

March 3, 1999

OLYMPIA, WASHINGTON

ISSUE 99-05



IN THIS ISSUE

Accountancy, Board of
Agriculture, Department of
Basic Health Plan
Bellevue Community College
Bellingham Technical College
Blind, Department of Services for the
Boiler Rulers, Board of
Building Code Council
Capitol Campus Design Advisory Committee
Children's Administration
Columbia River Gorge Commission
Combined Fund Drive
Ecology, Department of
Economic Services Administration
Education, State Board of
Employment Security Department
Evergreen State College, The
Farmed Salmon Commission
Fire Protection Policy Board
Fish and Wildlife, Department of
General Administration, Department of
Governor, Office of the
Health Care Authority
Health, Department of
Horse Racing Commission
Labor and Industries, Department of
Library, Washington State
Licensing, Department of
Liquor Control Board
Lottery Commission
Medical Assistance Administration
Minority and Women's Business Enterprises,
Office of
Personnel Resources Board
Personnel, Department of
Public Works Board
Revenue, Department of
Secretary of State
Social and Health Services, Department of
Spokane, Community Colleges of
Supreme Court, State
Transportation, Department of
Utilities and Transportation Commission
Washington State Patrol
WorkFirst Division
Yakima Valley Community College

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 (360) 786-6697.

REPUBLICATION OF OFFICIAL DOCUMENTS

All documents appearing in the Washington State Register are prepared and printed at public expense. There are no restrictions on the republication of official documents appearing in the Washington State Register. All news services are especially encouraged to give wide publicity to all documents printed in the Washington State Register.

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month March 1999 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.

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

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following nine 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) **EXPEDITED REPEAL**-includes the Preproposal Statement of Inquiry that lists rules being repealed using the expedited repeal process. Expedited repeals are not consistently filed and may not appear in every issue of the register.
- (c) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (d) **EXPEDITED ADOPTION**-includes the full text of rules being changed using the expedited adoption process. Expedited adoptions are not consistently filed and may not appear in every issue of the Register.
- (e) **PERMANENT**-includes the full text of permanently adopted rules.
- (f) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (g) **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.
- (h) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (i) **INDEX**-includes a cumulative index of Register Issues 01 through 24.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE OF RULES

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

5. EDITORIAL CORRECTIONS

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

1998 - 1999

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³	Expedited Adoption ⁴
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS ² or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
<i>For Inclusion in -</i>	<i>File no later than 12:00 noon -</i>					
98 - 16	Jul 7, 98	Jul 21, 98	Aug 5, 98	Aug 18, 98	Sep 7, 98	Oct 2, 98
98 - 17	Jul 22, 98	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 22, 98	Oct 17, 98
98 - 18	Aug 5, 98	Aug 19, 98	Sep 2, 98	Sep 16, 98	Oct 6, 98	Oct 31, 98
98 - 19	Aug 26, 98	Sep 9, 98	Sep 23, 98	Oct 7, 98	Oct 27, 98	Nov 21, 98
98 - 20	Sep 9, 98	Sep 23, 98	Oct 7, 98	Oct 21, 98	Nov 10, 98	Dec 5, 98
98 - 21	Sep 23, 98	Oct 7, 98	Oct 21, 98	Nov 4, 98	Nov 24, 98	Dec 19, 98
98 - 22	Oct 7, 98	Oct 21, 98	Nov 4, 98	Nov 18, 98	Dec 8, 98	Jan 2, 99
98 - 23	Oct 21, 98	Nov 4, 98	Nov 18, 98	Dec 2, 98	Dec 22, 98	Jan 16, 99
98 - 24	Nov 4, 98	Nov 18, 98	Dec 2, 98	Dec 16, 98	Jan 5, 99	Jan 30, 99
99 - 01	Nov 25, 98	Dec 9, 98	Dec 23, 98	Jan 6, 99	Jan 26, 99	Feb 20, 99
99 - 02	Dec 9, 98	Dec 23, 98	Jan 6, 99	Jan 20, 99	Feb 9, 99	Mar 6, 99
99 - 03	Dec 23, 98	Jan 6, 99	Jan 20, 99	Feb 3, 99	Feb 23, 99	Mar 20, 99
99 - 04	Jan 6, 99	Jan 20, 99	Feb 3, 99	Feb 17, 99	Mar 9, 99	Apr 3, 99
99 - 05	Jan 20, 99	Feb 3, 99	Feb 17, 99	Mar 3, 99	Mar 23, 99	Apr 17, 99
99 - 06	Feb 3, 99	Feb 17, 99	Mar 3, 99	Mar 17, 99	Apr 6, 99	May 1, 99
99 - 07	Feb 24, 99	Mar 10, 99	Mar 24, 99	Apr 7, 99	Apr 27, 99	May 22, 99
99 - 08	Mar 10, 99	Mar 24, 99	Apr 7, 99	Apr 21, 99	May 11, 99	Jun 5, 99
99 - 09	Mar 24, 99	Apr 7, 99	Apr 21, 99	May 5, 99	May 25, 99	Jun 19, 99
99 - 10	Apr 7, 99	Apr 21, 99	May 5, 99	May 19, 99	Jun 8, 99	Jul 3, 99
99 - 11	Apr 21, 99	May 5, 99	May 19, 99	Jun 2, 99	Jun 22, 99	Jul 17, 99
99 - 12	May 5, 99	May 19, 99	Jun 2, 99	Jun 16, 99	Jul 6, 99	Jul 31, 99
99 - 13	May 26, 99	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 27, 99	Aug 21, 99
99 - 14	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 10, 99	Sep 4, 99
99 - 15	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 24, 99	Sep 18, 99
99 - 16	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 7, 99	Oct 2, 99
99 - 17	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 21, 99	Oct 16, 99
99 - 18	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 15, 99	Oct 5, 99	Oct 30, 99
99 - 19	Aug 25, 99	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 26, 99	Nov 20, 99
99 - 20	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 9, 99	Dec 4, 99
99 - 21	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 23, 99	Dec 18, 99
99 - 22	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 7, 99	Jan 1, 00
99 - 23	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 21, 99	Jan 15, 00
99 - 24	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 15, 99	Jan 4, 00	Jan 29, 00

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.

⁴A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230, as amended by section 202, chapter 409, Laws of 1997.

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

There is less than minor economic impact on business;

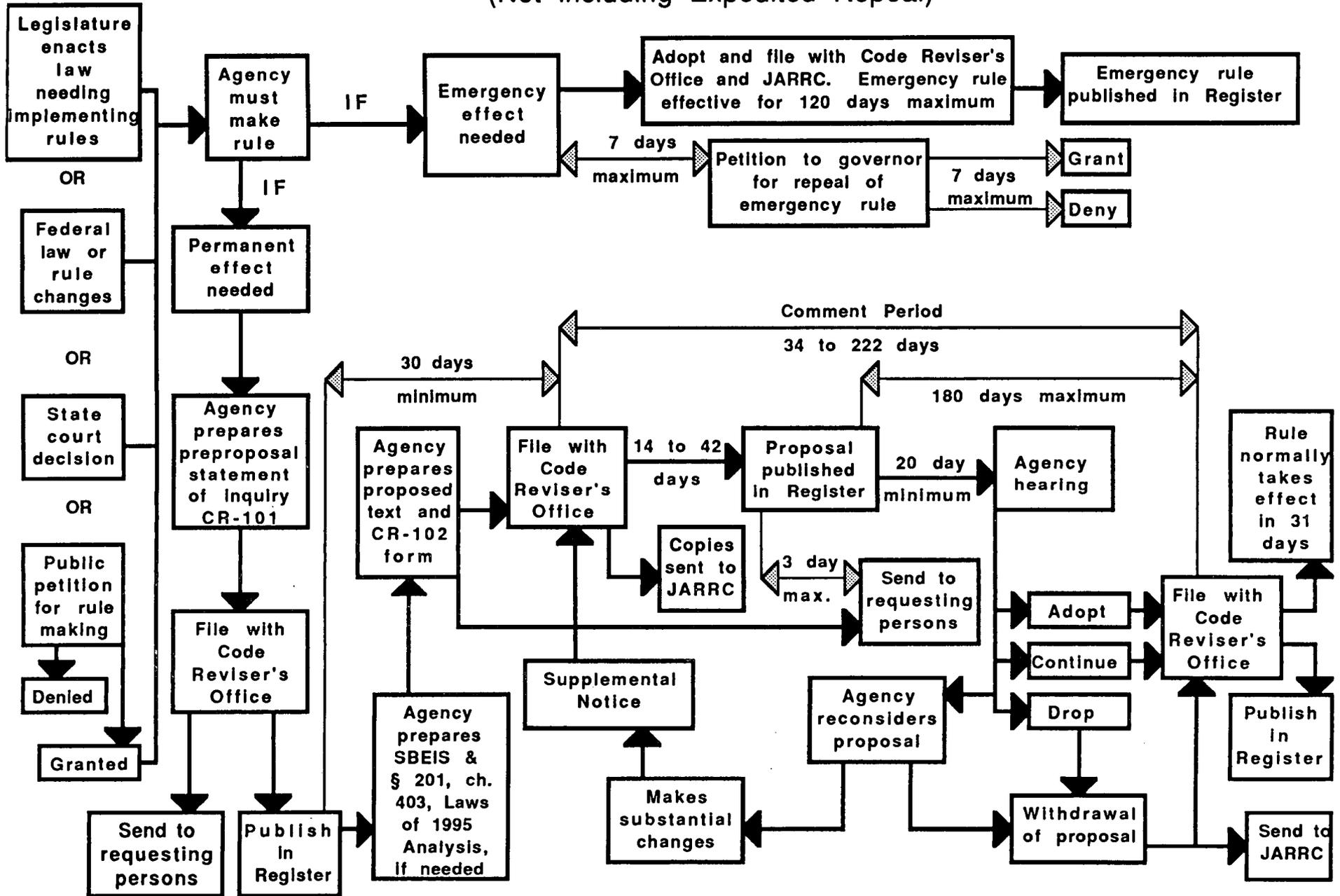
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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

The rule is pure restatement of state statute.

RULE-MAKING PROCESS

(Not including Expedited Repeal)



WSR 99-05-011
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed February 5, 1999, 12:13 p.m.]

Subject of Possible Rule Making: Establish new certificate of need fees in WAC 246-310-990.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.38.105.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Certificate of need fees are already established in rule. There are certain types of program review activities, such as nursing home bed banking and determinations of reviewability, for which a specific review fee has never been established.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The certificate of need program maintains an active interested parties list for all those entities required to go through the certificate of need process. All affected parties will receive information regarding meetings and opportunities to contribute to the rule-making process.

Process for Developing New Rule: The certificate of need program will conduct an internal fee study to identify the amount of fees required. Program staff will meet with constituents and send informational mailings.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Janis Sigman, Certificate of Need Program, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 705-6632, fax (360) 705-6654, e-mail jrs0303@doh.wa.gov.

January 30, 1999
 Kristine Van Gorkom
 Deputy Secretary

WSR 99-05-021
PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF BOILER RULES

[Filed February 9, 1999, 10:15 a.m.]

Subject of Possible Rule Making: Boilers and unfired pressure vessels law, WAC 296-104-001 through 296-104-170 and 296-104-502.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.79.030 and 70.79.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To comply with actions taken by the Board of Boiler Rules and to update current rules using clear rule writing.

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

Process for Developing New Rule: Board of Boiler Rules study of existing rules for consistency with nationally accepted codes and standards, clarification, and clear rule writing incorporating suggestions and comments from stakeholders.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dick Barkdoll, Chief Boiler Inspector, Secretary to the Board of Boiler Rules, P.O. Box 44410, Olympia, WA 98504-4410, (360) 902-5270, fax (360) 902-5272, or at the Board of Boiler Rules regular meetings, on March 18, 1999, at 10:00 a.m., Tukwila L&I Office, 12806 Gateway Drive; on May 18, 1999, 10:00 a.m., Tukwila L&I Office, 12806 Gateway Drive; or at the public hearing, on September 15, 1998 [1999], at 10:00 a.m., Labor and Industries Building, 7273 Linderson Way S.E., Tumwater.

February 9, 1999

Frank G. Sanchez

Chair

WSR 99-05-025
PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF ACCOUNTANCY

[Filed February 9, 1999, 3:33 p.m.]

Subject of Possible Rule Making: WAC 4-25-530 Fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.04.055, 18.04.065, 18.04.105, 18.04.195, 18.04.205, and 18.04.215.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 1999 legislature is considering legislation related to continuing professional education and licensing requirements for certified public accountants that will amend the Public Accountancy Act, chapter 18.04 RCW. If passed as drafted the legislation will change the renewal period for certified public accountant (CPA) certificates, individual licenses, and CPA firm licenses from biennial to every three years. The board wishes to take proactive measures to begin the rule review process if necessary. The board anticipates restructuring certificate, license, and firm license renewal fees to align with the change in statute (reflect the change from biennial renewal to renewal every three years). Currently the fees the board collects adequately pay the costs of administering chapter 18.04 RCW. The board does not anticipate that restructuring of the fee cycle will result in a realized increase in renewal fees.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by writing to Dana M. McInturff, Executive Director, Washington State Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, (360) 664-9194, fax (360) 664-9190, e-mail 103124.2013@compuserve.com.

February 4, 1999

Dana M. McInturff, CPA

Executive Director

WSR 99-05-026**PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF ACCOUNTANCY**

[Filed February 9, 1999, 3:36 p.m.]

Subject of Possible Rule Making: WAC 4-25-750 Firm license.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.04.055, 18.04.205.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 1999 legislature is considering legislation related to continuing professional education and licensing requirements for certified public accountants that will amend the Public Accountancy Act, chapter 18.04 RCW. If passed as drafted the legislation will change the renewal period for certified public accountant (CPA) firm licenses from biennial to every three years. The board wishes to take proactive measures to begin the rule review process if necessary. The board anticipates restructuring the expiration of firm licenses to align with the change in statute (reflect the change from biennial renewal to renewal every three years).

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by writing to Dana M. McInturff, Executive Director, Washington State Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, (360) 664-9194, fax (360) 664-9190, e-mail 103124.2013@compuserve.com.

February 4, 1999

Dana M. McInturff, CPA
Executive Director**WSR 99-05-027****PREPROPOSAL STATEMENT OF INQUIRY
BOARD OF ACCOUNTANCY**

[Filed February 9, 1999, 3:38 p.m.]

Subject of Possible Rule Making: WAC 4-25-780 Reciprocity for accountants from foreign countries.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.04.055, 18.04.183.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The 1999 legislature is considering legislation related to continuing professional education and licensing requirements for certified public accountants that will amend the Public Accountancy Act, chapter 18.04 RCW. If passed as drafted the legislation will require individuals applying for a Washington state certified public accountant (CPA) certificate by foreign reciprocity to complete one hundred twenty hours of continuing professional education (CPE) in the prior thirty-six months. The drafted legislation will also require individuals desiring to renew a CPA certificate and/or individual license to complete one hundred twenty hours of continuing professional education (CPE) during the preceding three years. The board wishes to

take proactive measures to begin the rule review process if necessary. The board anticipates changing its rule to align with the change in statute (reflect the change from eighty hours of CPE within a two year period to one hundred twenty hours of CPE within a three year period) both for the issuance of a certificate by foreign reciprocity and the renewal of a CPA certificate granted by foreign reciprocity.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by writing to Dana M. McInturff, Executive Director, Washington State Board of Accountancy, P.O. Box 9131, Olympia, WA 98507-9131, (360) 664-9194, fax (360) 664-9190, e-mail 103124.2013@compuserve.com.

February 4, 1999

Dana M. McInturff, CPA
Executive Director**WSR 99-05-037****PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed February 11, 1999, 1:12 p.m.]

Subject of Possible Rule Making: Personal use fishing rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080, 77.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Annual rules for fishing for anadromous species are set through the Pacific Fisheries Management Council (PFMC) and the North of Falcon (NoF) subgroup process. These rules allow harvest of available stocks with protection for stocks of concern.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: National Marine Fisheries Service is a participant in the PFMC and NoF negotiations.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bruce Crawford, Assistant Director, Fish Program, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2325. Contact by April 20, 1999. Expected proposal filing date April 21, 1999.

February 5, 1999

Evan Jacoby
Rules Coordinator

WSR 99-05-041
PREPROPOSAL STATEMENT OF INQUIRY
YAKIMA VALLEY
COMMUNITY COLLEGE
 [Filed February 12, 1999, 9:32 a.m.]

Subject of Possible Rule Making: Chapter 132P-276 WAC, Public records.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.50.140.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule is to be revised to ensure compliance by the college with provisions of the state law dealing with public records.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ms. Suzanne M. West, Public Records Officer, President's Office, Yakima Valley Community College, P.O. Box 22520, Yakima, WA 98907-2520, (509) 574-4635, fax (509) 574-4638, e-mail swest@ctc.edu. A public hearing on the rule will be held. Final approval will be in open meeting of the college's board of trustees.

February 5, 1999

Suzanne M. West

Public Records Officer
 Assistant to the President

WSR 99-05-044
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed February 12, 1999, 10:04 a.m.]

Subject of Possible Rule Making: WAC 388-86-0022 School medical services for special education students, 388-87-0005 Payment—Eligible providers defined, 388-87-0007 Medical provider agreement, 388-87-0008 Disclosure by providers—Information on ownership and control, 388-87-0010 Conditions of payment—General, 388-87-0011 Conditions of payment—Medicare deductible and coinsurance, 388-87-0020 Subrogation, 388-87-0025 Services requiring approval, 388-87-0105 Payment—Medical care outside the state of Washington, 388-87-0250 Third party resources, 388-501-0130 Administrative controls, 388-501-0175 Medical care provided in bordering cities, 388-502-0250 Interest penalties—Providers, 388-505-0540 Assignment of medical support rights, 388-505-0595 Trusts, 388-511-1130 SSI-related income availability, 388-526-2610 Fair hearings, 388-530-1800 Requirements for pharmacy claim payments, 388-530-2050 Out-of-state prescriptions, 388-540-001 Purpose, 388-540-010 Services, 388-540-020 Reimbursement, 388-540-040 Transfer of resources, and 388-540-050 Fiscal information.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The medical assistance administration (MAA) is reviewing the rules listed above for compliance with the clear-writing principles in the Governor's Executive Order on regulatory improvement. If the rules do not meet those standards, MAA will amend or repeal as necessary - without setting new policy or making policy changes. This action is essentially a housekeeping action.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this WAC. Draft material and information about how to participate are available by contacting the DSHS representative identified below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ann Myers, Regulatory Improvement Coordinator, Medical Assistance Administration, Olympia, Washington 98504-5530, phone (360) 586-2337, fax (360) 753-7315, TTY 1-800-848-5429, e-mail myersea@dshs.wa.gov.

February 10, 1999

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 99-05-045
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 (Division of Assistance Programs)
 [Filed February 12, 1999, 10:07 a.m.]

Subject of Possible Rule Making: WAC 388-478-0055 Supplemental security income (SSI) standards, the department plans to revise supplemental security income (SSI) state supplement payment (SSP) standard to stay within the level of funding allocated by the Washington state legislature. We anticipate a reduction of about \$3.00 per client during calendar year (CY) 1999 will allow the department to stay within allotted levels.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090 and 74.04.630.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: CY 99 expenditures are anticipated to exceed legislative allocations (established in 1995) due to fluctuations in the SSI caseload.

Reducing payments by about \$3.00 for each client will allow the department to balance caseload and expenditures, stay within allotted levels, and continue to meet federal requirements for the SSI state supplement program for CY 99.

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

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rule. Anyone interested

in participating should contact the staff person indicated below. After the rule is drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making and send a copy to everyone currently on the mailing list or anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barbara Hargrave, Program Manager, Division of Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 413-3104, fax (360) 413-3493, e-mail hargrave@dshs.wa.gov.

February 9, 1999
Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-05-051
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed February 12, 1999, 1:09 p.m.]

Subject of Possible Rule Making: During the past year labor and industries underwent a performance audit which was overseen by the Joint Legislative Audit Review Committee (JLARC). Included in the performance audit were several suggestions (recommendations) aimed at improving or enhancing the retrospective rating program administered by labor and industries. Implementation of some of these recommendations would require labor and industries to establish new administrative rules (WACs). Subjects of possible rule making include:

- Establishment of new underwriting guidelines, such as kept on salary and light duty options for injured workers;
- Requiring the addition [of] safety performance measurements as part of the retro premium formula;
- Offering additional group plans;
- Consideration of hazard groups and/or safety groups; and
- Elimination of any bias that might exist in the retro premium formula.

If these changes are adopted they would be in the form of rules and would be codified in chapter 296-17 WAC, General reporting rules, classifications, audit and recordkeeping, rates and rating system for workers' compensation insurance.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.16.035.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The JLARC performance audit identified several areas that if adopted by labor and industries might improve or enhance the retrospective rating program. Any change to the retrospective rating program has the potential of impacting roughly 44% of the state fund premium and the over 14,000 employers that pay this premium. Because these changes would have state-wide application and affect a large number of employers that participate in the

retrospective rating program any change should be in the form of rule.

By establishing these policy changes as rules the public will have a greater opportunity to participate in their development. Labor and industries has minimal underwriting and safety measurements currently in place. None of the existing regulations however, address the depth of issues presented in the JLARC report.

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

Process for Developing New Rule: Labor and industries will begin the rule development process by working with the Retro Advisory Committee. Once the committee has developed general ideas, labor and industries will conduct a number of public meetings around the state in March 1999, to solicit input from customers that participate in the retrospective rating program.

Labor and industries will use this information and feedback to further modify the ideas and then make an informal presentation to the Retro Advisory Committee on April 13, 1999. Labor and industries will then conduct another series of public meetings in May or June to share the most current version of the ideas in the form of draft rules and solicit input.

Information obtained from the public meetings as well as other ideas that originate with customers will be presented to the Retrospective Rating Advisory Committee on July 20, 1999, for review. This information will also be presented to the Workers' Compensation Advisory Committee. The director of labor and industries will take into consideration the recommendations of both committees prior to a formal rule filing tentatively scheduled for August 4, 1999. Labor and industries may hold special work sessions with the committee or other retro groups to further address all of the ideas and put forth a comprehensive rule proposal.

The retro advisory committee will present the results of these meetings and rule proposals to the Workers' Compensation Advisory Board including interim reports during the rule-making process. Labor and industries would like to have new rules in place by January 1, 2000.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. A letter will be mailed to employers and groups that participate in the retro program in early March disclosing the date, time and location of these meetings. These informal meetings will not be scheduled until after a work session of the committee has taken place. Retro employers and other interested parties can call the department at (360) 902-4835 to obtain information on participation.

January 29, 1999
Gary Moore
Director

WSR 99-05-056
PREPROPOSAL STATEMENT OF INQUIRY
THE EVERGREEN STATE COLLEGE

[Filed February 16, 1999, 9:57 a.m.]

Subject of Possible Rule Making: Disciplinary records of students.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.40.120(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Federal rule and statute changes require amendment on some sections and allow revision on others related to release of student disciplinary hearing records.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: This rule is regulated by the Department of Education and their rules; that is why we are considering these changes.

Process for Developing New Rule: On-campus consultation, consensus building consistent with normal institutional practices.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting D. Lee Hoemann, Executive Associate to the President, The Evergreen State College, Library Building, Room 3105, Olympia, Washington 98505, (360) 866-6000 ext. 6113, fax (360) 866-6823.

February 11, 1999
 D. Lee Hoemann
 Rules Coordinator

WSR 99-05-060
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY

[Order 98-20—Filed February 16, 1999, 12:38 p.m.]

Subject of Possible Rule Making: Surface water quality standards, chapter 173-201A WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 90.48 and 90.54 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: (1) The existing antidegradation policy in the surface water quality standards lacks sufficient plans to guide its implementation.

(2) We want to better tailor the criteria assigned to our waters to the characteristics uses that actually exist in those waters.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Some of the changes to the standards are being done to improve coordination with regulations of the Department of Health. Staff from the Department of Health are members of a technical work-group and are helping to ensure that the overlap is compatible and complementary. This work-group also contains representatives from the USFDA the USPHS.

Process for Developing New Rule: Use-based: Five technical work-groups and five public workshops.

Antidegradation: A discussion-draft was written from response to questionnaires mailed to a one-hundred person advisory panel. The draft was reviewed by a smaller technical advisory panel for written comments and presented to a policy advisory panel for comment.

For Both: Letters sent to four-thousand interested persons to develop interest and involvement.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. A written public comment period and public hearings will be held throughout the state beginning about September of 1999.

To receive a copy of the draft rule language and find out when and where public hearings will be held, contact Mary Getchell by mail at Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, by phone at (360) 407-6157, through e-mail at mget461@ecy.wa.gov. The fax number is (360) 407-6426.

February 10, 1999
 Megan White
 Program Manager

WSR 99-05-065
PREPROPOSAL STATEMENT OF INQUIRY
THE EVERGREEN STATE COLLEGE

[Filed February 17, 1999, 8:53 a.m.]

Subject of Possible Rule Making: Shoplifting policy.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.40.120(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To place into rules a policy for the college to implement shoplifting enforcement procedures.

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

Process for Developing New Rule: On-campus consultation, consensus building consistent with normal institutional practices.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting D. Lee Hoemann, Executive Associate to the President, The Evergreen State College, Library Building, Room 3105, Olympia, Washington 98505, (360) 866-6000 ext. 6113, fax (360) 866-6823.

February 11, 1999
 D. Lee Hoemann
 Rules Coordinator

WSR 99-05-069
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE

[Filed February 17, 1999, 10:13 a.m.]

Subject of Possible Rule Making: Adoption of chapter 458-08 WAC, Rules for revaluation of real property, repealing WAC 458-12-040, 458-12-300, 458-12-301, 458-12-305, 458-12-326, 458-12-327, 458-12-330, 458-12-335, 458-12-336, 458-12-337, 458-12-338, and 458-12-339.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 84.08.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules that currently exist to address revaluation of real property are outdated. They do not address the current state of the law, either statutory or case law, with respect to revaluation issues and are being repealed. The proposed new rules will provide the guidance necessary to keep the revaluation of property consistent and uniform throughout the thirty-nine counties of the state.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other federal or state agency is involved with regulating this subject.

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to James A. Winterstein, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 586-4283, fax (360) 664-0693.

Location and Date of Public Meeting: Evergreen Plaza Building, 711 Capitol Way, 2nd Floor Compliance Conference Room, Olympia, WA, on March 24, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Virginia Sunde by March 17, 1999, TDD 1-800-451-7985, or (360) 586-8640.

February 17, 1999

Russell W. Brubaker, Assistant Director
 Legislative and Policy Division

WSR 99-05-070
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed February 17, 1999, 10:23 a.m.]

Subject of Possible Rule Making: Amend WAC 388-15-177 Subsidized child care payment and add new sections regarding exceptions to the standard rate rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.12.340.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rates for the DSHS child care subsidy programs have not been in WAC. Adding the DSHS maximum rate table to WAC will set a standard for what DSHS child care subsidy programs are able to pay and when exceptions are made to that rate.

Process for Developing New Rule: Children's Administration welcomes other agencies, stakeholders, advocates, and the public to take part in developing the rules. Anyone interested in participating should contact the staff person indicated below. After the rules are drafted, DSHS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to anyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Sally Reigel, Program Manager, P.O. Box 45700, Olympia, WA 98507, phone (360) 902-8046, TTY (360) 902-7906, fax (360) 902-7588, e-mail REIS300@DSHS.WA.GOV.

February 16, 1999

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

WSR 99-05-077
PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY

(Basic Health Plan)

[Filed February 17, 1999, 11:09 a.m.]

Subject of Possible Rule Making: Revise WAC 182-25-040 and 182-25-090 (rules for enrollment and disenrollment) and create new section WAC 182-25-085 for recoupment of subsidy overpayment and assessing penalties when basic health enrollees have under-reported income.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.47.050, 70.47.060, 70.47.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: SHB 3109, passed by the 1998 legislature, revises RCW 70.47.060(9), giving the Health Care Authority (HCA) the authority to recover the amount of subsidy overpaid when enrollees have under-reported income, or to assess penalties of up to 200% of the amount of the subsidy overpayment, and requiring the adoption of rules for these sanctions. New WAC 182-25-085 will be created to implement provisions regarding recoupment and sanctions. WAC 182-25-040 and 182-25-090 will be revised to incorporate changes related to sanctions and for clarity and to remove duplication or unnecessary language, as required by Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies regulate this subject. However, rules will be revised and new rules drafted with input from the Social Security Administration and from other state agencies, such as the Department of Social and Health Services and Department of Health.

Process for Developing New Rule: Stakeholder mailings and public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rosanne Reynolds (L3), Basic Health Plan, P.O. Box 42683, Olympia, WA 98504-2683, phone (360) 923-2948, fax (360) 412-4276.

February 17, 1999

Elin S. Meyer
Rules Coordinator

WSR 99-05-078

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 17, 1999, 11:30 a.m.]

Subject of Possible Rule Making: Chapter 296-150C WAC, Commercial coaches, chapter 296-150F WAC, Factory-built housing and commercial structures, chapter 296-150M WAC, Manufactured homes, chapter 296-150P WAC, Recreational park trailers, and chapter 296-150R WAC, Recreation vehicles.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 43.22 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In the spirit of regulatory reform and the governor's Executive Order 97-02, the department has reviewed its FAS rules and policies and will be proposing rule amendments which will incorporate some policies into the rules, update some rule content, clarify the language and intent of some rule sections, and make corrective housekeeping changes where appropriate.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department will be in communication with the Washington Association of Building Officials (WABO) and the Department of Community, Trade and Economic Development. Both groups will be provided copies of any proposed rules for their review and comment.

Process for Developing New Rule: The department will utilize input from department staff, stakeholder groups, individual stakeholders and the FAS Advisory Board to formulate rule language and will solicit public comments through the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dan Wolfenbarger, Chief Factory Assembled Structures Inspector, Department of Labor and Industries, Specialty Compliance Services Division, P.O. Box 44440, Olympia, WA 98504-4440, (360) 902-5225, fax (360) 902-5292.

February 12, 1999

Gary Moore
Director

WSR 99-05-081

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF PERSONNEL

[Filed February 17, 1999, 11:40 a.m.]

Subject of Possible Rule Making: To approve public and private nonprofit organizations into the combined fund drive.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Executive Order 84-13 and WAC 240-10-010(7).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Charities providing services in the area of the arts are not approved for the combined fund drive. These charities should not be excluded.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Internal Revenue Service approve the charity status, 501 (c)(3), for nonprofit organizations. The state of Washington Secretary of State approves and monitors nonprofit organizations to do business in Washington state.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Randy Ryan, P.O. Box 47530, Olympia, WA 98504-7530, (360) 664-1994, fax (360) 586-6695.

February 17, 1999

Thuy Hua-ly
CFD Committee Member

WSR 99-05-082

PREPROPOSAL STATEMENT OF INQUIRY OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

[Filed February 17, 1999, 11:44 a.m.]

Subject of Possible Rule Making: WAC 326-30-041 Annual goals.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 39.19.030(7).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Recent changes in state law expressly prohibit discrimination based on race or gender in public contracting unless it is prerequisite for federal funding. Recent changes in federal regulations reaffirm requirements to maintain a minority and women's business enterprises program to ensure continued federal funding assistance. The state's soon-to-be-released disparity study indicates that there is a disparity between the participation of businesses owned by white males and that of businesses owned by minorities and/or women. Specifically, businesses owned by white males are over utilized given their percentage in the pool of businesses available to the state. Further, the study indicates that the underutilization of businesses owned by minorities and women is statistically significant and cannot be attributed to chance.

The office is considering the establishment of overall annual goals by race and gender. These goals would not be contract-specific and implementation would be designed to emphasize nondiscrimination rather than goal attainment.

Other changes under consideration include, but are not limited to, further delineation of classes of contract, goals by geographic region (Eastern and Western Washington) and goals for direct and indirect contracting (prime and subcontracting).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The office is meeting with representatives of the United States Department of Transportation, the Environmental Protection Agency and the United States Small Business Administration to ensure the state remains in compliance as it restructures its program.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Juan Huey-Ray, Rules Coordinator, phone (360) 704-1188, fax (360) 586-7079, Office of Minority and Women's Business Enterprises, P.O. Box 41160, Olympia, WA 98504-1160. All comments must be received by April 27, 1999.

February 12, 1999
James A. Medina
Director

ity and Women's Business Enterprises, P.O. Box 41160, Olympia, WA 98504-1160. All comments must be received by April 27, 1999.

February 12, 1999
James A. Medina
Director

WSR 99-05-083

PREPROPOSAL STATEMENT OF INQUIRY

OFFICE OF MINORITY

AND WOMEN'S BUSINESS ENTERPRISES

[Filed February 17, 1999, 11:46 a.m.]

Subject of Possible Rule Making: WAC 326-02-034 Political subdivision fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 39.19.030(7).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Charges have been assessed to political subdivisions of the state for the administration of the state's minority and women's business enterprise certification since the 1993-95 biennium. The formula used to calculate the amounts due was developed initially by a small group of the affected subdivisions. It was modified during the 1995-97 biennium as more subdivisions were phased in.

Today, a significant number of political subdivisions affected by this rule have not had the opportunity to give input on the formula. The office is inviting all subdivisions currently being charged to review the formula before the next biennium's charges are calculated.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Juan Huey-Ray, Rules Coordinator, phone (360) 704-1188, fax (360) 586-7079, Office of Minor-

NO EXPEDITED REPEALS FILED IN THIS ISSUE

EXPEDITED REPEAL



WSR 99-05-006
PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed February 5, 1999, 8:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-013.

Title of Rule: WAC 468-38-110 Escort vehicle requirements.

Purpose: Establishes a clear set of requirements and operating instructions for escort vehicles.

Statutory Authority for Adoption: RCW 46.44.090.

Summary: The proposal changes a certification compliance date from January 1, 1999, to January 1, 2000.

Reasons Supporting Proposal: The certification is based upon a one training session which is under development. Development is estimated to be completed by May. The time needed to develop the training, train instructors, and the number of potential individuals that will require the training, dictates that more time be given before compliance is required.

Name of Agency Personnel Responsible for Drafting and Implementation: Barry Diseth, Washington State Department of Transportation, Olympia, (360) 664-9497; and Enforcement: Captain Colleen McIntyre, Washington State Patrol, Olympia, (360) 753-0350.

Name of Proponent: Washington State Department of Transportation, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule provides basic vehicle requirements and operating procedures for acting in the capacity of an escort for over-dimensional transport on state highways. The rule requires operators to have a certificate as an escort vehicle operator.

Proposal Changes the Following Existing Rules: It changes the compliance date for certification, allowing more time to develop a training program, train instructors, and address the needs of the escort vehicle industry.

No small business economic impact statement has been prepared under chapter 19.85 RCW. If anything, the impact of the rule has been relieved by allowing operators some breathing room to acquire the necessary training and certification.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Department of Transportation, Commission Board Room 1D2, Transportation Building, Olympia, Washington 98504, on March 29, 1999, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact TDD (360) 705-6980.

Submit Written Comments to: Barry Diseth, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98504-7367, fax (360) 664-9440.

Date of Intended Adoption: March 29, 1999.

January 28, 1999

Gerald E. Smith

Deputy Secretary, Operations

AMENDATORY SECTION (Amending Order 179, filed 7/31/98, effective 8/31/98)

WAC 468-38-110 Escort vehicle requirements. (1) When the escort vehicle is in front of the permitted vehicle, the operator shall:

(a) Warn oncoming traffic of the presence of the permitted vehicle by use of signs and lights as provided in subsections (4) and (8) of this section.

(b) Notify the driver of the permitted vehicle, and driver(s) of any trailing escorts, by two-way radio, of all hazards; overhead clearances; obstructions; traffic congestion; pedestrians; and any other circumstances evident to the operator that could affect either the safe movement of the permitted vehicle, the safety of the traveling public, or the efficient movement of traffic in sufficient time for the driver of the permitted vehicle to take corrective action, as necessary.

(c) To the extent necessary, locate safe places (if available) adjacent to the highway and notify the driver of the permitted vehicle, and driver(s) of trailing escorts, in ample time for the permitted vehicle and the escort vehicle(s) to clear the highway, allowing the traffic following to safely pass, or for any other reasons necessary to provide for the safety of the traveling public.

(d) Be far enough in front of the permitted vehicle to signal oncoming motorists to stop in a timely manner, or as specified by local jurisdiction, before such motorists enter any narrow structures or other restrictions on the highway, to permit the safe passage of the permitted vehicle.

(2) When the escort vehicle is behind the permitted vehicle, the operator shall:

(a) Warn traffic approaching from the rear of the presence of the permitted vehicle ahead, by use of signs and lights as provided in subsections (4) and (8) of this section.

(b) Notify the driver of the permitted vehicle, and driver of any lead escort, by two-way radio of flat tires or other problems with the permitted vehicle; objects coming loose from the permitted vehicle; other traffic approaching or passing the permitted vehicle; and any other circumstances evident to the operator that could affect either the safe movement of the permitted vehicle, the safety of the traveling public, or the efficient movement of traffic, in sufficient time for the driver of the permitted vehicle to take corrective action.

(c) Notify the front escort driver and the driver of the permitted vehicle by two-way radio of traffic build-up and other delays to the normal flow and efficient movement of traffic caused by the movement of the permitted vehicle.

(d) Notify the driver of the permitted vehicle, and driver of any lead escort, by two-way radio of other vehicles attempting to pass the permitted vehicle or load.

(e) Be far enough behind the permitted vehicle to signal motorists following the permitted vehicle to slow or stop in a timely manner, or as specified by local jurisdiction, before narrow structures or other restrictions in the highway, to permit the safe passage of the permitted vehicle.

(3) The escort vehicle operator shall ensure that the escort vehicle is in safe and reliable operating condition.

(4) An escort vehicle shall, in addition to any other equipment required by traffic law, be equipped with a minimum of two flashing or rotating amber lights, positioned

PROPOSED

above the roof line, visible from a minimum of five hundred feet to traffic approaching from the front or rear of the escort. The light apparatus must not obstruct, or be obstructed by, the required OVERSIZE LOAD sign.

(5) The escort vehicle shall:

(a) Be either a single unit passenger car or a two-axle truck;

(b) Not exceed a maximum gross vehicle weight rating of fourteen thousand pounds;

(c) Be at least sixty inches wide; and

(d) Not exceed the legal limits of size and weight, as defined in chapter 46.44 RCW.

(6) The escort vehicle shall not carry any passengers, human or animal (excluding individuals in training status or necessary flag persons), or equipment or load in or on the escort vehicle which:

(a) Exceeds the height, length, or width of the escort vehicle, or overhangs the escort vehicle, or otherwise impairs its immediate recognition as a safety escort vehicle by the motoring public; or

(b) Obstructs the view of the flashing or rotating yellow lights, or the signs used by the escort vehicle; or

(c) Causes safety risks; or

(d) Otherwise impairs the performance by the operator or the escort vehicle of the duties required by these rules.

(7) The escort vehicle operator shall properly load and secure any item(s) or equipment or load carried by the escort vehicle to ensure compliance with the requirements of this section.

(8) An escort vehicle shall display "oversize load" signs, in clear readable condition, which shall be mounted above the roofline of the escort vehicle and be visible to approaching traffic from the front and the rear. All such signs shall be a minimum of five feet wide, ten inches high with one-inch wide brush stroke, black letters a minimum of eight inches high on yellow background, or shall be a maximum of seven feet wide, eighteen inches high, with a 1.41 inch brush stroke, black letters a minimum of ten inches high on yellow background.

(9) The escort vehicle(s) shall have its headlights activated at all times when escorting a permitted vehicle.

(10) The escort vehicle shall be equipped with a two-way radio capable of providing reliable two-way voice communication between the driver of the permitted vehicle and the driver(s) of the escort vehicle(s) when the permitted vehicle is in motion on a public highway.

(11) An escort vehicle shall carry the following items of equipment at all times when escorting a permitted vehicle:

(a) Standard eighteen inch STOP & SLOW paddle sign.

(b) Three bi-directional emergency reflective triangles.

(c) A minimum of one 5 pound B, C, fire extinguisher, or equivalent.

(d) A reflectorized high visibility orange or other color vest, shirt or jacket, as permitted by the *Manual on Uniform Traffic Control Devices*, and a yellow or other highly visible colored hard hat to be worn by the operator while directing traffic, in accordance with WAC 296-155-305, Signaling.

(e) A height measuring device which is nonconductive and nondestructive to overhead clearances, when required by the terms of the permit or regulations.

(f) First-aid supplies must be readily available as described in WAC 296-24-06145.

(g) A flashlight in working order with red nose cone.

(12) An escort vehicle is prohibited from escorting more than one permitted vehicle at the same time, unless expressly authorized by the department.

(13) A front escort vehicle shall use a height pole at all times when escorting a permitted vehicle exceeding fifteen feet in height, unless otherwise expressly authorized/directed by the department on the permit. The height pole shall not extend less than three inches nor more than six inches above the maximum height of the permitted vehicle being escorted. When the escort vehicle is not escorting a permitted vehicle, but is moving on the highway, the height pole shall be removed, tied down, or shortened to within legal limits, unless involved in the act of prerunning a route to determine height acceptance.

(14) When an escort vehicle is not escorting a permitted vehicle, or prerunning a route, but is moving on a public highway, the signs, described in subsection (8) of this section, shall either be removed, lowered to a position not readily visible, or covered, and the flashing yellow lights, described in subsection (4) of this section, shall not be operated.

(15) In the performance of the duties required by these rules, the operator of the escort vehicle may be required to advise the permitted vehicle to stop, allowing other traffic to proceed safely. The operator of the escort vehicle shall signal the permitted vehicle to stop, and the permitted vehicle shall stop, as far off the roadway as practicable to allow other traffic to pass in the following situations:

(a) When the permitted vehicle becomes disabled; or

(b) When the movement of the permitted vehicle on a particular section of public highway presents a safety risk or unreasonably interferes with the efficient movement of other traffic, based upon such factors as the widths of the permitted vehicle and the roadway, volume of other traffic, visibility and limited sight distance, and mountainous terrain; or

(c) When driving conditions for the permitted vehicle are hazardous for any other reason, including weather.

(16) In the performance of the duties required by these rules, the escort vehicle operator may be required to direct other traffic to stop, slow or proceed in order to allow the permitted vehicle to continue moving safely, or to help the other traffic to navigate around a stopped permitted vehicle. When directing traffic in these situations, the operator of the escort vehicle shall, effective January 1, ((1999)) 2000:

(a) Be certified, having a valid WSDOT certificate/card on person, as an escort vehicle operator;

(b) Comply with procedures described in Section 6 of the MUTCD, as may be amended by the department of transportation, and such other criteria as may be developed under WAC 296-155-305, Signaling.

(17) The operator of the permitted vehicle and the operator(s) of the escort vehicle(s) shall comply with the following procedures:

(a) Before trip:

(i) Discuss aspects of the move, including the permitted vehicle, the route, and specific responsibilities.

(ii) Review permit special conditions.

- (iii) Review the permitted route.
- (iv) Determine the proper position of the escort vehicle(s).
- (v) Establish any necessary procedures.
- (vi) Check mandatory equipment, each operator being responsible for their own vehicle.
- (vii) Mount signs, adjust mirrors, turn on lights.
- (viii) Check each two-way radio to ensure clear communication on a selected channel.
- (ix) Assure special motor vehicle permit(s) is in the possession of the appropriate operator(s).
- (x) Determine if additional flagpersons will be necessary and, if so, have them available.
 - (b) During the trip:
 - (i) Obey all traffic laws.
 - (ii) Do not follow or precede more closely than is reasonably prudent, considering the speed of the permitted vehicle, other traffic, and highway conditions.
 - (iii) Do not exceed 1/2 mile distance between permitted vehicle and the escort vehicle to maintain radio contact, except when necessary to safely travel a long narrow section of highway.
 - (c) Traffic lights:
 - (i) If the front escort vehicle goes through a traffic light but the permitted vehicle does not, the escort vehicle must pull over to the right side of the highway, where practicable, to wait for the permitted vehicle.
 - (ii) If the permitted vehicle goes through the traffic light but the escort vehicle does not, then the permitted vehicle must pull over to the right side of the highway, where practicable, to wait for the rear escort vehicle.
- (18) When uniformed off-duty law enforcement officers act as escorts, using official police cars or motorcycles, the requirements of this section may be amended as necessary.

WSR 99-05-014
PROPOSED RULES
LIQUOR CONTROL BOARD

[Filed February 5, 1999, 12:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-21-068.

Title of Rule: WAC 314-68-010 Purpose, 314-68-020 Definitions, 314-68-030 How much alcoholic beverages can a private individual bring into the state of Washington for personal or household use?, 314-68-040 What are the procedures for a private individual to bring alcoholic beverages into the state from outside the United States for personal or household use?, and 314-68-050 What are the procedures for a private individual to bring alcoholic beverages into the state from another state for personal or household use?

Purpose: Chapter 314-68 WAC outlines the guidelines for persons to bring alcoholic beverages into the state for personal or household use, either from another state or from outside the United States.

Statutory Authority for Adoption: RCW 66.08.030.
 Statute Being Implemented: RCW 66.12.120.

Summary: Chapter 314-68 WAC, outlines the guidelines for persons to bring alcoholic beverages into the state for personal or household use, either from another state or from outside the United States. The board is considering the following changes to this chapter:

- Rewrite chapter 314-68 WAC to make the rules more clear and usable, per Governor Locke's Executive Order 97-02.
- Expand the definition of "bringing" as used in WAC 314-68-020, to allow for the shipment of alcohol when a person buys from an auction.
- Allow a one-time exemption from payment of tax and markup for persons who inherit liquor or move into the state with liquor as part of their household items, in WAC 314-68-030.

Name of Agency Personnel Responsible for Drafting: Teresa Berntsen, P.O. Box 43080, Olympia, WA 98504-3080, (360) 586-1641; Implementation: Gary Thompson, P.O. Box 43075, Olympia, WA 98504-3075, (360) 753-6255; and Enforcement: Gary Gilbert, P.O. Box 43075, Olympia, WA 98504-3075, (360) 753-6270.

Name of Proponent: Washington State Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 314-68 WAC outlines the guidelines for persons to bring alcoholic beverages into the state for personal or household use, either from another state or from outside the United States.

The board is considering the following changes to this chapter:

- Rewrite chapter 314-68 WAC to make the rules more clear and usable, per Governor Locke's Executive Order 97-02.
- Expand the definition of "bringing" as used in WAC 314-68-020, to allow for the shipment of alcohol when a person buys from an auction.
- Allow a one-time exemption from payment of tax and markup for persons who inherit liquor or move into the state with liquor as part of their household items, in WAC 314-68-030.

Proposal Changes the Following Existing Rules:

- Rewrite chapter 314-68 WAC to make the rules more clear and usable, per Governor Locke's Executive Order 97-02.
- Expand the definition of "bringing" as used in WAC 314-68-020, to allow for the shipment of alcohol when a person buys from an auction.
- Allow a one-time exemption from payment of tax and markup for persons who inherit liquor or move into the state with liquor as part of their household items, in WAC 314-68-030.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Liquor Control Board is not a listed agency in section 201.

Hearing Location: Washington State Liquor Control Board, Board Room, Fifth Floor, 1025 East Union Avenue, Olympia, WA 98501, on March 31, 1999, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Teresa Berntsen by March 30, 1999, TDD (360) 586-4727, or (360) 586-1641.

Submit Written Comments to: Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, fax (360) 664-9689, by April 7, 1999.

Date of Intended Adoption: April 7, 1999.

February 5, 1999
Eugene Prince
Chair

PROPOSED

AMENDATORY SECTION (Amending Order 60, filed 11/1/77)

~~WAC 314-68-010 Purpose.~~ The purpose of this chapter is to ~~((comply with and implement provisions of RCW 66.12.110 and 66.12.120 and to regulate the importation of))~~ outline the regulations for a person to bring alcoholic beverages into the state ((from outside the United States, or from another state within the United States,)) for personal or household use, either from another state or from outside the United States, per RCW 66.12.110 and 66.12.120.

AMENDATORY SECTION (Amending Order 60, filed 11/1/77)

~~WAC 314-68-020 Definitions.~~ ~~((In this title, unless the context provides otherwise, the following definitions shall apply:))~~

(1) "Alcoholic beverages" means liquor as defined in RCW 66.04.010(16).

(2) ~~(("Unlicensed individual" means a person, 21 years of age or older, bringing alcoholic beverages into the state from outside the United States, or from another state within the United States, for personal or household use.~~

(3) ~~"Personal or household use" means that the alcoholic beverages are to be consumed by the unlicensed individual, in his residence, or by his family and/or guests, in his residence, at no charge to the family and/or guests. Personal or household use also means that such alcoholic beverages may not be sold or resold.))~~ "Private individual" means a person bringing alcoholic beverages into the state from another state or from outside the United States for personal or household use.

(3) "Personal or household use" means:

(a) The alcoholic beverages are to be consumed by the private individual or the person's family or guests, in the individual's private residence; and

(b) The alcoholic beverages may not be sold or resold.

(4) "Equivalent markup and tax" means the average state markup and tax that would ~~((be applicable))~~ apply to the purchase of the same or similar alcoholic beverages at retail from a state liquor store.

(5) "Bringing alcoholic beverages into the state" means personally carrying alcoholic beverages purchased outside the state into the state of Washington.

Persons who purchase alcohol for personal or household use from auction sellers may have their purchases shipped to

them in the state of Washington, provided they obtain advance authorization from the board and arrange to pay the equivalent markup and tax (see WAC 314-68-040 or 314-68-050 for procedures).

AMENDATORY SECTION (Amending Order 40, filed 8/21/75)

~~WAC 314-68-030 ((Quantity.))~~ How much alcoholic beverages can a private individual bring into the state of Washington for personal or household use? ((The amount of alcoholic beverages which an unlicensed individual may bring into the state shall be governed by the following:

(1) ~~Such quantities as have been declared and permitted to enter the United States duty free under federal law may be allowed to enter the state from without the United States, free of tax and markup, for personal or household use.~~

(2) ~~Such quantity in excess of that permitted in WAC 314-68-030(1) may be allowed to enter the state from without the United States, for personal or household use, upon payment of the equivalent markup and tax.~~

(3) ~~The board may authorize a reasonable amount of alcoholic beverages to be brought into the state from another state for personal and household use, upon payment of the equivalent markup and tax.))~~

	<u>Do Not Have to Pay Tax and Markup</u>	<u>Must Pay Tax and Markup</u>
<u>Bringing from inside the U.S.</u>	<u>2 liters of spirits or wine or 288 ounces of beer, no more than once per calendar month.</u>	<u>A reasonable amount above 2 liters of spirits or wine or 288 ounces of beer during one calendar month.</u>
<u>Bringing from outside the U.S.</u>	<u>The amount that has been declared and permitted to enter the United States duty free under federal law.</u>	<u>A reasonable amount in excess of that permitted by federal law.</u>

Individuals moving into the state or receiving alcoholic beverages through inheritance or estate settlements will be allowed a one-time exemption from payment of tax and markup.

AMENDATORY SECTION (Amending Order 60, filed 11/1/77)

~~WAC 314-68-040 ((Procedures for foreign imports.))~~ What are the procedures for a private individual to bring alcoholic beverages into the state from outside the United States for personal or household use? ((Procedures for an unlicensed individual to bring alcoholic beverages in excess of the quantity permitted in WAC 314-68-030(1) into the state from outside the United States for personal or household use are as follows:

(1) ~~The United States Customs Service shall be requested to require each such individual to complete a declaration form prescribed by the board, and to present such form to the United States customs inspector who will review the form for completeness; compute state taxes and markup from a chart supplied by the board; sign the form; provide duplicate copies of the completed form to the unlicensed individual; mail a copy of the form to the board, and retain a copy for the United States Customs Service.~~

(2) ~~The unlicensed individual who has signed the declaration form shall mail a copy of the form with payment of the total state taxes and markup to the Washington State Liquor Control Board, Purchasing Division, Olympia, Washington, within ten calendar days from the date of signing the declaration form, and said individual shall act as custodian for the alcoholic beverages until a release is received from the board.~~

(3) ~~Upon receipt of total state taxes and markup due, the board shall mail a receipt/release to the unlicensed individual signing such declaration, authorizing use of the alcoholic beverages, for which the total state taxes and markup due has been paid, for personal or household use, but not for sale or resale.)~~ Fill out a board declaration form, which is available from the United States Custom Service.

(1) Compute the state taxes and markup using the chart on the form.

(2) Sign the form.

(3) Keep a copy for your records and give a copy to the United States Customs Service.

(4) Send a copy of the form with payment within ten days to the Washington State Liquor Control Board, Purchasing Division, Olympia, Washington.

(5) The board will mail a receipt to the individual who signed the form, authorizing use of the alcoholic beverages for personal or household use.

AMENDATORY SECTION (Amending Order 40, filed 8/21/75)

WAC 314-68-050 (~~Procedures for domestic imports~~) What are the procedures for a private individual to bring alcoholic beverages into the state from another state for personal or household use? ((Procedures for an unlicensed individual to bring alcoholic beverages into the state from another state for personal or household use are as follows:

(1) ~~Prior authorization must be obtained from the board before alcoholic beverages may be brought into the state from another state for personal or household use. Any unlicensed individual who fails to obtain prior authorization will be subject to provisions of RCW 66.44.160.~~

(2) ~~An unlicensed individual may apply for such authorization to the Washington State Liquor Control Board, Attention Liquor Purchasing Agent, 1025 East Union Avenue, Olympia, Washington 98504. The application must include a list of the items to be brought into the state.~~

(3) ~~The liquor purchasing agent will compute the equivalent markup and tax, and issue said authorization upon payment by the unlicensed individual of the applicable equivalent markup and tax.~~

(4) ~~The authorization will list the alcoholic beverage items to which it applies, and the markup and taxes the unlicensed individual paid thereon.~~

(5) ~~The authorization must be in possession of the unlicensed individual when such alcoholic beverages are brought into the state.)~~ (1) You must obtain prior authorization from the board before bringing alcoholic beverages into the state from another state for personal or household use. Any private individual who fails to obtain prior authorization will be subject to the provisions of RCW 66.44.160, "Illegal possession, transportation of alcoholic beverages."

(2) To obtain approval if you know the quantity of alcoholic beverages you will bring into the state:

(a) Mail a list of the items to be brought into the state to the Washington State Liquor Control Board, Purchasing Division, Olympia, Washington.

(b) The liquor purchasing agent will compute the tax and markup.

(c) The board will mail an authorization once the payment of the applicable equivalent markup and tax is paid.

(3) To obtain approval if you do not know the quantity of alcoholic beverages you will bring into the state:

(a) Mail a certification that markup and tax will be paid to the Washington State Liquor Control Board, Purchasing Division, Olympia, Washington.

(b) The liquor purchasing agent will review the certification to pay equivalent markup and tax and mail an authorization to bring the alcoholic beverages into the state along with a declaration form.

(c) Once you have brought the alcoholic beverages into the state:

(i) Fill out the declaration form.

(ii) Compute the state taxes and markup using the chart on the form.

(iii) Sign the form.

(iv) Keep a copy for your records.

(v) Mail a copy of the form with payment within ten days to the Washington State Liquor Control Board, Purchasing Division, Olympia, Washington.

WSR 99-05-017
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed February 5, 1999, 3:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-20-103.

Title of Rule: (~~Merchandising games~~) Games of chance (~~and concessionaires~~).

Purpose: To provide tax-reporting information to persons operating games of chance, such as pull-tab and punch board games, card games, and raffles.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW as it applies to games of chance.

Summary: This rule explains the business and occupation (B&O), retail sales, and use tax-reporting responsibilities

of persons operating games of chance. The proposed revision of this rule provides this information in a more clear and concise manner.

Reasons Supporting Proposal: Washington Gaming Consultants, Inc. requested that the department review the basis for the differences between the current tax-reporting requirements for games of chance in which merchandise is offered as prizes (often called merchandising games) and those games offering cash prizes. Also, to remove references to activities that are no longer permissible under the laws of this state.

Name of Agency Personnel Responsible for Drafting: Alan R. Lynn, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-9040; Implementation: Claire Hesselholt, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 753-3446; and Enforcement: Russell Brubaker, 711 Capitol Way South, Suite #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: This rule provides important tax-reporting information to persons operating games of chance. It explains the business and occupation (B&O), retail sales, and use tax-reporting requirements of persons operating pull-tab and punch board games. It also explains the application of tax to persons conducting amusement games, card games, bingo, and raffles. The proposed revisions to the existing rule will result in a more consistent and equitable application of tax law.

Proposal Changes the Following Existing Rules: This is a revision to an existing rule. WAC 458-20-131 is being revised to explain that persons operating pull-tab, punch board, or bingo games are subject to the service and other activities B&O tax upon all "increases" (gross receipts less value of prizes) arising from the conduct of these games, irrespective of whether cash or merchandise prizes are awarded. Terminology used in the rule has been updated, and the rule has been revised to provide the information in a more user-friendly manner. The rule also advises that the Washington State Gambling Commission regulates activities addressed in this rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not impose a responsibility or require a small business to perform something that is not already required by law.

RCW 34.05.328 does not apply to this rule adoption. This rule is an interpretive rule as defined in RCW 34.05.328 (5)(c)(ii).

Hearing Location: Evergreen Plaza Building, 2nd Floor Compliance Conference Room, 711 Capitol Way, Olympia, WA, on March 23, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Virginia Sunde by March 16, 1999, TDD 1-800-451-7985, or (360) 586-8640.

Submit Written Comments to: Alan R. Lynn, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail alanl@dor.wa.gov, by March 23, 1999.

Date of Intended Adoption: April 2, 1999.

February 4, 1999

Claire Hesselholt

Rules Manager

AMENDATORY SECTION (Amending Order ET 83-17, filed 3/15/83)

WAC 458-20-131 ((Merchandising games,)) Games of chance ((and concessionaires)).

((Business and Occupation Tax-Retail Sales Tax

~~**Merchandising games for stimulating trade.** Persons conducting dice games and other games of chance which determine the amount the customer will pay for merchandise that he desires to purchase are taxable as follows: Under the retailing classification with respect to the retail selling price of all merchandise sold to or won by customers, and under the service and other business activities classification upon the "increases" arising from the conduct of such games. As used herein the word "increases" means the winnings, gains or accumulations accruing daily over and above the retail selling price of all merchandise sold or won in any one day through such games. This method of reporting tax liability will be allowed only in those cases where the operator of the games, by proper accounting methods, accurately segregates the receipts accruing from such games. Where no such segregation is made, such persons are taxable under the retailing classification with respect to the entire gross receipts from such games.~~

~~Punchboards which offer prizes of merchandise are considered as merchandising games, with the prizes being sold for the gross proceeds from the boards, and the gross income from such boards should therefore be reported under the retailing classification. When such punchboards are consigned to a location under an arrangement for a split of the gross income between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for reporting gross receipts therefrom under the retailing classification. Where the owner of the boards has not paid the tax due, however, the department of revenue may proceed directly against the operator of the location for payment of the tax due.~~

~~**Games of chance other than merchandising games.** Persons conducting dice games, card games, bingo or keno games, "pools," or similar games of chance wherein players participate in such games with the opportunity of winning a certain sum of money, scrip or trade checks or a pool which accumulates, are taxable under the service and other business activities classification upon all "increases" arising from the conduct of such games. The word "increases" as used herein means the winnings, gains, or accumulations accruing from any one game over and above the amount put into the game by the operator, and, where redeemable scrip, trade checks, or hickies are issued to winning players, the word "increases" means the excess of the operator's cash income from the game over the amount of redeemable scrip, trade checks, or hickies issued.~~

It is essential to the classification of such revenues as income from service and other business activities that they be segregated properly from income derived from merchandising games. When the income from games of chance and amusement is not segregated properly from income from merchandising games, the income derived from both types of games will be taxable as income derived from sales at retail.

Punchboards which offer cash prizes are games of chance rather than merchandising games, and the "increases" (as defined above) therefrom should be reported under the service and other business activities classification. When such punchboards are consigned to a location under an arrangement for a split of the gross increases between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for reporting gross increases therefrom under the service and other business activities classification. Where the owner of the boards has not paid the tax due, however, the department may proceed directly against the operator of the location for payment of the tax due.

Each type of game is considered as a separate, taxable transaction. Thus, losses on one type of game may not be deducted from winnings on another type of game.

Betting. "Increases" from bets on events of public interest, such as sporting events, election results, etc., are taxable under the service and other business activities classification, and should be reported as income of the taxing period in which the winner is determined.

Concessionaires. Persons conducting games of chance at fairs, carnivals, expositions, bazaars, picnics and other similar places in which merchandise is delivered to players in the form of prizes and awards under certain conditions are taxable under the service and other business activities classification upon the gross income received from the operation of such games. The predominant characteristics of the business in such cases is chance and amusement, and the transfers of merchandise in the form of prizes and awards is relatively small and does not constitute sales of such merchandise.

Raffles. Persons regularly conducting raffles are subject to the business and occupation tax under the classification service and other activities on gross income from the sale of chances.

Redemption of scrip or trade checks. When scrip or trade checks are redeemed in exchange for merchandise or for services which are defined by the law as retail sales, the value of the scrip, etc., so redeemed should be reported as income under the retailing classification. When scrip or trade checks are redeemed in exchange for services which are not defined by law as retail sales, e.g., haircuts, manicles, etc., the value of the scrip, etc., so redeemed should be reported as income under the service and other business activities classification.

Miscellaneous. Revenues of card rooms, etc., from all activities other than those which are reportable under the retailing classification, must be reported under the service and other business activities classification. Such revenues include income from the furnishing of playing facilities to card players, etc.

Retail Sales Tax

Persons making retail sales of tangible personal property through merchandising games are liable for the payment of the retail sales tax upon the full retail selling price of the merchandise sold to or won by the customer and whether the tax was actually collected from the customer or not. The retail sales tax does not apply to income from games of chance or amusement which are not merchandising games if that income is properly segregated upon the taxpayer's books and records from the income from merchandise sales or merchandising games. Where the income is not so segregated, it is subject to the retail sales tax.

Merchandising games for stimulating trade. Persons conducting dice games and other games of chance which determine the amount that the customer will pay for merchandise that he desires to purchase should collect the retail sales tax from the customer, measured by the amount that the customer actually pays for the merchandise as a result of the outcome of the game.

Punchboards which offer prizes of merchandise are considered as merchandising games, with the prizes being sold for the gross proceeds from the boards, and the retail sales tax is therefore payable on those gross proceeds. For practical reasons, the retail sales tax may be absorbed by the operator, at his option, but the latter will be liable nevertheless to the department of revenue for the full tax on the gross income from each punchboard. When such punchboards are consigned to a location under an arrangement for a split of the gross income between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for collecting and reporting to the department the retail sales tax measured by the gross receipts from such boards. Where the owner of the boards has not paid the tax due, however, the department may proceed directly against the operator of the location for the full amount of sales tax measured by the gross receipts from such boards.

When scrip or trade checks are given, the sales tax should be collected when the scrip or trade checks are exchanged for merchandise or for services that are defined by the law as retail sales.

For example:

(a) **Merchandising games.** Dice are rolled for a 15¢ cigar. In the event that the player wins, a cigar is given to the player free of charge; in the event that the house wins, the player receives a cigar but pays 30¢.

When the player wins, no tax is payable. When the player loses and pays 30¢ for a single cigar, the retail sales tax applies to the latter amount.

(b) **Punchboards.** The price of each punch is 25¢. The operator may collect the sales tax on each punch, or at his option, may absorb the tax, but he will be required in either event to remit to the department the retail sales tax measured by the gross income from each board.

Sales to persons who conduct merchandising games of the merchandise delivered to persons, such as confections, tobacco, jewelry, radios, etc., are sales for resale, and, accordingly, the retail sales tax should not be collected thereon by the seller. When merchandise punchboards are sold outright to an operator, together with merchandise that

will be offered as prizes, such sales are considered sales for resale of the boards and of the merchandise by the dealer to the operator. The sale of the board is considered incidental to the sale of the merchandise. When merchandise punchboards are sold outright without the merchandise that will be offered as prizes, such sales are sales at retail and are taxable as such. When money punchboards are sold outright, such sales are sales at retail and are taxable as such.

(e) **Card games.** Persons conducting card games in card rooms, cigar stores, etc., wherein the players participating receive scrip or trade checks which entitle them to the value thereof in merchandise or services shall collect the retail sales tax when such scrip, trade checks, or hickies are exchanged for merchandise or for services defined by the law as retail sales.

Concessionaires at fairs, carnivals, etc. Persons conducting games of chance at fairs, carnivals, expositions, bazaars, picnics, or other similar places and delivering merchandise to players in the form of prizes and awards under certain conditions are not making sales of tangible personal property at retail upon which they are required to collect the retail sales tax. The predominant characteristic of the business in such cases is chance and amusement, and the transfers of merchandise in the form of prizes and awards are relatively small and do not constitute sales of such merchandise. Sales to such persons of the merchandise delivered to the players in the form of prizes and awards are sales at retail upon which the retail sales tax must be collected by the seller. Sales to such persons of devices and other equipment used in the conduct of such games are also retail sales upon which the tax must be collected by the seller.

Raffles. Persons conducting raffles are not deemed to be making retail sales of the merchandise given away. Retail sales tax or use tax must be paid by the operator upon the acquisition of such property. Until the tax has been paid by one party, however, the department may hold both the operator and the winner liable for the tax. (1) **Introduction.** This rule explains the business and occupation (B&O), retail sales, and use tax reporting requirements of persons operating pull-tab and punch board games. It also explains the application of tax to persons conducting amusement games, card games, bingo games, and raffles. Nonprofit organizations conducting these games as a part of their fund-raising activities should also refer to RCW 82.04.3651, 82.08.02573, and WAC 458-20-169 (Religious, charitable, benevolent, nonprofit service organizations, and sheltered workshops) to determine if a B&O, retail sales, or use tax exemption is available for their activities.

Persons operating or selling these types of games should also be aware that the Washington state gambling commission regulates these activities. These persons should refer to chapter 9.46 RCW (Gambling—1973 Act), Title 230 WAC (Gambling commission), and/or contact the Washington state gambling commission with any questions regarding their licensing and reporting responsibilities with the commission.

(2) **Measure of tax.** The business and occupation (B&O) and retail sales taxes apply to income as described below. These guidelines apply equally whether the game is mechanically or electronically operated.

(a) **Pull-tab, punch board, and bingo games.** Persons operating pull-tab, punch board, or bingo games are taxable under the service and other activities B&O tax classification upon all "increases" arising from the conduct of such games. The term "increases" as used in this subsection, means gross gambling receipts less the monetary value or, in the case of merchandise, the actual cost, of any prizes that are awarded. The actual cost of the merchandise is the amount actually paid by the operator without any markup. In the case of donated merchandise, the operator may deduct the fair-market value of the merchandise. While the cost of merchandise prizes may be deducted, other costs of operating the game, including the amount paid for the purchase of the actual game (e.g., a punch board), may not be deducted.

Prior to April 1, 1999, operators of pull-tab and punch board games awarding merchandise as prizes were considered to be selling the prizes for the gross income derived from the games. As a result, this income was subject to the retailing B&O and retail sales taxes.

(b) **Card games.** The fees charged to card players as a condition for their participation in card games, whether the fees are based on time, on a per-hand basis, or on a percentage of the wagered amount (commonly referred to as a "rake"), are subject to the service and other activities B&O tax. In those cases where the operator of the card room participates in the card game as a house or central bank, the measure of tax is the amount of winnings less the amount of losses.

(c) **Raffles.** Persons conducting raffles are subject to the service and other activities BO tax on the gross income from the sale of raffle tickets or chances. The cost of any prizes awarded may not be deducted from the measure of tax.

(d) **Amusement games.** The gross receipts derived from the operation of amusement games as defined in RCW 9.46.0201 are subject to the service and other activities B&O tax. The cost of any prizes awarded may not be deducted from the measure of tax.

(i) RCW 9.46.0201 defines amusement games to be a game played for entertainment in which:

(A) The contestant actively participates;

(B) The outcome depends in a material degree upon the skill of the contestant;

(C) Only merchandise prizes are awarded; and

(D) The outcome is not in the control of the operator.

(ii) Crane machines, coin-toss and dart-toss games at fairs and carnivals, and skill-stop games are examples of games qualifying as amusement games under RCW 9.46.0201. Persons operating coin-operated games that do not qualify under the definition of amusement games in RCW 9.46.0201 (e.g., pinball, video, and pool games) should refer to WAC 458-20-187 (Coin-operated vending machines, amusement devices and service machines) for an explanation of their tax reporting responsibilities.

(e) **Sales of foods and beverages.** Sales of foods, beverages, and other tangible personal property by persons operating or conducting any of the activities described above are retail sales and subject to the retailing B&O and retail sales taxes, unless a specific exemption applies (e.g., see WAC 458-20-124 regarding sales of food and beverages by restaur-

rants, taverns, and similar businesses and WAC 458-20-244 for exemptions available for certain food products). Persons conducting dice games to determine the amount that the customer will pay for food or beverages are subject to tax upon the amount the customer actually pays for the food or drink.

(3) Merchandise prizes. Persons operating or conducting any of the activities described in subsection (2)(a) through (d) of this rule are the consumers of any merchandise delivered to the players in the form of prizes or awards. Purchases of this merchandise are purchases at retail and subject to the retail sales tax, unless a specific exemption applies (e.g., see WAC 458-20-244 for exemptions available for certain food products). Purchases of supplies, devices, and other equipment used in the conduct of these games are also subject to the retail sales tax.

(a) If retail sales tax is not collected by the seller, the person conducting these games must remit the retail sales tax (often referred to as deferred retail sales tax) or use tax directly to the department. See also WAC 458-20-178 (Use tax).

(b) Prior to April 1, 1999, operators of punch board and pull-tab games awarding merchandise as prizes were considered to be selling the prizes for the gross income derived from the games. The purchase of the merchandise prizes by the operators of these games were purchases at wholesale and not subject to either the retail sales or use tax.

For the purposes of determining the taxability of merchandise prizes awarded by operators of punch board and pull-tab games that were in operation both before and after April 1, 1999, the operator should remit retail sales or use tax on the value of the prizes awarded on or after April 1, 1999.

WSR 99-05-018

PROPOSED RULES

BELLEVUE COMMUNITY COLLEGE

[Filed February 8, 1999, 12:02 p.m.]

Original Notice.

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

Title of Rule: Access to public records at Bellevue Community College.

Purpose: Repeals currently outdated rules for requesting access to public records at Bellevue Community College and establishes new ones that are in consonance with current practice.

Statutory Authority for Adoption: RCW 28B.150.140.

Statute Being Implemented: RCW 42.17.250 ff.

Summary: Removes outdated forms and procedure for requesting access to public records and replaces them with a more streamlined, easier to use procedure.

Reasons Supporting Proposal: The new procedure makes it easier for individuals to request access to public records and eliminates the need for a form.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barbara Martin, B202, (425) 641-2451.

Name of Proponent: Bellevue Community College, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The current rule utilizes an outmoded form and contains outmoded information for requesting information through the public disclosure laws. The new chapter updates how an individual may request information and provides specific information and timelines for compliance. It is clearer in format and easier to use.

Proposal Changes the Following Existing Rules: Chapter 132H-168 WAC is repealed and replaced by new chapter 132H-169 WAC.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This new chapter has no impact on small businesses.

RCW 34.05.328 does not apply to this rule adoption. The adoption of this rule implements chapter 42.17 RCW, Washington state public disclosure law. It is exempt from RCW 34.05.328 because it adopts with material change this Washington state statute, and only provides a format for obtaining information specifically identified within the statute.

Hearing Location: Bellevue Community College, 3000 Landerholm Circle S.E., B202, Bellevue, WA 98007-6484, on March 23, 1999, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Deborah Townsend by March 16, 1999, (425) 641-2451.

Submit Written Comments to: Barbara Martin, fax (425) 603-4187, by March 22, 1999.

Date of Intended Adoption: April 28, 1999.

February 3, 1999

Elise J. Erickson

Rules Coordinator

REPEALER

The following sections of WAC 132H-168 are repealed:

- WAC 132H-168-010 Access to public records.
- WAC 132H-168-020 Purpose.
- WAC 132H-168-030 Request for documents - Procedure.
- WAC 132H-168-040 Appeal.
- WAC 132H-168-050 Exemptions.
- WAC 132H-168-060 Copying.
- WAC 132H-168-070 Protest.
- WAC 132H-168-080 Office hours.
- WAC 132H-168-090 Sanctions.
- WAC 132H-168-990 Form — Request for public records.
- WAC 132H-168-9901 Form — Appeal to decision to review public records.

PROPOSED

- WAC 132H-168-9902 Form — Records office request for review of public records.
- WAC 132H-168-9903 Form — Request for copy of public record.

Chapter 132H-169 WAC

ACCESS TO PUBLIC RECORDS AT BELLEVUE COMMUNITY COLLEGE

NEW SECTION

WAC 132H-169-010 Title. This chapter shall be known as access to public records at Bellevue Community College.

NEW SECTION

WAC 132H-169-020 Purpose. The purpose of this chapter is to ensure compliance with the provisions of the Washington state public disclosure laws (RCW 42.17.250 ff.) governing access to public records, while at the same time preserving the right to privacy for college students and employees and minimizing disruption to the operation of college programs and services.

NEW SECTION

WAC 132H-169-030 Definitions. (1) "Public record" as defined by RCW 42.17.020(36) means "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." All public records of Bellevue Community College, Community College District VIII, are considered to be available for public access except as exempted or limited by WAC 132H-169-070.

(2) "Writing" as defined by RCW 42.17.020(42) includes all means of recording any form of communication or representation, including documents, pictures, computer tapes or disks, and sound recordings.

NEW SECTION

WAC 132H-169-040 Requests for access. Requests for access to and/or copies of public records maintained at Bellevue Community College shall be made in writing to the Vice President for Administrative Services, 3000 Landerholm Circle SE, Bellevue, Washington, 98007. Requesters should submit form BCC 010-072, "Request for Public Records," or write a letter to the Vice President for Administrative Services which:

- (1) provides the requester's name, full mailing address, and telephone number;
- (2) states whether the requester is representing him/herself or is representing an agency or company, and if so, gives the agency or company name;
- (3) for records concerning a past or present Bellevue Community College student, provides the name, student

identification number, and last date of attendance (if known) of that student;

(4) for records concerning a past or present Bellevue Community College employee, provides the name, job title or department, and last date of employment (if known) of that employee;

(5) provides a specific and detailed description of the record being requested;

(6) states whether the requester wishes only to examine the record and will come to the college to do so or, instead, wishes to obtain a copy of the record;

(7) certifies that the requester (a) will not use the information obtained through the request for public records for commercial purposes,

(b) has read and understood WAC 134H Chapter 169, and

(c) agrees to return the record in its original condition if the requester examines the record on campus or to pay the cost of having the copy made.

NEW SECTION

WAC 132H-169-050 Response to requests. (1) The Vice President for Administrative Services or his/her designee will respond to the request within five business days after receiving it.

(2) Depending on the nature of the request and of the record concerned, the Vice President for Administrative Services will respond in one of the following ways:

(a) make the record available or provide a copy as requested;

(b) state that the record as described does not exist at Bellevue Community College at this time;

(c) acknowledge the request and ask for additional descriptive information, in cases where the description provided is incomplete or unclear;

(d) acknowledge the request and state a date by which the record(s) will be provided, for example in cases where the request is for large numbers of documents or records in out-of-the-ordinary formats, or when the request has been made at peak periods such as registration or the first week of instruction;

(e) deny the request in whole or in part and indicate the specific reason for the denial.

NEW SECTION

WAC 132H-169-060 Appeal after request is denied. If a request for access to public records is submitted according to WAC 132H-169-040 and is denied, the college is required to conduct an internal review of the denial and the requester has the right to appeal the decision to deny access. The requester should address his/her reason for appeal in writing to the college President who, after consulting with the Vice President for Administrative Services, other college administrators, and legal counsel as appropriate, shall respond in writing within five business days after receiving the appeal. The president's decision is considered final.

NEW SECTION**WAC 132H-169-070 Exemptions and Limitations.**

(1) Certain public records are exempt from public access according to RCW 42.17.310. Access to these records will not be granted unless the Vice President for Administrative Services determines that disclosure would not affect any vital governmental interest. If the interest can be protected by deletion of personal references, access shall be granted following deletion of such material, and a reasonable time shall be allowed for deleting the material.

(2) Student educational records are available only in accordance with the federal Family Educational Rights and Privacy Act of 1974 (20 USC 1232), which establishes that the education records of students attending or having attended the college are confidential and can be released only with written permission of the student.

(3) Records concerning applicants to and employees of Bellevue Community College are available only to such faculty and staff members, including supervisory personnel, who must have access to certain records in order to carry out the business of the college. The only information contained in an individual's employee file which shall be available for public inspection shall be the name, status, salary, and teaching duties of the employee. The employee, however, shall have full access to his/her personnel file as provided by the pertinent bargaining unit agreement.

NEW SECTION**WAC 132H-169-080 Notification of affected persons.**

If the requested record is not exempt from release under WAC 132H-169-070 and contains information which could identify an individual or agency, Bellevue Community College may notify the individual or agency thus identified that release of the record has been requested. In such cases the college's initial response to the request under WAC 132H-169-050 (2)(d) will allow a reasonable time for the identified individual or agency to seek court protection from release of the record.

NEW SECTION

WAC 132H-169-090 Protest concerning access. Any student, employee, or applicant who believes that a record has been or is about to be released and who believes that his/her right to privacy will be infringed by public inspection of the record may file a protest with the Vice President for Administrative Services, who will review the initial request and the protest. If the Vice President for Administrative Services determines that access to the record should then be denied, he/she shall take appropriate and timely action, including a request for an injunction if justified.

NEW SECTION

WAC 132H-169-100 Requests for review only. A requester may choose to review the public record in person. In this case, a mutually-agreeable time and place will be arranged, during normal business hours on the college campus. The requester is expected to handle the materials care-

fully and return them undamaged and in order. In certain instances, at the discretion of the Vice President for Administrative Services, a staff member must be present as the requester reviews the materials.

NEW SECTION

WAC 132H-169-110 Requests for copies. A requester may choose to ask for a copy of the public record. In this case, the requester shall reimburse Bellevue Community College for the cost of reproducing the record before receiving the record. In certain instances, at the discretion of the Vice President for Administrative Services, the reproduction charge may be waived.

NEW SECTION

WAC 132H-169-120 No obligation to create records. Public records are generally available for public review, except as exempted or limited under WAC 132H-169-070, but Bellevue Community College is under no obligation to gather data or organize information to create a record which does not exist at the time of the request.

NEW SECTION

WAC 132H-169-130 Sanctions. (1) If a person who has been given access to public records destroys, mutilates, or fails to return the records, or returns them in an unreasonably disorganized fashion, or uses them for commercial purposes, then the President may order that that person be denied further access to public records at Bellevue Community College. Any person wishing to contest such an order may request a hearing before the President or his/her designee concerning the charges.

(2) If a student or employee of Bellevue Community College destroys, mutilates, or fails to return the records, or returns them in an unreasonably disorganized fashion, or uses them for commercial purposes, then that student or employee may be denied further access to public records at Bellevue Community College and may also be subject to disciplinary proceedings under the student code of rights and responsibilities or under the relevant rules of the Community College District VIII concerning faculty and staff.

WSR 99-05-022**PROPOSED RULES****DEPARTMENT OF AGRICULTURE**

[Filed February 9, 1999, 10:59 a.m.]

Original Notice.

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

Title of Rule: Washington State Department of Agriculture procedural rules for lists of organizations.

Purpose: RCW 43.05.020 mandates departments to compile and maintain lists of those who provide technical assistance. This rule describes how the lists of technical

PROPOSED

assistance providers will be organized for the Department of Agriculture.

Statutory Authority for Adoption: RCW 43.05.020.

Statute Being Implemented: Chapter 43.05 RCW.

Summary: Those organizations, companies and/or individuals that wish to be listed or removed from a technical assistance list with the Department of Agriculture must contact the department. The name, address and other information to facilitate that process is contained in the proposed rule.

Reasons Supporting Proposal: The Department of Agriculture is mandated under chapter 43.05 RCW to compile and maintain a technical assistance provider list.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dannie McQueen, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1809.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Procedures for organizations, companies and/or individuals to follow when wanting to be listed as a technical assistance provider or removed from a list.

Proposal Changes the Following Existing Rules: Persons must contact the department to be listed on a technical assistance list or removed versus the department doing the outreach.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Several options are provided organizations, companies and/or individuals, which include facsimile, telephone, written correspondence, e-mail, etc. There are no filing or registration costs involved.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Department of Agriculture, Natural Resources Building, 2nd Floor, Conference Room 205, 1111 Washington Street S.E., Olympia, WA 98504-2560, on March 23, 1999, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by March 17, 1999, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Dannie McQueen, Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2092, by March 23, 1999, at 5:00 p.m.

Date of Intended Adoption: March 23, 1999.

February 5, 1999

William E. Brookreson

Assistant Director

AMENDATORY SECTION (Amending Order 5098, filed 6/18/96, effective 7/19/96)

WAC 16-05-010 What does an organization, company or individual have to do to get on the applicable list? (~~An organization, company or individual must write to the Washington state department of agriculture, provide the name of the organization, company or individual, address and telephone number, unified business identifier (UBI) number,~~

~~authorized agent, a brief description of the type of technical assistance provided, and identify the department program. The document must include the signature of the person requesting his/her name be put on the list or the signature of the authorized agent of the company or organization who requests listing.)) Should an organization, company or individual wish to be included or removed from a technical assistance list of the department, a request must be made to the department via telephone, facsimile transmission, e-mail or address and request that their organization, company or individual name and pertinent information be added.~~

Requests may be directed to the department at the main department address and telephone number: Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560. Telephone: (360) 902-1800. Anyone contacting the department is encouraged to refer to the applicable division and program, by using the following organization description, by division and program as a guide.

(1) Director's office:

Legislative affairs.

Internal program review.

Policy development and review.

(2) Agency operations division:

Accounting, budget, payroll, forms and records, adjudicative proceedings, public disclosure, Washington Administrative Code filings, personnel office, information technology services, information office, international marketing and commodity commission and fairs commission activities.

(3) Commodity inspection division:

Fruit and vegetable inspection program for quality, grade, condition, size and pack.

State-wide grain inspection.

(4) Consumer and producer protection division:

Commission merchants program.

Livestock identification, brand registration and inspection.

Establishment of livestock markets.

Grain warehouse audit.

Weights and measures program.

Seed program regulates the quality and labeling of various crop seeds in Washington.

(5) Food safety and animal health division:

Dairy inspection program.

Food processing program.

Organic food program.

Egg inspection program.

Animal health program.

(6) Laboratory services division:

Performs chemical and micro-biological analyses in support of the food safety and pesticide management programs.

Administers hop inspection and analyses.

Pest management program is responsible for nonnative insect detection and control, and plant pest and disease identification: develops and enforces plant quarantines.

Apiary program provides education and registration for Washington apiarists.

Nursery program certifies nursery stock and issues phytosanitary certificates for materials moving out-of-state.

(7) Pesticide management division:

Administers the regulations of pesticides, animal feeds and fertilizer laws, and waste disposal program broken down into three units of the division.

The compliance unit enforces state and federal pesticide laws, animal feed laws and fertilizer laws; investigates complaints of pesticide misuse.

The registration unit registers pesticides, fertilizers and animal feeds sold and used in the state.

The program development and certification unit conducts the waste pesticide disposal program; provides inter-agency coordination on pesticide-related issues; provides safety training on the use of pesticides, which includes public outreach and new program development; licenses pesticide application equipment, pesticide dealers, and commercial, public and private pesticide applicators, operators and consultants; approves recertification courses and tracks educational credits on pesticide licensees.

AMENDATORY SECTION (Amending Order 5098, filed 6/18/96, effective 7/19/96)

WAC 16-05-040 **The department of agriculture is completely held harmless and not liable.** (1) The department will not perform any testing or background checks on requestors for inclusion on a department technical assistance list. The department will exercise reasonable care to include or delete names upon request ~~((if received by the department by May 15 of each year. The list will be published annually on or around July 1st of each year))~~. The department is not responsible for errors on ~~((the))~~ a technical assistance list. In addition, the inclusion of a name of an individual, company or organization on ~~((the))~~ a list should not be construed as an endorsement by the department. Customers using a technical assistance list for referral are encouraged to contact the better business bureau or the office of the attorney general, consumer protection unit, to determine whether a name selected is the subject of a complaint. Customers are also encouraged to check references of those on a list before they select an organization, company or individual to perform technical assistance.

(2) Any person who is on ~~((the))~~ a technical assistance list is prohibited from holding themselves out as an employee or agent of the Washington state department of agriculture or suggesting that the department endorses the services provided.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-05-005 How will the lists be developed?
- WAC 16-05-015 Will the department of agriculture approve organizations, companies or individuals who request listing?
- WAC 16-05-020 How often are lists changed or updated?

- WAC 16-05-025 Does an applicant have to reapply each year to stay on the list?
- WAC 16-05-030 How do I take my name off the list?
- WAC 16-05-035 Each list will include consumer information.
- WAC 16-05-045 Who to contact for inclusion, exclusion and copies of the list within the department.

WSR 99-05-033
PROPOSED RULES
SECRETARY OF STATE
 [Filed February 10, 1999, 3:29 p.m.]

Reviser's note: WSR 99-05-033 was withdrawn from publication by the Secretary of State in WSR 99-05-053.

WSR 99-05-034
PROPOSED RULES
SECRETARY OF STATE
 [Filed February 10, 1999, 3:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-17-028.

Title of Rule: Logic and accuracy test.

Purpose: Chapter 58, Laws of 1998, direct the Office of the Secretary of State to adopt rules for logic and accuracy tests.

Statutory Authority for Adoption: RCW 29.33.350.

Statute Being Implemented: RCW 29.33.350.

Summary: This is an amendment of rules regarding the conduct of official logic and accuracy tests to comply with changes in RCW 29.33.350.

Reasons Supporting Proposal: RCW 29.33.350 prescribes the Office of the Secretary of State to adopt rules specifying the manner of these tests.

Name of Agency Personnel Responsible for Drafting: David Elliott, Olympia, (360) 586-8425; Implementation: Sheryl Moss, Olympia, (360) 664-3653; and Enforcement: Pamela Floyd, Olympia, (360) 664-3442.

Name of Proponent: Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment of rules will clarify and simplify the procedures that counties perform in conducting logic and accuracy tests on their vote counting equipment. It will streamline some procedures, saving both time and money. It will aid the counties in complying with RCW 29.33.350.

Proposal Changes the Following Existing Rules: It allows the conduct of the official logic and accuracy test

PROPOSED

without a representative of the Office of the Secretary of State in an emergency. It allows for specific technical differences between punchcard and op [optical] scan counties' procedures. It allows a permanent testing deck for punchcard counties.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This does not meet the requirements of RCW 19.85.041.

RCW 34.05.328 does not apply to this rule adoption. See RCW 34.05.328 (5)(b)(ii).

Hearing Location: 1007 South Washington Street, 2nd Floor, Olympia, WA 98504, (360) 664-3442, on March 30, 1999, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Pamela Floyd by March 26, 1999.

Submit Written Comments to: Pamela Floyd, P.O. Box 40237, Olympia, WA 98504-0237, fax (360) 664-2971, by March 29, 1999.

Date of Intended Adoption: April 5, 1999.

February 10, 1999

Tracy Guerin

Deputy Secretary of State

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-334-055 Acceptance testing of voting systems and equipment. Whenever a county acquires a new system or an upgrade to an existing system that has been certified by the secretary of state, the county must perform acceptance tests of the equipment before it may be used to count votes at any election. The equipment must be operating correctly, pass all tests and must be ~~((identical to))~~ substantially the same as the equipment certified by the secretary of state. The minimum testing standards are described as follows:

(1) The model number, version number, release number, and any other number, name or description that identifies the product must be the same as the identifying numbers for the product that has been certified by the secretary of state.

(2) The county must receive all manuals, and training necessary for the proper operation of the system.

(3) The county shall perform a series of functional and programming tests that will test all functions of the ballot counting system. This must include processing a substantial number of test ballots of various prepunch or ballot codes, including split precincts, rotated races, multiple candidates, precinct committee officer local races, cumulative reports, precinct reports, canvass reports, and any other tests the county elections authority finds necessary.

NEW SECTION

WAC 434-334-063 Definition of official logic and accuracy test. As used in this chapter, "official logic and accuracy test" means the test performed in accordance with RCW 29.33.350.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-334-065 Logic and accuracy test conduct. The county shall provide adequate personnel to properly operate the ballot counting equipment. Whenever possible, the equipment should be operated during the test by the same persons who will be ~~((conducting))~~ responsible for the ~~((actual))~~ ballot count on election day. ~~((At the scheduled time the test decks shall be run through the ballot counting system and ballot results produced. The results shall then be compared with the preaudit expected results.))~~ If any error in programming or mechanical function is detected, the cause shall be determined and corrected, and an errorless ~~((total produced))~~ test completed before the primary or election.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-334-070 Logic and accuracy test observers. The official logic and accuracy test shall be observed by at least one representative of each major political party, if representatives have been appointed by the parties and are present at the test. The party observers shall be instructed as election observers, by the county auditor ~~((prior to observing an election))~~. The official logic and accuracy test shall be open to candidates, the press, and the public. If ~~((a party))~~ any observer hinders or disturbs the ~~((L & A))~~ logic and accuracy test process, the county ~~((election authority))~~ auditor or representative may remove that observer from the test area. ~~((The))~~ An observer ~~((may also be barred from future tests))~~ who has been removed from a logic and accuracy test may also be barred from future tests. The absence of observers shall not delay or stop the test from being conducted.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-334-075 Logic and accuracy testing of voting systems and equipment—State primary and general election. At least three days before each state primary or general election the office of the secretary of state shall provide for a test of the programming for ~~((each))~~ the vote tallying system to be used at that primary or election ~~((shall be tested by the office of the secretary of state))~~. The test should verify that the system will correctly count the votes cast for all candidates and all measures appearing on the ballot. The test shall ~~((be conducted by processing a preaudited group of ballots, marked with a predetermined number of votes, for each candidate and for or against each measure. For each office where there are two or more candidates and for each measure there will be an undervote and overvote))~~ also verify that the machine(s) is/are functioning to specifications.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-334-080 Logic and accuracy test ~~((deck))~~ preparation—State primary and general election—Punchcard systems. The test deck or decks used for the official logic and accuracy test ~~((may be prepared by either the~~

office of the secretary of state, the county, or the vendor)) are maintained by the county auditor. Information describing the candidates, offices, ballot formats, ballot positions, pages applicable or planning matrix, accurate list of prepunches, list of the number of appearances of each office and each rotation, and all other information required to ~~((create))~~ select the test ((decks)) precincts and predict the results must be available to the office of the secretary of state at the very latest by the 30th day prior to the primary or election. If a county is delayed due to complications related to lawsuits or late filing periods, the county should advise the office of the secretary of state before the 30th day prior to the primary or election.

NEW SECTION

WAC 434-334-082 Procedure for conduct of delayed primary or general election emergency logic and accuracy test. If the official logic and accuracy test cannot be completed at the scheduled time and place, an emergency test shall be scheduled by the county auditor. The emergency test must be conducted and properly completed prior to the processing of any official ballots through the tabulating system. If no representative of the office of the secretary of state is able to attend the emergency test, the county auditor and another member of the county canvassing board or their designated representative shall observe the test and certify the results. Observers and notification shall be provided for pursuant to WAC 434-334-070 and 434-334-085.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-334-085 Logic and accuracy test scheduling and preparation—State primary and general election. Prior to each state primary and general election the office of the secretary of state will prepare a schedule of logic and accuracy tests. The office of the secretary of state will notify each county of the date and time of their test at least ~~((two weeks))~~ thirty days before the ~~((test))~~ primary or election. The county is responsible for preparing the counting system and testing it before the actual logic and accuracy test. The ballot counting system shall be ~~((one hundred percent programmed))~~ fully programmed, cleaned, maintained, tested and functional before the official logic and accuracy test. The county shall notify the parties, the press, the public, and candidates of the date and time of the test.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-334-090 Logic and accuracy test certification—State primary and general election. The ~~((secretary of state, the))~~ county auditor~~((;))~~ or deputy, and, if present, the office of the secretary of state representative and any political party observers shall certify that the test has been conducted in accordance with RCW 29.33.350. Copies of this certification shall be retained by the secretary of state and the county auditor. All programming materials, test results, and test ballots shall be securely sealed until the day of the pri-

mary or election. These items may be sealed and stored separately.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-334-095 Logic and accuracy testing of voting systems and equipment—Special elections. At least three days before each special election the programming for ~~((each))~~ the vote tallying system to be used at that election shall be tested for logic and accuracy. The test should verify that the system will correctly count the votes cast for all candidates and all measures appearing on the ballot. The test shall be conducted by processing a preaudited group of ballots, marked with a predetermined number of votes, for each candidate and for or against each measure. For each office where there are two or more candidates and for each measure there will be an undervote and overvote.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-334-100 Logic and accuracy test deck preparation—Special elections. When a new test deck is required under WAC 434-334-095, the test deck or decks used for the official logic and accuracy test will be prepared by the county elections office.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-334-105 Logic and accuracy test scheduling and preparation—Special election. The county is responsible for preparing the counting system and testing it before the ~~((actual))~~ official logic and accuracy test. The ballot counting system shall be ~~((one hundred percent))~~ fully programmed, cleaned and maintained, tested, and functional before the official logic and accuracy test. The county shall notify the parties, the press, the public, and candidates of the date and time of the official logic and accuracy test.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-334-110 Logic and accuracy test certification—Special election. The county auditor~~((;))~~ or deputy and any political party observers, if present, shall certify that the test has been conducted in accordance with RCW 29.33.350. Copies of this certification shall be retained by the county auditor. All programming materials, official test results, and test ballots shall be securely sealed until the day of the primary or election. These items may be sealed and stored separately.

PUNCHCARD SYSTEMS

NEW SECTION

WAC 434-334-125 Punchcard test deck maintenance and storage. Each county employing a punchcard balloting

system shall maintain a permanent deck of logic and accuracy test ballots. The test ballots shall contain a distinct pattern of votes. The deck may be used for all official logic and accuracy tests and for programming tests conducted in preparation for official logic and accuracy tests. The permanent test deck shall be maintained in secure storage except when being used for actual testing.

NEW SECTION

WAC 434-334-130 Punchcard test precinct selection—State primary and general elections. Prior to the official logic and accuracy test the office of the secretary of state shall review the election materials provided by the county and select a representative sample of precincts and ballot styles sufficient to cover all offices and issues contained in the election. The representative sample shall constitute the official logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant.

NEW SECTION

WAC 434-334-135 Punchcard testing requirements prior to official logic and accuracy test. Prior to the official logic and accuracy test, each county employing a punchcard balloting system shall thoroughly test all programming and system components. The test must at least verify the office programming by thoroughly testing each individual office, test the ballot style logic to insure that all offices are included in the intended precincts and combinations, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.

OPTICAL SCAN SYSTEMS

NEW SECTION

WAC 434-334-140 Definitions. For optical scan voting systems:

(1) "Voting response area" means the area defined by ballot instructions which the voter places their mark to indicate their vote.

(2) "Scanning area" means the portions of each ballot that the system scans in order to read the vote marks made by voters.

NEW SECTION

WAC 434-334-145 Logic and accuracy test deck preparation—State primary and general election—Optical scan systems. The test deck or decks used for the official logic and accuracy test for optical scan systems may, at the discretion of the secretary of state, be prepared by either the office of the secretary of state, the county, or the vendor. Information describing the candidates, offices, ballot formats, ballot positions, ballot styles, list of the number of appearances of each office and each rotation, and all other

information required to create the test decks must be available to the office of the secretary of state by the 20th day prior to the primary or election. If a county is delayed due to complications related to lawsuits or late filing periods, the county should advise the office of the secretary of state before the 20th day prior to the primary or election.

NEW SECTION

WAC 434-334-150 Optical scan test ballot selection—State primary and general elections. Prior to the official logic and accuracy test the office of the secretary of state shall review the provided election materials with the county and select a representative sample of ballot styles sufficient to cover all offices and issues contained in the election. This representative sample shall constitute the official logic and accuracy test. This provision does not limit the ability of the office of the secretary of state to conduct a complete test of every precinct if conditions warrant. If the office of the secretary of state is preparing the test deck, the county auditor shall send blank ballots of the selected ballot styles to the office of the secretary of state as soon as the ballots are available.

NEW SECTION

WAC 434-334-155 Optical scan read head adjustment standards and tests. Prior to all state primaries, read heads of optical scan central counting systems shall be cleaned and tested to insure that the reader is functioning within system standards.

NEW SECTION

WAC 434-334-160 Optical scan read head and ballot scan area alignment tests. Prior to all official logic and accuracy tests, a test shall be conducted by each county employing an optical scan balloting system to confirm that the voting response areas printed on all ballot faces are aligned properly with the scanning area of the ballot counter.

NEW SECTION

WAC 434-334-165 Optical scan ballot marking code program test. Prior to the official logic and accuracy test each county employing an optical scan balloting system shall thoroughly test all programming and system components. The test must at least verify the office programming by thoroughly testing each individual office, test the ballot style logic to insure that all offices are included on the intended ballot faces, and verify that the program is accumulating all offices. The county auditor or deputy shall certify that these tests have been completed prior to the official logic and accuracy test.

PRECINCT-BASED OPTICAL SCAN SYSTEMS

NEW SECTION

WAC 434-334-170 Precinct-based optical scan ballot counter preparation and testing. All logic and accuracy testing of precinct-based systems shall be performed by the county during the preparation of the precinct ballot counters prior to system distribution. As each ballot counter is programmed and set up for distribution a test of the ballot counter and ballot styles shall be performed. It shall be established by these tests that the ballot counter(s) are functioning within system standards. All ballot styles programmed for each machine shall be processed by each machine in order to insure that the machine is correctly counting and accumulating every office. The tests shall also establish that the printed ballot voter response areas are correctly aligned with the scanning area. After all tests are performed and the machine is ready for distribution, the machine shall be sealed and the seal number recorded. This will serve as the official logic and accuracy test of these poll site ballot counters.

NEW SECTION

WAC 434-334-175 Poll site-based optical scan ballot counter test notices, observers, and log of process. A log shall be created during the testing of the poll site-based ballot counters. The log shall record the time and place of each test, the precinct number(s), seal number and machine number of each ballot counter and the initials of each person testing and observing the test for each machine. This log shall be included in the official logic and accuracy test materials. The processes described in WAC 434-334-170 shall be open to observation and subject to all notices and observers pursuant to WAC 434-334-070 and 434-334-085.

NEW SECTION

The following section of the Washington Administrative Code, as amended, is recodified as follows:

Old WAC Number	New WAC Number
434-334-080	434-334-120

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-334-115	Logic and accuracy tests for direct recording electronic equipment.
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Preproposal statement of inquiry was filed as WSR 98-24-112.

Title of Rule: State ferries and toll bridges, WAC 468-300-010, 468-300-020, 468-300-040, and 468-300-220.

Purpose: The purpose of this rule is to raise the ferry tolls within the specified WACs. The revisions follow the annual review of Washington State Ferries' farebox revenue needs.

Statutory Authority for Adoption: RCW 47.56.030, 47.60.326.

Statute Being Implemented: RCW 47.56.030 and 47.60.326.

Summary: The four affected WACs are revised to incorporate increased ferry tolls for passengers, vehicles and vessel charters, to meet need for additional farebox revenue.

Reasons Supporting Proposal: Washington State Ferries' need for additional farebox revenue.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Raymond G. Deardorf, Washington State Ferries, 801 Alaskan Way, Seattle, WA 98104, (206) 515-3491.

Name of Proponent: Washington State Department of Transportation and Washington State Ferries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to raise the ferry tolls within the specified WACs. The WAC revisions follow the annual review of Washington State Ferries' farebox revenue needs.

No major effects are anticipated.

Proposal Changes the Following Existing Rules: The proposed rule revises the subject WACs by increasing the passenger tolls, vehicle tolls and vessel charter rates specified in the WACs.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered this rule and determined that it does not affect more than 10% of one industry or 20% of all industry.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Doubletree Hotel, SeaTac Airport, 18740 International Boulevard, Cascade 13 Room, SeaTac, WA, on March 31, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Transportation Commission Office by March 26, 1999, TDD (360) 705-7070.

Submit Written Comments to: Raymond G. Deardorf, Washington State Ferries Planning Director, fax (206) 515-3499, by March 26, 1999.

Date of Intended Adoption: May 9, 1999.

February 11, 1999

Chris R. Rose, Administrator
Transportation Commission

WSR 99-05-035
PROPOSED RULES

DEPARTMENT OF TRANSPORTATION

[Filed February 11, 1999, 10:01 a.m.]

Original Notice.

PROPOSED

AMENDATORY SECTION (Amending WSR 98-08-051, filed 3/27/98, effective 4/27/98)

WAC 468-300-010 Ferry passenger tolls.

Effective 03:00 a.m. May ~~((10, 1998))~~ 9, 1999

ROUTES	Full Fare	((Half Fare)) Senior/ Disabled	Youth Fare 18 and under	Frequent User Ticket Book 20 Rides ¹	Monthly Pass ⁵	Quarterly Pass ⁵	Annual Pass ⁵	Bicycle Surcharge ^{2,6}
Via Passenger-Only Ferry								
*Seattle-Vashon	((3.60))	1.80		23.50	49.40	148.20	592.80	N/C))
*Seattle-Bremerton	<u>3.70</u>	<u>1.90</u>	<u>2.60</u>	<u>26.00</u>	<u>54.60</u>	<u>163.80</u>	<u>655.20</u>	<u>1.00</u>
Via Auto Ferry								
*Fauntleroy-Southworth								
*Seattle-Bremerton	((3.60))	1.80		23.50	49.40	148.20	592.80	0.60))
*Seattle-Bainbridge Island	<u>3.70</u>	<u>1.90</u>	<u>2.60</u>	<u>26.00</u>	<u>54.60</u>	<u>163.80</u>	<u>655.20</u>	<u>1.00</u>
*Edmonds-Kingston								
Port Townsend-Keystone	((1.80))	0.90))	1.40	((23.50))	N/A	N/A	N/A	((0.30))
	<u>1.90</u>	<u>1.00</u>		<u>26.00</u>				<u>0.50</u>
*Fauntleroy-Vashon								
*Southworth-Vashon	((2.40))	1.20		15.75	33.10	99.30	397.20	0.60))
*Pt. Defiance-Tahlequah	<u>2.50</u>	<u>1.30</u>	<u>1.80</u>	<u>17.50</u>	<u>36.80</u>	<u>110.40</u>	<u>441.60</u>	<u>1.00</u>
*Mukilteo-Clinton								
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	((5.10))	2.60))	3.80	((33.25))	N/A	N/A	N/A	((2.90))
	<u>5.30</u>	<u>2.70</u>		<u>37.25</u>				<u>3.00</u>
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
International Travel								
Anacortes to Sidney and Sidney to all destinations	((8.90))	4.50))	6.40	N/A	N/A	N/A	N/A	((4.50))
	<u>9.10</u>	<u>4.60</u>						<u>4.60</u>
From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	4.00	2.00	<u>2.80</u>	N/A	N/A	N/A	N/A	1.75
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	((12.90))	6.50))	9.20	N/A	N/A	N/A	N/A	((4.25))
	<u>13.10</u>	<u>6.60</u>						<u>6.35</u>

@ These fares rounded to the next multiple of \$.25. All other fares rounded to the next multiple of \$.10.

* These routes operate as a one-point toll collection system.

¹FREQUENT USER TICKETS - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

³ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵EMPLOYER PASSES - A monthly passenger pass is available for all routes except: Anacortes/San Juan Island/Sidney and Port Townsend/Keystone, as a pilot program. The pass is available

through some local employers. It is a flash pass valid for the month printed on the pass and will be presented to Washington state ferries staff whenever a passenger fare is collected. This pass is based on 21 days of passenger travel with a ~~((35%))~~ 30% discount. The quarterly pass is based on 63 days of travel with a ~~((35%))~~ 30% discount and the annual pass is based on 252 days with a ~~((35%))~~ 30% discount.

⁶BICYCLE PASS - A bicycle pass is available on all routes except: Anacortes/San Juan Island/Sidney ~~((as a pilot program))~~ for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

~~((HALF FARE))~~ CHILDREN/YOUTH - Children under five years of age will be carried free when accompanied by parent or guardian. Children/youths five through ~~((eleven))~~ eighteen years of age will be charged ~~((half fare. Children twelve years of age will be charged full fare))~~ the youth fare, which will be 70% of full fare rounded to the next multiple of \$0.10.

PROPOSED

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

FERRY/TRANSIT PASS - A combination ferry-transit monthly pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 21 days of passenger travel at a (~~50%~~) 40% discount.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the secretary of transportation for a specific discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the secretary of transportation for a specific discount not to exceed fifty percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. (~~Walk-on groups and private vehicles~~) starting September 1, 1999, all school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect.

PROPOSED

AMENDATORY SECTION (Amending WSR 98-08-051, filed 3/27/98, effective 4/27/98)

WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.

