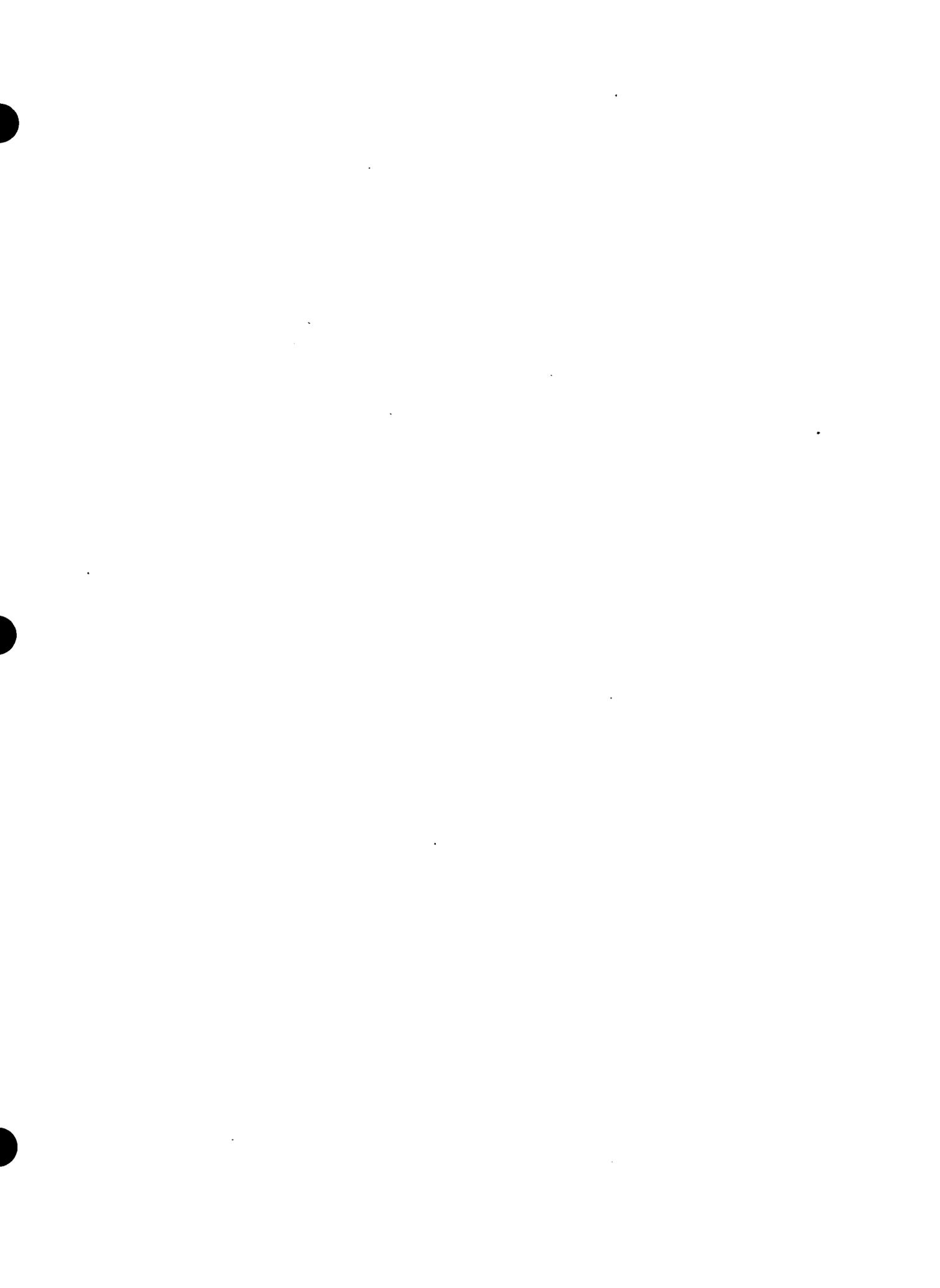
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