Effective 03:00 a.m. May (~~10, 1998~~) 9, 1999

ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver ⁴	Vehicle Under 20' Over Height Charge ¹	Frequent User Ticket book 20 Rides ²	Motorcycle ⁵ Incl. Driver Stowage ⁽⁵⁾ 1 One Way@	Motorcycle w/Sr Citizen or Disabled Driver Stowage ⁽⁵⁾ 1 One Way@	Motorcycle <u>Over</u> size Charge ¹	Motorcycle Frequent User Ticket book 20 Rides ² @
Fauntleroy-Southworth Seattle-Bremerton								
Seattle-Bainbridge Island	6.25	5.50	6.25	100.00	2.70	1.80		43.20))
Port Townsend-Keystone	6.50	5.75	6.50	104.00	2.80	1.90	2.80	44.80
Edmonds-Kingston								
*Fauntleroy-Vashon								
*Southworth-Vashon	8.50	7.50	8.50	68.00))	3.80	2.60		30.40
*Pt. Defiance-Tahlequah	9.00	8.00	9.00	72.00			3.80	
Mukilteo-Clinton								
	4.25	3.75	4.25	68.00))	1.90	1.30		30.40
	4.50	4.00	4.50	72.00			1.90	
10 Rides - 5 Round Trips								
*Anacortes to Lopez								
	12.75	10.25	12.75	51.00	6.70	4.20		53.60))
	13.25	10.75	13.25	53.00	6.90	4.30	6.90	55.20
*Shaw, Orcas								
	15.25	12.75	15.25	61.00	7.20	4.70		57.60))
	15.75	13.25	15.75	63.00	7.40	4.80	7.40	59.20
*Friday Harbor								
	17.25	14.75	17.25	69.00	7.60	5.10		60.80))
	17.75	15.25	17.75	71.00	7.80	5.20	7.80	62.40
Between Lopez, Shaw, Orcas and Friday Harbor³								
	7.25	7.25	7.25	29.00))	2.25	2.25		N/A
	7.50	7.50	7.50	30.00			2.25	
International Travel								
Anacortes to Sidney and Sidney to all destinations								
	24.00	19.75	24.00))	N/A	12.00	9.80))		N/A
	24.75	20.25	24.75		12.30	10.10	12.30	

ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle Under 20' w/Sr Citizen or Disabled Driver ⁴	Vehicle Under 20' Over Height Charge ¹	Frequent User Ticket book 20 Rides ²	Motorcycle ⁵ Incl. Driver Stowage ⁽⁵⁾ 1 One Way@	Motorcycle w/Sr Citizen or Disabled Driver Stowage ⁽⁵⁾ 1 One Way@	Motorcycle <u>Oversize Charge</u> ¹	Motorcycle Frequent User Ticket book 20 Rides ² @
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations ⁽⁷⁾ 6	((9.00) 9.75	4.75 5.25	24.00) 24.75	N/A	N/A	N/A	N/A	N/A
((From)) Lopez, Shaw, Orcas and Friday Harbor to Sidney	((8.75) 9.00	7.00	((8.75) 9.00	N/A	5.00	5.00	5.00	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁽⁸⁾ 7	((17.75) 2.00	0.00	((8.75) 9.00	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁽⁶⁾ 5	((32.75 33.75	26.75 27.25	32.75) 33.75	N/A	((17.00 17.30	14.80) 15.10	17.30	N/A

@ These fares rounded to the next multiple of \$0.10. All other fares rounded to the next multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay an overheight charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or three wheels will pay an oversize motorcycle charge of 100% of the motorcycle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

²FREQUENT USER TICKETS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage.

³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

~~(⁵MOTORCYCLES - The motorcycle including driver fare includes motorcycles pulling trailers and motorcycles with side cars.)~~

~~(⁶)~~ ⁵ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

~~(⁷)~~ ⁶RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 non-refundable reservation fee. The reservation fee shall be a \$15 non-refundable fee when the peak season surcharge is in effect.

~~(⁸)~~ ⁷RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 non-refundable reservation fee. The reservation fee shall be a \$15 non-refundable fee when the peak season surcharge is in effect.

~~(VANPOOLS)~~ RIDE SHARE VEHICLES - A commuter (~~vanpool~~) ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$10 fee, a permit valid for one year valid only during the hours shown on the permit. ~~((These hours are selectable by the purchaser but shall designate two periods of use each day not to exceed two hours per period.))~~ The \$10.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from the second Sunday in May to the second Sunday in October except those using frequent user tickets. A 65% surcharge shall be applied on fares for ~~((international travel to reflect the reduced base fares on these routes))~~ the Sidney B.C. route.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the secretary of transportation for a specified discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

PROPOSED

AMENDATORY SECTION (Amending WSR 98-08-051, filed 3/27/98, effective 4/27/98)

WAC 468-300-040 Oversize vehicle ferry tolls.

Effective 03:00 a.m. May ~~((10, 1998))~~ 9, 1999

Oversize Vehicle Ferry Tolls¹
Overall Unit Length - Including Driver

ROUTES	20'	20'	30'	40'	50'	60'	70'	Cost Per Ft. Over 80' @
	To Under 30'	To Under 30'						
	7'6" High	7'6" High	40'	50'	60'	70'	80'	
Fauntleroy-Southworth Seattle-Bremerton								0.65
Seattle-Bainbridge Island	((9.50	<u>18.75</u>	<u>25.00</u>	<u>31.25</u>	<u>37.50</u>	<u>43.75</u>	50.00))	
Port Townsend-Keystone	<u>9.75</u>	<u>19.50</u>	<u>26.00</u>	<u>32.50</u>	<u>39.00</u>	<u>45.50</u>	<u>52.00</u>	
Edmonds-Kingston								
*Fauntleroy-Vashon								0.90
*Southworth-Vashon	((13.00	<u>25.50</u>	<u>34.00</u>	<u>42.50</u>	<u>51.00</u>	<u>59.50</u>	68.00))	
*Pt. Defiance-Tahlequah	<u>13.50</u>	<u>27.00</u>	<u>36.00</u>	<u>45.00</u>	<u>54.00</u>	<u>63.00</u>	<u>72.00</u>	
Mukilteo-Clinton	((6.50	<u>12.75</u>	<u>17.00</u>	<u>21.25</u>	<u>25.50</u>	<u>29.75</u>	34.00))	0.45
	<u>6.75</u>	<u>13.50</u>	<u>18.00</u>	<u>22.50</u>	<u>27.00</u>	<u>31.50</u>	<u>36.00</u>	
*Anacortes to Lopez ²								
*Shaw, Orcas	((23.00	<u>45.75</u>	<u>61.00</u>	<u>76.25</u>	<u>91.50</u>	<u>106.75</u>	122.00	1.50))
*Friday Harbor	<u>23.75</u>	<u>47.25</u>	<u>63.00</u>	<u>78.75</u>	<u>94.50</u>	<u>110.25</u>	<u>126.00</u>	<u>1.55</u>
Between Lopez, Shaw, Orcas and Friday Harbor ³ ((May 10, 1998))	((11.00	<u>21.75</u>	<u>29.00</u>	<u>36.25</u>	<u>43.50</u>	<u>50.75</u>	58.00))	N/A
	<u>11.25</u>	<u>22.50</u>	<u>30.00</u>	<u>37.50</u>	<u>45.00</u>	<u>52.50</u>	<u>60.00</u>	
<i>International Travel</i>								
Anacortes to Sidney and Sidney to all destinations	((36.00	<u>72.00</u>	<u>96.00</u>	<u>120.00</u>	<u>144.00</u>	<u>168.00</u>	192.00	2.40))
	<u>37.25</u>	<u>74.25</u>	<u>99.00</u>	<u>123.75</u>	<u>148.50</u>	<u>173.25</u>	<u>198.00</u>	<u>2.50</u>
Travelers with advanced reservations (\$15 fee) Anacortes to Sidney and Sidney to all destinations ⁵	((21.00	<u>57.00</u>	<u>81.00</u>	<u>105.00</u>	<u>129.00</u>	<u>153.00</u>	177.00	2.40))
	<u>22.25</u>	<u>59.25</u>	<u>84.00</u>	<u>108.75</u>	<u>133.50</u>	<u>158.25</u>	<u>183.00</u>	<u>2.50</u>
((From)) Lopez, Shaw, Orcas and Friday Harbor to Sidney	((13.00	<u>26.25</u>	<u>35.00</u>	<u>43.75</u>	<u>52.50</u>	<u>61.25</u>	70.00))	0.90
	<u>13.50</u>	<u>27.00</u>	<u>36.00</u>	<u>45.00</u>	<u>54.00</u>	<u>63.00</u>	<u>72.00</u>	
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney ⁶	((6.00	<u>19.25</u>	<u>28.00</u>	<u>36.75</u>	<u>45.50</u>	<u>54.25</u>	63.00))	0.90
	<u>6.50</u>	<u>20.00</u>	<u>29.00</u>	<u>38.00</u>	<u>47.00</u>	<u>56.00</u>	<u>65.00</u>	
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁴	((49.25	<u>98.25</u>	<u>131.00</u>	<u>163.75</u>	<u>196.50</u>	<u>229.25</u>	262.00	3.30))
	<u>50.75</u>	<u>101.25</u>	<u>135.00</u>	<u>168.75</u>	<u>202.50</u>	<u>236.25</u>	<u>270.00</u>	<u>3.40</u>

PROPOSED

@ These fares rounded to the next multiple of \$0.05. All other fares rounded to the next multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10.

²STOPOVERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate stopover ticket for \$2.50 when first purchasing the appropriate vehicle fare. The stopover is valid for a 24-hour period.

³INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

⁵RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

⁶RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

PEAK SEASON SURCHARGE - A peak season surcharge of 25% shall apply to all oversize vehicles, except for international travel. The senior citizen discount shall apply to the driver of an oversize vehicle. A 65% surcharge shall be applied on fares for ~~((international travel to reflect the reduced base fares on these routes)) the Sidney B.C. route.~~

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL

Oversize vehicles making 12 or more, one-way crossings per week (Sunday thru Saturday) will qualify for a 20% discount from the regular ferry tolls.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

BULK NEWSPAPERS - Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

EXPRESS SHIPMENTS - A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees.

Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

MEDICAL SUPPLIES - A flat handling charge of \$5.00 per shipment is charged.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

AMENDATORY SECTION (Amending WSR 98-08-051, filed 3/27/98, effective 4/27/98)

WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system. Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel operating costs have been calculated for establishing the rates to be charged for vessel charters from July ((27, 1998)) 1, 1999, through June 30, ((1999)) 2000:

Vessel Class	Deck Crew On Overtime	Deck Crew Not On Overtime
Jumbo	((966.58)) <u>\$971.70</u>	788.87)) <u>790.44</u>
Super	((931.10)) <u>937.74</u>	759.61)) <u>762.90</u>
Evergreen	((716.13)) <u>735.18</u>	574.06)) <u>590.26</u>
Issaquah	((712.18)) <u>725.33</u>	583.83)) <u>594.37</u>
Steel	((595.11)) <u>611.76</u>	482.75)) <u>497.09</u>
Rhododendron	((571.11)) <u>591.76</u>	458.75)) <u>480.09</u>
Hiyu	((428.15)) <u>445.77</u>	354.43)) <u>370.52</u>
Passenger Only	((416.83)) <u>433.42</u>	356.83)) <u>371.57</u>

The rate for an individual charter will be calculated by:

(1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;

PROPOSED

(2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and

(3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by fifty percent, and rounding to the nearest fifty dollars.

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

WSR 99-05-036
WITHDRAWAL OF PROPOSED RULES
WASHINGTON STATE LOTTERY

[Filed February 11, 1999, 11:05 a.m.]

The Washington State Lottery is withdrawing the CR-102 which was filed January 22, 1999, and appeared as WSR 99-04-012. The purpose of the rule was listed as "To permit up to one Quinto and one Lotto drawing per day."

Mary Jane Ferguson
Legal Services Manager

WSR 99-05-040
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE

[Filed February 12, 1999, 9:28 a.m.]

Continuance of WSR 99-01-132.

Preproposal statement of inquiry was filed as WSR 98-22-051.

Title of Rule: Designation of appointing authority.

Purpose: To delegate to the chancellor/district president from the board of trustees the role of appointing authority.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Statute Being Implemented: RCW 28B.10.528, 28B.50.140(14).

Summary: Repeal WAC 132Q-12-010.

Reasons Supporting Proposal: Repeal of this rule is necessary as other institution policies on the same subject make the rule redundant. In addition, the current rule refers to another agency's WAC that has also been repealed.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Geoffrey Eng, 2000 North Greene Street, Spokane, WA 99217, (509) 533-7435.

Name of Proponent: Community Colleges of Spokane, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Repeal of this rule will eliminate confusion regarding this subject matter.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Repeal of this rule does not impact any external industry or business as intended under chapter 19.85 RCW.

RCW 34.05.328 does not apply to this rule adoption. The proposed repeal of the rule relates only to internal college operations and are not subject to violation by a nongovernment party.

Hearing Location: Community Colleges of Spokane, District Board Room, 2000 North Greene Street, Spokane, WA 99217-5499, on April 20, 1999, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Geoffrey Eng by April 13, 1999, TDD (509) 533-7466, or (509) 533-7435.

Submit Written Comments to: Fax (509) 533-8193, by April 13, 1999.

Date of Intended Adoption: April 20, 1999.

February 10, 1999

Geoffrey Eng, District Director
Affirmative Action/Administrative Services

REPEALER

The following section(s) of the Washington Administrative Code are repealed:

WAC 132Q-12-010

Designation of appointing authority

WSR 99-05-050
PROPOSED RULES
DEPARTMENT OF LICENSING

[Filed February 12, 1999, 12:11 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-001.

Title of Rule: WAC 308-12-320 Renewal of licenses and 308-12-326 Architect fees.

Purpose: WAC 308-12-320, to set requirements for and assessment of delinquent and/or penalty fees for reinstatement of registrants who fail to pay a renewal fee for a period of five years or more and for reinstatement of registrants who withdraw from the practice of architecture, and exceed five years in an inactive status.

WAC 308-12-326, to adjust fees and renewal periods for services and licensing provided by the department.

Statutory Authority for Adoption: RCW 18.08.430 (1) and (2) and 43.24.086.

Statute Being Implemented: RCW 43.24.086.

Summary: The fees charged by the agency for administering application, registration, and the renewal process are set at a level to support operation of the program. The requirements for reinstatement and increases in selected fees are to offset increases in selected costs to the program. All increases are in accordance with RCW 43.135.055 (Initiative 601) and are within the limitations of the fiscal growth index for FY00 of 3.12%.

PROPOSED

Reasons Supporting Proposal: Increased costs to the architect program for Fiscal Year 2000 must be supported by fees assessed to licensees, applicants for reciprocal registration, corporate certificates of authority, and registration certifications.

Name of Agency Personnel Responsible for Drafting: Jon M. Clark, 2000 West 4th Avenue, Olympia, WA, (360) 753-7506; Implementation and Enforcement: Margaret Epting, 405 Black Lake Boulevard, Olympia, WA, (360) 753-1153.

Name of Proponent: Department of Licensing and Washington State Board of Registration for Architects, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-12-320 outlines the renewal date, late penalty fee, and delinquent fees. The requirements for reinstatement and/or fees for registrants who fail to pay a renewal fee for five years or more and registrants who withdraw from the practice of architecture, and exceed five years in an inactive status. The anticipated effects of outlining the requirements and fees is to inform interested parties, provide timely customer service, reduce telephonic inquiries, and reduce delays in administration.

WAC 308-12-326 lists the services for which fees are charged and the respective amount for each of the services. All program forms list the respective fees that are required with a form submittal. The purpose of all listed fees is to recover the cost of administering the program. The anticipated effects of the listing of fees is to inform interested parties, provide timely customer service, reduce telephonic inquiries, reduce delays in administration waiting for required fees to be submitted, and fully comply with the statutory requirement of RCW 43.24.086.

Proposal Changes the Following Existing Rules: The existing version of these sections lists renewal frequency and fees in amounts that supported administering the architect program as it was funded in the 97-99 biennium budget. The 99-01 biennium budget requires minor increases to keep the program financially solvent, fund the required program expenditures, and meet the requirement to fully support the program with assessed revenue.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Each fee that was increased was within the limits of RCW 43.135.055. No fee increase exceeded fifty dollars to individuals or businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is exempt from RCW 34.05.328(5).

Hearing Location: Conference Room #1, Business and Professions Division, 405 Black Lake Boulevard, Olympia, WA 98502, on March 25, 1999, at 11:00.

Assistance for Persons with Disabilities: Contact Joan Robinson by March 15, 1999, TDD (360) 586-2788, or (360) 664-2551.

Submit Written Comments to: Margaret Epting, Board of Registration for Architects, P.O. Box 9045, Olympia, WA 98507-9045, fax (360) 664-2551.

Date of Intended Adoption: March 25, 1999.

February 12, 1999

Margaret Epting
Executive Secretary

AMENDATORY SECTION (Amending WSR 97-06-064, filed 2/27/97, effective 3/30/97)

WAC 308-12-320 Renewal of licenses. (1) The license renewal date for architects shall be the architect's birth date. Licensees who fail to pay the license renewal fee within thirty days of license expiration date will be subject to the late payment penalty fee as set forth in RCW 18.08.430 and WAC 308-12-326. Architects whose renewal fees are delinquent will be listed with the state building officials.

(2) The renewal period for architects is (~~three~~) two years.

(3) Assessment of delinquent fees will be based on the number of years delinquent multiplied by one-~~(third)~~ half of the (~~three~~) two-year renewal fee or the fee for one year. (~~Penalty fees are one-third of the three-year renewal fee or equal to the fee for one year multiplied by the number of years delinquent.~~)

(4) A registrant who fails to pay a renewal fee for a period of five years or more may be reinstated upon payment of all delinquent renewal fees and a penalty fee. Assessment of delinquent fees will be based on the number of years delinquent multiplied by one-half of the two-year renewal fee or the fee for one year. In addition to the payment of delinquent fees and a penalty fee the registrant shall submit the following:

(a) A summary of the current law and rules governing architects.

(b) A professional resume of architectural activities during the delinquent period, in sufficient detail to demonstrate to the board maintenance of minimum skills.

(c) A detailed explanation of the circumstances surrounding the reason the license was allowed to expire.

The board may require additional evidence as needed to verify minimum competency and qualifications. The registrant may be required to appear before the board or a representative member thereof where questions of competency remain.

(5) Registrants who withdraw from the practice of architecture, and exceed five years in an inactive status, shall request reinstatement in writing to the board and shall submit the following:

(a) A summary of the current law and rules governing architects.

(b) A professional resume of architectural activities during the delinquent period, in sufficient detail to demonstrate to the board maintenance of minimum skills.

(c) A detailed explanation of the circumstances surrounding the reason the license was in an inactive status for more than five years.

The board may require additional evidence as needed to verify minimum competency and qualifications. The registrant may be required to appear before the board or a representative member thereof where questions of competency remain.

AMENDATORY SECTION (Amending WSR 98-12-064, filed 6/1/98, effective 7/2/98)

WAC 308-12-326 Architect fees. The following fees shall be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Examination application	\$100.00
Reciprocity application	((378.00)) <u>390.00</u>
Initial registration	((145.00)) <u>99.00</u>
Oral examination	50.00
Registration renewal ((3)) 2 years)	((145.00)) <u>99.00</u>
Late renewal	((48.00)) <u>33.00</u>
Certificate replacement	15.00
Duplicate license	15.00
Certification Corporations:	27.00
Certificate of authorization	((270.00)) <u>278.00</u>
Certificate of authorization renewal	((135.00)) <u>139.00</u>

WSR 99-05-053

WITHDRAWAL OF PROPOSED RULES

SECRETARY OF STATE

[Filed February 12, 1999, 3:32 p.m.]

Please withdraw WSR 99-05-033 filed on February 10, 1999, due to an error on the attached documentation. We will be refile with corrections.

Donald F. Whiting
Assistant Secretary of State

WSR 99-05-054

PROPOSED RULES

SECRETARY OF STATE

[Filed February 12, 1999, 3:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-064.

Title of Rule: Set procedures for optical scan and absentee ballots; repeal requirement for cancellation notices.

Purpose: To standardize procedures state-wide for optical scan and absentee ballots and to remove the requirement for inactive voter cancellation notices.

Statutory Authority for Adoption: RCW 29.04.080, 29.04.210.

Summary: Specific language is added to further define the inspection and enhancement of optical scan ballots and to set procedures for replacement absentee ballots; the requirement to send cancellation notices to inactive voters is repealed.

Reasons Supporting Proposal: To standardize procedures for optical scan ballots and replacement absentee ballots; remove the ineffective and expensive inactive voter cancellation notice.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sheryl Moss, Office of the Secretary of State, (360) 664-3653.

Name of Proponent: Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendments will standardize the inspection and enhancement of optical scan ballots. Procedures are also set that allows for replacement absentee ballots. These procedures will provide standards to [be] followed throughout the state. The requirement for notices when inactive voters are cancelled is removed. Inactive voters are already sent several notices and, in most cases, no longer live at the address to which the notices are sent.

Proposal Changes the Following Existing Rules: Further defines ballot enhancement to only apply to optical scan ballots. Defines which ballot, the original or replacement, is counted for absentee ballots when both are returned. Additional absentee ballots are not counted and are sent to the county canvassing board. WAC 434-324-105 is repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not affect small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. It only affects governmental agencies.

Hearing Location: 1007 South Washington, 2nd Floor, Olympia, WA 98501, on March 30, 1999, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Sheryl Moss by March 23, 1999, (360) 664-3653.

Submit Written Comments to: Sheryl Moss, P.O. Box 40232, Olympia, WA 98504, fax (360) 664-3657, by March 29, 1999.

Date of Intended Adoption: April 5, 1999.

February 12, 1999

Donald F. Whiting

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-261-005 Definitions. (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot upon breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election;

(2) "Duplicating ballots" is the process of copying valid votes from ballots that may not be properly counted by the

electronic voting equipment to blank ballots of the same type and style, or as directed by the canvassing board;

(3) "Ballot enhancement" is the process of adding or covering marks on ((a)) an optical scan ballot to ensure that the electronic voting equipment will tally the votes on the ballot in the manner intended by the voter, or as directed by the canvassing board.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-261-080 Ballot enhancement—Optical scan systems. Ballots shall only be enhanced when such enhancement will not permanently obscure the original marks of the voters. Ballots shall be enhanced by teams of two or more people working together. When enhancing ballots, the county shall take the following steps to create and maintain an audit trail of the actions taken with respect to those enhanced ballots:

(1) Each ballot to be enhanced must be assigned a unique control number, with such number being marked on the face of the enhanced ballot;

(2) A log shall be kept of the ballots enhanced and shall include at least the following information:

- (a) The control number of each ballot enhanced;
- (b) The initials of at least two people who participated in enhancing each ballot; and
- (c) The total number of ballots enhanced;

(3) Enhanced ballots and ballots to be enhanced shall be sealed into secure storage at all times, except when said ballots are in the process of being enhanced, are being tabulated, or are being inspected by the canvassing board.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-240-205 Replacement absentee ballots. The county auditor may issue replacement absentee ballots to a voter who both:

(1) Requested an absentee ballot prior to election day; and

(2) Did not receive the absentee ballot or whose absentee ballot was damaged, lost, or destroyed.

A voter may request an absentee replacement ballot in person, by mail, by telephone, or by other electronic transmission for himself or herself and for any member of his or her immediate family. The request must be received by the auditor prior to 8:00 p.m. on election day.

The county auditor shall maintain a record of each replacement ballot issued, including the date of the request. Replacement absentee ballots or the original absentee ballot, whichever is received first, shall ~~((be counted in the final tabulation of ballots, and shall only))~~ be tabulated if the ~~((original ballot is not received by the county auditor and the replacement))~~ ballot meets all requirements for tabulation ~~((necessary for the tabulation of regular absentee ballots))~~. If the auditor receives additional ballot(s) from a voter, the additional ballot(s) shall not be counted and shall be forwarded to the county canvassing board.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 434-324-105 Notification of cancellation.

WSR 99-05-057

PROPOSED RULES

COLUMBIA RIVER GORGE COMMISSION

[Filed February 16, 1999, 10:02 a.m.]

Original Notice.

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

Title of Rule: 350-40, Revision of Urban Area Boundaries; and 350-50, Plan Amendment Process.

Purpose: To amend 350-40 and 350-50 to provide clarification.

Statutory Authority for Adoption: Chapter 43.97 RCW, ORS 196.150, 16 USC 544 et seq.

Statute Being Implemented: Chapter 43.97 RCW, ORS 196.150, 16 USC 544 et seq.

Summary: The proposed amendments provide clarification of the processes used by the commission for review of urban area boundary revisions and review of proposed plan amendments.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lawrence Watters, P.O. Box 730, White Salmon, WA 98672, (509) 493-3323.

Name of Proponent: Columbia River Gorge Commission, governmental.

Rule is necessary because of federal law, [no information supplied by agency].

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed amendments provide clarification to the commission's rules regarding revision of urban area boundaries and plan amendments.

Proposal Changes the Following Existing Rules: The proposed amendments provide clarification.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendments are not subject to the Regulatory Fairness Act because they clarify existing rules. The amendments will not impact businesses.

RCW 34.05.328 does not apply to this rule adoption. The Columbia River Gorge Commission is not a listed agency in RCW 34.05.328.

Hearing Location: Skamania Lodge, Stevenson, Washington, on April 13, 1999, at 4:30 p.m.

Assistance for Persons with Disabilities: Contact Jan Brending by March 19, 1999, (509) 493-3323.

Submit Written Comments to: Jan Brending, P.O. Box 730, White Salmon, WA 98672, fax (509) 493-2229, by March 26, 1999.

PROPOSED

Date of Intended Adoption: April 13, 1999.

February 2, 1999

Jan Brending

Rules Coordinator

AMENDATORY SECTION

350-40-000. Purpose. This division specifies the process ~~((that will be used by))~~ of the Columbia River Gorge Commission (Commission) ~~((when it considers))~~ for considering minor revisions to the boundaries of any Urban Area.

AMENDATORY SECTION

350-40-020. Authority. (1) The Commission may make "minor revisions" to the boundaries of an Urban Area [Scenic Area Act, Section 4(f)]. Such revisions must comply with procedural requirements and criteria in the Scenic Area Act.

(2) Three procedural requirements are included in Section 4 (f)(1) of the Scenic Area Act:

((+))a Requests to revise an Urban Area boundary ~~((must be))~~ are submitted to the Commission by a county government;

((2))b The Commission must consult the Secretary of Agriculture before revising an Urban Area boundary; and

((3))c Two-thirds of the Commission members, including a majority of the members appointed from each state, must approve a ~~((ny))~~ revision of an Urban Area boundary. In the event of recusal, the doctrine of necessity shall apply.

(3) Section 4 (f)(2) of the Scenic Area Act allows the Commission to revise the boundaries of an Urban Area only if the following criteria are satisfied:

((+))a A demonstrable need exists to accommodate long-range urban population growth requirements or economic needs consistent with the Management Plan;

((2))b Revision of Urban Area boundaries is ~~((would be))~~ consistent with the standards established in Section 6 and the purposes of the Scenic Area Act;

((3))c Revision of Urban Area boundaries ~~((would))~~ will result in maximum efficiency of land uses within and on the fringe of existing Urban Areas; and

((4))d Revision of Urban Area boundaries ~~((would))~~ will not result in the significant reduction of agricultural lands, forest lands, or open spaces.

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.

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

350-40-030. Application for Revision. Applications to revise the boundaries of any Urban Area shall contain the following information:

(1) A statement from the county sponsoring the Urban Area boundary revision, signed by the county commissioners.

(2) A statement that the senior-elected or appointed official(s) of any affected municipality or special district ~~((have been notified))~~ were provided notice of the application.

(3) A statement that explains why the proposed Urban Area boundary revision is needed. The statement shall describe the anticipated land uses that would occur in the affected area and demonstrate ~~((s))~~ how the proposed revision complies with the criteria in the Scenic Area Act.

(4) A map of the area ~~((that would be added))~~ proposed for addition to the existing Urban Area. The map shall be drawn to scale and shall be prepared at a scale of 1 inch equals 200 feet (1:2,400), or a scale providing greater detail. It shall include the following elements:

(a) North arrow;

(b) Map scale;

(c) Boundaries of all parcels within the subject area, with labels showing the name of each property owner and the size of each parcel;

(d) Current municipal zoning designations, where applicable;

(e) Significant terrain features or landforms;

(f) Bodies of water and watercourses;

(g) Existing roads and railroads;

(h) Existing dwellings and other structures; and

(i) Location of existing services, including water systems, sewage systems, and power and telephone lines.

(5) For incorporated areas, a map of the current boundary of the municipality.

(6) A map of adopted land use designations and zoning for the existing Urban Area.

(7) For Oregon applications, a map of currently approved urban growth boundaries.

(8) An analysis based on criteria in the Scenic Area Act. (For guidance see *Urban Areas Boundary Revisions Handbook*, Gorge Commission 1992).

AMENDATORY SECTION

350-40-040. Processing of Application. Each application to revise the boundaries of an Urban Area ~~((will be))~~ is reviewed according to the priorities established by the Commission in the Management Plan [see Part IV, Chapter 1, section *Revision of Urban Area Boundaries*, Policy 5]. Within priority categories established in the Management Plan, applications ~~((will be))~~ are reviewed in the order received.

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

350-40-050. Submission and Acceptance of Application. (1) ~~((Applications to revise the boundaries of an Urban Area shall be submitted directly to the office of the Commission by a county government.))~~ A county government shall submit an application to revise the boundary of an Urban Area to the Commission office. ~~((An original and f))~~ Fifteen copies of each application are required after the Executive Director determines the application is complete. Only two copies of the large scale maps are required.

(2) Within ten (10) working days of receiving an application, the Director shall review the application for completeness and adequacy and notify the applicant in writing of any deficiencies. ~~((No application shall be accepted as complete until all omissions and deficiencies noted by the Director have been corrected by the applicant.))~~

(3) The Executive Director shall not accept an application as complete until all omissions and deficiencies noted by the Executive Director are corrected.

AMENDATORY SECTION

350-40-060. Notice of Application. (1) ~~((Public notice of the completed application will be posted at Commission and U.S. Forest Service offices and shall be made available for posting at the applicable county or city planning office(s).))~~ Once the application is deemed complete, the Executive Director shall send public notice of the completed application to the U.S. Forest Service-National Scenic Area Office, States of Oregon and Washington, all four Indian tribal governments, the six Gorge county planning offices, appropriate city planning offices, and interested parties who have requested notice.

(2) ~~((Copies of the complete application will be available for inspection at the Commission office during normal office hours.))~~ The Executive Director shall publish notice of the application in local Gorge newspapers serving the National Scenic Area as well as a major newspaper in Portland and a major newspaper in Vancouver.

(3) The Executive Director shall make copies of the complete application available for inspection at the Commission office during normal office hours.

~~((3) Interested persons shall have twenty (20) working days from the date the notice was posted to submit written comments to the Director. Written comments should address whether the proposed Urban Area boundary revision would be consistent with the criteria in the Scenic Area Act.))~~

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

350-40-065. Public Comment. (1) Interested persons shall have twenty (20) working days from the date the notice is posted to submit written comments to the Executive Director. Written comments should address whether the proposed amendment is consistent with the purposes and standards of the Scenic Area Act, the criteria in Section 6(h) of the Scenic Area Act and this rule.

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.

AMENDATORY SECTION

350-40-070. Report of the Executive Director. ~~((The Executive Director will prepare a report, which may include recommendations, within thirty (30) working days of the date an application has been accepted as complete.))~~ Within thirty

(30) working days of the end of the public comment period, the Executive Director will prepare a report, which may include recommendations. Upon application of the Executive Director, the Commission may extend the time for submission of the report. The report will analyze the proposed Urban Area boundary revision based on the ~~((purposes and standards of the Scenic Area Act and the criterion in Section 6(h) of the Scenic Area Act))~~ criteria ~~((in))~~ of the Scenic Area Act and this rule ((350-20-004)).

AMENDATORY SECTION

350-40-080. Hearings. (1) The Commission will conduct a hearing ~~((s))~~ on every application accepted as complete by the Director.

(2) ~~((A general hearing on all current applications for the year, to consider public testimony and opinion on applications, may be set by the Commission. Any person may comment on the applications within time limits set by the Commission.))~~ The Commission shall provide 30 days notice of the hearing to interested parties and members of the public.

(3) ~~((A separate hearing will be conducted on the merits of each application. This hearing will be quasi-judicial in nature and will allow the parties, including intervenors, to present the application in a format that follows the contested case rules of the Commission [see Chapter 350, Division 16]. Any person who submitted comments on an Urban Area boundary revision application pursuant to 350-40-007(3) may participate in the Urban Area boundary revision hearing by filing a Notice of Intervention with the Director within 20 working days of the date the Director's report is prepared, pursuant to 350-40-008. The Notice of Intervention shall also be served by mail upon the applicable county. The Notice of Intervention shall show that the person filing the Notice has submitted comments on the proposed boundary revision. The applicant shall be afforded an opportunity for rebuttal argument. The length of the hearing will vary depending on the complexity of the application.))~~ The hearing shall take place as follows, noting the Chair may provide specific direction for the conduct of the hearing related to the time allowed for presentations and other reasonable measures as necessary:

(a) The applicant is required to proceed first in the hearing and shall present the basis for the urban area boundary revision.

(b) Federal, state, county, tribal and other government officials may participate through submission of oral or written comments.

(c) Members of the public may participate through submission of oral or written comments.

(d) After those who participate in the hearing on behalf of the government or the public are finished, the applicant shall have the opportunity to respond to the comments presented.

(e) After all presentations are complete, the Chair shall invite the Commission to deliberate on the proposed urban area boundary revisions.

(f) If the Commission makes no changes to the boundary revision proposal, the Commission may proceed to vote on the proposal.

(g) If the only changes to the boundary revision proposal are for the purposes of clarification, the Commission may proceed to vote on whether to adopt the boundary revision after providing an opportunity for public comment during the hearing on any change.

(h) If substantive changes, i.e. those not covered by subparagraph (g) immediately above, to the boundary revision are approved by the Commission during the hearing, the Commission shall:

(i) provide an opportunity for additional public comment during the hearing on the proposed changes, and then proceed to vote on whether to approve the boundary revision; or

(ii) continue the hearing to a new date to allow for adequate public notice of the content of the modifications and for further consideration of the issues. When the hearing is resumed, the Commission shall provide a reasonable opportunity for the applicant and members of the public to respond to the proposed modifications under review, and then proceed to vote on whether to approve the boundary revision.

~~((4) The Commission may seek additional information from any applicant before and during the hearing.))~~

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.

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

350-40-090. Consultation. In considering amendments to urban area boundaries, the Gorge Commission shall consult with the Forest Service, both states, the six Gorge counties, all four Indian tribal governments and agencies or organizations that have a specific interest.

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.

AMENDATORY SECTION

350-50-010. Purpose. This division specifies the process ~~((that will be used by))~~ of the Columbia River Gorge Commission (Commission) ~~((when it considers))~~ for considering amendments to the Management Plan.

AMENDATORY SECTION

350-50-020. Authority. ~~((Amendments to the Management Plan must comply with the requirements of the Scenic Area Act. These requirements are included in Section 6(h) of the Scenic Area Act:~~

~~(1) If the Commission determines at any time that conditions within the Scenic Area have significantly changed, it may amend the Management Plan.~~

~~(2) The Commission shall submit amendments to the Management Plan to the Secretary of Agriculture for review, in accordance with the provisions of the Scenic Area Act for adoption of the Management Plan.~~

~~(3) The Commission shall adopt an amendment to the Management Plan by a majority vote of the members appointed, including at least three members from each state.~~

~~(4) An amendment to the Management Plan must be consistent with the standards established in Section 6 and the purposes of the Scenic Area Act.))~~

(1) The Commission shall adopt an amendment to the Management Plan only if it is consistent with the purposes and standards of the Scenic Area Act, the provisions in section 6(h) of the Act, and this rule.

(2) The Act only allows the Commission to adopt a plan amendment:

(a) If the Commission determines at any time that conditions within the Scenic Area have significantly changed; and

(b) If the Commission approves the plan amendment by a majority vote of the members appointed, including approval by at least three members from each state. In the event of recusal, the doctrine of necessity shall apply.

AMENDATORY SECTION

350-50-030. Criteria for Plan Amendment Approval. The Commission must find ~~((that))~~ the following ~~((three))~~ criteria are satisfied before it approves an amendment ~~((of))~~ to the Management Plan:

(1) Conditions in the Scenic Area have significantly changed. This means:

(a) physical changes that have widespread or major impacts to the landforms, resources, or land use patterns in the Scenic Area;

(b) new information or inventory data regarding land uses or resources that could result in a change of a plan designation, classification, or other plan provision; or

(c) changes in legal, social, or economic conditions, including those that affect public health, safety, or welfare, not anticipated in the Management Plan;

(2) No practicable alternative to the proposed amendment more consistent with the purposes and standards of the Scenic Area Act exists; and

(3) The proposed amendment ~~((would be))~~ is consistent with the purposes and standards ~~((and purposes))~~ of the Scenic Area Act.

AMENDATORY SECTION

350-50-040. Origin of Applications. Applications to amend the Management Plan may originate from the Commission, Commission staff, or interested persons, including state and local governments, all four Indian governments, public interest groups, or affected landowners.

AMENDATORY SECTION

350-50-050. Application for Plan Amendment. Applications to amend the plan shall contain a statement from the sponsor ~~((that explains why the proposed plan amendment is needed. The statement shall demonstrate that the proposed amendment complies with the purposes and~~

PROPOSED

~~standards of the Scenic Area Act and the criterion in Section 6(h) of the Scenic Area Act)).~~ The statement shall:

(a) explain why the proposed plan amendment is necessary; and

(b) demonstrate why the proposed plan amendment complies with the purposes and standards of the Act, the provisions in Section 6(h), and this rule.

AMENDATORY SECTION

350-50-060. Processing of Application. Each application for a plan amendment ~~((will be))~~ is reviewed according to the provisions in the Management Plan [Part IV, Chapter 1, section *Amendment of the Management Plan*, Policy 2] and this rule.

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

350-50-070. Submittal and Acceptance of Application. ~~(1) ((Applications for plan amendments shall be submitted to the Commission office by a sponsor.))~~ The sponsor of the plan amendment shall submit an application to the Commission office. ~~((An original and f))~~ Fifteen copies of each application are required after an application is accepted as complete by the Executive Director.

(2) Within ten (10) working days of receiving an application, the Executive Director shall review the application for completeness and adequacy and notify the applicant in writing of any deficiencies. ~~((No application shall be accepted as complete until all omissions and deficiencies noted by the Executive Director have been corrected by the applicant.))~~

(3) The Executive Director will not accept an application as complete until all omissions and deficiencies noted by the Executive Director are corrected.

NEW SECTION

350-50-075. Preliminary Review and Commencement of Review Process. (1) Once the application is determined complete, the Executive Director shall notify the applicants and shall bring the matter to the Commission for preliminary review.

(2) When more than one application is pending, the preliminary review of proposed amendments shall be scheduled in the order they were accepted as complete by the Executive Director.

(3) The purpose of preliminary review is to allow the Commission to:

(a) ask questions of Commission staff and of applicants regarding the plan amendment; and

(b) provide an opportunity to applicants, if they so choose, to revise the application to address issues raised in the preliminary review, provided that such changes are made within 15 working days of the preliminary review.

(4) Following the preliminary review, the Commission shall either commence or postpone the process for all complete applications. The Commission may postpone the pro-

cess after evaluating the resources, including financial and personnel, required to process the proposed plan amendment and determining its priority relative to existing or anticipated work. A majority vote of the Commission at a regularly scheduled meeting is required to commence the process for a proposed plan amendment; the process is postponed for proposals that fail to receive the majority vote needed to commence.

(5) The Commission may reconsider a postponed plan amendment at any subsequent regularly scheduled meeting, and may commence the review process by a majority vote.

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.

AMENDATORY SECTION

350-50-080. Notice of Application. (1) Once the application is deemed complete and 15 working days have expired after the Commission has voted to commence the process, the Executive Director shall send ((P))public notice of the completed application, including any revisions, ((will be sent)) to the U.S. Forest Service - National Scenic Area Office, States of Oregon and Washington, all four Indian tribal governments, ((and)) the six Gorge county planning offices, and interested parties who have requested notice.

(2) ((Notice shall be published)) The Executive Director shall publish notice of the application in local Gorge newspapers serving the National Scenic Area as well as a major newspaper in Portland and a major newspaper in Vancouver.

(3) The Executive Director shall make ((C))copies of the complete application ((will be)) available for inspection at the Commission office during normal office hours.

~~((4) Interested persons shall have twenty (20) working days from the date the notice is posted to submit written comments to the Executive Director. Written comments should address whether the proposed amendment would be consistent with the purposes and standards of the Scenic Area Act, and the criterion in Section 6(h) of the Scenic Area Act.))~~

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

350-50-085. Public Comment. (1) Interested persons shall have twenty (20) working days from the date the notice is posted to submit written comments to the Executive Director. Written comments should address whether the proposed amendment is consistent with the purposes and standards of the Scenic Area Act, the criteria in Section 6(h) of the Scenic Area Act and this rule.

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.

AMENDATORY SECTION

350-50-090. Report of the Executive Director. ~~((The Executive Director will prepare a report, which may include~~

recommendations, within thirty (30) working days of the date an application has been accepted as complete.) Within thirty (30) working days of the end of the public comment period, the Executive Director will prepare a report, which may include recommendations. Upon application of the Executive Director, the Commission may extend the time for submission of the report. The report will analyze the proposed amendment based on the ~~((purposes and standards of the Scenic Area Act and the criterion in Section 6(h) of the Scenic Area Act))~~ criteria of the Scenic Area Act and Rule 350-50-030.

AMENDATORY SECTION

350-50-100. Hearings. (1) The Commission ~~((with))~~ shall conduct a hearing on every application ~~((that))~~ the Commission has decided to review pursuant to ~~((350-50-070(3)))~~ 350-50-075(6).

(2) ~~((A hearing will be conducted on the merits of each application. This hearing will be quasi-judicial in nature and will allow the parties, including intervenors, to present the plan amendment in a format that follows the contested case rules of the Commission [see Chapter 350, Division 16]. Any person who submitted comments on a plan amendment application pursuant to 350-50-080(3) may participate in the hearing by filing a Notice of Intervention with the Director within twenty (20) working days of the date the Executive Director's report is prepared, pursuant to 350-50-090. The Notice of Intervention shall also be served by mail upon the applicable sponsor. The Notice of Intervention shall show that the person filing the Notice has submitted comments on the proposed plan amendment. The sponsor shall be afforded an opportunity for rebuttal argument.))~~ The Commission shall provide 30 days notice of the hearing to interested parties and members of the public.

(3) ~~((The Commission may seek additional information from any applicant before and during the hearing.))~~ The hearing shall take place as follows, noting the Chair may provide specific direction for the conduct of the hearing related to the time allowed for presentations and other reasonable measures as necessary:

(a) The applicant is required to proceed first in the hearing and shall present the basis for the plan amendment.

(b) Federal, state, county, tribal and other government officials may participate through submission of oral or written comments.

(c) Members of the public may participate through submission of oral or written comments.

(d) After those who participate in the hearing on behalf of the government or the public are finished, the applicant shall have the opportunity to respond to the comments presented.

(e) After all presentations are complete, the Chair shall invite the Commission to deliberate on the proposed plan amendment.

(f) If the Commission makes no changes to the original amendment, the Commission may proceed to vote on the proposal.

(g) If the only changes to the amendment are for the purposes of clarification, the Commission may proceed to vote

on whether to adopt the amendment after providing an opportunity for public comment during the hearing on any change.

(h) If substantive changes, i.e. those not covered by subparagraph (g) immediately above, to the amendment are approved by the Commission during the hearing, the Commission shall:

(i) provide an opportunity for additional public comment during the hearing on the new proposed language, and then proceed to vote on whether to adopt the amendment; or

(ii) continue the hearing to a new date to allow for adequate public notice of the content of the modifications and for further consideration of the issues. When the hearing is resumed, the Commission shall provide a reasonable opportunity for the applicant and members of the public to respond to the proposed modifications under review, and then proceed to vote on whether to adopt the amendment.

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.

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

350-50-120. Review by the Secretary of Agriculture. ~~((According to))~~ In accord with Sections 6(f) and 6(h) of the Scenic Area Act, an amendment to the Management Plan adopted by the Commission ~~((with))~~ shall be submitted to the Secretary of Agriculture. The Secretary of Agriculture will review the amendment and determine if it is consistent with the purposes and standards of the Scenic Area Act. The Secretary has 90 days from the day the Commission submits an amendment to complete ~~((his/her))~~ review and make a determination of concurrence or non-concurrence.

WSR 99-05-058

WITHDRAWAL OF PROPOSED RULES PERSONNEL RESOURCES BOARD

(By the Code Reviser's Office)

[Filed February 16, 1999, 11:58 a.m.]

WAC 251-24-040, proposed by the Personnel Resources Board in WSR 98-15-036 appearing in issue 98-16 of the State Register, which was distributed on August 19, 1998, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 99-05-059
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF LICENSING
 (By the Code Reviser's Office)
 [Filed February 16, 1999, 11:58 a.m.]

Date of Intended Adoption: April 6, 1999.

February 16, 1999
 Pete A. Butkus
 Rules Coordinator

WAC 308-66-190, proposed by the Department of Licensing in WSR 98-16-007 appearing in issue 98-16 of the State Register, which was distributed on August 19, 1998, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 99-05-062
PROPOSED RULES
PUBLIC WORKS BOARD
 [Filed February 16, 1999, 1:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-22-016.

Title of Rule: WAC 399-30-032, 399-30-033, and 399-30-034.

Purpose: Growth Management Act compliance.

Other Identifying Information: Defines "public health need" and "substantial environmental degradation."

Statutory Authority for Adoption: RCW 43.155.040(4).

Statute Being Implemented: RCW 43.155.070 (1)(d).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Pete A. Butkus, P.O. Box 48319, Olympia, WA, (360) 586-7186.

Name of Proponent: Pete A. Butkus, P.O. Box 48319, Olympia, WA, (360) 586-7186, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Provides for permanent rule to replace existing (and expired) emergency rule. Rule is necessary to provide customers with legal notice as to how the Public Works Board interprets "public health need" and "substantial environmental degradation."

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed WAC takes actions with governmental bodies only.

RCW 34.05.328 does not apply to this rule adoption. Does not meet the definition in RCW 34.05.328(5).

Hearing Location: Wyndham Gardens Hotel, 18118 Pacific Highway South, SeaTac, WA, on April 6, 1999, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Beth Rockwell by March 25, 1999, (360) 753-3262.

Submit Written Comments to: Pete A. Butkus, P.O. Box 48319, Olympia, WA 98504, fax (360) 664-3029, by March 27, 1999.

NEW SECTION

WAC 399-30-032 What are the requirements for meeting the Growth Management Act under RCW 43.155.070 (1)(d)? (1) "Compliance with the Growth Management Act" means that at the time of application for financial assistance:

(a) A local government that is required to or chooses to plan under RCW 36.70A.040 has adopted a comprehensive plan and development regulations in conformance with the requirements of chapter 36.70A RCW, after it is required that the comprehensive plan and development regulations be adopted; and

(b) The local government has not been found out of compliance by a growth management hearings board; or

(c) A growth management hearings board has found a local government in compliance with the requirements of chapter 36.70A RCW, after previously finding the local government was not in compliance.

(2) Exceptions based on "public health need" or "substantial environmental degradation" shall not be used as a method to provide unrestricted access to financial assistance for local governments not in compliance with the law.

NEW SECTION

WAC 399-30-033 How will the board address a "public health need" under RCW 43.155.070 (1)(d)? "Public health need" means that a situation exists that causes or is about to cause a real, documented, acute public health need related to the state's air, water, or soil that contributes to injuries or deaths on public highways, or risk of a public health emergency due to contaminated domestic water, the failure of a sanitary sewer system, storm sewer system, or solid waste or recycling system; and the problem generally involves a discrete area including, but not limited to, a county, city, subdivision, or an area serviced by on-site wastewater disposal systems.

In determining whether a project is necessary to address a public health need, the board shall consider the following factors:

(1) For bridge or road projects - whether injury or fatal injury motor or nonmotorized vehicle traffic collisions at a specific site, roadway control section, or area have occurred at a rate to be in the top five percent of all such collisions within the applicant jurisdiction for the most recent three-year period; and whether the proposed public works project will eliminate or reduce the likelihood of such vehicle collisions. Applicants applying under this subsection may utilize jurisdiction-wide accident data, or break the data down into arterial or nonarterial roads, intersection or nonintersection, and for intersections, whether they are signalized or non-signalized.

(2) For domestic water projects - whether a drinking water system regulated by the department of health has been

contaminated or is in imminent danger of being contaminated to the extent of creating a public health risk and; whether the proposed public works project will eliminate or reduce the chance of contamination.

(3) For sanitary sewer projects - whether failure of existing wastewater system or systems, including on-site systems, has resulted in contamination being present on the surface of the ground in such quantities and locations so as to create a potential for public contact; or whether contamination of a commercial or recreational shellfish bed so as to create a public health risk associated with the consumption of the shellfish, or contamination of surface water so as to create a public health risk associated with recreational use; and whether the proposed public works project will eliminate or reduce the danger of such public health risk.

(4) For storm sewer projects - whether failure of an existing storm sewer system has caused or is in imminent danger of causing localized flooding which disrupts critical public services; causes disease, illness, or attraction of rodents so as to create a public health risk; or contamination of a commercial or recreational shellfish bed so as to create a public health risk associated with the consumption of the shellfish, or contamination of surface water so as to create a public health risk associated with recreational use and; whether the proposed public works project will eliminate or reduce the danger of localized flooding which disrupts critical public services or causes a public health risk.

(5) For solid waste or recycling projects - whether failure of an existing solid waste or recycling system has caused or is in danger of causing ground water contamination; causes disease, illness, or attraction of rodents so as to create a public health risk and; whether the proposed public works project will eliminate or reduce the danger of such public health risk.

(6) For all projects - whether more efficient operation of an existing system, changing public access, or modifying other regulatory standards (e.g., reduced speed limits, water conservation measures, rodent control, restricted shellfish harvesting) is likely to provide the same or similar level of resolution.

(7) For all projects - whether the public health problem is caused by failure to maintain or periodically replace, reconstruct, or rehabilitate a public works system.

(8) For all projects - other factors the board finds on the record are significant in light of facts and circumstances unique to the project.

(9) The factors enumerated in subsection (1) of this section must be addressed in a letter of request, with supporting documentation, addressed to the chair of the board and signed by the public official who signed the application for financial assistance.

(10) The factors enumerated in subsections (2) through (5) of this section must be addressed in a letter of request, with supporting documentation, addressed to the secretary of the Washington state department of health and signed by the public official who signed the application for financial assistance. A determination of a public health need may be made by the secretary, or designee, and addressed to the same public official. The board will consider the determination of the secretary. The board will also consider information presented on factors enumerated in subsections (6) through (8)

of this section, which must be documented in a manner acceptable to the board.

NEW SECTION

WAC 399-30-034 How will the board address "substantial environmental degradation" as found in RCW 43.155.070 (1)(d)? "Substantial environmental degradation" means a situation causes or is about to cause real, documented, substantial environmental degradation that contributes to violations of the state's air quality, water quality, or soil contaminate standards, interferes with beneficial uses of the air, water, or land, and the problem generally involves a discrete area including, but not limited to, a county, city, subdivision, or an area serviced by on-site wastewater disposal systems.

In determining whether a project is necessary to address substantial environmental degradation, the board shall consider the following factors:

(1) For bridge and road projects - whether motorized or nonmotorized vehicle traffic has caused substantial environmental degradation of the air, water, or soils of the state at the site for which a proposed public works project is the subject of a financial assistance application, and; whether the proposed public works project will eliminate or reduce the chance of such vehicle-caused critical substantial environmental degradation.

(2) For domestic water projects - whether a drinking water system regulated by the department of health has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce the chance of substantial environmental degradation.

(3) For sanitary sewer projects - whether failure of an existing wastewater system, including individual on-site systems, has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.

(4) For storm sewer systems - whether of an existing storm sewer system has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will eliminate or reduce such substantial environmental degradation.

(5) For solid waste or recycling projects - whether failure of an existing solid waste system or recycling system has caused substantial environmental degradation of the air, water, or soil of the state including, but not limited to: Causing disease or illness to humans, the attraction of rodents, or the killing of fish and shellfish that reside in the waters of the state, and; whether the proposed public works project will

eliminate or reduce such substantial environmental degradation.

(6) For all projects - whether more efficient operation of an existing system, changing public access, or modifying other regulatory standards (e.g., reduced speed limits, water conservation measures, rodent control, restricted shellfish harvesting) is likely to provide the same or similar level of resolution.

(7) For all projects - whether the substantial environmental degradation is caused by failure to maintain or periodically replace, reconstruct, or rehabilitate a public works system.

(8) For all projects - other factors the board finds on the record are significant in light of facts and circumstances unique to the project. Fish passage, water quality, or water quantity issues directly impacting salmonid fish survival in a watershed which is designated as a candidate for listing, proposed for listing, threatened listing, or endangered listing under the federal Endangered Species Act may be considered significant and unique to a project.

(9) The factors enumerated in subsections (1) through (5) of this section must be addressed in a letter of request, with supporting documentation, to the director of the Washington state department of ecology and signed by the public official who signed the application for financial assistance. A determination of substantial environmental degradation may be made by the director or designee and addressed to the same public official. The board will consider the determination of the director. The board will also consider information presented on factors enumerated in subsections (6) through (8) of this section, which must be documented in a manner acceptable to the board.

WSR 99-05-063
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed February 17, 1999, 7:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-136.

Purpose: To amend WAC 232-28-264, 232-28-273, 232-28-280, 232-28-281, 232-16-810, 232-28-271, 232-28-02201, 232-28-02203, 232-28-02204, 232-28-02205, 232-28-02240, and 232-28-248.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: WAC 232-28-264 1997-98, 1998-99, and 1999-2000 Official hunting hours and small game seasons, the amendment establishes the 1999 youth hunt for pheasants and quail in eastern Washington. The amendment allows additional recreational opportunity on game bird resources. The amendments retain and expand recreational opportunity for youth game bird hunters. Does not affect small business.

WAC 232-28-273 Moose, bighorn sheep, and mountain goat seasons and permit quotas, the WAC specifies hunting season dates, permit quotas and unit descriptions for all spe-

cial species for the 1999 hunting season. Provides recreational opportunity. The rule establishes limited entry moose, bighorn sheep, and mountain goat seasons and regulations to provide recreational opportunity while conserving special species resources of Washington. Does not affect small business.

WAC 232-28-280 1999-2000 Deer general seasons and special permits, the 1999 deer general seasons and special permits are proposed to provide hunting opportunity within the biological constraints of the resource. Minor changes are made to the 1999 hunting seasons. The proposed deer hunting seasons will maintain most hunting opportunities adopted in the 1997-1999 hunting season rules. The proposed rule will describe deer hunting opportunities in Washington state. The purpose is to provide hunting recreation and help prevent damage to agricultural and horticultural crops. The anticipated effect will be to maintain hunting opportunity and reduce liability to damage claims from deer damage. Does not affect small business.

WAC 232-28-281 1999-2000 Elk general seasons and special permits, the 1999-2000 elk general seasons and special permit seasons are proposed to provide hunting opportunity within biological constraints of the resource. Minor changes are made to the 1999 hunting seasons. The proposed elk hunting seasons will maintain most hunting opportunities adopted in the 1997-1999 hunting seasons and prevent the elk resource from over harvest. The rule will adopt 1999 elk hunting seasons and rules. The purpose is to adopt rules consistent with conservation of the resource while providing recreational opportunity. The effect will be to maintain hunting seasons for elk similar to past years. Does not affect small business.

WAC 232-16-810 Port Susan Bay Canada goose closure, the proposed amendment allows hunting of Canada geese in Port Susan Bay during September and October. When the rule was originally adopted in August 1998, all Canada goose hunting was prohibited in Port Susan Bay to protect Vancouver Canada geese. The amendment allows hunting of other Canada geese in the bay prior to the time when Vancouver Canada geese arrive in November. The amendment increases recreational opportunity on resident Canada geese and protects Vancouver Canada geese. Does not affect small business.

WAC 232-28-271 Private lands wildlife management area hunting seasons, rules and boundary descriptions, this amendment changes the mule deer quota for the Wilson hunt to 100. This amendment allows additional recreational opportunity. Does not affect small business.

WAC 232-28-02201 the boundary descriptions for Region One, the only change is to insert the word Ferry before Customs Office in the game management unit (GMU) 101 unit description. The only reason for making this change is to clarify the boundary description. Does not affect small business.

WAC 232-28-02203 the boundary descriptions for Region Three, the only change is to transfer game management unit (GMU) 582 (East Klickitat) from Region Five to Region Three and renumber it GMU 382 (East Klickitat). The East Klickitat area is managed as a mule deer area with shorter more restrictive hunting seasons. This change will

make management of the species less confusing to the public. The proposed change will add GMU 382 (East Klickitat) to the Region Three deer and elk hunting seasons and remove it from Region Five deer and elk hunting seasons. This area is managed as a mule deer area because mule deer are the pre-dominate deer in Region Three. This change should be more understandable to the public. Does not affect small business.

WAC 232-28-02204 boundary descriptions for Region Four, boundary descriptions for game management units (GMUs) 407 (North Sound) and 426 (Diablo) are amended to clarify boundary descriptions. Both descriptions better describe the existing area for the units and should make it easier for hunters to find the boundaries on the ground. Does not affect small business.

WAC 232-28-02205 the boundary descriptions for Region Five, boundary descriptions for game management units (GMUs) 522 (Loo-wit), 556 (Toutle), and 568 (Washougal) are amended to better describe the hunting areas. The proposed changes do not change the hunt areas. They better define the boundary or change the road name to reflect the current name. The boundary between GMUs 522 and 556 is now defined using Deer Springs Creek. The GMU 568 description uses the new name for the road, Canyon Creek Road. The purpose and benefit will be to help hunters find the boundary on the ground. Does not affect small business.

WAC 232-28-02240 Muzzleloader area descriptions, Muzzleloader Area 910 (Cle Elum) has been replaced by Muzzleloader Area 911 (Fairview). The damage problem in this area has been reduced and the damage control hunt area is recommended to be reduced. The 910 Muzzleloader hunt is a damage hunt. The area experiencing the damage is smaller now and the geographic area for the hunt is reduced substantially. The new boundary description and number will direct the hunting pressure to the damage area. The result will be reduced muzzleloader harvest and hunting opportunity in this damage control hunt. Does not affect small business.

WAC 232-28-248 Special closures and firearm restriction areas, firearm restriction areas and closures are updated annually to delete unnecessary closures and provide accurate descriptions for new areas. The Baleville Big Game Closure was dropped and the geographic area was included in the Pacific County Firearm Restriction Area. The Voice of America area was added to the restricted and prohibited hunting areas. This restriction is recommended February 1 through September 30. Lummi Island in Whatcom County was added to the firearm restriction areas list. The Parker Lake area was changed from a season of Aug. 1-Sept. 30 to closed year round. Firearm restriction designations are iden-

tified for safety reasons. Centerfire and rimfire rifles are not legal for hunting in these areas. Persons with modern firearm tags may hunt with archery or muzzleloader equipment during modern firearm seasons in these areas. The effect will be to ban high powered rifles in these areas. Does not affect small business.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting and Implementation: Steve Pozzanghera, Assistant Director, Wildlife Management, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Assistant Director, Enforcement, Olympia, (360) 902-2932.

Name of Proponent: Washington Department of Fish and Wildlife, 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: See Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not affect small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules are not related to the hydraulics code.

Hearing Location: Cavanaugh's Ridpath Hotel, 515 West Sprague Avenue, Spokane, WA, on April 2-3, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by March 15, 1999, TDD (360) 902-2207, or (360) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife, Steve Pozzanghera, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2162, by March 19, 1999.

Date of Intended Adoption: April 2, 1999.

February 16, 1999

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 98-249, filed 12/22/98, effective 1/22/99)

WAC 232-28-264 1998-99 and 1999-2000 Official hunting hours and small game seasons.

1998-99 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 1998 to January 31, 1999

Dates (Inclusive)	Western Washington			Eastern Washington		
	A.M.	to	P.M.	A.M.	to	P.M.
Tues. Sept. 1 - Sun. Sept. 6	6:00		7:45	5:50		7:35
Daylight Savings Time						

PROPOSED

1998-99 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 1998 to January 31, 1999

PROPOSED

Dates (Inclusive)				Western Washington from			Eastern Washington from		
				A.M.	to	P.M.	A.M.	to	P.M.
Mon.	Sept. 7	-	Sun. Sept. 13	6:10		7:35	6:00		7:20
Mon.	Sept. 14	-	Sun. Sept. 20	6:20		7:20	6:05		7:05
Mon.	Sept. 21	-	Sun. Sept. 27	6:30		7:05	6:15		6:50
Mon.	Sept. 28	-	Sun. Oct. 4	6:40		6:50	6:25		6:35
Mon.	Oct. 5	-	Sun. Oct. 11	6:45		6:35	6:25		6:25
Mon.	Oct. 12	-	Sun. Oct. 18	6:55		6:20	6:45		6:10
Mon.	Oct. 19	-	Sat. Oct. 24	7:05		6:10	6:55		6:00
Pacific Standard Time									
			Sun. Oct. 25	6:10		5:00	6:00		4:50
Mon.	Oct. 26	-	Sun. Nov. 1	6:20		4:55	6:05		4:45
Mon.	Nov. 2	-	Sun. Nov. 8	6:30		4:45	6:15		4:35
Mon.	Nov. 9	-	Sun. Nov. 15	6:40		4:35	6:30		4:25
Mon.	Nov. 16	-	Sun. Nov. 22	6:50		4:30	6:40		4:15
Mon.	Nov. 23	-	Sun. Nov. 29	7:00		4:25	6:50		4:10
Mon.	Nov. 30	-	Sun. Dec. 6	7:10		4:20	6:55		4:10
Mon.	Dec. 7	-	Sun. Dec. 13	7:15		4:20	7:05		4:05
Mon.	Dec. 14	-	Sun. Dec. 20	7:20		4:20	7:10		4:10
Mon.	Dec. 21	-	Sun. Dec. 27	7:25		4:20	7:15		4:10
Mon.	Dec. 28	-	Sun. Jan. 3	7:25		4:30	7:15		4:15
Mon.	Jan. 4	-	Sun. Jan. 10	7:25		4:35	7:15		4:25
Mon.	Jan. 11	-	Sun. Jan. 17	7:25		4:45	7:10		4:30
Mon.	Jan. 18	-	Sun. Jan. 24	7:20		4:55	7:05		4:40
Mon.	Jan. 25	-	Sat. Jan. 31	7:10		5:00	7:00		4:50

*These are lawful hunting hours (one-half hour before sunrise to sunset) for migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon); upland birds (pheasant, quail, partridge); and turkey during established seasons.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. in all areas.
- 2) Clark (except areas south of the Washougal River), Cowlitz, Grays Harbor, (except areas north of U.S. Highway 12 and west of U.S. Highway 101), Pacific, and Wahkiakum counties - Goose hunting hours are 8:00 a.m. to 4:00 p.m., except one-half hour before sunrise to sunset during the September goose season and 7:00 a.m. to 4:00 p.m. during the late goose season.
- 3) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

1999-2000 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 1999 to January 31, 2000

Dates (Inclusive)				Western Washington from			Eastern Washington from		
				A.M.	to	P.M.	A.M.	to	P.M.
Daylight Savings Time									
Wed.	Sept. 1	-	Sun. Sept. 5	6:00		7:45	5:45		7:35
Mon.	Sept. 6	-	Sun. Sept. 12	6:05		7:35	5:50		7:20

1999-2000 OFFICIAL HUNTING HOURS
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS*
September 1, 1999 to January 31, 2000

Dates (Inclusive)					Western Washington			Eastern Washington		
					A.M.	to	P.M.	A.M.	to	P.M.
Mon.	Sept. 13	-	Sun.	Sept. 19	6:15		7:20	6:05		7:10
Mon.	Sept. 20	-	Sun.	Sept. 26	6:25		7:10	6:15		6:50
Mon.	Sept. 27	-	Sun.	Oct. 3	6:35		6:50	6:25		6:40
Mon.	Oct. 4	-	Sun.	Oct. 10	6:45		6:40	6:35		6:25
Mon.	Oct. 11	-	Sun.	Oct. 17	6:50		6:25	6:45		6:15
Mon.	Oct. 18	-	Sun.	Oct. 24	7:05		6:15	6:55		6:00
Mon.	Oct. 25	-	Sat.	Oct. 30	7:15		6:00	7:05		5:45
Pacific Standard Time										
Sun.	Oct. 31	-	Sun.	Nov. 7	6:25		4:45	6:15		4:35
Mon.	Nov. 8	-	Sun.	Nov. 14	6:35		4:40	6:25		4:25
Mon.	Nov. 15	-	Sun.	Nov. 21	6:50		4:30	6:35		4:20
Mon.	Nov. 22	-	Sun.	Nov. 28	7:00		4:25	6:45		4:10
Mon.	Nov. 29	-	Sun.	Dec. 5	7:05		4:20	6:50		4:10
Mon.	Dec. 6	-	Sun.	Dec. 12	7:10		4:20	7:00		4:05
Mon.	Dec. 13	-	Sun.	Dec. 19	7:20		4:20	7:05		4:05
Mon.	Dec. 20	-	Sun.	Dec. 26	7:25		4:25	7:10		4:10
Mon.	Dec. 27	-	Sun.	Jan. 2	7:30		4:25	7:15		4:15
Mon.	Jan. 3	-	Sun.	Jan. 9	7:30		4:35	7:15		4:20
Mon.	Jan. 10	-	Sun.	Jan. 16	7:25		4:40	7:10		4:30
Mon.	Jan. 17	-	Sun.	Jan. 23	7:20		4:50	7:05		4:45
Mon.	Jan. 24	-	Mon.	Jan. 31	7:15		5:00	7:00		4:50

*These are lawful hunting hours (one-half hour before sunrise to sunset) for migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon); upland birds (pheasant, quail, partridge); and turkey during established seasons.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. in all areas.
- 2) Clark (except areas south of the Washougal River), Cowlitz, Grays Harbor, (except areas north of U.S. Highway 12 and west of U.S. Highway 101), Pacific, and Wahkiakum counties - Goose hunting hours are 8:00 a.m. to 4:00 p.m., except one-half hour before sunrise to sunset during the September-Canada goose season and 7:00 a.m. to 4:00 p.m. during the late goose season.
- 3) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

1998-1999 OFFICIAL HUNTING HOURS
FOR GAME ANIMALS & GAME BIRDS (EXCEPT MIGRATORY, UPLAND GAME BIRDS, AND WILD TURKEYS)*
September 1, 1998 to January 31, 1999

Dates (Inclusive)					Western Washington			Eastern Washington		
					A.M.	to	P.M.	A.M.	to	P.M.
Daylight Savings Time										
Tues.	Sept. 1	-	Sun.	Sept. 6	6:00		8:15	5:50		8:05
Mon.	Sept. 7	-	Sun.	Sept. 13	6:10		8:05	6:00		7:50
Mon.	Sept. 14	-	Sun.	Sept. 20	6:20		7:50	6:05		7:35
Mon.	Sept. 21	-	Sun.	Sept. 27	6:30		7:35	6:15		7:20

1998-1999 OFFICIAL HUNTING HOURS
 FOR GAME ANIMALS & GAME BIRDS (EXCEPT MIGRATORY, UPLAND GAME BIRDS, AND WILD TURKEYS)*
 September 1, 1998 to January 31, 1999

PROPOSED

Dates (Inclusive)					Western Washington		Eastern Washington	
					from	to	from	to
					A.M.	P.M.	A.M.	P.M.
Mon.	Sept. 28	-	Sun.	Oct. 4	6:40	7:20	6:25	7:05
Mon.	Oct. 5	-	Sun.	Oct. 11	6:45	7:05	6:25	6:55
Mon.	Oct. 12	-	Sun.	Oct. 18	6:55	6:50	6:45	6:40
Mon.	Oct. 19	-	Sat.	Oct. 24	7:05	6:40	6:55	6:30
Pacific Standard Time								
			Sun.	Oct. 25	6:10	5:30	6:00	5:20
Mon.	Oct. 26	-	Sun.	Nov. 1	6:20	5:25	6:05	5:15
Mon.	Nov. 2	-	Sun.	Nov. 8	6:30	5:15	6:15	5:05
Mon.	Nov. 9	-	Sun.	Nov. 15	6:40	5:05	6:30	4:55
Mon.	Nov. 16	-	Sun.	Nov. 22	6:50	5:00	6:40	4:45
Mon.	Nov. 23	-	Sun.	Nov. 29	7:00	4:55	6:50	4:40
Mon.	Nov. 30	-	Sun.	Dec. 6	7:10	4:50	6:55	4:40
Mon.	Dec. 7	-	Sun.	Dec. 13	7:15	4:50	7:05	4:35
Mon.	Dec. 14	-	Sun.	Dec. 20	7:20	4:50	7:10	4:40
Mon.	Dec. 21	-	Sun.	Dec. 27	7:25	4:50	7:15	4:40
Mon.	Dec. 28	-	Sun.	Jan. 3	7:25	5:00	7:15	4:45
Mon.	Jan. 4	-	Sun.	Jan. 10	7:25	5:05	7:15	4:55
Mon.	Jan. 11	-	Sun.	Jan. 17	7:25	5:15	7:10	5:00
Mon.	Jan. 18	-	Sun.	Jan. 24	7:20	5:25	7:05	5:10
Mon.	Jan. 25	-	Sat.	Jan. 31	7:10	5:30	7:00	5:20

* These are lawful hunting hours (one-half hour before sunrise to one-half hour after sunset) for all game animals and game birds (except duck, goose, coot, snipe, mourning dove, band-tailed pigeon, pheasant, quail, partridge and turkey) during established seasons.

Exceptions:

- 1) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 2) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

1999-2000 OFFICIAL HUNTING HOURS
 FOR GAME ANIMALS & GAME BIRDS (EXCEPT MIGRATORY, UPLAND GAME BIRDS, AND WILD TURKEYS)*
 September 1, 1999 to January 31, 2000

Dates (Inclusive)					Western Washington		Eastern Washington	
					from	to	from	to
					A.M.	P.M.	A.M.	P.M.
Daylight Savings Time								
Wed.	Sept. 1	-	Sun.	Sept. 5	6:00	8:15	5:45	8:05
Mon.	Sept. 6	-	Sun.	Sept. 12	6:05	8:05	5:50	7:50
Mon.	Sept. 13	-	Sun.	Sept. 19	6:15	7:50	6:05	7:40
Mon.	Sept. 20	-	Sun.	Sept. 26	6:25	7:40	6:15	7:20
Mon.	Sept. 27	-	Sun.	Oct. 3	6:35	7:20	6:25	7:10
Mon.	Oct. 4	-	Sun.	Oct. 10	6:45	7:10	6:35	6:55

1999-2000 OFFICIAL HUNTING HOURS
FOR GAME ANIMALS & GAME BIRDS (EXCEPT MIGRATORY, UPLAND GAME BIRDS, AND WILD TURKEYS)*
September 1, 1999 to January 31, 2000

Dates (Inclusive)					Western Washington		Eastern Washington	
					from	to	from	to
					A.M.	P.M.	A.M.	P.M.
Mon.	Oct. 11	-	Sun.	Oct. 17	6:50	6:55	6:45	6:45
Mon.	Oct. 18	-	Sun.	Oct. 24	7:05	6:45	6:55	6:30
Mon.	Oct. 25	-	Sat.	Oct. 30	7:15	6:30	7:05	6:15
Pacific Standard Time								
Sun.	Oct. 31	-	Sun.	Nov. 7	6:25	5:15	6:15	5:05
Mon.	Nov. 8	-	Sun.	Nov. 14	6:35	5:10	6:25	4:55
Mon.	Nov. 15	-	Sun.	Nov. 21	6:50	5:00	6:35	4:50
Mon.	Nov. 22	-	Sun.	Nov. 28	7:00	4:55	6:45	4:40
Mon.	Nov. 29	-	Sun.	Dec. 5	7:05	4:50	6:50	4:40
Mon.	Dec. 6	-	Sun.	Dec. 12	7:10	4:50	7:00	4:35
Mon.	Dec. 13	-	Sun.	Dec. 19	7:20	4:50	7:05	4:35
Mon.	Dec. 20	-	Sun.	Dec. 26	7:25	4:55	7:10	4:40
Mon.	Dec. 27	-	Sun.	Jan. 2	7:30	4:55	7:15	4:45
Mon.	Jan. 3	-	Sun.	Jan. 9	7:30	5:05	7:15	4:50
Mon.	Jan. 10	-	Sun.	Jan. 16	7:25	5:10	7:10	5:00
Mon.	Jan. 17	-	Sun.	Jan. 23	7:20	5:20	7:05	5:15
Mon.	Jan. 24	-	Mon.	Jan. 31	7:15	5:30	7:00	5:20

* These are lawful hunting hours (one-half hour before sunrise to one-half hour after sunset) for all game animals and game birds (except duck, goose, coot, snipe, mourning dove, band-tailed pigeon, pheasant, quail, partridge and turkey) during established seasons.

Exceptions:

- 1) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 2) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

Hound Hunting During Deer and Elk Hunting Seasons

It is unlawful to hunt any wildlife at night or wild animals with dogs (hounds) during the months of September, October, or November in any area open to a center-fire rifle deer or elk season. The use of hounds to hunt black bear, cougar, and bobcat is prohibited year around.

BOBCAT

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, except CLOSED in GMU 522.

Sept. 8, 1998-Mar. 15, 1999; Sept. 7, 1999-Mar. 15, 2000.

RACCOON

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, except CLOSED on Long Island within Willapa National Wildlife Refuge and in GMU 522.

Sept. 8, 1998-Mar. 15, 1999; Sept. 7, 1999-Mar. 15, 2000.

FOX

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, except CLOSED within the exterior boundaries of the Mount Baker-Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 407, 410, and 522.

Sept. 8, 1998-Mar. 15, 1999; Sept. 7, 1999-Mar. 15, 2000.

COYOTE

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, year around except CLOSED from September 15 to November 30 in the Pasayten Wilderness, GMUs 426 and 450, and those portions of GMUs 218, 304, and 448 within the external boundaries of the Mount Baker-Snoqualmie, Okanogan, and Wenatchee National Forests. However, coyote may only be killed and/or pursued with hounds during the following period: Sept. 8, 1998-Mar. 15, 1999; Sept. 7, 1999-Mar. 15, 2000; except coyote may be hunted year around with hounds in Grant, Adams, Benton, and Franklin counties. GMU 522 is closed to coyote hunting.

FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) grouse in possession at any time; straight or mixed bag.

State-wide: Sept. 1-Dec. 31, 1999; except CLOSED in GMU 522.

PTARMIGAN

Season closed state-wide.

Upland Birds

Eastern Washington

Ring-necked Pheasant

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

Youth Season: September 25 and 26, 1999. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 9-Dec. 31, 1999.

Chukar Partridge

Bag and Possession Limits: Six (6) chukar per day, with a total of eighteen (18) chukar in possession at any time.

Regular Season: Oct. 1, 1999-Jan. 9, 2000.

Gray (Hungarian) Partridge

Bag and Possession Limits: Six (6) gray partridges per day, with a total of eighteen (18) gray partridges in possession at any time.

Regular Season: Oct. 1, 1999-Jan. 9, 2000.

Mountain Quail

Season closed throughout eastern Washington

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time, straight or mixed bag.

Youth Season: September 25 and 26, 1999. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 9, 1999-Jan. 9, 2000.

Yakima Indian Reservation: The 1997-98, 1998-99, 1999-2000 Upland Bird Seasons within the Yakima Indian Reservation shall be the same as the season established by the Yakima Indian Nation.

Western WashingtonRing-necked Pheasant

Bag and Possession Limits: Two (2) pheasants of either sex per day, with a total of fifteen (15) pheasants in possession at any time.

Early season: Sept. 25-Oct. 1, 1999 for youth hunters and hunters 65 years of age or older. Juvenile hunters must be accompanied by an adult at least 18 years old.

Regular season: Oct. 2-Nov. 30, 1999; 8 a.m. to 4 p.m.; except Dungeness Recreation site (Clallam County) starting Oct. 16, 1999; except CLOSED in GMU 522.

A Western Washington Pheasant Permit is required to hunt pheasant in western Washington, in addition to a current small game hunting license. Pheasant kills must be recorded. Upon taking a pheasant, the holder of a Western Washington Pheasant Permit must immediately enter on the corresponding space the date and location of kill.

There are three options available for the 1999 hunting season:

- (1) Full Season Option: Allows the harvest of ten (10) pheasants.
- (2) Youth option: Allows the harvest of six (6) pheasants by youth hunters.
- (3) 3-Day Option: Allows the harvest of four (4) pheasants during three consecutive days.

Every person possessing a Western Washington Pheasant Permit must by December 31, return the permit to the Department of Fish and Wildlife. The number of permits purchased per year is not limited.

A hunter shall select one valid option at the time they purchase their Western Washington Pheasant Permit.

Special Restriction: Non-toxic shot must be used in a shotgun to hunt pheasant on the Skagit Wildlife Area. Western Washington pheasant hunters must choose to hunt on either odd-numbered or even-numbered weekend days from 8:00 - 10:00 a.m. at all units of Lake Terrell, Tennant Lake, Snoqualmie, Skagit, Skookumchuck, and Scatter Creek Wildlife Areas, and must indicate their choice on the western Washington pheasant permit by choosing "odd" or "even." It is unlawful to purchase an additional permit until the ten pheasant allowed on the current permit are taken. Hunters that select the three day option, hunters 65 years of age or older, and youth hunters may hunt during either weekend day morning. Youth hunters must be accompanied by an adult at least 18 years old. Adults must have an appropriately marked pheasant permit.

Mountain Quail

Bag and Possession Limits: Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

Oct. 9-Nov. 30, 1999; except CLOSED in GMU 522.

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) valley or bobwhite quail per day, with a total of thirty (30) valley or bobwhite quail in possession at any time; straight or mixed bag.

Oct. 9-Nov. 30, 1999; except CLOSED in GMU 522.

TURKEY

Spring Season

Gobblers and Turkeys with Visible Beards Only.

State-wide: April 15-May 15, 1999.

Fall Season

Either Sex

Klickitat and Skamania counties: Nov. 25-29, 1999.

Asotin, Columbia, Garfield, and Walla Walla counties: Nov. 25-29, 1999. Only hunters that successfully complete the Department of Fish and Wildlife's Advanced Hunter Education (AHE) program will be eligible to hunt turkeys during this season. A certification card will be issued to all AHE graduates and must be in possession in addition to a valid small game hunting license and turkey tag while hunting in this area.

OFFICIAL HUNTING HOURS/BAG LIMITS:

Bag and Possession Limit: One turkey per day, with a total of three (3) per year; only one turkey from each subspecies may be killed per year in 1999.

If a hunter intends to hunt for turkey, one turkey tag option must be selected when a small game license is purchased. If the state-wide tag option is selected, the person is precluded from purchasing any other turkey tag. The Eastern, Rio Grande and Merriam tags must be purchased before April 14 each year. The state-wide tag may be purchased at any time.

TAG OPTIONS:

- (1) State-wide: Allows the harvest of one turkey of any subspecies during a calendar year.
- (2) Eastern: Allows the harvest of one turkey during a calendar year in any western Washington county except Skamania and Klickitat.
- (3) Rio Grande: Allows the harvest of one turkey during a calendar year in any eastern Washington county except Ferry, Klickitat, Pend Oreille or Stevens.
- (4) Merriams: Allows the harvest of one turkey during a calendar year in Ferry, Klickitat, Pend Oreille, Skamania, or Stevens Counties.

Hunting Hours: One-half hour before sunrise to sunset during spring and fall seasons.

SPECIAL REGULATIONS:

1. Turkey season is open for shotgun and bow-and-arrow hunting only.
2. A turkey tag is required for hunting turkey.
3. Each successful hunter must complete and return a game harvest report card to the Department of Fish and Wildlife within ten days after taking a turkey.
4. It is unlawful to use dogs to hunt turkeys.

SAGE AND SHARP-TAILED GROUSE

Season Closed State-wide.

BIRD DOG TRAINING SEASON

Aug. 1, 1998-Mar. 15, 1999; and Aug. 1, 1999-Mar. 15, 2000, except from Oct. 2-Nov. 30, 1999, dog training is pro-

hibited except from 8:00 a.m. to 4:00 p.m. on designated western Washington pheasant release sites. Dog training is prohibited from Jan. 15 - Mar. 15 on the Shillapoo Wildlife Area (Region 5), except on posted portions open for year around dog training.

Dog training may be conducted year around on posted portions of: Region One - Espanola (T 24 N, R 40 E, E 1/2 of Sec. 16); Region Two - Wahluke Wildlife Area north of Highway 24; Region Three - South L.T. Murray Wildlife Area; Region Four - Fort Lewis Military Base, Skagit Wildlife Area, Lake Terrell Wildlife Area, and Snoqualmie Wildlife Area; Region Five - Shillapoo/Vancouver Lake Wildlife Area; Region Six - Scatter Creek Wildlife Area.

HIP REQUIREMENTS:

All hunters age 16 and over of migratory game birds (duck, goose, coot, snipe, mourning dove) are required to complete a Harvest Information Program (HIP) survey form at a license dealer, and possess a Washington Migratory Bird Stamp as evidence of compliance with this requirement when hunting migratory game birds. Youth hunters are required to complete a HIP survey form, and possess a free Washington Youth Migratory Bird Authorization as evidence of compliance with this requirement when hunting migratory game birds.

CANADA GOOSE SEPTEMBER SEASON

Bag and Possession Limits: Three (3) Canada geese per day with a total of six (6) in possession at any time.

State-wide: September 7-13, 1999.

BAND-TAILED PIGEON

Closed Season State-wide.

MOURNING DOVE

Bag and possession limits: Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

State-wide: Sept. 1-15, 1999; except CLOSED in GMU 522.

RABBIT AND HARE

Cottontail, Snowshoe Hare (or Washington Hare), and Jack-rabbit.

Bag and Possession Limits: Five (5) rabbits or hares per day, with a total of fifteen (15) in possession at any time; straight or mixed bag.

State-wide: Sept. 1, 1998-Mar. 15, 1999; Sept. 1, 1999-Mar. 15, 2000; except CLOSED in GMU 522 and CLOSED Jan. 15-Mar. 15 on Shillapoo Wildlife Area (Region 5).

CROWS

Bag and possession limits: No limits

State-wide: Oct. 1, 1998-Jan. 31, 1999; Oct. 1, 1999-Jan. 31, 2000.

FALCONRY SEASONS

Upland Game Bird - Falconry

Daily bag: Two (2) pheasants (either sex), six (6) partridge, five (5) quail, and three (3) forest grouse (blue, ruffed, spruce) per day.

State-wide: Sept. 1, 1998-Mar. 15, 1999; Sept. 1, 1999-Mar. 15, 2000.

Mourning Dove - Falconry

Daily Bag: Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, ducks, and geese during established seasons.

State-wide: Sept. 1-15 and Oct. 1-Dec. 31, 1999.

Cottontail and Hare - Falconry

Daily bag: Five (5) rabbits or hares per day; straight or mixed bag.

State-wide: Aug. 1, 1998-Mar. 15, 1999; Aug. 1, 1999-Mar. 15, 2000, for cottontail, snowshoe hare (or Washington hare), white-tailed and black-tailed jackrabbits.

AMENDATORY SECTION (Amending Order 98-58, filed 4/22/98, effective 5/23/98)

WAC 232-28-273 ((1998)) 1999 Moose, bighorn sheep, and mountain goat seasons and permit quotas.

((1998)) 1999 Moose Permit Hunts

Who May Apply: Anyone ((with a valid 1998 Washington hunting license)) may apply; EXCEPT those who drew a moose permit previously in Washington State. Only one moose permit will be issued during an individual's lifetime (waived for Mt. Spokane youth hunt).

Bag Limit: One moose of either sex, EXCEPT antlerless only for Mt. Spokane Youth Hunt.

PROPOSED

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	((1998)) 1999 Permits
Selkirk Mtns.	Oct. 1-Nov. 30	GMU 113	Any Legal Weapon	((+2)) 15
Mt. Spokane	Oct. 1-Nov. 30	GMU 124	Any Legal Weapon	10
Mt. Spokane Youth Only*	Oct. 1-Nov. 30	GMU 124	Any Legal Weapon	((4)) 5
49 Degrees North	Oct. 1-Nov. 30	GMU 117	Any Legal Weapon	13
Three Forks	Oct. 1-Nov. 30	GMU 109	Any Legal Weapon	((3)) 4
Hangman	Oct. 1-Nov. 30	GMU 127, 130	Any Legal Weapon	((+)) 2

*Applicants must be ((15 years old or younger by opening date of the permit season and)) eligible to purchase a youth moose permit application. Youth hunters must be accompanied by an adult during the hunt.

((1998)) 1999 Mountain Sheep (Bighorn) Permit Hunts

Who May Apply: Anyone ((with a valid 1998 Washington hunting license)) may apply; EXCEPT those who drew a bighorn permit previously in Washington State. Only one bighorn sheep permit will be issued during an individual's lifetime.

Bag Limit: One bighorn ram.

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	((1998)) 1999 Permits
Vulcan Mountain	Sept. 15-Oct. 10	Sheep Unit 2	Any Legal Weapon	1
Tucannon River	Sept. 15-Oct. 10	Sheep Unit 3	Any Legal Weapon	1
Selah Butte	Sept. 15-Oct. 10	Sheep Unit 4	Any Legal Weapon	2
Umtanum	Sept. 15-Oct. 10	Sheep Unit 5	Any Legal Weapon	((2)) 3
Cleman Mountain	Sept. 15-Oct. 10	Sheep Unit 7	Any Legal Weapon	((2)) 3
Mt. Hull	Sept. 15-Oct. 10	Sheep Unit 10	Any Legal Weapon	1
Lincoln Cliffs	Sept. 15-Oct. 10	Sheep Unit 12	Any Legal Weapon	1
Quilomene	Sept. 15-Oct. 10	Sheep Unit 13	Any Legal Weapon	((+)) 3
<u>Swakane</u>	<u>Sept. 15-Oct. 10</u>	<u>Sheep Unit 14</u>	<u>Any Legal Weapon</u>	1

PROPOSED

Mountain (Bighorn) Sheep Units:

Sheep Unit 2 Vulcan Mountain: Permit Area: Ferry County north of the Kettle River.

Sheep Unit 3 Tucannon River: Permit Area: The Tucannon River drainage in Columbia and Garfield counties.

Sheep Unit 4 Selah Butte: Permit Area: That part of Yakima and Kittitas counties between Ellensburg and Yakima east of the Yakima River and north of Selah Creek, west of Interstate 82 and south of Interstate 90.

Sheep Unit 5 Umtanum: Permit Area: Those portions of Yakima and Kittitas counties west of the Yakima River, north of Wenas Creek, and east of USFS Road 1701 to Manastash Lake and its drainage; south and east along the South Fork Manastash Creek to Manastash Creek and the Yakima River.

Sheep Unit 7 Cleman Mountain: Permit Area: That part of Yakima County south of Wenas Creek and east of USFS Road 1701, north of Highway 410 and Highway 12 and west of the Yakima River.

Sheep Unit 10 Mt. Hull: Permit Area: That part of Okanogan County within the following described boundary: Beginning at Oroville; then south along U.S. Highway 97 to the Swanson's Mill Road (old Mt. Hull Road) near Lake Andrews; then east to the Dry Gulch Road; then north to the Oroville-Toroda Creek Road (Molson Grade Road); then west to Oroville and the point of beginning.

Sheep Unit 12 Lincoln Cliffs: Permit Area: That part of Lincoln County north of Highway 2.

Sheep Unit 13 Quilomene: Permit Area: GMUs 329 and 330.

Sheep Unit 14 Swakane: Permit Area: GMU 316.

((1998)) 1999 Mountain Goat Permit Hunts

Who May Apply: Anyone ~~((with a valid 1998 Washington hunting license))~~ may apply.

Bag Limit: One (1) adult goat of either sex with horns four (4) inches or longer. WDFW urges hunters to refrain from shooting nannies with kids. Permit hunters may start hunting Sept. 1 with archery equipment.

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	((1998)) 1999 Permits
((Mount Chopaka	Sept. 13 -Oct. 31	Goat Unit 2-1	Any Legal Weapon	1))
Methow	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 2-2	Any Legal Weapon	5
Naches Pass	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 3-6	Any Legal Weapon	3
Bumping River	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 3-7	Any Legal Weapon	2
Tieton River	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 3-9	Any Legal Weapon	3
Blazed Ridge	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 3-10	Any Legal Weapon	6
Kachess Ridge	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 3-11	Any Legal Weapon	1
East Ross Lake	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 4-8	Any Legal Weapon	((5)) <u>2</u>
Jack Mountain	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 4-9	Any Legal Weapon	2
Foss River	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 4-32	Any Legal Weapon	((5)) <u>2</u>
Pratt River	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 4-34	Any Legal Weapon	((5)) <u>1</u>
Corral Pass	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 4-38	Any Legal Weapon	((4)) <u>2</u>
Tatoosh	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 5-2	Any Legal Weapon	5
Smith Creek	Sept. ((43)) <u>15</u> -Oct. 31	Goat Unit 5-3	Any Legal Weapon	3

Goat Rocks

Sept. ((13)) 15-Oct.
31

Goat Unit 5-4

Any Legal Weapon

7

Mountain Goat Units:

~~((Goat Unit 2-1 Mount Chopaka: Permit Area: Okanogan County within the following described boundary: Beginning where the Similkameen River crosses the Canadian boundary near Mt. Chopaka; then south down the Similkameen River and up Palmer Lake and Sinlahekin Creek to Toats Coulee Creek; then west up Toats Coulee Creek and north up the North Fork Toats Coulee Creek; then up Snowshoe Creek to Snowshoe Mountain; then north to the Canadian boundary; then east along the Canadian boundary to the Similkameen River and point of beginning; EXCEPT CLOSED in T39N, R25EWM, which includes Grandview Mountain.))~~

Goat Unit 2-2 Methow Area: Permit Area: Okanogan County within the following described boundary: Beginning at the Town of Twisp, westerly along the Twisp River Road (County Road 4440) to Roads End; west up the Twisp Pass Trail 432 to Twisp Pass and the Okanogan County line; northerly along the Okanogan County line through Washington Pass to Harts Pass; southeast down Harts Pass (Road 5400) to Lost River; then along the Lost River-Mazama Road to Mazama; then southwest to State Highway 20; then southeasterly along State Highway 20 to Twisp and the point of beginning.

Goat Unit 3-6 Naches Pass: Permit Area: Yakima and Kittitas counties within the following described boundary: Beginning at Chinook Pass; then north along the Pacific Crest Trail to Naches Pass; then east to USFS Road 19 and continuing to State Highway 410; then west along State Highway 410 to Chinook Pass and point of beginning.

Goat Unit 3-7 Bumping River: Permit Area: Yakima County within the following described boundary: Beginning at White Pass and the Pacific Crest Trail; then north to Forest Trail 980; then north to USFS Road 18; then north to State Highway 410; then east to State Highway 12; then west along State Highway 12 and back to point of beginning; EXCEPT Timberwolf Mountain, which is closed.

Goat Unit 3-9 Tieton River: Permit Area: Yakima County within the following described boundary: Beginning at White Pass and Pacific Crest Trail; then south to the Yakima Indian Reservation Boundary; then east to USFS Jeep Trail 1137; then west to USFS Road 1070-578 Spur; then west to Road 1000; then north to USFS Road 12; then north to State Highway 12; then west on State Highway 12 to point of beginning.

Goat Unit 3-10 Blazed Ridge: Permit Area: Kittitas and Yakima counties within the following described boundary: Beginning at the mouth of Cabin Creek on the Yakima River; then west along Cabin Creek to the headwaters near Snowshoe Butte; then south along the Cascade Crest separating the Green and Yakima river drainage to Pyramid Peak; then southeast along the North Fork, Little Naches, and Naches River to the Yakima River; then north along the Yakima River to the mouth of Cabin Creek and point of beginning.

Goat Unit 3-11 Kachess Ridge: Permit Area: Kittitas County within the following described boundary: Beginning at the mouth of the Kachess River on the Yakima River; then north along the Kachess River and Kachess Lake to USFS Road 4600; then east on USFS Road 4600 to the Cle Elum River; then south along the Cle Elum River and Lake Cle Elum to the Yakima River; then northwest along the Yakima River to the mouth of the Kachess River and point of beginning.

Goat Unit 4-8 East Ross Lake: Permit Area: Whatcom County within the following described boundary: Beginning at the point the U.S.-Canada boundary meets the east boundary of North Cascades National Park; then south along the park boundary to Stetattle Creek; then south down Stetattle Creek to Gorge Lake; then southwest along Gorge Lake to State Highway 20; then east and north along State Highway 20 to Ross Dam; then north along the east shoreline of Ross Lake (Note: Exclude Ruby Arm) to Devil's Creek; then east up Devil's Creek to a tributary extending south to ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue south over this ridge line into the Crater Creek Basin and Crater Creek; then down Crater Creek to its confluence with Ruby Creek; then east up Ruby Creek to Granite Creek; then continue east up Granite to the Cascades Summit; then north along the Cascades Summit to the U.S.-Canada boundary; then west along the Canadian line to the east boundary of North Cascades National Park and the point of beginning. (Notice: Jack Mountain not included in Goat Unit 4-8, East Ross Lake. See description for Goat Unit 4-9, Jack Mountain.)

Goat Unit 4-9 Jack Mountain: Permit Area: Whatcom County within the following described boundary: Beginning at the confluence of Ruby Creek and Crater Creek; then north up Crater Creek to the ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue due north to Devil's Creek; then west down Devil's Creek to Ross Lake; then south along the east shoreline of Ross Lake to Ruby Arm; then easterly up Ruby Arm and Ruby Creek to the confluence of Crater Creek and the point of beginning.

Goat Unit 4-32 Foss River: Permit Area: King and Snohomish counties within the following described boundary: Beginning at intersection of U.S. Highway 2 and the King County line at Stevens Pass; then south along the King County line to the headwaters of the Middle Fork Snoqualmie River near Dutch Miller Gap; then west and south down said river to the confluence with the Dingford Creek; then north and east up said creek to its headwaters intersection with USFS Trail 1005; then north up said trail to Little Myrtle Lake; then west and north to Marlene Lake (approximately 4 miles); then north down the stream outlet from Marlene Lake to the junction with USFS Trail 1002 near Dorothy Lake; then north along said trail to the junction with the East Fork Miller River headwaters; then north down said river to the confluence with the South Fork Skykomish River; then

PROPOSED

east up said river to the junction with U.S. Highway 2; then east along said highway to the point of beginning.

Goat Unit 4-34 Pratt River: Permit Area: King County within the following described boundary: Beginning at the point where the Weyerhaeuser Mainline Truck Road intersects the Middle Fork Snoqualmie River (near the confluence of the North Fork and Snoqualmie Rivers); then northeast up the Middle Fork Snoqualmie to its headwaters near Dutch Miller Gap at the King County line; then south along the King County line to Snoqualmie Pass and the intersection with Interstate 90; then west along Interstate 90 to the point nearest the Middle Fork Snoqualmie River (approximately one mile east of North Bend); then north and east up the Middle Fork Snoqualmie River and to the point of beginning. Except closed: Snoqualmie Mountain and the watersheds of Denny Creek and South Fork of the Snoqualmie above Denny Creek.

Goat Unit 4-38 Corral Pass: Permit Area: Pierce County within the following described boundary: Beginning where Goat Creek intersects the Corral Pass Road; then southeast up Goat Creek to the Cascade Crest; then north along the Crest to USFS Trail 1188; then northwest along said trail to USFS Trail 1176; then north along said trail to Corral Pass; then west along Corral Pass Road to its intersection with Goat Creek and the point of beginning.

Goat Unit 5-2 Tatoosh: Permit Area: Lewis County within the following described boundary: Beginning at the junction of the southern Mount Rainier National Park Boundary and State Highway 123; then south along State Highway 123 to U.S. Highway 12; then southwest along said highway to Skate Creek Road (USFS Road 52); then northwest along said road to the junction of Morse Creek Road (old road to Longmire Campground); then north along said road to the Mount Rainier National Park Boundary; then east along the southern park boundary to the point of beginning.

Goat Unit 5-3 Smith Creek: Permit area: Lewis County within the following described boundary: Beginning at the Town of Randle; then east along U.S. Highway 12 to USFS Road 21; then southeast along USFS Road 21 to USFS Road 22; then northeast and northwest along USFS Road 22 to USFS Road 23; then east and northwest on USFS Road 23 to USFS Road 25; then north along USFS Road 25 to Randle and point of beginning.

Goat Unit 5-4 Goat Rocks: Permit Area: Lewis County south of the White Pass Highway (U.S. Highway 12) and east of the Johnson Creek Road (USFS Road 1302).

AMENDATORY SECTION (Amending Order 98-60, filed 4/22/98, effective 5/23/98)

WAC 232-28-280 ((1998)) 1999 and ((1999)) 2000 Deer general seasons and ((1998)) 1999 special permits.

Bag Limit: One (1) deer per hunter during the ((1998)) 1999 hunting season. The Fish and Wildlife Commission may authorize two doe permits for damage areas. Any multiple doe permits will be identified by special permit.

Hunting Method: Hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Any Buck Deer Seasons: Open only to the taking of male deer with visible antlers (buck fawns illegal).

Branched Antler Restrictions: APPLIES TO ALL HUNTERS DURING ANY OPEN SEASON! Buck deer taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points include eye guards but all antler points must be at least one inch long. The following GMUs have 2 or 3 point minimum requirements on buck deer taken.

2 Point GMUs: 437, 478, 558, 574, 578, 588, 636, and 681 (~~(, and GMU 485 (by permit only))~~).

3 Point GMUs: All Mule Deer in (~~(eastern Washington (see definition of eastern Washington))~~) 100, 200, and 300 series GMUs; Whitetail Deer in GMUs 127, 130, 133, 136, 139, 142, 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, and 186 (~~(, 203, and 231)~~).

Permit Only Units: The following GMUs are closed during general seasons: (~~(242 (Alta),)~~) 290 (Desert), 329 (Quilomene), 330 (West Bar), 342 (Umtanum), 371 (Alkali), and 485 (Green River).

GMUs Closed to Deer Hunting: 157 (Mill Creek Watershed) and 522 (Loo-wit).

Blacktail Deer: Any member of blacktail/mule deer (species *Odocoileus hemionus*) found west of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to Klickitat County and in Klickitat County west of Highway 97.

Mule Deer: Any member of blacktail/mule deer (species *Odocoileus hemionus*) found east of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to Klickitat County and in Klickitat County east of Highway 97.

Whitetail Deer: Means any whitetail deer (member of the species *Odocoileus virginianus*) except the Columbian Whitetail Deer (species *Odocoileus virginianus leucurus*).

Harvest Report Card: Successful hunters must fill out and return a Game Harvest Report Card within 10 days after taking a deer.

Modern Firearm Deer Seasons

License Required: (~~(Hunting license,)~~) A valid big game hunting license which includes a deer species option.

Tag Required: Valid modern firearm deer tag on his/her person for the area hunted.

Hunting Method: Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow or muzzleloader, but only during modern firearm seasons.

PROPOSED

Hunt Season	((1998 Season-Dates))	1999 Season Dates	Game Management Units (GMUs)	Legal Deer
HIGH BUCK HUNTS				
	((Sept. 15-25))	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten and Olympic Peninsula Wilderness Areas and Lake Chelan Recreation Area <u>and that part of the Henry Jackson Wilderness Area west of the Pacific Crest Trail</u>	3 pt. min.
GENERAL SEASON HUNTS				
Western Washington Blacktail Deer	((Oct. 17-31))	Oct. 16-31	407, 418, 426, 448 through 472, 484, 490, 501 through 520, 524 through 556, 560, 568, 572, 601 through 633, 638 through 673, 684	Any buck
			410, 564	Any deer
			437, 478, 558, 574, 578, 588, 636, 681	2 pt. min.
Eastern Washington Whitetail Deer	((Oct. 17-30))	Oct. 16-29	101 through 124, 203 through 284, 300	Any whitetail buck
	((Oct. 17-25))	Oct. 16-24	145 through 154, 162 through 186(, 203, 234)	Whitetail, 3 pt. min.
	((Oct. 17-30))	Oct. 16-29	127 through 142	Whitetail, 3 pt. min.
	((Oct. 17-25))	((Oct. 16-24))	((204 through 224, 233, 239, 300))	((Any whitetail buck))
Mule Deer	((Oct. 17-25))	Oct. 16-24	All ((eastern Washington)) <u>100, 200, and 300 series</u> GMUs except closed in GMUs 157, ((242,)) 290, 329, 330, 342, 371, and PLWMA 201	3 pt. min.
LATE BUCK HUNTS				
Western Washington Blacktail Deer	((Nov. 19-22))	Nov. 18-21	All 400, 500, and 600 GMUs except closed in GMUs 418, 426, 437, 448, <u>450</u> , 460, 485, 522, 574, 578, ((582,)) and 588	Any buck except 2 pt. min. in GMUs 478, 558, 636, 681 and any deer in GMUs 410 and 564
Eastern Washington Whitetail Deer	((Nov. 9-22))	Nov. 8-21	105 through 124	Any whitetail buck
			127 through 142	Whitetail-3 pt. min.
<u>HUNTERS OVER 65, DISABLED, ((SENIOR,)) OR YOUTH ((HUNTS)) SEASONS</u>				
Eastern Washington Whitetail Deer	((Oct. 17-30))	Oct. 16-29	101 through 124	Any whitetail deer
			127 through 142	Whitetail-3 pt. min. or antlerless

Archery Deer Seasons

License Required: ~~((Hunting license.))~~ A valid big game hunting license which includes a deer species option.

Tag Required: Valid archery deer tag on his/her person for the area hunted.

Special Notes: Archery tag holders can only hunt with archery equipment during archery seasons.

Hunt Area	((1998 Season Dates))	1999 Season Dates	Game Management Units (GMUs)	Legal Deer
Early Archery Deer Seasons				
Western Washington Blacktail Deer	((Sept. 1-30))	Sept. 1-30	407 through 426, 448 through 472, 484, 490 through 520, 524 through 556, 560 through 572, 601 through 633, 638 through 673, 684 and Long Island. Bangor Submarine Base within GMU 627 is open for archers with disabilities by permit from the Navy. For information on this hunt call Tom Jones at (360) 396-5097. Special Restrictions: Must be a U.S. Citizen and hunting is open on weekends only.	Any Deer, <u>except buck only in GMU 568</u>
			437, 478, 558, 574, 578, 588, 636, 681	2 pt. min. or antlerless
			Alpine Lakes, Glacier Peak, and Olympic Peninsula Wilderness Areas	3 pt. min. or antlerless
Eastern Washington Mule Deer	((Sept. 1-15))	Sept. 1-15	101 through 127, 181 through ((239;)) 242, 260, 262, 278, 281, 300, 301, 302, 304, 306, 308, 314, 316, 328, 334 through 340, 346 through 368, 372	3 pt. min.
	((Sept. 1-5))	Sept. 1-5	130 through 154, 162 through 178, 248, 254, 266, 269, 272, 284, ((582)) 382	3 pt. min.
	((Sept. 6-15))	Sept. 6-15	130 through 154, 162 through 178, 248, 254, 266, 269, 272, 284, ((582)) 382	3 pt. min. or antlerless
Eastern Washington White-tail Deer	((Sept. 1-5))	Sept. 1-5	101 through 124, 204 through ((224, 233, 239)) 284, 300	Any whitetail buck
			127 through 154, 162 through 186 ((, 203, 231))	Whitetail 3 pt. min.
	((Sept. 6-30))	Sept. 6-30	101 through 124, 204 through ((224, 233, 239)) 284, 300	Any whitetail deer
			127 through 154, 162 through 186 ((, 231))	Whitetail 3 pt. min. or antlerless

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Hunt Area	((1998 Season Dates))	1999 Season Dates	Game Management Units (GMUs)	Legal Deer
Late Archery Deer Seasons				
Western Washington Blacktail Deer	((Nov. 25-Dec. 8))	Nov. 24-Dec. 8	588	2 pt. min. or antlerless
	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	558, 636, 681	2 pt. min. or antlerless
			460, 466, ((510)) <u>506</u> through 520, 524, 530, 556, 560, 572, 601, 607 through 618, 638, 648, 673 and Long Island	Any deer, <u>except buck only in GMUs 506 and 530</u>
	((Nov. 25-Dec. 31))	Nov. 24-Dec. 31	407, 410, 454, 484, 505, ((506, 564, 568,)) 603, 624, 627, 642, 660 through 672	Any deer
437			2 pt. min. or antlerless	
Eastern Washington Mule Deer	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	127, 130, 133, 145, 178	3 pt. min. or antlerless
Eastern Washington White-tail Deer	((Nov. 25-Dec. 8))	Nov. 24-Dec. 8	209, 215, 233, 300, 316, 346, 352, 360 north of <u>USFS Roads 324, 325 to the intersection of Carmack Canyon (& Bethel Ridge Rd); then northeast down Carmack Canyon bottom to the Naches River and north to State Highway 410, 364, 368</u>	3 pt. min.
			272	3 pt. min. or antlerless
	((Nov. 10-Dec. 15))	Nov. 10-Dec. 15	101	Any Whitetail
	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	105, 117, 121, 124	Any Whitetail
			127, 130, 133, 145, 178	3 pt. min. or antlerless
((Nov. 25-Dec. 8))	Nov. 24-Dec. 8	209, 215, 233, <u>272</u>	Any Whitetail	

Muzzleloader Deer Seasons

License Required: ~~((Hunting license-))~~ A valid big game hunting license which includes a deer species option.

Tag Required: Valid muzzleloader deer tag on his/her person for the area hunted.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment. ~~((Muzzleloader deer tag holders may apply for all either sex, antlerless only, and branched antler deer special hunting permits except on Private Lands Wildlife Management Area 201-))~~

Hunt Area	((1998 Season Dates))	1999 Season Dates	Game Management Units	Legal Deer
High Buck Hunts	((Sept. 15-25))	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten and Olympic Peninsula Wilderness Areas ((and)) , Lake Chelan Recreation Area <u>and that part of the Henry Jackson Wilderness Area west of the Pacific Crest Trail.</u>	3 pt. min.

Hunt Area	((1998 Season Dates))	1999 Season Dates	Game Management Units	Legal Deer	
Early Muzzleloader Deer Seasons					
Western Washington Blacktail Deer	((Oct. 10-16))	Oct. 9-15	407, 410, 520, 530, 568, 603, 612, 624, 672	Any buck	
			454, 484, 564, 666	Any deer	
Eastern Washington Whitetail Deer	((Oct. 10-16))	Oct. 9-15	((109, 117,)) 209, 300	Whitetail, any buck	
			<u>109, 117</u>	<u>Whitetail, any deer</u>	
Eastern Washington Mule Deer	((Oct. 10-16))	Oct. 9-15	109, 117, 209, 300, 304, 316, 336, 352, 360	Mule deer, 3 pt. min.	
Late Muzzleloader Deer Seasons					
Hunt Area	((1998 Season Dates))	1999 Season Dates	Game Management Units (GMUs)	Legal Deer	
Western Washington Blacktail Deer	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	410, 501, 504, 564, 666, 684((- and Muzzleloader Area 926)))	Any deer	
			478	2 pt. min.	
			550, 602, 633, 651	Any buck	
	((Nov. 25-Dec. 8))	Nov. 24-Dec. 8	578((, 588)))	2 pt. min.	
Eastern Washington Whitetail Deer	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	113, <u>284</u>	Whitetail, any buck	
				139	Whitetail, 3 pt. min.
				130, 136, 172, 181	Whitetail, 3 pt. min. or antlerless
Eastern Washington Mule Deer	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	130, 136, <u>284</u>	Mule deer, 3 pt. min. or antlerless	
	((Dec. 1-31))	((Dec. 1-31)) <u>Nov. 24-Dec. 8</u>	((Muzzleloader Area 925)) <u>382</u>	((Mule deer, antlerless only)) <u>3 pt. min.</u>	

PROPOSED

Firearm Restricted Deer Hunts Open To All Deer Hunters

License Required: Hunting license.

Tag Required: Valid modern firearm, archery or muzzleloader deer tag on his/her person for the area hunted.

Hunting Method: Must use weapon in compliance with tag. Firearm restrictions apply in some GMUs.

Firearm Restricted Hunts Open To All Deer Hunters				
Hunting license and deer tag required. Must use hunting method in compliance with tag. Check firearm restrictions. ((Hunter Orange required:)) Archery, Shotgun, Muzzleloader or revolver type handgun only. <u>Hunter orange required.</u>				
Hunt Area	((1998 Season Dates))	1999 Season Dates	Game Management Units (GMUs)	Legal Deer
Western Washington Blacktail Deer	((Oct. 17-31))	Oct. 16-31	410, <u>Vashon and Maury Islands</u>	Any deer
	((Oct. 17-31))	((Oct. 16-31))	((Vashon and Maury Islands))	((Any deer))
	((Nov. 25-Dec. 31))	Nov. 24-Dec. 31	564	Any deer
	((Sept. 1-Dec. 31))	Sept. 1-Dec. 31	Indian Island. Restricted Access*	Any deer
*Archery only except for one day persons of disability hunt. Archers must qualify during the June to August period to hunt. For information call Bill Kalina at (360) 396-5353.				

Special Deer Permit Hunting Seasons

(Open to Permit Holders Only)

Hunters must purchase a deer hunting license ~~((and deer tag))~~ prior to purchase of a permit application.

Hunt Name	((1998)) 1999 Permit Season	Special Restrictions	Boundary Description	((1998)) 1999 Permits
Modern Firearm Deer Permit Hunts (Only modern firearm and muzzleloader deer tag holders may apply)				
<u>Hunters may hunt only with weapon in compliance with tag.</u>				
Sherman	Oct. ((17-30)) <u>16-29</u>	Whitetail, Antlerless ((Only))	GMU 101	((50)) <u>100</u>
Kelly Hill	Oct. ((17-30)) <u>16-29</u>	Whitetail, Antlerless ((Only))	GMU 105	((100)) <u>150</u>
Threeforks	Oct. ((17-30)) <u>16-29</u>	Whitetail, Antlerless ((Only))	GMU 109	((250)) <u>400</u>
Selkirk	Oct. ((17-30)) <u>16-29</u>	Whitetail, Antlerless ((Only))	GMU 113	((30)) <u>50</u>
49 Degrees North	Oct. ((17-30)) <u>16-29</u>	Whitetail, Antlerless ((Only))	GMU 117	((150)) <u>350</u>
Huckleberry	Oct. ((17-30)) <u>16-29</u>	Whitetail, Antlerless ((Only))	GMU 121	((300)) <u>900</u>
Mt. Spokane	Oct. ((17-30)) <u>16-29</u>	Whitetail, Antlerless ((Only))	GMU 124	((600)) <u>800</u>
Mica Peak	Oct. ((17-30)) <u>16-29</u>	Whitetail, Antlerless ((Only))	GMU 127	160
Cheney	Oct. ((17-30)) <u>16-29</u>	Antlerless ((Only))	GMU 130	150
Roosevelt	Oct. ((17-30)) <u>16-29</u>	Antlerless ((Only))	GMU 133	((375)) <u>450</u>
Harrington	Oct. ((17-30)) <u>16-29</u>	Antlerless ((Only))	GMU 136	125
Steptoe	Oct. ((17-30)) <u>16-29</u>	Antlerless ((Only))	GMU 139	200
Almota	Oct. ((17-30)) <u>16-29</u>	Antlerless ((Only))	GMU 142	225
Mayview	((Oct. 17-30)) <u>Nov. 8-16</u>	Antlerless ((Only))	GMU 145	((250)) <u>350</u>
Prescott ((A))	Nov. ((9-17)) <u>8-16</u>	Antlerless ((Only))	GMU 149	((250)) <u>400</u>
Blue Creek	Nov. ((9-17)) <u>8-16</u>	Whitetail, Antlerless ((Only))	GMU 154	((150)) <u>200</u>
Dayton	Nov. ((9-17)) <u>8-16</u>	Whitetail, Antlerless ((Only))	GMU 162	((100)) <u>150</u>
Marengo A	Nov. ((9-17)) <u>8-16</u>	Whitetail, Antlerless ((Only))	GMU 163	((125)) <u>150</u>
Marengo B	Nov. ((9-17)) <u>8-16</u>	Antlerless ((Only))	GMU 163	((150)) <u>50</u>
Peola	Nov. ((9-17)) <u>8-16</u>	Antlerless ((Only))	GMU 178	((50)) <u>100</u>
Blue Mtns. Foothills A	Nov. ((9-23)) <u>8-22</u>	Whitetail, 3 Pt. Min. or Antlerless	GMUs 149, 154, 162-166	100
Blue Mtns. Foothills B	Nov. ((9-23)) <u>8-22</u>	Whitetail, 3 Pt. Min. or Antlerless	GMUs 145, 172-181	75
East Okanogan	Nov. 1-15	Any Whitetail	GMU 204	((150)) <u>100</u>
West Okanogan	Nov. 1-15	Any Whitetail	GMUs 209, 218-239	((200)) <u>100</u>
Sinlahekin	Nov. 1-15	Any Whitetail	GMU 215	((50)) <u>25</u>
<u>Chewuch</u>	<u>Nov. 8-23</u>	<u>Any Buck</u>	<u>GMU 218</u>	<u>5</u>
<u>Pearygin</u>	<u>Nov. 8-23</u>	<u>Any Buck</u>	<u>GMU 224</u>	<u>5</u>
<u>Pogue</u>	<u>Nov. 8-23</u>	<u>Any Buck</u>	<u>GMU 233</u>	<u>5</u>
<u>Gardner</u>	<u>Nov. 8-23</u>	<u>Any Buck</u>	<u>GMU 231</u>	<u>5</u>
<u>Chiliwist</u>	<u>Nov. 8-23</u>	<u>Any Buck</u>	<u>GMU 239</u>	<u>5</u>
<u>Alta</u>	<u>Nov. 8-23</u>	<u>Any Buck</u>	<u>GMU 242</u>	<u>5</u>
<u>Big Bend A</u>	<u>Oct. 16-24</u>	<u>Antlerless</u>	<u>GMU 248</u>	<u>50</u>
<u>Badger</u>	<u>Oct. 16-24</u>	<u>Antlerless</u>	<u>GMU 266</u>	<u>50</u>
<u>Moses Coulee</u>	<u>Oct. 16-24</u>	<u>Antlerless</u>	<u>GMU 269</u>	<u>50</u>
<u>Beezley</u>	<u>Oct. 16-24</u>	<u>Antlerless</u>	<u>GMU 272</u>	<u>300</u>
<u>Kahlotus</u>	<u>Oct. 16-24</u>	<u>Antlerless</u>	<u>GMU 284</u>	<u>100</u>
((Alta A	Nov. 7-22	3 Pt. Min.	GMU 242	47))
Desert A	Nov. ((7-22)) <u>8-23</u>	((3 Pt. Min.)) <u>Any Buck</u>	GMU 290	((9)) <u>13</u>
Desert B	<u>Dec. 1-15</u>	<u>Antlerless</u>	<u>GMU 290</u>	<u>50</u>

PROPOSED

<u>Manson</u>	<u>Nov. 8-23</u>	<u>Any Buck</u>	<u>GMU 300</u>	<u>5</u>
<u>Chiwawa</u>	<u>Nov. 8-23</u>	<u>Any Buck</u>	<u>GMU 304</u>	<u>5</u>
<u>Entiat</u>	<u>Nov. 8-23</u>	<u>Any Buck</u>	<u>GMU 308</u>	<u>5</u>
<u>Mission</u>	<u>Nov. 8-23</u>	<u>Any Buck</u>	<u>GMU 314</u>	<u>5</u>
<u>Swakane</u>	<u>Nov. 8-23</u>	<u>Any Buck</u>	<u>GMU 316</u>	<u>5</u>
Quilomene A	Nov. ((7-22)) <u>8-23</u>	((3-Pt. Min.)) <u>Any Buck</u>	GMU 329, 330	56
Umtanum A	Nov. ((7-22)) <u>8-23</u>	((3-Pt. Min.)) <u>Any Buck</u>	GMU 342	59
Alkali A	Nov. ((7-22)) <u>8-23</u>	((3-Pt. Min.)) <u>Any Buck</u>	GMU 371	59
<u>Alkali B</u>	<u>Nov. 8-23</u>	<u>Antlerless</u>	<u>GMU 371</u>	<u>25</u>
<u>East Klickitat</u>	<u>Oct. 16-23</u>	<u>3 Pt. Min. or Antlerless</u>	<u>GMU 382</u>	<u>25</u>
Green River A	Oct. ((10-16)) <u>9-15</u>	Any Buck	GMU 485	((15)) <u>10</u>
((Green River B	Oct. 10-16	Antlerless Only	GMU 485	15))
Lincoln	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 501	((175)) <u>80</u>
Stella	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 504*	75
Mossyrock	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 505	150
Willapa Hills	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 506	((85)) <u>40</u>
Stormking	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 510	75
South Rainier	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 513	75
Packwood	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 516	100
Winston	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 520	100
Ryderwood	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 530	((85)) <u>40</u>
Coweeman	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 550	175
Yale	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 554*	50
Marble	Oct. ((17-30)) <u>16-31</u>	2 Pt. Min. or Antlerless	GMU 558	75
Lewis River	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 560	100
((Washougal	Oct. 17-30	Any Deer	GMU 568	35))
Siouxon	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 572	100
West Klickitat	Oct. ((17-30)) <u>16-31</u>	2 Pt. Min. or Antlerless	GMU 578	25
((East Klickitat	Oct. 17-30	2 Pt. Min. or Antlerless	GMU 582	25))
Grayback	Oct. ((17-30)) <u>16-31</u>	2 Pt. Min. or Antlerless	GMU 588	25
Pysht**	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 603	((30)) <u>50</u>
Olympic	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 621	40
Coyle	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 624	((40)) <u>30</u>
Kitsap	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 627	20
Mason Lake	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 633	((60)) <u>70</u>
Skokomish	Oct. ((17-30)) <u>16-31</u>	2 Pt. Min. or Antlerless	GMU 636	80
Wynoochee	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 648	((75)) <u>100</u>
Satsop	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 651	150
North River	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 658	((40)) <u>60</u>
Minot Peak	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 660	100
Capitol Peak	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 663	((100)) <u>120</u>
Deschutes	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 666	80
Skookumchuck A	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 667	((90)) <u>170</u>
Fall River	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 672	((90)) <u>80</u>
Williams Creek	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 673	50

*Firearm Restriction Areas - Muzzleloader or archery equipment only.

**Permit not valid on Merrill and Ring Tree Farm.

PROPOSED

PROPOSED

Muzzleloader Only Deer Permit Hunts (Only muzzleloader tag holders may apply.)

Colville	Oct. ((10-16)) <u>9-15</u>	Antlerless ((Only))	GMUs 109, 117	((50)) <u>100</u>
((Alta B	Oct. 10-16	3-Pt. Min.	GMU 242	8))
Moses Coulee	Dec. 1-31	Antlerless ((Only))	GMU 269	((25)) <u>50</u>
Desert ((B)) <u>C</u>	Oct. ((10-16)) <u>9-15</u>	((3-Pt. Min.)) <u>Any Buck</u>	GMU 290	((4)) <u>4</u>
Quilomene B	Oct. 1-10	((3-Pt. Min.)) <u>Any Buck</u>	GMUs 329, 330	4
Umtanum B	Oct. 1-10	((3-Pt. Min.)) <u>Any Buck</u>	GMU 342	5
Alkali ((B)) <u>C</u>	Oct. 1-10	((3-Pt. Min.)) <u>Any Buck</u>	GMU 371	10
<u>Alkali D</u>	<u>Oct. 1-10</u>	<u>Antlerless</u>	<u>GMU 371</u>	<u>5</u>
<u>Mason Lake</u>	<u>Oct. 9-15</u>	<u>Antlerless</u>	<u>GMU 633</u>	<u>30</u>
Satsop	Oct. ((1-10)) <u>9-15</u>	Any Deer	GMU 651	50

Archery Only ~~((Buck))~~ Permit Hunts (Only archery deer tag holders may apply.)

((Alta E	Sept. 1-30	3-Pt. Min.	GMU 242	32))
Desert ((E)) <u>D</u>	Sept. 1-15	((3-Pt. Min.)) <u>Any Buck</u>	GMU 290	((13)) <u>9</u>
Quilomene C	Sept. 1-15	((3-Pt. Min.)) <u>Any Buck</u>	GMUs 329, 330	86
Umtanum C	Sept. 1-15	((3-Pt. Min.)) <u>Any Buck</u>	GMU 342	86
Alkali ((E)) <u>E</u>	Sept. 1-15	((3-Pt. Min.)) <u>Any Deer</u>	GMU 371	((155)) <u>50</u>

Advanced Hunter Education (AHE) Graduate Special Deer Permit Hunts (Only AHE graduates may apply.)

Cheney/Roosevelt	Dec. 1-7	Antlerless Only	GMUs 130, 133	((75)) <u>125</u>
Mt. Adams	Oct. 1-10	2-Pt. Min. or Antlerless	Elk Area 059	10
Skookumchuck <u>B</u>	Oct. ((17-30)) <u>16-31</u>	Any Deer	GMU 667	10

Persons of Disability Special Deer Permit Hunts (Only Persons of Disability may apply.)

Blue Mtns. Foothills C	Nov. ((9-24)) <u>8-23</u>	Whitetail, 3-Pt. Min. or Antlerless	GMUs 149, 154, 162-166	10
<u>St. Andrews</u>	<u>Oct. 16-24</u>	<u>Antlerless</u>	<u>GMU 254</u>	<u>20</u>
Green River ((E)) <u>B</u>	Oct. ((11-17)) <u>10-16</u>	((Antlerless Only)) <u>Any Deer</u>	GMU 485	5
<u>Mossyrock</u>	<u>Oct. 16-31</u>	<u>Any Deer</u>	<u>GMU 505</u>	<u>5</u>
Margaret	Oct. ((17-Nov. 1)) <u>16-31</u>	((Antlerless Only)) <u>Any Deer</u>	GMU 524	25
<u>Lone Butte</u>	<u>Oct. 16-31</u>	<u>Any Deer</u>	<u>GMU 560</u>	<u>3</u>
Trout Creek Hill	Oct. ((17-31)) <u>16-31</u>	Any Deer	GMU 572	3
Eleven Mile Ridge	Oct. ((17-31)) <u>16-31</u>	Any Deer	GMU 572	2
Red Mountain	Oct. ((17-31)) <u>16-31</u>	Any Deer	GMU 572	2
Paradise Ridge	Oct. ((17-31)) <u>16-31</u>	Any Deer	GMU 572	2
Proverbial Creek	Oct. ((17-31)) <u>16-31</u>	Any Deer	GMU 572	2
Gobbler's Knob	Oct. ((17-31)) <u>16-31</u>	2-Pt. Min. or Antlerless	GMU 574	2
((Lone Butte	Oct. 17-31	Any Deer	GMU 560	3))
Skookumchuck ((B)) <u>C</u>	Oct. ((17-Nov. 1)) <u>16-31</u>	Any Deer	GMU 667	15
Bear River	Oct. ((17-Nov. 1)) <u>16-31</u>	2-Pt. Min. or Antlerless	GMU 681	20

~~((Senior))~~ Special Deer Permit Hunts ~~((Must be))~~ for Hunters 65 or older ~~((on opening day of the permit season to apply))~~.

Walla Walla	Oct. ((17-25)) <u>16-24</u>	3-Pt. Min or Antlerless	GMUs 149, 163	75
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Youth Special Deer Permit Hunts (Must be ~~((16 or younger on opening day of permit season))~~ eligible for the youth hunting license & accompanied by an adult during the hunt.)

Blue Mtns. Foothills D	Oct. ((17-25)) <u>16-24</u>	3-Pt. Min. or Antlerless	GMUs 149, 154, 162-166	100
Blue Mtns. Foothills E	Oct. ((17-25)) <u>16-24</u>	3-Pt. Min. or Antlerless	GMUs 145, 172-181	((75)) <u>100</u>
Big Bend ((C)) <u>B</u>	Oct. ((17-25)) <u>16-24</u>	((3-Pt. Min. or)) Antlerless	GMU 248	25
Toutle	Oct. ((17-Nov-1)) <u>16-31</u>	Any Deer	GMU 556	100
Wind River	Oct. ((17-Nov-1)) <u>16-31</u>	2-Pt. Min. or Antlerless	GMU 574	75
Satsop	Oct. ((11-Nov-1)) <u>10-31</u>	Any Deer	GMU 651	10
Skookumchuck ((C)) <u>D</u>	Oct. ((11-Nov-1)) <u>10-31</u>	Any Deer	GMU 667	60

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 (Amending Order 98-61, filed 4/22/98, effective 5/23/98)

WAC 232-28-281 ~~((1998-99))~~ **1999-2000** and ~~((1999-2000))~~ **2000-2001 Elk general seasons and** ~~((1998-99))~~ **1999-2000 special permits. Bag Limit:** One (1) elk per hunter during the ~~((1998))~~ 1999 hunting season.

Hunting Method: Elk hunters must select only one of the hunting methods (modern firearm, archery, or muzzleloader).

Elk Tag Areas: Elk hunters must choose one of the five elk hunting areas (Blue Mountains, Northeastern Washington, Yakima, Colockum, or Western Washington) to hunt in and buy the appropriate tag for that area.

Any Bull Elk Seasons: Open only to the taking of male elk with visible antlers (bull calves are illegal).

Spike Bull Restrictions: Bull elk taken in these GMUs must have at least one antler that is a spike above the ears (does not branch above ears). An animal with branched antlers on both sides is illegal but an animal with a spike on one side is legal in spike only units.

Spike Only GMUs: 145-154, 162-186, 302, 314-329, and 335-371

3 Point Restriction: Legal bull elk taken must have at least 3 antler points on one side only. Antler points may include eye guards, but antler points on the lower half of the main beam must be at least four (4) inches long measured from antler tip to nearest edge of beam; all other antler points must be at least one (1) inch long. Antler restrictions apply to all hunters during any open season.

3 Point GMUs: All of western Washington except for GMUs 454, 564, 568, 574, 578, ~~((582,))~~ 588 and ~~((permit only GMUs 157, 524, 556, 602, and 621))~~ Elk Area 041.

GMUs Closed to Elk Hunting: 418 (Nooksack), and 437 (Sauk) except for Elk Area 041, 485 (Green River), 522 (Loo-wit) and 636 (Skokomish).

Special Permits: Only hunters with elk tag prefix identified in the Special Elk Permits tables may apply for special bull or antlerless permits. Please see permit table for tag eligibility. Hunters drawn for a special permit may hunt only with a

weapon in compliance with their tag and during the dates listed for the hunt.

Harvest Report Card: Successful hunters must fill out and return a Game Harvest Report Card within 10 days after taking an elk.

Elk Tag Areas

Blue Mountains: GMUs 145-186. Elk hunting by permit only in GMU 157.

- BA - Blue Mountains Archery Tag
- B~~((G))~~E- Blue Mountains Modern Firearm General ~~((Bull))~~ Elk Tag
- BM - Blue Mountains Muzzleloader Tag

Northeastern: GMUs 101-142. Modern firearm by permit only in GMUs 127 and 130.

- NA - Northeastern Archery Tag
- N~~((G))~~E - Northeastern Modern Firearm General ~~((Bull))~~ Elk Tag
- NM - Northeastern Muzzleloader Tag

Colockum: GMUs 300, 302, 304, 306, 308, 314, 316, 328, 329, 330 (Elk hunting by permit only in GMU 330), and the portion of GMU 334 north of I-90 (modern firearm restrictions in GMU 334).

- CA - Colockum Archery Tag
- C~~((G))~~E - Colockum Modern Firearm General ~~((Bull))~~ Elk Tag
- CM - Colockum Muzzleloader Tag

Yakima: The portion of GMU 334 south of I-90 (Modern Firearm restrictions in GMU 334), and GMUs 335, 336, 340, 342, 346, 352, 356, 360, 364, 368, 371, ~~((and))~~ 372 and 382.

- YA - Yakima Archery Tag
- Y~~((G))~~E - Yakima Modern Firearm General ~~((Bull))~~ Elk Tag
- YM - Yakima Muzzleloader Tag

Western Washington: All 400, 500 and 600 GMUs except closed in GMU 418, 437, 485, 522, 636 and modern firearm restrictions in portions of GMU 660. GMUs 418 (Nooksack), 437 (Sauk) except for Elk Area 041, and 636 (Skokomish) are closed to all elk hunting as Conservation Closures. GMU 554 is open only for early archery and muzzleloader permit seasons. Elk Area 064 in GMU 638 (Quinalt) is open to AHE hunters only. Elk hunting by permit only in GMUs 524, 556, 602, 621, and PLWMA 600 (Pysht).

- WA - Western Washington Archery Tag

PROPOSED

W((G))E - Western Washington Modern Firearm General ((B+H)) Elk Tag
 WM - Western Washington Muzzleloader Tag

License Required: ((Hunting license-)) A valid big game hunting license with an elk tag option.

Tag Required: Valid modern firearm elk tag as listed below on his/her person for the area hunted.

Hunting Method: May use rifle, bow and arrow, or muzzleloader, but only during modern firearm seasons.

Modern Firearm Elk Seasons

Hunt Area	Elk Tag	Game Management Units (GMUs)	((1998 Season Dates))	1999 Season Dates	Legal Elk
Northeast	General (N((G))E)	101 through 124, 133 through 142	((Oct. 31-Nov. 8))	Oct. 30-Nov. 7	Any bull
		127, 130			Permit only
Blue Mountains	General (B((G))E)	145 through 154, 162 through 186	((Oct. 31-Nov. 8))	Oct. 30-Nov. 7	Spike bull ((only))
		157			Permit Only
Colockum	General (C((G))E)	((300, 304, 306, 308))	((Oct. 31-Nov. 8))	((Oct. 30-Nov. 7))	((Any bull))
		302, 314, 316 south of Hwy 2, 328, 329	((Oct. 31-Nov. 8))	Oct. 30-Nov. 7	Spike bull ((only))
		330			Permit Only
Yakima	General (Y((G))E) Any Yakima Tag	335 through ((371)) 368	((Oct. 31-Nov. 8))	Oct. 30-Nov. 7	Spike bull ((only))
		371, 372, 382	((Oct. 5-13))	Oct. 5-13	Antlerless ((Only))
			((Oct. 31-Nov. 8)) ((Dec. 9-13))	Oct. 31-Nov. 8 Dec. 9-13	Any Elk Antlerless ((Only))
Western Washington	General (WG)	407, 448, 460, 466, 472, 478, 484, 490, 504 through 520, 530, 550, 558, 560, 572, 601, 603 through 618, 624 through 633, 638 through 684 Except AHE hunters only in Elk Area 064 in GMU 638	((Nov. 7-15))	Nov. 6-14	3 pt. min.
		501	((Nov. 7-15))	Nov. 6-14	3 pt. min. or antlerless
		564, 568, 574 through 588	((Nov. 7-15))	Nov. 6-14	Any elk
		454, Elk Area 041	((Nov. 7-15))	Nov. ((8)) 6-14	Any bull
		524, 556, 602, 621 & PLWMA 600			Permit Only

Archery Elk Seasons

License Required: ((Hunting license-)) A valid big game hunting license with an elk tag option.

Tag Required: Valid archery elk tag as listed below on his/her person for the area hunted.

Hunting Method: Bow and arrow only.

Special Notes: Archery tag holders can hunt only during archery seasons. Archery elk hunters may apply for special bull permits. Please see permit table for tag eligibility for all elk permits.

Hunt Area	Elk Tag	Game Management Units (GMUs)	((1998 Season Dates))	1999 Season Dates	Legal Elk
Early Archery Elk Seasons					
Northeast	NA	101 through 142	((Sept. 1-14))	Sept. 1-14	Any elk

PROPOSED

Hunt Area	Elk Tag	Game Management Units (GMUs)	((1998 Season Dates))	1999 Season Dates	Legal Elk
Blue Mountains	BA	145 through 154, 162 through 169, 175 through 186	((Sept. 1-14))	Sept. 1-14	Spike bull ((only))
Colockum	CA	300, 306, 308, 334 (N of I-90)	((Sept. 1-14))	Sept. 1-14	Any elk
		328, 329, 330	((Sept. 1-14))	Sept. 1-14	Spike bull or antlerless
Yakima	YA	334 (south of I-90), 372, 382	((Sept. 1-14))	Sept. 1-14	Any elk
		335, 336, 340, 352, 356, 364, 371	((Sept. 1-14))	Sept. 1-14	Spike bull or antlerless
Western Washington	WA	454, 564, 568, 574, 578, ((582,)) 588	((Sept. 1-14))	Sept. 1-14	Any elk
		407, 448, 460, ((466)) 484, 490, 501 through 520, 530, 550, 554, 558, 560, 572, 660, 663, 667 through 684 and Long Island	((Sept. 1-14))	Sept. 1-14	3 pt. min. or antlerless
		<u>466</u> , 472, 478, 484, 601, 603, 612 through 618, 624 through 633, 638 through 658 <u>and 666</u> . AHE hunters only in Elk Area 064 in GMU 638. Permit Only in PLWMA 600 in GMU 603.	((Sept. 1-14))	Sept. 1-14	3 pt. min.
		Elk Area 041	((Sept. 1-14))	Sept. 1-14	Antlerless ((only))
Late Archery Elk Seasons					
Northeast	NA	101, 105, 117 through 130	((Nov. 25-Dec. 15-))	Nov. 24-Dec. 15	Any elk
Blue Mountains	BA	Private lands within GMU 162 east of the North Touchet Road. GMU 178	((Nov. 25-Dec. 15-))	Nov. 24-Dec. 15	Antlerless ((only))
Colockum	CA	328	((Nov. 25-Dec. 8))	Nov. 24-Dec. 8	Spike bull or antlerless
Yakima	YA	335, 336, 346, 352, 360 North of <u>USFS Roads 324, 325, to the intersection of Carmack Canyon (& Bethel Ridge Road) then northeast down Carmack Canyon bottom to the Naches River and north to State Highway 410, 368</u>	((Nov. 25-Dec. 8))	Nov. 24-Dec. 8	Spike bull or antlerless

PROPOSED

PROPOSED

Hunt Area	Elk Tag	Game Management Units (GMUs)	((1998 Season Dates))	1999 Season Dates	Legal Elk
Western Washington	WA	407, 484 , 505, 506, 520, 530, 672, 681 and Long Island. In GMU 681 closed between US Highway 101 and the Columbia River from Astoria-Megler toll bridge to the Wallicut River.	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	3 pt. min. or antlerless
		454, 564, 588	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	Any elk
		484, 603, 612, 615, 638, 648 except closed in PLWMA 600 in GMU 603. AHE hunters only in Elk Area 064 in GMU 638.	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	3 pt. min.
		Elk Area 041	((Nov. 25-Dec. 31))	Nov. ((24)) 15-Dec. ((31)) 1	((Antlerless-only)) Any elk

Muzzleloader Elk Seasons

Hunting Method: Muzzleloader only.

License Required: ~~((Hunting license-))~~ A valid big game hunting license with an elk tag option.

Special Notes: Muzzleloader tag holders can only hunt during the muzzleloader seasons and must hunt with muzzleloader equipment. Only hunters with tags identified in the Special Elk Permits tables may apply for special elk permits.

Tag Required: Valid muzzleloader elk tag as listed below on his/her person for the area hunted.

Hunt Area	Elk Tag	Game Management Units (GMUs)	((1998 Season Dates))	1999 Season Dates	Legal Elk
Early Muzzleloader Elk Seasons					
Northeast	NM	109	((Oct. 10-16))	Oct. 9-15	Any bull
Blue Mountains	BM	172((-178, 181))	((Oct. 10-16))	Oct. 9-15	Spike bull ((only))
Colockum	CM	308	((Oct. 10-16))	Oct. 9-15	Any bull
		304, 314*, 316, S of Hwy 2 *The portion of GMU 314 bordered by the Colockum Pass Road (Road 10) Naneum Ridge Road (Road 9) and Ingersol Road (Road 1) is closed. See Naneum Green Dot Map.	((Oct. 10-16))	Oct. 9-15	Spike bull ((only))
		ML 911		Aug. 14-Sept. 12	Any elk
Yakima	YM	342, 356, 368	((Oct. 10-16))	Oct. 9-15	Spike bull ((only))
		((ML 910))	((Aug. 15-Sept. 14))	((Aug. 15-Sept. 14))	((Any elk))

Hunt Area	Elk Tag	Game Management Units (GMUs)	((1998 Season Dates))	1999 Season Dates	Legal Elk
		<u>That part of GMU 368 east of the following boundary: Jump Off Road and the powerlines to South Fork Cowiche Creek and then west along South Fork Cowiche Creek to Nasty Creek Road; southeast to the North Fork Ahtanum Road and southeast to Tampico; east along the South Fork Ahtanum Creek and east to Yakama Indian Reservation.</u>		<u>Oct. 10-16</u>	<u>Antlerless</u>
Western Washington	WM	454, 564, 684	((Oct. 10-16))	Oct. 9-15	Any elk
		460, 478, 484, 513, 530, 603, 607, 660	((Oct. 10-16))	Oct. 9-15	3 pt. min.
		501	((Oct. 10-16))	Oct. 9-15	3 pt. min. or antlerless
		Elk Area 041	((Oct. 10-16))	Oct. ((10)) 9-16	Antlerless ((only))
Late Muzzleloader Elk Seasons					
Northeast	NM	127 through 139 (All units are primarily private lands and access is a problem.)	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	Any elk
Yakima	YM	346	((Nov. 14-18))	Nov. 14-18	Spike bull or antlerless
		Muzzleloader Area 944	((Nov. 25-Dec. 8))	Nov. 24-Dec. 8	Spike bull or antlerless
Western Washington	WM	501, 505	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	3 pt. min. or antlerless
		454, 564, 568, 684	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	Any elk
		574, 578	((Nov. 25-Dec. 8))	Nov. 24-Dec. 8	Any elk
		484, 504, 550, 601	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	3 pt. min.
		Elk Area 041	((Nov. 25-Jan. 31, 1999))	((Nov. 24)) Dec. 1-Jan. 31, 2000	Any elk

Special Elk Hunts Open to Specified Tag Holders

License Required: ~~((Hunting License))~~ A valid big game hunting license with an elk tag option.

Tag Required: Proper elk tags are listed with each GMU below.

Hunting Method: Hunters must use method listed on their tag, except in Firearm Restriction Areas, where some types of weapons are banned from use. See elk tag required, dates, and legal elk in table below.

Hunt Area	Elk Tag	Game Management Units	Legal Elk	Season Dates	
				((1998))	1999
Western ((Washington))	W ((G)) E	568, 574, 578, 588	Any Elk	((Nov. 7-15))	Nov. 6-14

PROPOSED

	WA, W((G))E, WM	564, Archery, and muzzleloader (and revolver type handguns meeting elk hunting) equipment (restrictions). Modern Firearm elk tag holders may hunt, but must use archery, muzzle-loader or revolver type handgun equipment.	Any Elk	((Nov. 7-15))	Nov. 6-14
Northeast	N((G))E	101, 105, 121, 124 west of SR 395, 133, 136, 139	Any Elk	((Oct. 31-Nov. 8))	Oct. 30-Nov. 7
	NA, NM, NF	127, 130 Advanced Hunter Education Hunters Only	Any Elk	((Oct. 20-Dec. 31))	Oct. 20-Dec. 31
Central (Washington)	Any Elk Tag	Grant, Adams, Douglas (and), <u>Franklin, Okanogan and Benton (south of the Yakima River)</u> cos. and Chelan County N of Hwy 2 except closed within 1/2 mile of Columbia River in Douglas & Grant cos.	Any Elk	((Nov. 1-15))	((Nov. 1-15)) <u>Oct. 30-Nov. 15</u>
<u>Colockum</u>	<u>CM</u>	<u>ML Area 911: Advanced Hunter Education Hunters Only</u>	<u>Any Elk</u>		<u>Nov. 24-Dec. 7</u>

Special Elk Permit Hunting Seasons

(Open to Permit Holders Only)

Permit hunters may hunt only with a weapon in compliance with their tag. Applicants must have purchased the proper

tag for these hunts (see Elk Tag Prefix required to apply for each hunt).

Hunt Name	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	((1998)) 1999 Permits
Modern Firearm Bull Permit Hunts					
Blue Creek A	Oct. ((25)) 24-Nov. ((8)) 7	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 154	((3)) 4
Watershed ((A))*	Oct. ((34)) 30-Nov. ((8)) 7	3 Pt. Min. or Antlerless	BA, B((G))E, BM	GMU 157	50
Dayton A	Oct. ((25)) 24-Nov. ((8)) 7	((3 Pt. Min.)) <u>Any bull</u>	B((G))E	GMU 162	((5)) 6
Tucannon A	Oct. ((25)) 24-Nov. ((8)) 7	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 166	((3)) 2
Wenaha A	Oct. ((25)) 24-Nov. ((8)) 7	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 169	((6)) 8
Mountain View A	Oct. ((25)) 24-Nov. ((8)) 7	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 172	5
Peola A	Oct. ((25)) 24-Nov. ((8)) 7	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 178	((2)) 1
Couse A	Oct. ((25)) 24-Nov. ((8)) 7	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 181	((4)) 2
Grande Ronde A	Oct. ((25)) 24-Nov. ((8)) 7	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 186	1
Naneum A	Oct. ((25)) 24-Nov. ((8)) 7	((3 Pt. Min.)) <u>Any Bull</u>	C((G))E	GMU 328	19
Quilomene A	Oct. ((25)) 24-Nov. ((8)) 7	((3 Pt. Min.)) <u>Any Bull</u>	C((G))F	GMU 329	10
Peaches Ridge A	Oct. ((25)) 24-Nov. ((8)) 7	((3 Pt. Min.)) <u>Any Bull</u>	Y((G))E	GMUs 336, 346	88

PROPOSED

Hunt Name	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	((1998)) <u>1999</u> Permits
Observatory A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	Y((G))E	GMUs 340, 342	52
Goose Prairie A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	Y((G))E	GMUs 352, 356	41
Bethel A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	Y((G))E	GMU 360	30
Rimrock A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	Y((G))E	GMU 364	63
Cowiche A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	Y((G))E	GMU 368	11
Margaret A	Nov. ((2-15)) <u>1-14</u>	3 Pt. Min.	W((G))E	GMU 524	((14)) <u>7</u>
Toutle A	Nov. ((2-15)) <u>1-14</u>	3 Pt. Min.	W((G))E	GMU 556	((147)) <u>85</u>
Dickey A	Nov. ((2-15)) <u>6-14</u>	3 Pt. Min.	W((G))E	GMU 602	46
Olympic A	Nov. ((2-15)) <u>6-14</u>	3 Pt. Min.	W((G))E	GMU 621	14

*Permit season is open for archery and muzzleloader but hunt is the same as modern firearm and all hunters must wear hunter orange.

Modern Firearm Elk Permit Hunts (Only modern firearm and muzzleloader elk tag holders may apply.)

((Northeast)) <u>Pend Oreille</u>	Nov. ((2-8)) <u>1-7</u>	((Antlerless-Only)) <u>Any Elk</u>	N((G))E or NM	GMUs 109, 113, 117((,-124- (E. of SR 395)))	((80)) <u>50</u>
<u>Mount Spokane</u>	<u>Oct. 30-Nov. 7</u>	<u>Any Elk</u>	<u>NF or NM</u>	<u>124 (E. of SR 395)</u>	<u>50</u>
Mica, Cheney	Oct. ((47)) <u>16</u> -Nov. ((8)) <u>7</u>	Antlerless ((Only))	N((G))F or NM	GMUs 127, 130	250
Wenaha B	Oct. 1-10	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E or BM	GMU 169	((3)) <u>2</u>
Peola B	Nov. ((4-8)) <u>3-7</u>	Antlerless	B((G))E or BM	GMU 178	25
Wenatchee Mtns.	Oct. 1-10	((3 Pt. Min.)) <u>Any Bull</u>	C((G))E, CM, Y((G))E, or YM	GMU 302, 335	18
Shushuskin	Dec. 1-31	Antlerless	Y((G))E or YM	Elk Area 031	50
Malaga A***	Sept. 1-Oct. 3	Any Elk	C((G))E or CM	Elk Area 032	75
((Malaga B	<u>Oct. 11-31</u>	<u>Any Elk</u>	<u>CG or CM</u>	<u>Elk Area 032</u>	<u>75))</u>
Malaga ((E)) B	Nov. 10-Dec. 31	Any Elk	C((G))E or CM	Elk Area ((033)) <u>032</u>	75
((Peshastin A	<u>Sept. 1-Oct. 3</u>	<u>Antlerless</u>	<u>CG or CM</u>	<u>Elk Area 033</u>	<u>25</u>
Peshastin B	Nov. 10-Dec. 31	Any Elk	CG or CM	Elk Area 033	25))
Taneum	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y((G))E or YM	GMU 336	150
Manastash ((A))	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y((G))E or YM	GMU 340	300
Umtanum A	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y((G))E or YM	GMU 342	350
Little Naches A	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y((G))E or YM	GMU 346	250
Little Naches B	Oct. 1-10	((3 Pt. Min.)) <u>Any Bull</u>	Y((G))E or YM	GMU 346	19
Nile	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y((G))E or YM	GMU 352	75
Bumping	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y((G))E or YM	GMU 356	300
Bethel B	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y((G))E or YM	GMU 360	100
Rimrock B	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y((G))E or YM	GMU 364	350
Cowiche B	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y((G))E or YM	GMU 368	200

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Willapa Hills	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 506	100
Packwood	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 516	25
Winston ((B))	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 520	30
Margaret B	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 524	((20)) 10
Ryderwood	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 530	75
Coweeman ((B))	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 550	50
Toutle B	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 556	((45)) 30
Marble	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 558	60
Carlton	Oct. 1-10	3-Pt. Min.	W ((G)) E or WM	Elk Area 057	5
West Goat Rocks	Oct. 1-10	3-Pt. Min.	W ((G)) E or WM	Elk Area 058	5
Mt. Adams	Oct. 1-10	3-Pt. Min.	W ((G)) E or WM	Elk Area 059	5
Lewis River ((B))	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 560	75
Siouxon	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 572	50
<u>Dungeness</u>	<u>Nov. 10-14</u>	<u>Antlerless</u>	<u>WF or WM</u>	<u>Part of GMU 621*</u>	<u>5</u>
Minot Peak	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 660**	((10)) 20
Williams Creek	Nov. ((11-15)) <u>10-14</u>	Antlerless	W ((G)) E or WM	GMU 673	50
((Curtis	Dec. 20-31	Antlerless	WG or WM	Elk Area 050	50
Boistfort A	Jan. 1-15, 1999	Antlerless Only	WG or WM	Elk Area 054	50
East Valley	Jan. 1-15, 1999	Antlerless Only	WG or WM	Elk Area 055	25))

*That part of GMU 621 north and west of Jimmy Come Lately Creek and the Gray Wolf River.

**That part of GMU 660 north of the North River-Brooklyn Road.

***Damage hunt.

Muzzleloader Bull Permit Hunts (Only muzzleloader elk tag holders may apply.)

Blue Creek B	Oct. 1-10	((3-Pt. Min.)) <u>Any</u> <u>Bull</u>	BM	GMU 154	1
Dayton B	Oct. 1-10	((3-Pt. Min.)) <u>Any</u> <u>Bull</u>	BM	GMU 162	1
Tucannon B	Oct. 1-10	((3-Pt. Min.)) <u>Any</u> <u>Bull</u>	BM	GMU 166	1
Wenaha C	Oct. 1-10	((3-Pt. Min.)) <u>Any</u> <u>Bull</u>	BM	GMU 169	2
Mountain View B	Oct. 1-10	((3-Pt. Min.)) <u>Any</u> <u>Bull</u>	BM	GMU 172	1
Peola C	Oct. 1-10	((3-Pt. Min.)) <u>Any</u> <u>Bull</u>	BM	GMU 178	1

Couse B	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> Bull	BM	GMU 181	1
Grande Ronde B	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> Bull	BM	GMU 186	1
Naneum ((C)) <u>B</u>	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> Bull	CM	GMU 328	2
Quilomene ((C)) <u>B</u>	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> Bull	CM	GMU 329, 330	4
Peaches Ridge B	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> Bull	YM	GMUs 336, 346	20
Observatory B	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> Bull	YM	GMUs 340, 342	19
Goose Prairie B	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> Bull	YM	GMUs 352, 356	5
Bethel C	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> Bull	YM	GMU 360	3
Rimrock C	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> Bull	YM	GMU 364	15
Cowiche C	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> Bull	YM	GMU 368	3
Margaret C	Oct. 1-10	3 Pt. Min.	WM	GMU 524	3
Toutle C	Oct. 1-10	3 Pt. Min.	WM	GMU 556	((20)) 15
Dickey B	Oct. 1-10	3 Pt. Min.	WM	GMU 602	8
Olympic B	Oct. 1-10	3 Pt. Min.	WM	GMU 621	2

Muzzleloader Permit Hunts (Only muzzleloader elk tag holders may apply.)

Blue Creek C***	12/1/((98)) 99-1/31/((99)) 2000	Antlerless ((Only))	BM	GMU 154	50
Peola D***	Oct. ((10-16)) 9-15	Spike or Antlerless	BM	GMU 178	50
Couse C***	Oct. ((10-16)) 9-15	Spike or Antlerless	BM	GMU 181	50
Couse D***	Dec. 1-31	Antlerless ((Only))	BM	GMU 181	50
Couse E***	Jan. 1-31, ((1999)) 2000	Antlerless ((Only))	BM	GMU 181	50
<u>Umtanum B</u>	<u>Oct. 10-16</u>	<u>Antlerless</u>	<u>CM</u>	<u>GMU 342</u>	<u>125</u>
Stella***	Nov. 26-Dec. 15	3 Pt. Min. or Antlerless	WM	GMU 504	100
Boistfort ((B))***	Jan. 16-31, ((1999)) 2000	Antlerless ((Only))	WM	Elk Area 054	((50)) 20
Yale***	Nov. 26-Dec. 15	Any Elk	WM	GMU 554	75
Toledo***	Jan. 2-16, ((1999)) 2000	Antlerless ((Only))	WM	Elk Area 029	75
<u>Malaga C***</u>	<u>Oct. 9-29</u>	<u>Antlerless</u>	<u>CM</u>	<u>Elk Area 032</u>	<u>75</u>
North River***	Nov. 26-Dec. 15	Antlerless ((Only))	WM	GMU 658	20

Archery Bull Permit Hunts (Only archery elk tag holders may apply.)

Blue Creek D	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 154	2
Dayton C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 162	3
Tucannon C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 166	1
Wenaha D	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 169	8

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Mountain View C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 172	5
Peola E	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 178	2
Couse F	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 181	1
Grande Ronde C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 186	1
Naneum ((D)) C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	CA	GMU 328	77
Quilomene ((D)) C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	CA	GMU 329, 330	23
Peaches Ridge C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMUs 336, 346	53
Observatory C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMUs 340, 342	26
Goose Prairie C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMUs 352, 356	29
Bethel D	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMU 360	48
Rimrock D	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMU 364	82
Cowiche D	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMU 368	5
Margaret D	Sept. 1-14	3 Pt. Min.	WA	GMU 524	((6)) 3
Toutle D	Sept. 1-14	3 Pt. Min.	WA	GMU 556	((89)) 75
Dickey C	Sept. 1-14	3 Pt. Min.	WA	GMU 602	39
Olympic C	Sept. 1-14	3 Pt. Min.	WA	GMU 621	6

Advanced Hunter Education (AHE) Graduate Special Elk Permit Hunts (Only AHE graduates may apply.)

Margaret E	Oct. 1-10	3-Pt. Min ((or Antlerless))	Any Elk Tag	GMU 524	((40)) 4
Quinault Ridge	Oct. 1-10	3-Pt. Min or Antlerless	Any Elk Tag	GMU 638	5
South Bank A	Jan. 1- ((15, 1999)) <u>30, 2000</u>	Antlerless ((Only))	Any Elk Tag	Elk Area 062*	((5)) 10
((South Bank B	Jan. 16-31, 1999	Antlerless Only	Any Elk Tag	Elk Area 062*	5))
Skookumchuck	Oct. 1-10	3-Pt. Min. or Antlerless	Any Elk Tag	GMU 667	2
((Cle Elum	Nov. 25-Dec. 8	Antlerless Only	YM, CM	ML 910	50))

Persons of Disability Only - Special Elk Permit Hunts

<u>Northeast</u>	<u>Nov. 2-15</u>	<u>Antlerless</u>	<u>YF, YM or YA</u>	<u>GMUs 109-130</u>	<u>15</u>
Observatory D	Oct. ((25)) <u>24-Nov. ((8)) 7</u>	Any Elk	Y ((G)) E or YM	GMU 340, 342	((15)) 5
Little Naches C	Oct. 1-10	Any Elk	Y ((G)) E, YM, YA	GMU 346	((15)) 5
<u>Little Naches D</u>	<u>Oct. 30-Nov. 7</u>	<u>Antlerless</u>	<u>YF, YM, or YA</u>	<u>GMU 346</u>	<u>10</u>
Trout Creek Hill	Nov. ((9-15)) <u>8-14</u>	3 Pt. Min. or Antlerless	W ((G)) E or WM	GMU 572	1
Eleven Mile Ridge	Nov. ((9-15)) <u>8-14</u>	3 Pt. Min. or Antlerless	W ((G)) E or WM	GMU 572	1
Red Mountain	Nov. ((9-15)) <u>8-14</u>	3 Pt. Min. or Antlerless	W ((G)) E or WM	GMU 572	1
Paradise Ridge	Nov. ((9-15)) <u>8-14</u>	3 Pt. Min. or Antlerless	W ((G)) E or WM	GMU 572	1
Proverbial Creek	Nov. ((9-15)) <u>8-14</u>	3 Pt. Min. or Antlerless	W ((G)) E or WM	GMU 572	1
Lone Butte A	Sept. 1-14	Any Elk	Any Archery Elk Tag	GMU 560	1
Lone Butte B	Nov. ((9-15)) <u>8-14</u>	Any Elk	Any Elk Tag	GMU 560	1
Centralia Mine A	Oct. 31-Nov. 1	Antlerless ((Only))	Any Elk Tag	Portion of GMU 667	4
Centralia Mine B	Nov. 7-8	Antlerless Only	Any Elk Tag	Portion of GMU 667	4
South Bank ((E)) B	Dec. 10-20	Antlerless ((Only))	Any Elk Tag	Elk Area 062*	3

*Firearm Restriction Area - Hunters may use only muzzle-loader equipment.

***Damage Hunt.

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 Order 98-160, filed 8/13/98, effective 9/13/98)

WAC 232-16-810 Port Susan Bay Canada goose closure. It shall be unlawful to hunt Canada geese from November 1 through March 31 within the following boundary in Snohomish County: Beginning at the intersection of SR 532 and Marine Drive in Stanwood; then south along Marine

Drive to Warm Beach Road; then west along Warm Beach Road to Port Susan Bay; then west to the Island/Snohomish County line; then north along the Island/Snohomish County line to SR 532; then east along SR 532 to the point of beginning. (~~Hunting of coot, snipe, and waterfowl other than Canada geese is allowed in this area.~~)

AMENDATORY SECTION (Amending Order 98-249, filed 12/22/98, effective 1/22/99)

WAC 232-28-271 Private lands wildlife management area hunting seasons, rules and boundary descriptions.

**DEER GENERAL SEASONS ON PRIVATE LANDS
WILDLIFE MANAGEMENT AREAS**

Champion (PLWMA 401) Kapowsin Tree Farm		
Hunting Method	1999 Dates	Special Restrictions
Archery	August 28-Sept. 10 October 1-9	2 Pt. Min. or Antlerless 2 Pt. Min. or Antlerless
Modern Firearm	October 10-24	2 Pt. Min.
Muzzleloader	November 24-Dec. 5	2 Pt. Min. or Antlerless

Merrill and Ring (PLWMA 600) Pysht Tree Farm		
Hunting Method	1999 Dates	Special Restrictions
Archery	September 15-30 Nov. 24-Dec. 31	Either Sex South Unit Antlerless Only North Unit; Either Sex South Unit
Modern Firearm	Oct. 16-31 Nov. 18-21	Buck Only South Unit Buck Only South Unit
Muzzleloader	Oct. 1-9	Antlerless Only North Unit; Buck Only South Unit

**1999 DEER PERMIT SEASONS ON
PRIVATE LANDS WILDLIFE MANAGEMENT AREAS**

1999 - Mule Deer				
Wilson Permit Draw Permits. Hunters apply to Washington Department of Fish and Wildlife in WDFW permit draw process. Only hunters possessing a modern firearm deer tag are eligible for Wilson draw hunts. Hunters are limited to one day of hunting during the permit season.				
Hunt Name	Permit Number	Permit Season	Special Restrictions	Boundary Description
Wilson A	1	Oct. 1-Dec. 31	Buck Only, Youth Hunters Only*	PLWMA 201
Wilson B	29	Oct. 1-Dec 31	Antlerless Only, Youth Hunters Only*	PLWMA 201
Wilson C	29	Oct. 1-Dec 31	Antlerless Only, Persons of Disability Only	PLWMA 201
Wilson D	29	Oct. 1-Dec 31	Antlerless Only, AHE Hunters Only	PLWMA 201
Wilson E	1	Oct. 1-Dec 31	Buck Only, Persons of Disability Only	PLWMA 201
Wilson F	1	Oct. 1-Dec 31	Buck Only, AHE Only	PLWMA 201

PROPOSED

1999 - Mule Deer
Wilson Permit Draw Permits. Hunters apply to Washington Department of Fish and Wildlife in WDFW permit draw process. Only hunters possessing a modern firearm deer tag are eligible for Wilson draw hunts. Hunters are limited to one day of hunting during the permit season.

Hunt Name	Permit Number	Permit Season	Special Restrictions	Boundary Description
* Youth hunters must be under 16 years of age and must be accompanied by an adult during the hunt.				
Access for these hunts are for one day, scheduled by the manager. There are no access fees for these hunts. All hunters shall have a valid modern firearm deer tag and written authorization from the manager to participate in these hunts. All other hunting regulations apply.				

PROPOSED

1999 - Blacktail Deer
Champion's Kapowsin Tree Farm -
Champion Permit Draw Deer Permits - Hunters apply to Washington Department of Fish and Wildlife in WDFW permit draw process.

Hunt Name	Permit Number	Permit Season	Special Restrictions	Boundary Description
Kapowsin North	25	Dec. 10-12	Antlerless Only, Age 65 and older Hunters	PLWMA 401 A North
Kapowsin Central	50	Dec. 10-12	Antlerless Only	PLWMA 401 B Central
Kapowsin South	25	Dec. 10-12	Antlerless Only Youth Hunters	PLWMA 401 C South
	25	Dec. 10-12	Antlerless Only Person of Disability	PLWMA 401 C South

**ACCESS QUOTAS AND RAFFLE SEASONS
 ON PRIVATE LANDS WILDLIFE MANAGEMENT AREAS**

1999 - Mule Deer
Wilson Creek Area - Access Quotas and Seasons
 Only hunters possessing a modern firearm deer tag are eligible for access authorizations on PLWMA 201. You may contact the PLWMA manager at (509) 345-2577 for information on these hunts.

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
Wilson	(50) 100	Oct. 1-Dec. 31	Any Deer (Access Fee) Modern Firearm Deer Tag	PLWMA 201

1999 - Blacktail Deer
Champion's Kapowsin Tree Farm -- Raffle Quotas and Seasons
 Hunter must contact Champion for auction/raffle permit opportunity.
 Only hunters possessing a valid deer tag (any 1999 deer tag) are eligible for Champion buck permits. Hunters drawing a Champion deer raffle permit may purchase a second deer tag for the Champion hunt. Persons interested in these deer permits should contact Champion Pacific Timberlands, Inc., 31716 Camp 1 Road, Orting, WA 98360. For more information, please call Champion at 1-800-782-1493.

Hunt Name	Permit Number	Raffle Season	Special Restrictions	Boundary Description
Kapowsin North/Buck	8	Nov. 6-18	Buck Only (Auction/Raffle)	PLWMA 401 A North
Kapowsin Central/Buck	29	Nov. 6-18	Buck Only (Auction/Raffle)	PLWMA 401 B Central

1999 - Blacktail Deer
Champion's Kapowsin Tree Farm -- Raffle Quotas and Seasons
 Hunter must contact Champion for auction/raffle permit opportunity.
 Only hunters possessing a valid deer tag (any 1999 deer tag) are eligible for Champion buck permits. Hunters drawing a Champion deer raffle permit may purchase a second deer tag for the Champion hunt. Persons interested in these deer permits should contact Champion Pacific Timberlands, Inc., 31716 Camp 1 Road, Orting, WA 98360. For more information, please call Champion at 1-800-782-1493.

Hunt Name	Permit Number	Raffle Season	Special Restrictions	Boundary Description
Kapowsin South/Buck	14	Nov. 6-18	Buck Only (Auction/Raffle)	PLWMA 401 C South

1999 Blacktail Deer
Champion's Kapowsin Tree Farm - Antlerless Harvest Quotas
 Hunts open only to persons purchasing Champion's annual access permits.

Hunting Method	Harvest Quota	1999 Permit Season	Special Restrictions	Boundary Descriptions
Any Legal	5	Dec. 17-19	Antlerless Only	PLWMA 401 North Kapowsin North
Any Legal	10	Dec. 17-19	Antlerless Only	PLWMA 401 Central Kapowsin Central
Any Legal	10	Dec. 17-19	Antlerless Only	PLWMA 401 South Kapowsin South

1999 - Blacktail Deer
Merrill and Ring's Pysht Tree Farm - Raffle Quotas and Seasons
 An access fee will be charged by the landowner for hunting on the Pysht Tree Farm. Pysht North A is archery only, all other hunts are open to any legal weapon hunters. The following hunts are raffle hunts offered by Merrill and Ring. Only hunters possessing a valid deer tag (any 1999 deer tag) are eligible for Merrill and Ring hunts. Persons interested in these hunts should contact Merrill and Ring, 11 Pysht River Rd., Clallam Bay, WA 98326. For more information, please call Merrill and Ring at 1-800-998-2382.

Hunt Name	Quota	Raffle Season	Special Restrictions	Boundary Description
Pysht North A	15	Sept. 15-30	Raffle, Archery, 3 pt. minimum or Antlerless	PLWMA 600 A North
Pysht North B	40	Oct. 19-31	Raffle, Antlerless Only	PLWMA 600 A North
Pysht North C	30	Nov. 10-24	Raffle, 3 Pt. Min. or Antlerless	PLWMA 600 A North
Pysht South A	40	Oct. 19-31	Raffle, Antlerless Only	PLWMA 600 B South

ELK RAFFLE SEASONS ON PRIVATE LANDS WILDLIFE MANAGEMENT AREAS

1999 - Elk
Champion (PLWMA 401) Kapowsin Tree Farm - Raffle Quotas and Seasons
 Only hunters possessing a valid 1999 elk tag and meeting the special restrictions noted for each hunt are eligible for Champion access permits on PLWMA 401. Hunters must contact Champion for auction/raffle permit opportunity. Hunters drawing a Champion elk raffle permit are eligible to purchase a second elk tag for the Champion hunt. Champion Pacific Timberland Inc., 31716 Camp 1 Road, Orting, Washington 98360. For more information, please call Champion at 1-800-782-1493.

Hunt Name	Quota	Raffle Season	Special Restrictions	Boundary Descriptions
Kapowsin Bull North	2	Sept. 15-30	Auction/Raffle Any Bull, Any Tag	PLWMA 401 A North
Kapowsin Bull Central	2	Sept. 15-30	Auction/Raffle Any Bull, Any Tag	PLWMA 401 B Central

PROPOSED

1999 - Elk				
Champion (PLWMA 401) Kapowsin Tree Farm - Raffle Quotas and Seasons				
Only hunters possessing a valid 1999 elk tag and meeting the special restrictions noted for each hunt are eligible for Champion access permits on PLWMA 401. Hunters must contact Champion for auction/raffle permit opportunity. Hunters drawing a Champion elk raffle permit are eligible to purchase a second elk tag for the Champion hunt. Champion Pacific Timberland Inc., 31716 Camp 1 Road, Orting, Washington 98360. For more information, please call Champion at 1-800-782-1493.				
Hunt Name	Quota	Raffle Season	Special Restrictions	Boundary Descriptions
Kapowsin Bull South	2	Sept. 15-30	Auction/Raffle Any Bull, Any Tag	PLWMA 401 C South

1999 - Elk				
Merrill and Ring PLWMA 600 Pysht Tree Farm - Raffle Quota and Season				
Hunter must contact Merrill and Ring for raffle hunt opportunity. For more information please call Merrill and Ring at 1-800-998-2382 or write to them at Merrill and Ring Tree Farm, 11 Pysht River Rd., Clallam Bay, WA 98326.				
Hunt Name	Quota	Raffle Season	Special Restrictions	Boundary Descriptions
Pysht	2	Sept. 1-14	Raffle Any Bull, Any Tag	PLWMA 600

**AREA DESCRIPTIONS - PRIVATE
LANDS WILDLIFE MANAGEMENT AREAS**

PLWMA 201 - Wilson Creek (Grant County): This area surrounds Billy Clapp Lake directly north of the town of Stratford and northwest of the town of Wilson Creek. The legal description is T22N, R29E; north 1/2 of Section 3, Section 4 except southeast 1/4 of southeast 1/4 and north 1/2 of northwest 1/4; Section 5; Section 6 north of State Highway 28; Sections 8 and 9. T23N, R29E, Sections 5, 6, 7, and 8; Sections 13, 14, 17, and 18; Section 19 except for northwest 1/4 of the southwest 1/4; Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29; southeast 1/4 of Section 30; Section 31; Section 32 south 1/2 of northwest 1/4 and north 1/2 of southwest 1/4; Sections 33, 34, and 35. T23N, R28E, Sections 1 and 2, Section 3 except west 1/4; Section 4 except southwest 1/4 and east 1/2 of southeast 1/4; Section 5; Section 6 except west 1/4; Sections 7 and 8; Section 9 except south 1/2; north 1/2 of Section 10 except west 1/4; Section 11 except south 1/4; north 1/2 of Section 12; Section 15 except that part within Stratford Game Reserve; Section 16 except northeast 1/4; Sections 17, 18, 19, 20, 21, 22, and 23; Sections 26, 27, 28, 29, 30, and 33; north 1/2 and north 1/2 of south 1/2 of Section 34; Section 35 except that part in game reserve. T23N, R27E, Section 11, south 1/2 of southwest 1/4 and west 1/4 of southeast 1/4 of Section 12; Sections 13 and 14; Section 22 except west 1/2 of southwest 1/4; Sections 23, 24, 25, 26, and 27. T24N, R28E, Section 35. T24N, R29E, Section 31; west 1/2 of Section 32. Public lands with the external boundaries are not part of the PLWMA.

PLWMA 401 - Champion (Pierce County): Beginning at the intersection of Champion haul road (Champion 1 Rd.) and the Camp One Road near the town of Kapowsin; then southwest along the east side of Lake Kapowsin to Ohop Creek; then up Ohop Creek to Champion ownership line; then along ownership line to S.W. corner of the north half of Section 6, T16N, R5E; then easterly along Weyerhaeuser/

Champion ownership line to the intersection with Busy Wild Creek; then up Busy Wild Creek to intersection with Champion ownership on the section line between Sections 10 & 15, T15N, R6E; then west and south along DNR/Champion ownership line and Plum Creek Timber Co./Champion ownership line to most southerly point of Champion ownership (northwest of Ashford, WA); then easterly along Champion ownership line to DNR/Champion ownership line; then north and east to USFS/Champion ownership line; then east along USFS/Champion ownership line to S.W. corner of Section 31, T16N, R7E; then north along USFS/Champion ownership line to N.W. corner Section 32, T16N, R7E; then east along Plum Creek Timber Co./USFS ownership line to N.E. corner of Section 32, T16N, R7E; then south along USFS/Champion ownership line to S.E. corner Section 32, T16N, R7E; then east along USFS/Champion ownership line to Mount Rainier National Park Boundary; then north along Mount Rainier National Park Boundary to N.E. corner Section 24, T17N, R7E; then northwest along SR 165 to intersection with Carbon River; then down Carbon River to the BPA Transmission Line; then south and west along the powerline to the Fisk Road; then south along the Fisk Road to the King Creek Gate; then north and west along the Brooks Road BPA Transmission line; then southwest along BPA Transmission line to the Puyallup River (excluding all small, private ownerships); then up Puyallup River to intersection with Champion haul road bridge; then south along Champion haul road to point of beginning. Another portion of PLWMA 401 Champion is the Buckley block (Kapowsin North described as follows: Beginning at the intersection of the BPA Transmission line and South Prairie Creek; then up South Prairie Creek to East Fork South Prairie Creek; then up East Fork South Prairie Creek to Plum Creek Timber Co./Champion ownership line (on south line of Section 33, T19N, R7E); then along Champion ownership line to center line of Section 34, T19N, R7E; then north and east along DNR/Champion ownership line to S.W. corner of Section 27, T19N, R7E;

PROPOSED

then north along Weyerhaeuser/Champion ownership line to White River; then down White River to where it crosses west line Section 6, T19N, R7E; then south and west along Champion ownership line to intersection with South Prairie Creek; then up South Prairie Creek to point of beginning.

PLWMA 401A - Kapowsin North (Buckley): That portion of PLWMA 401 description which includes the Buckley block.

PLWMA 401B - Kapowsin Central (King Creek): That portion of PLWMA 401 description which lies to the north of the Puyallup River, excluding the Buckley block.

PLWMA 401C - Kapowsin South (Kapowsin): That portion of PLWMA 401 description which lies to the south of the Puyallup River.

PLWMA 600 - Merrill and Ring (Clallam County): Beginning at Clallam Bay, east along the Strait of Juan de Fuca to the mouth of Deep Creek, then south along Deep Creek to the township line between Townships 30 and 31, then west along said township line to Highway 113 (Burnt Mt. Road) and north along Burnt Mt. Road (Highway 112 and 113) to Clallam Bay and point of beginning, except the following described lands: T31N R10W: E 1/2 W 1/2, E 1/2 West of Deep Creek Section 19, Except SW 1/4 NW 1/4, SW 1/4, W 1/2 E 1/2 West of Deep Creek Section 30, Except North & West of Deep Creek Section 31: T31N R11W; Except the SW 1/4 SE 1/4 Section 7, Except that portion of NW 1/4 SE 1/4 which is County Park Section 10, Except the NE 1/4 NE 1/4 Section 14, Except W 1/2, W 1/2 E 1/2, SE 1/4 NE 1/4, NE 1/4 SE 1/4 Section 16, Except SW 1/4 NE 1/4 Section 17, Except NW 1/4 NW 1/4, SE 1/4 NW 1/4, SE 1/4, NE 1/4, NW 1/4 SE 1/4 Section 18, Except W 1/2 SW 1/4, SW 1/4 NE 1/4 Section 19, Except W 1/2 SW 1/4 Section 27, Except S 1/2 S 1/2, N 1/2 SW 1/4 Section 28, Except E 1/2 SE 1/4, SW 1/4 SE 1/4, NE 1/4, SW 1/4 Section 29, Except SW 1/4 SE 1/4 Section 30, Except NE 1/4 Section 31, Except All Section 32, Except All Section 33, except SW 1/4 NE 1/4, S 1/2 Section 34, T31N R12W; Except SE 1/4 SE 1/4, W 1/2 SE 1/4 East of Highway 112 Section 4, Except All East of Highway 112 Section 9, Except E 1/2 NE 1/4, SW 1/4 NE 1/4, W 1/2, SW 1/4, NW 1/4 SE 1/4 Section 13, Except S 1/2 SE 1/4 Section 14, Except E 1/2 NW 1/4 East of Highway 112 Section 23, Except N 1/2 SW 1/4, SE 1/4 NW 1/4 Section 24, Except SE 1/4 SW 1/4, SW 1/4 SE 1/4 Section 26, Except N 1/2 N 1/2, NE 1/4 SW 1/4 Section 35, Except All Section 36: T32N R12W; Except W 1/2 SE 1/4 Section 21, Except All Section 22, Except NW 1/4 Section 27, Except NE 1/4, N 1/2 SE 1/4, E 1/2 W 1/2 East of Highway 112 Section 28, Except E 1/2 W 1/2 East of Highway 112 Section 33, Except S 1/2 Section 36.

PLWMA 600A North - Merrill and Ring North: That portion of PLWMA 600 north of Highway 112.

PLWMA 600B South - Merrill and Ring South: That portion of PLWMA 600 south of Highway 112.

AMENDATORY SECTION (Amending Order 98-64, filed 4/22/98, effective 5/23/98)

WAC 232-28-02201 Game management units (GMUs)—Special game areas—Boundary descriptions—Region one.

GMU 101-SHERMAN (Ferry and Okanogan counties): Beginning at the Kettle River ((, Kipuna Road)) and the Canadian border near the Ferry Customs Office; then east on the border to the Kettle River near Laurier; then south along the Kettle River and the Ferry County line to the mouth of the Kettle River and Lake Roosevelt; then south on the Ferry County line in Lake Roosevelt to the northern boundary of the Colville Indian Reservation; then west on the reservation boundary to State Highway 21; then north on Highway 21 to Republic and Highway 20; then northwest on Highway 20 to Wauconda and the Toroda Creek Road; then northeast on the Toroda Creek Road to Toroda and the mouth of Toroda Creek on the Kettle River; then north on the Kettle River to the Canadian border and point of beginning.

GMU 105-KELLYHILL (Stevens County): Beginning at the Kettle River and the Canadian border near Laurier; then east on the border to Lake Roosevelt (Columbia River); then south along Lake Roosevelt to the mouth of the Kettle River; then north along the Kettle River and the Ferry County line to the Canadian border near Laurier and the point of beginning.

GMU 109-THREEFORKS (Stevens and Pend Oreille counties): Beginning at Colville, then northwest on Highway 395 and State Highway 20 to the bridge over Lake Roosevelt; then north up Lake Roosevelt and the Columbia River to the Canadian border; then east along the Canadian border to the Pend Oreille River; then south along the Pend Oreille River near Tiger; then west and south on State Highway 20 to Colville and the point of beginning.

GMU 113-SELKIRK (Pend Oreille County): Beginning on the Pend Oreille River at the Canadian border; east on the border to the Idaho State line; then south on the Idaho-Washington State line to the Pend Oreille River near Newport; then northwest along the Pend Oreille River to the Canadian border and the point of beginning.

GMU 117-49 Degrees North (Stevens and Pend Oreille counties): Beginning at Colville and State Highway 20; then east on State Highway 20 to the Pend Oreille River near Tiger; then south along the Pend Oreille River to the Idaho State line; then south along the state line to U.S. Highway 2 in Newport; then southwest on U.S. Highway 2 to the Deer Park-Milan Road; then west on the Deer Park-Milan Road to Deer Park and U.S. Highway 395; then northwest on U.S. Highway 395 to Loon Lake and State Highway 292; then west on State Highway 292 to Springdale and State Highway 231; then north on State Highway 231 through Valley to U.S. Highway 395; then north on U.S. Highway 395 to Colville and the point of beginning.

GMU 121-HUCKLEBERRY (Stevens County): Beginning at the bridge over Lake Roosevelt near Kettle Falls on U.S. Highway 395; then south on U.S. Highway 395 through Colville and Chewelah to State Highway 231; then south on

PROPOSED

State Highway 231 to the northeast corner of the Spokane Indian Reservation; then west on the north boundary of the reservation to Lake Roosevelt and the Stevens County line; then north along Lake Roosevelt (on the Stevens County line) to the bridge over Lake Roosevelt near Kettle Falls and the point of beginning.

GMU 124-MOUNT SPOKANE (Spokane, Stevens and Pend Oreille counties): Beginning at Springdale on State Highway 292; then east on State Highway 292 to Loon Lake and U.S. Highway 395; then south on U.S. Highway 395 to Deer Park; then east on the Deer Park-Milan Road to U.S. Highway 2; then north on U.S. Highway 2 to Newport and the Idaho-Washington State line; then south on the state line to the Spokane River; then west along the Spokane River to the Spokane Indian Reservation; then north on the east boundary of the Indian reservation (Chamokane Creek) to State Highway 231; then north on State Highway 231 to Springdale and the point of beginning.

GMU 127-MICA PEAK (Spokane County): Beginning at Spokane and following the Spokane River east to the Idaho-Washington border; then south on the border to the Spokane-Whitman County line (Whitman Road); then west on the county line to U.S. Highway 195; then north on U.S. Highway 195 to Spokane and the point of beginning.

GMU 130-CHENEY (Spokane and Lincoln counties): Beginning on the Spokane—Lincoln County line at the Spokane River and State Highway 231; then east along the Spokane River to Spokane and U.S. Highway 195; then south on U.S. Highway 195 to the Spokane-Whitman County line; then west on the north boundary of Whitman and Adams counties to U.S. Highway 395; then northeast along U.S. Highway 395 to Sprague and State Highway 231; then north on State Highway 231 to U.S. Highway 2; then east on U.S. Highway 2 to Reardan and State Highway 231; then north along State Highway 231 to the Spokane River and the point of beginning.

GMU 133-ROOSEVELT (Lincoln County): Beginning at Coulee Dam; then east along Lake Roosevelt and the Lincoln County line to State Highway 231; then south on State Highway 231 to Reardan and U.S. Highway 2; then west on U.S. Highway 2 to Wilbur and State Highway 174; then northwest on State Highway 174 to Coulee Dam and the point of beginning.

GMU 136-HARRINGTON (Lincoln County): Beginning at the town of Grand Coulee; then southeast on State Highway 174 to U.S. Highway 2 at Wilbur; then east on U.S. Highway 2 to U.S. Highway 231; then south on Highway 231 to U.S. Highway 395 at Sprague; then southwest on U.S. Highway 395 to the Adams County line at Sprague Lake; then west on the Lincoln-Adams County line (Davis Road) to the Grant County line; then north on the Lincoln-Grant County line (X NE, W.7 NE Roads) to the town of Grand Coulee and the point of beginning.

GMU 139-STEPTOE (Whitman County): Beginning at the northwest corner of Whitman County near Fourth of July Lake; then east on the north Whitman County line to the

Washington-Idaho border; then south on the Washington-Idaho border to State Highway 270 near Moscow, Idaho; then west on State Highway 270 through Pullman to U.S. Highway 195; then northwest on U.S. Highway 195 to Colfax; then southwest on State Highway 26 to the Palouse River and the west Whitman County line; then north on the Whitman-Adams County line to the north Whitman County line and the point of beginning.

GMU 142-ALMOTA (Whitman County): Beginning at Colfax and U.S. Highway 195; then southeast on U.S. Highway 195 to State Highway 270; then east on State Highway 270 through Pullman to the Washington-Idaho State border near Moscow Idaho; then south along the state line to the Snake River (Whitman County line) near Clarkston; then west along the Snake River (Whitman County line) to the mouth of the Palouse River (Whitman County line); then north on the Whitman County line to State Highway 26 (Washtucna-LaCrosse Highway); then east on State Highway 26 to Colfax and the point of beginning.

GMU 145-MAYVIEW (Garfield and Asotin counties): Beginning at the mouth of Deadman Creek on the Snake River (Garfield County line) at Central Ferry; then east along the Snake River to the mouth of Alpowa Creek and U.S. Highway 12; then west on U.S. Highway 12 to State Highway 127; then north on State Highway 127 (Central Ferry Highway) to the Snake River and the point of beginning.

GMU 149-PRESCOTT (Walla Walla, Columbia, and Garfield counties): Beginning on the Columbia River at the mouth of the Snake River (Walla Walla County line); then northeast and east along the Snake River to Central Ferry; then south on State Highway 127 (Central Ferry Highway) to Dodge Junction; then southwest on U.S. Highway 12 through Dayton and Waitsburg; then southwest on Highway 12 to Walla Walla and State Highway 125; then south on State Highway 125 to the Washington-Oregon State line; then west on the state line to the Columbia River (Walla Walla County line); then north along the Columbia River to the mouth of the Snake River and the point of beginning.

GMU 154-BLUE CREEK (Walla Walla and Columbia counties): Beginning at Waitsburg on U.S. Highway 12; then northeast on U.S. Highway 12 to the Payne Hollow Road at Long Station; then south on the Payne Hollow Road-Jasper Mountain-Mt. Pleasant Road to the Lewis Peak Road; then south on the Lewis Peak Road to its termination at the Mill Creek Watershed Intake Trail (3211); then southwest on the trail to the Washington-Oregon State line; then west on the state line to State Highway 125; then north on State Highway 125 to Walla Walla; then northeast on Highway 12 to Waitsburg and the point of beginning.

GMU 157-MILL CREEK WATERSHED (Walla Walla and Columbia counties): Beginning at the Mill Creek Watershed Intake Trail (3211) on the Washington-Oregon State line; then northeast on the Intake Trail (3211) to the Skyline Drive Road (USFS Road 64); then south on the Skyline Drive Road to the Washington-Oregon State line; then west on the state line to the Mill Creek Watershed Intake Trail (3211) and the point of beginning.

GMU 162-DAYTON (Walla Walla and Columbia counties): Beginning at Dayton and the Patit Creek Road; then east on the Patit Creek Road to the Hartsock-Maloney Mountain Road; then south and west on the Maloney Mountain Road (USFS Road 4625) to the Skyline Drive Road (USFS Road 46); then south on the Skyline Drive Road to the Mill Creek Watershed Intake Trail (3211); then west on the Intake Trail to the Lewis Peak Trail; then north on the Lewis Peak Trail to the Mt. Pleasant Road; then north on the Mt. Pleasant Road to the Jasper Mountain Road; then north on the Jasper Mountain-Payne Hollow Road to U.S. Highway 12 at Long Station; then northeast on U.S. Highway 12 to Dayton and the point of beginning.

GMU 163-MARENGO (Columbia and Garfield counties): Beginning at Dayton and U.S. Highway 12; then north on U.S. Highway 12 to the Linville Gulch Road at Zumwalt; then south on the Linville Gulch Road to the Blind Grade Road; then southwest on the Blind Grade Road to the Tucannon Road; then north on the Tucannon Road to the Hartsock Grade Road; then south on the Hartsock Grade Road to the Patit Road; then west on the main Patit Road to Dayton and the point of beginning.

GMU 166-TUCANNON (Columbia and Garfield counties): Beginning at the intersection of the Hartsock Grade Road and the Tucannon River Road; then southeast on the Tucannon River Road to the elk drift fence; then southeast along the elk drift fence and the U.S. Forest Boundary to the Mountain Road (USFS Road 40); then south on the Mountain Road to the Diamond Peak Road (USFS Road 4030); then west on the Diamond Peak Road past Diamond Peak to the Diamond Peak-Oregon Butte-Bullfrog Springs-Teepee Trail; then west along the trail to Teepee Camp and the Teepee Road (USFS Road 4608); then west on the Teepee Road to the Skyline Drive Road (USFS Road 46); then north on the Skyline Drive Road to the Maloney Mountain Road (USFS Road 4625); then north on the Maloney Mountain Road to the Hartsock Grade Road; then north on the Hartsock Grade Road to the point of beginning at the Tucannon River Road.

GMU 169-WENAHA (Columbia, Garfield and Asotin counties): Beginning on the Washington-Oregon State line at the Skyline Drive Road; then north on the Skyline Drive Road to Godman Springs and the Teepee Road (USFS Road 4608); then east on the Teepee Road to Teepee Camp; then east on the Teepee-Oregon Butte-Bullfrog Springs-Diamond Peak Trail to Diamond Peak; then east on the Diamond Peak Road (USFS Road 4030) to the Mountain Road (USFS Road 40); then south along the Mountain Road to the South Boundary Road (USFS Road 4039); then west along the South Boundary Road to the Three Forks Trail (USFS Road 3133); then northwest on the trail to Crooked Creek; then south along Crooked Creek to the Washington-Oregon State line; then due west on the state line to the Skyline Road and the point of beginning.

GMU 172-MOUNTAIN VIEW (Garfield and Asotin counties): Beginning on the Washington-Oregon State line at Crooked Creek; then north along Crooked Creek to Three Forks Trail (3133); then southeast on the trail to the South

Boundary Road (USFS Road 4039) then northeast on the South Boundary Road to the Mountain Road (USFS Road 40); then north on the Mountain Road to Misery Springs and the Mt. Misery-Big Butte Road (USFS Roads 44, 43, 4304); then east on the Mt. Misery-Big Butte Road to the West Mountain Road (1290); then northeast on the West Mountain Road to the Bennett Ridge Road-Mill Road; then north and east on the Bennett Ridge Road-Mill Road to Anatone and State Highway 129; then southwest on State Highway 129 to the Washington-Oregon State line; then due west on the state line to Crooked Creek and the point of beginning.

GMU 175-LICK CREEK (Garfield and Asotin counties): Beginning at the intersection of the Mountain Road (USFS 40) and the elk drift fence; then east along the elk drift fence to its end at the east section line of Section 2, T9N, R43E; then due south along said section line to Charley Creek, and east along Charley Creek to Asotin Creek; then south along Asotin Creek to the South Fork Asotin Creek Road; then south along South Fork of Asotin Creek Road to Campbell Grade Road; then east on the Campbell Grade Road to the Cloverland Road; then south on Cloverland Road to its junction with the U.S. Forest Boundary fence; then east and south on the U.S. Forest Boundary fence past Big Butte to the Big Butte-Mt. Misery Road (USFS 4304, 43, 44) then west on the Big Butte-Mt. Misery Road to the Mountain Road (USFS 40); then northwest on the Mountain Road to the National Forest Boundary, and the point of beginning.

GMU 178-PEOLA (Garfield and Asotin counties): Beginning at Zumwalt on U.S. Highway 12; then east on U.S. Highway 12 to the mouth of Alpowa Creek on the Snake River; then east and south along the Snake River to the mouth of Asotin Creek; then west along Asotin Creek to Charley Creek; then west along Charley Creek to the unit boundary marker at the east section line of Section 2, T9N, R43E; then north on said section line to the end of the elk drift fence; then west along the elk drift fence to the Tucannon River Road; then north on the Tucannon River Road to Blind Grade; then up Blind Grade to the Linville Gulch Road; then north on the Linville Gulch Road to Highway 12 at Zumwalt and the point of beginning.

GMU 181-COUSE (Asotin County): Beginning at Asotin and the mouth of Asotin Creek on the Snake River; then south along the Snake River (Washington-Idaho State line) to the Grande Ronde River; then west along the Grande Ronde River to State Highway 129; then northwest on State Highway 129 to Anatone; then west and south on the Mill Road-Bennett Ridge Road-West Mountain Road (1290) to the National Forest Boundary at Big Butte; then north along the U.S. Forest Boundary fence to the Cloverland Road; then northeast on the Cloverland Road to the Campbell Grade Road; then west on the Campbell Grade Road to the South Fork Asotin Creek Road; then northeast on the South Fork Asotin Creek Road to Asotin Creek; then northeast along Asotin Creek to the Snake River at Asotin and the point of beginning.

GMU 186-GRANDE RONDE (Asotin County): Beginning on the Washington-Oregon State line and State Highway

129; then north on State Highway 129 to the Grande Ronde River; then east along the Grande Ronde River to the Snake River (Washington-Idaho state line) then south along the Snake River to the Washington-Oregon state line; then west on the state line to Highway 129 and the point of beginning.

AMENDATORY SECTION (Amending Order 98-66, filed 4/22/98, effective 5/23/98)

WAC 232-28-02203 Game management units (GMUs)—Special game areas—Boundary descriptions—Region three.

GMU 300-MANSON (Chelan County): Beginning at the town of Chelan to Lake Chelan; then northwest along the north shore of Lake Chelan to the Stehekin River; then northwest along the Stehekin River to the ridge between Rainbow Creek and Boulder Creek; then north on the ridge to McAlister Mountain on the Lake Chelan Wilderness Boundary; then southeast on the Wilderness Boundary along the Sawtooth Ridge separating the Chelan and Methow-Twisp River drainages to Fox Peak and USFS Road 8020; then southeast on USFS Road 8020 to the Anatoine Creek Road (USFS Road 8140); then southeast on the Anatoine Creek Road to Apple Acres Road; then northeast on Apple Acres Road to U.S. Highway 97; then northeast on U.S. Highway 97 to Wells Dam and the Columbia River; then southwest along the Columbia River (Chelan-Douglas County line) to the Chelan River; then northwest along the Chelan River to the town of Chelan and the point of beginning.

GMU 301-CLARK (Chelan County): Beginning where the Stehekin River flows into Lake Chelan; then southeast along the south shore of Lake Chelan to the Glacier Peak Wilderness boundary at Bearcat Ridge; then south, west, and north on the wilderness boundary to the Pacific Crest Trail at Kodak Peak; then north on the Pacific Crest Trail to North Cascades National Park; then north and east on the North Cascades National Park boundary to Hock Mountain; then south along the Lake Chelan Wilderness Boundary to McAlister Mountain; then southwest on the ridge between Rainbow Creek and Boulder Creek to the Stehekin River and the point of beginning.

GMU 302-ALPINE (Kittitas and Chelan counties): Beginning on the Pacific Crest Trail and the Alpine Lakes Wilderness Boundary near Josephine Lake (south of Stevens Pass); then east, south and west on the wilderness boundary to the Pacific Crest Trail near Kendall Peak; then north on the Pacific Crest Trail to the Alpine Lakes Wilderness Boundary and the point of beginning.

GMU 304-CHIWAHA (Chelan County): Beginning on the Pacific Crest Trail and the Glacier Peak Wilderness Boundary at Kodak Peak; then southeast and north on the wilderness boundary to the Entiat River; then southeast along the Entiat River to Ardenvoir and the Mad River Road (USFS Road 5700); then northwest on the Mad River Road to the USFS Road 5800; then southwest on USFS Road 5800 at French Corral and Eagle Creek Road (USFS Road 7520); then southwest on the Eagle Creek Road to State Highway

209 north of Leavenworth; then north on State Highway 209 to State Highway 207 near Lake Wenatchee; then south on State Highway 207 to U.S. Highway 2 at Coles Corner; then west on U.S. Highway 2 to the Pacific Crest Trail at Stevens Pass; then north on the Pacific Crest Trail to Kodak Peak and the point of beginning.

GMU 306-SLIDE RIDGE (Chelan County): Beginning at the Lake Chelan National Recreation Boundary on the south shore of Lake Chelan at Bearcat Ridge; then southeast along the south shore of Lake Chelan to Twenty-five Mile Creek; then southwest along Twenty-five Mile Creek to the Slide Ridge Road (USFS Road 8410); then south on the Slide Ridge Road to Stormy Mountain and Trail 1448; then northwest on Trail 1448 to Fourmile Ridge Trail 1445; then west on the Fourmile Ridge Trail to Fox Creek; then southwest along Fox Creek to the Entiat River; then northwest along the Entiat River to the Glacier Peak Wilderness Boundary; then north on the wilderness boundary to Lake Chelan, the Lake Chelan National Recreation Boundary and the point of beginning.

GMU 308-ENTIAT (Chelan County): Beginning at Twenty-five Mile Creek on the south shore of Lake Chelan; then southeast along Lake Chelan and the Chelan River to the Columbia River; then southwest along the Columbia River to the mouth of the Entiat River; then northwest along the Entiat River to Fox Creek; then northeast along Fox Creek to the Fourmile Ridge Trail 1445; then east on the Fourmile Ridge Trail to Trail 1448; then southeast on Trail 1448 to Stormy Mountain and the Slide Ridge Road (USFS Road 8410); then north on the Slide Ridge Road to Twenty-five Mile Creek; then north along Twenty-five Mile Creek to Lake Chelan and the point of beginning.

GMU 314-MISSION (Kittitas and Chelan counties): Beginning at the Black Pine Creek Horse Camp near the Alpine Lakes Wilderness Boundary and Icicle Creek; then east along Icicle Creek to the Wenatchee River; then south and east along the Wenatchee and Columbia Rivers to the mouth of Colockum Creek; then west along Colockum Creek and the Colockum Pass Road (WDFW Road 10) to the Naneum Ridge Road (WDFW Road 9); then northwest on the Naneum Ridge Road to Wenatchee Mountain; then northwest along the ridge past Mission Peak to the Liberty-Beehive Road (USFS Road 9712); then northwest on the Liberty-Beehive Road to USFS Road 9716; then north on USFS Road 9716 to U.S. Highway 97 at Swauk Pass; then northwest on the Kittitas-Chelan County line and Trail 1226 to the Alpine Lakes Wilderness Boundary at Navaho Peak; then north on the Alpine Lakes Wilderness Boundary to Icicle Creek and the point of beginning.

GMU 316-SWAKANE (Chelan County): Beginning at Stevens Pass on U.S. Highway 2; then east on U.S. Highway 2 to Coles Corner and State Highway 207; then north on State Highway 207 to State Highway 209 near Lake Wenatchee; then southeast on State Highway 209 to the Eagle Creek Road (USFS Road 7520); then northeast on Eagle Creek Road to French Corral and USFS Road 5800; then northeast on USFS Road 5800 to the Mad River Road (USFS Road

5700); then southeast on the Mad River Road to Ardenvoir and the Entiat River; then southeast along the Entiat River to the Columbia River; south along the Columbia River to the Wenatchee River; then northwest along the Wenatchee River to Leavenworth and Icicle Creek; then south and northwest along Icicle Creek to the Alpine Lakes Wilderness Boundary; then north on the Alpine Lakes Wilderness Boundary to the Pacific Crest Trail near Josephine Lake; then north on the Pacific Crest Trail to Stevens Pass and the point of beginning.

GMU 328-NANEUM (Kittitas and Chelan counties): Beginning at Swauk Pass on U.S. Highway 97 and USFS Road 9716; then east on USFS Road 9716 to the Liberty-Beehive Road (USFS 9712); then east on the Liberty-Beehive Road to the west boundary of Section 22 (T21N, R19E); then southeast along the ridge past Mission Peak to Wenatchee Mountain and Naneum Ridge Road (WDFW Road 9); then southeast on the Naneum Ridge Road to the Colockum Pass Road (WDFW Road 10); then south on the Colockum Pass Road to the East Highline Canal; then northwest along the East Highline Canal to the Lower Green Canyon Road; then south on the Lower Green Canyon Road to U.S. Highway 97; then north on U.S. Highway 97 to Swauk Pass and the point of beginning.

GMU 329-QUILOMENE (Kittitas and Chelan counties): Beginning on the Columbia River at the mouth of Colockum Creek; then south along the Columbia River to Davies Canyon; then west along Davies Canyon to Road 14; then south and west on Road 14 to the boundary sign in the northwest quarter of Section 17 (T20N, R22E); then south to the boundary sign on Road 14 along the section lines between Sections 17, 18, 19 and 20; then east on Road 14 to Road 14.14; then east on Road 14.14 and north along the stock fence to the northern point of Cape Horn; then south along the top of the cliff and southeast to Road 14.14; then south on Roads 14.14, 14.17 and 14 to Tekison Creek; then south along Tekison Creek to the Columbia River; then south along the Columbia River to Vantage and Interstate Highway 90; then west on Interstate Highway 90 to the East Highline Canal; then north on the East Highline Canal to the Colockum Pass Road (Road 10); then north on the Colockum Pass Road to Colockum Creek; then northeast along Colockum Creek to the Columbia River and the point of beginning.

GMU 330-WEST BAR (Kittitas County): Beginning on the Columbia River and Davies Canyon; then southeast along the Columbia River to the mouth of the Tekison Creek; then northwest along Tekison Creek to Road 14; then north on Road 14, 14.17, and 14.14 to the top of the Cape Horn Cliffs; then north along the top of the cliff to the north end of Cape Horn; then southwest along the stock fence to Road 14.14; then west on Road 14.14 to Road 14 to the boundary sign between Sections 19 and 20 (T20N, R22S); then north on a line between Sections 19, 20 and 17, 18 to the boundary sign on Road 14 in the northwest quarter of Section 17; then east and north along Road 14 to Davies Canyon; then east along Davies Canyon to the Columbia River and the point of beginning.

GMU 334-ELLENSBURG (Kittitas County): Beginning on U.S. Highway 97 and the Lower Green Canyon Road; then north on the Lower Green Canyon Road to the East Highline Canal; then east and south along the canal past Interstate 90 to the pump station; then south and west along the north branch of the canal to State Highway 821 and the Yakima River; then north along the Yakima River to the Damon Road; then south on Damon Road and Shushuskin Canyon to the South Branch Extension Canal; then west along the canal to the Bradshaw Road; then west along Bradshaw Road to the elk fence; then west and north along the elk fence to Taneum Creek; then east along Taneum Creek to the Yakima River; then southeast along the Yakima River to the Thorp Highway; then east on the Thorp Highway and State Highway 10 to U.S. Highway 97; then north along U.S. Highway 97 to the Lower Green Canyon Road and the point of beginning.

GMU 335-TEANAWAY (Kittitas County): Beginning at Snoqualmie Pass on the Pacific Crest Trail; then north on the Pacific Crest Trail to the Alpine Lakes Wilderness Boundary; then east on the Alpine Wilderness Boundary to the Chelan-Kittitas County line; then southeast on the county line and Trail 1226 to Swauk Pass and U.S. Highway 97; then south on U.S. Highway 97 to State Highway 10; then northwest on State Highways 10, 970, 903 to Cle Elum and Interstate 90; then west on Interstate 90 to Snoqualmie Pass and the Pacific Crest Trail and the point of beginning.

GMU 336-TANEUM (Kittitas County): Beginning at the Pacific Crest Trail and Interstate 90 at Snoqualmie Pass; then east on Interstate 90 to Cle Elum and State Highway 903; then east on State Highways 903, 970 and 10 to the Thorp Highway; then southeast on the Thorp Highway to the Thorp Highway Bridge and the Yakima River; then southwest along the Yakima River (upstream) to Taneum Creek; then west along Taneum Creek to the South Fork Taneum Creek; then west along the South Fork Taneum Creek to Trail 1367; then west on Trail 1367 to Trail 1363; then south on Trail 1363 and south along Peaches Ridge to Trail 1388; then west on Trail 1388 to Blowout Mountain on the Pacific Crest Trail; then north on the Pacific Crest Trail to Snoqualmie Pass and the point of beginning.

GMU 340-MANASTASH (Kittitas County): Beginning at Quartz Mountain and Peaches Ridge (Trail 1363); then north and east on Trail 1363 to Trail 1367; then southeast on Trail 1367 to the South Fork Taneum Creek; then east along the South Fork Taneum Creek to Taneum Creek; then east along Taneum Creek to the elk fence; then southeast along the elk fence to Bradshaw Road; then east on Bradshaw Road to the South Branch Highline Canal; then southeast along the South Branch Highline Canal to the Wenas-Ellensburg Road (at Shushuskin Canyon); then north on the Wenas-Ellensburg Road to the Damon Road; then north on the Damon Road to the Yakima River; then south along the Yakima River to Umtanum Creek; then west along Umtanum Creek to the Wenas-Ellensburg Road; then west on the Wenas-Ellensburg Road to Ellensburg Pass and the Observatory Road (Section 6, T16N, R17E); then north on the Observatory Road to Manastash Ridge (Section 20, T17N, R17E, W.M.); then

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northwest along the Manastash Ridge to USFS Trail 694 (T17N, R15E, NW 1/4 of Section 12) near the USFS fence; then northwest on ORV Trail 694 to ORV Trail 688 near Rocky Saddle; then northwest on ORV Trail 688 to USFS Trail 1388; then northwest on Trail 1388 to Quartz Mountain and Peaches Ridge Trail and the point of beginning.

GMU 342-UMTANUM (Kittitas and Yakima counties): Beginning at Manastash Ridge at the junction of Forest Road 1701; then east along the Manastash Ridge to the Observatory Road in Section 20, T17N, R17E, W.M.; then south on the Observatory Road to the Wenas-Ellensburg Road near Ellensburg Pass (Section 6, T16N, R17E, W.M.); then east on the Wenas-Ellensburg Road to Umtanum Creek; then east along the Umtanum Creek to the Yakima River; then south along the Yakima River to Yakima and U.S. Highway 12; then northwest on U.S. Highway 12 to State Highway 410; then northwest on State Highway 410 to USFS Road 1701; then north on USFS Road 1701 to the point of beginning.

GMU 346-LITTLE NACHES (Yakima and Kittitas counties): Beginning at Blowout Mountain and the USFS Road 1388; then east on USFS Road 1388 to USFS ORV Trail 688 to Rocky Saddle; then east on USFS ORV Trail 694 to USFS Road 1701 near the USFS fence (T17N, R15E, NW 1/4 of Section 12); then south on USFS Road 1701 to State Highway 410; then northwest and southwest on State Highway 410 to the Pacific Crest Trail near Chinook Pass; then north on the Pacific Crest Trail to Blowout Mountain and the point of beginning.

GMU 352-NILE (Yakima County): Beginning on the Bumping Lake Road and State Highway 410; then east and south on State Highway 410 to Nile and USFS Road 1500; then west on USFS Road 1500 to the McDaniel Lake Road (USFS Road 1502); then west on the McDaniel Lake Road to the North Fork and the South Fork of Rattlesnake Creek; then along the North Fork Rattlesnake Creek to the USFS Richmond Mine Trail 973; then north on the Richmond Mine Trail 973 to the Bumping Lake Road; then north on the Bumping Lake Road to State Highway 410 and the point of beginning.

GMU 356-BUMPING (Yakima County): Beginning on the Pacific Crest Trail and State Highway 410 at Chinook Pass; then northeast on State Highway 410 to the Bumping Lake Road; then southwest on the Bumping Lake Road to the USFS Richmond Mine Trail 973; then southeast on the Richmond Mine Trail 973 to the North Fork Rattlesnake Creek; then southeast along the North Fork Rattlesnake Creek to the McDaniel Lake Road (USFS Road 1502); then southeast on the McDaniel Lake Road to USFS Road 1500; then south on USFS Road 1500 to State Highway 12; then west on Highway 12 to the Pacific Crest Trail at White Pass; then north on the Pacific Crest Trail to Chinook Pass and the point of beginning. (Lands within the boundary of Mt. Rainier National Park along the Pacific Crest Trail are not open to hunting.)

GMU 360-BETHEL (Yakima County): Beginning on USFS Road 1500 and Highway 410 at Nile; then southeast on Highway 410 to Highway 12; then southwest on Highway 12

to USFS Road 1500; then north and east on USFS Road 1500 to Nile and the point of beginning.

GMU 364-RIMROCK (Yakima County): Beginning on the Pacific Crest Trail and Highway 12 at White Pass; then east on Highway 12 to Windy Point and the Jump Off Road (USFS 1302); then southwest on Jump Off Road to Jump Off Lookout; then south on Divide Ridge Crest to Darland Mountain and to the Darland Mountain Road and the north boundary of the Yakima Indian Reservation; then west on the Yakima Indian Reservation boundary to the Pacific Crest Trail; then north on the Pacific Crest Trail to Highway 12 at White Pass and the point of beginning.

GMU 366-RIMROCK-COWICHE (Yakima County): GMUs 364 (Rimrock) and 368 (Cowiche).

GMU 368-COWICHE (Yakima County): Beginning on Highway 12 and Jump Off Road near Windy Point; then northeast and southeast on Highway 12 to the Yakima River; then south along the Yakima River to the Yakima Indian Reservation boundary south of Union Gap; then west on the reservation boundary to Darland Mountain; then north on the crest of Divide Ridge to the Jump Off Lookout and the Jump Off Road (USFS Road 1302); then northeast on the Jump Off Road to Highway 12 and the point of beginning.

GMU 371 ALKALI (Kittitas and Yakima counties): Beginning one mile south of Thrall and Highway 821 at the Yakima River and the East High Canal; then east and north along the East High Canal to Interstate Highway 90; then east on Interstate Highway 90 to Vantage and the Columbia River; then south along the Columbia River to Priest Rapids Dam and the Yakima Training Center (YTC) boundary; then south and west along the YTC boundary to the main gate at Firing Center Road; then west along Firing Center Road and Harrison Road to the Yakima River; then north along the Yakima River to the East High Canal and the point of beginning.

GMU 372 KIONA (Benton and Yakima counties): Beginning at Priest Rapids Dam and the Columbia River; then east and south along the Columbia River (Yakima, Grant, Benton, and Walla Walla County line) to the Alderdale Road; then north on the Alderdale Road to the Klickitat-Yakima County line; then west on the county line to the Yakima Indian Reservation boundary; then northeast on the reservation boundary to the Mabton-Sunnyside Road; then north on the Mabton-Sunnyside Road to the Yakima River; then northwest along the Yakima River to Harrison Road; then east along Harrison Road and Firing Center Road to the main gate of the Yakima Training Center (YTC); then south and east along the YTC boundary to Priest Rapids Dam and the Columbia River and the point of beginning. The Hanford Nuclear Reservation is closed to all unauthorized public entry.

GMU 382-EAST KLICKITAT (Klickitat County): Beginning at the U.S. Highway 97 Bridge on the Columbia River (Maryhill); then north on U.S. Highway 97 to Satus Pass and the Yakima Indian Reservation; then east along south reservation boundary to the Yakima County line; then east on the Yakima/Klickitat County line to Alderdale Road;

then southeast and south on Alderdale Road to Alderdale and the Columbia River; then west down the Columbia River to U.S. Highway 97 Bridge and the point of beginning.

AMENDATORY SECTION (Amending Order 98-67, filed 4/22/98, effective 5/23/98)

WAC 232-28-02204 Game management units (GMUs)—Special game areas—Boundary descriptions—Region four.

GMU 407-NORTH SOUND (Whatcom, Skagit, Snohomish and King counties): Beginning at the northwest corner of Whatcom County and the Canadian border; then east on the Canadian border to the Silver Lake Road; then south on the Silver Lake Road to the Mount Baker Highway 542; then southwest on the Mount Baker Highway 542 to the Mosquito Lake Road; then south on the Mosquito Lake Road to Valley Highway 9; then south on Valley Highway 9 through Sedro Woolley to the town of Arlington; then northeast on State Highway 530 to the Trafton School at Trafton; then southeast along the Jim Creek-Trafton Road (242nd St. N.E.) to the City of Seattle power transmission line; then southwest on the transmission line to the Jordan Road in Section 20, T31N, R6E; then southeast along the Jordan Road to Granite Falls and the Menzel Lake Road; then south on the Menzel Lake Road past Lake Roesiger to the Woods Creek Road; then south on the Woods Creek Road to Monroe and Highway 203; then south on Highway 203 to the Snoqualmie River at Duvall; then north along the Snoqualmie River to the Snohomish River; then west along the Snohomish River to Puget Sound; then north along the Island/Snohomish county line in Possession Sound and Port Susan to Juniper Beach and through West Pass; then west and north through Skagit Bay, Deception Pass, Rosario Strait and Bellingham Channel to ~~((Samish Bay near Edison; then north along the shoreline to the Whatcom County line; then north on the))~~ Carter Point on Lummi Island; west along the Skagit-Whatcom County line to the Whatcom-San Juan County line; northwest along the Whatcom-San Juan County line to the Canadian border and the point of beginning.

GMU 410-ISLANDS (San Juan and Island counties): Beginning at the north corner of San Juan-Whatcom County line; then southeast on the county line to ~~((the Skagit-Whatcom County line; then east on the county line to the shore of Samish Bay; then south on the shoreline near Edison; then west through Samish Bay and south through))~~ Carter Point on Lummi Island; southwest down the middle of Bellingham Channel to the Skagit-San Juan County line; then south through Rosario Strait on the San Juan-Skagit County line to the Island County line; then east on the Skagit-Island County line through Deception Pass and south through Skagit Bay; then southeast on the Island—Snohomish County line through Juniper Beach, Port Susan, Possession Sound to the Island-Kitsap County line; then northwest on the Island-Kitsap-Jefferson County line through Puget Sound, Admiralty Inlet, and the Strait of Juan De Fuca; then west on the San Juan-Jefferson-Clallam County lines to the Canadian border; then north on the Canadian border through Middle Bank,

Haro Strait, and Boundary Pass to the north corner of San Juan-Whatcom County line and the point of beginning.

GMU 418-NOOKSACK (Whatcom and Skagit counties): Beginning at the Silver Lake Road and the Canadian border; then east on the Canadian border to the North Cascades National Park Boundary; then south on the North Cascades National Park Boundary to the range line between Range 9 and 10 East; then south on this range line to Jackman Creek; then south along Jackman Creek to Highway 20 (at Concrete); then west along Highway 20 to Highway 9 (at Sedro Woolley); then north along Highway 9 to Mosquito Lake Road; then north on the Mosquito Lake Road to Mount Baker Highway 542; then north on Mount Baker Highway 542 to the Silver Lake Road; then north on the Silver Lake Road to the Canadian border to the point of beginning.

GMU 426-DIABLO (Skagit and Whatcom counties): Beginning at the Canadian border and the west boundary of the Ross Lake National Recreation Area; then south, on the Ross Lake National Recreation Boundary across the Skagit River and the North Cascades Highway; then ~~((north))~~ north-east, east and south on the ((Ross Lake National Recreation Boundary to two miles east of Panther Creek; then south on the)) North Cascades National Park Boundary to Fisher Peak; then east on the Skagit-Chelan County line across State Highway 20 to the Pacific Crest Trail; then north on the Pacific Crest Trail to the Pasayten Wilderness boundary; north on the Pasayten Wilderness boundary to Jims Pass, ((Oregon Basin and the Mt. Baker-Snoqualmie National Forest;)) then west and north on the ~~((Mt. Baker-Snoqualmie National Forest Boundary to the Ross Lake National Recreation Boundary; then north on the east boundary of the Ross Lake National Recreation Area))~~ Pasayten Wilderness boundary to the Canadian border; then west on the Canadian border to the west boundary of the Ross Lake National Recreation Area and the point of beginning.

GMU 437-SAUK (Skagit and Snohomish counties): Beginning at the intersection of State Highway 9 and Highway 20; then east along Highway 20 to Jackman Creek east of Concrete; then northeast along Jackman Creek to the range line between Range 9 and 10 East; then north on the range line to the boundary of the North Cascades National Park; then north and east on the North Cascades National Park Boundary to the Ross Lake National Recreation Area Boundary; then south on the Ross Lake National Recreation Area Boundary across the North Cascade Highway 20 and the Skagit River and east along the Ross Lake National Recreation Area to the North Cascades National Park Boundary near Big Devil Peak; then southeast on the North Cascades National Park Boundary to the north boundary of Glacier Peak Wilderness Area; then west and south on Glacier Peak Wilderness Area Boundary to the Suiattle River; then west along the Suiattle River to State Highway 530 (Sauk Valley Road); then south on State Highway 530 to Darrington; then west on State Highway 530 to Highway 9 at Arlington; then north on State Highway 9 to Highway 20 and the point of beginning.

PROPOSED

GMU 448-STILLAGUAMISH (Snohomish and Skagit counties): Beginning at Trafton on the Highway 530 (Arlington-Darrington Highway); then northeast on Highway 530 to Darrington; then north on Highway 530 (Sauk Valley Road - Bennets Store Road) to the Suiattle River; then east along the Suiattle River to the Glacier Peak Wilderness Area Boundary; then south on the Glacier Peak Wilderness Area Boundary to June Mountain and USFS Trail 650; then west on the USFS Trail 650 on the crest between Sloan Creek and the North Fork Skykomish River Drainages to Curry Gap and the Quartz Creek Trail 1050; then south on the Quartz Creek Trail 1050 and 1054 to West Cady Creek; then south along West Cady Creek through Section 36, T28N, R12E to Meadow Creek; then south along Meadow Creek to Rapid River; then east along Rapid River to Lake Janus and the Pacific Crest Trail; then south on the Pacific Crest Trail to Stevens Pass and Highway 2; then west on Highway 2 to Monroe and the Woods Creek Road; then north on the Woods Creek Road past Lake Roesiger to the Menzel Lake Road; then north on the Menzel Lake Road to Granite Falls and the Jordan Road; then northwest on the Jordan Road through Jordan to the City of Seattle power transmission lines; then northeast on the transmission lines to the Jim Creek-Trafton Road (242nd St. N.E.); then west on the Jim Creek-Trafton Road to Trafton and the point of beginning.

GMU 450-CASCADE (Skagit and Snohomish counties): Beginning on the Glacier Peak Wilderness Boundary one mile north of Jordan Lakes on the township line between T34 & 35N; then east on the Wilderness Boundary to USFS Road 1590 (USFS Road 1590); then north on USFS Road 1590 to the Cascade River Road; then north on Cascade River Road to the North Cascades National Park Boundary; then east on the North Cascades National Park Boundary to the Pacific Crest Trail Boundary; then south on the Pacific Crest Trail to Lake Janus and the Rapid River; then northwest along the Rapid River to Meadow Creek; then north along Meadow Creek to West Cady Creek; then northwest along West Cady Creek near Excelsior Mountain and USFS Trail 1054; then north on USFS Trail 1054 and the Quartz Creek Trail (USFS 1050) to Curry Gap and USFS Trail 650; then east on USFS Trail 650 to June Mountain and the Glacier Peak Wilderness Boundary; then north on the Glacier Peak Wilderness Boundary across the Suiattle River to Jordan Lakes on township line between T34 & 35N and the point of beginning.

GMU 454-ISSAQUAH (King and Snohomish counties): Beginning at the mouth of the Snohomish River near Everett; then southeast along the Snohomish River to the Snoqualmie River; then southeast along the Snoqualmie River to Duvall and State Highway 203; then south on State Highway 203 to Fall City; then southwest on Preston-Fall City Road to Preston and Interstate Highway 90; then east on Interstate Highway 90 to State Highway 18; then south on State Highway 18 to the Raging River; then southeast along the Raging River to the City of Seattle Cedar River Watershed; then west, south and east on the Cedar River Watershed to the City of Tacoma Green River Watershed; then south on the Green River Watershed to USFS Road 7110 near Lynn Lake; then southwest on USFS Road 7110 to U.S. Highway 410; then west on

U.S. Highway 410 to Enumclaw and State Highway 164; then west on State Highway 164 to Auburn and State Highway 18; then west on State Highway 18 to U.S. Highway 99; then north on U.S. Highway 99 to Buenna and Redondo Beach; then due west to Puget Sound; then west along East Passage and north along Colvos Passage (including Vashon and Maury Islands) to Puget Sound; then north to the mouth of the Snohomish River and the point of beginning.