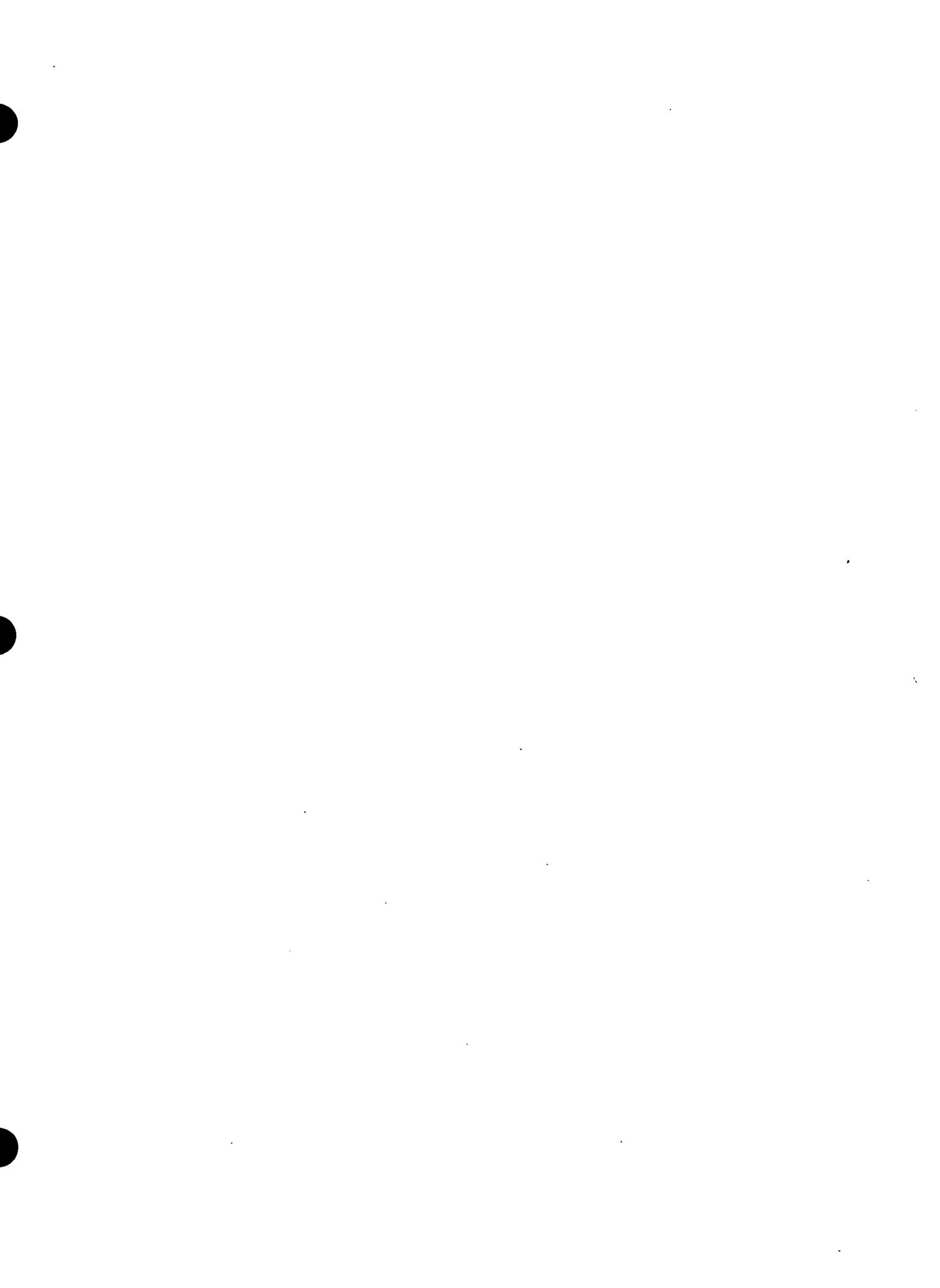
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