GMU 460-SNOQUALMIE (King and Snohomish counties): Beginning at Monroe on State Highway 203 and U.S. Highway 2; then east on U.S. Highway 2 to Stevens Pass and the Pacific Crest Trail; then south on the Pacific Crest Trail to the City of Seattle Cedar River Watershed; then west on the Cedar River Watershed to the Raging River; then west and north along the Raging River to State Highway 18; then north on State Highway 18 to Interstate Highway 90; then west on Interstate Highway 90 to the Preston-Fall City Road; then north on the Preston-Fall City Road to State Highway 203; then north on State Highway 203 to Monroe and the point of beginning.

GMU 466-STAMPEDE (King County): Beginning on the Pacific Crest Trail (USFS Trail 2000) and the east boundary of the City of Seattle Cedar River Watershed; then south on the Pacific Crest Trail past Blowout Mountain to USFS Road 7038 at its closest point to the Pacific Crest Trail near Windy Gap north of Pyramid Peak, then northwest on USFS Roads 7038, 7036, 7030, and 7032 to USFS Trail 1172; then west on USFS Trail 1172 to about 1/4 mile past Williams Hole to the posted boundary of the City of Tacoma Green River Watershed Boundary; then north on the Green River Watershed Boundary to the City of Seattle Cedar River Watershed Boundary and along this boundary to Pacific Crest Trail and the point of beginning.

GMU 472-WHITE RIVER (King and Pierce counties): Beginning at the lookout at Grass Mountain mainline (USFS Road 7110) and the City of Tacoma Green River Watershed Boundary; then east on the Green River Watershed Boundary and USFS Trail 1172 to USFS Road 7032; then east along USFS Road 7032 to USFS Road 7030; then southeast along USFS Road 7030 and USFS Road 7036 and USFS 7038; then onto the Pacific Crest Trail (USFS 2000) at its closest point to Road 7038 near Windy Gap north of Pyramid Peak; then south on the Pacific Crest Trail to the Mount Rainier National Park Boundary at Chinook Pass; then north and west on the park boundary to the Carbon River; then northwest along the Carbon River to Bonneville Power Transmission Line; then northeast along the transmission line to South Prairie Creek; then north along South Prairie Creek to intersection with Champion ownership line (Section 14, T19N, R6E); then east and north along Champion ownership line to the White River (along west line of Section 6, T19N, R7E); then southeast along the White River to the Bonneville Power Line on the north side of the river near Mud Mountain Dam Road; then northeast on the transmission lines to State Highway 410; then east on State Highway 410 to USFS Road 7110; then north on USFS Road 7110 to the City of Tacoma Green River Watershed and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion).

GMU 478-MASHEL (Pierce County): Beginning at the Bonneville Power Transmission Line at the Puyallup River bridge on the Orville Road East; then northeast on the Bonneville Power Transmission Line to the Carbon River; then southeast along the Carbon River to the west boundary of Mt. Rainier National Park; then south on the park boundary to the Nisqually River; then west on the Nisqually River to the mouth of the Mashel River; then up the Mashel River to the Highway 161 Bridge (Eatonville-LaGrande Road); then north on Highway 161 through Eatonville to Orville Road East (Kapowsin-Eatonville Road); then north on the Orville Road East to the Puyallup River bridge and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion).

GMU 484-PUYALLUP (Pierce and King counties): Beginning at Redondo Junction on the shore of Puget Sound and Redondo Way South; then southeast on Redondo Way South to Pacific Highway South (Old Highway 99); then south on the Pacific Highway South to Auburn and State Highway 18; then east on State Highway 18 to State Highway 164; then southeast on State Highway 164 to Enumclaw and State Highway 410 (Chinook Pass Highway); then east on State Highway 410 to the second set of Bonneville Power Transmission Lines near the Mud Mountain Dam Road; then southwest on the transmission lines to the White River; then northwest along the White River to the Champion ownership line (along west line of Section 6, T19N, R7E); then west and south along the Champion ownership line to South Prairie Creek (Section 14, T19N, R6E); then south along South Prairie Creek to the intersection with the Bonneville Power Line; then southwest on this transmission line to Puyallup River and the Orville Road East; then south on the Orville Road East to State Highway 161; then down the Mashel River to the Nisqually River (Pierce-Thurston County line); then northwest along the Nisqually River to Puget Sound; then north along Nisqually Reach, Drayton Passage, Pitt Passage, including Anderson Island, McNeil Island and Ketron Island to Redondo and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion).

GMU 485-GREEN RIVER (King County): Beginning at the northwest corner of the Green River Watershed; then east on the boundary between the Green River Watershed and the Cedar River Watershed to the USFS Road 5060; then south on the USFS Road 5060 to the posted boundary of the Green River Watershed; then along the southern boundary of the Green River Watershed over Huckleberry Mountain and Grass Mountain and across the Green River to the northwest corner of the Green River Watershed and the point of beginning.

GMU 490-CEDAR RIVER (King County): The area within the posted boundary of the city of Seattle Cedar River Watershed.

AMENDATORY SECTION (Amending Order 98-68, filed 4/22/98, effective 5/23/98)

WAC 232-28-02205 Game management units (GMUs)—Special game areas—Boundary descriptions—Region five.

GMU 501-LINCOLN (Lewis, Thurston, Pacific and Grays Harbor counties): Beginning at the intersection of Interstate 5 and State Highway 6; then west on State Highway 6 to the Stevens Road; then northwest on Stevens Road to Elk Creek Road (Doty); then west on Elk Creek Road to the 7000 Road; then west on the 7000 Road to the 7800 Road; then west on the 7800 Road to the 720 Road; then northeast on the 720 Road to Garrard Creek Road; then northeast on the Garrard Creek Road to Oakville and U.S. Highway 12; then east on U.S. Highway 12 to Interstate 5; then south on Interstate 5 to State Highway 6 and point of beginning.

GMU 504-STELLA (Cowlitz County): Beginning at the mouth of the Cowlitz River at the Columbia River; then west down the Columbia to the mouth of Germany Creek; then north up Germany Creek to State Highway 4; then east on Highway 4 to Germany Creek Road; then north on Germany Creek Road to International Paper 1000 Road; then north on International Paper 1000 to the International Paper 1050 Road; then east on International Paper 1050 Road to the 2200 Road; then east and south to the 2000 Road; then south on the 2000 Road to the Delameter Road (Woodside Road); then east on Delameter Road to State Highway 411; then north on Highway 411 to PH 10 Road (Four Corners); then east to Cowlitz River; then south down the Cowlitz River to the Columbia River and point of beginning.

GMU 505-MOSSYROCK (Lewis County): Beginning on Interstate 5 and the Cowlitz River; then northeast up the Cowlitz River to Mayfield Lake and the U.S. Highway 12 bridge; then east on U.S. Highway 12 to Winston Creek Road; then south and east to Longbell Road and Perkins Road; then northeast on Perkins Road to Swofford Road; then north on Swofford Road to Ajlune Road; then east on Ajlune Road to Riffe Lake; then east along the south shore to the Cowlitz River and up the Cowlitz River to the USFS 23 Road (Cispus Road) Bridge; then south and east to the C Line Road; then east to the Bennet Road; then east to U.S. Highway 12; then west on Highway 12 to State Highway 7 (Morton); then north on State Highway 7 to State Highway 508; then west on Highway 508 to Centralia/Alpha Road; then west and north on Centralia/Alpha Road to Salzer Valley Road; then west to Summa Street and Kresky Road; then north on Kresky Road to Tower Street; then on Tower Street to State Highway 507; then west on Highway 507 Cherry, Alder and Mellen Streets to Interstate 5; then south on Interstate 5 to the Cowlitz River and point of beginning.

GMU 506-WILLAPA HILLS (Wahkiakum, Pacific and Lewis counties): Beginning at Pe Ell and the Muller Road; then south on the Muller Road to the 1000 Road; then south on the 1000 Road to the 1800 Road; then south on the 1800 Road to the 500 Road; then southeast on the 500 Road to State Highway 407 (Elochoman Valley Road); then south on the Elochoman Valley Road (old SR 407) to the Elochoman

PROPOSED

River; then downstream along the Elochoman River to the Foster Road; then north on Foster Road to Risk Road; then west and north along Risk Road to SR 4; then west on SR 4 to Skamokawa Creek; then downstream along Skamokawa Creek to the confluence with the Columbia River; then west along Columbia River to the mouth of the Deep River; then north along the Deep River to State Highway 4; then northwest on State Highway 4 to the Salmon Creek Road; then north on the Salmon Creek Road to the Bonneville Powerline Road; then north on the Bonneville Powerline Road to State Highway 6; then east on State Highway 6 to the Town of Pe Ell and the point of beginning.

GMU 510-STORMKING (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek Bridge; then north up Silver Creek to Silverbrook Road; then east to USFS 47 Road; then north on USFS 47 Road to USFS 85 Road; then west on USFS 85 Road to Silver Creek; then southwest on Silver Creek to Lynx Creek; then north on Lynx Creek and its northernmost tributary to USFS 85 Road; then northwest on the USFS 85 Road to Catt Creek; then north on Catt Creek to the Nisqually River; then west down the Nisqually River to State Highway 7; then south on Highway 7 to U.S. Highway 12 (Morton); then east on U.S. Highway 12 to Silver Creek and point of beginning.

GMU 513-SOUTH RAINIER (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek bridge; then north up Silver Creek to Silverbrook Road; then east to USFS 47 Road; then north on USFS 47 Road to USFS 85 Road; then west on USFS 85 Road to Silver Creek; then southwest on Silver Creek to Lynx Creek; then north on Lynx Creek and its northernmost tributary to USFS 85 Road; then north on USFS 85 Road to Catt Creek; then northwest down Catt Creek to the Nisqually River; then east up the Nisqually River to the southern boundary of Mt. Rainier National Park; then east along the south park boundary to the Pacific Crest Trail; then south along the Pacific Crest Trail to U.S. Highway 12; then west on U.S. Highway 12 to the Silver Creek bridge and point of beginning.

GMU 516-PACKWOOD (Lewis and Skamania counties): Beginning at the mouth of Cispus River; then east up the Cispus River to the USFS 56 Road (Midway G.S. Road); then east on the USFS 56 Road to the USFS 5603 Road; then east on the USFS 5603 Road to the Yakima Indian Reservation Boundary and the Cascade Crest; then north along the reservation boundary to Cispus Pass and the Pacific Crest Trail; then north along the Pacific Crest Trail to the U.S. Highway 12 (White Pass); then northwest and southwest on U.S. Highway 12 to USFS 1270 Road (Section 31, T14N, R10E); then north on USFS 1270 Road to the Cowlitz River; then southwest down the Cowlitz River to the mouth of Smith Creek; then south up Smith Creek to U.S. Highway 12; then southwest down U.S. Highway 12 to Bennet Road; then west on the Bennet Road to the C Line Road; then west to the USFS 23 Road (Cispus Road); then west and north to the Cowlitz River; then west down the Cowlitz River to the mouth of the Cispus River and point of beginning.

GMU 520-WINSTON (Cowlitz, Lewis and Skamania counties): Beginning at the intersection of Interstate 5 and the Cowlitz River; then south down the Cowlitz River to the Toutle River; then east up the Toutle River to the North Fork Toutle River; then up the North Fork Toutle River to the Green River; then east up the Green River to USFS 2612 Road; then east on USFS 2612 Road to USFS 26 Road (Ryan Lake Road); then north on USFS 26 Road to the Cispus River; then west down the Cispus to the Cowlitz River; then west down the Cowlitz River to Riffe Lake; then west along the south shore to Ajlune Road; then west to Swofford Road; then south on Swofford Road to Perkins Road; then southwest and northwest on Perkins Road and Longbell Road to Winston Creek Road; then northwest on Winston Creek Road to U.S. Highway 12; then west on U.S. Highway 12 to the Mayfield Lake bridge; then southwest down Mayfield Lake and the Cowlitz River to Interstate 5 and point of beginning.

GMU 522-LOO-WIT (Cowlitz and Skamania counties): Beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek; then southeast up the North Fork Toutle River to Alder Creek; up Alder Creek to Deer Creek, up Deer Creek to Deer Creek Springs; up Deer Creek Springs to the Weyerhaeuser 3001 Road; then southeast along the 3001, 3000, and 3090 Roads to the headwaters of the South Fork Castle Creek; then due south to the South Fork Toutle River; then east along South Fork Toutle to its headwaters and Mount St. Helens crater edge; then east along the crater edge to the headwaters of Ape Canyon; then down Ape Canyon Creek to the USFS Smith Creek Trail then north up USFS Smith Creek Trail to USFS 99 Road; then north along USFS 99 Road to USFS 26 Road; then north to Strawberry Lake Creek; then west down Strawberry Lake Creek to the Green River; then across the Green River to Grizzly Creek; then up Grizzly Creek to Grizzly Lake; then west up the western inlet to its headwaters; then west to the headwaters of Coldwater Creek; then west down Coldwater Creek to Coldwater Lake; then southwest along the northwest shore to the old Weyerhaeuser 3500 Road; then west along the 3500, 3530, 3540, 3130, and 3120 Roads to the intersection with Hoffstadt Creek; then down Hoffstadt Creek to the North Fork Toutle River and point of beginning.

GMU 524-MARGARET (Cowlitz, Skamania and Lewis counties): Beginning on the North Fork Toutle River at the mouth of the Green River; then southeast up the North Fork Toutle River to the mouth of Hoffstadt Creek; then up Hoffstadt Creek to the 3120 Road; then east along the 3120, 3130, 3540, 3530 and 3500 Roads to Coldwater Lake; then northeast along the northwest shoreline to Coldwater Creek; then up Coldwater Creek to its headwaters and east to the headwaters of Grizzly Lake; then east down the west inlet creek to Grizzly Lake; then down Grizzly Creek to the Green River and the mouth of Strawberry Lake Creek; then up Strawberry Lake Creek to the USFS 26 Road (Ryan Lake Road); then north on the USFS 26 Road to the USFS 2612 Road; then west on USFS 2612 Road to the Green River; then down the Green River to its mouth and point of beginning.

GMU 530-RYDERWOOD (Cowlitz, Lewis and Wahkiakum counties): Beginning south of the Town of Doty on

State Highway 6; then east on State Highway 6 to Chehalis and Interstate 5; then south on Interstate 5 to the Cowlitz River; then south along the Cowlitz River to Castle Rock and the PH 10 Road (Four Corners); then west on the PH 10 Road to State Highway 411; then south on State Highway 411 to Delameter Road (Woodside Drive); then southwest on Delameter Road to the 2000 Road; then west on the 2000 Road to the 2200 Road; then north and west on the 2200 Road to the International Paper 1050 Road; then west on the International Paper 1050 Road to the International Paper 1000 Road; then south on the International Paper 1000 Road to the Germany Creek Road; then south on the Germany Creek Road to State Highway 4; then west on State Highway 4 to Germany Creek; then south along Germany Creek to its mouth at the Columbia River; then west along the Columbia River and the Cathlamet Channel to the Puget Island Bridge on State Highway 409; then north on State Highway 409 to State Highway 4; then west on State Highway 4 to State Highway 407 (Elochoman Valley Road); then northwest on State Highway 407 (Elochoman Valley Road) to the 500 Road; then west on the 500 Road to the 1800 Road; then north on the 1800 Road to the International Paper 1000 Road; then north on the International Paper 1000 Road to the Muller Road; then north on Muller Road to Pe Ell and State Highway 6; then north on State Highway 6 to south of Doty and the point of beginning.

GMU 550-COWEEMAN (Cowlitz County): Beginning at the mouth of the Cowlitz River; then north to the Toutle River; then east along the Toutle River to the South Fork Toutle River; then up the South Fork Toutle to the 4950 Road; then south and east on the 4950 Road to the 235 Road; then south on the 235, 200, 245, 134, 133, 130 and 1680 Roads to the 1600 Road; then southeast along the 1600 and 1400 Roads to the Kalama/Coweeman Summit; then south along the 1420 Road to the 1426 Road; then southwest along the 1426 Road to the 1428 Road; southwest along 1428 Road to 1429 Road; southwest along 1429 Road to 6400 Road; then southwest down the 6400 Road to the 6000 Road; then east to the 6450 Road; then southeast approximately one mile on the 6450 Road to the 6452 Road; then southeast on 6452 Road to Dubois Road; then to State Highway 503; then west on State Highway 503 to Cape Horn Creek; then down Cape Horn Creek to Merwin Reservoir and the Lewis River; then down the Lewis River to the Columbia River; then down the Columbia River to the mouth of the Cowlitz River and point of beginning.

GMU 554-YALE (Cowlitz County): Beginning on State Highway 503 at its crossing of Cape Horn Creek; then east on State Highway 503 to 6690 Road (Rock Creek Road); then northeast on the 6690 and 6696 Roads to West Fork Speelyai Creek; then down Speelyai Creek to State Highway 503; then northeast on State Highway 503 to Dog Creek; then down Dog Creek to Yale Reservoir; then south and west down Yale Reservoir, Lewis River, and Merwin Reservoir to Cape Horn Creek; then up Cape Horn Creek to State Highway 503 and point of beginning.

GMU 556-TOUTLE (Cowlitz County): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Road

(Merril Lake Road) intersection; then north on USFS 81 Road to Weyerhaeuser 7200 Road; then northeast on the 7200 Road to the 7400 Road; then northwest on the 7400 Road to the 5500 Road; then east and north on the 5500 and 5670 Roads to the South Fork Toutle River; then east up the South Fork Toutle River to a point due south of the headwaters of the South Fork Castle Creek (Section 1, T8N, R4E); then north along the posted Loo-wit boundary to end of the Weyerhaeuser 3092 Road; then west on the 3092 Road to 3090 Road; then northwest on the 3090, 3000 and 3001 Roads; west on the 3001 Road to Deer Creek Springs; down Deer Creek Springs to Deer Creek, downstream on Deer Creek to Alder Creek; downstream on Alder Creek to the North Fork Toutle River; then down the North Fork Toutle River to the South Fork Toutle River; then southeast up the South Fork Toutle River to the 4950 Road; then south on the 4950, 235, 200, 245, 243A, 134, 133, 130, and 1680 Roads to the 1600 Road; then southeast on the 1600 and 1400 Roads to the Kalama/Coweeman Summit; then south on the 1420 Road to the 1426 Road; then southwest along the 1426 Road to the 1428 Road; southwest along 1428 Road to 1429 Road; southwest along 1429 Road to 6400 Road; then southwest on the 6400 Road to the 6000 Road; then east up the 6000 Road to the 6450 Road; then southwest on the 6450 Road approximately one mile to the 6452 Road; then southeast on 6452 Road to Dubois Road to State Highway 503; then east on State Highway 503 to the 6690 Road (Rock Creek Road); then northeast on the 6690 and 6696 Roads to the West Fork Speelyai Creek; then down Speelyai Creek to State Highway 503; then northeast on State Highway 503 to USFS 81 Road and point of beginning.

GMU 558-MARBLE (Cowlitz and Skamania counties): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Road intersection; then north on USFS 81 Road to Weyerhaeuser 7200 Road; then northeast on the 7200 Road to the 7400 Road; then northwest on the 7400 Road to the 5500 Road; then east and north on the 5500 and 5670 Roads to the South Fork Toutle River; then east up the South Fork Toutle River to Mount St. Helens crater and along crater to headwaters of Ape Canyon; then east down Ape Canyon Creek to USFS Smith Creek Trail then north up USFS Smith Creek Trail to USFS 99 Road; then northeast on USFS 99 Road to USFS 25 Road; then south on USFS 25 Road to the Muddy River; then south down the Muddy River to the North Fork Lewis River; then west down the North Fork Lewis River, Swift Reservoir to Yale Reservoir and Dog Creek; then north up Dog Creek to State Highway 503; then southwest to USFS 81 Road and point of beginning.

GMU 560-LEWIS RIVER (Skamania, Klickitat, Yakima and Lewis counties): Beginning at Trout Lake, north to the USFS 80 Road; then north to USFS 17 Road (Mt. Adams Recreational Road); then northeast to USFS 82 Road; then northeast on the USFS 82 Road to the Yakima Indian Reservation Boundary (Section 16, T7N, R11E); then north along reservation boundary (Cascade Crest) to USFS 5603 Road; then west to the USFS 56 Road; then west to the Cispus River; then northwest down the Cispus River to the USFS 26 Road (Ryan Lake Road); then west and south on the USFS 26 Road to USFS 99 Road; then northeast to the USFS 25 Road;

PROPOSED

then south to Muddy River; then south down the Muddy River to the North Fork Lewis River; then west to the USFS 90 Road bridge (Eagle Cliff); then east on USFS 90 Road to USFS 51 Road; then southeast to USFS 30 Road; then northeast on the USFS 30 Road to USFS 24 Road; then southeast to the State Highway 141; then northeast on State Highway 141 to Trout Lake and point of beginning.

GMU 564-BATTLE GROUND (Clark and Skamania counties): Beginning on the Interstate 5 at the Lewis River Bridge and the Lewis River; then northeast along the Lewis River (Cowlitz-Clark County line) to the Merwin Dam; then on a southeast line to the transmission line; then south on the transmission line to N.E. Grinnel Road; N.E. Grinnel Road to N.E. Pup Creek Road; N.E. Pup Creek Road to N.E. Cedar Creek Road to Amboy; then south on N.E. 221st Avenue to N.E. Amboy Road; then south on N.E. Amboy Road to N.E. Yacolt Road; then east on Yacolt Road to Railroad Avenue; southeast to Sunset Falls Road; east to Dole Valley Road; then south on the Dole Valley Road to Rock Creek Road; then southeast and south on the DNR 1000 Road to DNR 1500 Road; then east on DNR 1500 Road to N.E. 412th Avenue; then south on N.E. 412th Avenue to Skye Road; then east and south on the Skye Road to Washougal River Road; then south on Washougal River Road to State Highway 140; then southeast on State Highway 140 to Cape Horn Road; then south on Cape Horn Road to the Columbia River; then west down the Columbia River (including islands in Washington) to the Lewis River; then north along the Lewis River to the Interstate 5 Bridge and the point of beginning.

GMU 568-WASHOUGAL (Clark and Skamania counties): Beginning at Merwin Dam on the Lewis River and Lake Merwin; then northeast along Lake Merwin (Cowlitz-Clark County line) to Canyon Creek; then southeast along Canyon Creek to N.E. Healy Road; then east on N.E. Healy Road to USFS Road 54; then east on USFS Road 54 to USFS Road 37; then northwest on USFS Road 37 to USFS Road 53; then south on USFS Road 53 to USFS Road 4205 (Gumboat Road); then south on USFS Road 4205 to USFS Road 42 (Green Fork Road); then southwest on USFS Road 42 to USFS Road 41 (Sunset Hemlock Road) at Sunset Falls; then east on USFS Road 41 to USFS Road 406 at Lookout Mountain; then southeast on USFS Road 406 to the boundary of the Gifford Pinchot National Forest; then due east on the National Forest Boundary to Rock Creek; then southeast along Rock Creek to Stevenson and the Columbia River; then west down the Columbia River (including the islands in Washington) to the Cape Horn Road; then north on the Cape Horn Road to ~~((State Highway 140)) Canyon Creek Road~~; then west on ~~((State Highway 140)) Canyon Creek Road~~ to the Washougal River Road; then ~~((northwest)) east~~ on the Washougal River Road to the Skye Road; then northwest on the Skye Road to N.E. 412th Avenue; then northwest on DNR 1500 Road to DNR 1000 Road; then north and west on DNR 1000 Road to Dole Valley Road; then north on the Dole Valley Road to Sunset Falls Road; then northwest to Railroad Avenue through Yacolt; then northwest on N.E. Cedar Creek Road through Amboy to N.E. Pup Creek Road; Pup Creek Road to N.E. Grinnel Road to the transmission lines; then

north on the transmission lines to Merwin Dam on the Lewis River and the point of beginning.

GMU 572-SIOUXON (Skamania and Clark counties): Beginning at the Yale Dam and Yale Lake; then north along Yale Lake (Cowlitz-Clark County line) to the North Fork Lewis River and Lewis River (old river bed); then northeast along the Lewis River to the Swift Creek Reservoir; then east along the Swift Creek Reservoir to Eagle Cliff Bridge and USFS Road 90; then east on USFS Road 90 to USFS 51 Road (Curly Creek Road); then southeast on USFS Road 51 to USFS Road 30; then north on USFS Road 30 to USFS Road 24 (Twin Butte Road); then south on USFS Road 24 to USFS Road 60 (Carson Guler Road); then southwest on USFS Road 60 to USFS Road 65 (Panther Creek Road); then southwest on USFS Road 65 to the Wind River Highway; then northwest on the Wind River Highway to Stabler; then west on Hemlock Road to USFS Road 41 (Sunset-Hemlock Road); then west on the USFS Road 41 to Sunset Falls and USFS Road 42 (Green Fork Road); then northeast on USFS Road 42 to USFS Road 4205 (Gumboat Road); then north on USFS Road 4205 to USFS Road 53; then northwest on USFS Road 53 to USFS Road 54 (N.E. Healy Road); then west on USFS Road 54 to Canyon Creek; then north along Canyon Creek to the Lewis River; then northeast along the Lewis River to the Yale Dam and the point of beginning.

GMU 574-WIND RIVER (Skamania County): Beginning at Little Lookout Mountain on USFS Road 41 (Sunset-Mowich Butte); then east on USFS Road 41 to Stabler; then east on the Hemlock Road to the Wind River Road; then southeast on the Wind River Road to Old State Road; then east on Old State Road to USFS Road 65 (Panther Creek Road); then north on USFS Road 65 to USFS Road 60; then northeast on USFS Road 60 to State Highway 141; continue east on State Highway 141 to USFS Road 86; then south on USFS Road 86 to USFS Road 1840; then south on USFS Road 1840 to USFS Road 18 (Oklahoma Road); then south on USFS Road 18 to Willard and the Little White Salmon River; then south on the Little White Salmon River to the Columbia River; then west along the Columbia River to the mouth of Rock Creek; then northwest along Rock Creek through Stevenson to the south boundary of Gifford Pinchot National Forest; then on the south boundary of Gifford Pinchot National Forest due west to USFS Road 4100-406; then northwest on USFS Road 4100-406 to USFS Road 41 and the point of beginning.

GMU 578-WEST KLICKITAT (Klickitat, Yakima, and Skamania counties): Beginning on the Columbia River at the mouth of the Little White Salmon River; then up the Little White Salmon River to Willard; then north on USFS 18 Road (Oklahoma Road) to USFS 1840 Road; then north on USFS 1840 Road; to USFS Road 86; north on USFS Road 86 to State Highway 141; then northeast on State Highway 141 to Trout Lake and Mt. Adams Recreational Area Road; then north on Mt. Adams Recreational Area Road to USFS 82 Road; then northeast on USFS 82 Road to the Yakama Indian Reservation Boundary (Section 16, T7N, R11E); then south along the reservation boundary to King Mountain and the southwest corner of the reservation (Section 27, T7N, R11E); then east along reservation boundary (approximately one

mile) to the end of King Mountain Road; then north along the reservation boundary to Section 2 T7N, R11E; then east along the reservation boundary to the northeastern corner of Section 4, T7N, R12E; then southeast along the reservation boundary to Summit Creek Boundary Road; then south to the Glenwood/Goldendale Road; then northwest on the Glenwood/Goldendale Road to the Gravel Pit Road; then south on the Gravel Pit Road to Fisher Hill Road (P-2000); then south on Fisher Hill Road to the Fisher Hill Bridge; then south down the Klickitat River to the Columbia River; then west down the Columbia River to the mouth of the Little White Salmon River and point of beginning.

~~((GMU 582 EAST KLICKITAT (Klickitat County): Beginning at the U.S. Highway 97 bridge on the Columbia River (Maryhill); then north on U.S. Highway 97 to Satus Pass and the Yakama Indian Reservation; then east along south reservation boundary to the Yakima County line; then east on the Yakima/Klickitat County line to Alderdale Road; then southeast and south on Alderdale Road to Alderdale and the Columbia River; then west down the Columbia River to U.S. Highway 97 Bridge and the point of beginning.))~~

GMU 588-GRAYBACK (Klickitat County): Beginning at U.S. Highway 97 bridge across Columbia River (Maryhill); then west down the Columbia River to Lyle and the mouth of the Klickitat River; then up the Klickitat River to the Fisher Hill Bridge; then north along the Fisher Hill Road (P-2000) to the Lakeside Road; then north on the Lakeside Road to the Gravel Pit Road; then northwest to the Glenwood/ Goldendale Road; then east and southeast on the Glenwood/Goldendale Road to the Summit Creek Primary Road; then northeast to the Yakama Indian Reservation Boundary; then east along the southern boundary of the reservation to U.S. Highway 97 (Satus Pass Highway); then south on U.S. Highway 97 to Maryhill and point of beginning.

AMENDATORY SECTION (Amending Order 98-63, filed 4/22/98, effective 5/23/98)

WAC 232-28-02240 Game management units (GMUs)—Special game areas—Boundary descriptions—Muzzleloader area descriptions.

~~((**Muzzleloader Area No. 910 Cle Elum (Kittitas County):** Beginning at Easton; then southeast along the main BPA Powerlines to Big Creek; then west and south on the Big Creek Trail to its junction with USFS Road 4517; then east on USFS Road 4517 to its junction with Spur Road 117 (at the powerlines); then to Granite Creek Trail 1326; then south on Granite Creek Trail 1326 to the top of South Cle Elum Ridge; then east along the ridge on Granite Creek Trail 1326 to Spur Road 111; then east on Road 111 to the Peoh Point Road (3350); then southeast on Road 3350 to the junction with Road 3352; then east on Road 3352 to the Cedar Creek Road; then south on the Cedar Creek Road to the Morrison Canyon Road; then southeast on the Morrison Canyon Road to Interstate Highway 90; then east on I-90 to Exit 106 and junction with U.S. Highway 97; then north on U.S. Highway 97 to Hungary Junction Road and east on Hungary Junction Road to Look Road; then south on Look Road to Brick Mill~~

~~Road; then east on Brick Mill Road to Venture Road to Lyons Road; then east on Lyons Road to Fox Road; then south on Fox Road to Christensen Road; then east on Christensen Road to Parke Creek Road; then east and north on Parke Creek Road to the BPA powerlines (Section 22, T18N, R20E) north of Parke Creek Group Home; then northwest along BPA Powerlines to Colockum Pass Road; then north on the Colockum Pass Road to upper powerlines (Section 16, T19N, R20E); then west along BPA powerlines to the Wilson Creek Road; then north on Wilson Creek Road to the Lillard Hill Road; northwest on Lillard Hill Road to USFS Road 3517; then northwest on USFS Road 3517 to the Reeceer Creek Road, USFS Road 35; then south on USFS Road 35 to USFS Road 3507 and then northwest on USFS Road 3507 to Spur Road 120 (Snowshoe Ridge Road); then west on Spur Road 120 (Snowshoe Ridge Road) to Spur Road 114; then north and south on Spur Road 114 to Spur Road 116; then north on Spur Road 116 to USFS Road 9718 (Cougar Guleh Road); then southwest on USFS Road 9718 through the town of Liberty to U.S. Highway 97; then north on U.S. Highway 97 to USFS Road 9738, Blue Creek; then west on USFS Road 9738 to USFS Road 9702 Diekey Creek; then west on USFS Road 9702 to the North Teanaway Road; then south to the junction with Middle Fork Teanaway Road; then west on Middle Fork Road 1/4 mile to Teanaway Campground; then south up #17 Canyon Road to Cle Elum Ridge Road; then west along Cle Elum Ridge Road and south to the bottom of #5 Canyon Road; then south to Highway 903 and Bullfrog Road (Sportland Mini-Mart); then south on Bullfrog Road to Interstate Highway 90; then west on Interstate Highway 90 to Easton and point of beginning.))~~

Muzzleloader Area No. 911 Fairview (Kittitas County): Begin at U.S. Highway 97 and First Creek Road; east on First Creek Road to Upper Green Canyon Road and Reeceer Creek; north on Reeceer Creek (USFS 35 Road) to USFS 3517 Road; east on USFS 3517 Road to Lillard Hill Road and Wilson Creek Road; south on Wilson Creek Road to the BPA Powerlines (T19N; R19E; Section 19); east along the BPA Powerlines to the Colockum Pass Road (T19N; R20E; Section 16); south on Colockum Pass Road to the BPA Powerlines (T18N; R20E; Section 6); east along the BPA Powerlines to the Parke Creek Road; south on Parke Creek Road to Christiansen Road; west on Christiansen Road to Fox Road; north on Fox Road to Lyons Road; west on Lyons Road to Venture Road; north on Venture Road to Brick Mill Road; west on Brick Mill Road to Look Road; north on Look Road to Hungary Junction Road; west on Hungary Junction Road to U.S. Highway 97; north on U.S. Highway 97 to First Creek Road and point of beginning.

Muzzleloader Area No. 925 Ritzville (Adams County): Beginning at the junction of Interstate 90 and S.R. 261 near the Town of Ritzville; then south along S.R. 261 to S.R. 26; then east on S.R. 26 to the Whitman County line; then north along the Adams, Whitman County line to where it intersects the Lincoln, Adams County line; then north along the Adams, Lincoln County line to Interstate 90; then west along Interstate 90 to point of beginning.

PROPOSED

Muzzleloader Area No. 926 Guemes (Skagit County):
That part of GMU 407 (North Sound) on Guemes Island.

Muzzleloader Area No. 944 Clemen (Yakima County):
That portion of GMU 342 beginning at the junction of Highway 410 and USFS Road 1701 (Big Bald Mountain Road); then north to USFS Road 1712; then east on USFS Road 1712 (Clemen Ridge Road) to the east edge of Meyster Canyon; then along the east side of Meyster Canyon to the elk fence; then west along the elk fence to Waterworks Canyon and Highway 410 and to point of beginning.

AMENDATORY SECTION (Amending Order 98-54, filed 4/22/98, effective 5/23/98)

WAC 232-28-248 1998-1999 Special closures and firearm restriction areas.

RESTRICTED AND PROHIBITED HUNTING AREAS.

These areas are closed by Fish and Wildlife Commission action. Other areas may be closed to hunting by local, state or federal regulations.

IT IS ILLEGAL TO HUNT EXCEPT WHERE PROVIDED IN THE FOLLOWING AREAS:

1. Little Pend Oreille National Wildlife Refuge: The southern part of the Little Pend Oreille National Wildlife Refuge in Stevens County is closed to hunting and discharge of firearms except during the period of Oct. 1-Dec. 31. This closure is south of a boundary beginning at the west project boundary in Section 3, Township 34 N, R 40 EWM, then easterly along Road 1.0 (Bear Creek Road) to the intersection with Road 2.0 (Blacktail Mountain Road) in Section 2, then easterly along Road 2.0 to the easterly boundary in Section 8, Township 34 N, R 42 EWM.

The Little Pend Oreille National Wildlife Refuge north of the preceding boundary is open to all legally established hunting seasons during September through December.

2. Parker Lake: All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389) and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to the hunting of wild animals and wild birds (~~(EXCEPT during the period Aug. 1-Sept. 30))~~ year round. Both the Little Pend Oreille (1) and Parker Lake (2) closures were established to provide a protected area for the Air Force Military Survival Training Program.
3. Columbia River and all the islands in the river, and the Benton County shoreline below the high water mark, and any peninsula originating on the Benton County shoreline, between Vernita Bridge (Highway 24) downstream to the old Hanford townsite powerline crossing (wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.
4. Green River (GMU 485): Except for special permit hunts, all lands within GMU 485 are designated as a

"CLOSED AREA" to the hunting of big game by Department of Fish and Wildlife regulated hunters throughout the year. During the general westside elk season and general and late deer seasons, all lands within GMU 485 are also designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds). The City of Tacoma enforces trespass within GMU 485 on lands owned or controlled by the City during all times of the year.

5. McNeil Island: McNeil Island (part of GMU 484) is closed to the hunting of all wild animals (including wild birds) year around.
6. Loo-wit (GMU 522): Closed to hunting and trapping within GMU 522 (Loo-wit).
7. The Voice of America Dungeness Recreation Area County Park in Clallam County is closed to all hunting from February 1 through September 30.

BIG GAME CLOSURES

1. Clark, Cowlitz, Pacific, and Wahkiakum counties are closed to Columbian Whitetail Deer hunting.
2. Cathlamet: Beginning in the town of Skamokawa; then east along SR 4 to the Risk Road; then south and east along the Risk Road to Foster Road; then south along the Foster Road to the Elochoman River; then upstream along the Elochoman River to the Elochoman Valley Road (old SR 407); then west along the Elochoman Valley Road to SR 4; then east along SR 4 to SR 409; then south along SR 409 to the Cathlamet Channel of the Columbia River; then east along the north shore of the Cathlamet Channel to Cape Horn; then south in the Columbia River to the state line; then west along the state line to a point directly south of the mouth of Skamokawa Creek; then north on Skamokawa Creek to SR 4 and the point of beginning. This area is closed to all deer and elk hunting, (~~except by permit,~~) to protect the Columbian Whitetail Deer.
3. Willapa National Wildlife Refuge: Except for (~~Bow Area No. 802-()~~) Long Island(~~?~~), Willapa National Wildlife Refuge is closed to all big game hunting.
4. Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds) except for holders of special elk permits during the established open season. This area is closed to motorized vehicles. Entry is allowed only by Forest Service permit for the duration of the hunt. Any entry into the Mill Creek Watershed at other times is prohibited.
5. Westport: Closed to hunting of all big game animals on that part of Westport Peninsula lying north of State Highway 105 from the west end of the Elk River Bridge and the Schafer Island Road to the ocean beach.
6. ~~Baleville: Closed to hunting of all big game animals on those lands between State Highway 105 and the Willapa River west of Raymond.)~~

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PROPOSED

FIREARM RESTRICTION AREAS

The firearm restriction areas listed below have been established by the Fish and Wildlife Commission. Centerfire and rimfire rifles are not legal for hunting in these areas.

In firearm restriction areas, hunters may hunt only during the season allowed by their tag. Archery tag holders may hunt during archery seasons with archery equipment. Muzzleloaders may hunt during muzzleloader seasons with muzzleloader equipment except in the GMU 484 restriction area outlined for King County. Modern firearm tag holders may hunt during modern firearm seasons with bows and arrows, muzzleloaders or revolver-type handguns meeting the equipment restrictions or shotguns firing slugs or legal buckshot. Shotguns are not legal for hunting elk.

COUNTY	AREA	COUNTY	AREA
Clallam	That portion of GMU 624 (Coyle) located within Clallam County.		That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; then southeast on South Bank Road to the Delezene Road; then south on the Delezene Road to the K Line Road to the A Line Road; then south on the A Line Road to the T Line Road; then south on the T Line Road to the Oakville-Brooklyn Road; then east on the Oakville-Brooklyn Road to Oakville and Highway 12; then northwest on Highway 12 to Wakefield Road to Elma and the point of beginning.
Clark	GMU 564 (Battleground)	Island	That portion of GMU 410 (Island) located on Camano and Whidbey islands.
Cowlitz	GMU 554 (Yale) GMU 504 (Stella)	Jefferson	Indian and Marrowstone islands.
Franklin, Grant, Adams	Those portions of GMU 281 (Ringold) and GMU 278 (Wahluke) known as the Wahluke Slope Wildlife Area.	King	The area west of Highway 203 (Monroe-Fall City, Fall City-Preston Road) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; Vashon and Maury islands.
Grays Harbor	That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Grayland Grocery; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning. The South Elma restriction applies only during elk seasons:	Kitsap	The following portion of GMU 484 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway 410; then west along Highway 410 to the point of the beginning. (This restriction includes high power rifles and muzzleloaders.) East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to Newbury Hill Road, north of Newbury Hill Road and the Bremerton-Seabeck Highway to Big Beef Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation.

PROPOSED

COUNTY	AREA
Kittitas	GMU 334 (Ellensburg) Closed to high power rifles during deer and elk seasons.
Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstene Island.
Pacific	GMU 684 (Long Beach) west of Sand Ridge Road. <u>The portion of GMU 658 (North River) south and west of State Highway 105 and Airport Road between Raymond and North River Bridge.</u>
Pierce	GMU 484 (Anderson and Ketron islands) limited to archery, shotgun, and muzzleloader shotgun. McNeil Island closed to hunting. See GMU 484 restriction area outlined for King County. GMU 627 (Kitsap) south of Highway 302 on the Longbranch Peninsula is a firearm restriction area.
Snohomish	West of Highway 9.
Skagit	Guemes Island and March Point north of State Highway 20.
Thurston	GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River.
Whatcom	Area west of I-5 and north of Bellingham city limits including <u>Lummi Island</u> and Point Roberts.

WSR 99-05-064

PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

[Filed February 17, 1999, 8:02 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-136.

Purpose: To amend WAC 232-12-054 Bow and arrow requirements and to amend WAC 232-12-047 Unlawful firearms for hunting.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: WAC 232-12-054, the Citizen Task Force for the Disabled, an official advisory task force to the Department of Fish and Wildlife, would like to amend this WAC to allow use of crossbows and cocking devices for people with disabilities for hunting purposes.

WAC 232-12-047, the Citizen Task Force for the Disabled would like to amend the current WAC to allow the use of crossbows for hunting for people with disabilities.

Reasons Supporting Proposal: WAC 232-12-054, the Citizen Task Force for the Disabled is recommending this amendment to provide an alternative hunting weapon for disabled hunters. People with upper body disabilities are (in most cases) unable to draw a bow. This amendment would allow them to use a crossbow as well as a cocking device.

WAC 232-12-047, this WAC addresses unlawful firearms and should not include any archery equipment. Legal and illegal archery equipment is defined in another WAC.

Name of Agency Personnel Responsible for Drafting and Implementation: Steve Pozzanghera, Assistant Director, Wildlife Management, Olympia, (360) 902-2504; and **Enforcement:** Bruce Bjork, Assistant Director, Enforcement, Olympia, (360) 902-2932.

Name of Proponent: Washington Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 232-12-054, the amendment would allow sportsmen and women who are disabled to use crossbows, with cocking devices, to hunt, including hunting during archery seasons. The purpose is to enable hunters with upper mobility impairments an opportunity to choose an archery method to use when hunting. The designated hunter companion would not be entitled to use a crossbow. The anticipated effect is difficult to judge for a variety of reasons:

- Many disabled hunters buy regular licenses, not reduced fee licenses, so are not identified as disabled.
- Disabled hunters are not identified by weapons type.
- There are no fees attached to disabled hunter permits, and they are valid for five years. The number of permit holders does not tell us the number of hunters. 373 holders of Disabled Hunter Permits applied for special deer and elk drawings in 1998.

There are 3,264 holders of Disabled Hunter Permits; and of those, 373 applied for special permit deer and elk drawings in 1998. It is estimated that of the disabled hunter permit holders who actively hunt and apply for special deer and elk tag drawings open only to such permit holders, an equal number applies for other special deer and elk tag drawings. Others may not apply for any permits. Using that logic, if 400 apply for drawings open only to Disabled Hunter Permit holders, and another 400 apply for other drawings, then there are 800 to 1,200 active disabled hunters. Although 10% to 16% of general season hunters (depending on species) choose archery as their hunting method, for estimating purposes, we used 25% of the number of active disabled hunters (1,200) to determine a number who could qualify and would participate in archery seasons. Therefore, we estimate that up to 300 dis-

abled hunters might choose archery hunts, and would be able to also choose a crossbow.

WAC 232-12-047, this amendment is housekeeping in nature.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not affect small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. These rules are not related to the hydraulics code.

Hearing Location: Cavanaugh's Ridpath Hotel, 515 West Sprague Avenue, Spokane, WA, on April 2-3, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by March 15, 1999, TDD (360) 902-2207, or (360) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife, Steve Pozzanghera, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2162, by March 19, 1999.

Date of Intended Adoption: April 2, 1999.

February 16, 1999

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 98-53, filed 4/22/98, effective 5/23/98)

WAC 232-12-047 Unlawful firearms for hunting. It is unlawful to hunt any big game with:

(1) A fully automatic firearm.

(2) A handgun that does not meet the following criteria:

(a) For deer, bear, or cougar

(i) Be a minimum of .24 caliber;

(ii) Have a minimum barrel length of 4 inches, per manufacturer's specification; and

(iii) Fire a centerfire cartridge which uses a mushrooming or expanding type bullet that develops a minimum of 500 foot-pounds of energy at 100 yards.

(b) For all other big game species:

(i) Be a minimum of .24 caliber;

(ii) Have a minimum barrel length of 4 inches, per manufacturer's specification; and

(iii) Fire a centerfire cartridge which uses a mushrooming or expanding type bullet that develops a minimum of 750 foot-pounds of energy at 100 yards.

(3) A rifle with a bore diameter less than .240 of an inch (6mm), or barrel length less than 16 inches, except that cougar may be hunted with a .22 caliber centerfire rifle.

(4) A rifle cartridge with a bullet weighing less than 85 grains, or that develops less than 900 foot pounds of energy at 100 yds, except that cougar may be hunted with a rifle cartridge with a mushrooming or expanding type bullet weighing greater than 50 grains.

(5) A rifle cartridge containing a bullet other than a mushrooming or expanding type designed for big game hunting.

(6) A shotgun, provided that a 20 gauge, or larger shotgun, using shells loaded with slugs or buckshot size #1 or larger, may be used to hunt deer, bear, and cougar.

(7) A muzzle-loader that does not meet the definition as provided in WAC 232-12-051.

It is unlawful to hunt game birds with a shotgun capable of holding more than three shells.

It is unlawful to hunt game birds or game animals, except bullfrogs, in a manner other than with a firearm, a bow and arrow, or by falconry.

It is unlawful to hunt game animals or game birds with a shotgun larger than 10 gauge.

It is unlawful to hunt game birds with a rifle or pistol, with the exception of blue grouse, spruce grouse and ruffed grouse.

~~((It is unlawful to hunt wildlife with a crossbow.))~~

AMENDATORY SECTION (Amending Order 427, filed 1/24/90, effective 2/24/90)

WAC 232-12-054 Bow and arrow requirements. (1)

It is unlawful for any person to hunt big game animals with a bow that possesses less than 40 pounds of pull measured at twenty-eight inches or less draw length or has a greater than 65% reduction (let off) in holding weight at full draw, unless the hunter has a valid disabled hunter permit issued by the director.

Disabled hunter permit holders may use a crossbow; however, it is unlawful for any permit holder to hunt big game with a crossbow that possesses less than 150 pounds of pull.

(2) It is unlawful to hunt big game animals with any arrow, including broadhead, weighing less than 400 grains (400 gr.) or having sharp broadhead blade or blades less than seven-eighths inches wide. It is unlawful to hunt with a broadhead blade unless the broadhead is unbarbed and completely closed at the back end of the blade or blades by a smooth, unbroken surface starting at maximum blade width forming a smooth line toward the feather end of the shaft and such line does not angle toward the point.

Disabled hunter permit holders may use a crossbow; however, it is unlawful to hunt with a crossbow using bolts less than 18 inches in length.

(3) It is unlawful for any person to carry or have in his possession any firearm while in the field archery hunting, during the bow and arrow season specified for that area.

(4) It is unlawful to hunt wildlife with a crossbow, except hunters who have a valid disabled hunter permit issued by the director may use crossbows during the general and archery seasons.

(a) It is unlawful to use any crossbow except a compound crossbow.

(b) It is unlawful to use any crossbow that weighs more than 15 pounds.

(5) It is unlawful to shoot at wildlife with an arrow from a vehicle ((☞)), unless the hunter has a valid disabled hunter permit issued by the director. It is unlawful to shoot at wildlife from, across or along the maintained portion of a public highway.

~~((5))~~ (6) It is unlawful to use any device secured to or supported by the bow for the purpose of maintaining the bow at full draw or in a firing position, except a holder of a valid disabled hunter permit issued by the director may use a leverage gaining device to cock a crossbow while hunting wildlife.

~~((6))~~ (7) It is unlawful to have any electrical equipment or device(s) attached to the bow or arrow while hunting.

**WSR 99-05-068
PROPOSED RULES**

EMPLOYMENT SECURITY DEPARTMENT

[Filed February 17, 1999, 9:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-16-012.

Title of Rule: Predecessor/successor relationship.

Purpose: Chapter 50.29 RCW does not address how the transfer of employees to an employee leasing firm is to be handled, nor does it specify how and when employers are to notify the department regarding partial transfers of employees. These regulations will provide clarification.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Statute Being Implemented: Chapter 50.29 RCW.

Summary: Chapter 50.29 RCW regulates employer experience rating and RCW 50.29.062 outlines contribution rates for predecessor and successor employers. The law does not specifically address the transfer of employees to an employee leasing company, or specify how and when employers are to notify the department regarding partial transfers of employees.

Reasons Supporting Proposal: The proposed regulations will clarify these situations for employers.

Name of Agency Personnel Responsible for Drafting: George Mante, 212 Maple Park, Olympia, WA 98507, (360) 902-9642; Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, WA 98507, (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: Currently the definition of an operating asset does not address employees. Examples of situations where employees only transfer include: 1. Transfer of employees to a leasing company; 2. corporate mergers - when the payroll only transfers to a subsidiary; and 3. transfer of employees to a management company.

Under these types of situations, the department would not consider that a predecessor/successor relationship existed for purposes of chapter 50.29 RCW.

Currently, when a new employer indicates the purchase of a portion of another entity's assets, the Employment Security Department mails a letter to the employer requesting information as to the percentage of assets purchased. The department would like to include a time limit of thirty days to return this letter. Failure to return the letter in a timely man-

ner would cause the successor's tax rate to be the industry average rate for the calendar year following the year of the transfer.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will not impact businesses in particular industries as defined in chapter 19.85 RCW, revised, but will impact all industries equally. In addition, chapter 19.85 RCW, revised (RCW 19.85.025(3)) applies as stated below.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. The proposed rules will meet the intent of RCW 34.05.310. Public access will be through hearings and solicitation of comments from any interested parties.

Hearing Location: Employment Security Department, Commissioner's Conference Room, 2nd Floor, 212 Maple Park, Olympia, WA, on March 23, 1999, at 10:00-12:00 a.m.

Assistance for Persons with Disabilities: Contact George Mante by March 17, 1999.

Submit Written Comments to: George Mante, UI Tax Regulatory Reform Coordinator, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, fax (360) 902-9556, by March 19, 1999.

Date of Intended Adoption: March 29, 1999.

February 15, 1999

Carver Gayton
Commissioner

Chapter 192-300 WAC

**REGISTERING FOR
UNEMPLOYMENT INSURANCE TAXES**

NEW SECTION

WAC 192-300-050 Predecessor-successor relationship defined. This section applies only to those individuals and organizations that meet the definition of an employer contained in RCW 50.04.080.

(1) **Predecessor.** You are a "predecessor" if, during any calendar year, you transfer any of the following to another individual or organization:

(a) All, or a portion, of your operating assets as defined in subsection (3) below; or

(b) A separate unit or branch of your trade or business.

(2) **Successor.** You are a "successor" if, during any calendar year, you acquire substantially all of a predecessor employer's operating assets. You are a "partial successor" if, during any calendar year, you acquire:

(a) A portion of a predecessor employer's operating assets, or

(b) A separate unit or branch of a predecessor employer's trade or business.

(3) **Operating assets.** "Operating assets" include the properties you use in the normal course of business operations to generate your operating income. They may include properties that are real or personal, and tangible or intangible. Examples include land, buildings, machinery, equipment,

stock of goods, merchandise, fixtures, or goodwill. Employees are not operating assets.

(4) **Transfer of assets.** Transfers from a predecessor to a successor employer may occur by sale, lease, gift, or any legal process, except those listed in subsection (5) below.

(5) **Exceptions.** A predecessor-successor relationship will not exist:

(a) For the purposes of Chapter 50.24 RCW (payment of taxes). When the property is acquired through court proceedings, including bankruptcies, to enforce a lien, security interest, judgment, or repossession under a security agreement unless the court specifies otherwise;

(b) For the purposes of Chapter 50.29 RCW (experience rating), when any four consecutive quarters, one of which includes the acquisition date, pass without reportable employment by either the predecessor, successor, or a combination of both.

Chapter 192-320 WAC

EXPERIENCE RATING AND BENEFIT CHARGING

NEW SECTION

WAC 192-320-050 Requirements of partial successors—Chapter 50.29 RCW. (1) If you are a partial successor, you must return the partial transfer of experience letter provided to you by the department within thirty days of the mailing date. Your response must indicate the percentage of operating assets transferred to you as the partial successor.

(2) If you do not return the letter within thirty days, you will keep the tax rate class that was assigned to the predecessor employer for the remainder of the rate year. However, in the following calendar year you will receive the average industry rate. You will keep this rate until you qualify for a different rate in your own right.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-12-072	Predecessor-successor relationship defined.
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WSR 99-05-071
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)
 (WorkFirst Division)
 [Filed February 17, 1999, 10:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-19-124.

Title of Rule: Amends WAC 388-310-300 Exemptions for mandatory participants, 388-310-400 First steps for man-

datory participants, 388-310-500 Individual responsibility plan, 388-310-600 Job search, 388-310-700 Employability evaluation, 388-310-800 Support services, 388-310-900 Basic education, 388-310-1000 Vocational education, 388-310-1050 Job skills training, 388-310-1100 Work experience, 388-310-1200 On-the-job training, 388-310-1400 Community service, 388-310-1500 Employment conditions, 388-310-1600 Sanctions, 388-310-1700 Self employment, 388-310-1800 Post employment, and 388-310-1900 Services for American Indian tribal members and other American Indians.

Purpose: Shortens and simplifies language to bring it into compliance with Governor Locke's Executive Order 97-02.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.050.

Statute Being Implemented: RCW 74.08.090 and 74.04.050.

Summary: Existing WAC was rewritten to shorten and simplify existing language into a question and answer format to bring it into compliance with Governor Locke's Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sandy Jsames, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3239, e-mail JSAMESSM@DSHS.WA.GOV, fax (360) 413-3482.

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: Amends existing language by using simpler, clearer language and a question and answer format to bring the rules into compliance with Governor Locke's Executive Order 97-02.

Proposal Changes the Following Existing Rules: Language was shortened and simplified into a question and answer format in WAC 388-310-300 Exemptions for mandatory participants, 388-310-400 First steps for mandatory participants, 388-310-500 Individual responsibility plan, 388-310-600 Job search, 388-310-700 Employability evaluation, 388-310-800 Support services, 388-310-900 Basic education, 388-310-1000 Vocational education, 388-310-1050 Job skills training, 388-310-1100 Work experience, 388-310-1200 On-the-job training, 388-310-1400 Community service, 388-310-1500 Employment conditions, 388-310-1600 Sanctions, and 388-310-1900 Services for American Indian tribal members and other American Indians.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes do not affect small businesses.

RCW 34.05.328 does not apply to this rule adoption. These changes do not meet the definition of significant legislative rules. Affected rules are being amended to shorten and simplify language in compliance with Executive Order 97-02.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on April 6, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 25, 1999, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by April 6, 1999.

Date of Intended Adoption: April 7, 1999.

February 17, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 99-06 issue of the Register.

WSR 99-05-072
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(WorkFirst Division)

[Filed February 17, 1999, 10:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-19-124.

Title of Rule: WAC 388-310-0100 WorkFirst—Purpose, 388-310-0200 WorkFirst—Activities, and 388-310-1300 WorkFirst—Community jobs program.

Purpose: Amends the rules to bring them into compliance with Governor Locke's Executive Order 97-02 and makes the current GA-S assistance program part of WorkFirst as of May 1, 1999.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.050.

Statute Being Implemented: RCW 74.08.090 and 74.04.050.

Summary: On May 1, 1999, women receiving assistance under the current GA-S program will become part of the WorkFirst program instead. These changes are needed to apply WorkFirst mandates to this new group of clients. In addition, the language is shortened and simplified and the rules rewritten in a question and answer format for easier reading and understanding.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sandy James, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3239, e-mail JSAMESSM@DSHS.WA.GOV, fax (360) 413-3482.

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: Amends WAC to add current GA-S clients to the WorkFirst program as of May 1, 1999. In addition, rewrites the chapter using simpler, clearer language and a question and answer format so it will be easier to read and understand.

Proposal Changes the Following Existing Rules: Amends WAC 388-310-0100 WorkFirst—Purpose, 388-310-0200 WorkFirst—Activities, and 388-310-1300 WorkFirst—Community jobs program.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes do not affect small businesses.

RCW 34.05.328 applies to this rule adoption. Although these rules meet the definition of significant legislative rule, DSHS is exempt from preparing a cost benefit analysis under RCW 34.05.328 (5)(b)(vii). RCW 34.05.328 (5)(b)(vii) exempts DSHS rules that apply only to client medical or financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on March 23, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 12, 1999, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by March 23, 1999.

Date of Intended Adoption: April 1, 1999.

February 12, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

WAC 388-310-0100 WorkFirst—(~~Authority and~~) Purpose. (1) (~~The WorkFirst program is established under Title 74 RCW.~~

(2) ~~The goals of WorkFirst are to:~~

(a) ~~Reduce poverty by helping those receiving temporary assistance for needy families (TANF) and state family assistance (SFA) get and keep jobs;~~

(b) ~~Sustain the independence of those who become employed by helping them keep jobs; and~~

(c) ~~Protect children and other vulnerable residents))~~

What is the WorkFirst program?

The WorkFirst program offers services and activities to help people in low-income families find jobs, keep their jobs, find better jobs and become self-sufficient. The program links families to a variety of staff, federal and community resources to meet this goal. When you enter the WorkFirst program, you will be asked to work, look for work and/or prepare for work.

(2) Who does the WorkFirst program serve?

The WorkFirst program serves three groups:

(a) Parents and children age sixteen or older who receive cash assistance under the temporary assistance for needy families (TANF), general assistance for pregnant women (GA-S) or state family assistance (SFA) programs; and

(b) Parents who no longer receive cash assistance and need some continuing support to remain self-sufficient; and

(c) Low income parents who support their family without applying for or relying on cash assistance.

AMENDATORY SECTION (Amending WSR 97-20-129, filed 10/1/97, effective 11/1/97)

WAC 388-310-0200 WorkFirst—((Components)) Activities. ((Except as otherwise specified, the terms used in this chapter, 388-310-WAC, shall have the same meaning as applied to the TANF program, and terms defined under chapter 388-22 WAC:

WorkFirst components are:

(1) ~~Paid employment~~, either:

(a) ~~Unsubsidized, including self-employment; or~~

(b) ~~Subsidized and includes on-the-job training, work-study, and wage subsidy programs.~~

(2) ~~Work experience;~~

(3) ~~Community service;~~

(4) ~~Job search;~~

(5) ~~Vocational educational training;~~

(6) ~~Basic education activities;~~

(7) ~~Post-employment services which include employment retention and career development services.))~~

(1) Who is required to participate in WorkFirst activities?

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

(i) Receive TANF, GA-S or SFA cash assistance; and

(ii) Are a custodial parent or age sixteen or older; and

(iii) Are not exempt. (You can only get this exemption if you are caring for a child under twelve months of age. See WAC 388-310-0300 for more details).

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

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

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

(a) Paid employment (see WAC 388-310-400 (1)(a) and 388-310-1500);

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

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

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

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

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

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

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

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

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

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

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

If you are a mandatory participant, you will be required to spend up to forty hours a week working, looking for work or preparing for work. You will have an individual responsibility plan (described in WAC 388-310-500) that includes the number of hours a week that you are required to participate.

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

You may participate other activities, which are called "post employment services" (described in WAC 388-310-1800) once you are working twenty hours or more a week. Work can include a paid, unsubsidized job, self-employment, college work study or a community jobs placement. Services include:

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

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

AMENDATORY SECTION (Amending WSR 98-10-054, filed 4/30/98, effective 5/31/98)

WAC 388-310-1300 Community jobs ((wage subsidy)) program. (1) What is the community jobs program?

The community jobs ((wage subsidy)) program ((is to allow participants to)) helps you gain work skills and experience by enrolling you in a temporary ((position which helps them)) , subsidized job. You will also receive other services and support to help you move into unsubsidized employment as quickly as possible. ((In all instances, the term "department" refers to the department of social and health services (DSHS). The state department of community, trade and economic development (DCTED) administers the community jobs program. DCTED selects community jobs contractors (CJC) by using a competitive "requests for proposal" (RFP) process. DCTED, based upon the successful proposals, develops contracts specific to each selected community jobs contractor.

(1) WorkFirst case managers may assign a TANF/SFA participant to a community jobs (CJ) position when:

(a) The participant has an unsuccessful job search;

(b) The case manager determines the participant needs a supportive work environment to help them become more employable; and

(c) The participant's monthly cash grant is sufficient to pay their community jobs wages for twenty hours per week at the federal minimum wage.

(2) The department uses a participant's grant to provide a wage subsidy to the community jobs contractor.

(3) The CJs develop and manage the CJ positions, pay the wages and provide support services.

(4) Once hired, the department will authorize the participant's wage subsidy for no longer than nine TANF/SFA payment months in that specific position.

(5) CJs may not hire participants into a community jobs position to do work related to religious, electoral or partisan political activities.

(6) Community jobs participants are employees of the community jobs contractor(s).

(7) Wages from the community jobs wage subsidy program are fully attributable to diverted public assistance funds. These wages are not "earned income" for purposes of eligibility for the WorkFirst fifty percent earned income disregard. For the food stamp program, consider these wages and any grant supplement as TANF grant monies.

PROPOSED

~~(8) The department shall review the appropriateness for continued participation in a community jobs position every ninety days during the nine-month placement. This review shall include:~~

~~(a) A review of any earned or unearned income received by the participant or other member of the assistance unit; and~~

~~(b) A review of continued TANF/SFA eligibility.~~

~~(9) Community jobs participants work an average of twenty hours per week at a gross wage of four hundred forty-two dollars and ninety cents per month, which is at least equal to the federal minimum wage. CJ participants are eligible for a twenty percent "work expense" income disregard applied to their gross pay for DSHS purposes when determining TANF/SFA residual grant amounts. In no instance may the net wages earned in a community jobs position exceed the participant's authorized TANF/SFA monthly grant amount.~~

~~(10) Community jobs participants earn sick leave and annual leave according to the rates designated for part-time employment by their employer (community jobs contractor). If the employer has no guidelines, participants earn sick leave at a rate of four hours each month and vacation leave at a rate of four hours each month. If they exhaust all leave and miss work time, a community jobs participant is expected to make up the missed time; total work is not to exceed forty hours per week. There is no cash-out value to the participant for accrued sick and vacation leave hours remaining at the end of the community jobs assignment.~~

~~(11) The amount of the CJ participant's TANF/SFA monthly grant shall be determined as stated in WAC 388-218-1390(2).~~

~~(12) Only those employers who take actions that enable a participant to move into other unsubsidized employment will be considered for additional subsidized employees.~~

~~(13) The following categories of employers will be considered for employment sites for participants in the community jobs wage subsidy program:~~

~~(a) Federal, state or local governmental agencies, and tribal governments; and~~

~~(b) Private and tribal nonprofit businesses, charities, and educational institutions))~~

~~(a) The state department of community, trade and economic development (DCTED) administers the community jobs program.~~

~~(b) DCTED selects community jobs contractors (CJC) by using a competitive "requests for proposal" process. DCTED, based upon the successful proposals, develops contracts specific to each selected community jobs contractor.~~

~~(c) The CJCs develop and manage the community jobs positions, pay the wages, provide support services and act as the "employer of record" while you are enrolled in a subsidized community job.~~

~~(d) Employers at the community jobs work sites must take actions to help participants move into unsubsidized employment. If they do not meet this requirement, they will not be considered for additional community jobs employees.~~

~~(e) The department of social and health services funds the community jobs program and reimburses your wages to the CJCs.~~

~~(2) How will I be affected if I am enrolled in the community jobs program?~~

If you are enrolled in the community jobs program:

(a) Your case manager will assign you to a community job position for no more than nine months.

(b) You may be assigned to a community job position when:

(i) You have gone through job search without finding a job; and/or

(ii) You and your case manager decide you need a supportive work environment to help you become more employable.

(c) You may not be enrolled in any community jobs position that requires you to do work related to religious, electoral or partisan political activities.

(d) You, your case manager and the CJC will review the appropriateness of your community jobs position every ninety days during your nine-month placement, looking at:

(i) Your continued TANF/SFA eligibility;

(ii) Any earned or unearned income received by you or another member of your assistance unit (that is, you and other people in your household who are included on your cash grant); and

(iii) Whether the community jobs position is actually helping you become more employable.

(e) You may work twenty or more hours per week in the community jobs position and will be paid the federal or state minimum wage, whichever is higher.

(f) You will earn sick leave and annual leave at the rate agreed upon by DCTED and the CJC for community jobs participants.

(g) The amount of your TANF/SFA monthly grant will be determined by following the rules in WAC 388-450-0050 and 388-450-0215 (1), (3), (4), (5) and (6). WAC 388-450-0215(2), does not apply to your community jobs wages.

(3) What kind of employers provide community jobs work sites?

The CJC may ask the following categories of employers to provide you with a community job work site:

(a) Federal, state or local governmental agencies and tribal governments; and

(b) Private and tribal nonprofit businesses, organizations and educational institutions.

WSR 99-05-073

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed February 17, 1999, 10:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-01-189.

Title of Rule: WAC 388-86-047 Hospice services (repeal) and new chapter 388-551 WAC, Alternative to hospital services, subchapter: I Hospice services.

Purpose: The department originally intended to amend WAC 388-86-047 Hospice services; instead, new chapter 388-551 WAC, will be established. The department is

changing the hospice election periods (i.e. when a client can choose hospice coverage) for its medical assistance clients, to match the Medicare hospice election periods, which were changed October 1, 1997. The department is also requiring hospice providers to notify the department of hospice status changes within five days of such changes.

Statutory Authority for Adoption: RCW 74.09.520 and 74.08.090.

Statute Being Implemented: RCW 74.09.520 and 74.08.090, 42 CFR 418.22 and .24.

Summary: Certain Medicaid clients who are certified as terminally ill may elect to receive hospice benefits. The rule describes the services that hospice providers must make available to these clients; the client's hospice interdisciplinary team determines the services needed. The rule also describes hospice provider record retention requirements, hospice agency notification requirements, methods of payment to hospice providers, and client eligibility requirements.

Reasons Supporting Proposal: Congress and the state legislature authorized the department to offer these services.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sue White, DSHS/MAA/DHSQS, 805 Plum Street S.E., Olympia, WA 98501, (360) 586-5305.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Certain Medicaid clients who are certified as terminally ill may elect to receive hospice benefits. The rule describes the services that hospice providers must make available to these clients; the client's hospice interdisciplinary team determines the services. The rule also describes requirements for hospice provider record retention, hospice agency notification, methods of payment to hospice providers, and client eligibility requirements.

Proposal Changes the Following Existing Rules: WAC 388-86-047 is to be repealed. The rule is being incorporated into new chapter 388-551 WAC being established.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department prepared a cost-benefit analysis (CBA) which includes a description of why a small business economic impact statement is unnecessary. The CBA is available from the staff person named above.

RCW 34.05.328 applies to this rule adoption. These rules meet the definition of significant legislative rules. As such, a cost-benefit analysis (CBA) has been prepared. The CBA is available from the staff person named above.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on March 23, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by March 12, 1999, phone (360) 902-7540, TTY (360) 902-8324, e-mail pwall@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Paige Wall, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 902-8292, by March 23, 1999.

Date of Intended Adoption: March 26, 1999.

February 12, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Chapter 388-551 WAC

ALTERNATIVES TO HOSPITAL SERVICES SUBCHAPTER I—HOSPICE SERVICES

HOSPICE—GENERAL

NEW SECTION

WAC 388-551-1000 Hospice program. (1) Hospice is a twenty-four hour program coordinated by a **hospice interdisciplinary team**. The Hospice program allows the **terminally ill** client to choose physical, pastoral/spiritual, and psychosocial comfort rather than cure. Hospitalization is used only for acute symptom management.

(2) Hospice care may be in a client's temporary or permanent place of **residence**.

(3) Bereavement care is provided to the **family** of the client who chooses Hospice care. It provides emotional and spiritual comfort associated with the death of a hospice client.

(4) Hospice care is initiated by the choice of client, **family**, or physician. The client's physician must certify a client as appropriate for hospice care.

(5) Hospice care is ended by the client or family (**revocation**), the hospice agency (**discharge**), or death.

NEW SECTION

WAC 388-551-1010 Hospice definitions. The following definitions and those found in WAC 388-500-0005, Medical definitions have the following meanings for this subchapter. Defined words and phrases are bolded in the text.

"Biologicals" means medicinal preparations including serum, vaccine autotoxins, and biotechnological drugs made from living organisms and their products.

"Brief period" means five days or less.

"Discharge" means an agency ends hospice care for a client. See WAC 388-551-1350 for details.

"Election period" means the time, ninety or sixty days, that the client is certified as eligible for and chooses to receive hospice care. See WAC 388-551-1310 for details.

"Family" means any person(s) important to the client, as defined by the client.

"Hospice interdisciplinary team" means the following health professionals who plan and deliver hospice care to a client as appropriate under the direction of a certified physician: home health aides monitored by a registered nurse, therapists (physical, occupational, speech-language), registered nurses, physicians, social workers, counselors, and others as necessary.

"Palliative" means medical treatment designed to reduce pain or increase comfort, rather than cure.

"Plan of care." See WAC 388-551-1320 for details.

PROPOSED

"Residence" means where the client lives for an extended period of time.

"Revoke" and **"revocation"** mean a client or family member's choice to stop receiving hospice care. See WAC 388-551-1220 for details.

"Terminally ill" means the client has a life expectancy of six months or less, assuming the client's disease process runs its natural course.

"Twenty-four-hour day" means a day beginning and ending at midnight.

HOSPICE—COVERAGE

NEW SECTION

WAC 388-551-1200 Client eligibility for hospice care. (1) A client must be eligible for one of the following Medicaid programs to receive hospice care:

- (a) Categorically needy program (CNP);
- (b) General assistance — disability determination pending (GAX);
- (c) Limited casualty program - medically needy program (LCP -MNP); or
- (d) Children's health (V).

(2) An eligible Medicaid client who voluntarily chooses hospice care must be certified by a physician as **terminally ill** before MAA pays for hospice care.

(3) Clients enrolled in one of MAA's healthy options managed care plans receive all hospice services directly through their plan. The managed care plan must arrange or provide all hospice services for a managed care client.

(4) Hospice clients attain institutional status as described in WAC 388-513-1320 when they elect and are certified for hospice care. See WAC 388-513-1380 for the client's financial participation requirements.

NEW SECTION

WAC 388-551-1210 Services included in the hospice daily rate. (1) In the client's individual **plan of care**, the **hospice interdisciplinary team** identifies the specific Hospice services and supplies to be provided to the client.

- (2) The services must be all of the following:
- (a) Medically necessary for **palliative care**;
 - (b) Related to the client's **terminal illness**;
 - (c) Prescribed by the client's attending physician, alternate physician, or hospice medical director;
 - (d) Supplied or arranged for by the hospice provider; and
 - (e) Included in the client's **plan of care**.

(3) The following intermittent services and supplies, paid by MAA's hospice daily rate, must be available from and offered by the hospice provider for the client as determined by the client's **hospice interdisciplinary team**:

- (a) **Medical equipment and supplies** that are medically necessary for **palliative care**;
- (b) **Drugs and biologicals** used primarily for the relief of pain and management of symptoms;
- (c) **Home health aide services** furnished by qualified aides of the hospice agency. A registered nurse must com-

plete a home-site supervisory visit every two weeks to assess aide services provided;

(d) **Physical therapy, occupational therapy, and speech-language therapy** to manage symptoms or enable the client to safely perform ADLs (activities of daily living) and basic functional skills;

(e) **Physician services** related to administration of the **plan of care**;

(f) **Nursing care** provided through the hospice agency by either:

- (i) A registered nurse; or
- (ii) A licensed practical nurse under the supervision of a registered nurse;

(g) **Medical social services** provided through the hospice agency by a social worker under the direction of a physician;

(h) **Counseling services** provided through the hospice agency to the client and his or her **family members** or caregivers;

(i) **Medical transportation services**; and

(j) **Short-term, inpatient care**, provided in a Medicare-certified hospice inpatient unit, hospital, or nursing facility.

HOSPICE—PROVIDER REQUIREMENTS

NEW SECTION

WAC 388-551-1300 How to become a MAA hospice provider. (1) To be reimbursed by MAA, a hospice agency must be:

- (a) Medicare, Title XVIII certified; and
 - (b) Enrolled with MAA as a provider of hospice care.
- (2) All services provided through a hospice agency must be performed by qualified personnel as required through Medicare's certification process in effect as of February 1, 1999. For more information on Medicare certifications, contact:

Department of Health
Hospice Certification Program
Mailstop 47852
Olympia, Washington, 98504-7852.

(3) Freestanding hospice agencies licensed as hospitals by the department of health must sign an additional selective contract with MAA to receive payment from MAA.

NEW SECTION

WAC 388-551-1310 Certifications (election periods) for hospice clients. A client chooses to receive Hospice care through a series of time-limited periods, called "**election periods**." An example of this process is WAC 388-551-1315. Hospice providers are responsible for obtaining physician certifications for these **election periods**.

(1) A client's hospice coverage must be available for two initial ninety-day **election periods** followed by an unlimited number of succeeding sixty-day **election periods**.

(2) The hospice provider must document the client's medical prognosis of a specific **terminal illness** in the client's

hospice record. This written certification must be filed in the client's hospice record for each election period. The certification must meet all of the following criteria:

- (a) For the **initial election period**, signatures of the hospice medical director and the client's attending physician;
 - (b) For **subsequent election periods**, signature of the hospice medical director; and
 - (c) Verbal certifications for **subsequent election periods** by the hospice medical director or the client's attending physician must be documented in writing no later than two calendar days after hospice care is initiated or renewed.
- (3) The provider must file election statements in the client's hospice medical record. This election statement must include:
- (a) Name and address of the hospice;
 - (b) Proof that client was fully informed about hospice care and waiver of other services;
 - (c) Effective date of the election; and
 - (d) Signature of the client or their representative.
- (4) When a client's hospice coverage ends within an **election period**, the remainder of that **election period** is forfeited.

NEW SECTION

WAC 388-551-1315 Example of how hospice client certifications (election periods) work. This is an example of how election periods, as described in WAC 388-551-1310, work:

- (1) Client chooses hospice care, physician certifies the client;
- (2) Client is on hospice care for the first ninety-day period;
- (3) Physician recertifies the client for the second ninety-day period;
- (4) Client revokes hospice care, on the sixty-third day of the second ninety-day period (one hundred and fifty-three days since original certification);
- (5) Hospice care for the client stops on the sixty-third day of the second ninety-day period (one hundred and fifty-three days since original certification);
- (6) Client decides to re-elect hospice care, eleven days later, the seventy-fourth day of the second ninety-day period (the one hundred and sixty-fourth day since original certification);
- (7) Client forfeits the right to the remaining sixteen days of the second ninety-day period; and
- (8) Does the physician re-certify the client for hospice care?:
 - (a) If yes, the client may immediately begin a new sixty-day election period; or
 - (b) If no, the client no longer is eligible to receive hospice care.

NEW SECTION

WAC 388-551-1320 Hospice plan of care. (1) The hospice agency must establish the client's hospice **plan of care** in accordance with Medicare requirements before hospice ser-

vices are delivered. Hospice services delivered must be consistent with that **plan of care**.

(2) A registered nurse or physician must conduct an initial assessment of the client and must develop the **plan of care** with at least one other member of the **hospice interdisciplinary team**.

(3) The **hospice interdisciplinary team** must meet in person or by phone to discuss the **plan of care** no later than two working days after it is developed.

(4) The **plan of care** must be reviewed and updated every two weeks by at least three members of the **hospice interdisciplinary team**, including at least:

- (a) A registered nurse;
- (b) A social worker; and
- (c) One other **hospice interdisciplinary team** member.

(5) Also see WAC 246-331-135 for the department of health's plan of care requirements.

NEW SECTION

WAC 388-551-1330 Hospice coordination of care. (1) Once a client chooses hospice care from a hospice agency, that client gives up the right to:

- (a) Covered Medicaid hospice services and supplies received at the same time from another hospice agency; and
- (b) Any covered Medicaid services and supplies received from any other provider and which are related to the **terminal illness**.

(2) Services and supplies not covered by the Medicaid hospice benefit are paid separately, if covered under the client's Medicaid eligibility. These services include but are not limited to:

- (a) COPES (community options program entry system) as determined and paid by the department's aging and adult services administration (AASA); and
- (b) Medically intensive home care program (MIHCP) as determined by the department's division of developmentally disabled.

(3) Clients eligible for coordinated community aids services alternatives (CCASA) are not eligible for hospice coverage.

(4) The hospice provider must coordinate all the client's medical management for the **terminal illness**.

(5) All of the client's providers, including the hospice provider, must coordinate:

- (a) The client's health care; and
- (b) Services available from other department programs, such as COPES.

NEW SECTION

WAC 388-551-1340 When a client leaves hospice without notice. When a client chooses to leave hospice care or refuses hospice care without giving the hospice provider a **revocation** statement, as required by WAC 388-551-1360, the hospice provider must do all of the following:

- (1) Notify MAA's hospice coordinator within **five working days** of becoming aware of the client's decision;
- (2) Stop billing MAA for hospice payment;

(3) Notify the client, or the client's representative, that the client's **discharge** has been reported to MAA; and

(4) Document the effective date and details of the **discharge** in the client's hospice record.

NEW SECTION

WAC 388-551-1350 Discharges from hospice care. A hospice provider may **discharge** a client from hospice care when the client:

(1) Is no longer certified for hospice care;

(2) Is no longer appropriate for hospice care; or

(3) Seeks treatment for the **terminal illness** from outside the **plan of care** as defined by the **hospice interdisciplinary team**.

NEW SECTION

WAC 388-551-1360 Ending hospice care (revocations). (1) A client or a **family member** may choose to stop receiving hospice care at any time by signing a **revocation statement**.

(2) The **revocation statement** documents the client's choice to stop Medicaid Hospice care. The **revocation statement** must include all of the following:

(a) Client's signature;

(b) Date the **revocation** was signed; and

(c) Actual date that the client chose to stop receiving hospice care.

(3) The hospice agency must keep any explanation supporting any difference in the signature and **revocation dates** in the client's hospice records.

(4) The hospice agency must keep the **revocation statement** in the client's hospice record.

(5) After a client **revokes** hospice care, the remaining days on the current **election period** are forfeited. The client may enter the next consecutive **election period** immediately. The client does not have to wait for the forfeited days to pass before entering the next consecutive **election period**.

HOSPICE—NOTIFICATION

NEW SECTION

WAC 388-551-1400 Hospice providers must notify MAA. To avoid double payments for services related to a client's terminal illness, hospice providers must notify the MAA Hospice Coordinator of any changes in the client's hospice status within **five working days** from when a MAA client:

(1) Begins the first day of hospice care;

(2) Changes hospice agencies. Clients may change hospice agencies only once per election period. Both the old and new hospice agencies must provide MAA with:

(a) The effective date of **discharge** from the old agency; and

(b) The effective date of the admit to, the name of, and the provider number of the new agency;

(3) **Revokes** the hospice benefit;

(4) **Discharges** from hospice care;

(5) Becomes a nursing home resident;

(6) Leaves a nursing home as a resident; or

(7) Dies.

NEW SECTION

WAC 388-551-1410 Hospice providers must notify institutional providers. Hospice providers must notify a client's institutional provider of the changes described in WAC 388-551-1400.

HOSPICE—PAYMENT

NEW SECTION

WAC 388-551-1500 Availability requirements for hospice care. All services related to the client's **terminal illness** are included in the daily rate through one of the following four levels of hospice care:

(1) **Routine care** for each day the client is at their **residence**, with no restriction on length or frequency of visits, dependent on the client's needs.

(2) **Continuous care** is acute episodic care received by the client to maintain the client at home and addresses a **brief period of medical crisis**. Continuous care consists predominately of nursing care. This benefit is limited to:

(a) A minimum of eight hours of care provided during a **twenty-four-hour day**;

(b) Nursing care that must be provided by a registered or licensed practical nurse for more than half the period of care; and

(c) Homemaker, home health aide, and attendant services that may be provided as supplements to the nursing care.

(3) **Inpatient respite care** is care received in an approved nursing facility or hospital to relieve the primary caregiver. This benefit is limited:

(a) To no more than five consecutive days; and

(b) The client's **residence** may not be a nursing facility.

(4) **General inpatient hospice care** is for pain and symptom management that cannot be provided in other settings.

(a) The services must conform to the client's written **plan of care**.

(b) This benefit is limited to **brief periods of care** in MAA-approved:

(i) Hospitals;

(ii) Nursing facilities; or

(iii) Hospice inpatient facilities.

NEW SECTION

WAC 388-551-1510 Payment method for hospice providers. This section describes payment methods for Hospice care provided under WAC 388-551-1500 to hospice clients.

(1) Prior to submitting a claim to MAA, the hospice provider must file written certification in the client's hospice record per WAC 388-551-1310.

(2) MAA may pay for Hospice care provided to clients in one of the following settings:

- (a) A client's residence;
- (b) Inpatient respite services; or
- (c) General inpatient as follows:

DAY OF	PAID AT
Admit	General Inpatient
Brief Period	General Inpatient
Death	General Inpatient
Other Discharge	Routine

(3) To be paid by MAA, the hospice provider must provide and/or coordinate MAA covered:

- (a) Medicaid hospice services; and
- (b) Services that relate to the client's terminal illness at the time of the hospice admit.

(4) MAA does not pay hospice providers for the client's last day, except for the day of death.

(5) Hospice providers must bill MAA for their services using hospice-specific revenue codes.

(6) MAA pays hospice providers for services (not room and board) at a daily rate calculated by one of the following methods and adjusted for current wages:

(a) Payments for services delivered in a client's residence (routine and continuous home care) are based on the county location of the client's residence for that particular client; or

(b) Payments for respite and general inpatient care are based on the county location of the providing hospice agency.

(7) MAA pays nursing facility room and board payments to hospice agencies, not licensed as hospitals, at a day rate as follows:

(a) Directly to the hospice provider at ninety-five percent of the nursing facility's lowest current Medicaid day rate;

(b) The hospice agency pays the nursing facility at a day rate no greater than the nursing facility's lowest current Medicaid daily rate; and

(c) The correct amount of the patient's participation must be:

(i) Collected by the hospice agency as directed by the department each month; and

(ii) Forwarded to the nursing facility.

(8) MAA pays nursing facility room and board payments to free-standing hospice agencies licensed as hospitals by using MAA's administrative statewide average day rate in effect at the time the contract is signed.

(9) The department pays for COPES services clients directly to the COPES provider.

(a) Patient participation in that case is paid separately to the COPES provider.

(b) Hospice providers bill MAA directly for hospice services, not the COPES program.

NEW SECTION

WAC 388-551-1520 Payment method for nonhospice providers. (1) Hospitals which provide inpatient care to clients in the hospice program for medical conditions not

related to their terminal illness may be paid according to chapter 388-550 WAC, Hospital services.

(2) MAA pays attending physicians who are not employed by the hospice agency at their usual amount through the Resource Based Relative Value Scale (RBRVS) fee schedule:

(a) For direct physician care services provided to a hospice client;

(b) When the provided services are not related to the terminal illness; and

(c) When the client's providers, including hospice provider, coordinate the health care provided.

NEW SECTION

WAC 388-551-1530 Payment method for Medicaid-Medicare dual eligible clients. (1) MAA does not pay for any hospice care provided to a client covered by part A Medicare (hospital insurance).

(2) MAA may pay for hospice care provided to a client:

(a) Covered by part B Medicaid (medical insurance); and

(b) Not covered by part A Medicare.

(3) Hospice providers must bill Medicare before billing Medicaid, except for hospice nursing facility room and board.

(4) All the limitations and requirements related to hospice care described in this chapter apply to the payments described in this section.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-86-047 Hospice services.

WSR 99-05-075
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed February 17, 1999, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-032.

Title of Rule: Volunteer cooperative fish and wildlife enhancement program.

Purpose: Consolidate the former Departments of Fisheries and Wildlife, volunteer cooperative program WACs into a single rule, and to establish deadlines for submission of applications.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: To continue volunteer cooperative projects, and to establish deadlines for submission of applications.

Reasons Supporting Proposal: Will bring to completion the merger of rules for the Department of Fish and Wildlife.

PROPOSED

In addition, deadlines have been established for the submission of volunteer project applications.

Name of Agency Personnel Responsible for Drafting: Dave Gadwa, Cooperative Project Coordinator, Olympia, (360) 902-2806; Implementation: Dave Brittell, Assistant Director, Administrative Services, Olympia, (360) 902-2206; and Enforcement: Bruce Bjork, Assistant Director, Enforcement, Olympia, (360) 902-2373.

Name of Proponent: Washington Fish and Wildlife Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The former Departments of Fisheries and Wildlife both had rules dealing with volunteer cooperative programs. These rules have not been merged to date; this will bring to completion the merger of both sets of rules into a single set of rules for the Department of Fish and Wildlife. In addition, deadlines have been established for the submission of applications for volunteer projects.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Other than the establishment of a deadline for submission of applications, these rules do not affect volunteer cooperative groups.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Cavanaugh's Ridpath Hotel, 515 West Sprague Avenue, Spokane, WA, on April 2-3, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson, TDD (360) 902-2207, or (360) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife, Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2940, by March 31, 1999.

Date of Intended Adoption: April 2-3, 1999.

February 17, 1999

Evan Jacoby

Rules Coordinator

Chapter 220-130 WAC

VOLUNTEER COOPERATIVE ((FISHERIES)) FISH AND WILDLIFE ENHANCEMENT PROGRAM((S))

AMENDATORY SECTION (Amending Order 89-02, filed 1/6/89)

WAC 220-130-010 Purpose. ~~The purpose of this chapter ((is to establish the procedure for entering into a cooperative agreement between the department and volunteer groups pursuant to chapter 75.52 RCW to increase the food fish and shellfish resources of the state, to provide educational opportunity and improve communication between the department and the public. This procedure includes the method of application, review process, priority of distribution of available supplies and technical support, recovery of reimbursable~~

~~expenses, and the method of revocation of the agreement and termination of the project, including grounds for such action)) shall be to ensure compliance by the department of fish and wildlife with the provisions of chapter 72, Laws of 1984 (Title 75 RCW).~~

AMENDATORY SECTION (Amending Order 97-245, filed 12/30/97, effective 1/30/98)

WAC 220-130-020 Definitions. ~~((For the purposes of this chapter:~~

~~(1) Project means a volunteer fisheries resource project.~~

~~(2) Commission's designee means the director, deputy director or the assistant director for resource management having departmental authority over the species being enhanced by the volunteer program.~~

~~(3) Reimbursable expense means an actual expense of the volunteer cooperative project that may be reimbursed by the department to the project from funds generated by the sale of surplus salmon eggs and salmon carcasses from that project. Reimbursable expenses include but are not limited to: Fish food; hardware items; lumber; telephone; electricity; salary for hired labor; office supplies; mileage; insurance; fish culture supplies. Nonreimbursable expenses include purchases of items that have certificate of title or ownership, including but not limited to real estate and motor vehicles, or expenses for debt reduction.~~

~~(4) Volunteer cooperative project surplus salmon eggs means those viable salmon eggs that are surplus to both the needs of all programs of the department and other public entities within the state and to the volunteer cooperative project itself. Priority of use of viable eggs is as established by chapter 220-74 WAC.)) (1) "Volunteer group" means any person or group of persons interested in or party to an agreement with the department of fish and wildlife relating to a cooperative fish or wildlife project.~~

~~(2) "Cooperative project" means a project conducted by a volunteer group that will benefit fish, shellfish, game bird, nongame wildlife, or game animal resources of the state and for which the benefits of the project, including fish and game reared and released are available to all citizens of the state. Indian tribes may elect to participate in cooperative fish and wildlife projects with the department.~~

~~(3) "Department" means the department of fish and wildlife.~~

~~(4) "Reimbursable expenses" means an actual expense of a project that may be reimbursed by the department to the project from funds generated by the sale of surplus salmon carcasses and nonviable surplus salmon eggs from that project.~~

~~(5) "Surplus salmon eggs" means those salmon eggs that are surplus to both the needs of all programs of the department and other public entities as described in chapter 220-74 WAC.~~

~~(6) "Surplus salmon carcasses" means those salmon carcasses that are surplus to both the needs of all programs of the department and other public entities as described in chapter 220-74 WAC.~~

~~(7) "Viable salmon eggs" mean those salmon eggs which are fertile and capable of being cultured.~~

(8) "Nonviable salmon eggs" mean those eggs which are infertile.

AMENDATORY SECTION (Amending Order 85-07, filed 2/1/85)

WAC 220-130-030 ((~~Proposal~~) Information required from volunteer groups. ~~((1) All proposals for volunteer fisheries resource projects shall be made in writing to the department on the department's application form and shall provide the following information:~~

- ~~(a) Date of proposal.~~
- ~~(b) Name of volunteer group or person proposing the project, including name, address and telephone number of contact person. The volunteer group shall immediately notify the department in writing of a change in contact person.~~
- ~~(c) Location and description of proposed project.~~
- ~~(d) Annual dates of initiation and completion of project, or an indication that the project is ongoing throughout the year.~~

~~(e) List of supplies, materials and technical assistance requested from the department and necessary for the completion or operation of the project.~~

~~(2) Applications for projects to culture and release food fish and shellfish also must provide:~~

- ~~(a) Number of eggs, larvae, juveniles or adult food fish or shellfish requested by species.~~
- ~~(b) The preferred stock.~~
- ~~(c) The method and type of culturing proposed.~~
- ~~(d) The number of food fish or shellfish to be cultured.~~
- ~~(e) The date of release.~~
- ~~(f) Size at release.~~
- ~~(g) Release location(s).)~~

should be furnished in writing on forms provided by the department by volunteer groups when applying for a cooperative fish and wildlife project.

- (1) Date of application.
- (2) Name of volunteer group or person proposing cooperative project. If a group, give the name, address and telephone number of one person in that group who will serve as contact person and project leader.

(3) Location and physical size of project, including a project area map, which clearly indicates the project site(s) including county, street address (if applicable), property ownership, township, range, section and acreage.

(4) Description of the proposed project, including title, project objectives (how the project will benefit the fish and wildlife resources), methods of achieving objectives, criteria for measuring objectives and a description of how the project will be monitored and maintained.

- (5) Estimated beginning and ending date of project.
- (6) A project budget which identifies by line item the amount of funding requested to purchase goods and services, contracted services, travel, per diem, private vehicle mileage reimbursement, equipment, a list of other funds which may be available to support the project (including the amount and source of outside funding) and any in-kind contributions.

(7) An estimate of the amount of technical assistance required from the department including the names and titles of department personnel who may be needed.

(8) An estimate of the volunteer time, expressed in staff hours, which the project will require.

(9) If the project is to plant or rear fish or wildlife, the following additional information should be developed, unless exempted by the department:

- (a) Species to be produced.
- (b) Number of eggs, larvae, juveniles, adult fish, shellfish or wildlife proposed to be incubated, reared or released, by species, as well as the timing of all phases of this activity.
- (c) Proposed source of eggs, broodstock or juveniles.
- (d) Method and type of culturing proposed.
- (e) Date of release.
- (f) Size at release.
- (g) Release location(s).
- (h) Statement about the volunteer groups' knowledge of culture and pathology of the species proposed to be produced.

(i) Availability of professional and technical expertise; i.e., local veterinarian, hatchery nearby, local fish or habitat biologist, etc.

(11) A list of permits or agreements (other than those needed to rear and release fish and wildlife) needed to accomplish the proposed project; i.e., cooperative landowner agreements, water rights, building permits, hydraulic project approval (HPA), shorelines permits, zoning variance, JARPA, Corps of Engineers, etc.

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 85-07, filed 2/1/85)

WAC 220-130-040 Review ((~~procedure~~) and selection process. (1) ~~((A written response will be mailed to the contact person within forty five calendar days of receipt of the application. The response shall include notice if the application is incomplete and that additional information is required, or any identifiable conflicts with legally existing land, water, or property rights, or any identifiable and unacceptable biological or resource management conflicts, or any identifiable lack of supplies, labor, or expertise either biological or nonbiological, or financial resources necessary for project completion or operation. The department shall provide suggested modifications to the proposal which would increase its likelihood of approval together with the name and telephone number of a person in the department responsible for monitoring the review of the proposal, and a list of identifiable state and federal permits that will be required prior to implementation of the project. The list shall not be represented as all-inclusive. The department will identify the date by which a final acceptance or rejection of the proposal can be expected together with an explanation of why that date was selected and the process of further review to occur prior to that date.~~

(2) During its review of the proposal, the department will coordinate with other agencies and Indian Tribes and assist in the preparation of and coordinate the review of any necessary hydraulic project application, shellfish import and transfer permit or live fish import and transfer permit or applicable requirements of the State Environmental Policy Act.

~~(3) The department will exempt the volunteer group from payment of permit and license fees to the department for activities relating to the project.~~

~~(4) The department will determine its ability to meet the requirements of a project for supplies, technical expertise and other assistance, both biological and nonbiological, by considering:~~

~~(a) The project's consistency with department goals to preserve, protect and enhance the fishery resources of the state.~~

~~(b) The ability to maximize the number of persons participating in or benefitting from the volunteer fisheries resource program.~~

~~(c) The desire to maximize public awareness of the resource.)~~ The application method is on application forms provided by the department specifically for this purpose. Application forms will be available by request from the Olympia headquarters and at all regional offices of the department.

(2) Applications for projects may be submitted at any time, however, applications must be submitted at least sixty days prior to the funding decision deadlines to allow review and evaluation by the department.

(3) Funding decision deadlines will be June 30, September 30 and December 31 in odd-numbered years, March 31 in even-numbered years.

(4) Exceptions to the funding deadline dates will only be allowed in the event of applications for volunteer projects which are responsive to an emergency situation which may arise and which has been declared to be an emergency by the director.

(5) The department will send each applicant, within forty-five days of receipt of each application, a written acknowledgment of the receipt of the application and give the applicant an estimated date when notification of acceptance or rejection of the proposal can be expected. The written acknowledgment will also provide the department's selection criteria and a general description of the review and selection process. Final decisions and notification of acceptance or rejection of proposals where funding is requested will be made only after the biennial budget is passed by the legislature and signed by the governor.

(6) The department will determine when a proposed project might affect the management programs of federal, other state, and local agencies and of treaty tribes and will make contact with these entities, when the department determines that it is appropriate to do so, during the review and selection process. If the department determines that ongoing coordination between a volunteer group and another agency or tribe would be appropriate, it may be required as a condition of the agreement, when issued.

(7) The department may provide suggested modifications to the proposal which would increase its likelihood of approval together with the name and telephone number of the person within the department responsible for monitoring the review of the proposal.

AMENDATORY SECTION (Amending Order 85-07, filed 2/1/85)

WAC 220-130-050 ((Acceptance or rejection of proposal)) **Criteria used in selecting cooperative projects.** ((1) The terms and conditions for an acceptable project will be set forth in a written agreement between the department and the volunteer group and provide specifics for project implementation. Agreements may be for up to five years.

(2) If a proposal is rejected, the department must provide in writing to the volunteer group the reasons for the rejection. The volunteer group may appeal any decision rejecting a proposal to the director or the director's designee.) The following criteria will be considered by the department in ranking project proposals for funding. These criteria are not rigid but are intended to guide the department in selecting projects that are feasible, cost-effective and complementary with other department programs.

(1) Fish and wildlife commission policies will be used, along with other criteria, to rank proposals. Applicants may wish to compare the objectives of their proposals with the most recent statement of goals, policies and objectives of the fish and wildlife commission to determine whether they are consistent or in conflict.

(2) Program goals, objectives and priorities. Projects will be ranked according to their adherence to program goals, objectives and priorities as outlined in department plans. Applicants may wish to call the operating division(s) within the department most directly concerned with the subject of their proposal to determine whether they are consistent or in conflict.

(3) Costs versus benefits. Project proposals will be evaluated and ranked according to expected ratio of costs to public benefits. Costs will include both grant funds and other funds required, the level of department provided staff assistance needed and the amount for continuing operation and maintenance support needed. Benefits may include direct benefits to fish and wildlife or habitat and benefits to the public in terms of increased recreational or commercial opportunities or increased knowledge about fish and wildlife.

(4) Educational value. Consideration will be given to a project's value in educating and informing the public about the life history and needs of fish and wildlife.

(5) Capabilities of volunteer groups. When considering the approval of a new project, or the renewal or refunding of an existing project, the relative success of that project and the overall capabilities of a particular volunteer group in managing cooperative projects and producing results will be considered, including the amount of department supervision and assistance required to accomplish the project.

(6) Project types. The department shall encourage and support the development and operation of cooperative projects of the following types:

(a) Cooperative food fish and game fish enhancement projects.

(b) Cooperative fish and wildlife habitat improvement projects.

(c) Cooperative fish or wildlife research projects.

(d) Cooperative game bird and game animal projects.

(e) Cooperative information and education projects.

(f) Cooperative nongame wildlife projects.AMENDATORY SECTION (Amending Order 85-07, filed 2/1/85)

WAC 220-130-060 ((Project termination.)) **Acceptance or rejection of proposals.** (1) The ((department may revoke approval and terminate projects for cause. Grounds for termination include:

(a) Violation of the agreement provisions.

(b) Development of unacceptable biological or resource management conflicts during implementation of the project.

(c) Unavailability of adequate resources of expertise necessary to complete the project.

(2) Notice of approval revocation shall be mailed to the contact person for the volunteer cooperative, stating the reason for revocation and, should the reason be violation of the agreement provisions, specifying what agreement provisions were violated and how corrective action can be accomplished to continue with the project.

(3) The volunteer cooperative may appeal any decision for agreement revocation or project termination to the director or the director's designee.)) **terms and conditions for an acceptable project will be set forth in a written contract between the department and the volunteer group and provide specifics for project implementation. Agreements may be for up to five years.**

(2) Each approved agreement will include the following, when determined by the department to be necessary or appropriate:

(a) Permit to release fish or wildlife.

(b) Procedures for applying for a hydraulic project approval (HPA).

(c) Description of methods that will be used to provide the volunteer group with fish, eggs, wildlife, fish food or other available supplies which will be obtained from the department.

(3) If a proposal is rejected, the department must provide in writing to the volunteer group the reasons for the rejection. The volunteer group may appeal any decision rejecting a proposal to the director or the director's designee.

(4) Proposals accepted by the department may not commence until the volunteer group has executed a contract to undertake the project and that contract has been signed by the person within the department with the authority to do so. Any funds expended prior to the acceptance of a cooperative project contract, or orders for supplies or other action by the volunteer group after the completion date which would constitute a financial obligation will be considered the responsibility of the volunteer group.

AMENDATORY SECTION (Amending Order 97-245, filed 12/30/97, effective 1/30/98)

WAC 220-130-070 ((Project recovery of reimbursable expenses.)) **Termination or revocation of agreements.** (1) ((For a project to recover expenses from the sale of surplus salmon carcasses and eggs resulting from project supplementation activities, the following requirements must first be met:

(a) Salmon must be returning to a department approved group facility (hatchery, trap or weir);

(b) An approved and current salmon rearing project must be on file with the department;

(c) The agency must declare that a surplus exists beyond the needs of the department, tribes, other public entities, volunteer cooperative projects and regional fisheries enhancement group requirements; and

(d) An annual budget must be presubmitted and approved by the department.

The department shall indicate which expenses are approved for reimbursement. The budget must be submitted to the department by the first of July preceding the expected return of the salmon, and show expected expenses. To collect the funds the project shall annually submit a list of expenses for review by the commission or its designee. The department shall require actual receipts for items purchased. Expenses shall be limited to the actual annual operation expenses of the project as detailed in the preapproved budget. No profit may be realized by the project and no money shall apply to amortization or depreciation.

(2) The department may sell surplus salmon carcasses and nonviable eggs of a project. If the department cannot sell the surplus salmon carcasses and nonviable eggs of a project, then the project may sell them directly, subject to the following guidelines:

(a) Surplus salmon carcasses and nonviable eggs shall be sold under a competitive bidding system;

(b) The project must provide bid information to the commission or its designee for approval prior to any sale;

(c) Revenue resulting from the sale must be deposited by the successful bidder into a special account of the department and used solely to fund the approved expenses of the project that produced the surplus;

(d) Salmon products provided to the volunteer cooperative project by the successful bidder as part of the approved sale arrangement shall strictly adhere to applicable department of health and department of agriculture requirements;

(e) The project shall provide to the department detailed accounting records of salmon products provided by the successful bidder as part of the approved sale arrangement, including: Types and amount of salmon product received; monthly disposition of salmon products including amount sold, amount in storage, or amount no longer viable, and total moneys collected; and

(f) All revenue from the sale of salmon products provided to the successful bidder as part of the approved sale arrangement shall be deposited into a special account of the department and used solely to fund the approved expenses of the volunteer cooperative project that produced the surplus.

(3) The department may sell the surplus viable salmon eggs of a project. Surplus viable salmon eggs will be sold by the department as prescribed in chapter 220-74 WAC. Revenue received shall be deposited into a special account of the department and used solely to fund the approved expenses of the project that produced the surplus. Surplus viable salmon eggs may not be sold by a project.

(4) Revenue from the sale of surplus salmon carcasses and eggs placed into the special account of the project producing the surplus may not exceed the amount reflected by

~~the current preapproved budget for project expenses. Moneys accruing in excess of the approved expense amount, as determined by the commission or its designee, shall annually be remitted to the state general fund.~~

~~(5) All fish produced from a project are intended for release into state waters. Live fish will not be transported from a project without prior written approval of the department.~~

~~(6) Surplus carcasses of salmon returning to an approved volunteer cooperative project may be seeded into and along streams for the purpose of nutrient enrichment if a plan has been preapproved and coordinated with the department.)) The department may revoke approval and terminate agreements for cause. Grounds for termination include:~~

~~(a) Violation of the agreement provisions.~~

~~(b) The development of unacceptable biological or resource management conflicts.~~

~~(c) The unavailability of adequate financial or biological resources to continue participation by the department.~~

~~(d) If any fish or wildlife laws or regulations have been violated.~~

~~(2) Notice of revocation shall be mailed to the contact person for the volunteer group stating the reason for the revocation and, should the reason be violation of the agreement provisions, specifying what agreement provisions were violated and how corrective action may be taken to continue the project.~~

~~(3) The volunteer group may appeal any decision for agreement revocation or project termination to the director or the director's designee.~~

NEW SECTION

WAC 220-130-080 Project recovery of reimbursable expenses. Cooperative projects which rear salmon have the potential for generating income from the sale of surplus salmon carcasses and eggs derived from fishes produced at those projects, and to which salmon return to spawn at the end of their life cycle. If the department determines that it is appropriate to do so, such cooperative projects may, under the guidance of the department and by administrative rules and guidelines established for this purpose, recover some of the cooperative projects operating costs through the sale of nonviable salmon eggs and carcasses. It is understood that the primary objective of this provision is not to establish projects which constitute fish farms, but to allow those projects which may generate surplus fish which elude sport, commercial or tribal fisheries to sell the resulting surplus to help defray the cost of the particular cooperative project.

(1) In order for a project to recover reimbursable expenses, the project must have an annual budget presubmitted and approved by the department. The budget must generally show expected expenses, including the names of all persons expected to draw salaries as hired labor.

(2) Under administrative rules developed for this purpose, the cooperative project may sell nonviable salmon eggs and carcasses by soliciting competitive bids from approved buyers, as determined by the department.

(3) Volunteer cooperative project surplus salmon eggs shall be sold as prescribed by chapter 220-74 WAC, Surplus salmon eggs.

(4) All moneys generated by such sales shall be paid to the department and placed into a special account used solely to fund the reimbursable expenses of the cooperative project which generated the funds.

(5) In order to utilize the funds generated by such sales, a cooperative project must submit a list of expenses accompanied by original invoices, including signed time sheets for hired labor salary expenses, which clearly shows that the expenses relate to the presubmitted budget for the project which comply with all accounting and contract requirements.

(6) Reimbursable expenses shall be limited to the actual annual operating expenses of the project. No profit may be realized by the project, and no moneys shall apply to amortization or depreciation.

(7) Moneys accruing in excess of the reimbursable expense amount, as determined by the director, shall annually be remitted to the state general fund.

(8) Viable surplus salmon eggs may not be sold, bartered, exchanged or disposed of by any volunteer group.

(9) Surplus salmon carcass sales may not be allowed if the department determines that they would be more appropriately utilized to reseed streams in an effort to restore or enhance habitat through nutrient enrichment.

WSR 99-05-076

PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

[Filed February 17, 1999, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-032.

Title of Rule: Volunteer cooperative fish and wildlife enhancement program.

Purpose: Repeal cooperative wildlife projects in Wildlife Code.

Other Identifying Information: See chapter 220-130 WAC.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 75.52.010.

Summary: Repeal sections in order to consolidate volunteer cooperative projects into a single code.

Reasons Supporting Proposal: Will bring to completion the merger of rules for the Department of Fish and Wildlife.

Name of Agency Personnel Responsible for Drafting: Dave Gadwa, Cooperative Project Coordinator, Olympia, (360) 902-2806; Implementation: Dave Brittell, Assistant Director, Administrative Services, Olympia, (360) 902-2206; and Enforcement: Bruce Bjork, Assistant Director, Enforcement, Olympia, (360) 902-2373.

Name of Proponent: Washington Fish and Wildlife Commission, governmental.

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

WSR 99-05-079
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed February 17, 1999, 11:35 a.m.]

Explanation of Rule, its Purpose, and Anticipated Effects: The former Departments of Fisheries and Wildlife both had rules dealing with volunteer cooperative programs. These rules have not been merged to date; this will bring to completion the merger of both sets of rules into a single set of rules for the Department of Fish and Wildlife.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not affect small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Cavanaugh's Ridpath Hotel, 515 West Sprague Avenue, Spokane, WA, on April 2-3, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson, TDD (360) 902-2207, or (360) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife, Evan Jacoby, 600 Capitol Way North, Olympia, WA 98501-1091, fax (360) 902-2940, by March 31, 1999.

Date of Intended Adoption: April 2-3, 1999.

February 17, 1999

Evan Jacoby

Rules Coordinator

[REPEALER]

The following sections of the Washington Administrative Code are repealed:

- WAC 232-32-010 Purpose (Order 237)
- WAC 232-32-020 Definitions (Order 237)
- WAC 232-32-030 Information required from volunteer groups. (Order 237)
- WAC 232-32-040 Review and selection process. (Order 317)
- WAC 232-32-050 Criteria used in selecting cooperative wildlife projects. (Order 237)
- WAC 232-32-060 Procedures for revocation of a cooperative wildlife project. (Order 237)
- WAC 232-32-070 Priority for eggs, seed, juveniles, broodstock, and department facilities. (Order 237)

Reviser's note: The bracketed material preceding the repealer above was supplied by the code reviser's office.

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-177.

Title of Rule: Medical aid rules, updates for WAC 296-20-135, 296-23-220, and 296-23-230.

Purpose: Update department payment rates allowed to health care providers (RBRVS and anesthesiology rates and PT/OT payment caps) in light of current year's conversion factor and cost of living adjustments.

Statutory Authority for Adoption: RCW 51.04.020(4) and 51.04.030.

Statute Being Implemented: RCW 51.04.020(4) and 51.04.030.

Summary: (1) Change conversion factor used to calculate reimbursement levels for services payable through the resource based relative value scale (RBRVS) fee schedule. (2) Change conversion factor used to calculate reimbursement for anesthesia services. (3) Increase the physical and occupational therapy daily maximum rates. (4) Delete language referring to a method of payment that does not use conversion factors (we publish all our fees as dollar values).

Reasons Supporting Proposal: Update provider reimbursement rates.

Name of Agency Personnel Responsible for Drafting: Simone Stilson, Tumwater, Washington, (360) 902-4744; Implementation and Enforcement: Doug Connell, Assistant Director, Tumwater, Washington, (360) 902-4209.

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: The changes increase reimbursement to affected health care providers and remove reference to obsolete payment methods. The purpose and anticipated effect of these proposed changes are to:

(1) Change (decrease) the conversion factor used to calculate maximum reimbursement levels for services reimbursed under the resource based relative value scale (RBRVS) fee schedule. The proposed decrease adjusts the conversion factor to accommodate changes in the service codes and relative value units which are used to calculate reimbursement levels and grants a 5.42% cost of living increase to RBRVS providers.

(2) Change (increase) the conversion factor used to calculate maximum reimbursement for anesthesia services. The proposed increase adjusts the conversion factor to accommodate changes in the anesthesia base values that are used to calculate reimbursement and grants a 5.42% cost of living increase to anesthesia providers.

(3) Apply a 5.00% cost of living increase to the maximum daily rate for physical and occupational therapy services.

PROPOSED

(4) Remove reference to a payment method that does not use conversion factors; simplifies WAC to avoid confusion.

Proposal Changes the Following Existing Rules: In WAC 296-20-135(2), decrease the RBRVS conversion factor from \$47.61 to \$47.12.

In WAC 296-20-135(3), increase the anesthesia conversion factor from \$2.02 to \$2.13.

In WAC 296-20-135(4), repeal subsection (4).

In WAC 296-23-220 and 296-23-230, increase the maximum daily rate for physical and occupational therapy services from \$80.00 to \$84.00.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule adoption is not a significant legislative rule and is exempted under RCW 34.05.328 (5)(a)(i) and (b)(vi).

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply because this rule is not a significant legislative rule. Its content is explicitly dictated by statute and fits within the exceptions listed in RCW 34.05.328 (5)(a)(i) and (b)(vi).

Hearing Location: Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA, on March 23, 1999, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Simone Stilson by March 16, 1999, TDD 1-800-833-6388.

Submit Written Comments to: Simone Stilson, fax (360) 902-4249, by March 30, 1999.

Date of Intended Adoption: April 17, 1999.

February 17, 1999

Gary L. Moore
Director

AMENDATORY SECTION (Amending WSR 98-09-125, filed 4/22/98, effective 7/1/98)

WAC 296-20-135 Conversion factors. (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of (~~(\$47.61)~~) \$47.12. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of (~~(\$2.02)~~) \$2.13 per minute. The base units and payment policies can be found in the fee schedules.

~~((4) Services that do not use a conversion factor to establish reimbursement levels have dollar values, not relative values listed in the fee schedules.))~~

AMENDATORY SECTION (Amending WSR 98-09-125, filed 4/22/98, effective 7/1/98)

WAC 296-23-220 Physical therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$80.00)~~) \$84.00 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

AMENDATORY SECTION (Amending 98-09-125, filed 4/22/98, effective 7/1/98)

WAC 296-23-230 Occupational therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or ~~(\$80.00)~~ \$84.00 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major

treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

PROPOSED



WSR 99-05-004
EXPEDITED ADOPTION
DEPARTMENT OF LICENSING

[Filed February 4, 1999, 1:12 p.m.]

Title of Rule: Copying.

Purpose: Amend rules that define copying charges.

Statutory Authority for Adoption: RCW 46.01.110, 42.17.260.

Statute Being Implemented: RCW 42.17.300, 42.17.260.

Summary: Remove copying fees that do not fall under RCW 42.17.300, but are covered in other statutes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Walt Fahrner, 1125 Washington Street S.E., Olympia, 902-3640.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule defines charges that will be made by the department for copying public records.

Proposal Changes the Following Existing Rules: Copying charges that do not fall under RCW 42.17.300, but other statutes are being removed.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Walt Fahrner, Department of Licensing, 1125 Washington Street S.E., Olympia, WA 98507-9020, AND RECEIVED BY April 17, 1999.

February 4, 1999

Walt Fahrner
Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-05-036, filed 2/15/96, effective 3/17/96)

WAC 308-10-045 Copying. No fee shall be charged for the inspection of public records. The department shall charge a fee in the amount necessary to reimburse the department for its actual costs incident to providing copies of public records. The schedule of charges is:

ITEM	FEE
((Abstract of driving record	\$4.50))
Copies produced on copying and duplicating equipment	15 cents per page
((Evidence of ability to respond to damages (financial responsibility)	\$4.50))

Computer generated listing, magnetic tapes or labels
Microfilm copies
Postal charges

Cost of services
75 cents per page
May be added to any copy of a public record if applicable
\$17.00 each
\$24.00 each))

~~((UCC certificate of information
UCC certificate of information and
financing statement~~

WSR 99-05-023
EXPEDITED ADOPTION
DEPARTMENT OF
FISH AND WILDLIFE

[Filed February 9, 1999, 11:17 a.m.]

Title of Rule: Small scale mining.

Purpose: Amend small scale mining rule to correct drafting error.

Statutory Authority for Adoption: RCW 75.20.330.

Statute Being Implemented: RCW 75.20.330.

Summary: Corrects screen size for pump intakes for Class II and III mineral prospecting equipment.

Reasons Supporting Proposal: Drafting errors referenced thousandths of an inch rather than hundredths of an inch.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, (360) 902-2930; Implementation: Elyse Kane, 1111 Washington Street, Olympia, (360) 902-2402; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, (360) 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The small scale mining rules were adopted on December 4, 1998, but contain errors in screen size descriptions. These rules correct these errors.

Proposal Changes the Following Existing Rules: Correct errors.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Evan Jacoby, Rules Coordinator, Washington State Department of Fish and Wildlife,

EXPEDITED ADOPTION

600 Capitol Way North, Olympia, WA 98501-1091, AND
RECEIVED BY April 17, 1999.

February 8, 1999
Evan Jacoby
Rules Coordinator

AMENDATORY SECTION (Amending Order 98-252, filed
12/16/98, effective 1/16/99)

WAC 220-110-204 Use of Class II mineral prospecting equipment. A copy of the current *Gold and Fish* pamphlet available from the department shall serve as an HPA, unless otherwise indicated, and be on the job site at all times. Mineral prospecting and placer mining projects authorized through a written HPA may incorporate additional mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat. Project activities may be prohibited where project impacts adversely affect fish habitats for which no proven mitigation methods are available. The following technical provisions shall apply to all Class II mineral prospecting and placer mining projects:

(1) The common technical provisions as specified in WAC 220-110-201 and the timing and location restrictions as specified in WAC 220-110-206 through 220-110-207 shall apply to all mineral prospecting and placer mining projects conducted with Class II equipment.

(2) With the exception of the use of one hand-held pan, the use of only Class II mineral prospecting equipment is authorized. In addition to the use of a hand-held pan, no more than one piece of mineral prospecting equipment shall be operated by an individual at any one time and location.

(3) Only one piece of Class II equipment shall be operated at any time at any excavation site.

(4) Collection of aggregate shall be limited to the bed.

(5) A nozzle greater than four inches inside diameter shall be used on a suction dredge only if a reducer or smaller diameter hose is attached to restrict the inside diameter to four inches or less.

(6) Any device used for diverting or pumping water from a fish-bearing stream shall be equipped with a fish guard to prevent passage of fish into the diversion device pursuant to RCW 75.20.040 and 77.16.220. To prevent fish from entering the system the pump intake shall be screened with either:

(a) ~~((Six one thousandths inch (eighteen gauge) woven wire mesh with openings no greater than eighty-seven one thousandths inches (six to fourteen mesh); or~~

~~(b) Perforated plate with openings no greater than ninety-four one thousandths inch (three thirty-second inch); or~~

~~(c) Profile bar with openings no greater than one and seventy-five one thousandths millimeter (sixty-nine one hundredths inch).) 0.06 inch (eighteen gauge) woven wire mesh with openings no greater than 0.087 inches; or~~

~~(b) Perforated plate with openings no greater than 0.094 inch (3/32 inch); or~~

~~(c) Profile bar with openings no greater than 1.75 millimeter (0.069 inch).~~

The screened intake shall consist of a facility with enough surface area to ensure that the velocity through the screen is less than four-tenths feet per second, but in no case

shall the surface area be less than one square foot. Screens shall be maintained to prevent injury or entrapment to juvenile fish and screens shall remain in place whenever water is withdrawn from the stream through the pump intake.

(7) There shall be no hydraulicing outside of the wetted perimeter. Hydraulicing may be conducted only for redistribution of tailings within the bed to level or fill pits, potholes or furrows, and the nozzle or jet shall be submerged at all times.

(8) Petroleum products or other harmful materials shall not enter waters of the state. Equipment shall be well maintained and inspected frequently to prevent fuel and fluid leaks.

(9) Water shall be pumped only from a water body to a suction dredge operated within the wetted perimeter or to a highbanker located below the ordinary high water line.

AMENDATORY SECTION (Amending Order 98-252, filed
12/16/98, effective 1/16/99)

WAC 220-110-205 Use of Class III mineral prospecting equipment. A copy of the current *Gold and Fish* pamphlet available from the department shall serve as an HPA, unless otherwise indicated, and be on the job site at all times. Mineral prospecting and placer mining projects authorized through a written HPA may incorporate additional mitigation measures as necessary to achieve no-net-loss of productive capacity of fish and shellfish habitat. Project activities may be prohibited where project impacts adversely affect fish habitats for which no proven mitigation methods are available. The following technical provisions shall apply to all Class III mineral prospecting and placer mining projects:

(1) The common technical provisions as specified in WAC 220-110-201 and the timing and location restrictions as specified in WAC 220-110-208 shall apply to all mineral prospecting projects conducted with Class III equipment.

(2) With the exception of the use of one hand-held pan, the use of only Class III mineral prospecting equipment is authorized. In addition to the use of a hand-held pan, no more than one piece of mineral prospecting equipment shall be operated by an individual at any one time and location.

(3) Aggregate shall be collected and processed two hundred feet or greater landward of the ordinary high water line.

(4) There shall be no motorized movement of bed materials.

(5) The pump intake shall be placed in the water without moving or relocating any material in or on the bed or banks.

(6) Any device used for diverting or pumping water from a fish-bearing stream shall be equipped with a fish guard to prevent passage of fish into the diversion device pursuant to RCW 75.20.040 and 77.16.220. To prevent fish from entering the system the pump intake shall be screened with either:

(a) ~~((Six one thousandths inch (eighteen gauge) woven wire mesh with openings no greater than eighty-seven one thousandths inches (six to fourteen mesh); or~~

~~(b) Perforated plate with openings no greater than ninety-four one thousandths inch (three thirty-second inch); or~~

~~(c) Profile bar with openings no greater than one and seventy-five one thousandths millimeter (sixty-nine one~~

EXPEDITED ADOPTION

~~hundredths inch~~)) 0.06 inch (eighteen gauge) woven wire mesh with openings no greater than 0.087 inches; or

(b) Perforated plate with openings no greater than 0.094 inch (3/32 inch); or

(c) Profile bar with openings no greater than 1.75 millimeter (0.069 inch).

The screened intake shall consist of a facility with enough surface area to ensure that the velocity through the screen is less than four-tenths feet per second, but in no case shall the surface area be less than one square foot. Screens shall be maintained to prevent injury or entrapment to juvenile fish and screens shall remain in place whenever water is withdrawn from the stream through the pump intake.

(7) Petroleum products or other harmful materials shall not enter waters of the state. Equipment shall be well maintained and inspected frequently to prevent fuel and fluid leaks.

(8) There shall be no hydraulicing.

(9) Settleable solids shall be removed from wastewater prior to the water reentering waters of the state. Sediments resulting from collection or processing of aggregate shall be deposited so they will not enter waters of the state.

WSR 99-05-038

EXPEDITED ADOPTION SECRETARY OF STATE

[Filed February 11, 1999, 3:54 p.m.]

Title of Rule: Limited partnership filings—Centralized systems, WAC 434-55-060 Document filing fees—Limited partnerships and 434-55-065 In-person or expedited counter service—Special fees.

Purpose: To lower fees for service under the Limited Partnership Act.

Statutory Authority for Adoption: RCW 25.10.600, 25.10.610, 23B.01.220, 43.07.120.

Summary: Amending WAC 434-55-060, reduces fees for certificates, certified copies and photocopies and WAC 434-55-065, reduces the fee for in-person or same day expedited counter service.

Reasons Supporting Proposal: To clarify and streamline fees for service.

Name of Agency Personnel Responsible for Drafting: Frances Sant, 505 East Union, Olympia, WA 98504, (360) 664-0742; Implementation and Enforcement: Office of the Secretary of State, Corporations Division.

Name of Proponent: Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Housekeeping and streamlining fee schedule.

Proposal Changes the Following Existing Rules: Streamlining document filing fees in WAC 434-55-060 for limited partnerships and lowering filing fees for certificates, certified copies and photocopies.

The fee for same day service under WAC 434-55-065 is lowered from twenty dollars to ten dollars for single or mul-

iple transactions within each new or existing limited partnership file.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Hans Dettling, Corporations Division, Office of the Secretary of State, 505 East Union, 2nd Floor, P.O. Box 40234, Olympia, WA 98504, phone (360) 586-0393, fax (360) 664-8781, TDD (360) 753-1485, AND RECEIVED BY April 17, 1999.

February 11, 1999

Tracy Guerin

Deputy Secretary of State

AMENDATORY SECTION (Amending WSR 94-19-003, filed 9/8/94, effective 10/9/94)

WAC 434-55-060 Document filing fees—Limited partnerships. The following fees are due and must be submitted concurrently with the limited partnership documents presented to the secretary of state for filing under the Washington Uniform Limited Partnership Act:

(1) Filing of a certificate of limited partnership for a domestic limited partnership: One hundred seventy-five dollars.

(2) Filing an application for registration of a foreign limited partnership: One hundred seventy-five dollars.

(3) Dissolution or cancellation by judicial decree: No charge.

(4) Filing of a certificate of cancellation for a domestic or foreign limited partnership: No charge.

(5) Filing of a certificate of amendment for a domestic or foreign limited partnership: ~~((Thirty))~~ Twenty-five dollars.

(6) Filing a certificate of restatement: Thirty dollars.

(7) Filing an application to reserve or transfer a limited partnership name: ~~((Thirty))~~ Ten dollars.

(8) Application for reinstatement: One hundred dollars plus all delinquent fees and a twenty-five percent penalty computed on total amount.

(9) Articles of merger: Twenty dollars for each listed company.

(10) Agent's consent to act as agent or agent's resignation if appointed without consent: No charge.

(11) Filing any other statement or report required by the Limited Partnership Act: Ten dollars.

(12) For ~~((each))~~ certified ~~((copy))~~ copies of any document the fee is ~~((ten dollars plus the copy fee))~~ five dollars plus a photocopy fee of twenty cents for each additional page.

(13) For certificates of existence ~~((fees are as follows: (a) With complete or specific historical data, under embossed seal, thirty dollars;~~

~~(b) Computer generated, under embossed seal, twenty dollars;~~

~~(c) Duplicate certificate, under gold or embossed seal, twenty dollars))~~ the fee is ten dollars per certificate.

(14) For photocopies fees are as follows:

(a) Certificate of limited partnership (~~or any single document~~), ~~((ten))~~ five dollars;

~~(b) ((Amendments to certificates and mergers, twenty dollars;~~

~~(c) All charter documents, thirty dollars;~~

~~(d))~~ Any single document, other than a certificate of limited partnership, one dollar plus twenty cents for each additional page;

(c) Surcharge for files exceeding one hundred pages of copy, thirteen dollars for each fifty page increment (number of pages determined by weight of copies).

(15) Service of process on the office of the secretary of state as agent of a limited partnership: Fifty dollars.

AMENDATORY SECTION (Amending WSR 95-16-130, filed 8/2/95, effective 9/2/95)

WAC 434-55-065 In-person or expedited counter service—Special fees. (1) The corporations division counter is open to in-person requests from 8:00 a.m. to 4:00 p.m. each business day. Staff provides expedited, same-day processing of corporate documents or requests received prior to 3:30 p.m. on that day. These services are available for the following transactions:

- (a) Charter document review and filing;
- (b) Name reservation review and filing;
- (c) Document certification;
- (d) Document copying and status certificates;
- (e) Status change filings;
- (f) Service of process;
- (g) International student exchange agency registration.

(2) The fee for same-day service is ~~((twenty))~~ ten dollars for single or multiple transactions within each new or existing limited partnership file or each new or existing limited liability partnership file. In addition, a regulatory fee for each transaction may apply.

(3) There is no expedited fee for the following transactions:

- (a) Reinstatements;
- (b) In-person inspection or review of limited partnership files or other public documents located in the corporations division office;
- (c) Documents left at the counter for processing with mail-in documents received the same day; or
- (d) A search for nonactive limited partnership files less than twenty years old.

(4)(a) If staff cannot complete the expedited service request before the end of the same day, the transaction will be completed first on the following business day.

(b) Emergency services needed outside regular business hours requiring employee overtime are one hundred fifty dollars per hour plus regulatory or statutory fees due for the form of the filing. When the division receives an emergency request, staff notifies the customer of the service fee and any other reasonable conditions set by the director. The customer

must agree to pay the fees before emergency services are provided.

(5) Over-the-counter service hours may be shortened under extraordinary circumstances. Separate service requests by one person may be limited to those relating to three corporations per day. Documents submitted by courier services or document-handling companies may receive twenty-four-hour service. A customer may make alternate arrangements with the director prior to bringing or sending in documents, if a sudden, unexpected situation occurs during the business day.

Under special circumstances, the filing party may petition the secretary in writing to request a waiver of emergency or penalty fees.

WSR 99-05-039

EXPEDITED ADOPTION

SECRETARY OF STATE

[Filed February 11, 1999, 3:57 p.m.]

Title of Rule: Limited liability companies, WAC 434-130-090 Fees.

Purpose: Amending WAC 434-130-090 to lower the fees for change and resignation of registered agent.

Statutory Authority for Adoption: RCW 25.15.805, 25.15.810, 23B.01.220.

Summary: Clarification on interagency fees and lowering fees for certificate of change of registered agent and resignation of registered agent.

Reasons Supporting Proposal: To clarify and streamline fees for service.

Name of Agency Personnel Responsible for Drafting: Frances Sant, 505 East Union, Olympia, WA 98504, (360) 664-0742; Implementation and Enforcement: Office of the Secretary of State, Corporations Division.

Name of Proponent: Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The handling fee for annual license renewal was not specifically mentioned in WAC 434-130-090, but customarily collected for the Department of Licensing. For clarification purposes, this was added to subsections (2) and (4).

We separated and lowered the fees for change of registered agent and resignation of registered agent. This results in clarification and adding new subsections for better understanding.

Proposal Changes the Following Existing Rules: We added the language "plus the Department of Licensing's handling fee of nine dollars" for clarification purposes, and divided and redefined the fees for resignation of registered agent and certificate of change of registered agent for better understanding.

NOTICE

THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR

THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Hans Dettling, Corporations Division, Office of the Secretary of State, 505 East Union, 2nd Floor, P.O. Box 40234, Olympia, WA 98504, phone (360) 586-0393, fax (360) 664-8781, TDD (360) 753-1485, AND RECEIVED BY April 17, 1999.

February 11, 1999

Tracy Guerin

Deputy Secretary of State

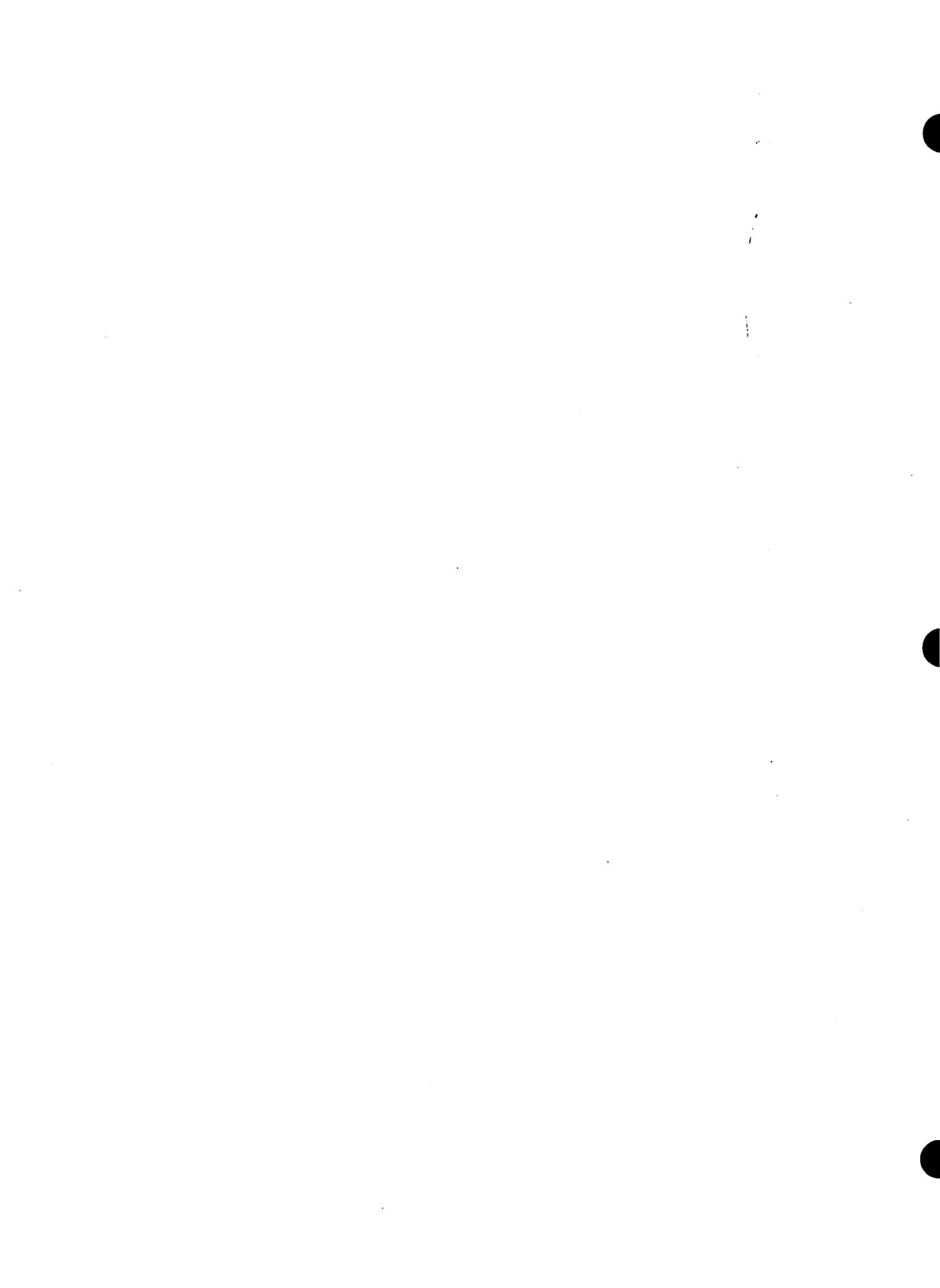
AMENDATORY SECTION (Amending WSR 94-19-005, filed 9/8/94, effective 10/1/94)

WAC 434-130-090 Fees. For Washington registered domestic and foreign limited liability companies fees are as follows:

- (1) Certificate of formation or application for registration, one hundred seventy-five dollars;
- (2) Annual license renewal, fifty dollars plus the department of licensing's handling fee of nine dollars;
- (3) Amendment, restated certificate, or amended and restated certificate, thirty dollars;
- (4) License renewal with required annual report filed after due date and before administrative dissolution, penalty fee of twenty-five dollars, plus the renewal fee of fifty dollars plus the department of licensing's handling fee of nine dollars;
- (5) Reinstatement, one hundred dollars plus all delinquent license or annual fees and a twenty-five percent penalty computed on the total amount;
- (6) Articles of merger, twenty dollars for each listed company;
- (7) Certificate of change of registered agent, registered office address, (~~resignation of registered agent~~) or designation of new registered agent, (~~thirty~~) ten dollars per entity name;
- (8) Resignation of registered agent, twenty dollars per entity name;
- ~~(9)~~ (10) An initial report or amended annual report, ten dollars;
- ~~((9))~~ (10) Registration, reservation, or transfer of name, thirty dollars;
- ~~((10))~~ (11) Certificate of cancellation, administrative dissolution or dissolution by judicial decree, or revocation of certificate of authority, no fee;
- ~~((11))~~ (12) Agent's consent to act as agent, agent's resignation if appointed without consent, or annual report when filed concurrently with annual license fee, no fee; and
- ~~((12))~~ (13) Other statement or report filed, ten dollars.

Under special circumstances, the filing party may petition the secretary in writing to request a waiver of emergency or penalty fees.

EXPEDITED ADOPTION



WSR 99-05-005
PERMANENT RULES
DEPARTMENT OF
SERVICES FOR THE BLIND

[Filed February 4, 1999, 1:16 p.m.]

Date of Adoption: January 27, 1999.

Purpose: Clarify language.

Statutory Authority for Adoption: Chapter 74.18 RCW.

Adopted under notice filed as WSR 99-01-022 on December 7, 1998.

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

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

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

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

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

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

February 4, 1999

Patricia Anderson

AMENDATORY SECTION (Amending Order 83-10, filed 12/15/83)

WAC 67-55-040 Eligibility criteria. (1) To be eligible for child and family services an individual must be between the ages of birth ~~((and))~~ through six years of age or fourteen through twenty-one years of age.

(2) Any child below the age of twenty-one years who has completed high school or has discontinued his/her formal education shall not be eligible for child and family services. Such children shall be referred for vocational rehabilitation or other appropriate resources.

(3) Eligibility for child and family services shall be dependent on documentation of a visual impairment including one or more of the following conditions:

(a) Legal blindness or visual handicap as they are customarily defined, either in terms of qualifying reduction in visual acuity and/or a qualifying reduction in visual fields.

(b) A visual impairment which is progressive in nature and can be expected to lead to blindness within a reasonable period of time.

(c) Reductions in both visual acuity and visual fields such that the effect is substantially that of legal blindness, or visual efficiency is so reduced as to have substantially the same effect as legal blindness.

(d) A visual impairment which makes it impossible for a child to compete successfully in school and other childhood endeavors.

AMENDATORY SECTION (Amending Order 83-10, filed 12/15/83)

WAC 67-55-060 Termination. A child shall be terminated from child and family services for the following reasons:

(1) The child has completed high school;

(2) The child has withdrawn from school prior to his/her senior year and does not intend to return;

(3) The child has reached the age of twenty-one years, or is between the ages of seven and fourteen years;

(4) The child's vision improves to a degree which no longer meets the criteria for eligibility;

(5) The child moves from the state of Washington; or

(6) The child and/or his/her family requests termination.

AMENDATORY SECTION (Amending Order 83-11, filed 12/15/83)

WAC 67-75-010 Purpose and definition. The authority for independent living services is established in section 18, chapter 194, Laws of 1983. The purpose of this program is to provide independent living services designed to meet the current and future needs of blind/visually impaired individuals who currently are not feasible for vocational rehabilitation and who need services in order to function more independently in their living environment.

AMENDATORY SECTION (Amending Order 83-11, filed 12/15/83)

WAC 67-75-020 Referral for services. (1) Referrals of ~~((elderly blind individuals, blind individuals with significant other medical problems, and blind multiply handicapped))~~ blind/visually impaired individuals, blind/visually impaired individuals with significant other medical problems, and blind/visually impaired multiply disabled individuals shall be accepted from all sources.

(2) All referrals to the independent living program ~~((shall be made))~~ may be made either through the department of services for the blind or directly to one of the department's independent living contract providers.

(3) Department personnel may refer individuals to the independent living program as a result of reviewing current and past cases which have been found to be ineligible for vocational rehabilitation services.

AMENDATORY SECTION (Amending Order 83-11, filed 12/15/83)

WAC 67-75-030 Initial interview. (1) ~~((The department shall interview))~~ All new referrals to the independent living program shall be interviewed as soon as possible following referral~~((s)).~~

(2) At the initial interview the interviewer shall:

(a) Explain to the individual the nature and scope of available services as they relate to the individual's need;

(b) Inform the individual of the right to confidentiality of information possessed by the department;

(c) Obtain any information necessary in determining eligibility for independent living services.

AMENDATORY SECTION (Amending WSR 92-09-090, filed 4/17/92, effective 5/18/92)

WAC 67-75-040 Eligibility for services—Criteria. (1) Eligibility requirements are applied without regard to sex, race, creed, color, marital status, sexual orientation, religion, or natural origin of the individual applying for service. No group of individuals is excluded from service solely on the basis of the type of disability or on the basis of age.

(2) No residence requirement is imposed which excludes from services any individual who is present in the state.

(3) Eligibility is based only upon:

(a) The presence of a severe physical or mental disability, which shall include a visual disability defined as follows:

(i) Legal blindness or ~~((visually handicapped))~~ visual impairment as they are customarily defined either in terms of a qualifying reduction in visual acuity and/or a qualifying reduction in visual field.

(ii) A visual impairment which is progressive in nature and can be expected to lead to blindness within a reasonable period of time.

(iii) Reduction in both visual acuity and visual fields is such that the effect is substantially that of legal blindness, or visual efficiency is reduced so as to have substantially the same effect as legal blindness.

(iv) A visual impairment which makes it impossible for the individual to perform successfully in one or more of life's functions;

(b) The presence of a severe limitation in ability to function independently in family or community or to engage or continue in employment; and

(c) A reasonable expectation that independent living rehabilitation services will significantly assist the individual to improve his or her ability to function independently in family or community or to engage or continue employment.

For purposes of determining an individual's eligibility for independent living services, improvement in ability to function independently in family or community refers to a demonstration in functional and behavioral terms of an individual's greater independence or maintenance of independence in such areas as self-care, activities of daily living, ~~((driving,))~~ using public transportation, shopping, house-keeping, communicating, or living more independently.

AMENDATORY SECTION (Amending WSR 92-09-090, filed 4/17/92, effective 5/18/92)

WAC 67-75-042 Certification for decision of eligibility or ineligibility. (1) There will be a certification that the individual has met the basic eligibility criteria. The statement of eligibility will be dated and signed by the ~~((vocational rehabilitation counselor or rehabilitation teacher))~~ independent living service provider or the department's independent living program staff.

(2) Whenever it has been determined on the basis of clear evidence that an individual is ineligible for independent living services, there shall be a certification, dated and signed by the ~~((vocational rehabilitation counselor or rehabilitation teacher))~~ independent living service provider agency or the department's independent living program. Certifications of

ineligibility shall indicate the reasons for the ineligibility determination and shall be made only after full consultation with the individual or, as appropriate, his or her parent, guardian, or other representative, or after giving a clear opportunity for this consultation.

AMENDATORY SECTION (Amending WSR 92-09-090, filed 4/17/92, effective 5/18/92)

WAC 67-75-044 Notice to applicant. (1) The individual shall be notified in writing of the action taken on ~~((eligibility or))~~ a determination of ineligibility.

(2) The individual shall be informed of the department's procedure for administrative review and fair hearings and the services available through the client assistance program if he or she is dissatisfied with the department's decision.

(3) If the applicant was determined to be ineligible for independent living services, the certification shall clearly specify how he or she failed to meet the criteria of eligibility. The individual shall be notified in writing of the determination of ineligibility and of his or her rights and the means by which he or she may express and seek remedy for any dissatisfactions, including the department's procedures for administrative review and fair hearings and the services available through the client assistance program.

~~((4))~~ ~~((If the applicant was determined to be eligible for independent living services, the notice shall clearly specify the date of certification of eligibility.~~

~~((5))~~ If an applicant was determined ineligible, he or she shall be given a full opportunity to participate in the review and reconsideration of eligibility no later than twelve months after the determination was made. The review need not be conducted in situations where the individual refuses the review, the individual is no longer present in the state, or the individual's whereabouts is unknown.

AMENDATORY SECTION (Amending Order 83-11, filed 12/15/83)

WAC 67-75-050 Independent living services—Services provided. Services provided by the independent living program shall include:

~~((1))~~ ~~((Internal services provided through the rehabilitation teaching staff such as:~~

~~((a))~~ Intake interview and counseling;

~~((b))~~ (2) Needs assessment;

~~((c))~~ (3) Specific skills teaching;

~~((d))~~ (4) Referral to other resources for blind/visually impaired individuals;

~~((2))~~ ~~((External services purchased by the department from community-based service delivery systems such as:~~

~~((a))~~ Intake interview and counseling;

~~((b))~~ Needs assessment;

~~((c))~~ Specific skills teaching;

~~((d))~~ Medical consultation;

~~((e))~~ Occupational therapy/physical therapy;

~~((f))~~ (5) Information and referral;

~~((g))~~ (6) Advocacy in all sectors of society to maximize opportunities for access in social, recreational, medical/health care facilities.

WSR 99-05-012
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Filed February 5, 1999, 12:18 p.m.]

Date of Adoption: February 3, 1999.

Purpose: The purpose of this rule is to amend several sections to bring radiation protection regulations into conformance with the United States Nuclear Regulatory Commission rules on instructions to workers, notifications and reports to individuals, and equipment performance requirements for industrial radiography. A housekeeping change is made to consolidate related requirements into a single section.

Citation of Existing Rules Affected by this Order: Amending WAC 246-221-280, 246-222-030, 246-243-040, and 246-243-090.

Statutory Authority for Adoption: RCW 70.98.050.

Adopted under notice filed as WSR 99-01-095 on December 17, 1998.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

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

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

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

February 1, 1999

Kristine Van Gorkom

Deputy Secretary

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-221-280 Notifications and reports to individuals. (1) Requirements for notification and reports to individuals of exposure to radiation or radioactive material are specified in WAC 246-222-040.

(2) When a licensee or registrant is required pursuant to WAC 246-221-260 to report to the department any exposure of an identified occupationally exposed individual, or an identified member of the public, or dosimetry device assigned to any individual to radiation from any source, the licensee or registrant shall also notify the individual. Such notice shall be transmitted at a time not later than the transmittal to the department, and shall comply with the provisions of WAC 246-222-040(1).

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-222-030 Instructions to workers. (1) All individuals likely to receive in a year an occupational dose in excess of 1 mSv (100 mrem):

(a) Shall be kept informed of the storage, transfer, or use of sources of radiation in the licensee's or registrant's facility;

(b) Shall be instructed in the health protection considerations for the individual and potential offspring associated with exposure to radiation or radioactive material, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;

(c) Shall be instructed in, and instructed to observe, to the extent within the worker's control, the applicable provisions of these regulations, department form RHF-3 "Notice to employees," and license conditions for the protection of personnel from exposures to radiation or radioactive material;

(d) Shall be instructed that any worker or representative of workers who believes that a violation of the regulations, license conditions, or unnecessary exposure to radiation exists or occurred, may request an inspection by the department by oral or written notification. The notification shall set forth specific grounds for the complaint. Any such notification to the department is confidential;

(e) Shall be instructed of their right to notify the department if the individual suspects improper actions by a licensee/registrant, or conditions which may lead to a violation of these regulations, the license/registration, or unnecessary exposure to radiation or radioactive materials;

(f) Shall be instructed that employment discrimination by a licensee/registrant against an employee because of actions described in this chapter is prohibited;

(g) Shall be instructed as to their responsibility to report promptly to the licensee or registrant any condition which may constitute, lead to, or cause a violation of the act, these regulations, and licenses or unnecessary exposure to radiation or radioactive material;

(h) Shall be instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and

(i) Shall be advised as to the radiation exposure reports which workers shall be furnished pursuant to WAC 246-222-040.

(2) Records of these instructions described in subsection (1) of this section for all individuals working in, or frequenting any portion of, a restricted area shall be maintained for inspection by the department until further notice. These records shall include a copy of this section, or all the information contained in this section, along with a dated verification signature by the employee stating that the individual has received an explanation of the instructions contained in this section.

(3) In determining those individuals subject to the requirements of subsection (1) of this section, licensees and registrants shall take into consideration assigned activities during normal and abnormal situations involving exposure to sources of radiation which can reasonably be expected to occur during the life of a licensed or registered facility. The

PERMANENT

extent of these instructions shall be commensurate with potential radiological health protection considerations present in the workplace.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-040 Equipment (~~control~~) performance requirements. ~~((+))~~ Equipment used in industrial radiography operations must meet the following minimum criteria ~~((; the following requirements apply to radiographic exposure devices and associated equipment that allow the source to be moved out of the device for routine operation))~~:

(1)(a) Each radiographic exposure device, source assembly or sealed source, and all associated equipment must meet the requirements specified in American National Standards Institute, N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," (published as NBS Handbook 136, issued January 1981). Copies of the document are available for inspection at the Department of Health, Division of Radiation Protection, Olympia, Washington.

(b) Engineering analysis may be submitted by an applicant or licensee to demonstrate the applicability of previously performed testing on similar individual radiography equipment components. Upon review, the department may find this an acceptable alternative to actual testing of the component pursuant to the above referenced standard.

(c) Notwithstanding (a) of this subsection, equipment used in industrial radiographic operations need not comply with § 8.9.2(c) of the Endurance Test in American National Standards Institute N432-1980, if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can realistically exert on the lever or crankshaft of the drive mechanism.

(2) In addition to the requirements specified in subsection (1) of this section, the following requirements apply to radiographic exposure devices, source changers, source assemblies and sealed sources.

(a) The licensee shall ensure that each radiographic exposure device has attached to it a durable, legible, clearly visible label bearing the:

(i) Chemical symbol and mass number of the radionuclide in the device;

(ii) Activity and the date on which this activity was last measured;

(iii) Model (or product code) and serial number of the sealed source;

(iv) Manufacturer's identity of the sealed source; and

(v) Licensee's name, address, and telephone number.

(b) Radiographic exposure devices intended for use as Type B transport containers must meet the applicable requirements of 10 CFR Part 71.

(c) Modification of radiographic exposure devices, source changers, and source assemblies and associated equipment is prohibited, unless the design of any replacement component, including source holder, source assembly, controls or guide tubes would not compromise the design safety features of the system.

(3) In addition to the requirements specified in subsections (1) and (2) of this section, the following requirements apply to radiographic exposure devices, source assemblies, and associated equipment that allow the source to be moved out of the device for radiographic operations or to source changers.

(a) The coupling between the source assembly and the control cable must be designed in such a manner that the source assembly will not become disconnected if cranked outside the guide tube. The coupling must be such that it can not be unintentionally disconnected under normal and reasonably foreseeable abnormal conditions.

(b) The device must automatically secure the source assembly when it is cranked back into the fully shielded position within the device. The securing system may only be released by means of a deliberate operation on the exposure device.

(c) The outlet fittings, lock box, and drive cable fitting on each radiographic exposure device must be equipped with safety plugs or covers which must be installed during storage and transportation to protect the source assembly from water, mud, sand, or other foreign matter.

(d)(i) Each sealed source or source assembly must have attached to it or engraved on it, a durable, legible, visible label with the words: "DANGER—RADIOACTIVE."

(ii) The label may not interfere with the safe operation of the exposure device or associated equipment.

(e) The guide tube must ~~((have passed the crushing tests for the control tube as specified in ANSI N432 and))~~ be able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and be able to withstand a kinking resistance test that closely approximates the kinking forces likely to be encountered during use.

~~((e))~~ (f) Guide tubes ~~((or exposure heads connected directly to the device))~~ must be used when moving the source out of the device.

~~((f))~~ (g) An exposure head or similar device designed to ~~((protect))~~ prevent the source assembly from passing out of the end of the guide tube must be attached to the outermost end of the guide tube during radiographic operations.

(h) The guide tube exposure head connection must be able to withstand the tensile test for control units specified in ANSI N432-1980.

~~((g))~~ (i) Source changers must provide a system for ~~((assuring))~~ ensuring that the source will not be accidentally withdrawn from the changer when connecting or disconnecting the drive cable to or from a source assembly.

~~((h))~~ All newly manufactured radiographic exposure devices and associated equipment acquired by licenses after January 1, 1995, must comply with the requirements of this section.)

~~((i))~~ (4) All radiographic exposure devices and associated equipment in use after January 1, 1998, must comply with the requirements of this section.

~~((2))~~ Limits on levels of radiation for radiographic exposure devices and storage containers:

(a) Radiographic exposure devices measuring less than four inches from the sealed source storage position to any exterior surface of the device shall have no radiation level in

~~excess of fifty milliroentgens per hour (50mR/hr) at six inches from any exterior surface of the device.~~

~~(b) Radiographic exposure devices measuring a minimum of four inches from the sealed source storage position to any exterior surface of the device, and all storage containers for sealed sources or outer containers for radiographic exposure devices, shall have no radiation level in excess of two hundred milliroentgens per hour (200mR/hr) at any exterior surface, and ten milliroentgens per hour (10mR/hr) at one meter from any exterior surface.~~

~~(e) The radiation levels specified are with the sealed source in the shielded (i.e., "off") position.)~~ (5) The maximum exposure rate limits for storage containers and source changers with the sealed source in the shielded position are:

(a) 2 millisieverts (200 millirem) per hour at any exterior surface; and

(b) 0.1 millisieverts (10 millirem) per hour at one meter from any exterior surface.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-090 Leak testing, repair, tagging, opening, modification, and replacement of sealed sources.

(1) The replacement of any sealed source fastened to or contained in a radiographic exposure device and leak testing, repair, tagging, opening, or any other modification of any sealed source shall be performed only by persons specifically authorized to do so by the department, the United States Nuclear Regulatory Commission, or any agreement state.

(2) Each sealed source shall be tested for leakage at intervals not to exceed six months. In the absence of a certificate from a transferor that a test has been made within the six-month period prior to the transfer, the sealed source shall not be put into use until tested and results obtained.

(3) The leak test shall be capable of detecting the presence of 185 becquerels (0.005 microcurie) of removable contamination on the sealed source. An acceptable leak test for sealed sources in the possession of a radiography licensee would be to test at the nearest accessible point to the sealed source storage position, or other appropriate measuring point, by a procedure specifically approved in a license condition. Records of leak test results shall be kept in units of microcuries and maintained for inspection by the department for three years after the leak test is performed.

(4) Any test conducted pursuant to subsections (2) and (3) of this section which reveals the presence of 185 becquerels (0.005 microcurie) or more of removable radioactive material shall be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the equipment involved from use and shall cause it to be decontaminated and repaired or to be disposed in accordance with regulations of the department. Within five days after obtaining results of the test, the licensee shall file a report with the department describing the involved equipment, the test results, and the corrective action taken.

~~((5) A sealed source which is not fastened to or contained in a radiographic exposure device shall have permanently attached to it a durable tag at least one inch square bearing the prescribed radiation caution symbol in conven-~~

~~tional colors magenta or purple on a yellow background, and at least the instructions: "Danger Radioactive Material Do not handle Notify civil authorities if found."~~

~~(6) Each radiographic exposure device shall have permanently and conspicuously attached to it a durable label at least two inches square bearing the prescribed radiation caution symbol in conventional colors (magenta or purple on a yellow background), and at a minimum the instructions, "Danger Radioactive Material Do not handle Notify civil authorities if found."~~

~~(7) Each radiographic exposure device must have attached to it by the user, a durable, legible, clearly visible label bearing the following:~~

~~(a) Chemical symbol and mass number of the radionuclide in the device;~~

~~(b) Activity and the date on which this activity was last measured;~~

~~(c) Model number and serial number of the sealed source;~~

~~(d) Manufacturer of the sealed source; and~~

~~(e) Licensee's name, address, and telephone number.)~~

WSR 99-05-013

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed February 5, 1999, 12:21 p.m.]

Date of Adoption: February 3, 1999.

Purpose: This rule amends WAC 246-221-265 to delete the requirement that certain radioactive materials licensees annually report to the department the results of their personnel dosimetry monitoring.

Citation of Existing Rules Affected by this Order: Amending WAC 246-221-265.

Statutory Authority for Adoption: RCW 70.98.050.

Adopted under notice filed as WSR 99-01-094 on December 17, 1998.

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

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

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

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

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

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

February 1, 1999

K. Van Gorkom
Deputy Secretary

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-221-265 Special reports to the department—Planned special exposures (~~(, individual monitoring results from certain licensees,))~~ and leaking sources.

(1) The licensee or registrant shall submit a written report to the department within thirty days following any planned special exposure conducted in accordance with WAC 246-221-030 (~~(, informing)). The written report shall:~~

- (a) Inform the department that a planned special exposure was conducted (~~(and indicating));~~
- (b) Indicate the date the planned special exposure occurred; and
- (c) Provide the information required by WAC 246-221-030.

(2) (~~(Each licensee in a category listed in subsection (3) of this section shall submit an annual report of the results of individual monitoring carried out by the licensee for each individual for whom monitoring was required by WAC 246-221-090 and 246-221-100 during that year. The licensee may include additional data for individuals for whom monitoring was provided but not required. The licensee shall use department Form RHF-5A or electronic media containing all the information required by department Form 5A.~~

(3) ~~The requirement to submit individual monitoring results annually applies to each person licensed by the department to:~~

- (a) Possess or use sources of radiation for purposes of industrial radiography pursuant to chapters 246-235 and 246-243 WAC; or
- (b) Receive radioactive waste from other persons for disposal pursuant to chapter 246-250 WAC; or
- (c) Possess or use at any time, for processing or manufacturing for distribution pursuant to chapter 246-235 WAC, radioactive material in quantities exceeding any one of the following quantities:

Radionuclide	Activity	
	Ci	GBq
Cesium-137	1	37
Cobalt-60	1	37
Gold-198	100	3,700
Iodine-131	1	37
Iridium-192	10	370
Krypton-85	1,000	37,000
Promethium-147	10	370
Technetium-99m	1,000	37,000

(4) ~~The department may require as a license condition, or by rule, regulation, or order pursuant to WAC 246-220-100, reports of annual individual monitoring results from licensees processing or manufacturing for distribution radionuclides not on the list in subsection (3)(c) of this section, provided the radionuclides are in quantities sufficient to cause comparable radiation levels to those on the list.~~

(5) ~~The licensee shall file the report required by subsection (2) of this section, covering the preceding year, on or~~

~~before April 30 of each year. The licensee shall submit the report to the department.~~

(6) ~~The licensee shall file a written report with the department within five days after learning that a sealed source is leaking or contaminated. The report shall describe:~~

- (a) ~~The source(;;);~~
- (b) ~~The source holder(;;);~~
- (c) ~~The equipment in which the source is installed(;;);~~
- (d) ~~The test results; and~~
- (e) ~~The corrective action taken.~~

WSR 99-05-015

PERMANENT RULES

UTILITIES AND TRANSPORTATION COMMISSION

[General Order No. R-459, Docket Order No. UT-971514—Filed February 5, 1999, 3:42 p.m.]

In the matter of amending WAC 480-120-139 and adopting WAC 480-120-144, 480-120-151, 480-120-152, 480-120-153, and 480-120-154, relating to telecommunications company use of customer proprietary network information (CPNI).

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 98-18-107, filed with the code reviser on September 2, 1998. The commission brings this proceeding pursuant to RCW 80.01.040.

STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The commission adopted this rule on October 28, 1998.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: The proposal would make Washington state rules consistent with federal rules, as adopted by the FCC on February 19, 1998. These rules maintain the ability of telecommunications customers to protect the privacy of their personal information in an increasingly competitive telecommunications market. The rules place limits on company use of CPNI, and on the sharing of it with affiliates. The rules establish, under certain detailed conditions, the need for companies to obtain customer approval for use of the customer's CPNI, how such approval may be obtained, and what is required in company notices used to obtain customer approval.

WAC 480-120-144 protects the privacy of customers who subscribe to unlisted or nonpublished telephone numbers. It prohibits telephone companies from using their list of customers with unlisted numbers for telemarketing, unless the company has notified the customers at least annually of their right to be removed from such a solicitation list.

New section WAC 480-120-151 defines the conditions under which a telecommunications carrier may use a customer's proprietary network information without explicit approval, and when approval must be obtained prior to use.

PERMANENT

New section WAC 480-120-152 defines the customer notification requirements a telecommunications carrier must meet when notifying customers of their rights regarding control of the use of CPNI, and defines acceptable practices for obtaining customer approval.

New section WAC 480-120-153 defines requirements for personnel training, a supervisory review process, and delegation of responsibility to a corporate officer to assure safeguards on the use of customer proprietary network information.

New section WAC 480-120-154 contains definitions relating to CPNI.

REFERENCE TO AFFECTED RULES: This rule making amends the following section of the Washington Administrative Code: None.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a Preproposal Statement of Inquiry (CR-101) on November 21, 1997, at WSR 97-23-087.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The preproposal statement advised interested persons that the commission was considering entering a rule making on customer proprietary network information (CPNI) in commercial telecommunications, to consider possible amendment of commission rule on the topics of privacy protections and implementation of restrictions on the use of CPNI. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3).

On January 21, 1998, the commission staff, Public Counsel and representatives of TRACER, WITA, GTE, AT&T, MCI, and US WEST met in a workshop to address the potential rule making, comments that some of the participants had filed, and activities at the federal level related to CPNI and privacy. At that time, the Federal Communications Commission (FCC) was expected to serve an order clarifying Section 222 of the Telecommunications Act of 1996, concerning privacy issues and the use of CPN, by the end of the first quarter of 1998.

By consensus, the parties agreed to set aside the rule process until federal standards were ordered. The FCC served this order on February 26, 1998, (FCC Second Report and Order CC No. 96-115). On April 13, 1998, the commission gave interested persons notice of an opportunity to file comments on a staff recommendation to accept for state adoption the FCC language as ordered in the federal rule. Interested persons, including the American Civil Liberties Union, filed comments on May 20, 1998.

NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of Proposed Rule Making (CR-102) on September 2, 1998, at WSR 98-18-107. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 98-18-107 at 9:00 a.m., Wednesday, October 28, 1998, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

COMMENTERS (WRITTEN COMMENTS): The commission received written comments from US WEST, GTE, SPRINT, Public Counsel, GST TELECOM, Washington Independent Telephone Association (WITA), AT&T, and CENTURY TELEPHONE ENTERPRISES.

RULE-MAKING HEARING: The proposal was considered for adoption, pursuant to the notice, in a rule-making hearing scheduled during the commission's regularly scheduled open public meeting on October 28, 1998, before Commission Chair Anne Levinson, Commissioner Richard Hemstad, and Commissioner William R. Gillis. The commission heard oral comments from Vincent Pollina, representing commission staff, Teresa Jensen, representing US WEST, Terry Vann, representing WITA, and Matt Steurwalt, representing Public Counsel.

COMMISSION ACTION: After considering all of the information regarding this proposal, the commission adopted the proposed rules, with the changes described below.

CHANGES FROM PROPOSAL: The commission adopted the proposal with the following changes from the text noticed at WSR 98-18-107.

Consistent with recommendations from US WEST, GTE, Century, GST, and AT&T, the commission deleted proposed subsections (1) and (3) from WAC 480-120-153. The FCC has suspended enforcement of the corresponding federal requirements for software flagging and electronic monitoring, and the commission believes that it is inappropriate to adopt the provisions for state action until they are effective at the federal level.

Consistent with recommendations of AT&T, the commission added a provision in WAC 480-120-152 (6)(b)(vi) to require full translations of notice content if any portion is translated into a foreign language. This provision had been omitted in error from the proposed rule, was added to conform to the federal rule, and is within the scope of the rule-making proceeding as noticed.

Consistent with the recommendation of Public Counsel, the commission added a provision in WAC 480-120-152 (6)(b)(i) noting that customer information is protected by state law as well as federal law. This provision is consistent with the fact that the state is, by this rule making, adopting privacy rules and is within the scope of the rule-making proceeding as noticed.

Consistent with the recommendation of GTE, the commission modified the definition of CPNI in WAC 480-120-154(4) to conform to the definition in federal rules. This change corrected a typographical error in the proposed rule.

The commission also adopted changes of a typographical nature, including correction of subsection numbering in WAC 480-120-152(6), correction of a reference in WAC 480-120-151(2) from "(c)" to "(3).", correction of a typographical error in WAC 480-120-151 (2)(a), and correction of a reference in WAC 480-120-154 (stating the sections to which the definitions in WAC 480-120-154 apply).

REASONS FOR REJECTING RECOMMENDATIONS: With the exception of Public Counsel, the commenters generally recommended that the commission not adopt rules on CPNI and instead leave this issue to federal regulators. The commission rejected this recommendation, because it would not have

provided consumers with adequate protection in the face of increasing competition.

Public Counsel recommended that the commission apply the notice requirement of WAC 480-120-144 to all customers, rather than just to customers who have subscribed to a privacy service. The commission rejected this recommendation, because it would create a conflict with the more general rules. Customers who do not pay for a private number can reasonably expect to receive telemarketing calls, and existing law already allows them to tell the telemarketer (including their own phone company) not to call them.

US WEST recommended that the notice requirement codified in WAC 480-120-144 be repealed, because it is an unconstitutional taking of the property of the telephone companies. The commission rejected this recommendation, because it would eliminate an existing protection to the privacy of consumers. The commission is not persuaded that this provision, which merely requires notice to customers of their legal rights, is illegal or unconstitutional.

GTE recommended that the commission delete wireless carriers from the definition of "telecommunications carrier" in WAC 480-120-154(9), because the commission lacks authority to regulate wireless carriers. While it is correct that, with some exceptions, the commission does not have authority to regulate the provision of wireless service, wireless carriers are nonetheless telecommunications carriers and should be included in the definition. Doing so does not make them subject to regulation by the commission.

PARTIAL ADOPTION; REFILE: In reviewing the materials in this file for filing adopted rules with the code reviser, the commission discovered an administrative oversight. The revision to WAC 480-120-139, deleting subsection (5), was described in the CR-102 and was discussed as a central element of the proceeding, but through inadvertence was not filed with the code reviser. Consequently, it cannot be formally adopted with the filing of this order. The commission will take the following steps to correct this oversight.

First, the commission will proceed with the adoption of the other WAC sections as specified in this order. Second, the commission will immediately file a revised CR-102 to start the process of adopting the amendment to that section. Third, in the interim period, the newly adopted rules will be considered as clarifying, expanding upon, and as necessary superseding the text to be deleted, pursuant to usual rules of statutory construction.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determines that WAC 480-120-144, 480-120-151, 480-120-152, and 480-120-153 should be adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

ORDER

THE COMMISSION ORDERS:

1. WAC 480-120-144, 480-120-151, 480-120-152, 480-120-153, and 480-120-154 are adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

2. This order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 2nd day of February, 1999.

Washington Utilities and Transportation Commission

Anne Levinson, Chair

Richard Hemstad, Commissioner

William R. Gillis, Commissioner

APPENDIX "A"

NEW SECTION

WAC 480-120-144 Use of privacy listings for telephone solicitation. A telecommunications company may not make telephone solicitation or telemarketing calls using its list of customers with nonpublished or unlisted numbers unless it has notified each such customer at least once in the past year that the company makes such calls to its customers with nonpublished or unlisted numbers and that the customer has a right to request that the company make no such calls.

NEW SECTION

WAC 480-120-151 Telecommunications carriers' use of customer proprietary network information (CPNI). (1) Any telecommunications carrier may use, disclose, or permit access to CPNI for the purpose of providing or marketing service offerings among the categories of service (i.e., local, interexchange, and CMRS) already subscribed to by the customer from the same carrier, without customer approval.

(a) If a telecommunications carrier provides different categories of service, and a customer subscribes to more than one category of service offered by the carrier, the carrier is permitted to share CPNI among the carrier's affiliated entities that provide a service offering to the customer.

(b) If a telecommunications carrier provides different categories of service, but a customer does not subscribe to

PERMANENT

more than one offering by the carrier, the carrier is not permitted to share CPNI among the carrier's affiliated entities.

(2) A telecommunications carrier may not use, disclose or permit access to CPNI to market to a customer service offerings that are within a category of service to which the customer does not already subscribe to from that carrier, unless the carrier has customer approval to do so, except as described in subsection (3) of this section.

(a) A telecommunications carrier may not use, disclose, or permit access to CPNI derived from its provision of local service, interexchange service, or CMRS, without customer approval, for the provision of customer premises equipment and information services, including call answering, voice mail or messaging, voice storage and retrieval services, fax store and forward, and Internet access services. For example, a carrier may not use its local exchange service CPNI to identify customers for the purpose of marketing to those customers related CPE or voice mail service.

(b) A telecommunications carrier may not use, disclose, or permit access to CPNI to identify or track customers who call competing service providers. For example, a local exchange carrier may not use local service CPNI to track all customers who call local service competitors.

(c) A telecommunications carrier may not use, disclose, or permit access to a former customer's CPNI to regain the business of the customer who has switched to another service provider.

(3) A telecommunications carrier may use, disclose, or permit access to CPNI, without customer approval, as described in this subsection.

(a) A telecommunications carrier may use, disclose, or permit access to CPNI, without customer approval, in its provision of inside wiring installation, maintenance, and repair services.

(b) CMRS (wireless telecommunications service) providers may use, disclose, or permit access to CPNI for the purpose of conducting research on the health effects of CMRS.

(c) Local exchange companies and CMRS providers may use CPNI, without customer approval, to market services formerly known as adjunct-to-basic services, such as, but not limited to, speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and certain centrex features.

NEW SECTION

WAC 480-120-152 Notice and approval required for use of customer proprietary network information (CPNI). (1) A telecommunications carrier must obtain customer approval to use, disclose, or permit access to CPNI to market a customer service to which the customer does not already subscribe from that carrier.

(2) A telecommunications carrier may obtain approval through written, oral or electronic methods.

(3) A telecommunications carrier relying on oral approval must bear the burden of demonstrating that such approval has been given in compliance with the commission's rules.

(4) Approval obtained by a telecommunications carrier for the use of CPNI outside of the customer's total service relationship with the carrier must remain in effect until the customer revokes or limits such approval, so long as the carrier maintains the records of customer notification and approval required in this rule.

(5) A telecommunications carrier must maintain records of notification and approval, whether oral, written or electronic, for at least one year.

(6) Prior to any solicitation for customer approval, a telecommunications carrier must provide a one-time notification to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's CPNI.

(a) A telecommunications carrier may provide notification through oral or written methods.

(b) Customer notification must provide sufficient information to enable the customer to make an informed decision as to whether to permit a carrier to use, disclose, or permit access to, the customer's CPNI.

(i) The notification must state that the customer has a right, and the carrier a duty, under federal and state law, to protect the confidentiality of CPNI.

(ii) The notification must specify the types of information that constitute CPNI and the specific entities that will receive CPNI, describe the purposes for which CPNI will be used, and inform the customer of his or her right to disapprove those uses, and deny or withdraw access to CPNI at any time.

(iii) The notification must advise the customer of the precise steps the customer must take in order to grant or deny access to CPNI, and must clearly state that a denial of approval will not affect the provision of any services to which the customer subscribes.

(iv) The notification must be comprehensible and must not be misleading.

(v) If written notification is provided, the notice must be clearly legible, use sufficiently large type, and be placed so as to be readily apparent to a customer.

(vi) If any portion of a notification is translated into another language, then all portions of the notification must be translated into that language.

(vii) A carrier may state in the notification that the customer's approval to use CPNI may enhance the carrier's ability to offer products and services tailored to the customer's needs. A carrier also may state in the notification that the customer upon affirmative written request may compel the carrier to disclose CPNI to any person.

(viii) A carrier may not include in the notification any statement attempting to encourage a customer to freeze third party access to CPNI.

(ix) The notification must state that any approval, or denial of approval for the use of CPNI outside of the service to which the customer already subscribes to from that carrier is valid until the customer affirmatively revokes or limits the approval or denial.

(7) A telecommunications carrier's solicitation for approval must be proximate to the notification of a customer's CPNI rights.

(8) A telecommunications carrier's solicitation for approval, if written, must not be a document separate from

the notification, even if both documents are included within the same envelope or package.

NEW SECTION

WAC 480-120-153 Safeguards required for use of customer proprietary network information (CPNI). (1) Telecommunications carriers must train all personnel who have access to CPNI as to when they are and are not authorized to use CPNI, and carriers must implement an express disciplinary process to deal with violations of the requirement.

(2) Telecommunications carriers must establish a supervisory review process regarding carrier compliance with rules governing outbound marketing situations and must maintain records of carrier compliance for at least one year. Specifically, sales personnel must obtain supervisory approval of any proposed outbound marketing request.

(3) A telecommunications carrier must have a corporate officer, as an agent of the carrier, sign a compliance certificate on an annual basis that the officer has personal knowledge that the carrier is in compliance with the rules of this subpart. A statement explaining how the carrier is in compliance with the rules in this subpart must accompany the certificate.

NEW SECTION

WAC 480-120-154 Definitions. For purposes of WAC 480-120-151 through 480-120-154, terms have the following meaning:

(1) **Affiliate.** An affiliate is an entity that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another entity.

(2) **Customer.** A customer of a telecommunications carrier is a person or entity to which the telecommunications carrier is currently providing service.

(3) **Commercial mobile radio service (CMRS).** Commercial mobile radio service means any mobile (wireless) telecommunications service that is provided for profit that makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public.

(4) **Customer proprietary network information (CPNI).** Customer proprietary network information (CPNI) is:

(a) Information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by a customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the customer-carrier relationship; and

(b) Information contained in a customer's bill pertaining to telephone exchange service or telephone toll service received by a customer of a carrier. Customer proprietary network information does not include subscriber list information.

(5) **Customer premises equipment (CPE).** Customer premises equipment (CPE) is equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

(6) **Information service.** Information service is the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

(7) **Local exchange carrier (LEC).** A local exchange carrier (LEC) is any person that is engaged in the provision of telephone exchange service or exchange access. For purposes of these rules, the term does not include a person insofar as such person is engaged in the provision of commercial mobile service under 47 U.S.C. 332(c).

(8) **Subscriber list information (SLI).** Subscriber list information (SLI) is any information:

(a) Identifying the listed names of subscribers of a carrier and those subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned when service is established), or any combination of listed names, numbers, addresses, or classifications; and

(b) That the carrier or an affiliate has published, caused to be published, or accepted for publication in any directory format.

(9) **Telecommunications carrier.** A telecommunications carrier is any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in 47 U.S.C. 226 (a)(2)). The definition of telecommunications carrier for purposes of these rules does not include CMRS providers, except as a substitute for wire line telecommunications in locations where wire line services are not available.

WSR 99-05-016

PERMANENT RULES

UTILITIES AND TRANSPORTATION COMMISSION

[General Order No. R-458, Docket Order No. UR-980080—Filed February 5, 1999, 3:44 p.m.]

In the matter of amending WAC 480-92-011, 480-92-021, 480-92-031, 480-92-050, 480-92-060, 480-92-070, 480-92-080, 480-92-090, 480-92-100, and 480-92-110 and adopting WAC 480-92-016 and 480-92-041, relating to operators of low-level radioactive waste disposal sites.

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 98-22-110, filed with the code reviser on November 4, 1998. The commission brings this proceeding pursuant to RCW 80.01.040.

STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The commission adopted this rule on December 9, 1998.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: The proposed rules will implement the requirements of Executive Order 97-02, requiring agencies to review rules for clarity, intent and statutory authority, need, effectiveness and efficiency, coordination, cost and fairness. The proposed rules make several changes to existing rules. The new rules clarify the definition of low-level radioactive waste to exclude "naturally occurring or accelerator produced radioactive material." The proposed rules eliminate the definition and rules pertaining to an initial rate proceeding and the initial rate filing established at the onset of regulating this industry. Additionally, the proposed rules expand customer notice requirements for tariff filings, change the time annual reports are due, and change the reporting requirements to annual in order to implement a recent amendment to RCW 81.108.050(3).

REFERENCE TO AFFECTED RULES: This rule amends the following sections of the Washington Administrative Code: WAC 480-92-011 Application of this chapter, 480-92-021 Definitions, 480-92-031 Customer records, 480-92-041 Uniform system of accounts, 480-92-050 Annual report, 480-92-060 Minimum filing requirements, 480-92-070 Annual rate adjustment, 480-92-080 Contracts, 480-92-090 Site operator responsibility for complaints and disputes, 480-92-100 Tariffs, and 480-92-110 Penalty assessments.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a Preproposal Statement of Inquiry (CR-101) on February 27, 1998, at WSR 98-06-050.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons that the commission was considering entering a rule making on rules relating to rate regulation of site operators for the disposal of low-level radioactive waste. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to operators of low-level radioactive waste disposal sites, generators and brokers of low-level radioactive waste. Pursuant to the notice, the commission did engage in two stakeholder meetings and solicited written comments.

NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of Proposed Rule Making (CR-102) on November 4, 1998, at WSR 98-22-110. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 98-22-110 at 9:30 a.m., Wednesday, December 9, 1998, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

MEETINGS OR WORKSHOPS; ORAL COMMENTS: The commission held two stakeholder meetings. The first meeting was held on June 11, 1998, and the second on September 3, 1998.

COMMENTERS (WRITTEN COMMENTS): The commission received written comments from US Ecology, Inc. supporting the proposal.

RULE-MAKING HEARING: The rule proposal was considered for adoption, pursuant to the notice, at the commission's regularly scheduled open public meeting on December 9, 1998, before Chairwoman Anne Levinson and Commissioner Richard Hemstad.

COMMISSION ACTION: After considering all of the information regarding this proposal, the commission adopted the proposed rules, without making any changes from the text noticed at WSR 98-22-110.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determines that WAC 480-92-011, 480-92-016, 480-92-021, 480-92-031, 480-92-041, 480-92-050, 480-92-060, 480-92-070, 480-92-080, 480-92-090, 480-92-100, and 480-92-110 should be amended and adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 10, repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; **Pilot Rule Making:** New 0, amended 0, repealed 0; **or Other Alternative Rule Making:** New 0, amended 0, repealed 0.

ORDER

THE COMMISSION ORDERS:

1. WAC 480-92-011, 480-92-016, 480-92-021, 480-92-031, 480-92-041, 480-92-050, 480-92-060, 480-92-070, 480-92-080, 480-92-090, 480-92-100, and 480-92-110 are adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

2. This order and the rules set out in Appendix A, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

3. The commission adopts the commission staff memorandum, presented when the commission considered filing a Preproposal Statement of Inquiry, when it considered filing the formal notice of proposed rule making, and when it considered adoption of this proposal in conjunction with the text of this order, as its concise explanatory statement of the reasons for adoption as required by RCW 34.05.025.

DATED at Olympia, Washington, this 2nd day of February 1999.

Washington Utilities and Transportation Commission
Anne Levinson, Chair
Richard Hemstad, Commissioner
William R. Gillis, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-366, Docket No. T-910676, filed 1/10/92, effective 2/10/92)

WAC 480-92-011 Application of this chapter. ~~((+))~~
~~The rules in this chapter ((shall)) apply to any ((company operating as a)) low-level radioactive waste site operating company, as defined ((as such by the laws of)) in RCW 81.04.010, operating within the state of Washington, ((and which)) that is ((subject to the jurisdiction of the commission)) not exempt from commission regulation under RCW 81.108.100 and 81.108.110.~~

~~((2)) Upon proper showing of any site operator, the commission may waive or modify the provisions of any section herein except when such provisions are fixed by statute. Application for the waiver or modification of any of the rules and regulations of the commission shall be made in accordance with the following instructions:~~

~~(a) Application should be directed to the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive SW, PO Box 47250, Olympia WA 98504-7250, and should be typewritten on paper 8 1/2 by 11 inches in size.~~

~~(b) Reference must be made in a separate paragraph to each section for which modification or waiver is requested, and a full explanation given as to the reasons why such waiver or modification is desired.)~~

NEW SECTION

WAC 480-92-016 Waiver. (1) The commission may grant a waiver of any rule in this chapter when doing so is consistent with the public interest, the purposes underlying regulation, and sound public policy, and is not inconsistent with applicable statutes.

(2) To request a rule waiver, a site operator must file a written request with the commission identifying the rule for which a waiver is sought, and giving a full explanation of the reason for requesting the waiver.

AMENDATORY SECTION (Amending Order R-366, Docket No. T-910676, filed 1/10/92, effective 2/10/92)

WAC 480-92-021 Definitions. The definitions contained in chapter 81.108 RCW and RCW 81.04.010 are incorporated ~~((herein))~~ by ~~((this))~~ reference in this section. To the extent that any of the definitions in this chapter differ from statutory definitions, the statutory definitions shall control.

"Commission" means the Washington utilities and transportation commission.

"Effective rate" means the highest permissible rate, for the disposal of low-level radioactive waste, calculated as the

lowest contract rate plus an administrative fee, if applicable, determined pursuant to RCW 81.108.040.

"Extraordinary volume" means volumes of low-level radioactive waste delivered to a site caused by nonrecurring events, outside normal operations of a generator, that are in excess of twenty thousand cubic feet or twenty percent of the preceding year's total volume at such site, whichever is less.

"Extraordinary volume adjustment" means a mechanism that allocates the potential rate reduction benefits of an extraordinary volume ~~((between))~~ among all generators and the generator responsible for such extraordinary volume as described in RCW 81.108.070.

"Generator" means a person, partnership, association, corporation, or any other entity ~~((whatsoever))~~ that, as a part of its activities, produces low-level radioactive waste.

"Inflation adjustment" means a mechanism that adjusts the maximum disposal rate by a percentage equal to the change in price levels in the preceding period, as measured by a common, verifiable price index as determined in RCW 81.108.040.

~~("Initial rate proceeding" means the proceeding described in RCW 81.108.040.)~~

"Low-level radioactive waste" means waste material ~~((which))~~ that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities ~~((which))~~ that exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations nor naturally occurring or accelerator produced radioactive material.

"Maximum disposal rate" ~~((means))~~ the maximum disposal is the rate ((described)) a site operator may charge generators as provided in RCW 81.108.050.

"Site" means a location, structure, or property used or to be used for the storage, treatment, or disposal of low-level radioactive waste for compensation within the state of Washington.

"Site operator" means a low-level radioactive waste site operating company, which includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing a low-level radioactive waste disposal site or sites located within the state of Washington.

"Volume adjustment" means a mechanism that adjusts the maximum disposal rate in response to material changes in volumes of waste deposited at the site during the preceding period so as to provide a level of total revenues sufficient to recover the costs to operate and maintain the site.

AMENDATORY SECTION (Amending Order R-366, Docket No. T-910676, filed 1/10/92, effective 2/10/92)

WAC 480-92-031 ~~((Accounts—Uniform system adopted—))~~ Customer records. ~~((1))~~ Each site operator shall conform its accounting system to the "Uniform System of Accounts for Low-Level Disposal Site Operators" dated

January 1, 1992. A copy of that document is available at the headquarters office of the commission and shall be available from the commission upon request.

(2) Each site operator shall maintain complete records of the disposal service provided to each customer, showing for each and every customer the amount billed, the type of service provided, the dollar amounts collected and the balance due. Each site operator shall maintain customer records in such a way that the service and the rates and charges are easily identifiable in accordance with rates set for the site operator. Records must be kept on file at the office of the site operator at the disposal site, and in any other place as may be approved by the commission, for a period of at least three years.) A site operator must maintain, at a minimum, the following records, by generator, at the disposal site for at least three years:

- Customer name and address;
- Type of service provided;
- Current rates;
- Billed amount;
- Amount collected; and
- Balance due.

NEW SECTION

WAC 480-92-041 Uniform system of accounts. Pursuant to RCW 81.108.030(4) commission staff may require a site operator to use a uniform system of accounts to ensure that the commission can effectively audit the company's operations.

AMENDATORY SECTION (Amending Order R-366, Docket No. T-910676, filed 1/10/92, effective 2/10/92)

WAC 480-92-050 ((Semiannual)) Annual report((s)). ((Each site operator shall file semiannual reports reporting the results of operations for the site. These reports shall cover the period from January through June and from July through December. Reports shall be filed on forms provided by the commission, and submitted no later than sixty days after the end of the period for which the report is submitted. The first such report shall cover the period from July to December 1992.)) The commission will distribute an annual report form to site operators each year. The site operator must complete the form, file it with the commission, and pay regulatory fees for the preceding calendar year by May 1.

A site operator may request in writing prior to May 1, an extension of time to file its annual report, stating the reasons for the request and the extension date. The commission will not grant extensions for payment of regulatory fees.

AMENDATORY SECTION (Amending Order R-366, Docket No. T-910676, filed 1/10/92, effective 2/10/92)

WAC 480-92-060 ((Initial rate filing Form Notice)) Minimum filing requirements. ((1) No later than March 1, 1992, site operators shall file a request with the commission to establish an initial maximum disposal rate. The request shall be in the form of a petition. An original and twenty copies shall be filed with the commission.

(2) The petition shall set out the proposed maximum disposal rate; the proposed inflation, volume, and extraordinary volume adjustments; the proposed administrative fee for small volumes pursuant to RCW 81.108.040(5); and a proposed method for determining the cost to receive and handle extraordinary volumes of waste pursuant to RCW 81.108.070(1).

(3) The filing shall include, at a minimum, testimony, exhibits, work papers, summaries, annual reports, cost studies, proposed tariffs, and any other information necessary to determine a maximum disposal rate and to support the proposed rates, fees, adjustments, and costs.

(4) Within five days after filing the request with the commission, the site operator shall notify all customers who ship or deliver waste to the site that a request has been filed with the commission. Notice shall be mailed to any customer who has paid for disposal of waste at the site within three years prior to the filing of the request. The notice shall include a statement of the site operator's proposed maximum disposal rate and shall include the address of the commission, with a statement that more detailed information may be obtained by writing to the commission.

(5) Hearings before the commission on the rates, charges, and methods contained in the petition shall be conducted in accordance with chapter 480-09 WAC.

(6) Once approved, the maximum disposal fee shall become the highest disposal fee the site operator may charge customers.) (1) When a site operator files for a general rate increase, it must follow the minimum filing requirements set forth in WAC 480-09-300 through 480-09-330.

(2) A site operator filing a request with the commission for a general rate increase must concurrently notify all generators who have disposed of low-level radioactive waste in the three years prior to the request for the proposed rate increases or service changes. The notice must include at minimum: a clear, brief explanation the generators can easily understand of the proposed rates, conditions and changes; the requested effective date; the commission's address, with a statement that generators may obtain more detailed information by writing to the commission; and a phone number for generators to call a company representative if they have questions.

AMENDATORY SECTION (Amending Order R-366, Docket No. T-910676, filed 1/10/92, effective 2/10/92)

WAC 480-92-070 ((Semiannual adjustments to maximum disposal fee Filing Notice)) Annual rate adjustment. (1) ((After January 1, 1993,)) A site operator(s) may file each year for ((adjustments to the maximum disposal fee for reasons set forth in RCW 81.108.050(3). Inflation and volume adjustments must be filed to become effective in January or July and must allow for thirty days from the date of filing to become effective.)) rate adjustments, as set forth in RCW 81.108.050(3), to become effective January 1 of the following year. Rate adjustments will be effective thirty days after filing with the commission, unless suspended. Upon proper request the commission may allow filings to become effective in less than thirty days.

(2) A site operator may also file for rate adjustments (~~((to the maximum disposal fee))~~) at any time for reasons set forth in RCW 81.108.050(4).

~~((3) In all filings for a change in the maximum disposal fee, the site operator shall provide its customers with notice of the filing as required for the initial rate filing under this chapter.))~~

AMENDATORY SECTION (Amending Order R-366, Docket No. T-910676, filed 1/10/92, effective 2/10/92)

WAC 480-92-080 Contracts. (1) Contract rates - Generally. A site operator may contract with any person to provide a ~~((contract))~~ disposal rate lower than the ~~((maximum disposal))~~ current tariff rate. ~~((Each such contract shall be filed with the commission not less than thirty days prior to the proposed effective date of the contract, and shall become effective according to its terms the thirty-first day from the date of its filing unless earlier approved, suspended, or rejected by the commission. Upon application and for good cause shown,))~~ Once the commission ((may)) approves ((the)) a contract ((as of its effective date prior to the date that the contract would have become effective in accordance with this section)), the site operator may not collect a disposal fee greater than the lowest contract rate plus an administrative fee.

(2) ~~((Each contract filed for commission approval shall be accompanied by such documentation as may be necessary to show that the contract does not result in discrimination among customers receiving like and contemporaneous service under substantially similar circumstances, and provides for the recovery of all costs associated with the provision of the service; provided, that discrimination between customers is not present to the extent a site operator charges small volume customers an administrative fee determined according to RCW 81.108.040(5). The site operator shall file the following information in conjunction with each contract submitted for commission approval:~~

~~(a) A statement summarizing the basis of the rate or charge proposed in the contract and an explanation of the derivation of the proposed rate or charge;~~

~~(b) An explanation of all cost computations involved in arriving at the derivation of the level of the rate or charge in the contract; and~~

~~(c) A statement indicating the basis for the use of a contract rather than a filed tariff for the specific service involved.~~

~~(3) All contracts shall be for a stated time period. The commission may approve terms and conditions which prescribe the rate or rates to be applied during the time period, if such rates are found to be appropriate. Unless otherwise provided by the commission, such approval shall not be determinative with respect to the expenses and revenues of the site operator for subsequent ratemaking considerations.~~

~~(4) Every contract filed shall contain the provision that it is made subject to the power and authority of the commission to fix, alter, and amend just, fair, and reasonable classifications, rules and regulations, and rates for low-level radioactive waste disposal site operators.))~~ Contract requirements. A contract between a site operator and a generator must be limited to a definite time period.

A contract between a site operator and a generator must contain a provision that the contract is entered into subject to the power and authority of the commission to set just, fair, reasonable and sufficient rates for the disposal of low-level radioactive waste. The contract must provide for recovery of all costs associated with providing the service.

(3) Approval by the commission.

(a) The commission may approve the terms and conditions of a contract, and the rate or rates to be applied during the time period, if it finds the rates to be fair, just, reasonable and sufficient. The commission may not include revenues and expenses generated and incurred under contract for subsequent ratemaking purposes.

(b) Each contract must be filed with the commission at least thirty days before the proposed effective date of the contract. Contracts will become effective on the thirty-first day after filing with the commission unless:

(i) The site operator request, and the commission allows, for the contract to become effective in less than thirty days;

(ii) The commission rejects the contract; or

(iii) The commission suspends the contract and sets the matter for hearing.

(4) Information to support approval of a contract. A site operator must submit the following information with each contract filed for commission approval:

(a) A statement explaining the use of a contract rather than a filed tariff for the specific service involved;

(b) All documents and calculations showing how the site operator derived the proposed rate;

(c) All documents showing that the contract does not discriminate, or result in discrimination, among customers receiving like and contemporaneous service under substantially similar circumstances; and

(d) Any other information requested by the commission.

AMENDATORY SECTION (Amending Order R-366, Docket No. T-910676, filed 1/10/92, effective 2/10/92)

WAC 480-92-090 ((Complaint procedures.)) Site operator responsibility for complaints and disputes. ~~((4) Complaints against a site operator shall be made by letter to the commission. The complainant shall send a copy of the complaint to the site operator by registered mail.~~

~~(2) A complaint shall include the dates of acts or omissions complained against, the relevant statutes or rules, and other information essential to disposition of the complaint.~~

~~(3) The commission encourages alternate forms of dispute resolution to resolve disputes between the site operator and any other person. In order to resolve disputes informally, the voluntary settlement procedures of WAC 480-09-465 may be used to resolve complaints brought before the commission.))~~ (1) If a site operator receives complaints or disputes regarding its operations, it must:

(a) Acknowledge the complaint;

(b) Investigate promptly;

(c) Report the results of the investigation to the complainant;

(d) Take corrective action, if warranted, as soon as appropriate under the circumstances;

(e) Tell the complainant the decision may be appealed to a higher level representative of the company, if any;

(f) Tell the complainant, if still dissatisfied after speaking with the higher level representative, of the commission's availability to review the complaint; and

(g) Provide the complainant with the commission's address and toll-free telephone number.

(2) Complainants may file with the commission:

(a) An informal complaint against a site operator as set forth in WAC 480-09-150; and/or

(b) A formal complaint against a site operator as set forth in RCW 81.108.080 and chapter 480-09 WAC.

(3) When commission staff refers an informal complaint to a site operator, the operator must:

(a) Investigate and respond to commission staff within two working days. Commission staff may grant an extension of time for responding to the complaint, if requested, and warranted; and

(b) Report regularly to commission staff about progress toward the solution and the final result.

(4) A site operator must keep a record of all complaints concerning service or rates for at least one year and, on request, make them readily available for commission review. The record must contain:

(a) The complainant's name and address;

(b) The date and nature of the complaint;

(c) The action taken; and

(d) The final result.

AMENDATORY SECTION (Amending Order R-366, Docket No. T-910676, filed 1/10/92, effective 2/10/92)

WAC 480-92-100 Tariffs. (1) ~~(Every)~~ A site operator ~~(shall)~~ must file with the commission ~~(, and post at the company's main office at the disposal site, its)~~ a tariff showing all rates ~~(and charges, including all accessorial charges,)~~ for the disposal of low-level radioactive waste. The site operator must post the tariff at their office at the disposal site.

(2) ~~(Two copies of all such tariffs shall be transmitted to the commission with a letter of transmittal in duplicate.~~

(3) ~~Tariffs shall be typed or printed on 8 1/2 by 11 inch paper and shall be paginated. A margin of not less than five eighths of an inch must be left on all four sides for binding.~~

(4) ~~Tariffs shall consist of at least)~~ The tariff must include the following:

(a) A title page ~~(which identifies)~~ with the ~~(name of the)~~ company ~~(issuing the tariff)~~ name, date of issue ~~(and date)~~, effective date, and ~~name()~~ and title ~~(and street address)~~ of ~~(tariff publishing)~~ the officer ~~(by whom the tariff or supplement is issued)~~.

(b) ~~(A general rules section that contains all rules and regulations governing how and in what manner rates and charges shall be assessed by the company.~~

(c) ~~A section that names all rates and charges that shall be assessed by the company.~~

(d) ~~A page listing all abbreviations and symbols used in the tariff, and containing an explanation of said abbreviations and symbols.)~~ Pages containing all rates and the rules for assessing rates.

(c) ~~A page listing the abbreviations and symbols used in the tariff, and an explanation of each abbreviation and symbol.~~

AMENDATORY SECTION (Amending Order R-366, Docket No. T-910676, filed 1/10/92, effective 2/10/92)

WAC 480-92-110 Penalty assessments. ~~(In addition to all other penalties provided by law, every site operator and every officer, agent, or employee of every such company who violates or procures, aids, or abets in the violation of any law, rule, regulation, or commission decision applicable to such company shall incur a penalty of up to one thousand dollars for every such violation. Each and every such violation shall be a separate and distinct offense, and in the case of a continuing violation every day's continuance shall be deemed to be a separate and distinct violation.)~~ Pursuant to RCW 81.108.030 (4)(d) and chapter 81.04 RCW, the commission may assess penalties of up to one thousand dollars for each violation per occurrence if a site operator violates any provisions of Title 81 RCW, commission rule, or decision.

WSR 99-05-024

PERMANENT RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 99-07—Filed February 9, 1999, 11:22 a.m.]

Date of Adoption: February 8, 1999.

Purpose: Repeal unnecessary section.

Citation of Existing Rules Affected by this Order:
Repealing WAC 232-21-101.

Statutory Authority for Adoption: RCW 77.12.040.

Adopted under preproposal statement of inquiry filed as
WSR 99-01-054 on December 10, 1998.

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

Number of Sections Adopted at Request of a Nongov-
ernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

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

February 8, 1999

J. P. Koenings

Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-21-101 Gold and fish. (Order 164)

**WSR 99-05-031
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[General Order No. R-455, Docket No. A-970591—Filed February 10, 1999, 11:59 a.m.]

In the matter of amending, adopting, and repealing sections within chapter 480-09 WAC, relating to procedure before the commission.

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 98-19-146, filed with the code reviser on September 22 [23], 1998. The commission brings this proceeding pursuant to RCW 34.05.220 and 80.01.040.

STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21 RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The commission adopted this rule on November 16, 1998.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: The proposal revises many of the sections of the commission's procedural rules to render them easier to understand and to update the rules' requirements.

REFERENCE TO AFFECTED RULES: This rule repeals, amends, or suspends the following sections of the Washington Administrative Code:

WAC 480-09-830 is repealed; new sections WAC 480-09-005 and 480-09-101 are adopted, and existing sections WAC 480-09-010, 480-09-012, 480-09-100, 480-09-115, 480-09-120, 480-09-125, 480-09-135, 480-09-140, 480-09-150, 480-09-200, 480-09-210, 480-09-220, 480-09-230, 480-09-340, 480-09-390, 480-09-400, 480-09-410, 480-09-420, 480-09-425, 480-09-426, 480-09-430, 480-09-440, 480-09-460, 480-09-465, 480-09-466, 480-09-467, 480-09-475, 480-09-500, 480-09-510, 480-09-600, 480-09-610, 480-09-620, 480-09-700, 480-09-705, 480-09-710, 480-09-720, 480-09-730, 480-09-735, 480-09-736, 480-09-740, 480-09-745, 480-09-750, 480-09-751, 480-09-760, 480-09-770, 480-09-780, 480-09-800, 480-09-810, 480-09-815, and 480-09-820 are amended and adopted.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a Preproposal Statement of Inquiry (CR-101) on August 14, 1997, at WSR 97-17-047.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons that the commission was considering entering a rule making to revise and update the commission's procedural

rules. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all persons who have requested to receive information about commission rule makings. Pursuant to the notice, the commission did engage in one workshop meeting and received comments on the topic. Staff produced and circulated draft revisions to persons who commented before the commission filed the notice of Proposed Rule Making (CR-102).

NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of Proposed Rule Making (CR-102) on September 23, 1998, at WSR 98-19-146. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 98-19-146 at 9:00 a.m., Wednesday, November 16, 1998, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

MEETINGS OR WORKSHOPS; ORAL COMMENTS: No workshops were held in light of the broad circulation of the proposal and the lack of objections to it.

COMMENTERS (WRITTEN COMMENTS): The commission received written comments from Northwest Industrial Gas Users (NWIGU) and GTE.

RULE-MAKING HEARING: The rule proposal was considered for adoption, pursuant to the notice, at the adoption hearing on November 16, 1998, before Chair Anne Levinson, Commissioner Richard Hemstad, and Commissioner William R. Gillis. The record was opened at 9:30 a.m. before Administrative Law Judge C. Robert Wallis; no persons were present to comment on the proposal and it was continued on the record for further hearing at the same location at 1:30 p.m. or as soon thereafter as it could be heard. It was reopened at the later time before the commissioners. The commission heard oral comments from C. Robert Wallis, representing commission staff. No other interested person made oral comments.

SUGGESTIONS FOR CHANGE THAT ARE REJECTED: GTE suggested that the commission approve electronic filing. Several issues remain to be resolved before electronic filing may be accomplished; the rules do expand parties' options and expand the ease of filing and the use of electronic media and delivery for formal and informal purposes.

COMMISSION ACTION: After considering all of the information regarding this proposal, the commission repealed and adopted the proposed new and amended rules with the changes noted below.

CHANGES FROM PROPOSAL: The commission adopted the proposal with the following changes from the text noticed at WSR 98-17-146. Several typographical corrections are made. In addition, consistent with suggestions from NWIGU and Public Counsel, a proposal in WAC 480-09-430(a) that would have deleted the statement that late interventions may be allowed on a showing of cause is rescinded to avoid any impression that late interventions might never be allowed.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission deter-

mines that the WAC sections identified in the appendix to this order should be repealed, amended, and adopted respectively, to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

ORDER

THE COMMISSION ORDERS:

1. WAC 480-09-830 is repealed; WAC 480-09-005 and 480-09-101 are adopted, and WAC 480-09-010, 480-09-012, 480-09-100, 480-09-115, 480-09-120, 480-09-125, 480-09-135, 480-09-140, 480-09-150, 480-09-200, 480-09-210, 480-09-220, 480-09-230, 480-09-340, 480-09-390, 480-09-400, 480-09-410, 480-09-420, 480-09-425, 480-09-426, 480-09-430, 480-09-440, 480-09-460, 480-09-465, 480-09-466, 480-09-467, 480-09-475, 480-09-500, 480-09-510, 480-09-600, 480-09-610, 480-09-620, 480-09-700, 480-09-705, 480-09-710, 480-09-720, 480-09-730, 480-09-735, 480-09-736, 480-09-740, 480-09-745, 480-09-750, 480-09-751, 480-09-760, 480-09-770, 480-09-780, 480-09-800, 480-09-810, 480-09-815, and 480-09-820 are amended and adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

2. This order and the rules set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

3. The commission adopts the commission staff memoranda, presented when the commission considered filing a Preproposal Statement of Inquiry, when it considered filing the formal notice of Proposed Rule Making, and when it considered adoption of this proposal, in conjunction with the text of this order, as its concise explanatory statement of the reasons for adoption and for rejection of proposed changes, as required by RCW 34.05.025.

DATED at Olympia, Washington, this 6th day of February 1999.

Washington Utilities and Transportation Commission
Anne Levinson, Chair
Richard Hemstad, Commissioner
William R. Gillis, Commissioner

APPENDIX "A"

NEW SECTION

WAC 480-09-005 Scope of this chapter—How to communicate with the commission. This chapter explains how to present written communications to the Washington utilities and transportation commission (called "the commission" in this chapter) and how various proceedings are conducted at the commission. Topics covered include how these rules operate; where and how to send letters to assure that they reach a person who can deal with them; requirements for submitting formal written documents such as pleadings; and rules that guide various proceedings.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-010 ((General application—Special rules)) When this chapter applies—Exceptions. (1) General ~~((rules. These rules of practice and procedure are for general))~~ application. This chapter applies generally to most dealings with and proceedings before the commission.

(2) Special rules. When rules in other chapters apply to certain classes of public service companies or to particular proceedings, those special rules ~~((shall))~~ govern ~~((in the event of))~~ if they conflict with ((the)) these general rules.

(3) Modifications and exceptions. ~~((These rules are subject to such exceptions as may be just and reasonable in individual cases as determined by))~~ The commission may make exceptions to these rules in individual cases when doing so is just and reasonable.

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-012 Incorporated and referenced materials. Any document that is incorporated by reference in a commission rule or order is available for public inspection at the Washington utilities and transportation commission branch of the Washington state library, ~~((housed with)).~~ The branch library is located in commission's headquarters office. The commission secretary will provide a copy of a referenced document upon request, allowing reasonable time for any necessary copying, subject to any pertinent charge and subject to copyright restrictions. The commission incorporates or references the version of the incorporated or referenced material that is current on the day the commission adopts a rule or enters an order that makes the incorporation or reference, unless the commission specifies another version or unless another version is apparent from the reference.

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 R-368, Docket No. A-910530, filed 3/5/92, effective 4/5/92)

WAC 480-09-100 ((Commission address—)) Sending communications to the commission. ~~((1) Address. Except as provided in chapter 480-04 WAC, all written communications and documents should be addressed to: Office of the Secretary, Washington Utilities & Transportation Commission, 1300 S Evergreen Park Dr SW, PO Box 47250, Olympia WA 98504-7250, and not to individual members of the commission staff.~~

~~(2) Receipt of communications. Except as provided in chapter 480-04 WAC, all communications and documents are deemed to be officially received only when delivered at the office of the secretary and stamped with the date and time. Documents and communications physically received in the commission offices between 5:00 p.m. of one business day and the start of the next business day are not considered officially received until the next business day when stamped with the date and time.~~

~~(3) Identification; one subject in a letter. Letters to the Washington utilities and transportation commission (referred to in these rules as the "commission") should include only one subject.~~

~~(a) Each item of pleading or correspondence which relates to a proceeding before the commission shall set forth at the top of the first page the docket number and name of the proceeding, if known to the writer, the title of the pleading, and the identity of the person who submits it.~~

~~(b) Communications to the commission from the holder of any permit, license, or certificate shall identify the exact name and the number under which the authority is held and the name and title of the writer.~~

~~(4) Communications from the commission. Official communications from the commission, other than orders, shall be signed by the commissioners, secretary of the commission, or the secretary's designee.)) This section governs communications to the commission except requests for public records, which are governed by chapter 480-04 WAC.~~

(1) Limitation of content. Letters and electronic mail messages to the Washington utilities and transportation commission ("commission") must include only one subject, to assure that the message is properly handled.

(2) Required identification of sender, proceeding, and document.

(a) Identification of sender. All communications must identify the name and title or position of the sender, the name of the entity on whose behalf the communication is sent, and a return address. Any letter or other communication that the holder of any commission-issued permit, license, or certificate sends to the commission must also identify the exact name and the number (if any) under which the authority is held.

(b) Identification of proceeding. Any letter, pleading, or other communication to the commission that relates to a commission proceeding must identify the proceeding to the best

of the writer's ability, at the top of the first page. The identification must include the docket number and name of the proceeding, if known to the writer, the name and position of the party for whom it is submitted.

(c) Identification of communication. Any communication that relates to a commission proceeding must identify the name of the communication (e.g., comment; motion; answer) at the top of the first page.

(3) How to address communications. All communications relating to formal proceedings must be addressed to the commission secretary. Formal communications should not be addressed to individual members of the commission staff because such documents may escape the filing and record-keeping necessary to document control.

(a) All written communications to the commission must be addressed to: The Secretary, Washington Utilities & Transportation Commission, 1300 S. Evergreen Park Dr SW, PO Box 47250, Olympia, WA 98504-7250. The commission records center will see that the correspondence promptly reaches a person who is able to deal with it.

(b) Electronic transmissions—E-Mail and Telefacsimile transmissions.

(i) When electronic transmission may be used. Electronic mail and telefacsimile messages may be used to submit correspondence or documents for filing as specified in WAC 480-09-120, for informal communication with commission staff members, and for providing courtesy copies to staff. Electronic transmission is not acceptable for formal correspondence or documents to be filed. The commission may make exceptions to this requirement in individual cases and may impose conditions on the use of electronic transmission.

(ii) Where to send electronic submissions. All electronic mail should be addressed to records@wutc.wa.gov. All telefacsimile transmissions should be sent to (360) 586-1150 or another number designated by the commission secretary. Courtesy or informational copies may be sent to other commission telefax machines or other electronic mail addresses for individual commission staff members.

(4) Updated addresses. The addresses listed in this chapter are current at the time of rule adoption. The commission will provide current information at any time on request.

NEW SECTION

WAC 480-09-101 When communications are received; required identification of sender; communications from the commission. (1) When documents are officially received. All communications and other submitted materials are officially received only when physically received in the commission records center and stamped with the date and time. Documents and communications that are received in the commission records center after 5:00 p.m. of one business day and before the start of the next business day are not considered officially received until the next business day when they are stamped with the date and time. Documents that are submitted by telefacsimile or electronic mail are officially received only when a paper copy is stamped with the date and time. The date-stamped time will determine whether a document meets any deadline that applies

and will determine the timing of any later deadlines based on filing.

(a) During a meeting or hearing, the presiding officer may accept documents relating to the subject of the meeting or hearing.

(b) Requests for public records are governed in chapter 480-04 WAC.

(2) Communications from the commission. Official communications from the commission must be signed by the commissioners, the secretary of the commission, or the secretary's designee. Communications relating to an adjudication may be signed by the presiding administrative law judge or the administrative law judge's designee.

AMENDATORY SECTION (Amending Order R-402, Docket No. A-931053, filed 11/12/93, effective 1/1/94)

WAC 480-09-115 Procedure at open public meetings.

(1) Meetings. ~~((Regular meetings of))~~ The commission ~~((for the conduct of business pursuant to chapter 42.30 RCW, the Open Public Meetings Act, shall be held beginning at 9:00 a.m., Wednesdays, except the first and third))~~ will hold regular meetings for the conduct of business under chapter 42.30 RCW, the Open Public Meetings Act. The meetings will begin at 9:30 a.m. on the second, fourth and fifth Wednesday of each month ((and state holidays,)) in the commission's administrative offices, 1300 S. Evergreen Park Drive SW, Olympia, Washington. If the regular meeting day is a state holiday, the regular meeting ((shall)) will be held on the next business day or on an alternate schedule published in the *Washington State Register*. Regular meetings may be cancelled, and special meetings may be convened ((from time to time pursuant to the provisions of)), under RCW 42.30.080. The commission may change the time and place of regular meetings from the information set out in this section. The current time and place are published, as required, in the *Washington State Register*; on the commission's Internet web site, and are available through telephone inquiry.

(2) Agenda~~((orders))~~. The commission secretary ~~((shall))~~ will direct the preparation and distribution of an agenda for each meeting. When feasible, the secretary ~~((shall))~~ will identify each item scheduled for discussion and action, as relating principally to utility regulation under Title 80 RCW; as relating principally to transportation regulation under Title 81 RCW; or "other."~~((and))~~ The secretary shall group similarly identified items together on the agenda. ((When an order is necessary to implement the commission's decision as to any agenda item, the secretary may enter the order when directed to do so by the commission.))

(3) "No action" agenda. Any request, proposal, or other filing which~~((pursuant to statute,))~~ will take effect without commission action, may be placed on a "no action required" portion of the agenda. Any item on this portion of the agenda will be discussed upon the request of any commissioner, and the commission may take such action on the item as the commission desires.

(4) "Consent" agenda. ~~((Any item which the secretary deems to be noncontroversial and of relatively slight public concern))~~ The secretary may ((be placed)) place any item which the secretary believes to be noncontroversial on a

"consent agenda" portion of the open meeting agenda. The commission will ask at the meeting if any person wants to address any consent agenda item and an item ((shall)) will be removed from the consent agenda for individual discussion and action at the request of any commissioner. Items on the consent agenda may be collectively moved for approval by a single motion ((any)) and may be collectively approved by a single vote of the commission. ((When directed to do so by the commission, the secretary shall enter an individual order implementing the commission's decision as to each consent agenda item.))

(5) Orders. The secretary may enter any order or sign any document necessary to implement an open meeting decision of the commissioners, when the commission so directs.

(6) Modifications. The commission may modify the procedures set forth in this section when it deems the modification appropriate.

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-120 Filing and service filing by telefacsimile; number of copies. (1) When filing is complete. Filing of any document is complete only ((upon receipt by the secretary or,)) when the document and the required number of copies are received by the commission records center, printed (if printing is necessary to produce a paper copy) and stamped with the date and time. When authorized by the presiding officer of a proceeding before the commission, ((upon receipt by)) filing of a document for purposes of the proceeding is complete when the presiding officer receives the document.

(a) ~~((Except as provided in this rule, receipt))~~ When telefacsimile filing is allowed. Receipt in the commission's telefax machine, or similar device, does not constitute filing except as otherwise allowed in this rule. The following documents may be filed by telefacsimile device when the filing party, except as specifically noted, sends a hard copy ((is sent by mail,)) postmarked on the day of filing, ((and)) which is received in the normal course of commerce((except as specifically noted:)).

(i) Tariff filings, when a hard copy is filed the next business day, as provided in WAC 480-80-070;

(ii) Form E proof of insurance, when a hard copy is filed within ten days;

(iii) Tariff filings by solid waste companies, auto transportation companies, steamboat companies and motor carriers; ~~((and))~~

(iv) Proposals to amend commission tariffs, as provided in WAC 480-12-295; and

(v) Other documents, when the commission specifically allows or requires filing by telefacsimile in individual instances, when required for timely consideration or for the commission's convenience. The commission may charge for making copies for internal distribution under WAC 480-09-125.

(b) Number of copies. Unless ~~((in a particular case))~~ the commission specifies a different number of copies, every original pleading submitted to the commission shall be filed with ~~((three copies for transportation matters and))~~ nineteen

copies ~~((for all other matters))~~. Parties who file an electronic copy of a pleading may file an original plus six paper copies. The electronic copy must comply with (b)(ii) of this subsection. When a person files a document by telefacsimile, the document should not be sent more than once except to cure transmission or receiving errors. Documents may be submitted single sided or double sided.

(i) The number of required copies is established to meet average commission need. Parties to a proceeding ~~((may in writing))~~ should ask the commission ((secretary)) records center or the presiding officer whether fewer ((are)) copies may be required in a given case. ((Parties to whom)) If the required number of copies would be a hardship, a party may describe the hardship and request exemption from the stated number of copies((- describing the nature of the hardship)).

(ii) The commission encourages parties submitting pre-filed testimony and exhibits, briefs, and ~~((other))~~ pleadings to submit the document in electronic form, with the agreed number of hard copies. In some instances electronic submissions are required, and in some instances ~~electronic submissions will substitute for hard copies. Unless ((other arrangements are made, text files may be submitted in a format compatible with WordPerfect 5.1 or in ASCII format and data may be submitted in a format compatible with Lotus 123))~~ the commission directs otherwise, electronic submissions are to be provided on a 3 1/2 inch IBM formatted high-density disk, in WordPerfect version 5.1, 6.0, or 6.1, labeled with the docket number of the proceeding, the name of the company and/or individual submitting the document, and type of software used.

(c) Filing and service are different. Filing a document with the commission does not constitute service upon the office of the attorney general or any other party. Likewise, service on the office of the attorney general does not constitute a filing with the commission.

(d) ~~((The filing of))~~ Certificate of service. Filing a pleading with the commission is not complete unless service has been made upon all parties to a proceeding, evidenced by a valid certificate of service or its equivalent as provided in subsection (2)(f) of this rule.

(e) The commission encourages each party to provide courtesy copies of documents that it files in rulemakings and adjudications to presiding officers and other staff persons by electronic mail. Providing such copies does not relieve a party of the obligation to otherwise file or serve documents.

(2) Service.

(a) Except as otherwise provided, when any party has appeared by an attorney or other authorized representative in a proceeding before the commission, service of documents required to be served ~~((shall))~~ must be made upon the representative. Service upon the representative is valid service upon the party.

(b) Service by parties. ~~((Service by parties shall be made))~~ Parties must serve documents by delivering one copy to each other party by one of the following methods: In person; by mailing, properly addressed with first class postage prepaid; by commercial parcel delivery company properly tendered with fees prepaid, or by telefacsimile transmission, ((where)) when originals are mailed simultaneously. Service by mail ((shall be)) is complete when a ((true)) copy of the

document is properly addressed and stamped and deposited in the United States mail. Service by commercial parcel delivery company ~~((shall be))~~ is complete when accepted for delivery by the company.

(c) Service by commission. All notices, complaints, petitions, findings of fact, opinions, and orders required to be served by the commission may be served in person~~((;))~~; by mail~~((;))~~; by commercial parcel delivery company, properly tendered with fees prepaid~~((;))~~; or by telefacsimile transmission, when originals are mailed simultaneously. Service ~~((thereof shall be))~~ is complete when a ~~((true))~~ copy of the document, properly addressed and stamped, is deposited in the United States mail with first class postage affixed, or accepted for delivery by the parcel delivery company.

(d) Electronic mail. A party may consent to receive service by electronic mail. The consent, which waives the party's right to other forms of service, must be in writing and filed with the commission in the docket for which consent is given.

(e) The risk of failure of service by electronic means falls upon the person choosing that form of service.

(f) Certificate of service. ~~((There shall appear))~~ Each person filing a pleading with the commission must include on the original of ((every)) the pleading ((when filed with the commission in accordance with)) under this subsection (2) of this section((;)) either an acknowledgment of service((;)) or the following certificate:

"I hereby certify that I have this day served ~~((the foregoing))~~ this document upon all parties of record in this proceeding, by (state the authorized method of service ((pursuant to)) selected under WAC 480-09-120 (2)(a))"

Dated at this day of

(signature)

AMENDATORY SECTION (Amending Order R-339, Docket No. A-900425, filed 3/14/91, effective 4/14/91)

WAC 480-09-125 Failure to file sufficient copies—Costs of copying. (1) ~~((When))~~ If a person files fewer than the required number of copies of a document, the commission may reject the filing. If needed for administrative convenience, the commission will make the additional copies for distribution and processing within the commission. "Administrative convenience" means that not having access to the documents would ~~((prejudice))~~ hamper the commission in fulfilling its duties.

(2) ~~((When))~~ If the commission makes copies to meet the total number required, the commission will bill the filing person at a rate of thirty cents per page, plus current sales tax. This rate compensates for the loss of the worker's attention to assigned duties, the unscheduled use of equipment, and the fully allocated cost of materials.

(3) The commission may assess a penalty against any person who, within twelve months, again fails to file the required number of copies of any document.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-130 Computation of time. The time for doing an act governed by this chapter shall be computed by excluding the first day and including the last, unless the last day is a holiday, Saturday, or Sunday, and then ~~((#))~~ the last day is excluded from the computation.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-135 Variation from time limits. (1) Time set by chapter 34.05 RCW. ~~The commission in individual instances may lengthen or shorten the time stated in chapter 34.05 RCW for action ((may be lengthened or shortened by the commission in its discretion in individual instances pursuant to))~~ in its discretion, under RCW 34.05.080.

~~(2) Time set by the commission rule. The commission may lengthen or shorten the time stated in these rules for action ((may be lengthened or shortened by the commission))~~ in its discretion.

AMENDATORY SECTION (Amending Order R-376, Docket No. 920379, filed 9/1/92, effective 10/2/92)

WAC 480-09-140 Ex parte communications. (1) General. After ~~((the commencement of))~~ an adjudicative proceeding begins and ~~((prior to))~~ before a final determination ~~((therein)),~~ no party to the proceeding, or ~~((its))~~ counsel for a party or other person on behalf of a party, shall discuss the merits of the proceeding with the commissioners, the presiding officer or the commissioners' staff assistants assigned to advise the commissioners in the decisional process in that proceeding, unless reasonable notice is given to all parties ~~((who have appeared therein, to enable them to be present at))~~ to the proceeding, so that they may attend the conference. When a party initiates correspondence with a presiding or reviewing officer regarding any pending proceeding, the party shall serve a copy of the correspondence upon all parties of record and furnish proof of ~~((such))~~ that service to the commission.