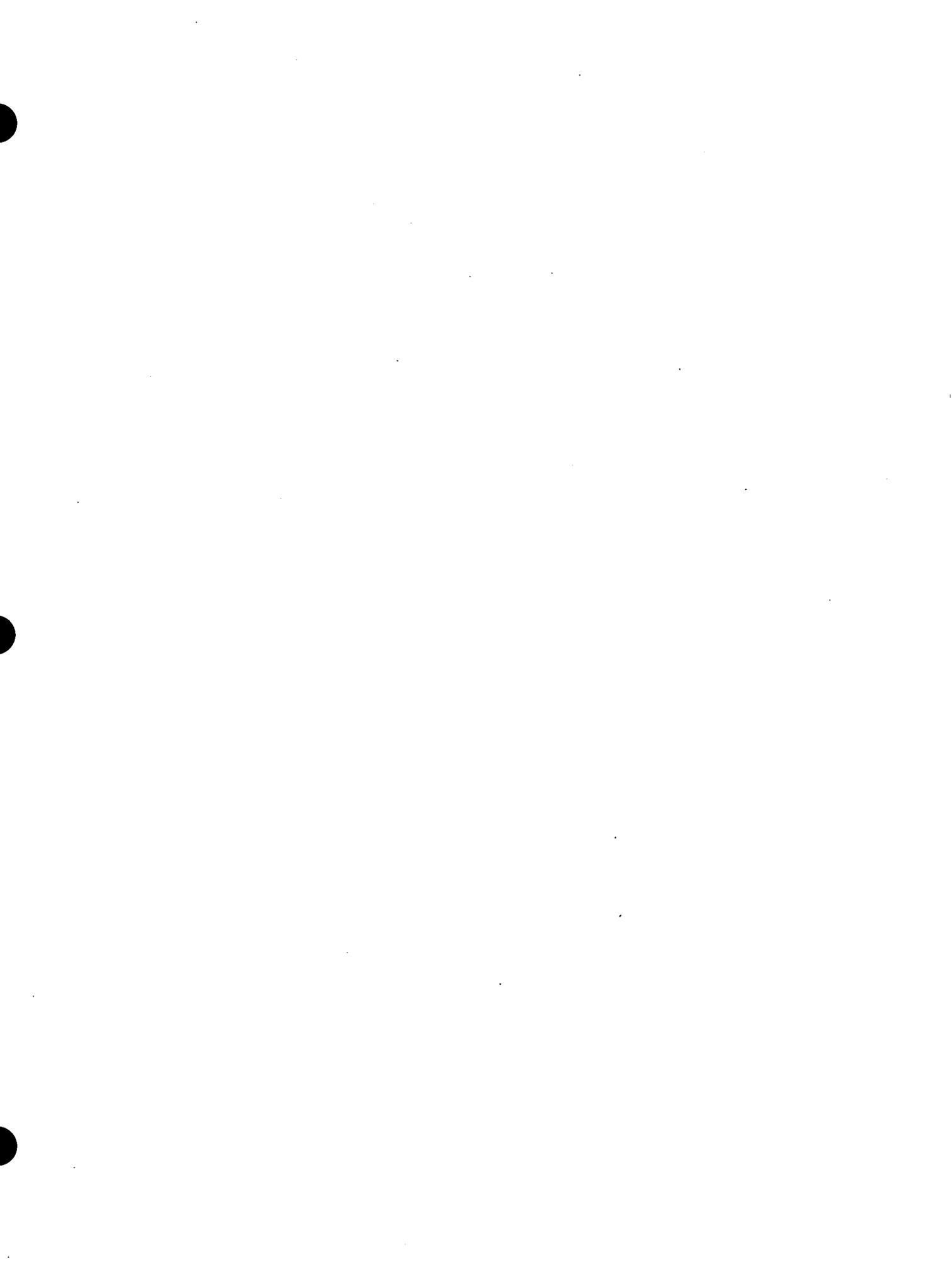
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