(2) Communications necessary to procedural aspects of maintaining an orderly process, such as scheduling, are not ex parte communications prohibited by RCW 34.05.455 or by this rule.

(3) The commission may prescribe appropriate sanctions, including default, for any violation of RCW 34.05.455 or this section.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-150 Informal complaints. (1) ((Informal complaints may be made by letter or other communication. Informal)) (a) How to make an informal complaint. Persons may make informal complaints to the commission about any business that the commission regulates by letter, sent by mail, telefax, or electronic mail, or by telephone. See WAC 480-09-100 and 480-09-101 for general information about addressing correspondence. Persons may also register an

informal complaint by telephone with a commission service examiner.

~~(b) Commission response; result. Commission staff may discuss the subjects of informal complaints ((may be taken up by the commission))~~ with the affected persons, by correspondence or otherwise, to ~~((bring about a resolution of))~~ assist the parties to resolve the complaint by agreement without formal hearing or order. The commission encourages the informal settlement of disputes whenever possible. (See WAC 480-09-465.) An informal complaint may not result in an order that compels a person to do something or forbids a person from doing something.

(2) Contents. An informal complaint should ~~((contain))~~ present all facts ~~((essential to a disposition of))~~ needed to resolve the complaint, including a description, with all relevant dates, of the ((dates of)) acts or omissions ((complained against)) that led to the complaint. The complaint should cite to all relevant statutes or rules ((should be cited)) if ((known to)) the writer knows them.

(3) ~~((No mandatory or prohibitory order may result from an informal complaint. Matters instituted by))~~ Making an informal complaint ((shall be without prejudice to the right of)) does not prevent any party, or the commission ~~((to file and prosecute)),~~ from filing a formal complaint with the commission. See WAC 480-09-420 and 480-09-425.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-200 Interpretive and policy statements. (1) General. Upon the petition of any interested person ~~((subject to its jurisdiction)),~~ or upon its own motion, the commission may ~~((, when it appears to be in the public interest,))~~ make and issue interpretive and policy statements when necessary to ~~((terminate))~~ end a controversy or to remove a substantial uncertainty ~~((as to))~~ about the application of statutes or rules of the commission.

(2) The commission ~~((shall))~~ will maintain a roster of interested persons, consisting of persons who have requested in writing to be notified of all interpretive and policy statements issued by the commission. The ~~((roster shall be updated once each year))~~ commission will update the roster periodically. ((Whenever)) When the commission issues an interpretive or policy statement, it ~~((shall))~~ will send a copy of the statement to each person ~~((listed))~~ on the roster.

(3) The commission ~~((shall))~~ will maintain a file and an index of all currently effective interpretive and policy statements. The statements ~~((shall be))~~ are available for inspection and copying at the records center in the commission's Olympia headquarters office.

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-210 Rule making ((Notice of proposed rule)) procedures—Rules coordinator. (1) ((In any proposed rule making, the commission may solicit comments from the public on the subject of possible rule making under active consideration within the agency by causing notice to be published in the state register of the subject matter and

indicating where, when, and how persons may comment:)) The commission will conduct rule-making proceedings in compliance with the requirements of RCW 34.05.310 through 34.05.395.

(2) ~~((At least twenty days before the rule-making hearing at which the agency receives public comment regarding adoption of a rule, the agency shall cause notice of the hearing to be published in the *State Register*. The publication shall contain information as provided in RCW 34.05.320 and shall constitute the proposal of a rule. The commission shall submit a small business economic impact statement for publication in the *State Register* when required to do so by chapter 19.85 RCW, the Regulatory Fairness Act.~~

~~(3) Within a reasonable time after the publication of the notice of a proposed rule in the *State Register*, any person may request a copy of the notice by writing to the secretary of the commission.~~

~~(4) Petitions for adoption, amendment, or repeal of a rule shall be made pursuant to WAC 480-09-220.~~

~~(5) Upon filing notice of a proposed rule with the code reviser, the commission shall have copies of the proposal on file and available for public inspection. The commission will mail a copy to each industry association or trade group, whose members may be affected, that has asked to receive such notices.~~

~~(6)) The commission maintains a list of persons interested in potential rule-making proceedings. The list is subdivided by regulated industries and other areas of potential interest. The commission sends notice of rule-making proceedings to persons on the list. Any person may be listed by asking in writing that the commission put the person on the relevant list or lists for the person's area of interest. The commission may by order establish a fee for this service.~~

~~(3) Inquiries regarding rules being proposed or being prepared within the commission for proposal may be made to Office of the Secretary, Rules Coordinator ((Washington Utilities & Transportation Commission, 1300 S Evergreen Park Dr SW, PO Box 47250, Olympia WA 98504-7250)) at the address listed in WAC 480-09-100.~~

~~((7) Persons may receive notice of proposed rule makings for all commission rules, or for those affecting specific industries, by sending a request in writing to the rules coordinator. The commission may establish a fee for this service based on the estimated actual cost of providing the service. It may decline to establish a fee for specific groupings, and it may group industries together, for efficiency or administrative convenience:))~~

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-220 Petitions for rule making, amendment, or repeal. (1) Any interested person may petition the commission requesting the promulgation, amendment, or repeal of any rule.

(2) ~~((When the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule. When the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the~~

~~rule in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule. Any petition for promulgation, amendment, or repeal of a rule shall be accompanied by briefs of any applicable law, and shall contain an assessment of economic values affected by the proposed promulgation, amendment, or repeal.~~

~~(3) All petitions shall be considered by the commission which may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal, or modification of any rule.~~

~~(4) Within sixty days after submission of a petition, the commission shall:~~

~~(a) Deny the petition in writing, stating its reasons for the denial, and serve a copy of the denial upon the petitioner; or~~

~~(b) Initiate rule-making proceedings in accordance with chapter 34.05 RCW.~~

~~(5) In rule-making proceedings initiated by interested persons on petition, as well as by the commission on its own motion, the commission will include in its order determining the proceedings its assessment of economic values affected by the rule-making involved. In addition, the notice of intention to effect any rule-making will contain a solicitation of data, views, and arguments from interested persons on the economic values which may be affected by such rule-making)) Petitions for new rules or for the amendment or repeal of existing rules are governed by RCW 34.05.330 and chapter 82-05 WAC.~~

~~(3) The commission will provide on request a copy of chapter 82-05 WAC and the form for petitioning for adoption, amendment, or repeal of a state administrative rule.~~

AMENDATORY SECTION (Amending Order R-351, Docket No. A-910835, filed 10/30/91, effective 11/30/91)

WAC 480-09-230 Declaratory orders. As prescribed by RCW 34.05.240, any interested person may petition the commission for a declaratory order. The commission ~~((shall))~~ will consider the petition ~~((and within fifteen days after its receipt give notice of the petition to all persons to whom notice is required by law and to any other person it deems desirable)).~~ Within ~~((thirty))~~ fifteen days ~~((of receipt of a))~~ after receiving the petition ~~((for declaratory order)),~~ the commission ~~((shall))~~ will give notice of the petition to all persons required by law and to any other person the commission deems desirable. Within thirty days of receipt of a petition for declaratory order, the commission will:

(1) Enter a declaratory order; or

(2) Notify the petitioner that no declaratory order is to be entered and state reasons for the action; or

(3) Set a specified time, no later than ninety days after the day the petition was filed, by which the commission will enter a declaratory order; or

(4) Set a reasonable time and place for a hearing ~~((to be held no more than ninety days after receipt of the petition or call for the submission of a statement of fact upon the matter)).~~ If a hearing is held, it must be held no more than ninety days after receipt of the petition. If a hearing is held, the commission will give ~~((not less than))~~ at least seven days' notification to the petitioner, all persons to whom notice is

required by law and any other person it deems desirable (~~of the time and place for such hearing and of~~). The notice must include the time, place, and the issues involved.

(5) The commission may upon a finding of good cause extend the times specified in subsections (3) and (4) of this section (~~for entry of an order or for holding a hearing~~).

(6) If a hearing is held or statements of fact are submitted, as provided in subsection (4) of this section, the commission shall within a reasonable time:

(a) Enter a declaratory order; or

(b) Notify the petitioner that no declaratory order is to be entered and state the reasons for the action.

The commission (~~shall~~) will serve its order upon all persons (~~to whom notice is~~) who are required (~~by~~) to receive notice under subsection (4) of this section.

AMENDATORY SECTION (Amending Order R-436, Docket No. A-950243, filed 1/3/96, effective 2/3/96)

WAC 480-09-340 Compliance filings. (1) A compliance filing is a tariff filing that is made to comply with an order authorizing or requiring a specific subsequent later filing. A compliance order is an order approving, suspending, or rejecting a compliance filing.

(a) ~~((A))~~ The person making a compliance filing (and any) must also file accompanying work papers (shall be served) and must serve a copy of the filing and the work papers on the attorney of each party to the proceeding in which the compliance filing was authorized or required. Service (~~shall~~) must be made in a manner to be received by the parties no later than the date filed with the commission unless such service on a party is infeasible because of its size or the timing of the filing, in which case delivery on the day following filing is permissible.

(b) A compliance filing (~~shall~~) must be strictly limited in scope to the subjects and the tariffs that are necessary to comply with, or that are authorized by, the order leading to the filing.

(c) A cover letter accompanying each compliance filing (~~shall~~) must identify the order with which the filing is intended to comply.

(2) If the order authorizing or requiring a filing does not state the number of business days required for commission examination of the proposed compliance tariff between its filing and its stated effective date, the filing is subject to all pertinent requirements for tariff filings of the industry and (~~shall~~) must be made with the required statutory notice period unless the order provides otherwise. (~~Such a filing shall be docketed~~) The commission will docket such a filing under its own docket number and (~~shall~~) will not (~~be considered~~) consider it a continuation of the prior proceeding.

(3) A compliance filing made on less than statutory notice, whether or not a shortened period is authorized or directed in the order leading to the filing, does not become effective automatically on its stated effective date, but requires a commission order of approval. In the absence of an order of approval, the tariff filing does not become effective on the stated effective date, but remains pending until the commission has completed its review. On completing that review, the commission (~~shall~~) must immediately enter an

order under subsection (4) of this section. A compliance filing made on statutory notice is subject to all statutory and regulatory provisions regarding suspension.

(4) If the commission believes that a compliance filing varies from the requirements or conditions of the order authorizing or requiring it, either by falling short of or by exceeding the authorization, conditions, or requirements of the order, the commission will not approve the tariff unless it has preapproved the variance.

(a) The commission may enter an order in the proceeding in which the filing was authorized or required, to (i) suspend a noncomplying filing or any portion that apparently fails to comply, and assign a docket number for processing, or (ii) reject the noncomplying filing, or any portion that apparently fails to comply, without prejudice to the company's refiling a new or original tariff provision under otherwise pertinent law and regulation. The commission may attach such conditions on compliance refiling as it believes appropriate.

(b) The commission may suspend any filing under its own docket number by otherwise pertinent process.

(c) The commission may delegate to the secretary the authority to enter a compliance order in specific proceedings by written authorization; by oral authority later reduced to writing; or by action in an open public meeting.

(d) Failure to identify noncompliance with the relevant commission order before approval does not preclude the commission from taking later steps as authorized by law to secure compliance.

AMENDATORY SECTION (Amending Order R-436, Docket No. A-950243, filed 1/3/96, effective 2/3/96)

WAC 480-09-390 Objections to closures of highway-railroad grade crossings. (1) Filing. Objections to closures of highway-railroad grade crossings under RCW 81.53.060 (~~shall~~) must be filed in writing within twenty days of publication of notice of the proposed closure, setting forth the full names and mailing addresses of persons objecting to the closure, the particular crossing which is the subject of the objection, the commission cause number, if known, and a statement of the objection. Communications which do not meet these requirements, other than the requirement of stating the commission cause number, will not be treated as objections for the purpose of requiring a hearing upon the proposed closure to be held as provided by RCW 81.53.060.

(2) Party status - appearances - service of final order. (~~No~~) A person who fails to enter an appearance as prescribed by WAC 480-09-720, will not be entitled to party status to a proceeding under RCW 81.53.060 after the close of the period for the taking of appearances if a hearing is held, even though (~~such~~) the person may have filed an objection to a proposed crossing closure under the provisions of subsection (1) of this section, (~~and no such person will~~) the person will not be entitled to service of the final order of the commission in the matter unless party status is reestablished through intervention under the provisions of WAC 480-09-430, although (~~such~~) the commission may send the person (~~may be sent~~) a courtesy copy of the (~~proposed~~) initial or final order.

(3) Interested persons who lack party status, ~~((as defined herein, shall))~~ will be provided an opportunity to be heard and offer evidence as required by RCW 81.53.060. They may not call witnesses, cross-examine witnesses or otherwise participate as a party. Interested persons who lack party status lack standing to file petitions for administrative review of initial orders or to file petitions for reconsideration of final orders.

AMENDATORY SECTION (Amending Order R-376, Docket No. 920379, filed 9/1/92, effective 10/2/92)

WAC 480-09-400 Applications for adjudicative proceedings. (1) Persons involved in an actual case or controversy within the jurisdiction of the commission to resolve may apply to the commission for an adjudicative proceeding to secure an order resolving disputed matters ((at issue)). Each application should specify every issue to be adjudicated in the proceeding.

(2) The following, when properly and timely filed, are applications for adjudicative proceedings except:

(a) When specified to the contrary in statute or rule;

(b) When the document is presented during an existing adjudication; or

(c) When the subject is not required to be resolved in an adjudication as defined in chapter 34.05 RCW; Petitions, when the action sought requires adjudication, formal complaints, protests, and requests for review of the denial of unprotested authority, when properly and timely filed, constitute applications for adjudicative proceedings except when specified to the contrary in statute or rule, when the document is presented during an existing adjudication, or when the subject is not required to be resolved in an adjudication as defined in chapter 34.05 RCW.

(3) The commission may, in its discretion, treat unprotested applications for authority as applications for adjudicative proceedings and set them for hearing.

(4) Within thirty days after ~~((receipt of))~~ receiving an application for an adjudicative proceeding, the commission ~~((shall))~~ will notify the applicant of any obvious errors or omissions, request any additional information it requires and is permitted by law to require regarding the application for adjudicative proceeding, and notify the applicant of the name, mailing address, and telephone number of a person on the commission staff that may be contacted regarding the application.

(5) Within ninety days after receipt of the application or receipt of the response to a timely request made under subsection (2) of this section, the commission shall:

(a) Approve or deny the petition or protest on the basis of brief or emergency adjudicative proceedings;

(b) Commence an adjudicative proceeding by serving the parties with a notice of hearing pursuant to RCW 34.05.434 and WAC 480-09-700; or

(c) Decide not to conduct an adjudicative proceeding and furnish the applicant with a copy of its decision in writing, with a brief statement of its reasons for doing so and of any administrative review available.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-410 Parties. (1) General. "Person" when used in this chapter means ~~((any))~~ an individual((;); corporation((;); partnership((;); association, or ~~((any))~~ body politic((;); agency((;); or municipal corporation. A "party" is ~~((any))~~ a person ((which)) that has complied with all requirements for establishing and maintaining party status in any proceeding before the commission.

(2) Classification of parties. Parties to proceedings before the commission ~~((shall))~~ will be ~~((styled))~~ called applicants, complainants, petitioners, respondents, intervenors, or protestants, according to the nature of the proceeding and the relationship of the parties ~~((thereto)).~~ ~~((When an appearance has been entered for))~~ The commission ((and/or for)) staff and the public counsel division of the attorney general's office((; they shall respectively be considered parties to the proceeding for all purposes)) become parties to an adjudicative proceeding for all purposes upon entering an appearance.

(3) Applicants.

(a) Persons applying for any right or authority ~~((which))~~ that the commission has jurisdiction to grant ~~((shall be styled))~~ are "applicants."

(b) Applicants for adjudicative proceedings under chapter 34.05 RCW ~~((shall))~~ will be ~~((styled))~~ described according to their roles as defined in this section.

(4) Complainants. Persons who ~~((complain to))~~ file a formal complaint with the commission ~~((of any act or omission by any other person shall be styled))~~ are "complainants." ~~((In any proceeding which))~~ When the commission brings an adjudication on its own motion, ~~((it shall be styled))~~ the commission is the "complainant."

(5) Petitioners. Persons petitioning for relief ~~((shall be styled))~~ are "petitioners." Persons filing a motion for relief are "movants" or "moving parties."

(6) Respondents. Persons against whom any complaint, petition, or motion is filed ~~((shall be styled))~~ are "respondents."

(7) Intervenors. Persons permitted to intervene ~~((pursuant to this chapter shall be styled))~~ are "intervenors."

(8) Protestants. Persons opposing applications who have complied with the requirements for the filing of protests ~~((shall be styled))~~ are "protestants."

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-420 Pleadings and briefs—Applications for authority—Protests. Pleadings. Pleadings ~~((before the commission))~~ include formal complaints, petitions, answers, replies, applications for authority, protests, and written motions.

(1) Legibility; size; length; service. All pleadings ~~((shall))~~ and briefs must be legible and, unless the commission authorizes a different size ~~((is required by the nature of the pleading)),~~ must be submitted on 8-1/2 x 11 inch paper. ~~((Pleadings shall not))~~ Parties may not submit pleadings or briefs that exceed sixty pages without prior permission from

the commission. ~~((Unless otherwise required for a specific pleading,))~~ Each party must serve a copy ~~((shall be served))~~ of each of its pleadings upon each party to the proceeding.

(2) Errors in pleadings. ~~((When it finds a pleading to be defective or insufficient,))~~ The commission may return ~~((the))~~ a pleading to the party filing it for correction when the commission finds the pleading to be defective or insufficient. ~~((Typographical errors or errors in captions or spelling of names of parties may be corrected by))~~ The commission may correct typographical errors, errors in captions, or errors in spelling of names of parties.

(3) Form. Every pleading ~~((before the commission shall generally))~~ must conform with the following form.

At the top of the first page ~~((shall))~~ must appear the phrase, "Before the Washington Utilities and Transportation Commission." On the left side of the page, next below, the caption of the proceeding ~~((shall))~~ must be set out or, if no caption exists, the following: "In the Matter of the (Complaint, Petition, Motion, ~~((Answer,))~~ etc.) of (name of the pleading party) for (identify relief sought)." On the right side of the page, opposite the ~~((foregoing))~~ caption ~~((shall))~~ must appear the words (Petition, Motion, Reply, etc., of ~~((f))~~(role of party: e.g., petitioner, respondent, protestant, etc., and name of the party if more than one party has the same role in the proceeding~~((f))~~)).

The body of the pleading ~~((shall))~~ must be set out in numbered paragraphs. The first paragraph ~~((shall))~~ must state the name and address of the pleading party. The second paragraph ~~((shall))~~ must state all rules or statutes that may be brought into issue by the pleading. Succeeding paragraphs ~~((shall))~~ must set out the statement of facts relied upon in form similar to ~~((that applicable to))~~ complaints in civil actions before the superior courts of this state. The concluding paragraphs ~~((shall))~~ must contain the prayer of the pleading party.

(4) Number of copies; size. Unless, in a particular case, the commission specifies a different number of copies, the pleading or briefing party must file with the commission an original and ~~((three))~~ the number of legible copies of each pleading ~~((in transportation matters except transportation rate cases, and nineteen copies in all other matters including transportation rate cases, shall be filed with the commission))~~ that is required in WAC 480-09-120 (1)(b). Copies ~~((shall))~~ must be on three-hole punched white paper, 8-1/2" x 11" in size. Notices of "confidentiality agreements" are distributed within the commission via e-mail, so only an original needs to be filed. If a pleading is received by the commission via telefacsimile, the commission will make the required number of copies unless other arrangements are made, and will charge the costs of the copies to the party as specified in WAC 480-09-120. After filing by telefacsimile, the party must file only the original of the pleading with the commission and need not file additional copies.

(5) Complaints.

(a) Defined. Formal complaints are ~~((those))~~ complaints that are filed in accordance with RCW 80.04.110 and 81.04.110, complaints filed ~~((pursuant to))~~ under RCW 80.54.030, or complaints in proceedings designated by the commission as formal proceedings.

(b) Contents. Formal complaints must be in writing setting forth clearly and concisely the ground ~~((of))~~ for the complaint and the relief requested. The complaint must state facts constituting the basis of the complaint, including relevant dates, ~~((should be stated,))~~ together with citations ~~((of the))~~ to relevant statutes or commission rules ~~((of the commission involved)).~~ The name and address of the person complained against must be stated in full. The name and address of the complainant and the name and address of complainant's attorney, if any, must appear upon the complaint.

In ~~((a))~~ proceedings under RCW 80.04.110 or 81.04.110, the provisions of the respective statutes ~~((shall))~~ also apply.

(6) Protests. A person whose interests would be adversely affected by the granting of an application ~~((or by a rate change))~~ may file a protest. Protests to applications must conform to the requirements of any special rules ~~((relative))~~ that apply to the type of the application being protested. A protestant must serve a copy of the protest upon the applicant ~~((or person requesting a rate change. Protestants are not entitled, as a matter of right, to a hearing upon the matter being protested, but a protest may contain a request for a hearing. The commission may, whether or not a protest contains such a request, set the matter in question for hearing)).~~

(7) Petitions.

(a) Defined. All pleadings seeking relief (other than complaints or answers) ~~((shall be styled))~~ are "petitions."

(b) Petitions - contents. A petition ~~((shall))~~ must set forth all facts upon which the request for relief is based, with the dates of all relevant occurrences and a citation of the statutes~~((, rules,))~~ and regulations ~~((of the commission))~~ upon which the petition is based.

(8) Motions.

Motions ~~((shall))~~ must be filed separately from any other ~~((filing and will not be considered if merely stated within the text of correspondence or a different))~~ pleading. The commission will not consider motions that are merely stated within the text of correspondence or in the body of another pleading. The commission may refer to the rules in the superior court of Washington as guidelines for handling ~~((of))~~ motions.

(9) Responsive pleadings.

(a) Answer. Except as otherwise provided in WAC 480-09-425 and 480-09-810(4), any party who desires to respond to a complaint, motion, or petition shall file with the commission and serve upon all other parties an answer. ~~((If an answer is not filed, the complaint or petition shall be deemed to be denied by the respondent.))~~ Answers ~~((shall))~~ must fully and completely disclose the nature of the defense and ~~((shall))~~ must admit or deny specifically, and in detail, all material allegations of the complaint or petition. ~~((Matters alleged by way of affirmative defense shall be))~~ A respondent must separately ~~((stated))~~ state and ~~((numbered))~~ number affirmative defenses.

(b) Reply. The response to an answer is ~~((styled))~~ a reply. Unless otherwise specified, replies may not be filed without authorization by the commission upon a showing of cause.

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-425 Pleadings—Verification, time for filing, responsive pleadings, liberal construction, amendments. (1) Verification. All pleadings, except motions and complaints brought upon the commission's own motion, ~~((shall))~~ must be dated and signed by at least one attorney or representative of record in his or her individual name, stating his or her address~~((:));~~ or by the party, if the party is not represented.

Pleadings of a party who is not represented by an attorney ~~((shall))~~ must contain a statement that the pleading is true and correct to the best of the signer's belief.

(2) Time for motions. Unless good cause is shown for a delay, a party opposing a pleading must file any motion directed to ~~((a))~~ the pleading ~~((must be filed))~~ no later than the time the responsive pleading is due. If no responsive pleading is provided for, the motion must be filed within ten days after service of the pleading. Filing a motion to dismiss a pleading, or seeking a similar remedy, does not ~~((stay))~~ extend the time for answering the pleading. Other motions ~~((shall))~~ must be filed within the times specified in WAC 480-09-420 or 480-09-736.

(3) Answers; time for answer; reply.

(a) An answer is not mandatory. A party answering a pleading must ~~((be filed))~~ file the answer within twenty days after the service of the pleading ~~((against))~~ to which it is directed. ~~((The filing of an answer is not mandatory.))~~ During a hearing, the time for answers to interlocutory pleadings is governed by WAC 480-09-736 and the discretion of the presiding officer.

(b) A party may request permission to reply to an answer. The request must be filed within ten days after service of the answer to which it is directed. During a hearing, the presiding officer may shorten the time for requesting leave to reply or may rule from the bench on such requests. A party requesting leave to reply may attach a proposed reply to the request. Requests should address whether the answer raises new material requiring response, or other reason why a reply is necessary. A request to file a reply is deemed denied unless specifically granted by the commission. If the commission allows a reply, ~~((it))~~ the commission will set the time for filing the reply.

(c) ~~((Whenever))~~ The commission may alter the time allowed for any answer or reply if it believes that the public interest so requires~~((, it may alter the time allowed for any answer)).~~

(4) Liberal construction. ~~((All))~~ The commission will construe pleadings ~~((shall be))~~ liberally ~~((construed))~~ with a view to effect justice among the parties. The commission will, at every stage of any proceeding, disregard errors or defects in the pleadings or proceeding ~~((which))~~ that do not affect the substantial rights of the parties.

(5) Amendments. The commission may allow amendments to the pleadings or other relevant documents at any time upon such terms as may be lawful and just.

AMENDATORY SECTION (Amending Order R-436, Docket No. A-950243, filed 1/3/96, effective 2/3/96)

WAC 480-09-426 Motion for summary disposition. (1) Motion to dismiss. A party may move to dismiss an opposing party's pleading, including the documents initiating the case, if the pleading fails to state a claim on which the commission may grant relief. In ~~((considering))~~ ruling upon a motion made under this subsection, the commission will consider the standards applicable to a motion made under CR 12 (b)(6), 12(c), or 50, as applicable, of the civil rules for superior court.

(2) Motion for summary determination. A party may move for summary determination if the pleadings filed in the proceeding, together with any properly admissible evidentiary support, show that there is no genuine issue as to any material fact and the moving party is entitled to summary determination in its favor. In considering a motion made under this subsection, the commission will consider the standards applicable to a motion made under CR 56 of the civil rules for superior court.

(3) Presentation of a motion for summary disposition ~~((shall))~~ will not automatically stay any scheduled procedures. ~~((Without leave))~~ Except with permission from the commission, motions for summary disposition ~~((shall not))~~ must be presented ~~((later))~~ more than thirty days prior to the next applicable hearing session. Responses ~~((shall))~~ must comply with WAC 480-09-425 and 480-09-736. The commission may order a continuance of any procedure and may order oral or written response on a schedule consistent with any established hearing schedule in the proceeding.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-430 Intervention. (1) General intervention.

(a) Who may petition; when petitions must be filed. Any person, other than the original parties to any proceeding before the commission, who desires to appear and participate, and who does not desire to broaden the issues of the proceeding, may~~((:~~

~~((a)))~~ petition in writing for leave to intervene at least five days prior to ~~((, or at))~~ the time~~((:))~~ it is initially called for hearing or prehearing conference, whichever occurs first; or ~~((b)))~~ petition orally for leave to intervene at the time of the initial hearing or prehearing conference, whichever occurs first. No such petition shall be filed or made after the proceeding is underway, except for good cause shown.

(b) Contents of petition. The petition to intervene must disclose the name and address of the ~~((person intervening))~~ petitioner; the name and address of ~~((his or her))~~ petitioner's attorney, if any; ~~((his or her))~~ petitioner's interest in the proceeding; and ~~((his or her))~~ petitioner's position in regard to the matter in controversy. Petitions for intervention must be filed with the commission and served on the original parties to the proceeding. In utility rate cases, the original parties are the company seeking a rate change, commission staff, and public counsel.

A form petition for intervention is available on request from the secretary of the commission. The commission encourages use of the form ~~((is encouraged))~~ to ensure ~~((receipt of))~~ that the petitioner provides adequate information.

(2) Special intervention—broadening the issues.

(a) Who may petition; when petitions must be filed. Any person other than the original parties ~~((of record))~~ to any proceeding before the commission, who desires to appear and participate in the proceeding and who desires to broaden the issues in the proceeding, may petition for ~~((leave to intervene))~~ special intervention in the proceeding. The petition must be in writing ~~((and))~~, filed with the commission, and ~~((copies))~~ served upon the parties of record to the proceeding, at least ten days prior to the date of the prehearing conference or ~~((, if there is no conference, at least ten days prior to the date of the))~~ initial hearing session, whichever occurs first. The commission may, for good cause ~~((shown))~~, shorten the ten-day filing period. When there is no prejudice to other parties, the commission may ~~((grant))~~ consider an oral petition ~~((without the ten-day requirement))~~ that is filed less than ten days in advance.

(b) Contents of petition. The petition must disclose the name and address of the ~~((party intervening))~~ petitioner; the name and address of ~~((his or her))~~ the petitioner's attorney, if any; ~~((his or her))~~ the petitioner's interest in the proceeding; and ~~((his or her))~~ the petitioner's position in regard to the matter in controversy. The petitioner must attach to the petition an affidavit or declaration setting forth clearly and concisely the facts supporting the relief sought ~~((shall be attached to the petition)).~~

(3) Disposition of petitions to intervene. The commission may consider petitions to intervene ~~((may be considered))~~ at hearings ~~((and))~~ or prehearing conferences, ~~((or may be set for prior hearing. An))~~ or, if persons entitled to respond to the petition have done so, before or after a hearing or prehearing conference. The commission will allow parties the opportunity ~~((shall be afforded the parties))~~ to be heard upon the petition. ~~((Intervention may be granted in the absence of appearance by petitioner. A late-filed petition to intervene may be ruled upon without a hearing if all parties have been granted an opportunity to respond.))~~ If the petition discloses a substantial interest in the subject matter of the hearing, or if the participation of the petitioner is in the public interest, the commission may grant the petition orally, at the hearing or prehearing conference, or in writing. Limitations may be imposed upon interventions in accordance with RCW 34.05.443(2). If the commission grants intervention, the petitioner ~~((then))~~ becomes a party to the proceeding ~~((and becomes known))~~ as an "intervenor." ~~((Whenever it appears,))~~ If the commission determines, during ~~((the course of))~~ a proceeding, that an intervenor has no substantial interest in the proceeding, ~~((and))~~ or that the public interest will not be served by the intervention ~~((therein))~~, the commission may dismiss the intervenor from the proceeding ~~((Provided, however, That a party whose intervention has been allowed shall not be dismissed)).~~ The commission may dismiss an intervenor from a proceeding ~~((except upon))~~ only after notice and a reasonable opportunity to be heard. ~~((A))~~ The commission may review the decision by an administrative

law judge regarding a petition to intervene ~~((is subject to commission review))~~ or dismissal of an intervenor pursuant to WAC 480-09-760.

~~((4) Limitation of intervention under certain circumstances. Notwithstanding the provisions of subsections (1) and (2) of this section, if the commission determines that the orderly and prompt conduct of any proceeding so requires, the making or filing of petitions for leave to intervene may be limited to the time of a prehearing conference, for general intervention, or ten days prior to such prehearing conference, for special intervention, where the commission has given not less than twenty days' written notice of the prehearing conference to all parties and caused the same to be published in a newspaper or newspapers of general circulation in the area affected by the proceeding.))~~

AMENDATORY SECTION (Amending Order R-336, Docket No. A-900700, filed 2/22/91, effective 3/25/91)

WAC 480-09-440 Continuances—Extensions of time.

(1) General. ~~((Postponements, continuances and extensions of time, called "continuances" in this section, may be requested by any party, upon notice to all other parties, and may be granted upon a showing of good and sufficient cause. Continuances may be directed by the commission or the presiding officer without the request of any party when doing so is in the public interest or furthers administrative needs of the commission. The date which is sought to be continued is called the "deadline" in this section.))~~ In this section, continuances include postponements and extensions of time. With notice to all other parties, any party may request a continuance. The commission may grant a continuance if the requesting party demonstrates good cause for the continuance. The commission or the presiding officer may direct a continuance without the request of any party when doing so is in the public interest or furthers administrative needs of the commission. In this section, "deadline" means any date that is sought to be continued.

(2) Procedure. Subject to subsection (3) of this section, requests for continuances may be made orally on the record during a hearing. Whenever possible, requests ~~((shall))~~ should be made by letter. ~~((Requests may be decided orally in hearing, or by letter, by))~~ The presiding officer or the commission may rule upon requests orally at a prehearing conference or hearing session, or by letter or order. Requests may be granted; granted, with modification or upon condition; or denied.

(3) Timing. Oral requests must be made at least five days ~~((prior to))~~ before the deadline sought to be continued. Written requests must be filed with the commission, and served upon other parties so as to be received, no less than five days prior to the deadline which is sought to be continued. Responses must be filed no less than four days after service of the request, or two days prior to the deadline which is sought to be continued; whichever is earlier. Response ~~((shall))~~ must be made orally when a related hearing is held prior to the stated response deadline. ~~((Requests which are made prior to the deadline, but which are not made within the time specified in this subsection, must specify the nature of the circumstances which prevented making a timely~~

request.)) The commission may consider requests for continuance that are made after the deadline stated in this rule if the requester demonstrates good cause that prevented a timely request.

(4) Content. A request for continuance must contain the following information:

(a) The name of the requesting party and its role in the proceeding (e.g., applicant, respondent, intervenor, etc.);

(b) Whether the requestor or any other party has previously requested a continuance in the proceeding and whether any continuance has been granted;

(c) Whether the requestor has discussed the request with other parties and whether, upon discussion, all other parties agree;

(d) The proposed new deadline, and whether the new deadline poses scheduling problems for any party;

(e) The reason for the request and for requesting the proposed new deadline;

(f) What efforts have been made to avoid a continuance and to minimize the length of the delay sought;

(g) If the continuance is to allow time to acquire a transcript, the date the transcript was ordered, when delivery is expected, and the length of the transcript or the length of the hearing;

(h) If the request relates to an application for transportation operating authority, whether the applicant is presently providing all or part of the requested service, and whether an application for temporary authority has been filed and the status of the application; and

(i) Any other factor which may bear upon whether ~~((allowing))~~ the continuance is consistent with the public interest.

(5) Date certain—Dismissal. ~~((Continuances should be granted))~~ The commission will grant continuances to a specified date ((ertain)). A party seeking an indefinite continuance must demonstrate why a specific date ((ertain)) is not feasible. Each ninety days after the initial request for an indefinite continuance is granted, the party making the request must (a) file a statement with the commission describing the status of the proceeding and why it is still infeasible to establish a specific date ((ertain)), or must (b) request a specific date ((ertain)). Failure to file the statement required in this subsection is grounds for dismissal without further notice. The commission may at any time rescind ~~((the))~~ an indefinite continuance and set the proceeding for hearing.

(6) Agreed requests. An "agreed request" is a request for a continuance ((as to which)) that all parties agree ((is an "agreed request.")) to. Agreed requests for continuances other than hearings may be made orally ~~((until))~~ before the deadline, ~~((provided))~~ if a confirming letter is served and sent for filing on the same day. A first agreed request, timely made, will be granted unless it is inconsistent with the public interest or commission administrative needs.

AMENDATORY SECTION (Amending Order R-436, Docket No. A-950243, filed 1/3/96, effective 2/3/96)

WAC 480-09-460 Prehearing and other conferences.

(1) General. ~~((When issues are joined))~~ In any ((format)) pro-

ceeding the commission may, by written notice or by oral notice on the record of the hearing, request or direct all ~~((interested persons))~~ parties and persons requesting party status to attend a prehearing or other conference for the purpose of determining the feasibility of settlement, or of formulating the issues in the proceeding and determining other matters to aid in its disposition. The notice of the conference ~~((shall))~~ must provide reasonable notice of the time and place established for the conference and the matters to be addressed. The notice may provide that failure to attend may result in the dismissal of a party, the finding of a party in default, or the refusal to consider a later petition for intervention except upon a showing of good cause for the failure to attend. ~~((A party's failure to attend the conference,))~~ In the absence of a showing of good cause ((for that failure)), a party's failure to attend the conference will constitute the party's waiver of all objections to any order or ruling arising out of the conference or any agreement reached at conference. A commissioner~~(;)~~ or an administrative law judge~~(; or an employee of the commission designated by the commission,))~~ shall preside at ~~((such))~~ each conference, to consider:

(a) Simplification of the issues;

(b) The necessity or desirability of amendments to the pleadings;

(c) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(d) Limitations on the number and consolidation of the examination of witnesses;

(e) The procedure at the hearing;

(f) The need for and timing of distribution of written testimony and exhibits to the parties prior to the hearing; and

(g) ~~((Such))~~ Any other matters ~~((as))~~ that may aid in the disposition of the proceeding, ~~((or))~~ whether by commission decision or by settlement ((thereof)).

The disposition of petitions for leave to intervene in the proceeding filed pursuant to WAC 480-09-430 may be ruled upon at a prehearing conference.

(2) A statement describing the action taken at the conference and the agreements made by the parties concerning all of the matters considered ~~((shall))~~ may be made orally on the record or ~~((in writing, and))~~ by a conference order served upon the parties~~(;)~~ for approval. If no objection to the oral statement is made on the record, or no objection to the written statement is filed within ten days after the date the statement is served, it shall be deemed to be approved, subject to commission review. The result of the prehearing conference will control the subsequent course of the proceeding unless rejected by the commission or modified to prevent manifest injustice.

(3) Recessing hearing for conference. In any proceeding the presiding officer may~~(; in his or her discretion,))~~ call the parties together for a conference prior to the taking of testimony, or may recess the hearing for ~~((such))~~ a conference, ~~((with a view to carrying))~~ to carry out the purpose of this section. The presiding officer shall state on the record the results of ~~((such))~~ a conference.

(4) Discovery conference. In addition to the mechanisms set out in WAC 480-09-480 for obtaining information, the commission may request or direct the parties to an adjudica-

tion in which the discovery rule has been invoked to attend a conference along with designated witnesses for the purpose of discussing with each other questions about the party's position or evidence and the availability of supporting information. Subject to making satisfactory arrangements for dealing with documents, attendance by telephone shall be permitted in the absence of a demonstration that telephonic attendance will substantially reduce the effectiveness of the conference. The purposes of a discovery conference are to allow witnesses and advisers to talk directly and informally ~~((and))~~, to reduce or avoid the need for written data requests and time for their preparation, to allow discussions of potential stipulations regarding individual facts and settlement of individual issues to occur in an informal setting, to discuss the availability of supporting information, and to enhance the parties' ability to acquire or expand their knowledge about the case of one or more designated other parties. The conference will not be reported. Statements made by participants at a discovery conference are not admissible for evidentiary purposes. Parties shall determine a process to confirm among themselves the results of the discussions. ~~The commission may designate ((a person, who shall not be associated with any party, with commission advisory staff as to that proceeding, or with commission advocacy staff, to facilitate a discovery conference,)) an administrative law judge to preside at a discovery conference.~~ On its own motion or on the request of ~~((any))~~ a party, the commission may designate a person, who is not associated with any party, with commission advisory staff as to that proceeding, or with commission advocacy staff, to facilitate a discovery conference.

(5) Order conference. On the commission's own motion or at the request of ~~((any))~~ a party, the commission may schedule an order conference at which parties may ask clarification of the meaning of a final order entered or to be entered by the commission or discuss disagreements about the commission order. The commissioners may attend the conference personally or may designate one or more staff persons to attend on their behalf. The purposes of the conference are to allow parties to ask clarification of the meaning of an order so that compliance may be enhanced ~~((and))~~, so any compliance filing may be accurately prepared and presented, and to discover technical changes that may be required to correct the application of principle to data or to correct patent error without the need for parties to request reconsideration and without delaying post-order compliance. ~~((Such a))~~ An order conference will not stay the effect of the order, the time for compliance, the time for securing post-order review, or the time for judicial review, unless the conference results in a supplemental commission order which then becomes a final order subject to review. ((Such a)) An order conference does not constitute a formal interpretation of the order. The order itself will remain the sole expression of the commission's opinion unless supplemented through an additional order. The presiding officer will determine whether an order conference will ((not)) be reported. The conference is not a forum for discussing or challenging the evidentiary or policy decisions expressed in the order. Those remedies may be pursued through a petition for reconsideration or other means under pertinent rule or statute.

AMENDATORY SECTION (Amending Order R-436, Docket No. A-950243, filed 1/3/96, effective 2/3/96)

WAC 480-09-465 Alternate dispute resolution. The commission supports parties' efforts to resolve disputes without the need for litigation when doing so is lawful and consistent with the public interest. Alternate dispute resolution (ADR) includes any mechanism to resolve disagreement without hearings or litigation.

(1) The commission will not delegate to parties the power to make final decisions, but will retain the authority to approve any proposed settlement or agreement.

(2) Parties to a dispute or disagreement on a matter that is under the commission's jurisdiction may agree to negotiate with any other parties at any time without commission oversight. The commission may direct parties to meet or consult under WAC 480-09-466(1) and may establish a collaborative process under WAC 480-09-467. The commission encourages parties to use and experiment with other forms of ADR subject to the commission's approval.

(3) ~~The ((decision to engage in negotiation or collaboration is the voluntary decision of each participant))~~ commission may direct parties to a proceeding to enter negotiations aimed at resolving issues in the proceeding.

(4) In any negotiation, the following apply unless all participants agree otherwise:

(a) The parties ~~((are encouraged))~~, as their first joint act ~~((to))~~ will consider the ((elements of the)) commission's guidelines for negotiations, set out in a policy statement adopted pursuant to RCW 34.05.230, and determine the ground rules governing the negotiation;

(b) No statement, admission, or offer of settlement shall be admissible in evidence in any formal hearing before the commission without the consent of the participants or unless necessary to address the process of the negotiations;

(c) Parties may agree that information be treated as confidential to the extent provided in a commission protective order ~~((patterned after the order entered in the matter of Electric Lightwave, Inc., Docket No. UT 901029)); and~~

(d) Participants should advise each other, any mediator or facilitator, and the commission, if the negotiation is sanctioned by the commission, if the negotiation is without substantial prospects of resolving the issue or issues under negotiation.

AMENDATORY SECTION (Amending Order R-436, Docket No. A-950243, filed 1/3/96, effective 2/3/96)

WAC 480-09-466 Settlement conference; settlements. The commission favors the voluntary settlement of disputes within its jurisdiction. It will approve settlements when doing so is lawful and when the result is appropriate and consistent with the public interest in light of all the information available to the commission.

(1) In ~~((furtherance))~~ support of a voluntary settlement of any dispute within the commission's jurisdiction, the commission may ~~((in its discretion,))~~ invite or direct the parties to confer among themselves or with a designated person. Settlement conferences shall be informal and without prejudice to the rights of the parties. Any resulting settlement or stipu-

lation shall be stated on the record of the conference or submitted to the commission in writing and is subject to approval by the commission.

(2) Settlements. A settlement is an agreement among ((the) two or more parties to a proceeding to resolve one or more issues ((is a settlement)).

(a) ~~((Any proposed settlement may be accepted by))~~ The commission may exercise discretion whether to accept a proposed settlement for its review ((in the commission's discretion)). If the commission accepts a settlement for review in an adjudication, the commission will schedule a time at a hearing session for parties to present the settlement and for the commissioners to inquire ~~((into))~~ about it, unless the commission believes such a session to be unnecessary for it to exercise informed judgment upon the proposal.

(b) Partial settlement. An agreement of all parties on some issues may be presented as a partial settlement for commission review, and remaining matters may be litigated.

(c) Multiparty settlement. An agreement of some, but not all, parties on one or more issues may be offered as their position in the proceeding, with the evidentiary proof that they believe appropriate to support it, for commission review. Nonsettling parties may offer evidence and argument in opposition.

(d) Parties shall advise the commission when they have reached a partial or multiparty settlement and may suggest preferred procedural alternatives for review of the settlement. The commission will determine the appropriate procedure.

AMENDATORY SECTION (Amending Order R-436, Docket No. A-950243, filed 1/3/96, effective 2/3/96)

WAC 480-09-467 Collaboratives. (1) A collaborative is a negotiation sanctioned by the commission in which interested persons work with each other and representatives of commission staff to achieve consensus on one or more issues assigned to or identified by the collaborative participants. Membership in the collaborative ~~((shall))~~ must reflect the interests reasonably expected to be substantially affected by the result of the collaborative.

(2) ~~((In))~~ When beginning a collaborative, participants ~~((shall))~~ must address procedural guidelines for negotiations that the commission has set out in a policy statement. Communication between the commission and the collaborative participants may be made through the commission secretary. Changes in the orientation or membership of the collaborative, the issues it will address, or similar matters, may be made with commission knowledge and consent by letter from the secretary or by other means with the agreement of collaborative participants and the commission.

AMENDATORY SECTION (Amending Order R-436, Docket No. A-950243, filed 1/3/96, effective 2/3/96)

WAC 480-09-470 Stipulation as to facts. A stipulation is an agreement among parties as to one or more operative facts in a proceeding. ~~((Stipulations))~~ The commission encourages parties to enter stipulations of fact ((are encouraged)). The parties to any proceeding or investigation before the commission may ~~((by stipulation in writing filed with the~~

~~commission or entered orally into the record,))~~ agree upon the facts or any portion ~~((thereof))~~ of the facts involved in the controversy. The parties to a stipulation may file it in writing or enter it orally into the record. This stipulation, if accepted by the commission, shall be binding upon the parties ~~((thereto and may be used by the commission)).~~ The parties may present the stipulation as evidence at the hearing. The commission may reject the stipulation or require proof of the stipulated facts, despite the parties' agreement to the stipulation.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-475 Subpoenas. General. ~~((Subpoenas may be issued by))~~ A commissioner, an administrative law judge, or the attorney of any party to the proceeding may issue a subpoena. Witnesses are required to comply with subpoenas in the manner prescribed in Title 80 or 81 RCW and chapter 34.05 RCW. Witnesses shall be paid ~~((in the same manner))~~ as provided in RCW 34.05.446(7). Each subpoena ~~((shall))~~ must bear the name of the party requesting or issuing the subpoena and the party responsible for paying ~~((the))~~ witness fees.

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-500 Brief adjudicative proceedings. (1) ~~((Pursuant to RCW 34.05.482,))~~ The commission may use brief adjudicative proceedings ((where not violative of)) under RCW 34.05.482 when doing so does not violate the law ((and where)), when protection of the public interest does not require the commission to give notice and an opportunity to participate to persons other than the parties and when the commission believes that the brief adjudication is consistent with the public interest. Those circumstances ~~((may))~~ include, but are not limited to:

(a) Review of denials or partial denials of applications that are not protested;

(b) Contested applications for temporary authority;

(c) Proceedings ~~((which))~~ that could lead to suspension, cancellation, or revision of authority for failure to maintain tariffs, pay fees, or file required documents;

(d) Formal complaints in which notice and an opportunity to participate in the proceeding need not be given to persons other than the parties; and

(e) ~~((In addition, the commission may hear any other adjudicative matter in a brief adjudication upon the request or consent of all parties to the proceeding, when notice and an opportunity to participate need not be given to persons other than the parties and when the commission believes that the brief adjudication is consistent with the public interest.))~~ Petitions for mitigation of penalty assessments, including any challenge to the validity of a penalty assessment or the existence of an underlying violation.

In exercising its discretion to conduct a brief adjudication, the commission will consider the benefits for the parties and the commission to be gained from a brief adjudication, the nature of issues involved and whether the commission ~~((desires))~~ may desire to consider further or in depth an issue

that is raised, the likelihood that review in a brief adjudication will provide a more sound decision than considering the issues without the brief adjudication, and whether alternative means of resolving the issues are sufficient and appropriate to satisfy the parties' and the commission's interests.

(2) ~~(Application may be made)~~ Any person may apply for a brief adjudicative proceeding by filing a letter of request stating reasons why a brief adjudication should be used and a certificate of service upon all other identified or necessary parties with the secretary of the commission. If ~~((#)) the commission grants the request, ~~((the commission shall)) it will designate ~~((a review judge, a hearing examiner, the director of its transportation division,)) an administrative law judge or the director ~~((of its utilities division)) or deputy director of regulatory services as a presiding officer ~~((in specified brief adjudicative proceedings))~~. The commission may set a matter for brief adjudication on its own motion when doing so will not prejudice the rights of any party. Each applicant for a brief adjudicative proceeding shall submit a written explanation of its view of the matter along with its application. Parties may file written submissions as provided in the commission's notice that it will conduct the brief adjudicative proceeding. ~~((In the discretion of))~~ The commission or the presiding officer ~~((, oral comments offered by parties)) may ~~((be considered))~~ decide whether to consider oral comments from the parties.~~~~~~~~~~

(a) ~~((If))~~ A party to a brief adjudicative proceeding who desires an opportunity to make an oral statement ~~((, the)) may request ~~((should be made))~~ oral statements in the application or in the response to the application if the commission has not provided for oral statements. ~~((b) A request to make an oral statement may be granted)~~ If the presiding officer believes ~~((such a)) an oral statement would ~~((benefit him or her)) be beneficial in reaching a decision, the presiding officer may grant a request to make an oral statement or may ask the parties to make oral statements.~~~~~~

(b) The commission shall serve upon the parties a notice of the time and place for the brief adjudicative proceeding and the name and telephone number of the scheduled presiding officer at least seven days before the proceeding.

(3) If the party is present at the time any unfavorable action is taken, the presiding officer shall make a brief statement of the reasons for the decision. The action on the application ~~((shall)) must be expressed in a brief written statement, which shall be served upon all parties within ten days after the date of the brief adjudication.~~

(4) The brief written statement is an initial order. If no party seeks review of the initial order, it ~~((shall)) will become the final order only ~~((on adoption)) if it is adopted by the commission by means of a commission order.~~~~

(5) Service of the initial order ~~((shall)) must be made pursuant to WAC 480-09-120.~~

(6) ~~((The commission shall conduct a review of an initial order resulting from a brief adjudicative proceeding upon the written or oral request of a))~~ If a party ~~((if the commission receives the request)) requests review of the initial order, in writing or orally, within twenty-one days after service of the initial order, the commission will review it. If no request is timely filed, the commission may adopt, modify, or reject the initial order.~~

(7) The commission encourages written requests for review so parties have the greatest opportunity to state reasons for their views. A written request for review of an initial order ~~((shall)) should contain an explanation of the party's view of the matter, with a statement of reasons why the initial order is incorrect, and a certificate of service. Responses to a request for review of an initial order ~~((shall)) must be filed with the commission and served upon the other parties within ten days after service of the request for review.~~~~

(8) The order on review must be in writing, must include a brief statement of the reasons for the decision, and must be entered within twenty days after the deadline for requesting review or of the request for review, whichever is later. The order ~~((shall)) must include a description of any further available administrative review or, if none is available, a notice that judicial review may be available.~~

(9) ~~((A request for administrative review is deemed to have been denied if the agency does not make a disposition of the matter within thirty days after the request is filed.~~

~~((10))~~ The record in a brief adjudicative proceeding shall consist of any documents regarding the matter that were considered or prepared by the presiding officer for the brief adjudicative proceeding or by the reviewing officer for any review.

AMENDATORY SECTION (Amending Order R-336, Docket No. A-900700, filed 2/22/91, effective 3/25/91)

WAC 480-09-510 Emergency adjudicative proceedings. (1) ~~((Pursuant to RCW 34.05.479,))~~ The commission ~~((shall)) may use emergency adjudicative proceedings pursuant to RCW 34.05.479 to suspend or cancel authority, to require that a dangerous condition be terminated or corrected, or to require immediate action in any situation ~~((s)) involving an immediate danger to the public health, safety, or welfare requiring immediate action by the commission. Such situations ~~((shall)) include, but are not limited to:~~~~~~

(a) Failure to possess insurance;

(b) Inadequate service by a gas, water, or electric company when the inadequacy involves an immediate danger to the public health, safety, or welfare; and

(c) Violations of law, rule, or order related to public safety, when the violation involves an immediate danger to the public health, safety, or welfare.

(2) ~~((The matter shall be heard and the order shall be entered by the))~~ commission shall hear the matter and enter an order. If a majority of the commissioners is not available, a commissioner shall hear the matter. If no commissioner is available, a commission ~~((review)) administrative law judge shall hear the matter ~~((s)).~~~~

(3) The commission's decision shall be based upon the written submissions of the parties and upon oral comments by the parties if the presiding officer has allowed oral comments. The order ~~((shall)) must include a brief statement of findings of fact, conclusions of law, and justification for the determination of an immediate danger to the public health, safety, or welfare. The order ~~((shall be)) is effective when entered. ~~((Service of)) The commission must serve the order ~~((shall be made))~~ pursuant to WAC 480-09-120.~~~~~~

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-600 Conversion of proceedings. (1) Upon application by any person or upon its own motion, the commission shall consider whether ~~((the conversion of))~~ to convert a proceeding pursuant to RCW 34.05.070 ~~((should be made))~~.

(2) ~~((Commencement))~~ The start of the new proceeding ~~((shall be determined to be))~~ is the time ~~((of commencement of))~~ the original proceeding began, provided that all statutory and regulatory requirements for the new proceeding ~~((shall be))~~ are met.

AMENDATORY SECTION (Amending Order R-336, Docket No. A-900700, filed 2/22/91, effective 3/25/91)

WAC 480-09-610 Consolidation of proceedings. ~~((Two or more proceedings in which the facts or principles of law are related))~~ The commission may ~~((be consolidated for hearing or disposition in the))~~ in its discretion ~~((of the commission))~~, consolidate two or more proceedings in which the facts or principles of law are related.

(1) Parties must address a motion for consolidation or for the severance of consolidated matters ~~((shall be addressed))~~ to the commission. The commission may rule on the motion or may refer the motion to ~~((the office of administrative hearings))~~ an administrative law judge for resolution.

(2) The commission may on its own motion consolidate matters for hearing, or sever consolidated matters, when it believes that the action is appropriate.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-620 Joint hearings. ~~((General:))~~ (1) Federal. In any proceeding in which the commission participates jointly with ~~((the Interstate Commerce Commission or other))~~ a federal ~~((regulatory))~~ agency, the rules of practice and procedure of the federal agency shall govern.

(2) State. In any proceeding in which the commission participates jointly with the administrative body of another state or states, the rules of the state in which the hearing is held shall govern the proceeding, unless otherwise agreed upon by the participating agencies ~~((: Provided, That any))~~.

(3) Who may appear. Any person entitled to appear in a representative capacity before any of the agencies involved in a joint hearing may appear in the joint hearing.

AMENDATORY SECTION (Amending Order R-376, Docket No. 920379, filed 9/1/92, effective 10/2/92)

WAC 480-09-700 Hearings—Notice and failure to appear. (1) Notice.

(a) Initial hearing notice. The time and place of ~~((hearings))~~ the first hearing session or prehearing conference in any adjudication will be set by the commission ~~((and))~~ in a notice ~~((thereof))~~ served upon all parties at least twenty days in advance of the ~~((initial))~~ hearing ~~((date, unless the))~~ or conference. The commission ~~((finds))~~ may establish a shorter notice if it believes that good cause exists ~~((for the~~

~~hearing to be held upon shorter notice))~~. An effort will be made to set all hearings sufficiently in advance so that all parties will have a reasonable time to prepare their cases, and so that need for continuances will be minimized.

(b) Continued hearing sessions. When a hearing is not concluded in one day, the time and place of continued hearing sessions may ~~((also))~~ be set:

(i) Upon the record without further written notice to the parties; ~~((or))~~

(ii) By letter or formal notice of hearing from the secretary of the commission; or

(iii) By letter from the presiding officer.

~~((In such instances,))~~ The commission need not give twenty days' prior notice ~~((is not required))~~ of continued hearing sessions.

(2) The initial notice of hearing shall state that, if a limited English-speaking or hearing-impaired party needs an interpreter, a qualified interpreter will be appointed at no cost to the party or witness. The notice shall include a form for a party to indicate whether he or she needs an interpreter and to identify the primary language or hearing impaired status of the party.

(3) Failure to appear - default - dismissal.

(a) At the time and place set for hearing, if a party fails to appear, the commission may dismiss the party or find the party in default. The presiding officer may recess the hearing for a brief period to enable the party to attend the hearing ~~((; but if at the time set for the resumption of the hearing))~~. If the party is not present or represented when the hearing resumes, the commission may dismiss the party or find the party in default.

(b) ~~((Default shall be implemented))~~ When the commission finds a party in default, it will implement the default by a default order or by a default provision in the order disposing of the issues in the proceeding, pursuant to RCW 34.05.440. Default may be appropriate in instances where the party is the initiator of the proceeding, such as an applicant, a petitioner, or a complainant.

(c) ~~((Dismissal shall be implemented))~~ When the commission dismisses a party from a proceeding it will do so by an order of dismissal or by a dismissal provision in the order disposing of the issues in the proceeding. ~~((Dismissal may be contested by the filing of a))~~ A person who is dismissed may contest a dismissal order by seeking interlocutory review. If interlocutory review is denied, or if the dismissal is a provision of an initial or final order, the person who is dismissed may petition for reopening until the close of the time for filing a petition for administrative review of an initial order or, if no initial order is entered, until the close of the period for filing a petition for reconsideration. ~~((The person who is dismissed may support the petition for reopening by showing good cause for failure to appear, for failure to seek a continuance, and for failure to earlier seek an excuse for failure to appear.))~~

(4) Sanctions for failure to appear. Except when a hearing is otherwise required by law, an applicant for operating authority or for transfer or acquisition of control of operating authority, or a protestant to such an application ~~((; or an applicant for a rate change under WAC 480-12-295 shall))~~ must

appear at any scheduled adjudicative hearing (~~((pursuant to this chapter))~~) session unless:

(a) The application or protest is withdrawn at least five days prior to the date set; or

(b) Appearance is otherwise excused by the commission or presiding officer in writing.

Failure to comply with this subsection may result in assessment of civil penalties.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-705 Notice to limited-English-speaking parties. When the commission has knowledge that a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuances, and dismissals, (~~((shall))~~) must either be in the primary language of the party or (~~((shall))~~) must include a notice in the primary language of the party that describes the significance of the notice and how the party may receive assistance in understanding and responding to the notice.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-710 Appearance and practice before commission. (1) (~~((General. In all proceedings in which pleadings are filed and a hearing is held involving the taking of testimony on a record subject to review by the courts, the following persons may appear in a representative capacity:))~~) Minimum qualifications. No person may appear before the commission as a representative of a party to an adjudicative proceeding without meeting one of the following qualifications:

(a) (~~((Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;))~~) Membership in good standing in the Washington State Bar Association;

(b) (~~((Attorneys at law duly qualified and entitled))~~) Admission to practice, in good standing before the highest court of any other state;

(c) (~~((Persons not attorneys at law who have been duly authorized to practice before the Interstate Commerce Commission;~~

(d)) Upon permission of the presiding officer (~~((at such hearing)),~~) an officer or employee of a party or person seeking party status;

(~~((e))~~) (d) Legal interns admitted to limited practice under Rule 9 of the Washington state Supreme Court's Admission to Practice Rules. (~~((However;))~~) No legal intern may appear without the presence of a supervising lawyer unless (~~((the legal intern has attended at least ten commission hearing sessions with the presence of a supervising lawyer))~~) the presiding officer approves the intern's appearance in advance.

The presiding officer may expel a person who does not have the requisite degree of legal training, experience, or skill to appear in a representative capacity.

(2) Notices of appearance and withdrawal (~~((of attorneys))~~). Attorneys or other authorized representatives appearing on behalf of a party or withdrawing from a proceeding (~~((shall))~~) must immediately (~~((so))~~) notify the commission and all parties to the proceeding.

(3) Unethical conduct. (~~((All))~~) Persons appearing in proceedings before the commission in a representative capacity (~~((shall))~~) must conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any representative fails to conform to (~~((these))~~) those standards, the commission may expel the person from the proceeding and decline to permit the person to appear before it in a representative capacity in any future proceeding (~~((before the commission))~~).

(4) Former employees. Former employees of the commission (~~((office of administrative hearings, and office of the attorney general))~~) are subject to the provisions of chapter 42.18 RCW.

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-720 Appearances—Party status. (1) General. (~~((Parties shall enter their appearances at the beginning of the hearing or prehearing conference by giving))~~) All persons who will be representing a party in a formal proceeding must give their names and addresses in writing to the court reporter ((who will include the same in the record of the hearing or prehearing conference)) immediately before the first hearing session in which they appear. The presiding officer conducting the hearing or prehearing conference (~~((may, in addition,))~~) will require appearances to be stated orally at the initial hearing session, and may also ask for oral appearances at subsequent sessions in the same proceeding, so that all persons attending the hearing will know the identity and interest of all parties present ((will be known to those in attendance. Appearance may be made on behalf of any party by his or her attorney or other authorized representative, as defined in WAC 480-09-710(1)).

(2) The commission will not grant party status ((may not be accorded)) to a person who fails to appear at the earliest prehearing conference, if one is held, or hearing session, if there is no prehearing conference, without a showing of good cause for failing to timely appear.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-730 Conduct at hearings. (1) No smoking. Smoking (~~((shall not be permitted))~~) is prohibited at hearings of the commission.

(2) Testimony under oath. (~~((Before a))~~) The presiding officer shall administer an oath or affirmation to each witness who is heard in an adjudicative proceeding before the witness takes the stand ((in an adjudicative proceeding held under chapter 34.05 RCW, an)). The oath or affirmation shall be administered as follows: The (~~((person who swears or affirms holds up))~~) prospective witness shall stand and raise his or her hand, while the ((person administering the oath or affirmation thus addresses him or her)) presiding officer asks the follow-

ing, or its equivalent: "Do you solemnly swear or affirm that the evidence you shall give in the matter now pending before the commission shall be the truth, the whole truth and nothing but the truth, so help you God?"

(3) When members of the public testify about their sentiments on a proposal that is the subject of an agency adjudication, the commission may provide a form of oath for witnesses on sign-up sheets in lieu of an oral oath.

AMENDATORY SECTION (Amending Order R-376, Docket No. 920379, filed 9/1/92, effective 10/2/92)

WAC 480-09-735 Order of procedure. (1) General. Evidence will ordinarily be received in the following order:

(a) ~~((Upon investigation on motion of the commission: (i) Commission's staff; (ii) Respondent; and (iii) Rebuttal by commission's staff.))~~ The party having the burden of proof;

(b) ~~((In investigation and suspension proceedings: (i) Respondent; (ii) Commission's staff; (iii) Protestants against suspended schedules; and (iv) Rebuttal by respondent.))~~ Commission staff, if it supports the party having the burden of proof;

(c) ~~((Upon applications and petitions: (i) Applicants or petitioners; (ii) Protestants; (iii) Commission's staff; and (iv) Rebuttal by applicant or petitioner.))~~ Parties supporting the party having the burden of proof;

(d) ~~((Upon formal complaints: (i) Complainant; (ii) Respondent; (iii) Commission's staff; and (iv) Rebuttal by complainant.))~~ Commission staff, if it opposes the party having the burden of proof;

(e) ~~((Upon order to show cause: (i) Commission's staff; (ii) Respondent; and (iii) Rebuttal by commission's staff.))~~ Other parties opposing the party having the burden of proof;

(f) ~~((In docket hearings: At the discretion of presiding officer.))~~ The commission staff, if it does not oppose the party having the burden of proof;

(g) Rebuttal by the party having the burden of proof;
(h) Response by other parties to any new material received on rebuttal;

(i) Response by the party having burden of proof to any new material received from others.

(2) Modification of procedure. The ~~((order of presentation prescribed above for hearings shall be followed, except when the))~~ presiding officer ~~((directs otherwise))~~ may direct a modified order of proceeding. When hearing several proceedings ~~((upon))~~ on a consolidated record, or when parties do not oppose or support all of another party's positions, the presiding officer ((shall)) will designate ((who shall open and close. Intervenor shall follow the party in whose behalf the intervention is made. If the intervention is not in support of any original party, the presiding officer shall designate at

~~what stage the intervenor shall be heard. When two causes are set for hearing at the same time and place, the cause having the lowest number shall be heard first, if all parties are ready. Provided, That the presiding officer may direct a different order to suit the convenience of the parties))~~ the order of presentations, considering the parties' preferences.

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-736 Hearing guidelines. These guidelines are of a general nature and are provided to assist the presiding officer in regulating the course of the proceeding. The presiding officer may when appropriate suspend or modify the guidelines or use measures not specified in this rule.

(1) Starting times will be strictly observed. The proceeding may go forward in the absence of counsel, parties, or witnesses who are late.

(2) Motions related to evidence or to the procedural course of the hearing, but not involving dismissal of a party or a part of the proceeding, will be stated and argued at the start of the day, unless they arise from matters emerging during the hearing that are not reasonably foreseeable. The presiding officer ~~((should))~~ must be notified no later than the start of the hearing session of any motion that counsel anticipates may be presented during the hearing, such as one that may require foundation regarding the admissibility of evidence. The presiding officer shall set a time prior to the start of the presentation of evidence for marking, distribution, and argument regarding exhibits to be offered during the day and for arguing other matters.

(3) All counsel are expected to address comments, objections, and statements to the presiding officer rather than to other counsel. Questions will be addressed to the witnesses rather than to counsel.

(4) ~~((There will be no))~~ Counsel who request off-the-record discussions ~~((at the request of counsel unless counsel asks))~~ must ask leave to go off the record and state ~~((s))~~ the purpose for the request.

(5) Extended colloquies regarding procedural issues ~~((may))~~ should be conducted off the record. Each attorney will ~~((be given))~~ have the opportunity to state for the record a summary of his or her view on behalf of his or her client when the record resumes.

(6) Predistribution of evidence. The commission may require that parties distribute their proposed evidence to other parties before the start of the hearing.

(a) Number of copies. When predistribution of evidence is required, each party shall file twenty copies of its evidence with the commission ~~((For predistributed evidence only, parties need not also serve copies on))~~ unless the commission specifies a different number. Because a smaller number may satisfy commission needs in some proceedings, and because electronic copies may substitute for paper copies, parties should inquire at a prehearing conference or directly of the presiding officer about the number of required copies. Because the required number of filed copies includes copies for the commission staff, the accounting adviser, and the administrative law judge, ((or the assistant attorney general)) parties need not provide additional copies for those persons.

~~((Each party is responsible for having two revised, corrected copies of its exhibits ready for marking and inclusion in the official case file at the hearing itself. One set of copies should also be brought to the hearing for the court reporter. To advise the parties of corrections, an errata sheet may be used to indicate the corrections to copies that have been pre-distributed.))~~

(b) Changes or corrections. Each party must advise other parties of substantive corrections to evidence that has been prefiled as soon as the need for change is discovered. Parties should prepare an errata sheet or a revised exhibit for submission at the hearing to reflect changes from prefiled testimony. Counsel should not ask ~~((the))~~ a witness on the stand to correct obvious typographical errors in the prefiled testimony or to make more than three substantive changes—if more than three corrections are required, ~~((but should))~~ the party must submit an errata sheet or revised documents. ~~((The original and required number of copies of the errata sheet or corrected text shall be submitted at the hearing. Substantive revisions shall be disclosed to other parties as soon as need for the revision is discovered.))~~

(c) Distribution at hearing. When a party offers new exhibits, revised exhibits, or errata sheets at a hearing, the party must provide sufficient copies for all parties and for the commission's distribution requirements. Corrections and revisions should be made upon or attached to all documents distributed at the hearing before the copies are distributed. Subsection (10) of this section governs other aspects of revising and offering pre-distributed testimony and exhibits. Each party should bring two complete sets of current exhibits to the hearing, one for the court reporter and one for the official record.

(7) Prefiled testimony may be accompanied by exhibits. Parties should not preassign numbers to their own prefiled testimony and exhibits. Instead the following system should be used, including the witness's initials, and marked serially. For John Q. Witness's prefiled testimony and accompanying exhibits:

Ex . . . (JQW-T) Ex . . . (JQW-2)
Ex . . . (JQW-1) Ex . . . (JQW-3)

Counsel unfamiliar with this method of identification should ~~((contact))~~ ask the presiding officer for further guidance. The ~~((official))~~ presiding officer will assign exhibit numbers for the case ~~((will be assigned by the administrative law judge))~~ at the hearing session.

(8) Each witness should present a short summary of his or her remarks on the opening page or two of prepared testimony. Counsel will be expected to ask as a foundation question the subjects that will be covered by the witness. This foundation question should request, and the witness' response should include only a statement of the subjects to be covered by the witness, e.g., rate of return, and not a summary of the witness's positions on those subjects.

(9) All prepared testimony, exhibits, and pleadings ~~((shall))~~ must be 8-1/2 by 11 inches in size, reduced to that size, or folded to that size if reduction would be illegible, and punched for insertion into three-ring binders. Line numbers ~~((shall))~~ must be set out on all prepared testimony to facilitate transcript or exhibit references. Large documents may be

used at the hearing for illustrative purposes so long as a reduction is provided for inclusion in the record.

(10) ~~((Any))~~ Revisions to exhibits. Parties submitting revisions to pre-distributed or previously admitted testimony or exhibits ~~((shall be))~~ must prominently ~~((labeled))~~ label them "REVISED" ~~((and bear))~~, stating the date of the revision. The revised portions ~~((shall))~~ must be highlighted, in legislative style or other manner clearly indicating the change for comparison with the original submissions. This practice should be followed even ~~((as to))~~ with minor changes that involve only one page of an exhibit. Counsel should identify partial revisions by page and date, or identify the revision of the exhibit, at the time an exhibit is presented for identification, sponsored, or offered into evidence, as appropriate. Subsection (6) of this section governs other aspects of revising and presenting pre-distributed exhibits.

(11) ~~((Cross-examination will be limited))~~ The presiding officer will limit cross-examination to two rounds ~~((except upon a showing))~~ unless counsel demonstrates that good cause exists for asking additional questions. ~~((Witnesses))~~ Counsel should not ((be asked)) ask witnesses to perform calculations or extract detailed data while the witness is on the stand. Counsel should provide such questions ((should be provided)) to the witness in advance ~~((or asked))~~, should ask the witness to provide the answer to the record later in the hearing session, or should provide an answer and ask the witness to accept it "subject to check." When a witness ~~((answers))~~ accepts information "subject to check," the witness must perform the "check" as soon as possible. A response given "subject to check" will be ~~((deemed))~~ considered accurate unless ~~((disputed by))~~ the witness disputes it in writing, stating reasons. Counsel for the party sponsoring the witness must provide the witness' statement and serve a copy on each party prior to the closing of the record or within ten days ((of) after distribution of the transcript ((or prior to the closing of the record.)) whichever occurs first.

(12) At the beginning of a hearing session for the purpose of taking testimony from members of the public, public counsel may inform the public of the major contested issues.

(13) Parties must address all case-related correspondence ~~((should be addressed))~~ to the secretary of the commission, under commission rules. The parties are cautioned that correspondence that is addressed directly to an individual may not be logged in, may not be inserted in the case file, and may not constitute a part of the official record for appeal or for other purposes.

(14) Parties must file petitions or motions seeking the dismissal of any party or any portion of a proceeding, or any other pleading that in the moving party's judgment ~~((require))~~ requires the submission of a written motion, petition, brief or statement of authorities, ~~((shall be filed with the commission))~~ and ~~((served))~~ serve them on other parties no later than one week prior to the first scheduled hearing session after grounds for the petition or motion become apparent ~~((; unless))~~; the commission ~~((finds that))~~ may approve later filing ~~((is reasonable under the circumstances))~~ upon a showing of good cause. ~~((Answers shall be filed with the commission))~~ A party answering such a pleading shall file the answer and ((served)) serve it on other parties at least three days prior to the hearing. The commission may allow oral argument

~~((may be allowed on the record))~~ in the commission's discretion. ~~((This guideline does not require personal service. Petitions or motions, if mailed, should be served))~~ Parties must serve pleadings so as to effect actual receipt within the required time. ~~((3))~~

(15) When a party requests that the commission ~~((is requested to))~~ take some action prior to the next hearing session, the petitioner or movant shall ~~((effect service upon))~~ serve all other parties. Responses are due ~~((in the office of the secretary of the commission))~~ no later than the close of the fifth business day following service, except as provided in WAC 480-09-425(3).

(16) The presiding officer shall confer with the parties at the conclusion of the hearing about post-hearing process. The presiding officer ~~((with))~~ shall determine whether oral argument, briefs, or both will be required, taking into consideration the parties' preferences. If briefs are required, the presiding officer shall determine a format to be used by all parties. ~~((Briefs shall not exceed sixty pages, including appendices and attachments but excluding the cover and index pages, without permission from the presiding officer. Longer or shorter limits may be established by the presiding officer when good cause is shown. Number and complexity of the issues shall be considered in varying the allowed length of briefs.))~~ Briefs ~~((shall))~~ must comply with WAC 480-09-770.

(17) Each party will bear its own costs for transcripts or tape recordings, including charges for expedited service when ~~((requested))~~ a party requests it.

(18) For planning purposes, counsel should be prepared to provide time estimates for cross-examination of witnesses.

(19) ~~((Documents provided by or on behalf of members of the public at a public hearing will ordinarily be placed with the hearing file or may be offered))~~ When a witness presenting testimony as a member of the public presents a document in conjunction with his testimony, the commission may receive the document as an illustrative exhibit. ~~((Letters))~~ The commission may receive as illustrative of the opinions of correspondents any letters that have been received by the secretary of the commission and by public counsel from members of the public ~~((may be offered into evidence as illustrative of the opinions of the correspondents))~~ regarding a proceeding. Documents ~~((which))~~ presented by a public witness that are exceptional in their detail or their probative nature may be ~~((offered))~~ received into evidence separately, provided that a sponsoring witness is available for cross-examination. Only exhibits and testimony ~~((offered and))~~ received in evidence are part of the record and subject to consideration by the commission in its decision.

(20) The presiding officer need not specifically ask each representative whether that party objects to an offer of evidence or other motion or proposed action. Instead, the presiding officer may ask generally whether there are objections, and persons having objections shall state them. Failure to respond or object means that the party does not object, and shall constitute a waiver of the right to object.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-740 Evidence. The presiding officer may receive evidence as provided by RCW 34.05.452. WAC 480-09-745 and 480-09-750 provide guidelines for receipt and handling of evidence in commission proceedings ~~((before the commission))~~.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-745 Exhibits and documentary evidence. (1) Designation of part of document as evidence. ~~((When a relevant and material matter offered in evidence by any party is contained in a book, paper, or document which also contains other matter not material or relevant, the party offering the evidence))~~ A party who offers evidence that consists of a portion of a document, must ~~((also))~~ designate the portion ~~((which))~~ that is offered. If irrelevant matter would unnecessarily encumber the record, ~~((such book, paper, or))~~ the document will not be received in evidence, but ~~((may be marked for identification, and, if properly authenticated,))~~ the relevant or material matter may be read into the record, or ~~((if))~~ the presiding officer ~~((so directs,))~~ may receive a ~~((true))~~ copy ~~((may be received))~~ of the excerpt as an exhibit. If only a portion is offered or received, other parties shall be afforded an opportunity to examine the ~~((book, paper or))~~ document, and to offer other portions in evidence ~~((in like manner))~~.

(2) Official records. An official ~~((rule, report, order, record or other))~~ document, prepared and issued by any governmental authority ~~((, when admissible for any purpose,))~~ may be evidenced by a certified copy. When ~~((such))~~ official records, otherwise admissible, are contained in official publications or publications by nationally recognized reporting services which are in general circulation and readily accessible to all parties, they may be introduced by reference ~~((+))~~, provided, ~~((however, That proper and definite reference to))~~ that the party offering the document clearly identifies the record ~~((in question is made by the party offering the same))~~. The party offering the evidence may be required to provide a copy to the record and to all parties.

(3) Commission's files.

(a) ~~((Papers and))~~ The presiding officer may receive documents on file with the commission ~~((, if otherwise admissible, and whether or not the commission has authority to take official notice of them under WAC 480-09-750(2), may be introduced))~~ by reference to number, date, or by any other method of identification satisfactory to the presiding officer. If only a portion of ~~((such))~~ a ~~((paper or))~~ document is offered in evidence, the part offered ~~((shall))~~ must be clearly designated. The presiding officer may require the party offering the evidence ~~((may be required))~~ to provide a copy to the record and to ~~((all parties))~~ each party.

(b) Intra-office commission memoranda and reports, to the extent permitted by RCW 42.17.310, are not public records subject to inspection ~~((, nor shall such documents be introduced))~~ and the commission may not receive them into evidence without a waiver of the protections of the law.

(4) Records in other proceedings. ~~(In case any portion of the record in any other proceeding is admissible for any purpose and is offered in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless:~~

~~(a) The party offering the same agrees to supply such copies later at his or her own expense, if and when required by the commission; and~~

~~(b) The portion is specified with particularity in such manner as to be readily identified; and~~

~~(c) The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any portion offered by any other party may be incorporated by like reference; and~~

~~(d) The presiding officer directs such incorporation:)) A portion of the record of any other commission proceeding, in the discretion of the presiding officer, may be received as an exhibit in the form of a copy; by citation to the transcript or exhibit number; or by incorporation into the transcript of the current proceeding.~~

(5) Objections. Any evidence offered ~~(, whether in the form of exhibit, introduced by reference or offered in the form of testimony,))~~ shall be subject to appropriate and timely objection.

(6) Copies of exhibits ~~((to opposing counsel)). ((When))~~ A party offering documentary exhibits ~~((are offered in evidence, copies))~~ must ~~((be furnished))~~ furnish copies to opposing counsel, the presiding officers and the reporter, unless the presiding officer otherwise directs. ~~((Whenever practicable,))~~ The presiding officer may require the distribution of exhibits, including exhibits that may be introduced on cross-examination, before the hearing. The parties should exchange copies of exhibits before ~~((, or at the commencement of,))~~ the hearing starts.

AMENDATORY SECTION (Amending Order R-436, Docket No. A-950243, filed 1/3/96, effective 2/3/96)

WAC 480-09-750 Rules of evidence; official notice; resolutions. (1) General. Subject to the other provisions of this section, all relevant evidence is admissible ~~((which))~~ that, in the opinion of the presiding officer, is the best evidence reasonably obtainable, having due regard to its necessity, availability, and trustworthiness. In ruling upon the admissibility of evidence, the presiding officer shall give consideration to, but shall not be bound to follow, the rules of evidence governing general civil proceedings, in matters not involving trial by jury, in the courts of the state of Washington.

~~((The presiding officer may, in his or her discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued.))~~ Irrelevant, duplicative, and inadmissible evidence burdens the commission and all parties. To minimize that burden, the presiding officer shall to the extent possible exclude evidence that is irrelevant, repetitive, or inadmissible, whether or not ~~((an objection is posed))~~ a party objects to the evidence. Parties objecting to the introduction of evidence ~~((shall))~~ must state the grounds ~~((of such))~~ for the objection at the time ~~((such))~~ the evidence is offered. The presiding officer may

permit the party offering rejected evidence ~~((may be permitted))~~ to describe briefly for the record its nature and purpose as an offer of proof.

(2) Official notice.

(a) ~~The commission may take official notice ((may be taken))~~ of:

(i) Any judicially cognizable fact. Examples of ~~((judicially cognizable))~~ such facts include, but are not limited to:

(A) Rules, regulations, administrative rulings and orders, exclusive of findings of fact, of the commission and other governmental agencies;

(B) Contents of certificates, permits, and licenses issued by the commission; and

(C) Tariffs, classifications, and schedules regularly established by or filed with the commission as required or authorized by law.

(ii) Technical or scientific facts within the commission's specialized knowledge; and

(iii) Codes or standards that have been adopted by an agency of the United States, or this state or of another state, or by a nationally recognized organization or association.

(b) In addition, the commission may, in its discretion ~~((, upon the request of all parties to a proceeding,))~~ upon notice to all parties, inspect physical conditions that are at issue and take official notice of the results of its ~~((own))~~ inspection ~~((of the physical conditions at issue)).~~

(c) Parties shall be notified ~~((either))~~ before or during the hearing, or by reference in preliminary reports or otherwise, of ~~((the))~~ material ~~((so))~~ officially noticed and ~~((the))~~ its sources ~~((thereof, including any staff memoranda and data)),~~ and ~~((they shall be afforded))~~ the presiding officer must afford parties an opportunity to contest ~~((the))~~ facts and material so noticed. ~~((A))~~ The presiding officer may require the party proposing ~~((that))~~ official notice ~~((be taken may be required))~~ to provide copies of officially noted matter to the record and to all other parties.

(3) Resolutions. ~~((Properly))~~ The presiding officer may receive in evidence authenticated resolutions of the governing bodies of ~~((cities, towns, counties, and other))~~ municipal corporations and of chambers of commerce, boards of trade, commercial, mercantile, agricultural, or manufacturing societies and other civic organizations ~~((may be received in evidence)).~~ ~~((Recitals))~~ Any recital of facts contained in ~~((resolutions shall))~~ a resolution may not be ~~((deemed))~~ considered as proof of those facts.

AMENDATORY SECTION (Amending Order R-436, Docket No. A-950243, filed 1/3/96, effective 2/3/96)

WAC 480-09-751 Witness panels. ~~((Upon the request of a party or on its own motion,))~~ The commission may direct or allow two or more witnesses to take the stand simultaneously when doing so allows a benefit such as the integrated response to a line of questions, minimizing referral of questions from one witness to another, or comparing witnesses' positions. ~~((Individual))~~ The presiding officer shall also allow cross-examination ~~((shall also be allowed))~~ of each witness upon matters within the ~~((witnesses'))~~ witness's direct evidence ~~((that are not related to the topic or topics addressed by witnesses in a panel)).~~

AMENDATORY SECTION (Amending Order R-399, Docket No. A-930792, filed 12/1/93, effective 1/1/94)

WAC 480-09-760 Interlocutory orders. The commission has discretion to accept or decline review of interim or interlocutory orders in an adjudication.

(1) ~~((Except where otherwise provided,))~~ The commission may review such orders when it finds that:

(a) A party's participation is terminated by the ruling and the party's inability to participate thereafter could cause it substantial and irreparable harm; ~~((or))~~

(b) A review is necessary to prevent substantial prejudice to a party that would not be remediable by post-hearing reviewing; or

(c) A review could save the commission and the parties substantial effort or expense, or some other factor is present that outweighs the costs in time and delay of exercising review.

(2) Any aggrieved party may petition for review of an interlocutory order. Petitions for interlocutory review must be filed with the commission and served on other parties within ten days after entry of the order or issuance of the ruling for which review is requested, stating clearly why the ~~((order))~~ ruling is in error and citing reasons in support of the petition. Answers must be filed within ten days after the petition is filed. The commission may alter these filing deadlines when doing so is consistent with the public interest.

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-770 Briefs. The commission may require the parties to an adjudication to present their arguments and authority orally at the close of the hearing, by written brief, or both. The argument should set out the leading facts and conclusions ~~((which))~~ that the evidence tends to prove, point out the particular evidence relied upon to support the conclusions urged, and cite legal authority. Briefs may be printed, or typewritten (size 8-1/2 inches by 11 inches on three-hole punched paper). All copies ~~((shall))~~ must be clearly legible. Briefs ~~((may))~~ must not exceed sixty pages ~~((without prior authorization from the commission))~~ without permission from the presiding officer for good cause shown. The presiding officer will consider the number and complexity of the issues in varying the allowed length of briefs. Briefs must be presented in 12 point Times New Roman or Arial typeface or equivalent, with margins at least one inch from each edge of the page. Footnotes must be presented in the same font, no smaller than 10 point type. Unless the commission specifies a different number ((is specified by the commission,)) of copies, parties offering briefs must file an original and ((three legible copies of each brief in transportation matters and)) nineteen copies ((in all other matters including transportation rate cases shall be filed)) with the secretary of the commission and must serve one copy ~~((shall be served))~~ on each party ~~((before))~~ not later than the ~~((due))~~ date set for filing. ~~((Proof))~~ Parties must furnish proof of service ~~((shall be furnished))~~ to the commission as provided in WAC 480-09-120(2).

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-780 Entry of initial and final orders—Administrative review. (1) General. Whenever the presiding officer enters an order ~~((in accordance with the provisions of))~~ under RCW 34.05.461, he or she must serve a copy of the order upon each party of record and upon the party's attorney, or other authorized representative ~~((shall be served with a copy of the order))~~ pursuant to ~~((the provisions of))~~ WAC 480-09-120(2).

(2) Petitions for administrative review - time for filing - who may file - required copies.

(a) Any party to an adjudicative proceeding may ~~((within twenty days after entry of the initial order))~~ file a petition for administrative review within twenty days after entry of the initial order.

(b) Unless the commission authorizes a different number ~~((is directed by the commission,))~~ a petitioner for administrative review must file an original and ~~((three copies of petitions for administrative review of an initial order in transportation matters other than transportation rate cases and))~~ nineteen copies ~~((in all other matters including transportation rate cases must be filed))~~ of the petition with the secretary of the commission and must serve one copy ~~((served))~~ upon each other party to the adjudication. The petitioner must provide proof of service ((must be made)) in accordance with WAC 480-09-120(2).

(3) ~~((Petitions for administrative review))~~ Contents - length~~((—contents))~~. Petitions must clearly identify the nature of ~~((the))~~ each challenge to the initial order, the evidence, law, rule or other authority that the petitioner relied upon to support the challenge, and the ~~((nature of the))~~ remedy ~~((urged by the petition))~~ that the petitioner seeks. Petitions for review of initial orders ~~((shall))~~ must be specific ~~((and separate contentions must be separately stated and numbered. Petitions for review of findings of))~~. The petitioner must separately state and number every contention. A petition that challenges a finding of fact must ((be supported by a reference)) provide citations to the pertinent page or part of the record or ~~((by a statement of))~~ must otherwise state the evidence relied upon to support the petition, and should ~~((be accompanied by))~~ include a recommended finding of fact. ~~((Petitions for review of))~~ A petition that challenges conclusions of law ((should be supported by reference to)) must cite the appropriate statute, rule, or case involved and should ~~((be accompanied by))~~ include a recommended conclusion of law. ~~((When))~~ A petition that challenges the summary or discussion portion of an initial order ~~((, the petition shall))~~ must include a statement showing the legal or factual justification for the challenge, together with a statement of how the ~~((alleged))~~ asserted defect ~~((in the summary))~~ affects the findings of fact, the conclusions of law, ~~((or))~~ and the ultimate decision. Petitions for administrative review shall not exceed sixty pages, without prior permission from the commission.

(4) Answers.

(a) ~~((Answers to))~~ Any party to the adjudication may answer a petition for administrative review ~~((may be filed by any party)).~~

(b) Unless the commission authorizes filing a different number ~~((is required))~~ an answering party must file with the secretary of the commission, the original plus ~~((the number of))~~ nineteen copies ~~((required in subsection (2)(b) of this section, must be filed with the secretary of the commission;))~~ and must serve a copy ~~((served upon))~~ on each other party to the proceeding within ten days after the service of the petition. The commission may designate a different time for filing answers to petitions.

(c) A party who did not file a petition for administrative review of an initial order may challenge the order or portions thereof in its answer to the petition of another party.

(5) Oral argument. The commission may, in its discretion, hear oral argument upon a petition for review at a time and place to be designated by it upon notice to all parties to the proceeding. A party who desires to present oral argument may move for argument, stating why the oral argument will assist the commission in making its decision and why written presentations will be insufficient.

(6) Final order. After reviewing the initial order and any petitions for review, answers, replies, briefs, and oral arguments, and the record or such portions thereof as may be cited by the parties, the commission may by final order adopt, modify, or reject an initial order. The statutory time for judicial review proceedings shall not commence until the date of the commission's final order or, if a petition for reconsideration has been filed, the date the petition is ~~((deemed))~~ considered denied or is otherwise disposed of.

AMENDATORY SECTION (Amending Order R-376, Docket No. 920379, filed 9/1/92, effective 10/2/92)

WAC 480-09-800 Stay. ~~((A))~~ Any party to an adjudication may ~~((file with the commission a))~~ petition for stay of the effectiveness of a final order within ten days after its service unless otherwise provided by statute or stated in the final order. The commission may stay the effect of a final order on its own motion.

AMENDATORY SECTION (Amending Order R-400, Docket No. A-930517, filed 12/1/93, effective 1/1/94)

WAC 480-09-810 Reconsideration. (1) General. Any party to an adjudicative proceeding may ~~((file a))~~ petition for reconsideration of ~~((a))~~ the final order ~~((of the commission))~~ within ten days after ~~((the date))~~ the order is served.

(2) Number of copies - filing - service. Unless the commission has authorized filing a different number ~~((has been ordered by the commission;))~~ of copies, the person filing a petition for reconsideration must file an original and ~~((three copies of the petition in transportation matters other than transportation rate cases, and))~~ nineteen copies ~~((in all other matters including transportation rate cases, shall be filed))~~ with the commission and must serve a copy of the petition ~~((shall be served by petitioner))~~ upon each party of record.

(3) Contents. The petition ~~((shall state with particularity))~~ must clearly identify each portion ~~((or portions))~~ of the challenged order ~~((contended to be))~~ that the petitioner contends is erroneous or incomplete, ~~((and shall))~~ must cite those portions of the record and ~~((the laws or rules))~~ each law or

rule of the commission ~~((relied))~~ that the petitioner relies upon to support the petition, ~~((together with))~~ and must present brief argument in support of the petition.

(4) Answers. No party ~~((shall))~~ may file an answer unless requested by the commission~~((: Provided, That))~~. If the commission ~~((determines))~~ after examining the petition believes that reconsideration involving a possible change in a significant term of the order may be appropriate, ~~((involving more than the correction of obvious error and involving a possible change in a significant term of the order;))~~ it shall request answers from the other affected parties. The commission may grant without seeking answers a petition for reconsideration that asks the correction of obvious or ministerial errors.

(5) ~~((Except upon specific direction of the commission, no))~~ Oral argument. Oral argument ~~((shall))~~ will not be ~~((permitted))~~ heard on petitions for reconsideration except on request of the commission.

(6) Disposition. The petition is deemed denied if, within twenty days from the date the petition is filed, the commission does not either:

(a) ~~((Dispose of))~~ Enter an order resolving the petition; or

(b) Serve the parties with a written notice specifying the date by which it will act on the petition.

(7) Action. If the commission grants the petition ~~((is granted))~~, the commission may modify its prior order or take such other action as it ~~((may deem appropriate))~~ believes to be proper. ~~((No petition for reconsideration of an order on reconsideration will be accepted by the commission. No petition for reconsideration may stay the effectiveness of an order.))~~

(8) Stay. Filing a petition for reconsideration does not stay the effectiveness of an order.

(9) Reconsideration of reconsideration. No party may petition for reconsideration of an order on reconsideration.

AMENDATORY SECTION (Amending Order R-310, Docket No. U-89-2966-R, filed 10/12/89, effective 11/12/89)

WAC 480-09-815 Amendment ~~((or)),~~ rescission or correction of order. ~~((Pursuant to RCW 80.04.210 and 81.04.210;))~~ (1) Amendment or rescission. The commission may on its own motion amend or rescind any order ~~((or rule))~~ which it has ~~((made;))~~ entered ~~((, issued or promulgated, upon))~~ under RCW 80.04.210 or 81.04.210, after notice to the public service company or companies affected, and after allowing an opportunity for hearing as in the case of complaints.

(2) Correction. The commission on its own motion or on the request of any party may correct obvious or ministerial errors by letter from the secretary or by subsequent order. The time for any available posthearing review shall begin with the service of the correction, as to the matter corrected.

AMENDATORY SECTION (Amending Order R-351, Docket No. A-910835, filed 10/30/91, effective 11/30/91)

WAC 480-09-820 Rehearing or reopening. (1) Rehearing. ~~((A petition for rehearing may be filed with the~~

~~commission by)) Any person affected by ((any)) a final order of the commission((-pursuant to)) may file a petition for rehearing under RCW 80.04.200 ((and)) or 81.04.200. ((The commission will grant the petition:~~

~~(a) If there are changed circumstances injurious to the petitioner since the entry of the final order which were not considered by the commission; or~~

~~(b) To correct defects in the order; or~~

~~(c) For any good and sufficient cause which, for any reason, was not considered and determined in the original order.~~

~~The commission may, in its discretion, permit the filing of a petition for rehearing at any time after the conclusion of the proceeding.))~~

(2) Reopening. Any party to an adjudication may file a petition for reopening ((may be filed)) with the commission ((by any party to a proceeding)) at any time after the close of the record and before entry of the final order.

(a) In uncontested proceedings, ~~((a petition may be granted))~~ the commission may grant reopening to correct failure to allow receipt of written evidence when otherwise permissible.

(b) In contested proceedings, the commission may grant a petition ((may be granted)) to permit receipt of evidence which is essential to a decision and which was unavailable and not reasonably discoverable with due diligence at the time of the hearing ((with due diligence,)) or for any other good and sufficient cause.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 480-09-830 Compliance with orders.

WSR 99-05-032

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed February 10, 1999, 12:31 p.m.]

Date of Adoption: February 10, 1999.

Purpose: To authorize the extension of driver licenses of persons who are outside of the state at the time their license expires.

Statutory Authority for Adoption: RCW 43.24.140.

Adopted under notice filed as WSR 99-02-052 on January 5, 1999.

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

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

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

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

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

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

February 10, 1999

Judith Giniger

Assistant Director

NEW SECTION

WAC 308-104-109 Extension of driver's license. A person who is outside the state when his or her driver's license expires may extend the driver's license for the period he or she is outside of the state, plus sixty days. Regardless of the length of time for which it has been extended, a license that has been extended must be renewed within sixty days of the person's return to the state. No license shall be extended for more than four years beyond the date of its expiration.

To extend his or her driver's license, an applicant must apply in writing on a form provided by the department. The form shall require the applicant to state under penalty of perjury that he or she will be out of the state when his or her license expires and that he or she will be unable to return to the state to renew his or her license before it expires. The director may require such information or examination as the director deems necessary to determine whether any facts exist which would bar the issuance of an extension or to determine the applicant's fitness to operate a motor vehicle safely, including a medical examination or a vision examination.

An extension of a person's driver's license does not change the expiration date of a license for purposes of RCW 46.20.181.

WSR 99-05-042

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed February 12, 1999, 9:44 a.m., effective April 1, 1999]

Date of Adoption: February 11, 1999.

Purpose: These changes will bring higher education rules into compliance with Initiative 200.

Citation of Existing Rules Affected by this Order: See sections below.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 99-02-054 on January 5, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 12, Repealed 2.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 12, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 12, Repealed 2.

Effective Date of Rule: April 1, 1999.

February 11, 1999

Dennis Karras
Secretary

NEW SECTION

WAC 251-01-014 Affected groups. For affirmative action purposes means racial/ethnic minorities (Black, Asian/Pacific Islander, Hispanic, Native American Indian), women, persons age 40 and over, persons with disabilities, Vietnam(-) ((E)) Era veterans and disabled veterans.

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

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

AMENDATORY SECTION (Amending WSR 86-09-078 (Order 147), filed 4/22/86)

WAC 251-01-015 Affirmative action. A procedure by which racial/ethnic minorities, women, persons of disability, persons ((in the protected)) age ((category)) 40 and over, Vietnam((-) ((E)) Era veterans, and disabled veterans are provided with ((increased)) employment opportunities designed to correct underutilization. It shall not mean any sort of quota system.

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

AMENDATORY SECTION (Amending WSR 87-16-045 (Order 158), filed 7/29/87, effective 9/1/87)

WAC 251-01-040 Availability. An estimate, based on the best data available, of the number of women, racial/ethnic minorities, persons ((in the protected)) age ((category)) 40 and over, Vietnam((-) ((E)) Era veterans and disabled veterans, and persons ((of disability)) with disabilities who have the skills and abilities required for employment in a particular job group as determined from an analysis of relevant data. The determination of the availability of ((protected)) affected group members shall be based on consideration of the following factors:

(1) The ((protected)) affected group population of the relevant labor market.

(2) The size of the ((protected)) affected group unemployment force in the relevant labor market.

(3) The percentage of the ((protected)) affected group work force as compared with the total work force in the relevant labor market.

(4) The general availability of ((protected)) affected group members having requisite skills in the relevant labor market.

(5) The availability of ((protected)) affected group members having requisite skills in an area in which the institution can reasonably recruit.

(6) The availability of promotable and transferable ((protected)) affected group members within the institution.

(7) The existence of training institutions capable of training persons in the requisite skills.

(8) The degree of training which the institution is reasonably able to undertake as a means of making all job classes available to ((protected)) affected group members.

The availability estimates shall be based upon an analysis of the factors determined to be relevant to the particular job class/category.

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

AMENDATORY SECTION (Amending WSR 87-02-036 (Order 154), filed 1/2/87, effective 2/1/87)

WAC 251-01-190 Goals. ((Hiring and/or promotion.) The projected number of hires and/or promotions needed to correct identified areas of underutilization.) Flexible targets where good faith efforts are used for hiring and promoting affected group members in job groups where underutilization exists.

REPEALER

((WAC 251-01-330 Protected groups. For affirmative action purposes means racial/ethnic minorities (Black, Asian/Pacific Islander, Hispanic, Native American Indian), women, persons in the protected age class, persons of disability, Vietnam-era and disabled veterans.))

AMENDATORY SECTION (Amending WSR 87-02-036 (Order 154), filed 1/2/87, effective 2/1/87)

WAC 251-01-400 Supplemental certification. A process by which ((eligible members of protected groups)) persons with disabilities, Vietnam Era veterans and disabled veterans, and persons age 40 and over can be referred to employing officials for the filling of position vacancies in job classes/categories where it has been determined that underutilization exists.

REPEALER

((WAC 251-01-420 Timetables. Established time periods during which identified areas of underutilization will be corrected.))

PERMANENT

AMENDATORY SECTION (Amending WSR 86-09-078 (Order 147), filed 4/22/86)

WAC 251-01-440 Underutilization. Having fewer racial/ethnic minorities, women, persons ~~((in the protected))~~ age ~~((category))~~ 40 and over, Vietnam~~((-))~~ ~~((e))~~ Era veterans and disabled veterans, or persons ~~((of disability))~~ with disabilities in a particular job group than would reasonably be expected by their availability.

AMENDATORY SECTION (Amending WSR 93-19-078, filed 9/14/93, effective 10/1/93)

WAC 251-17-090 Examination—Eligibility. (1) Open-competitive examinations shall be open to all persons who apply according to the provisions of these rules and meet the minimum qualifications for the class.

(2) Promotional examinations shall be limited to those current permanent employees of the classified service at the institution, and those former permanent employees of the institution seeking to return from separation pursuant to WAC 251-10-080, who apply according to the provisions of these rules and meet the minimum qualifications for the class. The personnel officer may open promotional examinations on either an organizational unit or institution-wide basis, whichever the personnel officer determines to be in the interest of the service.

(3) When the number of qualified applicants for a class in the competitive service is expected to result in an eligible list in excess of the institution's current needs, the personnel officer may limit the applications to be admitted to the intermediate and/or final phase(s) of the examination to those most qualified, based on an assessment of qualifications in the initial and/or intermediate phase(s) of the examination. Such limitation must be specified in the recruitment notice. If no such limitation is specified, all applicants who pass the entire examination shall be placed on the eligible list for the class.

(4) The personnel officer may add ~~((members of underutilized groups))~~ persons with disabilities, Vietnam Era veterans and disabled veterans, and persons age 40 and over to all eligible lists, except layoff lists, at anytime when underutilized in accordance with the institution's affirmative action program as provided in WAC 251-23-040 (7)(b), provided such persons pass the examination for the class. The personnel officer shall also add the names of those former permanent employees of the institution seeking to return from separation pursuant to WAC 251-10-080 to all eligible lists at any time, provided such persons pass the examination for the class.

(5) The personnel officer may add employees who complete institution-approved training programs to the appropriate eligible list at any time, provided such employees meet the minimum qualifications and pass the examination for the class.

(6) The personnel officer may add to the institution-wide promotional list at any time:

(a) Current employees on layoff status or scheduled for layoff;

(b) Former employees laid off from the institution per WAC 251-10-030 who are on an institution-wide layoff list.

However, persons covered in (a) and (b) of this subsection meet the minimum qualifications and pass the examination for the class.

AMENDATORY SECTION (Amending WSR 86-06-034 [98-19-035] (Order 145), filed 2/28/86 [9/10/98], effective 4/1/86 [10/12/98])

WAC 251-23-010 Affirmative action—Authority. The rules contained in this chapter follow from the authority of RCW 41.06.150, which provides in part, "... The board shall adopt rules, consistent with the purposes and provisions of this chapter ... regarding the basis and procedures to be followed for ..."; RCW 41.06.150, which provides in part, "... Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals ~~((and timetables))~~; and monitoring of progress against those goals ~~((and timetables))~~ ..."

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending WSR 86-06-034 [98-19-035] (Order 145), filed 2/28/86 [9/10/98], effective 4/1/86 [10/12/98])

WAC 251-23-030 Affirmative action plans—Monitoring progress—Reporting. Each higher education institution/related board shall monitor progress under its affirmative action plan/program and, when requested, shall submit a report to the director~~((, at least annually,))~~ reflecting progress against goals ~~((and timetables))~~ and containing such other information as required by the director.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION (Amending 87-02-036 (Order 154), filed 1/2/87, effective 2/1/87)

WAC 251-23-040 Affirmative action plans—Content. Each higher education institution/related board shall apply affirmative action plans/programs to increase the representation of ~~((protected))~~ affected group members in their workforce when it is determined that a particular group is underutilized. Affirmative action plans/programs shall address recruitment, appointment, promotion, transfer, training and career development, and shall include but not be limited to the following:

(1) An equal employment opportunity/affirmative action policy statement.

(2) An identification of the individual responsible for implementing the affirmative action plan/program and the specific responsibilities of that individual.

(3) Provisions for internal and external communication of the affirmative action plan/program.

(4) A workforce profile by race/ethnic origin, sex, age, disability, Vietnam~~((-))~~ ~~((e))~~ Era veteran and disabled veteran status and job class/category and provisions for ascertaining the same.

(5) The development and implementation of utilization analyses ~~(s) and~~ goals ~~((and timetables))~~ based on availability.

(6) An identification of the causes of underutilization and/or problem areas related to underutilization.

(7) The development and implementation of specific programs for correcting the identified causes of underutilization and/or problem areas, in order to achieve goals, such as:

(a) Provision for supplemental certification of underutilized ~~((groups))~~ persons with disabilities, Vietnam Era veterans and disabled veterans, and persons age 40 and over from all eligible lists, except institution-wide layoff lists, in accordance with WAC 251-23-060;

(b) Provision that, when goals exist for a class and when it is determined by the personnel officer that an eligible list does not contain sufficient numbers of ~~((members of underutilized protected groups))~~ persons with disabilities, Vietnam Era veterans and disabled veterans, and persons age 40 and over, applicants who are members of such groups and who meet the minimum qualifications for the class may be admitted to the examination at any time. Those who pass the examination for the class shall be placed on the appropriate eligible list;

(c) Provision for members of protected groups to enter the employment process, but not to exclude others from it;

(d) Provision for special employee training and development programs ~~((and selective appointment of employees who are members of protected groups into the programs))~~, in accordance with WAC 251-24-030(8).

(8) A system for monitoring and evaluating progress under the affirmative action plan/program including reports to the president/chief executive officer of the institution/related board.

(9) Supportive programs, internally and externally, which will enhance the achievement of affirmative action goals.

AMENDATORY SECTION (Amending WSR 87-02-036 (Order 154), filed 1/2/87, effective 2/1/87)

WAC 251-23-050 Affirmative action—Goals ~~((and timetables))~~. Each higher education institution/related board shall develop and implement goals ~~((and timetables))~~ for hiring and/or promoting members of ~~((protected))~~ affected groups into job classes/categories where it has been determined that underutilization exists.

~~((1))~~ Goals shall be established based on the relevant availability statistics and in direct relationship to the institution's/related board's workforce profile and utilization analysis.

~~((2))~~ Timetables shall be developed on both a short-range (one year) and/or a long-range (three to five years) basis, whichever is determined to be appropriate for correcting identified areas of underutilization.

AMENDATORY SECTION (Amending WSR 87-02-036 (Order 154), filed 1/2/87, effective 2/1/87)

WAC 251-23-060 Affirmative action—Supplemental certification. ~~((When an institution/related board is utilizing~~

~~an approved affirmative action program in accordance with WAC 251-23-020 and 251-23-040 (7)(a), and when the initial certification process does not provide the names of at least three eligibles who are members of the specific underutilized protected group(s), the personnel officer shall certify from the eligible list up to three additional eligibles who meet the applicable affirmative action criteria. Such additional certification shall be made in strict order of standing on the eligible list. Certification of additional eligibles shall not result in more than a total of three eligibles from the specific underutilized protected group(s).))~~ The personnel officer shall certify from the eligible list up to a total of three additional eligibles who are persons with disabilities, Vietnam Era veterans and disabled veterans, and persons age 40 and over who meet the applicable affirmative action criteria when:

(a) an institution/related board is utilizing an approved affirmative action program in accordance with WAC 251-23-020 and 251-23-040 (7)(a), and

(b) the initial certification process does not provide the names of at least three eligibles who are members of the specific underutilized categories.

Such additional certification shall be made in order of standing on the eligible list. Certification of additional eligibles shall not result in more than a total of three eligibles from the specific underutilized categories.

AMENDATORY SECTION (Amending WSR 91-10-001 [98-19-035], filed 4/18/91 [9/10/98], effective 6/1/91 [10/12/98])

WAC 251-24-030 Training and development programs—Contents. Each institution will develop and maintain on file with the board (subject to approval by the director) an employee training and development plan that provides as a minimum:

(1) The policy and objectives of the institution concerning training and development programs;

(2) The institution's policy regarding training program expenses;

(3) Identification of the person(s) responsible for employee training and development programs;

(4) Provision for the identification and appraisal of training and development needs;

(5) The identification of proposed training activities in the following areas:

(a) New employee orientation;

(b) Functional training, such as in accounting, data processing, office administration and job skills;

(c) System training, such as affirmative action, labor relations and safety;

(d) Professional/technical training;

(e) Management and organizational development;

(f) The institution's off-hour training or continuing education program;

(g) Specific training in the prevention, transmission, and treatment of HIV and AIDS for those employees who have a substantial likelihood of on-the-job exposure to the human immunodeficiency virus or acquired immunodeficiency syndrome virus;

(h) Training of supervisors on implementation of the institution return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee;

(6) Provision specifying the manner of selecting employees for training or development programs;

(7) Provision for training records of employee participation;

(8) Provision for training ~~((and upgrading of skills of women and members of racial or ethnic minority groups))~~ employees as part of the institution's affirmative action program ~~((, including special training programs to achieve corrective action for underutilization of minority or female employees))~~;

(9) Involvement of a representative group of employees in the development of the institution's training policy and plans;

(10) Provision for evaluation of training and development programs;

(11) The criteria by which the institution may provide employees the opportunity to attend class instruction in academic session during regular working hours;

(12) The institution's policy regarding release time during work hours for training course attendance;

(13) Provision for access to in-house training and development programs for former permanent employees returning from separation as set forth in WAC 251-10-070.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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 99-05-043

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed February 12, 1999, 9:46 a.m., effective April 1, 1999]

Date of Adoption: February 11, 1999.

Purpose: These changes will bring general government rules into compliance with Initiative 200.

Citation of Existing Rules Affected by this Order: See sections below.

Statutory Authority for Adoption: RCW 41.06.150.

Adopted under notice filed as WSR 99-02-053 on January 5, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 15, Repealed 1.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 15, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 15, Repealed 1.

Effective Date of Rule: April 1, 1999.

February 11, 1999

Dennis Karras

Secretary

NEW SECTION

WAC 356-05-012 Affected group members. Affected groups for affirmative action purposes are: Persons age forty and above, people with disabilities, Vietnam Era veterans and disabled veterans, women, Asians and Pacific Islanders, Blacks, Hispanics, Native Americans and Alaska Natives.

Reviser's note: The unnecessary underlining 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 87-02-038 (Order 267), filed 1/2/87)

WAC 356-05-013 Affirmative action. Procedures by which ~~((protected))~~ affected group members are provided with increased employment opportunities designed to correct underutilization. Affirmative action shall not mean any sort of quota system.

AMENDATORY SECTION (Amending WSR 87-02-038 (Order 267), filed 1/2/87)

WAC 356-05-207 Job categories. The eight categories designated by the equal employment opportunity commission for ~~((affirmative action))~~ reporting to federal agencies: Officials and administrators, professionals, technicians, protective service workers, paraprofessionals, office and clerical, skilled craft workers, and service and maintenance.

REPEALER

~~((WAC 356-05-327 Protected group members. Protected groups for affirmative action purposes are: Persons age forty and above, people with disabilities, Vietnam Era veterans, disabled veterans, women, Asians and Pacific Islanders, Blacks, Hispanics, Native Americans and Alaska Natives.))~~

AMENDATORY SECTION (Amending WSR 87-02-038 (Order 267), filed 1/2/87)

WAC 356-05-447 Underutilization. ~~((Employment of protected group members in a class or job category at a rate below their workforce availability, and other approved criteria when applicable, as identified in the agency's approved affirmative action plan.))~~ Having fewer racial/ethnic minorities, women, persons age 40 and over, Vietnam Era and disabled veterans, or persons of disability in a particular job group than reasonably would be expected based upon their availability.

AMENDATORY SECTION (Amending WSR 87-02-038 (Order 267), filed 1/2/87)

WAC 356-09-010 Affirmative action program—Purpose. The purpose of this chapter is to ensure compliance by state agencies with the provisions of chapter 41.06 RCW and executive orders, which provide for affirmative action and equal employment opportunity in appointment, promotion, transfer, recruitment and career development; development and implementation of affirmative action goals (~~(and timetables)~~), and monitoring progress toward achieving those goals (~~(and timetables)~~).

AMENDATORY SECTION (Amending WSR 87-02-038 (Order 267), filed 1/2/87)

WAC 356-09-030. Affirmative action program—Affirmative action plan—Elements. (1) Agencies that are required to maintain an affirmative action plan shall develop them in accordance with the department of personnel affirmative action program guidelines. Affirmative action plans will be submitted for review to the department of personnel (~~(and the human rights commission)~~).

(2) Affirmative action plan updates will be submitted annually to the department of personnel (~~(and the human rights commission)~~) for review and approval in accordance with the department of personnel guidelines.

(3) Affirmative action plans must contain, but are not limited to the following elements:

- (a) Equal employment opportunity/affirmative action policy statement endorsed by the agency head.
- (b) Designation of responsibility for implementation and maintenance of the plan.
- (c) Dissemination of plan and policy.
- (d) Utilization analysis.
- (e) Goals (~~(and timetables)~~).
- (f) Identification of problem areas.
- (g) Action programs to achieve goals.
- (h) Monitoring and reporting procedures.

AMENDATORY SECTION (Amending WSR 87-02-038 [98-19-034] (Order 267), filed 1/2/87 [9/10/98])

WAC 356-09-040 Affirmative action program—Responsibilities—Department of personnel. The department of personnel is responsible for administering the state's affirmative action program and providing technical assistance to state agencies in the development and implementation of their affirmative action programs. In keeping with these responsibilities, the department of personnel will accomplish the following:

- (1) Publish guidelines that will assist agencies in developing and implementing their affirmative action plan.
- (2) Provide agencies with the data required to develop and implement affirmative action goals (~~(and timetables)~~).
- (3) Review agency affirmative action plans and equal employment opportunity policy statements for compliance with applicable merit system rules and established affirmative action guidelines, and recommend changes as appropriate.

(4) When plans and policy statements are in compliance, recommend them for approval to the governor's affirmative action policy committee.

~~((5) Monitor for adverse impact on protected group members in the areas of recruitment, testing, appointment, promotion, transfer, termination, formal disciplinary actions, and career development. Records in these areas will be maintained by protected group status.))~~

~~((6))~~ (5) With the assistance of state agencies, initiate the recruitment of ~~((protected))~~ affected group members, including target recruitment ~~((when the representation of protected group members on the register is less than their availability))~~ when appropriate.

~~((7))~~ (6) Monitor items submitted to the personnel board for possible negative effect on affirmative action.

~~((8))~~ (7) Monitor ~~((protected))~~ affected group participation in agencies' human resource development activities.

~~((9))~~ (8) ~~((Conduct an annual audit to assess))~~ Monitor agencies' progress in meeting goals and addressing problems identified in their affirmative action program. ~~((The audit will be conducted in accordance with the established department of personnel affirmative action program guidelines.))~~

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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 91-20-034 (Order 388), filed 9/23/91, effective 11/1/91)

WAC 356-09-050 Affirmative action program—Testing. (1) The department of personnel will make reasonable accommodations for persons of disability who require such during test procedures.

(2) The department of personnel may test ~~((a protected group member))~~ persons with disabilities, Vietnam Era veterans and disabled veterans, and persons age 40 and above after the closing date of the recruitment announcement, provided:

- (a) A register exists for the class; and
- (b) The employing agency or the state has not met affirmative action goals for ~~((a))~~ the specific ~~((protected group))~~ category for that class or job ~~((category))~~; and
- (c) The ~~((protected group's))~~ category's representation ~~((on the register))~~ in the state workforce is less than ~~((the))~~ availability ~~((for the protected group))~~; and
- (d) The applicant is a member of the ~~((protected group))~~ category identified in (b) and (c) of this subsection, and met minimum qualifications at the time of application; and
- (e) The ~~((protected group member))~~ applicant being examined has not been tested under the same recruitment announcement within the past thirty calendar days.
- (f) The test may not be taken more than three times within a 12-month period unless the examination content has been substantially changed.

AMENDATORY SECTION (Amending WSR 90-05-029 (Order 338), filed 2/13/90, effective 4/1/90)**WAC 356-22-010 Examination—Announcements.**

(1) Recruitment shall be conducted publicly in any manner which the director or designee determines will attract a sufficient number of qualified persons to meet the needs of the classified service, and shall include methods designed to attract ~~((protected))~~ affected group members. Recruitment announcements shall be posted publicly, as selected by the director, and at all offices of the department of personnel. Each recruitment announcement shall give the title and salary range of the class, a general description of the duties performed, the applicable minimum or desirable qualifications, the expected type of examination, and shall encourage ~~((protected))~~ affected group members to apply.

(2) The director may limit recruitment to applicants meeting selective criteria.

(3) The director may limit open competitive recruitment to applicants available for employment to specific geographic locations.

(4) Registers established under subsections (2) and (3) of this section will be used exclusively for filling positions for which such recruitment has been conducted.

AMENDATORY SECTION (Amending WSR 87-02-038 (Order 267), filed 1/2/87)

WAC 356-22-040 Applications—Contents—Restrictions. (1) All applications shall be on a form prescribed by the department of personnel. The applicant's signature shall certify the truth of the stated information.

(2) The application shall include pertinent information regarding experience, training, and other information as deemed necessary by the director of personnel. A certificate of physical fitness from one or more licensed physicians based upon job-related criteria may be required by the director of personnel or designee.

(3) No information shall be solicited or accepted which reveals an applicant's religious or political affiliations. Information regarding an applicant's ~~((protected))~~ affected group status shall be solicited only for use in an affirmative action program and shall be accepted only if it is voluntarily given by the applicant.

(4) Information regarding the nature and extent of a ~~((handicap))~~ disability including a physician's statement, may be requested for affirmative action purposes and/or admittance to modified examinations under conditions specified in ~~((Merit System Rule))~~ WAC 356-22-130.

AMENDATORY SECTION (Amending WSR 91-20-036 (Order 390), filed 9/23/91, effective 11/1/91)

WAC 356-22-090 Examinations—Composition. (1) The director of personnel, or designated representative, shall determine, by uniform standards, the appropriate examination for a register for a class and the tests, or combination of tests and relative weights to be assigned. Examinations shall be practical in nature and of such character as to determine the capacity of the applicant to perform the duties of the par-

ticular class of positions for which the applicant is competing as well as the applicant's general background and related knowledge, and shall be rated objectively. Examinations will be developed and administered in a manner that minimizes bias due to cultural differences. A passing score may be required on each test included in the examination.

Examinations shall normally consist of one or a combination of the following:

- (a) A written test.
- (b) A performance test.
- (c) An oral test.
- (d) An evaluation of experience and training.

(2) When the director of personnel determines that the number of applicants responding to an examination announcement is excessive in relation to the number of projected job openings, the director may limit admission to the oral test to those scoring highest on a preliminary test which may be a written test, performance test, or an evaluation of experience and training. The number admitted to the oral test shall be at least twice the number of anticipated vacancies for the subsequent year or 20% of those applicants with passing scores, whichever is greater; but never less than 16 or the entire body of passing applicants, whichever is less.

~~((3) When the director of personnel determines that the number of applicants to be admitted to the oral examination will be limited by a screening procedure as authorized by WAC 356-22-090(2), the department will ensure that, in addition, a representative number of those protected group members who were accepted under the examination announcement and who passed the preliminary test are also admitted to the oral examination.))~~

AMENDATORY SECTION (Amending WSR 98-19-034, filed 9/10/98, effective 10/12/98)

WAC 356-22-180 Examination—Oral examining panel. (1) The members of oral examining panels shall be chosen primarily for their ability to judge the qualifications of applicants objectively. At least one member by past experience and training shall be generally familiar with the nature of the work for which the examination is being given. Emphasis will be placed on including at least one ~~((protected))~~ affected group member on each oral examining board.

(2) No examining panel shall have fewer than two members. No person holding political office or any officer or committee member of any political organization shall serve as a member of such panel.

(3) If conditions require establishing multiple panels, tests and instructions shall be structured to ensure uniformity of examining conditions and rating standards.

(4) Members of oral examining panels shall disclose each instance in which they know an applicant to the extent that they have formed a prior personal bias for or against an applicant and shall disqualify themselves without rating the applicant or biasing the remaining members.

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 87-02-038 (Order 267), filed 1/2/87)

WAC 356-26-010 Registers—Responsibility—Duration—Maintenance. (1) The establishment, maintenance, and adequacy of all ranked and unranked registers shall be the responsibility of the director of personnel.

(2) A person's standing on a register shall be measured from the date that person's name is placed on the register.

(3) Each register shall indicate the person's geographic availability, available information on ~~((protected))~~ affected group status, and other appropriate considerations as determined by the director of personnel.

(4) The director of personnel may, as requested, designate agency personnel officers to act as agents of the department of personnel for the purposes of establishing and/or maintaining ranked and unranked local list registers unique to the employing agency and certifying names therefrom under these ~~((merit system))~~ rules. The director of personnel will be responsible for establishing the necessary procedures which shall include ~~((a periodic audit of))~~ monitoring agency activity. Applicants shall have appeal rights to the director in accordance with all other provisions of the rules.

AMENDATORY SECTION (Amending WSR 93-19-147 (Order 432), filed 9/22/93, effective 10/23/93)

WAC 356-26-060 Certification—General methods. Upon receipt of a request for certification, the director of personnel shall normally certify to the appointing authority a list of names equal in number to six more than there are vacancies to be filled from the ranked registers except:

(1) One name will constitute a complete certification when referrals are made from the agency reduction in force register, the service-wide reduction in force register, or the dual agency reversion register. When an appointing authority requests a selective certification for specialized qualifications, the eligible candidate must meet the selective criteria in order to be referred to the position, provided:

(a) The criteria were approved when the position was established, reallocated, or last filled; or

(b) The specialized qualifications were previously required for a classification that was later merged with other classifications that did not require them; or

(c) It has been determined that the position involves new duties that would warrant future selective certification. Such selective criteria shall not be applied for certification purposes until six months after the department of personnel approves the selective criteria for the position.

(d) In the case of (a), (b), or (c) of this subsection, the director of personnel or designee must determine that the specialized qualifications are still required for successful job performance and cannot be learned within a reasonable length of time.

(2) Where all names are certified exclusively from an open competitive register, the director of personnel may certify in ranked order up to all of the names from the open competitive register: *Provided*, That the appointing authority shall select from those eligibles available from the highest

ranking names which constitute seven names per vacancy to be filled.

(3) The names of candidates from the same register who have the same score as the lowest score to be certified will also be certified.

(4) An unranked register may be used to complete a certification. An agency may request the transfer, reemployment, and/or voluntary demotion register(s) to complete a certification. In such cases, all names appearing on the specified register shall be certified. Subsequent unranked registers shall not be used until the certification is again incomplete.

(5) When the vacancy to be filled is identified as part of an agency's affirmative action goals as established by their approved affirmative action plan, the director of personnel may, except where there are employees on the reduction in force register, refer up to three additional names per vacancy of individuals who are on existing registers and who are ~~((members of the protected groups))~~ persons with disabilities, Vietnam Era veterans and disabled veterans, and persons age 40 and above. More than three additional names per vacancy will be certified if there are ~~((protected group candidates))~~ eligibles in these categories with the same score as the lowest score to be certified. This action may be taken when necessary to comply with the best standards of personnel administration as contemplated by chapter 41.06 RCW.

Prior to the utilization of this subsection, the agency shall determine if there are ~~((protected group members))~~ eligibles in these categories on the existing registers. If there are fewer than three ~~((protected group members))~~ such eligibles on the register, the agency shall:

(a) Appoint one of the eligibles from the register; or

(b) Request assistance from the department of personnel in completing the certification. The department of personnel and the agency will then initiate targeted recruitment.

(6) When one or more of the following conditions exist, the director of personnel or designee may certify a sufficient number of names to assure that the requesting agency has not less than seven names available for consideration:

(a) The position is in an isolated or undesirable location.

(b) The position has undesirable working conditions.

(c) The agency needs to fill several positions in the class.

(d) One or more agencies have had difficulty filling positions in the class.

(e) The director of personnel or designee determines that such certification is necessary to provide the requesting agency with efficient service.

If such certification contains seven or more available promotional candidates, agencies shall appoint from the promotional candidates.

(7) Permanent employees certified from a ranked register for consideration of appointment shall be notified by the agency at the time of the referral. Upon appointment the agency shall advise those employees certified but not appointed of the action taken.

WSR 99-05-047
PERMANENT RULES
HORSE RACING COMMISSION

[Filed February 12, 1999, 10:35 a.m.]

AMENDATORY SECTION (Amending WSR 95-19-098, filed 9/20/95, effective 11/1/95)

WAC 356-26-070 Certification—Registers—Order of rank—Exception. The director of personnel will normally certify names from the registers in the following order:

- (1) Agency reduction in force register.
- (2) Service-wide reduction in force register.
- (3) Dual-agency reversion register.
- (4) Agency promotional register.
- (5) Higher education reduction in force register.
- (6) Service-wide reversion register.
- (7) Transfer register.
- (8) Voluntary demotion register.
- (9) Service-wide promotional register.
- (10) Reemployment unranked register.
- (11) Inter-system employment register.
- (12) Open competitive register.

However, if the director of personnel or agency designee with local list authority establish that it is in the best interest of the state to broaden the competition, agencies may request the director of personnel or agency designee to certify names combined from registers (4), (9), (11), and (12) provided:

(a) The written request to the director or agency designee shall be evidence of assurance that:

(i) Such a request will not harmfully affect utilization of ~~((protected))~~ affected group members who are applicants for this class.

(ii) If the position is within a collective bargaining unit, the exclusive representative has been provided a copy of the request.

(iii) That the request is in the best interest of the state and not solely intended to circumvent the policy of promotion from within the state as provided in WAC 356-30-150.

(b) Request for combined registers must be made on a position-by position or a class basis and prior to recruitment or referral.

AMENDATORY SECTION (Amending WSR 87-02-038 (Order 267), filed 1/2/87)

WAC 356-30-010 Appointments—Bona fide occupational qualifications. All appointments and assignments of work in the state service shall be made on the basis of merit. However, restrictions based on creed, sex, or disability may be considered by the appointing authority when such restrictions have been approved by the human rights commission as bona fide occupational qualifications. Appointing authorities need not obtain approval from the human rights commission when taking action to reasonably accommodate a person of disability or when appointing ~~((a protected group member))~~ persons with disabilities, Vietnam Era veterans and disabled veterans, and persons age 40 and above from a supplemental referral.

Date of Adoption: February 10, 1999.

Purpose: To utilize the "fast official" method of declaring a race official whereby the jockey claims foul while still mounted and on the race track.

Citation of Existing Rules Affected by this Order: Amending WAC 260-52-070 Declaring race "official."

Statutory Authority for Adoption: RCW 67.16.040.

Adopted under notice filed as WSR 98-16-104 on August 5, 1998.

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

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

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

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

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

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

February 12, 1999

Bruce Batson

Executive Secretary

AMENDATORY SECTION (Amending Rules 205 and 206, filed 4/21/61)

WAC 260-52-070 Declaring race "official." (1) The clerk of the scales shall weigh in all jockeys after each race, and after weighing, shall notify the stewards if the weights are correct. The stewards may then declare the race official. However, the commission may authorize a racing association to employ a "fast official" method of declaring a race official when a written request is received from the racing association at least 45 days prior to the opening of the race meeting. When using the "fast official" jockeys shall claim foul immediately following the running of the race, while still mounted on the race track. The association will be responsible for having an outrider or other individual situated on the race track and equipped with a communication device for relaying any objections to the stewards. Owners and trainers must claim foul directly to the stewards via telephones assigned by the association for that purpose and situated throughout the facility. No claim of foul will be considered by the stewards after a race has been declared official.

(2) Nothing in these rules shall be construed to prevent the placing judges, with the approval of the stewards, from correcting an error before the display of the sign "official" or

from recalling the sign, "official" in case it has been displayed through error.

WSR 99-05-048
PERMANENT RULES
HORSE RACING COMMISSION

[Filed February 12, 1999, 10:37 a.m.]

Date of Adoption: February 10, 1999.

Purpose: Adding language to existing rule to allow identification of horse in other than the paddock, with commission prior approval.

Citation of Existing Rules Affected by this Order: Amending WAC 260-24-560 Horse identifier.

Statutory Authority for Adoption: RCW 67.16.040.

Adopted under notice filed as WSR 98-16-103 on August 5, 1998.

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

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

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

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

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

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

February 12, 1999

Bruce Batson

Executive Secretary

AMENDATORY SECTION (Amending WSR 98-01-145, [filed 12/19/97])

WAC 260-24-560 Horse identifier. The Horse identifier shall:

(1) When required, ensure the safekeeping of registration certificates and racing permits for horses stabled and/or racing on association grounds;

(2) Inspect documents of ownership, eligibility, registration or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting;

(3) Examine every starter in the paddock, or other designated location approved by the commission, for sex, color, markings and lip tattoo or other identification method approved by the appropriate breed registry and the commission for comparison with its registration certificate to verify the horse's identity; and

(4) Supervise the tattooing, branding or other method of identification approved by the appropriate breed registry and

the commission for identification of any horse located on association grounds.

(5) The horse identifier shall report to the stewards any horse not properly identified or whose registration certificate is not in conformity with these rules.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 99-05-049
PERMANENT RULES
HORSE RACING COMMISSION

[Filed February 12, 1999, 10:40 a.m.]

Date of Adoption: February 10, 1999.

Purpose: Conform to nationally accepted uniform rules by adding additional clarifying language to existing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 260-44-110 Weighing in—Procedure and 260-44-120 Weighing in—Weigh in/weigh out—Tolerances—Penalties.

Statutory Authority for Adoption: RCW 67.16.040.

Adopted under notice filed as WSR 99-02-082 on January 6, 1999.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

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

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

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

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

February 12, 1999

Bruce Batson

Executive Secretary

AMENDATORY SECTION (Amending Rules of racing, §§ 309 through 312, filed 4/21/61)

WAC 260-44-110 Weighing in—Procedure. (1) After a race has been run and after ((he)) the jockey has pulled up the horse he or she has ridden, the jockey shall ride promptly to the winner's circle and there dismount, after obtaining permission from the judges and present himself to the clerk of the scales to be weighed in accordance with a method approved by the commission. If a jockey is prevented from riding his mount to the judge's stand because of an accident or of illness either to himself or his horse, he may walk or be carried to the scales, or he may be excused by the stewards from weighing.

(2) Except by permission of the stewards, every jockey must, upon returning to the placing judge's stand, unsaddle the horse he has ridden, and no person shall touch the jockey or the horse except by his bridle, nor cover the horse in any manner until the jockey has removed the equipment to be weighed.

(3) No person shall assist a jockey in removing from his horse the equipment that is to be included in the jockey weight, except by permission of the stewards.

(4) Each jockey shall, in weighing in, carry over to the scales all pieces of equipment with which he weighed out. Thereafter he may hand it to his attendant.

AMENDATORY SECTION (Amending Rules of racing, §§ 313, 314, filed 4/21/61)

WAC 260-44-120 Weighing in—Weigh in/weigh out—Tolerances—Penalties. (1) Each jockey shall weigh in at the same weight as that at which he weighed out, and if short of it by more than two pounds his mount shall be disqualified. Should a weight discrepancy arise after a race has been declared official, a change in the order of finish will not affect the parimutuel payoffs.

(2) If any jockey weighs in at more than two pounds over his proper or declared weight, he shall be fined or suspended or ruled off at the discretion of the stewards, who shall have regard for any excess weight caused by rain or mud, and the case shall be reported to the commission for such action as it may deem proper to take.

WSR 99-05-052
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed February 12, 1999, 1:12 p.m.]

Date of Adoption: February 12, 1999.

Purpose: To adopt amendments to chapter 296-46 WAC, Safety standards—Installing electrical wires and equipment—Administrative rules and to chapter 296-401A WAC, Certification of competency for journeyman electricians.

Citation of Existing Rules Affected by this Order: Amending WAC 296-46-090, 296-46-23040, 296-46-370, 296-46-495, 296-46-50002, 296-46-930, 296-46-940, 296-46-950, 296-401A-100, 296-401A-140, and 296-401A-530.

Statutory Authority for Adoption: Chapter 19.28 RCW.

Adopted under notice filed as WSR 98-22-107 on November 4, 1998.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-46-495 was modified to allow inspection requests "no later than three business days" after completion of electrical installation or one business day after any part of the installation is energized.

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

Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 8, Repealed 0.

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

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

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

February 12, 1999

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 97-24-033, filed 11/25/97, effective 12/29/97)

WAC 296-46-090 Foreword. The ((1996)) 1999 edition of the National Electrical Code (NFPA 70 - ((1996)) 1999) including Appendixes A, B, and C, the ((1993)) 1996 edition of Centrifugal Fire Pumps (NFPA 20 - ((1993)) 1996) and the ((1993)) 1996 edition of Emergency and Standby Power Systems (NFPA 110 - ((1993)) 1996) are hereby adopted by reference as part of this chapter. Other codes, manuals, and reference works referred to in this chapter are available for inspection and review in the Olympia office of the electrical section of the department during business hours. Where there is any conflict between this chapter and the National Electrical Code (NFPA 70), Centrifugal Fire Pumps (NFPA 20) or Emergency and Standby Power Systems (NFPA 110), the requirements of this chapter shall be observed. Where there is any conflict between Centrifugal Fire Pumps (NFPA 20) or Emergency and Standby Power Systems (NFPA 110) and the National Electrical Code (NFPA 70), the National Electrical Code shall be followed.

Electrical inspectors will give information as to the meaning or application of the National Electrical Code, the standard on Centrifugal Fire Pumps and the standard on Emergency and Standby Power Systems and this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

The department is authorized to enforce city electrical ordinances where those governmental agencies do not make electrical inspections under an established program.

At the time of inspection, electrical wiring or equipment subject to this chapter must be sufficiently accessible to permit the inspector to visually inspect the installation to verify conformance with the National Electrical Code and any other electrical requirements of chapter 296-46 WAC. Visual inspection of cables or raceways shall not be required where cables or raceways are fished according to the National Electrical Code. Wires pulled into raceway shall not be considered concealed.

AMENDATORY SECTION (Amending WSR 93-06-072, filed 3/2/93, effective 4/2/93)

WAC 296-46-23040 Service conductors. (1) Service entrance conductors shall extend at least 18 inches from the service head to permit connection to the service drop.

(2)(a) The installation of service conductors not exceeding 600 volts nominal, within a building or structure shall be limited to the following methods: Galvanized or aluminum rigid metal conduit; galvanized intermediate metal conduit; wireways; busways; auxiliary gutters; rigid nonmetallic conduit; cablebus; or mineral-insulated, metal-sheathed cable (type MI).

(b) The installation of service conductors exceeding 600 volts, nominal, within a building or structure shall be limited to the following methods: Galvanized rigid metal conduit; galvanized intermediate metal conduit; metal-clad cable that is exposed for its entire length; cablebus; or busways.

(3) Service conductors under the exclusive control of the serving utility, where installed within a building or structure shall be installed in rigid steel galvanized conduit or Schedule 80 nonmetallic conduit. The grounded service conductor shall be permitted to be identified with a yellow jacket or with one or more yellow stripes.

(4) Multiple-occupancy buildings. A second or additional underground service lateral to a building having more than one occupancy shall be permitted to be installed at a location separate from other service laterals to the building provided that all the following conditions are complied with:

(a) Each service lateral is sized in accordance with the National Electrical Code for the calculated load to be served by the conductors;

(b) Each service lateral terminates in service equipment, including listed metering or service accessory equipment, that is located in or on a unit served by the service equipment;

(c) The service laterals originate at the same transformer or power supply;

(d) The service equipment is separated at least fifteen feet from other service equipment in or on the building; and

(e) A permanent directory, suitable for the environment, is placed at each service equipment location that identifies all other service equipment locations in or on the building and the area or units served by each.

Exception: Service laterals for two-family dwellings are permitted to terminate in meter enclosures that are permitted to be located less than 15 feet apart.

(5) The service raceway or cable shall extend no more than fifteen feet inside a building or structure.

AMENDATORY SECTION (Amending WSR 97-12-016, filed 5/28/97, effective 6/30/97)

WAC 296-46-370 Boxes and fittings. ~~((Reserved))~~
Single conductors, cables, taps, or splices installed in an open bottom junction box or handhole must be suitable for direct burial. However, an open bottom box manufactured specifically for electrical use will be permitted to be used as an electrical junction box and enclose single conductors, cables, taps, or splices rated for wet locations, only under the following conditions:

(1) The box shall be rated for not less than H-10 loading (8000 pounds over a 10" x 10" area) and be provided with a bolted, hinged, or slide-on lid embossed with the identification "ELECTRIC" or "ELECTRICAL." Metal covers shall be grounded per NEC Article 250.

(2) All conductors must be installed in approved electrical raceways which enter vertically from the open bottom of the enclosure. These raceways shall be fitted with a bushing, terminal fitting, or seal incorporating the physical protection characteristics of a bushing, and project not less than 2 inches (5 cm) above the bottom surface material. The bottom surface material shall be pea gravel, sand, or concrete.

AMENDATORY SECTION (Amending WSR 98-12-042, filed 5/29/98, effective 6/30/98)

WAC 296-46-495 Electrical work permits and fees.

(1) Where an electrical work permit is required by chapter 19.28 RCW or this chapter, inspections shall not be made, equipment energized, nor services connected unless an electrical work permit is completely and legibly filled out and readily available, and all applicable inspection fees have been paid. The classification or type of facility to be inspected and the scope of the electrical work to be performed shall be clearly shown on the electrical work permit. The address where the inspection is to be made shall be identifiable from the street, road or highway that serves the premises. Driving directions and/or a legible map must be provided for the inspectors' use.

(2) Except for emergency repairs to existing electrical systems, electrical work permits shall be obtained prior to beginning the installation or alteration. An electrical work permit for emergency repairs to existing electrical systems shall be obtained no later than the next business day.

(3) The electrical work permit application shall be posted on the job site at a conspicuous location prior to beginning electrical work and at all times electrical work is performed.

(4) Electrical work permits shall expire one year after the date of purchase unless electrical work is actively and consistently in progress and inspections requested. Electrical work permits for temporary construction activity shall expire ninety days after suspended construction and no later than one year after purchase. Refunds are not available for expired electrical work permits.

(5) Fees shall be paid in accordance with the inspection fee schedule WAC 296-46-910.

(6) Each person, firm, partnership, corporation, or other entity shall furnish an electrical work permit for the installation, alteration, or other electrical work performed or to be performed by that entity. Each electrical work permit application shall be signed by the electrical contractor's administrator (or designee) or the person, or authorized representative of the firm, partnership, corporation, or other entity that is performing or responsible for the electrical installation or alteration.

(7) An electrical work permit is required for installation, alteration, or maintenance of electrical systems except for replacement of circuit breakers or fuses, for replacement of lamps, snap switches, receptacle outlets or heating elements, replacement of a lighting fixture ballast with an exact same

ballast, replacement of contactors, relays, timers, starters, or similar control components or for plug-in appliances or travel trailers.

(8) Requests for inspections must be made no later than three business days after completion of the electrical installation or one business day after any part of the installation has been energized, whichever occurs first.

AMENDATORY SECTION (Amending WSR 98-12-042, filed 5/29/98, effective 6/30/98)

WAC 296-46-50002 On-site sewage disposal systems.

(1) Pumping chambers for sewage, effluent, or grinder pumps in both on-site and septic tank effluent pump (S.T.E.P.) disposal systems shall be considered unclassified when not more than five residential units are connected to the system or when nonresidential systems have residential loading characteristics and all of the following general installations requirements are complied with.

(a) The pumping chamber shall be adequately vented. Venting may be accomplished through the building or structure plumbing vents where ~~((adequate))~~ the system venting has been approved by the local jurisdiction authority or by a direct 2" minimum vent to the atmosphere.

(b) Equipment that in normal operation may cause an arc or spark shall not be installed in any pumping chamber.

(c) Float switches installed in an unclassified location shall be hermetically sealed to prevent the entrance of gases or vapors.

(d) Junction boxes, conduits and fittings installed in the septic atmosphere shall be of the noncorrosive type, installed to prevent the entrance of gases or vapors.

(e) Where a conduit system is installed between the pumping chamber and the control panel, motor disconnect, or power source, an approved sealing fitting shall be installed to prevent the migration of gases or vapors from the pumping chamber, and shall remain accessible.

(f) Wire splices in junction boxes installed in pumping chambers, shall be suitable for wet locations.

(g) Submergence of the pumping motor shall be guaranteed by the design of the pump or by redundant off floats.

(2) Nonresidential loading characteristics shall be certified by a Washington state registered professional engineer, engaged in the business of wastewater management systems design. Documentation that is signed and stamped by the engineer shall be provided to the electrical inspector prior to the inspection.

(3) Any residential or nonresidential system that has building or structure floor drains being discharged into the system shall be classified as Class I Division I.

(4) Pumping chamber access covers shall be permitted to be covered by gravel, light aggregate, or noncohesive granulated soil, and shall be accessible for excavation. Access covers that are buried, shall have their location identified at the electrical panel or other approved prominent location.

(5) Secondary treatment effluent pumping chambers such as sandfilters are unclassified, and require no special wiring methods.

Inspection approval is required prior to covering or concealing any portion of the septic electrical system, including

the pump. New septic and effluent tanks containing electrical wires and equipment shall be inspected and approved by the department prior to being loaded with sewage.

AMENDATORY SECTION (Amending WSR 98-12-042, filed 5/29/98, effective 6/30/98)

WAC 296-46-930 Electrical contractor license and administrator certificate designation. See RCW 19.28.120.

(1) General electrical license and/or administrator's certificate encompasses all phases and all types of electrical installations.

(2) Specialty (limited) electrical licenses and/or administrator's certificates are as follows:

(a) Residential (02): Limited to the wiring of one and two family dwellings, or multifamily dwellings not exceeding three floors above grade. All wiring to be in nonmetallic sheathed cable, except service and/or feeders. This specialty does not include wiring commercial occupancies such as motels, hotels, offices, or stores.

(b)(i) Pump and irrigation (03): Limited to the electrical connection of domestic and irrigation water pumps, circular irrigating systems and related pumps and pump houses. This specialty includes circuits, feeders, controls, and services to supply said pumps.

(ii) Domestic well (03A): Limited to the extension of a branch circuit, which is supplied and installed by others, to pump controllers; pressure switches; alarm sensors; and water pumps which do not exceed 7 1/2 horsepower at 230 volts AC single phase.

(c) Signs (04): Limited to placement and connection of signs and outline lighting, the electrical supply, related controls and associated circuit extensions thereto; and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only.

(d) Domestic appliances (05): Limited to the electrical connection of household appliances and the wiring thereto; such as hot water heaters, ranges, dishwashers, clothes dryers, oil and gas furnaces, and similar appliances. This specialty includes circuits to the appliances; however, it does not include the installation of service and/or feeders or circuits to electric furnaces and heat pump equipment.

(e)(i) Limited energy system (06): Limited to the installation of signaling and power limited circuits and related equipment. This specialty includes the installation of fire protection signaling systems, intrusion alarms, nonutility owned communications systems, and such similar low energy circuits and equipment.

(ii) HVAC/refrigeration limited energy system (06A): Limited to installation of low voltage, Class 2 HVAC/refrigeration control circuit cables for control of furnaces, heat pumps, and similar HVAC or refrigeration equipment when such conductors do not connect to other than HVAC or refrigeration equipment and when such buildings do not exceed three floors above grade, except for residential occupancies. Associated limited energy control components that are integral with, and control the operation of, the heating and cooling equipment or refrigeration equipment are included in the scope of this specialty. These limited energy components include, but are not limited to, the following: Thermostats,

humidistats, low voltage damper controls, outdoor sensing controls, outside air dampers, stand-alone duct smoke detectors, zone control valves, and the mounting of HVAC/refrigeration control panels and low voltage connections only. Installation of integrated energy management systems other than HVAC/refrigeration systems as defined herein, are not included in this specialty.

This specialty may install, service, maintain, repair, or replace HVAC/refrigeration electrical systems as long as the work is on the HVAC/refrigeration system itself. This specialty may replace line voltage components within the equipment, only if the components are like in kind with identical voltage and current ratings. This specialty may not install branch circuit (line voltage) conductors, services, feeders, panelboards, or disconnect switches to HVAC/refrigeration equipment. Short sections of raceway may be installed for access to or physical protection of cables, however wiring in conduit systems and wiring in classified locations are excluded from this specialty.

On or before March 1, 2000, a registered contractor (chapter 18.27 RCW) who provides proof to the department that for a minimum of two years they were engaged full time in the business of HVAC or refrigeration equipment installation, service or repair work may designate a supervisory employee or member of the firm to take the required administrator's examination. This initial designee will satisfy the requirements of RCW 19.28.125 for application for an HVAC/refrigeration limited energy contractor's license. This initial designated administrator must successfully pass the HVAC/refrigeration limited energy specialty administrator's examination prior to the expiration (twenty-four months) of the specialty electrical contractor license. No extension of this initial administrator's status will be permitted unless they pass the HVAC/refrigeration limited energy specialty administrator's examination to qualify for a permanent certificate.

(f)(i) Nonresidential maintenance (07): Limited to maintenance, repair and replacement of electrical equipment and conductors on industrial or commercial premises. This specialty certificate of license does not include maintenance activities in hotel, motel, or dwelling units.

(ii) Nonresidential lighting maintenance and lighting retrofit (07A): Limited to working within the housing of existing nonresidential lighting fixtures for work related to repair, service, maintenance of lighting fixtures and installation of energy efficiency lighting retrofit upgrades. This specialty includes replacement of lamps, ballasts, sockets and the installation of listed lighting retrofit reflectors and kits. All work is limited to the fixture body, except remote located ballasts may be replaced or retrofitted with approved products. This specialty does not include installing new fixtures or branch circuits; moving or relocating existing fixtures; or altering existing branch circuits.

This specialty contractor must employ an administrator who holds a nonresidential lighting maintenance and lighting retrofit administrator certificate; or a nonresidential maintenance administrator; or a general administrator. This specialty contractor must adhere to the ratio requirements for trainee supervision in RCW 19.28.510 for specialty electricians to trainees. A specialty lighting maintenance and retrofit specialty technician is allowed to supervise a maximum of

two trainees on the same job site. A contractor must obtain an electrical permit and request inspection for all retrofit installations.

The contractor must have a documented electrical lighting maintenance safety training program for all employees working under this specialty contractor license.

(3) Combination specialty electrical contractor license. The department may issue a combination specialty electrical contractor license to a firm which qualifies for more than one specialty electrical contractor license. The license shall plainly indicate the specialty licenses which are included in the combination electrical contractor license.

(4) Combination specialty electrical administrator certificate. The department may issue a combination specialty administrator certificate to an individual who qualifies for more than one specialty administrators' certificate. The combination specialty administrators' certificate shall plainly indicate the specialty administrators' certificate the holder has qualified for.

AMENDATORY SECTION (Amending WSR 98-12-042, filed 5/29/98, effective 6/30/98)

WAC 296-46-940 Electrical contractor license. (1) The department shall issue an electrical contractor license to a person, firm, partnership, corporation or other entity that complies with RCW 19.28.120 which shall expire twenty-four months following the date of issue. An electrical contractor license will not be issued to or renewed for a person, firm, or partnership unless the Social Security number, date of birth, and legal address of the individual legal owner(s) are submitted with the application. The department may issue an electrical contractor license for a period greater or less than twenty-four months for the purpose of equalizing the number of electrical contractor licenses which expire each month. The department shall prorate the electrical contractor license fee according to the number of months in the license period. All subsequent licenses shall be issued for a twenty-four month period.

(2) Cash or securities deposit release. A cash or security deposit which has been filed with the department in lieu of a surety bond, shall not be released until one year after the date the electrical contractor notifies the department in writing, that the person, firm, partnership, corporation, or other entity who (which) has been issued the electrical contractor license, has ceased to do business in the state of Washington.

(3) Manufacturers of electrical products shall be allowed to utilize their factory-trained personnel to perform initial calibration, testing, adjustment, modification incidental to the startup and check out of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing, provided: The product has not been previously energized and/or is within the manufacturer's warranty. Modifications, as designated above, shall not include changes to the original intended configuration nor changes or contact with externally field-connected components. The manufacturers will be responsible for obtaining any required reapproval/recertification from the original listing agent.

(4) No license under the provision of this chapter shall be required from any manufacturer or any person, firm, partnership, or other entity employed by or authorized by a manufacturer of power generation equipment assemblies for the following work on premanufactured electric power generation equipment assemblies and control gear:

(a) Testing, repair, modification, maintenance, and installation of components internal to the transfer switch, or replacement of components within the confines of the specific product incidental to the start up and check out of the equipment: Provided, The product has not been previously energized and/or is within the manufacturer's warranty. Modifications of the transfer switch shall not include changes to the original intended configuration nor changes or contact with externally field-connected components. The manufacturer will be responsible for obtaining any required reapproval or recertification from the original listing agent;

(b) Testing, repair, modification, maintenance, installation of components internal to the control gear;

(c) Testing, repair, modification, maintenance, installation of components internal to the premanufactured power generation unit.

Premanufactured electric power generation equipment assemblies are made up of reciprocating internal combustion engines and the associated control gear equipment. Control gear equipment includes control logic, metering, and annunciation for the operation and the quality of power being generated by the reciprocating internal combustion engine and does not have the function of distribution of power.

(5) For the purposes of this subsection, the following work on premanufactured electric power generation equipment assemblies is not exempt from the requirements of chapter 19.28 RCW.

(a) Installation or connection of conduit or wiring between the power generation unit, transfer switch, control gear;

(b) Installation of the transfer switch;

(c) Connections between the power generation unit, transfer switch, control gear, and utility's transmission or distribution systems;

(d) Connections between the power generation unit, transfer switch, control gear, and any building or structure;

(e) Test connections with any part of:

(i) The utility's transmission or distribution system;

(ii) The building or structure.

Nothing in this subsection shall alter or amend any other exemptions from or requirement for licensure under this chapter.

AMENDATORY SECTION (Amending WSR 97-24-033, filed 11/25/97, effective 12/29/97)

WAC 296-46-950 Administrators certificate. (1) The department shall issue an administrator certificate to a person who qualifies for a certificate in accordance with RCW 19.28.125 and makes proper application that includes the person's Social Security number, date of birth, and mailing address. The first certificate issued shall expire on the person's birthdate at least one year and not more than three years from the date of issue. If a person was born in an even num-

bered year, the certificate shall expire on the holder's even numbered birthdate. If the person was born in an odd numbered year, the certificate shall expire on the holder's odd numbered birthdate. The department shall prorate the administrator's certificate fee according to the number of months or major portions of months in a certificate period. All subsequent certificates shall be issued for a twenty-four month period. The signature of a person who desires to renew their certificate shall be notarized.

(2) Effective July 1, 1987, an administrator designated on the electrical contractor license shall be a member of the firm who shall fulfill the duties of a full-time supervisory employee, or be a full-time supervisory employee. In determining whether the person is a member of the firm, the department shall require that the person is named as the sole proprietor, a partner or an officer in a corporation as shown on the electrical contractor license application on file with the department. In determining whether a person is a full-time supervisory employee, the department shall consider whether the person is on the electrical contractor's full-time payroll; receives a regular salary or wage similar to other employees; has supervisory responsibility for work performed by the electrical contractor and carries out the duties shown in RCW 19.28.125(2).

(3) The department may deny an application for an administrator's certificate for up to two years if the applicant's previous administrator's certificate has been revoked for a serious violation and all appeals concerning the revocation have been exhausted.

A serious violation is a violation of chapter 19.28 RCW, chapter 296-46 or 296-401 WAC that creates a hazard of fire or a danger to life safety. A serious violation is also a violation that presents imminent danger to the public. Imminent danger to the public is present when installations of wire and equipment that convey electric current have been installed in such a condition that a fire-hazard or a life-safety hazard is present. Imminent danger to the public is also present when unqualified, uncertified, or fraudulently certified electricians or administrators; or unlicensed or fraudulently licensed contractors are continuously or repeatedly performing or supervising the performance of electrical work covered under chapter 19.28 RCW. A certified electrician is considered qualified, provided the electrician is working within his or her certification.

AMENDATORY SECTION (Amending WSR 98-12-042, filed 5/29/98, effective 6/30/98)

WAC 296-401A-100 Certificate of competency required. Who can work in the electrical construction trade?

Those who can work in the electrical construction trade are persons who hold the following certificates obtained through proper application that includes the individual's Social Security number, date of birth, and mailing address to the department who:

- (1) Possess a current journeyman electrician certificate of competency issued by the department; or
- (2) Possess a current specialty electrician certificate of competency issued by the department; or
- (3) Possess a valid temporary permit; or

(4) Possess a current electrical trainee certificate and are enrolled in an electrician's apprenticeship program approved under chapter 49.04 RCW, and are learning the trade under the supervision of a certified journeyman; or

(5) Possess a current electrical trainee certificate and are learning the trade under the supervision of a certified journeyman electrician or certified specialty electrician working in their specialty.

AMENDATORY SECTION (Amending WSR 98-12-042, filed 5/29/98, effective 6/30/98)

WAC 296-401A-140 Electrical specialties. Can I obtain a certificate of competency for an electrical specialty?

The department issues specialty electricians' certificates of competency in the following areas of electrical work:

(1) **Residential certificate (02):** This certificate limits you to wiring one-family and two-family dwellings, or multi-family dwellings that do not exceed three floors above grade. All residential wiring, except service and feeder wiring, must be nonmetallic sheathed cable. **This certificate does not allow you to wire commercial occupancies such as motels, hotels, offices or stores.**

(2) **Pump and irrigation certificate (03):** This certificate limits you to wiring the electrical connection of domestic water pumps, irrigation pumps, circular irrigating systems and related pumps and pump houses. With this certificate, you may also install the circuits, feeders, controls and services necessary to supply electricity to the pumps.

(3) **Domestic well specialty electrical technician certificate (03A):** This certificate limits you to the installation of materials, wires and equipment providing electrical power, control and operation of domestic water pumping systems. In addition, you are limited to the extension of a branch circuit (which has been supplied and installed by others) to pump controllers, pressure switches, alarm sensors, and water pumps which do not exceed 7 and 1/2 horsepower at 230 volts AC single phase.

Prior to December 1, 1998, you will be eligible to take the domestic well specialty electrician's competency examination if you provide the department with notarized verification of at least four years prior experience installing domestic water systems, including pump installations, under the supervision of a firm engaged in the business of installing domestic water systems.

After December 1, 1998, you will be eligible to take the domestic well specialty electrician's competency examination **only if** you provide the department with notarized verification of two years experience installing domestic pump systems working under the direct supervision of a domestic well specialty technician, a pump and irrigation specialty electrician or a journeyman electrician.

Certification of domestic well specialty electrical technicians shall be according to the provisions of WAC 296-401A-105 (original certification) and WAC 296-401A-110 (renewal of certification).

(4) **Signs and outline lighting certificate (04):** This certificate limits you to placing signs and outline lighting and connecting them to their electrical supply, controls and related circuit extensions. You are further limited to the

installation of a maximum 60 ampere, 120/240 volt, single phase service supplying power to a remote sign.

(5) **Domestic appliance certificate (05):** This certificate limits you to electrically connecting and wiring domestic appliances such as hot water heaters, ranges, dishwashers, clothes dryers, oil and gas furnaces and similar appliances. You may also install the circuits to those domestic appliances. However, **you may not** install service or feeder wires or circuits to electrical furnaces and heat pump equipment.

(6) **Limited energy system certificate (06):** This certificate limits you to installing signaling circuits, power limited circuits and related equipment. Examples of such equipment would be fire protection signaling systems, intrusion alarms, nonutility owned communication systems and similar low energy circuits and equipment.

(7) **HVAC/refrigeration limited energy technician (06A):** This certificate limits you to installing low voltage, Class 2 HVAC/refrigeration control circuit cables for control of furnaces, heat pumps, and similar HVAC or refrigeration equipment when such conductors do not connect to other than HVAC or refrigeration equipment and when such buildings do not exceed three floors above grade, except for residential occupancies. Associated limited energy control components that are integral with, and control the operation of, the heating and cooling equipment or refrigeration equipment are included in the scope of this specialty. These limited energy components include, but are not limited to, the following: Thermostats, humidistats, low voltage damper controls, outdoor sensing controls, outside air dampers, stand-alone duct smoke detectors, zone control valves, and the mounting of HVAC/refrigeration control panels and low voltage connections only. Installation of integrated energy management systems other than HVAC/refrigeration systems as defined herein, are not included in this specialty.

HVAC/refrigeration limited energy technicians may install, service, maintain, repair, or replace HVAC/refrigeration electrical systems as long as the work is on the HVAC/refrigeration system itself. HVAC/refrigeration technicians may replace line voltage components within the equipment, only if the components are like in kind with identical voltage and current ratings. HVAC/refrigeration technicians may not install branch circuit (line voltage) conductors, services, feeders, panelboards, or disconnect switches to HVAC/refrigeration equipment. Short sections of raceway may be installed for access to or physical protection of cables, however wiring in conduit systems and wiring in classified locations are excluded from this specialty.

To qualify to take this certificate examination on or before March 1, 2000, you must provide proof to the department that you performed HVAC or refrigeration equipment installation, service or repair and you were employed for a minimum of two years by a contractor engaged full time in the business of HVAC or refrigeration equipment installation or repair work. Individuals that meet this requirement will qualify for a third year training certificate and be considered temporarily until March 1, 2002, an HVAC/refrigeration limited energy technician for the purposes of working within the scope of this specialty without supervision and for the purpose of supervising first and second year trainees in proper

ratio. After March 1, 2002, you must have successfully passed the certificate examination to perform this work without supervision or to supervise trainees. If you have less than two years of experience, on or before March 1, 2000, you may apply for a training certificate level comparable to the hours for which you can provide proof of experience.

After March 1, 2000, all applicants for this certificate examination must have a minimum of two years full-time experience under the direct supervision of an HVAC/refrigeration limited energy technician, or a limited energy specialty electrician, or a journeyman electrician. Trainees may work unsupervised during their second year when installing HVAC systems with controls consisting of a single thermostat in one and two family dwelling units only.

(8) Nonresidential maintenance certificate (07): This certificate limits you to maintaining, repairing and replacing electrical equipment and conductors on industrial or commercial premises. **You may not** conduct maintenance activities in hotels, motels or dwelling units.

((8)) (9) Nonresidential lighting maintenance and lighting retrofit technician (07A): This certificate limits you to working within the housing of existing nonresidential lighting fixtures and limits you to work related to repair, service, maintenance of lighting fixtures and the installation of energy efficiency upgrades. Your work may include the replacement of lamps, ballasts, sockets and the installation of listed lighting retrofit reflectors and kits. Your work must be limited to the fixture body, however, you may replace or retrofit remote located ballasts with approved products. **You may not** install new fixtures or branch circuits, move or relocate existing fixtures, or alter existing branch circuits.

To qualify for this certificate **on or before June 30, 1999**, you must provide proof to the department that you performed electrical lighting maintenance and lighting retrofit installations and you were employed for a minimum of two years by a contractor engaged full-time in the business of nonresidential lighting maintenance and lighting retrofit work. **After June 30, 1999**, all applicants for this certificate must have a minimum of two years full-time experience under the direct supervision of a nonresidential lighting maintenance and retrofit technician; or a nonresidential maintenance specialty electrician; or a journeyman electrician.

AMENDATORY SECTION (Amending WSR 98-12-042, filed 5/29/98, effective 6/30/98)

WAC 296-401A-530 Trainees working without supervision. *Can I work as a trainee without supervision?*

((You will)) After review by the department, you may be issued a six-month, nonrenewable unsupervised electrical training certificate that will allow you to work without supervision if you:

(1) Apply for an unsupervised electrical training certificate; and

(2) Have worked over 7,000 hours; and

(3) Have successfully completed or are currently enrolled in an approved apprenticeship program or an electrical construction trade program in a school approved by the board of community and technical colleges; and

(4) Pay the fee listed in WAC 296-401A-700; and

(5) Are currently working for and must continue to work for a licensed electrical contractor that employs at least one certified journeyman or specialty electrician on staff.

(6) HVAC/refrigeration limited energy technician trainees may work unsupervised during their second year when installing HVAC systems with controls consisting of a single thermostat in one and two family dwelling units only.

WSR 99-05-074

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed February 17, 1999, 10:37 a.m.]

Date of Adoption: February 17, 1999.

Purpose: To publish the new income eligibility standards for food assistance. The new standards are the basis upon which food stamps allotment will be issued.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0060.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.500, 74.04.510, 74.08.090.

Adopted under notice filed as WSR 99-01-111 on December 18, 1998.

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

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

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

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

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

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

February 17, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

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

WAC 388-478-0060 Income eligibility standards for food assistance. ~~((To be eligible for food assistance,))~~ (1) When an assistance unit receives cash benefits (TANF, GA-U, GA-S, etc.) and Supplemental Security Income (SSI), they do not have to meet the income standard.

(2) All households (assistance units), based on their size, must have income at or below ((both the maximum gross and

net monthly income standards)) the limits shown in column B to be eligible for food assistance, except as follows:

((1) Assistance units with an elderly or disabled member must have income at or below only the maximum net monthly income standard.

((2) Assistance units in which all members are receiving cash assistance or SSI do not have to meet the maximum gross or net monthly income standards))

(a) Column C is to be used when an assistance unit includes a person sixty years or older, or with disabilities;

(b) Column E is to be used when determining separate household status for an elderly person and a person with permanent disability, as described in WAC 388-408-0035 (1)(d).

((EFFECTIVE 10-1-97))

((Household Size))	((Maximum Gross Monthly Income))	((Maximum Net Monthly Income))	((165% of the Poverty Level))	((Maximum Allotment))
(1	\$ 855	\$ 658	\$1,085	\$122
2	1,150	885	1,459	224
3	1,445	1,111	1,833	321
4	1,739	1,338	2,207	408
5	2,034	1,565	2,581	485
6	2,329	1,791	2,955	582
7	2,623	2,018	3,329	643
8	2,918	2,245	3,703	735
9	3,213	2,472	4,077	827
10	3,508	2,699	4,451	919
Each Additional Member	+295	+227	+374	+92))

EFFECTIVE 10-1-98

Column A Household Size	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$ 873	\$ 671	\$125	\$1,107
2	1,176	905	230	1,492
3	1,479	1,138	329	1,877
4	1,783	1,371	419	2,262
5	2,086	1,605	497	2,647
6	2,389	1,838	597	3,032
7	2,693	2,071	659	3,417
8	2,996	2,305	754	3,802
9	3,300	2,539	848	4,187
10	3,604	2,773	942	4,572
Each Additional Member	+304	+234	+94	+385

**WSR 99-05-080
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed February 17, 1999, 11:37 a.m., effective June 1, 1999]

Date of Adoption: February 17, 1999.

Purpose: Chapter 296-305 WAC, Safety standards for fire fighters and chapter 296-24 WAC, Part G-2, Fire protection.

Federal-initiated amendments relating to the above-referenced standards are adopted as a result of an OSHA letter

dated December 9, 1997. Upon federal review, the state standard was found to be "not at least as effective as" the federal rule in several relatively minor areas. These federal-initiated adopted amendments will not establish additional compliance requirements beyond what is necessary to ensure that the state standard is "at least as effective as" the federal standard.

The state is also adopting state-initiated amendments for clarity and to correct housekeeping errors, which will not establish additional compliance requirements. The adopted amendments "at least as effective as" the federal standard.

PERMANENT

Amended section WAC 296-24-58503 Scope, application and definitions applicable, federal-initiated adopted amendments are made to:

- Change the definition of "Fire brigade" to make it identical and consistent with the proposed definition of "Industrial fire brigade" in chapter 296-305 WAC, Safety standards for fire fighters.

Amended section WAC 296-24-58505 Fire brigades, federal-initiated adopted amendments are made to:

- Clarify the scope of this section to avoid misinterpretation or confusion with the scope of chapter 296-305 WAC, Safety standards for fire fighters.

Amended section WAC 296-305-01003 Scope and application, federal-initiated adopted amendments are made to:

- Clarify the scope of this section to avoid misinterpretation or confusion with the scope of chapter 296-24 WAC, Part G-2, Fire protection (fire brigades).

Amended section WAC 296-305-01005 Definitions, federal-initiated adopted amendments are made to:

- Modify the definition of "Industrial fire brigade" to make it at least as effective as the federal standard.
- Modify the definition of "Initial stage (initial action)" for clarification.
- Modify the definition of "Incipient (phase) fire" for clarification.
- Added the following definitions: "Interior structural fire fighting," "Proximity protective clothing," "Rapid intervention team (RIT)," and "Respirator" for clarification.
- Added a cross reference to the definition of "Structural fire fighting" to also see "Interior structural fire fighting."

Amended section WAC 296-305-01509 Management's responsibility, federal-initiated adopted amendments are made to:

- Clarify that employers must assure that employees are physically capable to do interior structural fire fighting.

Amended section WAC 296-305-02001 Personal protective equipment and protective clothing, state-initiated adopted amendments are made to:

- Update NFPA references.
- Subsection (7)(e): This language is proposed to be deleted because there are no specific proximity protection requirements for SCBA in NFPA, and because it may not be possible for fire departments to comply with the second sentence of this subdivision. The language proposed for deletion reads, "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."

Amended section WAC 296-305-02003 Eye and face protection, federal-initiated adopted amendments are made to:

- Clarify that all eye and face protection shall meet the requirements of ANSI Z87.1, 1989 edition.

Amended section WAC 296-305-02007 Hand protection, state-initiated adopted amendments are made to:

- Update an NFPA reference.

Amended section WAC 296-305-02013 Foot protection for structural fire fighting, state-initiated adopted amendments are made to:

- Update an NFPA reference.

Amended section WAC 296-305-02015 Head protection, state-initiated adopted amendments are made to:

- Update an NFPA reference.

Amended section WAC 296-305-04001 Respiratory equipment protection, state-initiated adopted amendments are made to:

- Correct housekeeping errors.
- Renumber and reformat this section for better organization of information and clarity.
- Updated an NFPA reference.

Amended section WAC 296-305-04501 Automotive fire apparatus design and construction, state-initiated adopted amendments are made to:

- Update CFR references.

Amended section WAC 296-305-04503 Automotive fire apparatus equipment, state-initiated adopted amendments are made to:

- Allow the employer options on hose loading operations.
- Provide clarification on the scope of the requirement that all persons riding on a fire apparatus shall be seated and secured while the vehicle is in motion. The proposed amendment states that members actively performing necessary emergency medical care while the vehicle is in motion shall be restrained to the extent consistent with the effective provision of such emergency care.

Amended section WAC 296-305-05001 Emergency fire-ground operations—Structural, state-initiated adopted amendments are made to:

- Clarify the requirements during the "initial stage" of a structural fire.

Amended section WAC 296-305-05007 Trench rescue operations, state-initiated adopted amendments are made to:

- Change the requirement for clarity.

Amended section WAC 296-305-05009 Watercraft rescue operations, state-initiated adopted amendments are made to:

- Change the approved personal flotation device (PFD) from a Type II to a Type III. A Type III PFD has the same minimum buoyancy as a Type II PFD.

Amended section WAC 296-305-06005 Ground ladders, state-initiated adopted amendments are made to:

- Add clarifying language relating to the procedures for strength service testing.

Amended section WAC 296-305-06007 Electrical, state-initiated adopted amendments are made to:

- Correct an error relating to appropriately sized plugs and sockets.

Citation of Existing Rules Affected by this Order: Amending WAC 296-24-58503 Scope, application and definitions, 296-24-58505 Fire brigades, 296-305-01003 Scope and application, 296-305-01005 Definitions, 296-305-01509 Management's responsibility, 296-305-02001 Personal protective equipment and protective clothing, 296-305-02003 Eye and face protection, 296-305-02007 Hand protection, 296-305-02013 Foot protection for structural fire fighting, 296-305-02015 Head protection, 296-305-04001 Respiratory equipment protection, 296-305-04501 Automotive fire apparatus design and construction, 296-305-04503 Automotive fire apparatus equipment, 296-305-05001 Emergency fire-ground operations—Structural, 296-305-05007 Trench rescue operations, 296-305-05009 Watercraft rescue operations, 296-305-06005 Ground ladders, and 296-305-06007 Electrical.

Statutory Authority for Adoption: RCW 49.17.040.

Adopted under notice filed as WSR 98-17-078 on August 18, 1998.

Changes Other than Editing from Proposed to Adopted Version: As a result of written and oral comments received, the following sections are being changed as indicated below:

WAC 296-305-01005 Definitions.

- The definition of "incipient (phase) fire" was modified for clarification. It reads, "The beginning of a fire; where the oxygen content in the air has not been significantly reduced and the fire is producing minute amounts of water vapor, carbon dioxide, carbon monoxide and other gases; the room has a normal temperature and can be controlled or extinguished with a portable fire extinguisher or small hose, e.g., a kitchen stove fire."
- A definition for "interior structural fire fighting" was added. It reads, "The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage. See structural fire fighting."
- A definition for "proximity protective clothing" was added. It reads, "Radiant reflective protective garments configured as a coat and trousers, or as a coverall, and interface components that are designed to provide protection for the fire fighter's body from conductive, convective, and radiant heat."
- A definition for "rapid intervention team (RIT)" was added. It reads, "On-scene team of at least two members designated, dedicated and equipped to effect an immediate rescue operation if the need arises."
- A definition for "respirator" was added. It reads, "A device designed to protect the wearer from breathing harmful atmospheres. See respiratory protection."
- A cross reference was added to the definition of "structural fire fighting" also see "interior structural fire fighting."

WAC 296-305-01509 Management's responsibility.

- WAC 296-305-01509(7): This subsection was rewritten and formatted differently to create subsection (7)(a) and (b). It reads:

(7) Personnel.

(a) The employer shall assure that employees who are expected to do interior structural fire fighting are physically capable of performing duties that may be assigned to them during emergencies.

(b) The employer shall not permit employees with known physical limitations reasonably identifiable to the employer, for example, heart disease or seizure disorder, to participate in structural fire fighting emergency activities unless the employee has been released by a physician to participate in such activities.

WAC 296-305-02001 Personal protective equipment and protective clothing.

- WAC 296-305-02001 (6)(a): This language was reworded for clarity. It reads, "Station/work uniforms if provided, shall meet the requirements as specified in the 1990 or 1994 edition of NFPA 1975."
- WAC 296-305-02001 (8)(a): This language was reworded for clarity. It reads, "All turnout clothing purchased after the effective date of these regulations shall meet the requirements of the 1991 edition of NFPA, Standard on Protective Clothing for Structural Fire Fighting 1971 or the 1997 edition of NFPA, Standard on Protective Ensemble for Structural Fire Fighting 1971."

WAC 296-305-02003 Eye and face protection.

- WAC 296-305-02003(1): The edition date of the referenced ANSI standard was added.

WAC 296-305-02007 Hand protection.

- WAC 296-305-02007(4): This language was reworded for clarity. It reads, "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 extrication's shall meet the requirements of the 1993 edition of NFPA, Standard on Gloves for Structural Fire Fighting 1973 or the 1997 edition of NFPA, Standard on Protective Ensemble for Structural Fire Fighting 1971."

WAC 296-305-02013 Foot protection for structural fire fighting.

- WAC 296-305-02013(1): This language was reworded for clarity. It reads, "Protective footwear purchased after the effective date of this standard shall comply with the 1992 edition of NFPA, Standard on Protective Footwear for Structural Fire Fighting 1974 or the 1997 edition of NFPA, Standard on Protective Ensemble for Structural Fire Fighting 1971."

WAC 296-305-02015 Head protection.

- WAC 296-305-02015(2): This language was reworded for clarity. It reads, "Helmets purchased thirty days after the adoption of this chapter shall meet the requirements of the 1992 edition of NFPA, Standard on Helmets for Structural Fire Fighting 1972 or the 1997 edition of NFPA, Standard on Protective Ensemble for Structural Fire Fighting 1971."

WAC 296-305-04001 Respiratory equipment protection.

- WAC 296-305-04001 (1)(e): This language was reworded for clarity. It reads, "Meet the requirements of the 1992 or 1997 edition of NFPA, Standard on Open Circuit Self Contained Breathing Apparatus for Fire Fighters 1981."

WAC 296-305-05001 Emergency fire ground operations—Structural.

- WAC 296-305-05001(10): This subsection has been reformatted and written more clearly for better understanding. It reads:

(10) Before beginning interior structural fire fighting operations, the incident commander must evaluate the situation and risks to operating teams.

(a) Except as provided in WAC 296-305-05001(11), fire fighters must not engage in interior structural fire fighting in the absence of at least two standby fire fighters.

(b) All standby fire fighters must be fully equipped with the appropriate protective clothing, protective equipment and SCBA.

(c) Standby members must remain aware of the status of fire fighters in the hazardous area.

(d) Standby members must remain in positive communication with the entry team(s), in full protective clothing with SCBA donned in the standby mode.

(e) Standby members may be permitted to perform other duties outside the hazardous area, provided constant communication is maintained between a standby member and the entry team(s), and provided that those duties will not interfere with the standby members' ability to participate in a rescue as appropriate.

(f) Early consideration should be given to providing one or more rapid intervention teams commensurate with the needs of the situation.

- WAC 296-305-05001(11): This subsection has been reformatted and written more clearly for better understanding. It reads:

(11) In the "initial stage" of a structure fire-incident where only one team is operating in the hazardous area, where additional resources can reasonably be expected, and where exceptional circumstances indicate that immediate action may be necessary to prevent or mitigate the loss of life or serious injury to citizenry or fire fighters, at least one additional fire fighter must be assigned to stand by outside the hazardous area where the team is operating.

(a) The standby fire fighter must remain aware of the status of fire fighters in the hazardous area.

(b) The standby fire fighter must remain in positive communication with the entry team, in full protective clothing with SCBA donned in the standby mode.

(c) The standby fire fighter may be permitted to perform other duties outside the hazardous area, provided constant communications is maintained with the team in the hazardous area, and provided that those duties will not interfere with his or her ability to initiate a rescue as appropriate.

(d) Once additional resources have arrived on the scene, the incident must no longer be considered in its initial stage and all the requirements of WAC 296-305-05001(10) must be met.

Note: Nothing in this section shall prevent activities which may reasonably be taken by members first on the scene to determine the nature and extent of fire involvement.

WAC 296-305-05007 Trench rescue.

- WAC 296-305-05007(2): This subsection has been modified to read, "Employees that directly engage in trench rescue operations shall be trained or shall be under the direct supervision of person(s) with adequate training in trench and excavation hazard recognition, equipment use and operational techniques."

WAC 296-305-06005 Ground ladders.

- WAC 296-305-06005(12): This language was reworded for clarity. It reads, "All fireground ladders shall be inspected and maintained in accordance with the requirements of the 1994 edition of NFPA 1932. When metal ground ladders are tested, they shall be tested in accordance with the strength service testing procedures of the 1984 edition of NFPA 1932."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 6, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 12, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 18, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: June 1, 1999.

February 17, 1999

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 95-22-015, filed 10/20/95, effective 1/16/96)

WAC 296-24-58503 Scope, application and definitions applicable. (1) Scope. This section contains requirements for fire brigades, and all portable and fixed fire suppression equipment, fire detection systems, and fire or employee alarm systems installed to meet the fire protection requirements of this chapter.

(2) Application. This section applies to all employments except for maritime, construction and agriculture.

(3) Definitions applicable to this section.

(a) "After-flame," means the time a test specimen continues to flame after the flame source has been removed.

(b) "Aqueous film forming foam (AFFF)," means a fluorinated surfactant with a foam stabilizer which is diluted with water to act as a temporary barrier to exclude air from mixing with the fuel vapor by developing an aqueous film on the fuel surface of some hydrocarbons which is capable of suppressing the generation of fuel vapors.

(c) "Approved," means acceptable to the director under the following criteria:

(i) If it is accepted, or certified, or listed, or labeled or otherwise determined to be safe by a nationally recognized testing laboratory; or

(ii) With respect to an installation or equipment of a kind which no nationally recognized testing laboratory accepts, certifies, lists, labels, or determines to be safe, if it is inspected or tested by another federal agency and found in compliance with the provisions of the applicable National Fire Protection Association Fire Code; or

(iii) With respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use by its manufacturer on the basis of test data which the employer keeps and makes available for inspection to the director; and

(iv) For the purposes of (c) of this subsection:

(A) Equipment is listed if it is of a kind mentioned in a list which is published by a nationally recognized testing laboratory which makes periodic inspections of the production of such equipment and which states that such equipment meets nationally recognized standards or has been tested and found safe for use in a specified manner;

(B) Equipment is labeled if there is attached to it a label, symbol, or other identifying mark of a nationally recognized testing laboratory which makes periodic inspections of the production of such equipment and whose labeling indicates compliance with nationally recognized standards or tests to determine safe use in a specified manner;

(C) Equipment is accepted if it has been inspected and found by a nationally recognized testing laboratory to conform to specified plans or to procedures of applicable codes;

(D) Equipment is certified if it has been tested and found by a nationally recognized testing laboratory to meet nationally recognized standards or to be safe for use in a specified manner or is of a kind whose production is periodically inspected by a nationally recognized testing laboratory, and if it bears a label, tag, or other record of certification; and

(E) Refer to federal regulation 29 CFR 1910.7 for definition of nationally recognized testing laboratory.

(d) "Automatic fire detection device," means a device designed to automatically detect the presence of fire by heat, flame, light, smoke or other products of combustion.

(e) "Buddy-breathing device," means an accessory to self-contained breathing apparatus which permits a second person to share the same air supply as that of the wearer of the apparatus.

(f) "Carbon dioxide," means a colorless, odorless, electrically nonconductive inert gas (chemical formula CO₂) that is a medium for extinguishing fires by reducing the concentration of oxygen or fuel vapor in the air to the point where combustion is impossible.

(g) "Class A fire," means a fire involving ordinary combustible materials such as paper, wood, cloth, and some rubber and plastic materials.

(h) "Class B fire," means a fire involving flammable or combustible liquids, flammable gases, greases and similar materials, and some rubber and plastic materials.

(i) "Class C fire," means a fire involving energized electrical equipment where safety to the employee requires the use of electrically nonconductive extinguishing media.

(j) "Class D fire," means a fire involving combustible metals such as magnesium, titanium, zirconium, sodium, lithium and potassium.

(k) "Dry chemical," means an extinguishing agent composed of very small particles of chemicals such as, but not limited to, sodium bicarbonate, potassium bicarbonate, urea-based potassium bicarbonate, potassium chloride, or monoammonium phosphate supplemented by special treatment to provide resistance to packing and moisture absorption (caking) as well as to provide proper flow capabilities. Dry chemical does not include dry powders.

(l) "Dry powder," means a compound used to extinguish or control Class D fires.

(m) "Education," means the process of imparting knowledge or skill through systematic instruction. It does not require formal classroom instruction.

(n) "Enclosed structure," means a structure with a roof or ceiling and at least two walls which may present fire hazards to employees, such as accumulations of smoke, toxic gases and heat similar to those found in buildings.

(o) "Extinguisher classification," means the letter classification given an extinguisher to designate the class or classes of fire on which an extinguisher will be effective.

(p) "Extinguisher rating," means the numerical rating given to an extinguisher which indicates the extinguishing potential of the unit based on standardized tests developed by Underwriters' Laboratories, Inc.

(q) (~~("Fire brigade," (private fire department, industrial fire department) means an organized group of employees who are knowledgeable, trained, and skilled in at least basic fire fighting operations.~~)

(~~+~~) "Fixed extinguishing system," means a permanently installed system that either extinguishes or controls a fire at the location of the system.

(~~(s)~~) (r) "Flame resistance," is the property of materials, or combinations of component materials, to retard ignition and restrict the spread of flame.

(~~(t)~~) (s) "Foam," means a stable aggregation of small bubbles which flow freely over a burning liquid surface and

form a coherent blanket which seals combustible vapors and thereby extinguishes the fire.

((+)) (t) "Gaseous agent," is a fire extinguishing agent which is in the gaseous state at normal room temperature and pressure. It has low viscosity, can expand or contract with changes in pressure and temperature, and has the ability to diffuse readily and to distribute itself uniformly throughout an enclosure.

((+)) (u) "Halon 1211," means a colorless, faintly sweet smelling, electrically nonconductive liquefied gas (chemical formula CBrClF_2) which is a medium for extinguishing fires by inhibiting the chemical chain reaction of fuel and oxygen. It is also known as bromochlorodifluoromethane.

((+)) (v) "Halon 1301," means a colorless, odorless, electrically nonconductive gas (chemical formula CBrF_3) which is a medium for extinguishing fires by inhibiting the chemical chain reaction of fuel and oxygen. It is also known as bromotrifluoromethane.

((+)) (w) "Helmet," is a head protective device consisting of a rigid shell, energy absorption system and chin strap intended to be worn to provide protection for the head or portions thereof, against impact, flying or falling objects, electric shock, penetration, heat and flame.

((+)) (x) "Incipient stage fire," means a fire which is in the initial or beginning stage and which can be controlled or extinguished by portable fire extinguishers, Class II standpipe or small hose systems without the need for protective clothing or breathing apparatus.

(y) Industrial fire brigade: An organized group of employees whose primary employment is other than fire fighting who are knowledgeable, trained and skilled in specialized operations based on site-specific hazards present at a single commercial facility or facilities under the same management.

(z) "Inspection," means a visual check of fire protection systems and equipment to ensure that they are in place, charged, and ready for use in the event of a fire.

(aa) "Interior structural fire fighting," means the physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage.

(bb) "Lining," means a material permanently attached to the inside of the outer shell of a garment for the purpose of thermal protection and padding.

(cc) "Local application system," means a fixed fire suppression system which has a supply of extinguishing agent, with nozzles arranged to automatically discharge extinguishing agent directly on the burning material to extinguish or control a fire.

(dd) "Maintenance," means the performance of services on fire protection equipment and systems to assure that they will perform as expected in the event of a fire. Maintenance differs from inspection in that maintenance requires the checking of internal fitting, devices and agent supplies.

(ee) "Multipurpose dry chemical," means a dry chemical which is approved for use on Class A, Class B and Class C fires.

(ff) "Outer shell," is the exterior layer of material on the fire coat and protective trousers which forms the outermost barrier between the fire fighter and the environment. It is

attached to the vapor barrier and liner and is usually constructed with a storm flap, suitable closures, and pockets.

(gg) "Positive-pressure breathing apparatus," means self-contained breathing apparatus in which the pressure in the breathing zone is positive in relation to the immediate environment during inhalation and exhalation.

(hh) "Predischarge employee alarm," means an alarm which will sound at a set time prior to actual discharge of an extinguishing system so that employees may evacuate the discharge area prior to system discharge.

(ii) "Quick disconnect valve," means a device which starts the flow of air by inserting of the hose (which leads from the facepiece) into the regulator of self-contained breathing apparatus, and stops the flow of air by disconnection of the hose from the regulator.

(ij) "Sprinkler alarm," means an approved device installed so that any waterflow from a sprinkler system equal to or greater than that from single automatic sprinkler will result in an audible alarm signal on the premises.

(kk) "Sprinkler system," means a system of piping designed in accordance with fire protection engineering standards and installed to control or extinguish fires. The system includes an adequate and reliable water supply, and a network of specially sized piping and sprinklers which are interconnected. The system also includes a control valve and a device for actuating an alarm when the system is in operation.

(ll) "Standpipe systems:"

(i) "Class I standpipe system," means a two and one-half-inch (6.3 cm) hose connection for use by fire departments and those trained in handling heavy fire streams.

(ii) "Class II standpipe system," means a one and one-half-inch (3.8 cm) hose system which provides a means for the control or extinguishment of incipient stage fires.

(iii) "Class III standpipe system," means a combined system of hose which is for the use of employees trained in the use of hose operations and which is capable of furnishing effective water discharge during the more advanced stages of fire (beyond the incipient stage) in the interior of workplaces. Hose outlets are available for both one and one-half-inch (3.8 cm) and two and one-half-inch (6.3 cm) hose.

(iv) "Small hose system," means a system of hose ranging in diameter from five-eighths-inch (1.6 cm) up to one and one-half-inch (3.8 cm) which is for the use of employees and which provides a means for the control and extinguishment of incipient stage fires.

(mm) "Total flooding system," means a fixed suppression system which is arranged to automatically discharge a predetermined concentration of agent into an enclosed space for the purpose of fire extinguishment or control.

(nn) "Training," means the process of making proficient through instruction and hands-on practice in the operation of equipment, including respiratory protection equipment, that is expected to be used in the performance of assigned duties.

(oo) "Vapor barrier," means that 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.

AMENDATORY SECTION (Amending Order 81-32, filed 12/24/81)

WAC 296-24-58505 Fire brigades. Scope and application.

(1) Scope. This section applies only to fire brigades and contains requirements for the organization, training and required personal protective equipment of fire brigades whenever they are established by an employer.

(2) Application. The requirements of this section apply to fire brigades, industrial fire departments and private or contractual type fire departments. Personal protective equipment requirements apply only to members of fire brigades performing interior structural fire fighting. The requirements of this section do not apply to airport crash rescue or forest fire fighting operations.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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.

(7) The provisions of this standard do not apply to industrial fire brigades, as defined in this chapter. Industrial fire brigades are covered under the provisions of chapter 296-24 WAC, Part G-2, Fire protection.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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.

dB(A): 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: Any material used 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: The activities of wildland fire fighting with hose lines being used by personnel working around a moving engine. See mobile attack.

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.

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): A system that includes: Roles, responsibilities, operating requirements, guidelines and procedures for organizing and operating an on-scene management structure.

Incipient (phase) fire: The beginning of a fire; where the oxygen content in the air has not been significantly reduced and the fire is producing minute amounts of water vapor, carbon dioxide, carbon monoxide and other gases; the room has a normal temperature and can be controlled or extinguished with a portable fire extinguisher or small hose, e.g., a kitchen stove fire.

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))~~ specialized operations based on site-specific hazards present at a single commercial facility or facilities under the same management.

Initial stage (initial action): Shall encompass the control efforts taken by resources which are first to arrive at an incident ~~((requiring immediate action to prevent or mitigate the loss of life or serious injury to citizenry and fire fighters)).~~

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.

Interior structural fire fighting: The physical activity of fire suppression, rescue or both, inside of buildings or enclosed structures which are involved in a fire situation beyond the incipient stage. See structural fire fighting.

Life safety or rescue rope: Rope dedicated solely for the purpose of constructing lines for supporting people dur-

ing 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.

Mobile attack: The act of fighting wildland fires from a moving engine.

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.

Note: See Protective ensemble.

Protective ensemble: Multiple elements of clothing and equipment designed to provide a degree of protection for fire fighters from adverse exposures to the inherent risks of structural fire fighting operations and certain other emergency operations. The elements of the protective ensemble are helmets, coats, trousers, gloves, footwear, interface components (hoods), and if applicable, personal alert system (PASS) devices, and self-contained breathing apparatus.

Proximity protective clothing: Radiant reflective protective garments configured as a coat and trousers, or as a coverall, and interface components that are designed to provide protection for the fire fighter's body from conductive, convective, and radiant heat.

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.

Rapid intervention team (RIT): On-scene team of at least two members designated, dedicated and equipped to effect an immediate rescue operation if the need arises.

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.

Respirator: A device designed to protect the wearer from breathing harmful atmospheres. See respiratory protection.

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 establishes 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, vehicles, vessels, or similar properties that are involved in a fire or emergency situation. See interior structural fire fighting.

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. 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.

Support function: A hazardous chemical operation involving controlled chemical uses or exposures in nonflammable atmospheres with minimum threats in loss of life, personnel injury, or damage to property or to the environment. Functions include decontamination, remedial cleanup of identified chemicals, and training.

Support function protective garment: A chemical-protective suit that meets the requirements of NFPA Standard on Support Function Garments, 1993.

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.

Trench: A narrow excavation made below the surface of the ground. The depth is generally greater than the width, but the width of a trench is not greater than 15 feet.

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: 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.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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 a

fire scene after the 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 to be used by the fire department safety officer and incident commander to ensure that emergency medical 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 who are under the influence of alcohol or drugs shall not participate in any fire department operations or other functions. This rule does not apply to persons taking prescription drugs as directed by a physician or dentist providing such use does 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, with the approval of management.

(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) Personnel.

(a) The employer shall assure that employees who are expected to do interior structural fire fighting are physically capable of performing duties that may be assigned to them during emergencies.

(b) The employer shall not permit employees with known physical limitations reasonably identifiable to the employer, for example, heart disease or seizure disorder, to participate in structural fire fighting emergency activities unless the employee has been released by a physician to participate in such activities.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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 the appropriate protective ensemble/protective

clothing to protect from the hazards to which the member is or is likely to be exposed. 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.

Note: See Appendix A.

(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 if provided, shall meet the requirements as specified in ~~((NFPA 1975;))~~ the 1990 or 1994 edition of NFPA 1975.

(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 when engaged in or exposed to the hazards of structural fire fighting. Because it is impossible to ensure that every member will respond to an incident in a station/work uniform or will change out of fabrics that have poor thermal stability or ignite easily, before donning protective garments, the fire department shall inform members of the hazards of fabrics that melt, drip, burn, stick to the skin and cause burns to the wearer due to poor thermal stability or poor flame resistance.

(e) Garments meeting the requirements of WAC 296-305-07003(1), 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 gapping 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))~~ the 1991 edition of NFPA, Standard on Protective Clothing for Structural Fire Fighting 1971 or the 1997 edition of NFPA, Standard on Protective Ensemble for Structural Fire Fighting 1971. In no case, shall fire fighters wear personal protective clothing manufactured prior to the 1986 edition, NFPA, Standard on Protective Clothing for Structural Fire Fighting 1971.

(b) Turnout clothing shall be maintained as specified by the manufacturer.

(c) Repairs to turnout clothing shall be done to the manufacturers specification by qualified individuals approved by the manufacturer. Repairs must be made using materials and methods in accordance with the applicable standards under which the article was produced. Repairs include any and all alterations, modifications, additions, deletions or any other change made to the manufacturers PPE article.

(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.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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. Primary face and eye protection appropriate for a given specific hazard shall be provided for, and used by, members exposed to that specific hazard. Such primary face and eye protection shall meet the requirements of ANSI Z87.1, 1989 edition.

(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 reissued to other employees.

Note: The helmet face shield alone does not always provide adequate eye protection against flying particles, splash, gases and vapors. For known eye hazards, such as, but not limited to, cutting with power saws, chopping, drilling and using extrication equipment, the face shield should be worn with additional eye protection.

(6) Helmet face shields shall meet the requirements of NFPA, Standard Helmets for Structural Fire Fighting 1972, 1992 edition.

(7) For fire fighters that do not have a helmet face shield for eye and face protection, flexible or cushioned fitting goggles shall be provided.

(8) 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.))~~

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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 extrications shall meet the requirements of ~~((NFPA, Standard on Gloves for Structural Fire Fighting 1973, 1993 edition))~~ the 1993 edition of NFPA, Standard on Gloves for Structural Fire Fighting 1973 or the 1997 edition of NFPA, Standard on Protective Ensemble for Structural Fire Fighting 1971.

(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.

Note: Fire fighters should have their hands sized for compliance with the sizing chart as specified in NFPA, Standard on Gloves for Structural Fire Fighting 1973, 1993 edition.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-02013 Foot protection for structural fire fighting. (1) Protective footwear purchased after the effective date of this standard shall comply with ~~((NFPA 1974, Standard on Protective Footwear for Structural Fire Fighting, 1992 edition))~~ the 1992 edition of NFPA, Standard on Protective Footwear for Structural Fire Fighting 1974 or the 1997 edition of NFPA, Standard on Protective Ensemble for Structural Fire Fighting 1971.

(2) Fire departments shall establish written policy and procedure, care, use, maintenance, and retirement criteria for footwear in conjunction with the manufacturer's recommendations.

Note: Fire departments should establish cleaning and drying instruction including applicable warning regarding detergents, soaps, cleaning additives and bleaches for protective footwear.

(3) Fire fighter footwear may be resoled but the footwear upon resoling shall meet the requirements specified in this section.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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))~~ the 1992 edition of NFPA, Standard on Helmets for Structural Fire Fighting 1972 or the 1997 edition of NFPA, Stan-

Standard on Protective Ensemble for Structural Fire Fighting 1971.

(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.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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 certified; and
- (e) Meet the requirements of ~~((NFPA, Standard on Open Circuit Self Contained Breathing Apparatus for Fire Fighters 1981, 1992 edition))~~ the 1992 or 1997 edition of NFPA, Standard on Open Circuit Self Contained Breathing Apparatus for Fire Fighters 1981.

(2) Closed circuit SCBA shall:

- (a) Be positive pressure;
- (b) Be NIOSH certified; and
- (c) Have a minimum thirty-minute service duration.

(3) Members using SCBA's shall operate in teams of two or more.

(4) Except as otherwise provided in this chapter, fire departments shall adopt ~~((and))~~, maintain and implement a written respiratory protection program that addresses the requirements of chapter 296-62 WAC, Part E, Respiratory protection and Part I-1, Asbestos, Tremolite, Anthophyllite, and Actinolite. This includes program administration, medical limitations, equipment limitations, equipment selection, inspection, use, maintenance, training, fit testing procedures, air quality, and program evaluation.

Note: Additional information 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 breath-

ing air quality ~~((quarterly))~~ as specified in subsection ~~((22))~~ (21) of this section and in chapter 296-62 WAC, Part E.

(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 ~~((22))~~ (21) of this section.

(7) ~~((Qualitative or quantitative))~~ Fit testing shall be conducted in accordance with this section and chapter 296-62 WAC, Part E, Respiratory protection.

(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 physical 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) 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.

(f) 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 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 during structural fire fighting activities.

~~((a))~~ (11) Positive pressure air line respirators may be used only for atmospheres other than IDLH and must be equipped with a five minute minimum capacity 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.

~~((1))~~ (a) If the service life of the auxiliary air supply is fifteen minutes or less it shall not be used for entry into an IDLH atmosphere but it may be used for escape purposes. The auxiliary air supply may be used for entry into an IDLH atmosphere only when the service life of the unit exceeds fifteen minutes and when not more than twenty percent of the noted air supply will be used during entry.

(b) The maximum length of hose for supplied air respirators is 300 feet (91 meters). Such hose shall be heavy duty nonkinking and NIOSH approved.

(12) 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;

(13) 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.

(14) 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.

(15) 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)) respirator;

(c) Understanding the safety features and limitations of the ((SCBA)) respirator; and

(d) Donning and doffing the ((SCBA)) respirator.

(16) 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.

(17) Members shall be tested at least annually on the knowledge of ((SCBA)) respiratory protection 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.

(18) 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.

(19) In cases where there is a reported failure of ((~~an~~ SCBA the unit)) a respirator, it shall be removed from service, tagged and recorded as such, and tested before being returned to service.

(20) 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).

(21) 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 24 ppm or less.

(22) SCBA cylinders shall be hydrostatically tested within the periods specified by the manufacturer and the applicable governmental agencies.

Additional reference: Chapter 296-62 WAC, Part E.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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;))~~ 49 CFR Ch. V (10-93 edition) 571.121 "Air brake systems";

(b) 49 CFR Ch. V (10-93 edition) 571.106 "Hydraulic brake hoses";

(c) 49 CFR Ch. V (10-93 edition) 571-211 "Hydraulic brake hoses".

(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 non-skid 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.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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 such as sidesteps or running boards shall be specifically prohibited.

(d) Standing while riding shall be specifically prohibited.

(e) Members actively performing necessary emergency medical care while the vehicle is in motion shall be restrained to the extent consistent with the effective provision of such emergency medical care. All other persons in the vehicle shall be seated and belted in approved seating positions while the vehicle is in motion.

(f) Fire departments permitting hose loading operations while the vehicle is in motion shall develop a written policy and guidelines addressing all safety aspects.

Note: Policy and operating guidelines should address:

- : The assigning of a member as a safety observer who should have an unobstructed view of the hose loading operation and be in visual and voice contact with the driver.

- : Allowed maximum fire apparatus speed when hose loading;

- : Control of nonfire department vehicular traffic; and

- : Allowing members in the hose bed, but limit standing to only when the vehicle is not moving.

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.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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 geographical and/or functional areas as appropriate for the scope and size of the incident.

(f) Review, evaluate, and revise the operational 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.

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 under-

PERMANENT

taken in any given incident to save lives and to save property in as safe a manner as dictated by the situation.

(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 structural fire incidents shall operate in teams of two or more.

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. 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 stage" 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 additional crews are on the scene and assigned, the incident shall no longer be considered in the initial stage. At this point, the incident commander shall evaluate the situation and risks to operating crews. First and primary consideration shall be given to providing a rapid intervention team(s) commensurately with the needs of the situation.~~

~~(a) A rapid intervention team shall consist of at least two members and shall be available for the rescue of a member or a crew if the need arises.~~

~~(b) A rapid intervention team(s) shall be fully equipped with the appropriate protective clothing, protective equipment, SCBA, and specialized rescue equipment needed, based on the specifics of the operation underway.~~

~~(c) The composition and structure of rapid intervention teams shall be flexible based on the type of incident, the size and complexity of the operation.) Before beginning interior structural fire fighting operations, the incident commander must evaluate the situation and risks to operating teams.~~

~~(a) Except as provided in WAC 296-305-05001(11), fire fighters must not engage in interior structural fire fighting in the absence of at least two standby fire fighters.~~

~~(b) All standby fire fighters must be fully equipped with the appropriate protective clothing, protective equipment and SCBA.~~

(c) Standby members must remain aware of the status of fire fighters in the hazardous area.

(d) Standby members must remain in positive communication with the entry team(s), in full protective clothing the SCBA donned in the standby mode.

(e) Standby members may be permitted to perform other duties outside the hazardous area, provided constant communication is maintained between a standby member and the entry team(s), and provided that those duties will not interfere with the standby members' ability to participate in a rescue as appropriate.

(f) Early consideration should be given to providing one or more rapid intervention teams commensurate with the needs of the situation.

(11) In the "initial stage" of a structure fire incident where only one team is operating in the hazardous area, where additional resources can reasonably be expected, and where exceptional circumstances indicate that immediate action may be necessary to prevent or mitigate the loss of life or serious injury to citizenry or fire fighters, at least one additional fire fighter must be assigned to stand by outside the hazardous area where the team is operating.

(a) The standby fire fighter must remain aware of the status of fire fighters in the hazardous area.

(b) The standby fire fighter must remain in positive communication with the entry team, in full protective clothing with SCBA donned in the standby mode.

(c) The standby fire fighter may be permitted to perform other duties outside the hazardous area, provided constant communications is maintained with the team in the hazardous area, and provided that those duties will not interfere with his or her ability to initiate a rescue as appropriate.

(d) Once additional resources have arrived on the scene, the incident must no longer be considered in its initial stage and all the requirements of WAC 296-305-05001(10) must be met.

Note: Nothing in this section shall prevent activities which may reasonably be taken by members first on the scene to determine the nature and extent of fire involvement.

(12) 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.

(13) 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.

(14) Wildfire suppression personal protective clothing/equipment shall not be utilized for interior attacks on structures.

(15) 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).

(16) Prior to overhaul, buildings shall be surveyed for possible safety and health hazards. Fire fighters shall be informed of hazards observed during the survey.

(17) 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.

(18) 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.

(19) Fire fighters shall not cut the electrical drip loop providing power to the structure nor pull the electrical meter.

(20) Traffic cones or other traffic control devices shall be utilized when vehicular traffic hazards exist at an emergency operation.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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 directly engage in trench rescue operations shall be ~~((properly))~~ trained or shall be under the direct supervision of person(s) ~~((properly trained in operational procedures according to a Washington state accredited sixteen-hour emergency course or its equivalent))~~ with adequate training in trench and excavation hazard recognition, equipment use and operational techniques.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

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 personnel. Any member not specifically required to operate the vessel, e.g., an operator (pilot) or engineer (if required by the manufacturers specification) may be used as a deck hand. This may include the boat officer if his/her duties do not include operating the fire boat.

(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)) III, 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.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06005 Ground 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.

(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 butt 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, when not in conflict with the manufacturer's recommendations. Even when ladders are routinely used in the fly out configuration, in adverse conditions fire fighters shall be permitted to climb and descend ground ladders with the fly in to assure secure footing.

(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, 1994 edition.

(12) All fireground ladders shall be inspected and maintained in accordance with the requirements of ~~((NFPA Standard 1932, 1994 edition))~~ the 1994 edition of NFPA 1932. When metal ground ladders are tested, they shall be tested in accordance with the ~~((requirements))~~ strength service testing procedures of ~~((NFPA Standard 1932, 1984 edition))~~ the 1984 edition of NFPA 1932.

(a) 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.

(b) Additional requirements for wooden ground ladders; whenever any wood ground ladder has been exposed or is suspected of having been exposed to direct flame contact the ladder shall be service tested as specified in section 5-2 of NFPA Standard 1932, 1984 edition.

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 Protection Bureau.

Additional references: Chapter 296-24 WAC, Part J-1.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-06007 Electrical. (1) Temporary lighting with the use of 110 - 120 VAC equipment.

(a) All lighting equipment shall be provided with heavy duty flexible cords with SO or SJ jackets or equivalent. All lighting equipment shall be used with heavy duty flexible extension cords with 12-3 conductors with SO or SJ jackets or equivalent.

(b) Electrical cords shall have weather tight bodies and caps, 20 amp rated at 120 VAC with appropriately sized plugs and sockets.

(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 ~~((resetable))~~ 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 SO or SJ type jackets or equivalent.

(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.



WSR 99-05-002
EMERGENCY RULES
STATE BOARD OF EDUCATION

[Filed February 3, 1999, 1:20 p.m.]

Date of Adoption: February 2, 1999.

Purpose: Clarifies the period of time to complete the one hundred fifty hours of continuing education requirement.

Citation of Existing Rules Affected by this Order: Amending WAC 180-85-075.

Statutory Authority for Adoption: RCW 28A.410.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Allows holder of a professional education certificate up to five years to complete one hundred fifty credit hours of continuing education prior to his or her first lapse date.

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

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

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

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

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

Effective Date of Rule: Immediately.

February 2, 1999

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

WAC 180-85-075 Continuing education requirement. Continuing education requirements are as follows:

(1) Each holder of a continuing or a standard certificate affected by this chapter shall be required to complete during a five-year period one hundred fifty credit hours of continuing education prior to his or her first lapse date and during each five-year period between subsequent lapse dates as calculated in WAC 180-85-100.

(2) Each holder of a valid professional certificate shall be required to complete one hundred fifty continuing education credit hours since the certificate was issued in order to renew. All continuing education credit hours shall relate to either (a) or (b) of this subsection: Provided, That both categories (a) and (b) must be represented in the one hundred fifty clock hours required for renewal:

(a) One or more of the following three standards outlined in WAC 180-78A-540:

(i) Effective instruction.

(ii) Leadership.

(iii) Professional development.

(b) One of the salary criteria specified in RCW 28A.415.023.

(i) Is consistent with a school-based plan for mastery of student learning goals as referenced in RCW 28A.320.205, the annual school performance report, for the school in which the individual is assigned;

(ii) Pertains to the individual's current assignment or expected assignment for the subsequent school year;

(iii) Is necessary to obtain an endorsement as prescribed by the state board of education;

(iv) Is specifically required to obtain advanced levels of certification; or

(v) Is included in a college or university degree program that pertains to the individual's current assignment, or potential future assignment, as a certified instructional staff.

WSR 99-05-003

EMERGENCY RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed February 3, 1999, 1:21 p.m.]

Date of Adoption: February 2, 1999.

Purpose: To adopt rules implementing ESHB 2947, which took effect on March 30, 1998. This bill amended RCW 50.44.050 to modify the definition of "academic year" for all educational institutions. It also amended RCW 50.44.053 to delete the provision that "reasonable assurance" does not include agreements that are contingent on funding, enrollment, or program changes. New rules are adopted establishing objective criteria defining schools with a twelve-month academic period, defining terms, and clarifying "reasonable assurance."

Citation of Existing Rules Affected by this Order: Repealing WAC 192-16-051 and 192-16-052.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.20.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: ESHB 2947 amends RCW 50.44.050 and 50.44.053, pertaining to unemployment benefits for educational employees. The legislation contained an emergency clause which made it effective upon signing, March 30, 1998. The new legislation thus applies to educational employees currently applying for benefits. Discussions with stakeholders and interested parties regarding the content of the permanent rules are ongoing. Emergency rules are needed to assist with eligibility determinations during the permanent rule adoption process.

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

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

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

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

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

Effective Date of Rule: Immediately.

February 2, 1999
Carver Gayton
Commissioner

Chapter 192-210 WAC

SPECIAL CATEGORY OCCUPATIONS

NEW SECTION

WAC 192-210-005 Definitions—Educational employees. (1) **Contract.** An agreement that is binding on an educational institution to provide work and on an individual to perform services. Tenure status is considered a contract.

(2) **Faculty.** A teacher, counselor, librarian, or other position with similar training, experience and level of responsibility.

(3) **Full time employment.** Employment designated as full time for or at the educational institution under a collective bargaining agreement, individual hiring contract, or other agreement (including institutional policies), as provided in RCW 50.04.310(2). For faculty at public institutions, the hiring contract, agreement or institutional policy must be consistent with the provisions of RCW 28A.150.220 (kindergarten through twelfth grade), RCW 28B.50.851 (community and technical colleges), RCW 28B.35.120 (regional universities), or RCW 28B.20.130 (other colleges and universities).

(4) **Under the same terms and conditions of employment.** This includes economic conditions of employment such as wages, duration of contract, hours of work, and general nature of the work. It does not include other conditions and details such as the specific work location, duties, or assignment. The position need not be identical to the previous position to meet this test. A position would be considered to be under the same terms and conditions of employment if it is of similar type or classification, with similar pay, fringe benefits, hours of work, general type of work, and duration of employment.

NEW SECTION

WAC 192-210-010 What are the objective criteria used to define "academic year"?—RCW 50.44.050(5). Summer term will be considered part of the academic year for a particular educational institution if:

(1) Total enrollment of full-time equivalent students during the previous summer term is more than one third of the average academic year enrollment of full-time equivalent students for the fall, winter, and spring terms of the preceding two years; and

(2) Total full-time equivalent staff during the previous summer term is at least fifty percent of the academic year average of the full-time equivalent staff during the fall, winter, and spring terms during the preceding two years.

NEW SECTION

WAC 192-210-015 How will the department decide if reasonable assurance exists? (1) Reasonable assurance is a good faith offer from an educational institution to assign an individual future work at that institution under the same terms and conditions as the individual's previous employment. It is less than a contract or written agreement, but more than a mere possibility of future employment. The department must find that continued employment for that individual is likely or probable.

(2) Decisions regarding the existence of reasonable assurance will be made on an individual basis, with consideration given to contingencies that may exist in the individual case.

(3) If there is a disagreement regarding whether an individual has reasonable assurance, the institution must provide the department with documentation in support of its statement that reasonable assurance exists for that individual.

(4) Following are some, but not all, examples of the types of documentary evidence that may be provided by an institution:

(a) The terms of any contract or agreement between the individual and the educational institution, including length, contingencies, or provisions for cancellation,

(b) Whether the employer pays fringe benefits to the individual, such as health care, during periods between academic years or terms,

(c) The number of comparable positions at the institution,

(d) Projections of student enrollment, school funding, or program funding contained in the institution's budget,

(e) Any hiring priorities used by the school, such as precedence given to full-time or tenured staff or the use of seniority lists,

(f) The individual's employment history,

(g) Whether the class(es) have been consistently offered by the institution, including whether the class has been canceled due to lack of enrollment.

(5) The existence of reasonable assurance will be determined by the total weight of the evidence, rather than the existence of any one factor included in subsection (4).

EMERGENCY

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 192-16-051 Special coverage provisions for educational employees—Definitions—RCW 50.44.050(1)
- WAC 192-16-052 Objective criteria used to define "academic year"—RCW 50.44.050(5)
- WAC 192-16-057 Interpretive regulation—"Under the same terms and conditions of employment" defined

**WSR 99-05-030
EMERGENCY RULES
BUILDING CODE COUNCIL**
[Filed February 10, 1999, 8:16 a.m.]

Date of Adoption: February 1, 1999.

Purpose: To repeal WAC 51-40-23110, the state amendment to the 1997 Uniform Building Code Footnote 3 to both Table 23-II-I-1 and Table 23-II-I-2, thus leaving the footnote for both of these allowable shear tables as published by the International Conference of Building Officials (ICBO) in the 1997 Edition of the UBC. This filing is an extension of the emergency rule filed October 1, 1998, WSR 98-20-051. The permanent rule will go into effect July 1, 1999 (WSR 98-24-076).

Citation of Existing Rules Affected by this Order: Repealing WAC 51-40-23110.

Statutory Authority for Adoption: RCW 19.27.074, 19.27.031.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The State Building Code Council (council), based on the following good cause, finds that an emergency affecting the general welfare of the state of Washington exists. The council further finds that immediate amendment of certain council rules is necessary for the public welfare and that observing the time requirements of notice and opportunity to comment would be contrary to the public interest.

The declaration of emergency affecting the general welfare of the state of Washington is based on the following findings:

The council's adoption of chapter 51-40 WAC, the state amended 1997 edition of the Uniform Building Code (UBC), published by the International Conference of Building Officials (ICBO), took effect July 1, 1998. The repeal of WAC 51-40-23110 contained herein as adopted by the council

under emergency rule making pursuant to RCW 34.05.350, will remove the state's amendment of UBC Table 23-II-I-1 and Table 23-II-I-2, allowable shear tables for wind and seismic forces. After the council's adoption of WAC 51-40-23110, ICBO published an errata for Footnote 3 of the UBC Table 23-II-I-1 and Table 23-II-I-2 which caused the state's amendment of Footnote 3 to be incomplete and inaccurate. This emergency rule will allow changes contained in the errata from ICBO for Footnote 3 in these two tables to take effect. Without these changes, the required shear wall resistance to seismic and wind forces will be inadequate for some building designs. Immediate adoption of this amendment is necessary so that structural engineers will have proper guidance from these two allowable shear tables for use in building design.

The amendment herein takes into consideration the general welfare and safety of the public by reverting to shear wall requirements published by ICBO. In order to provide immediate relief, the council finds it necessary to adopt the amendment as an emergency rule. The council also has taken the necessary steps to adopt a permanent rule. The permanent rule will not be effective until the end of the 1999 legislative session as per RCW 19.27.074.

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

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

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

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

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

Effective Date of Rule: Immediately.

February 1, 1999
Judy Wilson
Chair

**WSR 99-05-046
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**
(Economic Services Administration)

[Filed February 12, 1999, 10:09 a.m., effective March 1, 1999]

Date of Adoption: February 12, 1999.

Purpose: Eliminates use of actual utility expenses as a utility deduction used to calculate food assistance benefits. Instead, clients will be eligible for one of three utility allowances. This change is expected to reduce the food stamp program error rate.

EMERGENCY

Citation of Existing Rules Affected by this Order:
Amending WAC 388-450-0195.

Statutory Authority for Adoption: RCW 74.04.510.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: This change is necessary to reduce food stamp error rates and error rate penalties and ensure continued federal funding participation. This will affect client benefits March 1, 1999.

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

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

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

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

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

Effective Date of Rule: March 1, 1999.

February 12, 1999

Marie Myerchin-Redifer
Manager

AMENDATORY SECTION (Amending WSR 99-01-069, filed 12/14/98, effective 1/14/99)

WAC 388-450-0195 Utility allowances for food assistance programs. ~~((+))~~ You can use the amounts in the chart below ~~((or use actual utility costs))~~ to calculate total shelter costs. Total shelter costs are used in calculating your food assistance benefits.

If you have to pay:	Then, you can use the:
Separate heating or cooling costs	Standard utility allowance (SUA) of \$211
Separate utility costs, but no heating or cooling costs	Limited utility allowance (LUA) of \$158
Separate costs for phone service only	Telephone utility allowance (TUA) of \$29

~~((2) Use actual utility costs if greater than the SUA or LUA or if you are not eligible for the SUA or LUA.)~~

**WSR 99-05-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-10—Filed February 12, 1999, 4:11 p.m.]

Date of Adoption: February 12, 1999.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-33-01000N; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Provides opportunity for commercial industry to access a portion of the sturgeon allocation in the Columbia River while minimizing impacts to spring chinook. Season is consistent with compact action of February 12, 1999, and will conform Oregon and Washington regulations. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Effective Date of Rule: Immediately.

February 12, 1999

J. P. Koenings
Director

NEW SECTION

WAC 220-33-01000N Columbia River season below Bonneville Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

AREA: SMCRA 1A, 1B, 1C, 1D, and 1E

SEASON: Noon Monday February 15 to 6 p.m. Tuesday, February 16, 1999;

Noon Thursday February 18, 1999 to 6 p.m. Friday February 19, 1999.

GEAR: 9 inch minimum mesh and 9-3/4 inch maximum mesh

ALLOWABLE SALE: Salmon and sturgeon

SANCTUARIES: Grays, Elokomina, Cowlitz, Kalama, Lewis, Washougal, and Sandy rivers.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. February 19, 1999:

WAC 220-33-01000N Columbia River season below Bonneville.

WSR 99-05-061
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-08—Filed February 16, 1999, 1:45 p.m.]

Date of Adoption: February 9, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-19100G; and amending WAC 220-56-191.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule promotes chinook conservation by reducing the January through April 1999 salmon season by approximately 50% and reducing the daily limit from two salmon to one salmon. This rule is necessary to keep impacts on chinook within the limits agreed to at the 1998 North of Falcon meetings. There is insufficient time to promulgate permanent rules.

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

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

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

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

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

Effective Date of Rule: Immediately.

February 9, 1999

J. P. Koenings

Director

NEW SECTION

WAC 220-56-19100G Puget Sound salmon—Saltwater seasons and daily limits. Notwithstanding the provisions of WAC 220-56-191, effective immediately through April 30, 1999, it is unlawful to fish for or possess salmon taken for personal use from Catch Record Card Areas 5 through 13 except as provides for in this section:

(1) The minimum size limit for chinook salmon is 22 inches in length. There is no minimum size limit for other salmon species.

(2) Effective immediately through April 30, 1999, the following fishing piers are open for salmon angling, special daily limit of one salmon per day:

(a) Edmonds Public Fishing Pier (in Catch Record Card Area 9).

(b) Elliott Bay Public Fishing Pier at Terminal 86 (in Seattle in Catch Record Area 10).

(c) Seacrest Pier (in Seattle in Catch Record Area 10).

(d) Hood Canal Bridge Fishing Pontoon below the bridge (the boundary line between Catch Record Card Areas 9 and 12).

(3) Catch Record Card Areas 5 through 13 - Open to salmon angling February 16 through April 10, 1999. Special daily limit of one salmon.

(4) It is unlawful to continue to fish for salmon once the daily limit has been retained.

(5) In the above waters there are specified closures as provided in WAC 220-56-128 and WAC 220-56-195.

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

REPEALER

The following section of the Washington Administration Code is repealed effective 11:59 p.m. April 30, 1999:

WAC 220-56-19100G Puget Sound salmon—Saltwater seasons and daily limit.

EMERGENCY



WSR 99-05-001
OFFICE OF THE GOVERNOR
[Filed February 3, 1999, 12:47 p.m.]

NOTICE OF APPEAL
(RCW 34.05.330(3))

On February 2, 1999, the governor received an appeal pursuant to RCW 34.05.330(3) of the January 4, 1999, denial by the Department of Ecology of that certain PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE, dated November 11, 1998, filed by Pacific Topsoils, Inc., seeking repeal of WAC 173-20-640.

DATED the 3rd day of February, 1999.

Everett H. Billingslea
General Counsel to the Governor

WSR 99-05-007
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
[Memorandum—February 5, 1999]

The board of trustees of Bellingham Technical College will hold a study session to discuss budgets on Thursday, February 18, 1999, 8 a.m. to 9 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, February 18, 1999, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

WSR 99-05-008
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Farmed Salmon Commission)
[Memorandum—February 1, 1999]

Please be advised of the following scheduled meetings of the Washington Farmed Salmon Commission for 1999:

- February 23 Olympia
 Aladdin Inn
- May 18 NMFS Montlake Lab.
 Seattle, Washington
- October 26 NMFS Montlake Lab.
 Seattle, Washington

WSR 99-05-009
INTERPRETIVE STATEMENT
DEPARTMENT OF HEALTH
[Filed February 5, 1999, 12:11 p.m.]

NOTICE OF ADOPTION OF INTERPRETIVE STATEMENT

Title: May a registered nurse delegate the use of the vagal nerve stimulator magnet to an unlicensed individual?

Issuing Entity: Washington State Nursing Care Quality Assurance Commission.

Subject: The commission issued an advisory opinion in response to the request from Karen Heiberg, RN.

Effective Date: January 13, 1999.

Contact Person: Jeanne E. Vincent, RN, MS, Associate Nurse Practice Manager, Department of Health, Nursing Care Commission, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4725.

WSR 99-05-010
INTERPRETIVE STATEMENT
DEPARTMENT OF HEALTH
[Filed February 5, 1999, 12:12 p.m.]

NOTICE OF ADOPTION OF INTERPRETIVE STATEMENT

Title: May a Home Health Aide (NAC) reapply occlusive dressings such as Tegaderm or Duoderm to Stage 1 or 2 Decubitus or Vascular Ulcers if they have become wrinkled or soiled and need replacing when the HHA is performing personal care? This task would be delegated to specific HHAs for specific patients, performed under the supervision of a Registered Nurse, as part of a comprehensive plan of care?

Issuing Entity: Washington State Nursing Care Quality Assurance Commission.

Subject: The commission issued an advisory opinion in response to the request from Joan L. Humen, RN, BSN, CIC.

Effective Date: January 13, 1999.

Contact Person: Jeanne E. Vincent, RN, MS, Associate Nurse Practice Manager, Department of Health, Nursing Care Commission, P.O. Box 47864, Olympia, WA 98504-7864, (360) 236-4725.

WSR 99-05-019
RULES COORDINATOR
WASHINGTON STATE LIBRARY
[Filed February 8, 1999, 4:12 p.m.]

Effective immediately, Gail Grocott and Megan McKay will jointly be sharing the temporary responsibility of rules coordinator of the Washington State Library until the position of the confidential secretary is filled.

Gail Grocott can be reached at (360) 704-5238 or INTERNET ggrocott@statelib.wa.gov.

Megan McKay can be reached at (360) 704-5270 or INTERNET mmckay@statelib.wa.gov.

MISC.

The mailing address for both Gail and Megan is Washington State Library, P.O. Box 42460, Olympia, WA 98504-2460.

Nancy Zussy
State Librarian

WSR 99-05-020
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
GENERAL ADMINISTRATION

(Capitol Campus Design Advisory Committee)
[Memorandum—February 5, 1999]

The meeting location for the Capitol Campus Design Advisory Committee (CCDAC) has been relocated to the **Legislative Building, House Rules Room.**

Please record the following revision for the CCDAC meeting scheduled 5:30 p.m., Thursday, February 11, 1999, in the Washington State Register.

If you have any questions regarding these meetings, please contact Lenore Miller at (360) 664-9212 or Kim Bucarelli at (360) 753-5686.

WSR 99-05-028
RULES OF COURT
STATE SUPREME COURT
[February 4, 1999]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO APR 8 (f)) NO. 25700-A-646
AND CrR 4.2)

The Washington State Bar Association having recommended the adoption of the proposed amendments to APR 8(f) and CrR 4.2, and the Court having determined that the proposed amendments will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

- (a) That the amendments as attached hereto are adopted.
- (b) That pursuant to the emergency provisions of GR 9(i), the amendments will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 4th day of February, 1999.

Richard P. Guy

B. Durham, J. Alexander, J.

Smith, J. Madsen, J.

Johnson, J. Sanders, J.

Talmadge, J.

Ireland, J.

GR 9 COVER SHEET
Proposed Amendment
ADMISSION TO PRACTICE RULES (APR)
Rule 8(f) House Counsel

Submitted by the Board of Governors
of the Washington State Bar Association
(Emergency action requested)

(1) **Background:** At the request of the Board of Governors of the Washington State Bar Association, the Supreme Court adopted a new section (f) to Admission to Practice Rule (8) to create a limited license to practice for House Counsel, effective September 1, 1998. This is a "housekeeping" amendment to that rule.

(2) **Purpose:** The purpose of this rule amendment is to provide for a House Counsel license fee consistent with the other license fees of the Washington State Bar Association. The proposal from the Board of Governors to approve APR (8)(f) to establish the limited license to practice for House Counsel was first submitted to the Supreme Court in 1995. At that time the WSBA had a two-step active license fee. There was one fee for members admitted for less than three years, and a greater fee for those admitted three or more years. In 1996 the bylaws were amended to provide for a three-step dues structure: one fee for those admitted up to three years; a greater fee for those admitted four and five years; and a maximum amount for those admitted six or more years.

Because this fee structure varied from that established by the State Bar Act (RCW 2.48.130), the Board of Governors asked the Supreme Court to approve this revised fee structure, which was done by court order. The intent of the Board of Governors to require House Counsel to pay a fee equal to the maximum fee charged active members of the Bar is not reflected in the House Counsel rule as adopted.

Therefore, the Board of Governors requests that the Supreme Court approve this housekeeping amendment to APR 8 (f)(4) on an emergency basis without publication for comment.

(3) **Washington State Bar Association Action:** This proposed amendment was unanimously approved by the Board of Governors at their September 1998 meeting.

(4) **Supporting Material:** Attached is a copy of the proposed rule amendment.

(5) **Spokesperson:** Robert D. Welden, General Counsel, Washington State Bar Association, 2101 Fourth Avenue, Fourth Floor, Seattle, WA 98121-2330 (telephone 206-727-8232).

(6) **Hearing:** A hearing is not recommended. The Supreme Court is requested to adopt this amendment on an emergency basis pursuant to GR 9(i).

MISC.

**PROPOSED AMENDMENT
ADMISSION TO PRACTICE RULES (APR)
RULE 8 Special Admissions**

- (a) [No change].
- (b) [No change].
- (c) [No change].
- (d) [No change].
- (e) [No change].
- (f) Exception for House Counsel
(Introductory paragraph) [No change].
 - (1) [No change].
 - (2) [No change].
 - (3) [No change].
 - (4) A lawyer admitted under this section shall pay to the Washington State Bar Association an annual license fee in the maximum amount required of active members admitted to practice for 3 or more years.
 - (5) [No change].
 - (6) [No change].
 - (7) [No change].
- (g) [No change].

**CrR 4.2
PLEAS**

- (a) Types. A defendant may plead not guilty, not guilty by reason of insanity or guilty.
- (b) Multiple Offenses. Where the indictment or information charges two or more offenses in separate counts the defendant shall plead separately to each.
- (c) Pleading Insanity. Written notice of an intent to rely on the insanity defense, and/or a claim of present incompetency to stand trial, must be filed at the time of arraignment or within 10 days thereafter, or at such later time as the court may for good cause permit. All procedures concerning the defense of insanity or the competence of the defendant to stand trial are governed by RCW 10.77.
- (d) Voluntariness. The court shall not accept a plea of guilty, without first determining that it is made voluntarily, competently and with an understanding of the nature of the charge and the consequences of the plea. The court shall not enter a judgment upon a plea of guilty unless it is satisfied that there is a factual basis for the plea.
- (e) Agreements. If the defendant intends to plead guilty pursuant to an agreement with the prosecuting attorney, both the defendant and the prosecuting attorney shall, before the plea is entered, file with the court their understanding of the defendant's criminal history, as defined in RCW 9.94A.030. The nature of the agreement and the reasons for the agreement shall be made a part of the record at the time the plea is entered. The validity of the agreement under RCW 9.94A.090 may be determined at the same hearing at which the plea is accepted.
- (f) Withdrawal of Plea. The court shall allow a defendant to withdraw the defendant's plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice. If the defendant pleads guilty pursuant to a plea agreement and the court determines under RCW 9.94A.090 that the agreement is not consistent with (1) the interests of justice or (2) the prosecuting standards set forth in RCW

9.94A.430-.460, the court shall inform the defendant that the guilty plea may be withdrawn and a plea of not guilty entered. If the motion for withdrawal is made after judgment, it shall be governed by CrR 7.8.

(g) Written Statement. A written statement of the defendant in substantially the form set forth below shall be filed on a plea of guilty:

SUPERIOR COURT OF WASHINGTON
FOR (_____) COUNTY

THE STATE OF WASHINGTON,) No. _____
 Plaintiff,)
 v.) STATEMENT OF
 _____,) DEFENDANT ON
 Defendant.) PLEA OF GUILTY

- 1. My true name is _____.
- 2. My age is _____.
- 3. I went through the _____ grade.
- 4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND

THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is _____.

(b) I am charged with the crime of _____. The elements of this crime are _____.

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a determination of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- (a) The crime with which I am charged carries a maximum sentence of _____ years imprisonment and a \$_____ fine. The standard sentence range is from _____ months to _____ months confinement, based on the prosecuting attorney's understanding of my criminal history.
- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, juvenile adjudications, and serious traffic offenses, whether in this state, in federal court, or elsewhere. ~~Criminal history also includes convictions in juvenile court for felonies or serious traffic offenses that were committed when I was 15 years of age or older. Juvenile convictions, except those for class A felonies, count only if I was less than~~

MISC.

~~23 years old when I committed the crime to which I am now pleading guilty.~~

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase, and even though a mandatory sentence of life imprisonment without the possibility of parole is required by law.

(e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay \$_____ as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and attorney fees. Furthermore, the judge may place me on community supervision, impose restrictions on my activities, and order me to perform community service.

(f) The prosecuting attorney will make the following recommendation to the judge:_____

(g) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(h) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

(i) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6 (a)(ii). (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(j) I am being sentenced for two or more violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(k) In addition to confinement, the judge will sentence me to community placement for at least 1 year. During the period of community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(l) The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030(20). This sentence could include as much as 90 days' confinement plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(m) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(n) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(o) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis. (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

(p) Because this crime involves a sex offense or a kidnapping offense, I will be required to register with the sheriff of the county of the state of Washington where I reside. I must register immediately upon being sentenced unless I am in custody, in which case I must register within 24 hours of my release.

If I leave this state following my sentencing or release from custody but later move back to Washington, I must register within 30 days after moving to this state or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections.

If I change my residence within a county, I must send written notice of my change of residence to the sheriff at least 14 days before moving and must register again with the sheriff within 24 hours of moving. If I change my residence to a new county within this state, I must send written notice of my change of residence to the sheriff of my new county at least 14 days before moving, register with that sheriff within 24 hours of moving and I must give written notice of my change of address to the sheriff of the county where last registered within 10 days of moving. If I move out of Washington state, I must also send written notice within 10 days of moving to the county sheriff with whom I last registered in Washington state. (If not applicable, these three paragraphs should be stricken and initialed by the defendant and the judge.)

(q) This offense is a most serious offense as defined by RCW 9.94A.030(21), and if I have at least two prior convic-

MISC.

tions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. (If not applicable, this sentence should be stricken and initialed by the defendant and the judge.)

(r) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record. (PURSUANT TO RCW 9.41.047(1), THE JUDGE SHALL READ THIS SECTION TO THE DEFENDANT IN OPEN COURT IF THE DEFENDANT IS PLEADING GUILTY TO A "SERIOUS OFFENSE" AS DEFINED UNDER RCW 9.41.010(12), A CRIME OF DOMESTIC VIOLENCE, OR A CRIME OF "HARASSMENT" AS DEFINED UNDER RCW 9A.46.060. THE CLERK SHALL FORWARD A COPY OF THE DEFENDANT'S DRIVER'S LICENSE, IDENTIFICATION CARD, OR COMPARABLE IDENTIFICATION TO THE DEPARTMENT OF LICENSING ALONG WITH THE DATE OF CONVICTION.) (If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)

7. I plead _____ to the crime of _____ as charged in the _____ information. I have received a copy of that information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement:

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

Prosecuting Attorney

Defendant's Lawyer

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check appropriate box):

___ (a) The defendant had previously read; or

___ (b) The defendant's lawyer had previously read to him or her; or

* ___ (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands

the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this _____ day of _____, 19__.

Judge

*I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language which the defendant understands, and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this _____ day of _____, 19__.

Interpreter

(h) Verification by Interpreter. If a defendant is not fluent in the English language, a person the court has determined has fluency in the defendant's language shall certify that the written statement provided for in section (g) has been translated orally or in writing and that the defendant has acknowledged that he or she understands the translation.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 99-05-029
RULES OF COURT
STATE SUPREME COURT
[February 4, 1999]

IN THE MATTER OF THE ADOPTION) ORDER
OF THE AMENDMENTS TO RAP 16.22) NO. 25700-A-647
AND GR 1)

The Court Rules Committee having recommended the adoption of the proposed amendments to RAP 16.22 and GR 1, and the Court having determined that the proposed amendments will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendments will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 4th day of February, 1999.

Richard P. Guy

Durham, J.

Alexander, J.

MISC.

Smith, J.	Madsen, J.
Johnson, J.	Sanders, J.
Talmadge, J.	Ireland, J.

RAP 16.22

FILING OF BRIEFS IN CAPITAL CASES

(a) The brief of an appellant shall be filed in the Supreme Court within 120 days after the report of proceedings is settled or the last date for filing any objections pursuant to Rule 5(f). ~~16.19(f)~~. The brief of a respondent shall be filed within 120 days after service of the brief of appellant.

(b) The personal restraint petition shall be filed within 180 days after the appointment of counsel or the court's determination that counsel will not be appointed. The response to a personal restraint petition shall be filed within 120 days after service of the petition.

(c) A brief of appellant or respondent, or a brief in support of or opposition to a personal restraint petition, shall not exceed 250 pages. A reply brief, a pro se supplemental brief, or the response to a pro se supplemental brief, shall not exceed 75 pages.

(d) If legal arguments are included in a personal restraint petition or the response to a personal restraint petition, no separate brief may be filed. A petition or response that contains legal arguments may not exceed 300 pages. The petition or response shall comply with RAP 10.4(a).

(e) The clerk will retain but not formally file a brief, petition, or response that exceeds these page limits, except on prior order of the court. Such an order will only be granted for compelling reasons. The clerk will not file a brief, petition, or response that violates the format requirements of RAP 10.4(a), if a properly formatted brief would violate the page limits. The clerk shall direct the party whose document has been rejected for formal filing to correct the deficiencies within a specified time period.

(f) For the purpose of determining compliance with this rule, appendices, the title sheet, table of contents, and table of authorities are not included.

RULE 1

CLASSIFICATION SYSTEM FOR COURT RULES

PART I: RULES OF GENERAL APPLICATION

General Rules	GR
Code of Judicial Conduct	CJC
Discipline Rules for Judges	DRJ
Board for Judicial Administration Rules	BJAR
Rules of Professional Conduct	RPC
Admission to Practice Rules	APR
Rules for Lawyer Discipline	RLD
Judicial Information System Committee Rules	JISCR
Rules of Evidence	ER

PART II: RULES FOR APPELLATE COURT ADMINISTRATION	
Supreme Court Administrative Rules	SAR
Court of Appeals Administrative Rules	CAR

PART III: RULES ON APPEAL

Rules of Appellate Procedure	RAP
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PART IV: RULES FOR SUPERIOR COURT

Superior Court Administrative Rules	AR
Superior Court Civil Rules	CR
Superior Court Mandatory Arbitration Rules	MAR
Superior Court Special Proceedings Rules	SPR
Superior Court Criminal Rules	CrR
<u>Superior Court Special Proceeding Rules — Criminal</u>	<u>SPCR</u>
Superior Court Mental Proceedings Rules	MPR
Juvenile Court Rules	JuCR

PART V: RULES FOR COURTS OF LIMITED JURISDICTION

Administrative Rules for Courts of Limited Jurisdiction	ARLJ
Rules for Appeal of Decisions of Courts of Limited Jurisdiction	RALJ
Civil Rules for Courts of Limited Jurisdiction	CRLJ
Criminal Rules for Courts of Limited Jurisdiction	CrRLJ
Infraction Rules for Courts of Limited Jurisdiction	IRLJ

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

WSR 99-05-066

NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE PATROL

(Fire Protection Policy Board)

[Memorandum—February 17, 1999]

REVISED

FIRE PROTECTION POLICY BOARD

1999

MEETING SCHEDULE

January 21, 1999 10 a.m.	General Administration Building Olympia
March 18, 1999 10 a.m.	General Administration Building Olympia
June 2, 1999 (Fire Service '99 Conference) 6 p.m. (Dinner Meeting)	WestCoast Wenatchee Convention Center
July 15, 1999 10 a.m.	General Administration Building Olympia
October 22, 1999 (Fire Marshal Roundtable) 9 a.m.	Sun Mountain Lodge Winthrop, Washington

MISC.

November 18, 1999
10 a.m.

General Administration Building
Olympia

For information regarding Fire Protection Policy Board meetings, please contact Linda Reinhardt, Washington State Patrol, Fire Protection Bureau, at (360) 753-0411.

WSR 99-05-067
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
GENERAL ADMINISTRATION
(State Capitol Committee)
[Memorandum—February 12, 1999]

Please record the following State Capitol Committee meeting dates, time and location in the Washington State Register:

Thursday March 25	10:00 a.m. - 11:30 a.m.	Legislative Building House Rules Room
Thursday June 3	10:00 a.m. - 12 p.m.	Legislative Building Senate Rules Room
Tuesday October 19	1:00 p.m. - 3 p.m.	Legislative Building Senate Rules Room
Wednesday November 17	10:00 a.m. - 12 p.m.	Legislative Building Senate Rules Room

If you have any questions regarding this meeting, please contact Kim Buccarelli at (360) 753-5686.

MISC.



Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

Suffixes:

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- XA = Expedited adoption
- XR = Expedited repeal
- No suffix means permanent action

WAC # Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
4-25-530	PREP	99-05-025	16-86-093	REP-P	99-03-087	16-470-915	PREP	99-03-096
4-25-750	PREP	99-05-026	16-86-095	AMD-P	99-03-087	16-470-920	PREP	99-03-096
4-25-780	PREP	99-05-027	16-86-100	REP-P	99-03-087	16-481	PREP	99-03-090
16-05-005	REP-P	99-05-022	16-89-005	NEW-P	99-03-086	16-483	PREP	99-03-091
16-05-010	AMD-P	99-05-022	16-89-010	NEW-P	99-03-086	16-532-020	AMD-P	99-02-063
16-05-015	REP-P	99-05-022	16-89-015	NEW-P	99-03-086	16-545-010	NEW	99-02-064
16-05-020	REP-P	99-05-022	16-89-020	NEW-P	99-03-086	16-545-015	NEW	99-02-064
16-05-025	REP-P	99-05-022	16-89-030	NEW-P	99-03-086	16-545-020	NEW	99-02-064
16-05-030	REP-P	99-05-022	16-89-040	NEW-P	99-03-086	16-545-030	NEW	99-02-064
16-05-035	REP-P	99-05-022	16-89-050	NEW-P	99-03-086	16-545-040	NEW	99-02-064
16-05-040	AMD-P	99-05-022	16-89-060	NEW-P	99-03-086	16-545-041	NEW	99-02-064
16-05-045	REP-P	99-05-022	16-89-070	NEW-P	99-03-086	16-545-050	NEW	99-02-064
16-54-010	AMD-P	99-03-084	16-89-080	NEW-P	99-03-086	16-545-080	NEW	99-02-064
16-54-016	AMD-P	99-03-084	16-89-090	NEW-P	99-03-086	16-604-010	REP	99-04-069
16-54-020	AMD-P	99-03-084	16-89-100	NEW-P	99-03-086	16-645-005	NEW-P	99-02-066
16-54-030	AMD-P	99-03-084	16-89-110	NEW-P	99-03-086	16-645-010	NEW-P	99-02-066
16-54-040	AMD-P	99-03-084	16-89-120	NEW-P	99-03-086	16-662-105	AMD-P	99-04-111
16-54-071	AMD-P	99-03-084	16-108	PREP	99-03-045	16-662-110	AMD-P	99-04-111
16-54-082	AMD-P	99-03-084	16-125	PREP	99-04-066	25-12-010	REP-P	99-03-098
16-54-101	AMD-P	99-03-084	16-142	PREP	99-04-067	25-12-020	REP-P	99-03-098
16-54-120	AMD-P	99-03-084	16-200-695	AMD-P	99-04-093	25-12-030	REP-P	99-03-098
16-54-135	AMD-P	99-03-084	16-200-705	AMD-P	99-04-093	25-12-040	REP-P	99-03-098
16-54-150	REP-P	99-03-084	16-200-7061	AMD-P	99-04-093	25-12-050	REP-P	99-03-098
16-59	AMD-P	99-03-085	16-228-320	REP-XR	99-04-006	25-12-060	REP-P	99-03-098
16-59-001	AMD-P	99-03-085	16-228-330	REP-XR	99-04-006	25-12-070	REP-P	99-03-098
16-59-010	AMD-P	99-03-085	16-228-340	REP-XR	99-04-007	25-12-110	NEW-P	99-03-098
16-59-020	AMD-P	99-03-085	16-316-474	PREP	99-04-096	25-12-120	NEW-P	99-03-098
16-59-030	AMD-P	99-03-085	16-316-717	PREP	99-04-096	25-12-130	NEW-P	99-03-098
16-59-060	AMD-P	99-03-085	16-316-727	PREP	99-04-096	25-12-140	NEW-P	99-03-098
16-59-070	REP-P	99-03-085	16-319-041	PREP	99-04-095	25-12-150	NEW-P	99-03-098
16-86	AMD-P	99-03-087	16-322	PREP	99-03-093	25-12-160	NEW-P	99-03-098
16-86-005	AMD-P	99-03-087	16-401	PREP	99-03-095	25-12-170	NEW-P	99-03-098
16-86-015	AMD-P	99-03-087	16-403	PREP	99-03-108	25-12-180	NEW-P	99-03-098
16-86-017	AMD-P	99-03-087	16-406-001	PREP	99-04-094	50-16-020	REP-XR	99-04-073
16-86-020	AMD-P	99-03-087	16-406-020	PREP	99-04-094	50-16-025	REP-XR	99-04-073
16-86-030	AMD-P	99-03-087	16-406-030	PREP	99-04-094	50-16-030	REP-XR	99-04-073
16-86-040	AMD-P	99-03-087	16-406-050	PREP	99-04-094	50-16-035	REP-XR	99-04-073
16-86-055	AMD-P	99-03-087	16-461	PREP	99-03-108	50-16-040	REP-XR	99-04-073
16-86-060	AMD-P	99-03-087	16-462	PREP	99-03-094	50-16-045	REP-XR	99-04-073
16-86-070	AMD-P	99-03-087	16-470	PREP	99-03-092	50-16-050	REP-XR	99-04-073
16-86-080	AMD-P	99-03-087	16-470-900	PREP	99-03-096	50-16-055	REP-XR	99-04-073
16-86-090	AMD-P	99-03-087	16-470-905	PREP	99-03-096	50-16-060	REP-XR	99-04-073
16-86-092	AMD-P	99-03-087	16-470-910	PREP	99-03-096	50-16-065	REP-XR	99-04-073

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
50-16-070	REP-XR	99-04-073	162-16-230	NEW-P	99-04-108	180-29-095	PREP	99-04-086
50-16-075	REP-XR	99-04-073	162-16-240	NEW-P	99-04-108	180-40-215	PREP	99-04-084
50-16-080	REP-XR	99-04-073	162-16-250	NEW-P	99-04-108	180-41-035	PREP	99-04-090
50-16-085	REP-XR	99-04-073	162-16-260	NEW-P	99-04-108	180-51-050	AMD-P	99-04-081
50-16-090	REP-XR	99-04-073	162-16-270	NEW-P	99-04-108	180-51-107	NEW-P	99-04-082
50-16-095	REP-XR	99-04-073	162-16-280	NEW-P	99-04-108	180-51-110	PREP	99-04-091
50-16-100	REP-XR	99-04-073	162-16-290	NEW-P	99-04-108	180-55-085	PREP	99-04-089
50-16-105	REP-XR	99-04-073	162-22-010	AMD-P	99-04-108	180-56-245	PREP	99-04-092
51-40-23110	REP-E	99-05-030	162-22-020	AMD-P	99-04-108	180-77A	PREP	99-04-046
67-55-040	AMD	99-05-005	162-22-025	NEW-P	99-04-108	180-78-155	PREP	99-04-087
67-55-060	AMD	99-05-005	162-22-030	REP-P	99-04-108	180-78-207	PREP	99-04-087
67-75-010	AMD	99-05-005	162-22-035	NEW-P	99-04-108	180-78-210	PREP	99-04-087
67-75-020	AMD	99-05-005	162-22-040	REP-P	99-04-108	180-79A-380	PREP	99-04-085
67-75-030	AMD	99-05-005	162-22-045	NEW-P	99-04-108	180-82	PREP	99-04-109
67-75-040	AMD	99-05-005	162-22-050	REP-P	99-04-108	180-82-002	NEW	99-04-008
67-75-042	AMD	99-05-005	162-22-060	REP-P	99-04-108	180-82-004	NEW	99-04-008
67-75-044	AMD	99-05-005	162-22-065	NEW-P	99-04-108	180-82-105	NEW	99-04-008
67-75-050	AMD	99-05-005	162-22-070	REP-P	99-04-108	180-82-110	NEW	99-04-008
131-16-450	PREP	99-04-029	162-22-075	NEW-P	99-04-108	180-82-115	NEW	99-04-008
132H-168-010	REP-P	99-05-018	162-22-080	REP-P	99-04-108	180-82-120	NEW	99-04-008
132H-168-020	REP-P	99-05-018	162-22-090	AMD-P	99-04-108	180-82-125	NEW	99-04-008
132H-168-030	REP-P	99-05-018	162-22-100	AMD-P	99-04-108	180-82-130	NEW	99-04-008
132H-168-040	REP-P	99-05-018	162-26-010	AMD-P	99-04-108	180-82-200	NEW	99-04-008
132H-168-050	REP-P	99-05-018	162-26-020	REP-P	99-04-108	180-82-201	NEW	99-04-008
132H-168-060	REP-P	99-05-018	162-26-030	REP-P	99-04-108	180-82-202	NEW	99-04-008
132H-168-070	REP-P	99-05-018	162-26-035	REP-P	99-04-108	180-82-204	NEW	99-04-008
132H-168-080	REP-P	99-05-018	162-26-040	AMD-P	99-04-108	180-82-210	NEW	99-04-008
132H-168-090	REP-P	99-05-018	162-26-050	REP-P	99-04-108	180-82-215	NEW	99-04-008
132H-168-990	REP-P	99-05-018	162-26-060	AMD-P	99-04-108	180-82-300	NEW	99-04-008
132H-168-9901	REP-P	99-05-018	162-26-070	AMD-P	99-04-108	180-82-304	NEW	99-04-008
132H-168-9902	REP-P	99-05-018	162-26-080	AMD-P	99-04-108	180-82-308	NEW	99-04-008
132H-168-9903	REP-P	99-05-018	162-26-090	REP-P	99-04-108	180-82-310	NEW	99-04-008
132H-169-010	NEW-P	99-05-018	162-26-100	AMD-P	99-04-108	180-82-312	NEW	99-04-008
132H-169-020	NEW-P	99-05-018	162-26-110	AMD-P	99-04-108	180-82-314	NEW	99-04-008
132H-169-030	NEW-P	99-05-018	162-26-120	AMD-P	99-04-108	180-82-315	NEW-P	99-04-110
132H-169-040	NEW-P	99-05-018	162-26-135	NEW-P	99-04-108	180-82-316	NEW	99-04-008
132H-169-050	NEW-P	99-05-018	162-26-140	AMD-P	99-04-108	180-82-317	NEW-P	99-04-110
132H-169-060	NEW-P	99-05-018	162-30-010	AMD-P	99-04-108	180-82-318	NEW	99-04-008
132H-169-070	NEW-P	99-05-018	162-30-020	AMD-P	99-04-108	180-82-319	NEW-P	99-04-110
132H-169-080	NEW-P	99-05-018	162-38-040	AMD-P	99-04-108	180-82-320	NEW	99-04-008
132H-169-090	NEW-P	99-05-018	162-38-100	AMD-P	99-04-108	180-82-321	NEW-P	99-04-110
132H-169-100	NEW-P	99-05-018	162-38-105	NEW-P	99-04-108	180-82-322	NEW	99-04-008
132H-169-110	NEW-P	99-05-018	162-38-110	AMD-P	99-04-108	180-82-324	NEW	99-04-008
132H-169-120	NEW-P	99-05-018	162-38-130	REP-P	99-04-108	180-82-326	NEW	99-04-008
132H-169-130	NEW-P	99-05-018	173-201A	PREP	99-05-060	180-82-328	NEW	99-04-008
132K-16	PREP	99-04-028	173-400-030	AMD-XA	99-04-097	180-82-330	NEW	99-04-008
132P-276	PREP	99-05-041	173-400-040	AMD-XA	99-04-097	180-82-332	NEW	99-04-008
132Q-12-010	REP-C	99-05-040	173-400-060	AMD-XA	99-04-097	180-82-334	NEW	99-04-008
162-16-020	REP-P	99-04-108	173-400-070	AMD-XA	99-04-097	180-82-336	NEW	99-04-008
162-16-030	REP-P	99-04-108	173-400-075	AMD-XA	99-04-097	180-82-339	NEW	99-04-008
162-16-040	REP-P	99-04-108	173-400-104	AMD-XA	99-04-097	180-82-342	NEW	99-04-008
162-16-050	REP-P	99-04-108	173-400-115	AMD-XA	99-04-097	180-82-343	NEW	99-04-008
162-16-060	REP-P	99-04-108	180-08-015	NEW-P	99-04-079	180-82-344	NEW	99-04-008
162-16-070	REP-P	99-04-108	180-16-195	AMD-P	99-04-080	180-82-346	NEW	99-04-008
162-16-080	REP-P	99-04-108	180-16-215	PREP	99-04-088	180-82-348	NEW	99-04-008
162-16-090	REP-P	99-04-108	180-16-220	AMD-P	99-04-080	180-82-349	NEW-P	99-04-110
162-16-100	REP-P	99-04-108	180-16-221	REP-XR	99-03-001	180-82-350	NEW	99-04-008
162-16-110	REP-P	99-04-108	180-16-222	REP-XR	99-03-001	180-82-352	NEW	99-04-008
162-16-120	REP-P	99-04-108	180-16-226	REP-XR	99-03-001	180-82-354	NEW	99-04-008
162-16-130	REP-P	99-04-108	180-16-231	REP-XR	99-03-001	180-82-355	NEW	99-04-008
162-16-140	REP-P	99-04-108	180-16-236	REP-XR	99-03-001	180-82-356	NEW	99-04-008
162-16-150	REP-P	99-04-108	180-16-238	REP-XR	99-03-001	180-82-360	NEW	99-04-008
162-16-160	REP-P	99-04-108	180-16-240	REP-P	99-04-080	180-85-075	AMD-E	99-05-002
162-16-170	REP-P	99-04-108	180-18-055	NEW-P	99-04-082	182-25-040	PREP	99-05-077
162-16-200	NEW-P	99-04-108	180-22-150	PREP	99-04-083	182-25-085	PREP	99-05-077
162-16-210	NEW-P	99-04-108	180-27-082	NEW-W	99-03-026	182-25-090	PREP	99-05-077
162-16-220	NEW-P	99-04-108	180-27-083	NEW-W	99-03-026	192-12-072	REP-P	99-05-068

Table

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
192-16-051	REP-E	99-05-003	220-88B-050	REP-E	99-04-053	245-02-165	DECOD	99-04-049
192-16-052	REP-E	99-05-003	220-110-204	AMD-XA	99-05-023	245-02-170	DECOD	99-04-049
192-16-057	REP-E	99-05-003	220-110-205	AMD-XA	99-05-023	245-02-175	DECOD	99-04-049
192-210-005	NEW-E	99-05-003	220-130	AMD-P	99-05-075	245-02-180	DECOD	99-04-049
192-210-010	NEW-E	99-05-003	220-130-010	AMD-P	99-05-075	246-05-001	REP	99-03-062
192-210-015	NEW-E	99-05-003	220-130-020	AMD-P	99-05-075	246-05-010	REP	99-03-062
192-300-050	NEW-P	99-05-068	220-130-030	AMD-P	99-05-075	246-05-020	REP	99-03-063
192-320-050	NEW-P	99-05-068	220-130-040	AMD-P	99-05-075	246-05-030	REP	99-03-062
196-24-060	PREP	99-02-073	220-130-050	AMD-P	99-05-075	246-25	PREP	99-04-050
196-24-085	PREP	99-02-071	220-130-060	AMD-P	99-05-075	246-25-010	RECOD	99-04-049
196-24-090	PREP	99-02-075	220-130-070	AMD-P	99-05-075	246-25-020	RECOD	99-04-049
196-24-092	PREP	99-02-076	220-130-080	NEW-P	99-05-075	246-25-025	RECOD	99-04-049
196-24-095	PREP	99-02-077	230-20-058	NEW	99-03-103	246-25-030	RECOD	99-04-049
196-24-097	PREP	99-02-078	232-12-001	AMD	99-03-029	246-25-035	RECOD	99-04-049
196-24-098	PREP	99-02-079	232-12-047	AMD-P	99-05-064	246-25-040	RECOD	99-04-049
196-24-100	PREP	99-02-072	232-12-054	AMD-P	99-05-064	246-25-045	RECOD	99-04-049
196-25-040	PREP	99-02-074	232-12-069	REP	99-03-029	246-25-050	RECOD	99-04-049
196-26-020	PREP	99-02-070	232-12-072	NEW	99-03-029	246-25-100	RECOD	99-04-049
204-80-020	AMD	99-02-045	232-12-157	AMD	99-03-029	246-25-110	RECOD	99-04-049
208-464-010	REP	99-03-009	232-12-166	AMD	99-03-029	246-25-115	RECOD	99-04-049
208-464-020	REP	99-03-009	232-12-189	AMD	99-03-029	246-25-120	RECOD	99-04-049
208-464-030	REP	99-03-009	232-12-241	REP	99-03-029	246-25-125	RECOD	99-04-049
208-464-040	REP	99-03-009	232-12-619	AMD	99-03-029	246-25-130	RECOD	99-04-049
208-464-050	REP	99-03-009	232-12-830	NEW	99-03-029	246-25-131	RECOD	99-04-049
208-464-060	REP	99-03-009	232-16-810	AMD-P	99-05-063	246-25-135	RECOD	99-04-049
208-464-070	REP	99-03-009	232-21-101	REP	99-05-024	246-25-140	RECOD	99-04-049
208-464-080	REP	99-03-009	232-28-02201	AMD-P	99-05-063	246-25-145	RECOD	99-04-049
208-464-090	REP	99-03-009	232-28-02203	AMD-P	99-05-063	246-25-150	RECOD	99-04-049
208-480-010	REP	99-03-009	232-28-02204	AMD-P	99-05-063	246-25-155	RECOD	99-04-049
208-480-020	REP	99-03-009	232-28-02205	AMD-P	99-05-063	246-25-160	RECOD	99-04-049
208-480-030	REP	99-03-009	232-28-02240	AMD-P	99-05-063	246-25-165	RECOD	99-04-049
208-480-040	REP	99-03-009	232-28-248	AMD-P	99-05-063	246-25-170	RECOD	99-04-049
208-480-050	REP	99-03-009	232-28-264	AMD-P	99-05-063	246-25-175	RECOD	99-04-049
208-480-060	REP	99-03-009	232-28-271	AMD-P	99-05-063	246-25-180	RECOD	99-04-049
208-480-070	REP	99-03-009	232-28-273	AMD-P	99-05-063	246-221-265	AMD	99-05-013
220-32-05100J	REP-E	99-04-059	232-28-280	AMD-P	99-05-063	246-221-280	AMD	99-05-012
220-32-05100J	NEW-E	99-04-059	232-28-281	AMD-P	99-05-063	246-222-030	AMD	99-05-012
220-33-01000N	NEW-E	99-05-055	232-28-61900B	NEW-E	99-04-060	246-243-040	AMD	99-05-012
220-33-01000N	REP-E	99-05-055	232-28-61900B	REP-E	99-04-060	246-243-090	AMD	99-05-012
220-44-08000A	NEW-E	99-03-008	232-32-010	REP-P	99-05-076	246-310-990	PREP	99-05-011
220-52-050	REP-E	99-04-053	232-32-020	REP-P	99-05-076	246-316-990	PREP-W	99-04-048
220-52-07300J	REP-E	99-03-054	232-32-030	REP-P	99-05-076	246-318-010	REP	99-04-052
220-52-07300K	NEW-E	99-03-054	232-32-040	REP-P	99-05-076	246-318-013	REP	99-04-052
220-55-001	NEW	99-03-029	232-32-050	REP-P	99-05-076	246-318-015	REP	99-04-052
220-55-005	AMD	99-03-029	232-32-060	REP-P	99-05-076	246-318-017	REP	99-04-052
220-55-010	AMD	99-03-029	232-32-070	REP-P	99-05-076	246-318-020	REP	99-04-052
220-55-015	AMD	99-03-029	245-02-010	DECOD	99-04-049	246-318-025	REP	99-04-052
220-55-040	AMD	99-03-029	245-02-020	DECOD	99-04-049	246-318-030	REP	99-04-052
220-55-050	AMD	99-03-029	245-02-025	DECOD	99-04-049	246-318-033	REP	99-04-052
220-55-055	AMD	99-03-029	245-02-030	DECOD	99-04-049	246-318-035	REP	99-04-052
220-55-060	AMD	99-03-029	245-02-035	DECOD	99-04-049	246-318-040	REP	99-04-052
220-55-065	AMD	99-03-029	245-02-040	DECOD	99-04-049	246-318-042	REP	99-04-052
220-55-070	AMD	99-03-029	245-02-045	DECOD	99-04-049	246-318-150	REP	99-04-052
220-55-075	REP	99-03-029	245-02-050	DECOD	99-04-049	246-318-155	REP	99-04-052
220-55-100	AMD	99-03-029	245-02-100	DECOD	99-04-049	246-318-160	REP	99-04-052
220-55-105	AMD	99-03-029	245-02-110	DECOD	99-04-049	246-318-170	REP	99-04-052
220-55-110	AMD	99-03-029	245-02-115	DECOD	99-04-049	246-318-180	REP	99-04-052
220-55-115	AMD	99-03-029	245-02-120	DECOD	99-04-049	246-318-190	REP	99-04-052
220-55-120	AMD	99-03-029	245-02-125	DECOD	99-04-049	246-318-200	REP	99-04-052
220-55-125	AMD	99-03-029	245-02-130	DECOD	99-04-049	246-318-210	REP	99-04-052
220-55-155	REP	99-03-029	245-02-131	DECOD	99-04-049	246-318-220	REP	99-04-052
220-56-19100G	REP-E	99-05-061	245-02-135	DECOD	99-04-049	246-318-230	REP	99-04-052
220-56-19100G	NEW-E	99-05-061	245-02-140	DECOD	99-04-049	246-318-240	REP	99-04-052
220-88B-010	REP-E	99-04-053	245-02-145	DECOD	99-04-049	246-318-250	REP	99-04-052
220-88B-020	REP-E	99-04-053	245-02-150	DECOD	99-04-049	246-318-260	REP	99-04-052
220-88B-030	REP-E	99-04-053	245-02-155	DECOD	99-04-049	246-318-270	REP	99-04-052
220-88B-040	REP-E	99-04-053	245-02-160	DECOD	99-04-049	246-318-280	REP	99-04-052

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-822-990	AMD-P	99-02-057	275- 27-020	AMD	99-04-071	296- 56	PREP	99-02-083
246-830-990	AMD-P	99-02-057	275- 27-180	NEW	99-04-071	296- 59	PREP	99-02-083
246-834-050	NEW	99-03-064	275- 27-185	NEW	99-04-071	296- 62	PREP	99-02-083
246-834-060	AMD	99-03-064	275- 27-190	NEW	99-04-071	296- 62	PREP	99-04-057
246-834-070	AMD	99-03-064	275- 27-191	NEW	99-04-071	296- 63	PREP	99-02-083
246-834-080	AMD	99-03-064	275- 27-192	NEW	99-04-071	296- 65	PREP	99-02-083
246-840-125	PREP	99-03-066	275- 27-193	NEW	99-04-071	296- 67	PREP	99-02-083
246-840-740	NEW	99-04-051	275- 27-194	NEW	99-04-071	296- 78	PREP	99-02-083
246-843-060	REP	99-03-069	275- 27-195	NEW	99-04-071	296- 79	PREP	99-02-083
246-843-200	REP	99-03-068	275- 27-196	NEW	99-04-071	296- 99	PREP	99-02-083
246-843-220	REP	99-03-067	275- 27-197	NEW	99-04-071	296-104-001	PREP	99-05-021
246-843-225	REP	99-03-067	275- 27-198	NEW	99-04-071	296-104-002	PREP	99-05-021
246-845-990	AMD-P	99-02-057	275- 27-199	NEW	99-04-071	296-104-010	PREP	99-05-021
246-847-990	AMD-P	99-02-057	275- 27-200	NEW	99-04-071	296-104-015	PREP	99-05-021
246-849-990	AMD-P	99-02-057	275- 27-202	NEW	99-04-071	296-104-017	PREP	99-05-021
246-850-060	NEW-P	99-03-083	275- 27-204	NEW	99-04-071	296-104-018	PREP	99-05-021
246-851-990	AMD-P	99-02-057	275- 27-211	NEW	99-04-071	296-104-020	PREP	99-05-021
246-915-990	AMD-P	99-02-057	275- 27-212	NEW	99-04-071	296-104-025	PREP	99-05-021
246-924-990	AMD-P	99-02-057	275- 27-213	NEW	99-04-071	296-104-030	PREP	99-05-021
246-926-990	AMD-P	99-02-057	275- 30-010	AMD	99-03-077	296-104-035	PREP	99-05-021
246-928-990	AMD-P	99-02-057	275- 30-030	AMD	99-03-077	296-104-040	PREP	99-05-021
246-930-990	AMD-P	99-02-057	275- 30-040	AMD	99-03-077	296-104-045	PREP	99-05-021
246-935-140	REP-XR	99-02-080	275- 30-050	REP	99-03-077	296-104-050	PREP	99-05-021
251- 01-014	NEW-P	99-02-054	275- 30-060	AMD	99-03-077	296-104-055	PREP	99-05-021
251- 01-014	NEW	99-05-042	275- 30-070	AMD	99-03-077	296-104-060	PREP	99-05-021
251- 01-015	AMD-P	99-02-054	275- 30-080	REP	99-03-077	296-104-065	PREP	99-05-021
251- 01-015	AMD	99-05-042	284- 43	AMD-C	99-03-037	296-104-100	PREP	99-05-021
251- 01-040	AMD-P	99-02-054	284- 43	AMD-C	99-03-038	296-104-102	PREP	99-05-021
251- 01-040	AMD	99-05-042	284- 43-130	AMD-P	99-03-006	296-104-105	PREP	99-05-021
251- 01-190	AMD-P	99-02-054	284- 43-130	AMD-P	99-03-007	296-104-107	PREP	99-05-021
251- 01-190	AMD	99-05-042	284- 43-810	NEW-P	99-03-006	296-104-110	PREP	99-05-021
251- 01-330	REP-P	99-02-054	284- 43-810	NEW-P	99-03-007	296-104-115	PREP	99-05-021
251- 01-330	REP	99-05-042	296- 17	PREP	99-05-051	296-104-125	PREP	99-05-021
251- 01-400	AMD-P	99-02-054	296- 17-900	AMD-E	99-04-106	296-104-130	PREP	99-05-021
251- 01-400	AMD	99-05-042	296- 20-135	AMD-P	99-05-079	296-104-135	PREP	99-05-021
251- 01-420	REP-P	99-02-054	296- 23-220	AMD-P	99-05-079	296-104-140	PREP	99-05-021
251- 01-420	REP	99-05-042	296- 23-230	AMD-P	99-05-079	296-104-145	PREP	99-05-021
251- 01-440	AMD-P	99-02-054	296- 24	PREP	99-02-083	296-104-150	PREP	99-05-021
251- 01-440	AMD	99-05-042	296- 24	PREP	99-04-057	296-104-151	PREP	99-05-021
251- 17-090	AMD-P	99-02-054	296- 24-58503	AMD	99-05-080	296-104-155	PREP	99-05-021
251- 17-090	AMD	99-05-042	296- 24-58505	AMD	99-05-080	296-104-160	PREP	99-05-021
251- 23-010	AMD-P	99-02-054	296- 27	PREP	99-02-083	296-104-165	PREP	99-05-021
251- 23-010	AMD	99-05-042	296- 28	PREP	99-02-083	296-104-170	PREP	99-05-021
251- 23-030	AMD-P	99-02-054	296- 32	PREP	99-02-083	296-104-285	REP-P	99-04-036
251- 23-030	AMD	99-05-042	296- 32	PREP	99-04-057	296-104-502	PREP	99-05-021
251- 23-040	AMD-P	99-02-054	296- 36	PREP	99-02-083	296-104-700	AMD-P	99-04-036
251- 23-040	AMD	99-05-042	296- 37	PREP	99-02-083	296-115	PREP	99-02-083
251- 23-050	AMD-P	99-02-054	296- 45	PREP	99-02-083	296-150C	PREP	99-05-078
251- 23-050	AMD	99-05-042	296- 45-015	AMD-XA	99-04-078	296-150F	PREP	99-05-078
251- 23-060	AMD-P	99-02-054	296- 45-045	AMD-XA	99-04-078	296-150M	PREP	99-05-078
251- 23-060	AMD	99-05-042	296- 45-17550	AMD-XA	99-04-078	296-150P	PREP	99-05-078
251- 24-030	AMD-P	99-02-054	296- 45-215	AMD-XA	99-04-078	296-150R	PREP	99-05-078
251- 24-030	AMD	99-05-042	296- 45-325	AMD-XA	99-04-078	296-155	PREP	99-02-083
251- 24-040	AMD-W	99-05-058	296- 45-455	AMD-XA	99-04-078	296-155	PREP	99-04-057
260- 24-560	AMD	99-05-048	296- 45-901	AMD-XA	99-04-078	296-301	PREP	99-04-057
260- 44-110	AMD-P	99-02-082	296- 46-090	AMD	99-05-052	296-302	PREP	99-02-083
260- 44-110	AMD	99-05-049	296- 46-23040	AMD	99-05-052	296-303	PREP	99-02-083
260- 44-120	AMD-P	99-02-082	296- 46-370	AMD	99-05-052	296-304	PREP	99-02-083
260- 44-120	AMD	99-05-049	296- 46-495	AMD	99-05-052	296-305	PREP	99-02-083
260- 48-600	AMD-P	99-02-081	296- 46-50002	AMD	99-05-052	296-305-01003	AMD	99-05-080
260- 48-620	AMD-P	99-02-081	296- 46-930	AMD	99-05-052	296-305-01005	AMD	99-05-080
260- 48-700	NEW-P	99-02-081	296- 46-940	AMD	99-05-052	296-305-01509	AMD	99-05-080
260- 48-710	NEW-P	99-02-081	296- 46-950	AMD	99-05-052	296-305-02001	AMD	99-05-080
260- 48-720	NEW-P	99-02-081	296- 50	PREP	99-02-083	296-305-02003	AMD	99-05-080
260- 48-910	NEW-P	99-02-081	296- 52	PREP	99-02-083	296-305-02007	AMD	99-05-080
260- 52-070	AMD	99-05-047	296- 52	PREP	99-04-057	296-305-02013	AMD	99-05-080
260- 75	PREP	99-03-014	296- 54	PREP	99-02-083	296-305-02015	AMD	99-05-080

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-305-04001	AMD	99-05-080	314- 12-310	NEW	99-03-032	356- 26-110	AMD	99-03-044
296-305-04501	AMD	99-05-080	314- 12-320	NEW	99-03-032	356- 30-010	AMD-P	99-02-053
296-305-04503	AMD	99-05-080	314- 12-330	NEW	99-03-032	356- 30-010	AMD	99-05-043
296-305-05001	AMD	99-05-080	314- 12-340	NEW	99-03-032	365- 18-010	NEW-S	99-04-072
296-305-05007	AMD	99-05-080	314- 14-160	AMD	99-03-033	365- 18-020	NEW-S	99-04-072
296-305-05009	AMD	99-05-080	314- 14-165	NEW	99-03-033	365- 18-030	NEW-S	99-04-072
296-305-06005	AMD	99-05-080	314- 14-170	NEW	99-03-033	365- 18-040	NEW-S	99-04-072
296-305-06007	AMD	99-05-080	314- 16-160	PREP	99-04-002	365- 18-050	NEW-S	99-04-072
296-307	PREP	99-02-083	314- 16-180	PREP	99-04-113	365- 18-060	NEW-S	99-04-072
296-350	PREP	99-02-083	314- 20	PREP	99-04-112	365- 18-070	NEW-S	99-04-072
296-400A-045	AMD-XA	99-03-109	314- 37-030	NEW	99-04-114	365- 18-080	NEW-S	99-04-072
296-401A-100	AMD	99-05-052	314- 68-010	AMD-P	99-05-014	365- 18-090	NEW-S	99-04-072
296-401A-140	AMD	99-05-052	314- 68-020	AMD-P	99-05-014	365- 18-100	NEW-S	99-04-072
296-401A-530	AMD	99-05-052	314- 68-030	AMD-P	99-05-014	365- 18-110	NEW-S	99-04-072
308- 10-045	AMD-XA	99-05-004	314- 68-040	AMD-P	99-05-014	365- 18-120	NEW-S	99-04-072
308- 12-320	AMD-P	99-05-050	314- 68-050	AMD-P	99-05-014	388- 15-177	PREP	99-05-070
308- 12-326	AMD-P	99-05-050	315- 04	PREP	99-04-076	388- 15-196	AMD	99-03-041
308- 56A-060	AMD-P	99-04-037	315- 04-190	PREP	99-04-003	388- 15-19600	AMD	99-03-041
308- 56A-065	AMD-P	99-04-037	315- 06-075	NEW	99-04-077	388- 15-19610	AMD	99-03-041
308- 56A-070	AMD-P	99-04-037	315- 06-085	NEW	99-04-077	388- 15-19620	AMD	99-03-041
308- 56A-075	AMD-P	99-04-037	315- 33A-060	AMD-P	99-04-012	388- 15-19630	AMD	99-03-041
308- 56A-250	AMD-P	99-04-038	315- 33A-060	AMD-W	99-05-036	388- 15-19640	AMD	99-03-041
308- 56A-255	REP-P	99-04-038	315- 34-060	AMD-P	99-04-012	388- 15-19650	AMD	99-03-041
308- 56A-265	AMD-P	99-04-038	315- 34-060	AMD-W	99-05-036	388- 15-19660	AMD	99-03-041
308- 56A-270	AMD-P	99-04-038	326- 02-034	PREP	99-05-083	388- 15-19670	AMD	99-03-041
308- 56A-275	AMD-P	99-04-038	326- 30-041	PREP	99-05-082	388- 15-19680	AMD	99-03-041
308- 56A-280	REP-P	99-04-038	352- 12	AMD	99-04-117	388- 86-0022	PREP	99-05-044
308- 56A-285	REP-P	99-04-038	352- 12-005	AMD	99-04-117	388- 86-047	REP-P	99-05-073
308- 56A-420	AMD	99-02-049	352- 12-010	AMD	99-04-117	388- 86-073	PREP	99-03-075
308- 66-190	AMD	99-02-049	352- 12-020	AMD	99-04-117	388- 87-0005	PREP	99-05-044
308- 66-190	AMD-W	99-05-059	352- 12-030	AMD	99-04-117	388- 87-0007	PREP	99-05-044
308- 93-250	AMD	99-03-002	352- 12-040	AMD	99-04-117	388- 87-0008	PREP	99-05-044
308- 93-270	AMD	99-03-002	352- 12-050	AMD	99-04-117	388- 87-0010	PREP	99-05-044
308- 93-280	AMD	99-03-002	352- 32-25001	AMD-P	99-04-118	388- 87-0011	PREP	99-05-044
308- 93-410	REP	99-03-002	352- 32-25002	REP-P	99-04-118	388- 87-0020	PREP	99-05-044
308- 93-620	REP	99-03-002	356- 05-012	NEW-P	99-02-053	388- 87-0025	PREP	99-05-044
308- 96A-080	PREP	99-03-003	356- 05-012	NEW	99-05-043	388- 87-0105	PREP	99-05-044
308- 96A-085	PREP	99-03-003	356- 05-013	AMD-P	99-02-053	388- 87-0250	PREP	99-05-044
308- 96A-090	PREP	99-03-003	356- 05-013	AMD	99-05-043	388- 310-0100	AMD-P	99-05-072
308- 96A-097	PREP	99-03-003	356- 05-207	AMD-P	99-02-053	388-310-0200	AMD-P	99-05-072
308-104-109	NEW-P	99-02-052	356- 05-207	AMD	99-05-043	388-310-0300	AMD-P	99-05-071
308-104-109	NEW	99-05-032	356- 05-327	REP-P	99-02-053	388-310-0400	AMD-P	99-05-071
308-124	AMD	99-03-042	356- 05-327	REP	99-05-043	388-310-0500	AMD-P	99-05-071
308-124-001	REP	99-03-042	356- 05-447	AMD-P	99-02-053	388-310-0600	AMD-P	99-05-071
308-124-005	REP	99-03-042	356- 05-447	AMD	99-05-043	388-310-0700	AMD-P	99-05-071
308-124-007	AMD	99-03-042	356- 09-010	AMD-P	99-02-053	388-310-0800	AMD-P	99-05-071
308-124-021	AMD	99-03-042	356- 09-010	AMD	99-05-043	388-310-0900	AMD-P	99-05-071
308-124A-200	AMD	99-03-042	356- 09-030	AMD-P	99-02-053	388-310-1000	AMD-P	99-05-071
308-124A-460	AMD	99-03-042	356- 09-030	AMD	99-05-043	388-310-1050	AMD-P	99-05-071
308-124B-140	AMD	99-03-042	356- 09-040	AMD-P	99-02-053	388-310-1100	AMD-P	99-05-071
308-124B-145	NEW	99-03-042	356- 09-040	AMD	99-05-043	388-310-1200	AMD-P	99-05-071
308-124B-150	AMD	99-03-042	356- 09-050	AMD-P	99-02-053	388-310-1300	AMD-P	99-05-072
308-124C-010	AMD	99-03-042	356- 09-050	AMD	99-05-043	388-310-1400	AMD-P	99-05-071
308-124D-061	AMD	99-03-042	356- 22-010	AMD-P	99-02-053	388-310-1500	AMD-P	99-05-071
308-124D-070	NEW	99-03-042	356- 22-010	AMD	99-05-043	388-310-1600	AMD-P	99-05-071
308-124D-080	NEW	99-03-042	356- 22-040	AMD-P	99-02-053	388-310-1700	AMD-P	99-05-071
308-124F-010	REP	99-03-042	356- 22-040	AMD	99-05-043	388-310-1800	AMD-P	99-05-071
308-124F-020	REP	99-03-042	356- 22-090	AMD-P	99-02-053	388-310-1900	AMD-P	99-05-071
308-124F-030	REP	99-03-042	356- 22-090	AMD	99-05-043	388-320-350	REP-P	99-03-076
308-125-120	AMD	99-04-075	356- 22-180	AMD-P	99-02-053	388-320-360	REP-P	99-03-076
308-125-200	AMD	99-04-074	356- 22-180	AMD	99-05-043	388-320-370	REP-P	99-03-076
308-330-300	AMD	99-04-070	356- 26-010	AMD-P	99-02-053	388-320-375	NEW-P	99-03-076
308-330-307	AMD	99-04-070	356- 26-010	AMD	99-05-043	388-400-0020	AMD-P	99-04-102
308-330-425	AMD	99-04-070	356- 26-060	AMD-P	99-02-053	388-434-0005	PREP	99-04-054
314- 10-040	AMD	99-03-031	356- 26-060	AMD	99-05-043	388-448-0001	PREP	99-04-055
314- 12-170	AMD	99-03-032	356- 26-070	AMD-P	99-02-053	388-450-0050	PREP	99-03-040
314- 12-300	NEW	99-03-032	356- 26-070	AMD	99-05-043	388-450-0106	PREP	99-03-040

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-450-0116	PREP	99-03-040	434-334-080	DECOD-P	99-05-034	468-38-150	REP-XR	99-04-058
388-450-0195	AMD-E	99-05-046	434-334-080	AMD-P	99-05-034	468-38-170	REP-XR	99-04-058
388-470-0005	PREP	99-03-040	434-334-082	NEW-P	99-05-034	468-38-210	REP-XR	99-04-058
388-470-0010	PREP	99-03-040	434-334-085	AMD-P	99-05-034	468-300-010	AMD-P	99-05-035
388-470-0015	PREP	99-03-040	434-334-090	AMD-P	99-05-034	468-300-020	AMD-P	99-05-035
388-470-0020	PREP	99-03-040	434-334-095	AMD-P	99-05-034	468-300-040	AMD-P	99-05-035
388-470-0025	PREP	99-03-040	434-334-100	AMD-P	99-05-034	468-300-220	AMD-P	99-05-035
388-470-0050	PREP	99-03-040	434-334-105	AMD-P	99-05-034	468-310-010	AMD	99-03-025
388-470-0070	PREP	99-03-040	434-334-110	AMD-P	99-05-034	468-310-020	AMD	99-03-025
388-478-0015	AMD	99-04-056	434-334-115	REP-P	99-05-034	468-310-050	AMD	99-03-025
388-478-0055	AMD	99-04-103	434-334-120	RECOD-P	99-05-034	468-310-060	AMD	99-03-025
388-478-0055	PREP	99-05-045	434-334-125	NEW-P	99-05-034	468-310-100	AMD	99-03-025
388-478-0060	AMD	99-05-074	434-334-130	NEW-P	99-05-034	474-10-010	NEW	99-03-004
388-484-0005	AMD-P	99-04-102	434-334-135	NEW-P	99-05-034	474-10-020	NEW	99-03-004
388-501-0130	PREP	99-05-044	434-334-140	NEW-P	99-05-034	474-10-030	NEW	99-03-004
388-501-0175	PREP	99-05-044	434-334-145	NEW-P	99-05-034	474-10-040	NEW	99-03-004
388-502-0250	PREP	99-05-044	434-334-150	NEW-P	99-05-034	474-10-050	NEW	99-03-004
388-505-0540	PREP	99-05-044	434-334-155	NEW-P	99-05-034	474-10-060	NEW	99-03-004
388-505-0595	PREP	99-05-044	434-334-160	NEW-P	99-05-034	474-10-070	NEW	99-03-004
388-511-1130	PREP	99-05-044	434-334-165	NEW-P	99-05-034	474-10-080	NEW	99-03-004
388-526-2610	PREP	99-05-044	434-334-170	NEW-P	99-05-034	474-10-090	NEW	99-03-004
388-530-1800	PREP	99-05-044	434-334-175	NEW-P	99-05-034	474-10-100	NEW	99-03-004
388-530-2050	PREP	99-05-044	446-16-070	AMD-P	99-03-080	479-16-020	AMD-P	99-03-089
388-540-001	PREP	99-05-044	446-16-080	AMD-P	99-03-080	479-16-040	AMD-P	99-03-089
388-540-010	PREP	99-05-044	446-16-100	AMD-P	99-03-080	479-16-098	AMD-P	99-03-089
388-540-020	PREP	99-05-044	446-16-110	AMD-P	99-03-080	479-20-007	AMD-P	99-03-089
388-540-040	PREP	99-05-044	446-20-600	AMD-P	99-03-081	479-20-020	AMD-P	99-03-089
388-540-050	PREP	99-05-044	458-08	PREP	99-05-069	479-20-025	AMD-P	99-03-089
388-551-1000	NEW-P	99-05-073	458-12-040	PREP	99-05-069	479-20-037	AMD-P	99-03-089
388-551-1010	NEW-P	99-05-073	458-12-300	PREP	99-05-069	479-510-410	AMD-P	99-03-088
388-551-1200	NEW-P	99-05-073	458-12-301	PREP	99-05-069	479-510-420	AMD-P	99-03-088
388-551-1210	NEW-P	99-05-073	458-12-305	PREP	99-05-069	479-510-450	NEW-P	99-03-088
388-551-1300	NEW-P	99-05-073	458-12-315	REP-XR	99-04-017	479-510-460	NEW-P	99-03-088
388-551-1310	NEW-P	99-05-073	458-12-320	REP-XR	99-04-017	480-09-005	NEW	99-05-031
388-551-1315	NEW-P	99-05-073	458-12-326	PREP	99-05-069	480-09-010	AMD	99-05-031
388-551-1320	NEW-P	99-05-073	458-12-327	PREP	99-05-069	480-09-012	AMD	99-05-031
388-551-1330	NEW-P	99-05-073	458-12-330	PREP	99-05-069	480-09-100	AMD	99-05-031
388-551-1340	NEW-P	99-05-073	458-12-335	PREP	99-05-069	480-09-101	NEW	99-05-031
388-551-1350	NEW-P	99-05-073	458-12-336	PREP	99-05-069	480-09-115	AMD	99-05-031
388-551-1360	NEW-P	99-05-073	458-12-337	PREP	99-05-069	480-09-120	AMD	99-05-031
388-551-1400	NEW-P	99-05-073	458-12-338	PREP	99-05-069	480-09-125	AMD	99-05-031
388-551-1410	NEW-P	99-05-073	458-12-339	PREP	99-05-069	480-09-130	AMD	99-05-031
388-551-1500	NEW-P	99-05-073	458-16A-010	AMD	99-04-016	480-09-135	AMD	99-05-031
388-551-1510	NEW-P	99-05-073	458-20-131	AMD-P	99-05-017	480-09-140	AMD	99-05-031
388-551-1520	NEW-P	99-05-073	458-20-157	REP-XR	99-04-019	480-09-150	AMD	99-05-031
388-551-1530	NEW-P	99-05-073	458-20-167	AMD	99-03-005	480-09-200	AMD	99-05-031
391-08	PREP	99-04-013	458-20-206	REP-XR	99-04-019	480-09-210	AMD	99-05-031
391-55	PREP	99-04-013	458-20-216	AMD-P	99-04-014	480-09-220	AMD	99-05-031
391-65	PREP	99-04-013	458-20-222	AMD-P	99-04-015	480-09-230	AMD	99-05-031
399-30-032	NEW-P	99-05-062	458-20-225	REP-XR	99-04-019	480-09-340	AMD	99-05-031
399-30-033	NEW-P	99-05-062	458-20-226	AMD-XA	99-04-021	480-09-390	AMD	99-05-031
399-30-034	NEW-P	99-05-062	458-20-231	AMD	99-02-055	480-09-400	AMD	99-05-031
434-55-060	AMD-XA	99-05-038	458-20-238	AMD-XA	99-04-020	480-09-410	AMD	99-05-031
434-55-065	AMD-XA	99-05-038	458-20-261	NEW-P	99-04-022	480-09-420	AMD	99-05-031
434-130-090	AMD-XA	99-05-039	458-50-010	REP-XR	99-04-031	480-09-425	AMD	99-05-031
434-180-215	AMD	99-02-047	458-50-050	REP-XR	99-04-031	480-09-426	AMD	99-05-031
434-180-265	AMD	99-02-048	458-57-575	NEW	99-03-010	480-09-430	AMD	99-05-031
434-180-360	AMD	99-02-047	458-65-020	REP-XR	99-04-018	480-09-440	AMD	99-05-031
434-240-205	AMD-P	99-05-054	458-65-030	REP-XR	99-04-018	480-09-460	AMD	99-05-031
434-261-005	AMD-P	99-05-054	458-65-040	REP-XR	99-04-018	480-09-465	AMD	99-05-031
434-261-080	AMD-P	99-05-054	460-24A-110	NEW	99-03-050	480-09-466	AMD	99-05-031
434-324-105	REP-P	99-05-054	460-24A-145	NEW	99-03-052	480-09-467	AMD	99-05-031
434-334-055	AMD-P	99-05-034	460-24A-220	AMD	99-03-051	480-09-470	AMD	99-05-031
434-334-063	NEW-P	99-05-034	460-28A-015	AMD	99-03-053	480-09-475	AMD	99-05-031
434-334-065	AMD-P	99-05-034	468-06-040	AMD-XA	99-02-065	480-09-500	AMD	99-05-031
434-334-070	AMD-P	99-05-034	468-12	PREP	99-04-042	480-09-510	AMD	99-05-031
434-334-075	AMD-P	99-05-034	468-38-110	AMD-P	99-05-006	480-09-600	AMD	99-05-031

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-09-610	AMD	99-05-031	480-146-090	REP-P	99-03-073			
480-09-620	AMD	99-05-031	480-146-091	REP-P	99-03-073			
480-09-700	AMD	99-05-031	480-146-095	REP-P	99-03-073			
480-09-705	AMD	99-05-031	480-146-200	REP-P	99-03-073			
480-09-710	AMD	99-05-031	480-146-210	REP-P	99-03-073			
480-09-720	AMD	99-05-031	480-146-220	REP-P	99-03-073			
480-09-730	AMD	99-05-031	480-146-230	REP-P	99-03-073			
480-09-735	AMD	99-05-031	480-146-240	NEW-P	99-03-073			
480-09-736	AMD	99-05-031	480-146-250	NEW-P	99-03-073			
480-09-740	AMD	99-05-031	480-146-260	NEW-P	99-03-073			
480-09-745	AMD	99-05-031	480-146-270	NEW-P	99-03-073			
480-09-750	AMD	99-05-031	480-146-280	NEW-P	99-03-073			
480-09-751	AMD	99-05-031	480-146-290	NEW-P	99-03-073			
480-09-760	AMD	99-05-031	480-146-300	NEW-P	99-03-073			
480-09-770	AMD	99-05-031	480-146-310	NEW-P	99-03-073			
480-09-780	AMD	99-05-031	480-146-320	NEW-P	99-03-073			
480-09-800	AMD	99-05-031	480-146-330	NEW-P	99-03-073			
480-09-810	AMD	99-05-031	480-146-340	NEW-P	99-03-073			
480-09-815	AMD	99-05-031	480-146-350	NEW-P	99-03-073			
480-09-820	AMD	99-05-031	480-146-360	NEW-P	99-03-073			
480-09-830	REP	99-05-031	480-146-370	NEW-P	99-03-073			
480-92-011	AMD	99-05-016	480-146-380	NEW-P	99-03-073			
480-92-016	NEW	99-05-016	516-13-090	AMD-P	99-03-011			
480-92-021	AMD	99-05-016	516-13-090	AMD-E	99-03-012			
480-92-031	AMD	99-05-016	516-15-050	AMD-P	99-03-011			
480-92-041	NEW	99-05-016	516-15-050	AMD-E	99-03-012			
480-92-050	AMD	99-05-016						
480-92-060	AMD	99-05-016						
480-92-070	AMD	99-05-016						
480-92-080	AMD	99-05-016						
480-92-090	AMD	99-05-016						
480-92-100	AMD	99-05-016						
480-92-110	AMD	99-05-016						
480-120-144	NEW	99-05-015						
480-120-151	NEW	99-05-015						
480-120-152	NEW	99-05-015						
480-120-153	NEW	99-05-015						
480-120-154	NEW	99-05-015						
480-143-010	REP-P	99-03-074						
480-143-020	REP-P	99-03-074						
480-143-030	REP-P	99-03-074						
480-143-040	REP-P	99-03-074						
480-143-050	REP-P	99-03-074						
480-143-060	REP-P	99-03-074						
480-143-070	REP-P	99-03-074						
480-143-080	REP-P	99-03-074						
480-143-100	NEW-P	99-03-074						
480-143-110	NEW-P	99-03-074						
480-143-120	NEW-P	99-03-074						
480-143-130	NEW-P	99-03-074						
480-143-140	NEW-P	99-03-074						
480-143-150	NEW-P	99-03-074						
480-143-160	NEW-P	99-03-074						
480-143-170	NEW-P	99-03-074						
480-143-180	NEW-P	99-03-074						
480-143-190	NEW-P	99-03-074						
480-143-200	NEW-P	99-03-074						
480-143-210	NEW-P	99-03-074						
480-143-990	REP-P	99-03-074						
480-146-010	REP-P	99-03-073						
480-146-020	REP-P	99-03-073						
480-146-030	REP-P	99-03-073						
480-146-040	REP-P	99-03-073						
480-146-050	REP-P	99-03-073						
480-146-060	REP-P	99-03-073						
480-146-070	REP-P	99-03-073						
480-146-080	REP-P	99-03-073						

TABLE

Subject/Agency Index

(Citation in bold type refer to material in this issue)

ACCOUNTANCY, BOARD OF

Certificates and licenses
 continuing education **PREP 99-05-027**
 foreign reciprocity **PREP 99-05-027**
 renewal and fee cycle revised **PREP 99-05-025**
 PREP 99-05-026
 Confidential information **PERM 99-02-008**
 Fees **PERM 99-02-009**
 Hearings **PERM 99-02-008**
 Meetings **PREP 99-01-005**
 MISC 99-02-007

AGRICULTURE, DEPARTMENT OF

Alfalfa seed commission
 meetings **MISC 99-01-037**
 Animal health
 brucellosis vaccine **PROP 99-03-084**
 PROP 99-03-087
 PROP 99-03-084
 PROP 99-03-086
 importation
 scrapie control
 Asparagus commission
 meetings **MISC 99-01-109**
 Barley commission
 meetings **MISC 99-02-010**
 Beef commission
 meetings **MISC 99-02-042**
 Blueberry commission
 meetings **MISC 99-04-009**
 Bulb commission
 meetings **MISC 99-01-017**
 Cranberry commission
 meetings **MISC 99-04-010**
 Eggs and egg products **PREP 99-03-045**
 Farmed salmon commission
 meetings **MISC 99-05-008**
 Fertilizers
 application rates for commercial fertilizers **PROP 99-01-048**
 PERM 99-02-035
 PROP 99-04-093
 PROP 99-01-048
 PERM 99-02-035
 metals analysis methods
 Field pea and chick pea
 standards **PREP 99-04-096**
 Food safety
 pull date labeling **PREP 99-04-067**
 Fruits and vegetables
 apple standards **PREP 99-03-108**
 apricot standards amended **PREP 99-04-094**
 grapevines
 registration and certification **PREP 99-03-094**
 inspections **PREP 99-03-108**
 Fryer commission
 meetings **MISC 99-01-123**
 Hop commission
 meetings **MISC 99-02-006**
 membership qualifications **PROP 99-02-063**
 Hops
 bales and tares **PROP 99-02-066**
 Livestock
 identification program **PERM 99-04-069**
 Milk and milk products **PREP 99-04-066**
 Mint
 rootstock certification **PREP 99-03-093**
 Mint commission
 meetings **MISC 99-01-036**
 Noxious weed control board
 meetings **MISC 99-04-035**
 Nurseries
 inspection fees **PREP 99-03-095**
 Pesticides
 ethylene dibromide (EDB) tolerances **EXRE 99-04-007**
 heptachlor treated grain seed **EXRE 99-04-006**
 protection of pollinating insects **PREP 99-02-021**
 Plant pests
 detection, testing and inspection fees **PREP 99-03-096**
 grape phylloxera **PREP 99-03-090**
 Potato commission
 meetings **MISC 99-02-013**
 Poultry
 importation **PROP 99-03-085**
 Quarantine
 apple maggot **PREP 99-03-092**

grape virus **PREP 99-03-091**
 Red raspberry commission
 grades and packs, standards **PREP 99-01-180**
 meetings **MISC 99-01-176**
 Rules agenda **MISC 99-04-107**
 Seeds
 certification fees **PREP 99-04-095**
 PREP 99-04-096
 Strawberry commission
 meetings **MISC 99-01-072**
 Technical assistance
 lists of organizations **PROP 99-05-022**
 Turfgrass seed commission
 creation **PERM 99-02-064**
 Weights and measures
 national standards adopted **PROP 99-04-111**
 Wine commission
 assessments
 rates increased **PREP 99-02-062**
 meetings **MISC 99-01-046**
 MISC 99-01-074

AIR POLLUTION

(See **ECOLOGY, DEPARTMENT OF**; individual air pollution control authorities)

ARCHITECTS

(See **LICENSING, DEPARTMENT OF**)

ASIAN PACIFIC AMERICAN AFFAIRS, COMMISSION ON

Meetings **MISC 99-01-018**

ATTORNEY GENERAL'S OFFICE

Notice of request for opinion **MISC 99-01-152**
 MISC 99-02-003
 Opinions
 county clerk's authority to share case
 information with judicial information system
 (1998, No. 13) **MISC 99-01-105**
 county meetings, authority to ban video or sound
 recordings (1998, No. 15) **MISC 99-01-107**
 public utility districts, authority (1998, No. 14) **MISC 99-01-106**

BASIC HEALTH PLAN

(See **HEALTH CARE AUTHORITY**)

BELLEVUE COMMUNITY COLLEGE

Meetings **MISC 99-01-042**
 Public records, access **PROP 99-05-018**

BELLINGHAM TECHNICAL COLLEGE

Meetings **MISC 99-01-002**
 MISC 99-01-108
 MISC 99-02-068
 MISC 99-05-007

BLIND, DEPARTMENT OF SERVICES FOR THE

Client services, eligibility **PROP 99-01-022**
 PERM 99-05-005

BOILER RULES, BOARD OF

(See **LABOR AND INDUSTRIES, DEPARTMENT OF**)

BUILDING CODE COUNCIL

Building code **EMER 99-05-030**
 allowable shear tables

CAPITOL CAMPUS

(See **GENERAL ADMINISTRATION, DEPARTMENT OF**)

CASCADIA COMMUNITY COLLEGE

Meetings **MISC 99-01-047**
 MISC 99-03-071

CENTRALIA COLLEGE

Meetings **MISC 99-01-071**

CHILD SUPPORT

(See **SOCIAL AND HEALTH SERVICES, DEPARTMENT OF**)

CHILDREN'S SERVICES

(See **SOCIAL AND HEALTH SERVICES, DEPARTMENT OF**)

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

CLARK COLLEGE			commercial low level disposal-site use permit	MISC	99-04-034
Meetings	MISC	99-01-128	low level disposal	MISC	99-04-034
CLARKSTON, PORT OF			Rules agenda	MISC	99-04-047
Meetings	MISC	99-01-081	Vessels		
CODE REVISER'S OFFICE			inspection standards	MISC	99-04-115
Quarterly reports			Water		
98-19 - 98-24 See issue 99-02			surface water quality standards	PREP	99-05-060
COLLEGES AND UNIVERSITIES			wastewater discharge		
(See HIGHER EDUCATION COORDINATING BOARD ; names			fresh fruit packing industry NPDES permit	MISC	99-04-063
of individual institutions)			Water rights		
COLUMBIA BASIN COLLEGE			changes or transfers	MISC	99-04-032
Meetings	MISC	99-01-056	exempt ground water withdrawals	MISC	99-04-033
COLUMBIA RIVER GORGE COMMISSION			Wetland mitigation banks	PREP	99-03-097
Urban area boundary revisions and proposed plan			ECONOMIC DEVELOPMENT FINANCE AUTHORITY		
amendments	PROP	99-05-057	Meetings	MISC	99-01-041
COMBINED FUND DRIVE			EDMONDS COMMUNITY COLLEGE		
(See PERSONNEL, DEPARTMENT OF)			Meetings	MISC	99-01-009
COMMODITY COMMISSIONS				MISC	99-02-043
(See AGRICULTURE, DEPARTMENT OF)				MISC	99-02-051
COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT,				MISC	99-03-015
DEPARTMENT OF				MISC	99-04-064
Building permit fee	PERM	99-01-089	EDUCATION, STATE BOARD OF		
Community economic revitalization board			Appeal procedures	PERM	99-01-172
meetings	MISC	99-04-041	Certification		
Historic registers			compliance and requirements	PREP	99-04-087
application process	PROP	99-03-098	endorsements		
Long-term care ombudsman program	PROP	99-04-072	biology, chemistry, earth science, physics,		
Public works board			mathematics	PROP	99-04-110
financial assistance, standards	PROP	99-05-062	technology	PREP	99-04-109
meetings	MISC	99-01-091	standards	PERM	99-01-174
COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD			Construction documents		
FOR			compliance with public works provisions	PREP	99-04-086
Exceptional faculty awards trust fund	PREP	99-04-029	Continuing education requirements	EMER	99-05-002
Meetings	MISC	99-01-045	Early childhood special education		
	MISC	99-04-098	subject area endorsement	PROP	99-01-171
CONVENTION AND TRADE CENTER			Educational service districts		
Meetings	MISC	99-01-044	criteria for organization	PREP	99-04-083
	MISC	99-03-019	Elementary and secondary standards	PREP	99-04-089
COUNTY ROAD ADMINISTRATION BOARD			Emergency exit drills	PREP	99-04-090
Meetings	MISC	99-01-006	Equivalency credit	PREP	99-04-091
	MISC	99-04-040	Funding of schools		
Practice and procedure	PERM	99-01-020	state support	PERM	99-04-008
	PERM	99-01-021		PROP	99-04-080
Rules coordinator	MISC	99-01-019	Health services	PREP	99-04-089
Rural arterial program	MISC	99-01-021	High schools		
CRIME VICTIMS COMPENSATION			adult completion course work credit defined	PROP	99-04-081
(See LABOR AND INDUSTRIES, DEPARTMENT OF)			graduation requirements		
CRIMINAL JUSTICE TRAINING COMMISSION			waiver option	PROP	99-04-082
Meetings	MISC	99-03-013	Marketing education	PERM	99-01-173
EASTERN WASHINGTON UNIVERSITY			Minimum length of school year	PREP	99-04-088
Meetings	MISC	99-03-035	Physical education	PREP	99-04-085
	MISC	99-03-072	Practice and procedure	PROP	99-04-079
	MISC	99-04-023	School plant facilities		
Rules coordinator	MISC	99-01-125	state assistance	PROP	99-03-026
ECOLOGY, DEPARTMENT OF			School staff assignments	PREP	99-03-001
Air pollution			Specialized services	PREP	99-04-092
hospital, medical and infectious waste incinerators	MISC	99-02-056	Students rights	PREP	99-04-084
national emission and performance for new			Transportation		
sources standards			state assistance	PROP	99-01-157
federal compliance	EXAD	99-04-097	Vocational-technical teacher education programs	PREP	99-04-046
Forest practices to protect water quality	PROP	99-02-016	ELECTIONS		
Marine safety -			(See SECRETARY OF STATE)		
State Environmental Policy Act (SEPA)			EMPLOYMENT SECURITY DEPARTMENT		
compliance	EXRE	99-01-087	Academic year	EMER	99-05-003
Municipal stormwater general permits	MISC	99-03-078	Educational employees	EMER	99-05-003
	MISC	99-03-079	Employers		
Radioactive waste			predecessor and successor employers	PROP	99-05-068
			Reasonable assurance	EMER	99-05-003
			Rules agenda	MISC	99-04-061
			Unemployment benefits		
			application process	PROP	99-01-161
			voluntary quit	PREP	99-01-160
			ENGINEERS		
			(See LICENSING, DEPARTMENT OF)		

Subject/Agency Index

(Citation in bold type refer to material in this issue)

FERTILIZERS

(See AGRICULTURE, DEPARTMENT OF)

FINANCIAL INSTITUTIONS, DEPARTMENT OF

Banks, division of
 fees increased PREP 99-02-033
 EMER 99-02-034
 EXRE 99-04-073

Consumer finance act

Credit unions
 member business loans PERM 99-03-009

Meetings MISC 99-04-099

Rules agenda MISC 99-04-011

Securities division
 advertising and promotional material PERM 99-03-053
 dishonest or unethical business practices EXAD 99-01-155
 investment advisers

agency cross transactions PERM 99-03-050
 disclosures PERM 99-03-052
 guidelines MISC 99-04-039
 unethical practices PERM 99-03-051

Trust companies
 investments PERM 99-01-119

FINANCIAL MANAGEMENT, OFFICE OF

Meetings MISC 99-03-034

FISH AND WILDLIFE, DEPARTMENT OF

Aquaculture
 food fish/game fish lines PREP 99-03-107

Fish and wildlife commission
 meetings MISC 99-02-046

Fishing, commercial
 bottomfish
 coastal EMER 99-02-017
 crab fishery
 areas and seasons EMER 99-01-102
 EMER 99-02-004
 EMER 99-03-008

otter trawl logbook

salmon
 Columbia River above Bonneville EMER 99-04-059
 Columbia River below Bonneville EMER 99-01-146
 EMER 99-05-055

sea urchins
 areas and seasons EMER 99-01-010
 EMER 99-01-079
 EMER 99-01-101
 EMER 99-01-153
 EMER 99-02-027
 EMER 99-03-054

shrimp fishery
 coastal waters PERM 99-01-154
 EMER 99-04-053

smelt
 areas and seasons PERM 99-02-001

sturgeon
 areas and seasons EMER 99-01-146
 EMER 99-02-026

Fishing, personal use
 licenses PERM 99-02-040
 PERM 99-03-029
 PREP 99-03-106

salmon
 annual fishing rules PREP 99-05-037
 Puget Sound EMER 99-05-061

shellfish
 native clams EMER 99-02-002

smelt EMER 99-02-025

steelhead
 areas and seasons EMER 99-04-060

Hunting
 bear PREP 99-01-136
 PROP 99-05-063

big game auction permits and raffles PERM 99-01-144

bighorn sheep PREP 99-01-136
 PROP 99-05-063

cougar PREP 99-01-136
 PROP 99-05-063

deer PREP 99-01-136
 PROP 99-05-063

disabled hunters
 crossbow and cocking device PROP 99-05-064

elk PREP 99-01-136

game management units (GMUs)

goose

hunting hours and small game permit hunts

moose

mountain goat

private lands wildlife management areas

restricted and closed areas

Prospecting

gold and fish pamphlet

small scale prospecting and mining

Rules agenda

Volunteer cooperative projects

Wildlife

deleterious exotic wildlife

designation and control

endangered, threatened, or sensitive species

FOOD ASSISTANCE PROGRAM

(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)

FOREST PRACTICES BOARD

(See also ECOLOGY, DEPARTMENT OF)

Meetings

Rules agenda

Water quality

GAMBLING COMMISSION

Bingo

charitable and nonprofit licenses

net return

promotions

GENERAL ADMINISTRATION, DEPARTMENT OF

Capitol campus design advisory committee

meetings

Capitol facilities division

meetings

Federal surplus property

State capitol committee

meetings

GOVERNOR, OFFICE OF THE

Clemency and pardons board

meetings

Counties, state of emergency

Ecology, department of

notice of appeal

Executive orders

Council of economic advisors

Executive orders, rescission

GRAYS HARBOR COLLEGE

Meetings

GREEN RIVER COMMUNITY COLLEGE

Meetings

PROP 99-05-063

PREP 99-01-136

PROP 99-05-063

PERM 99-01-138

PERM 99-01-145

PREP 99-01-136

PROP 99-05-063

EXRE 99-01-054

PERM 99-05-024

PERM 99-01-088

EXAD 99-05-023

MISC 99-02-018

PREP 99-01-032

PROP 99-05-075

PROP 99-05-076

PROP 99-01-055

PREP 99-01-137

MISC 99-01-083

MISC 99-01-082

PROP 99-01-070

PERM 99-03-103

PREP 99-03-099

PREP 99-03-100

PREP 99-03-101

PREP 99-03-102

PREP 99-04-005

MISC 99-01-026

MISC 99-01-118

MISC 99-05-020

MISC 99-04-030

EXRE 99-01-151

MISC 99-05-067

MISC 99-04-065

MISC 99-03-028

MISC 99-04-068

MISC 99-05-001

MISC 99-04-027

MISC 99-01-103

MISC 99-01-043

MISC 99-01-124

MISC 99-02-005

Subject/Agency Index

(Citation in bold type refer to material in this issue)

GROWTH MANAGEMENT HEARINGS BOARDS

Meetings
 MISC 99-02-050
 MISC 99-04-045

HEALTH, DEPARTMENT OF

Antitrust immunity and competitive oversight transfer
 PROP 99-04-049
 Antitrust review fees
 PREP 99-04-050
 Boarding homes
 civil fines
 PROP 99-04-048
 Children with special health care needs program
 PERM 99-01-100
 PERM 99-03-043
 Chiropractic quality assurance commission
 standards and licenses
 PREP 99-03-061
 Community environmental health
 on-site sewage systems
 MISC 99-03-059
 Facility standards and licensing
 certificate of need
 fees
 PREP 99-05-011
 Fees
 decreased for certain professions
 PROP 99-02-057
 Health professions quality assurance division
 discipline
 MISC 99-03-055
 intranet and internet use
 MISC 99-03-056
 review of proposed statements procedures
 MISC 99-03-057
 Hearing and speech, board of
 audiology and speech-language pathology
 education requirements
 PROP 99-01-097
 hearing instrument purchase agreements
 PROP 99-01-096
 Hospitals
 acute care hospital
 standards
 PERM 99-04-052
 Local public health
 guidelines
 PERM 99-03-062
 rules review
 PERM 99-03-063
 LPN
 education supervision
 MISC 99-02-060
 standing orders and protocols
 MISC 99-02-060
 surgical technologist
 MISC 99-02-059
 Medical quality assurance commission
 standing orders and protocols
 MISC 99-02-061
 Midwives
 examinations
 PERM 99-03-064
 Nursing care quality assurance commission
 home health aids
 simple trach care
 MISC 99-02-058
 impaired practical nurse program, license
 surcharge
 PERM 99-01-099
 licenses
 qualifications
 EXRE 99-01-092
 EXAD 99-01-098
 MISC 99-05-010
 occlusive dressings
 PREP 99-03-066
 retired/active status
 PERM 99-04-051
 sexual misconduct
 MISC 99-05-009
 vagal nerve stimulator magnet
 MISC 99-03-058
 voluntary monitoring
 Nursing home administrators, board of
 complaints and hearing procedures
 PERM 99-03-067
 program manager
 PERM 99-03-069
 suitability and character
 PERM 99-03-068
 Orthotist and prosthetists
 examinations of candidates
 PROP 99-03-083
 Osteopathic medicine and surgery
 standing orders and protocols
 MISC 99-02-061
 Pharmacy, board of
 standing orders and protocols
 MISC 99-02-061
 Podiatric medical board
 clinical rotation
 MISC 99-03-060
 Radiation protection
 dosimetry reporting
 PROP 99-01-094
 PERM 99-05-013
 PROP 99-01-095
 PERM 99-05-012
 industrial radiography equipment
 Sex offender treatment provider program
 certification
 EXRE 99-01-093
 Temporary worker housing
 building codes
 PERM 99-03-065
 cherry harvest
 PREP 99-03-082
 Veterinary, board of governors
 disciplinary reinstatement
 MISC 99-02-080

HEALTH CARE AUTHORITY

Basic health plan
 under-reported inform
 PREP 99-05-077

HEALTH CARE AUTHORITY

Meetings
 MISC 99-03-018

HEARING AND SPEECH, BOARD OF

(See HEALTH, DEPARTMENT OF)

HIGHER EDUCATION COORDINATING BOARD

Administrative requirements
 EXAD 99-01-039
 Exemptions from authorization
 EXAD 99-01-040
 Meetings
 MISC 99-01-116

HIGHLINE COMMUNITY COLLEGE

Meetings
 MISC 99-01-110

HISPANIC AFFAIRS, COMMISSION ON

Meetings
 MISC 99-04-001

HORSE RACING COMMISSION

Horses
 identification
 PERM 99-05-048
 Parimutuel rules
 PROP 99-02-081
 Race
 PERM 99-05-047
 Satellite locations
 PREP 99-03-014
 Weights and equipment
 PROP 99-02-082
 PERM 99-05-049

HUMAN RIGHTS COMMISSION

Disability discrimination
 PROP 99-04-108
 Meetings
 MISC 99-01-129

HUNTING

(See FISH AND WILDLIFE, DEPARTMENT OF)

INDUSTRIAL INSURANCE APPEALS, BOARD OF

Rules coordinator
 MISC 99-04-043

INFORMATION SERVICES, DEPARTMENT OF

Meetings
 MISC 99-03-024

INSURANCE COMMISSIONER'S OFFICE

Address
 MISC 99-03-036
 Fraternal benefit societies
 risk-based surplus
 PERM 99-01-142
 Health care services insurance
 mental health benefits
 PROP 99-03-007
 PROP 99-03-037
 PROP 99-03-006
 PROP 99-03-038
 pharmacy benefits

INTEREST RATES

(See inside front cover)

INVESTMENT BOARD, STATE

Meetings
 MISC 99-01-141

JAIL INDUSTRIES BOARD

Meetings
 MISC 99-03-022
 Rules agenda
 MISC 99-03-021

LABOR AND INDUSTRIES, DEPARTMENT OF

Accident prevention programs
 EXAD 99-01-147
 Boiler rules, board of
 clear rule writing
 PROP 99-05-021
 fees
 PROP 99-04-036
 Crime victims compensation
 rules review
 PROP 99-01-179
 Electronic signatures
 PREP 99-02-083
 Factory assembled structures
 PREP 99-05-078
 Industrial Safety and Health Act (WISHA)
 abatement verification
 PERM 99-02-019
 Occupational health standards
 review of standards
 PREP 99-04-057
 Plumbers
 fees
 EXAD 99-03-109
 Policy and interpretive statements
 MISC 99-01-024
 Rules agenda
 MISC 99-04-116

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Safety and health standards					
longshore, stevedore, and related waterfront operations	PERM	99-02-023			
policy and interpretive statements	MISC	99-02-069			
review of standards	PREP	99-04-057			
Safety standards					
electrical equipment	PERM	99-05-052			
electrical workers	EXAD	99-04-078			
fire fighters	PERM	99-05-080			
longshore and marine terminals	PERM	99-02-024			
mines, pits, and quarries	PERM	99-01-023			
minors					
nonagricultural employment	PERM	99-02-041			
review of standards	PREP	99-04-057			
State funded nursing homes					
zero-lift environment discount	EMER	99-04-106			
Temporary worker building code					
factory built structures	PREP	99-01-178			
Workers' compensation					
accident fund					
dividend distribution	EMER	99-02-022			
health care reimbursement rates	PREP	99-01-177			
	PROP	99-05-079			
retrospective rating	PREP	99-05-051			
LAKE WASHINGTON TECHNICAL COLLEGE					
Meetings	MISC	99-01-004			
LAND SURVEYORS					
(See LICENSING, DEPARTMENT OF)					
LICENSING, DEPARTMENT OF					
Architects, board of registration for					
licenses					
renewal	PREP	99-01-001			
	PROP	99-05-050			
Engineers and land surveyors, board of registration for professional					
branch offices	PREP	99-02-075			
corporations and limited liability companies	PREP	99-02-074			
documents	PREP	99-02-079			
fees and charges	PREP	99-02-070			
meetings and officers	PREP	99-02-072			
	MISC	99-03-017			
offer to practice	PREP	99-02-076			
renewals	PREP	99-02-073			
seals	PREP	99-02-077			
seals/stamp usage	PREP	99-02-078			
temporary permits	PREP	99-02-071			
Model traffic ordinance	PROP	99-01-143			
	PERM	99-04-070			
Motor vehicles					
certificate of title	PERM	99-01-014			
	PROP	99-01-140			
	PERM	99-02-049			
	PROP	99-04-037			
	PROP	99-04-038			
dealers and manufacturers					
rules review	PROP	99-05-059			
drivers' licenses					
extension	PROP	99-02-052			
	PERM	99-05-032			
licenses	PERM	99-01-133			
	PROP	99-01-139			
	PREP	99-03-003			
	PERM	99-01-104			
Practice and procedure					
Public records disclosure					
copying fees	EXAD	99-05-004			
Real estate appraisers					
fees	PERM	99-04-075			
uniform standards of practice	PROP	99-01-158			
	PERM	99-04-074			
Real estate commission					
brokers and salesmen					
rules review	PERM	99-03-042			
Rules agenda	MISC	99-03-027			
Vessels					
registration and certificate of title	PERM	99-01-134			
	PROP	99-02-012			
	PERM	99-03-002			
LIQUOR CONTROL BOARD					
Added activities on licensed premises	PREP	99-04-113			
Alcoholic beverages brought into state for personal use	PROP	99-05-014			
Credit card or debit card use	PERM	99-04-114			
Electronic funds transfer	PREP	99-04-002			
Licenses					
penalty guidelines	PERM	99-03-032			
	PERM	99-03-033			
Malt beverages					
tax reporting and filing	PREP	99-04-112			
Tobacco products					
sale or handling by employees under age eighteen	PERM	99-03-031			
LOTTERY COMMISSION					
Lotto					
drawing dates	PROP	99-04-012			
	PROP	99-05-036			
On-line games					
ticket sales	PERM	99-04-077			
Quinto					
drawing dates	PROP	99-04-012			
Retailer compensation	PERM	99-04-003			
Retailer licensing	PERM	99-01-038			
	PREP	99-04-076			
LOWER COLUMBIA COLLEGE					
Rules coordinator	MISC	99-01-007			
MARINE SAFETY					
(See ECOLOGY, DEPARTMENT OF)					
MEDICAL CARE					
(See HEALTH, DEPARTMENT OF)					
MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF					
Annual goals	PREP	99-05-082			
Political subdivision fees	PREP	99-05-083			
MODEL TRAFFIC ORDINANCE					
(See LICENSING, DEPARTMENT OF)					
MOTOR VEHICLES					
(See LICENSING, DEPARTMENT OF; TRANSPORTATION, DEPARTMENT OF; WASHINGTON STATE PATROL; UTILITIES AND TRANSPORTATION COMMISSION)					
NATURAL RESOURCES, DEPARTMENT OF					
Meetings	MISC	99-02-028			
NURSING CARE					
(See HEALTH, DEPARTMENT OF)					
OLYMPIC COLLEGE					
Meetings	MISC	99-01-025			
	MISC	99-04-044			
OSTEOPATHY					
(See HEALTH, DEPARTMENT OF)					
OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR					
Meetings	MISC	99-03-047			
	MISC	99-03-048			
Off-road vehicle funds	EXAD	99-01-148			
PARKS AND RECREATION COMMISSION					
Marine facilities					
moorage and use	PROP	99-01-120			
	PERM	99-04-117			
Meetings	MISC	99-01-135			
Public use of park areas	PROP	99-04-118			
PERSONNEL, DEPARTMENT OF					
Affirmative action					
governor's affirmative action policy committee					
meetings	MISC	99-01-085			
Initiative 200 compliance	EMER	99-01-050			
	EMER	99-01-051			
	PROP	99-02-053			
	PROP	99-02-054			

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Certifications	PERM 99-05-042	refunds, rate of interest	PERM 99-01-066
actions required	PERM 99-05-043	reevaluation	PREP 99-05-069
Combined fund drive	PERM 99-03-044	timber and forest products	EXRE 99-04-017
Housekeeping changes and rules clarification	PREP 99-05-081	Rules agenda	MISC 99-01-175
Meetings	PROP 99-05-058	Sales tax	
Probationary period	MISC 99-01-049	games of chance	PROP 99-05-017
	PERM 99-01-052	watercraft to nonresidents	EXAD 99-04-020
PERSONNEL RESOURCES BOARD		Timber excise tax	
(See PERSONNEL, DEPARTMENT OF)		stumpage values	PERM 99-02-032
PESTICIDES		Use tax	
(See AGRICULTURE, DEPARTMENT OF)		advertising materials printed outside state	PREP 99-01-090
		fuel oil, oil products, other extracted products	EXRE 99-04-019
		watercraft to nonresidents	EXAD 99-04-020
PIERCE COLLEGE		RULES COORDINATORS	
Meetings	MISC 99-01-122	(See Issue 99-01 for a complete list of rules	
Student rights and responsibilities/code of conduct	PREP 99-04-028	coordinators designated as of 12/24/98)	
PILOTAGE COMMISSIONERS, BOARD OF		County road administration board	MISC 99-01-019
New pilots, limitations	PROP 99-01-117	Eastern Washington University	MISC 99-01-125
PROPERTY TAX		Industrial insurance appeals, board of	MISC 99-04-043
(See REVENUE, DEPARTMENT OF)		Insurance commissioner, office of	MISC 99-03-036
PROSPECTING		Lower Columbia College	MISC 99-01-007
(See FISH AND WILDLIFE, DEPARTMENT OF)		Veterans affairs, department of	MISC 99-01-130
PUBLIC ASSISTANCE		Washington state library	MISC 99-05-019
(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)		Western Washington University	MISC 99-02-067
PUBLIC DISCLOSURE COMMISSION		SAFETY STANDARDS	
Rules agenda	MISC 99-01-150	(See LABOR AND INDUSTRIES, DEPARTMENT OF)	
PUBLIC EMPLOYMENT RELATIONS COMMISSION		SALES TAX	
Interest arbitration and grievance rules	PREP 99-04-013	(See REVENUE, DEPARTMENT OF)	
Meetings	MISC 99-02-011	SCHOOLS	
Rules agenda	MISC 99-01-086	(See EDUCATION, STATE BOARD OF)	
PUBLIC WORKS BOARD		SEATTLE COMMUNITY COLLEGES	
(See COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)		Meetings	MISC 99-01-061
PUGET SOUND AIR POLLUTION CONTROL AGENCY		SECRETARY OF STATE	
Dust control	PROP 99-04-104	Elections	
Meetings	MISC 99-01-003	ballots	PREP 99-01-064
Odor control	PROP 99-04-104	county procedures, review	PROP 99-05-033
Outdoor burning		inactive voters, cancellation notice	PREP 99-01-065
military training	PROP 99-04-104	logic and accuracy tests	PROP 99-05-054
Source review requirements	PROP 99-04-105	officials, certification	PREP 99-01-064
RADIATION PROTECTION		Electronic Authentication Act	PROP 99-05-053
(See HEALTH, DEPARTMENT OF)		implementation	PREP 99-01-065
REAL ESTATE APPRAISERS		Limited liability companies	PERM 99-02-047
(See LICENSING, DEPARTMENT OF)		fees	PERM 99-02-048
RETIREMENT SYSTEMS, DEPARTMENT OF		Limited partnerships	EXAD 99-05-039
Meetings	MISC 99-02-029	fees	EXAD 99-05-038
REVENUE, DEPARTMENT OF		SECURITIES	
Abandoned property	EXRE 99-04-018	(See FINANCIAL INSTITUTIONS, DEPARTMENT OF)	
Business and occupation tax		SEX OFFENDER TREATMENT PROVIDER PROGRAM	
successor to person quitting business	PROP 99-04-014	(See HEALTH, DEPARTMENT OF)	
veterinarians	PROP 99-04-015	SHORELINE COMMUNITY COLLEGE	
Estate taxes		Meetings	MISC 99-01-126
waiver or cancellation of penalty	PERM 99-03-010	SKAGIT VALLEY COLLEGE	
Excise tax		Meetings	MISC 99-02-044
educational institutions	PERM 99-03-005	SOCIAL AND HEALTH SERVICES, DEPARTMENT OF	
fuel oil, oil products, other extracted products	EXRE 99-04-019	Aging and adult services administration	
internal distribution tax	PERM 99-02-055	adult family homes	
landscape and horticultural services	EXAD 99-04-021	secure environments	PREP 99-03-105
pattern makers	EXRE 99-04-019	in-home care providers	
poultry and hatching egg producers	EXRE 99-04-019	contract qualifications	PERM 99-03-041
ride sharing exemptions and credits	PROP 99-04-022	private duty nursing services	PREP 99-01-165
Intercounty utilities and transportation companies	EXRE 99-04-031	Child protective services	
Property tax		investigations, notification and appeal process	PREP 99-01-164
agricultural land valuation	PERM 99-01-067	Child support, division of	
forest land valuation	PERM 99-02-030	"most wanted" internet site	PERM 99-01-057
homes for aging	EMER 99-02-031	noncompliance penalties	MISC 99-03-039
inflation rate	PERM 99-01-068	stepparent liability	MISC 99-01-030
nonprofit homes for the aging	PERM 99-04-016		MISC 99-01-031

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Children's administration		Judicial information system committee		
child care payment rate	PREP 99-05-070	membership	MISC	99-01-016
foster homes		Motions, determination	MISC	99-01-015
payment rates	PREP 99-01-114	TACOMA COMMUNITY COLLEGE		
safety requirements	PERM 99-01-059	Meetings	MISC	99-01-008
Indian child welfare	PREP 99-01-166	TAX APPEALS, BOARD OF		
Developmental disabilities, division of		Meetings	MISC	99-01-060
family support opportunity		TAXATION		
pilot program	PERM 99-04-071	(See REVENUE, DEPARTMENT OF)		
Economic services administration		THE EVERGREEN STATE COLLEGE		
cash assistance eligibility reviews	PREP 99-04-054	Disciplinary records of student	PREP	99-05-056
eligibility	PROP 99-02-014	Shoplifting policy	PREP	99-05-065
emergency assistance	PREP 99-01-113	TOXICOLOGIST, STATE		
general assistance-unemployable	PREP 99-04-055	Breath alcohol screening test		
need standards	PROP 99-01-029	administration	PROP	99-01-011
payment of grants	PERM 99-04-056		PROP	99-01-012
resource	PERM 99-02-039	TRAFFIC SAFETY COMMISSION		
SSI program	PREP 99-03-040	Meetings	MISC	99-01-035
standards of assistance	PROP 99-01-027	TRANSPORTATION, DEPARTMENT OF		
	EMER 99-01-028	Central and field organization		
	PERM 99-04-103	chain of command	EXAD	99-02-065
SSI supplemental security income		City/county project coordination	PERM	99-01-121
payment standard	PREP 99-05-045	Escort vehicle requirements	EXRE	99-04-058
Food assistance program		Ferries		
eligibility	PROP 99-01-111	contractor prequalification	PERM	99-03-025
	EMER 99-01-112	fare schedule	PROP	99-05-035
	PERM 99-05-074	Oversize and overweight permits		
noncitizens, eligibility	PERM 99-01-058	escort vehicles	PREP	99-01-013
utility allowances	PERM 99-01-069	Rules agenda	PROP	99-05-006
	EMER 99-05-046	State environmental policy act	MISC	99-01-053
General assistance		review and update	PREP	99-04-042
pregnant woman	PROP 99-04-102	TRANSPORTATION IMPROVEMENT BOARD		
Juvenile rehabilitation administration		Meetings	MISC	99-03-023
parole revocation	PERM 99-03-077	Rules update	PROP	99-03-089
Management services administration		Transportation Equity Act, implementation	PROP	99-03-088
declaratory orders	PROP 99-03-076	TREASURER, OFFICE OF THE STATE		
Medical assistance administration		Securities		
clear writing principles	PREP 99-05-044	collateral for payment	PERM	99-03-004
community spouse needs and family needs		TRUST COMPANIES		
allowances	EMER 99-01-168	(See FINANCIAL INSTITUTIONS, DEPARTMENT OF)		
dental services	PROP 99-01-169	UNEMPLOYMENT COMPENSATION		
eligibility	PROP 99-02-015	(See EMPLOYMENT SECURITY DEPARTMENT)		
hospital services	PROP 99-01-170	UNIVERSITY OF WASHINGTON		
	PROP 99-05-073	Meetings	MISC	99-01-080
infusion, parenteral, and enteral therapies	PREP 99-03-104		MISC	99-04-062
managed care	PREP 99-01-167	Rules agenda	MISC	99-03-016
medically needy, eligibility	PREP 99-01-162	Student records disclosure	PREP	99-01-075
	EMER 99-01-163	Thomas Burke Museum	EXRE	99-01-131
	PREP 99-01-163	USURY RATES		
occupational therapy	PREP 99-03-075	(See inside front cover)		
prescription drug program billing instruction	MISC 99-04-025	UTILITIES AND TRANSPORTATION COMMISSION		
Rules agenda	MISC 99-04-026	Low-level radioactive waste disposal rates	PERM	99-05-016
Temporary assistance for needy families (TANF)		Motor carriers		
community jobs wage subsidy program	EMER 99-02-038	household goods	PERM	99-01-077
five year limit	PROP 99-04-102	Pipeline safety	PERM	99-02-036
WorkFirst		Practice and procedure	PERM	99-02-037
participation requirements	PROP 99-01-115	Property transfers	PERM	99-05-031
	PROP 99-05-071	Securities, liens, affiliated interests,	PROP	99-03-074
	PROP 99-05-072	refunding of notes, and leases		
SOUTH PUGET SOUND COMMUNITY COLLEGE		Telecommunications		
Meetings	MISC 99-01-073	customer proprietary network information	PERM	99-05-015
SPOKANE, COMMUNITY COLLEGES OF		Telephones		
Appointing authority, delegation	PROP 99-01-132	pay phone and operator services providers, level		
	PROP 99-05-040	of service	PREP	99-02-020
Meetings	MISC 99-04-024	subscriber rates, calling areas	PERM	99-01-076
SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY				
Burning restrictions	PROP 99-01-063			
	PERM 99-03-046			
Roads, particulate matter control	PERM 99-03-030			
SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE				
Meetings	MISC 99-03-020			
SUPREME COURT, STATE				
Attorney fees and expenses	MISC 99-01-015			
Capital cases, filing of briefs	MISC 99-05-029			
House counsel	MISC 99-05-028			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

VETERANS AFFAIRS, DEPARTMENT OF Rules coordinator	MISC	99-01-130
WALLA WALLA COMMUNITY COLLEGE Meetings	MISC	99-01-034
	MISC	99-01-062
	MISC	99-03-070
WASHINGTON STATE LIBRARY Library commission meetings	MISC	99-01-078
	MISC	99-04-100
Rules coordinator	MISC	99-05-019
WASHINGTON STATE PATROL Background checks	PROP	99-03-080
	PROP	99-03-081
Fire protection policy board meetings	MISC	99-05-066
Motor vehicles flashing lamps	PERM	99-02-045
ignition interlock breath alcohol devices	PERM	99-01-156
tire chain use	EXAD	99-01-084
WESTERN WASHINGTON UNIVERSITY Bicycle traffic and parking	PROP	99-03-011
	EMER	99-03-012
Rules coordinator	MISC	99-02-067
Skateboards and in-line skates	PROP	99-03-011
	EMER	99-03-012
WHATCOM COMMUNITY COLLEGE Meetings	MISC	99-01-127
WILDLIFE (See FISH AND WILDLIFE, DEPARTMENT OF)		
WORKERS' COMPENSATION (See LABOR AND INDUSTRIES, DEPARTMENT OF)		
WORKFIRST (See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)		
WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD Meetings	MISC	99-04-101
YAKIMA REGIONAL CLEAN AIR AUTHORITY Compliance and enforcement	PROP	99-01-033
Permits	PROP	99-01-033
Public hearings	PROP	99-03-049
YAKIMA VALLEY COMMUNITY COLLEGE Public records	PREP	99-05-041