

Washington State Register

May 19, 1999

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IN THIS ISSUE

Agriculture, Department of
Alcohol and Substance Abuse, Division of
Bellevue Community College
Cemetery Board
Clark College
Community and Technical Colleges,
State Board for
Community, Trade and Economic Development,
Department of
Ecology, Department of
Economic Services Administration
Education, State Board of
Employment Security Department
Engineer Registration Board
Financial Institutions, Department of
Fish and Wildlife, Department of
Funeral Directors and Embalmers, Board of
General Administration, Department of
Governor, Office of the
Health and Rehabilitative Services
Administration
Health, Department of

Health, State Board of
Higher Education Coordinating Board
Judicial Conduct, Commission on
Labor and Industries, Department of
Licensing, Department of
Liquor Control Board
Lottery Commission
Parks and Recreation Commission
Peninsula College
Pierce College
Public Employment Relations Commission
Puget Sound Air Pollution Control Agency
Revenue, Department of
Secretary of State
Social and Health Services, Department of
Spokane, Community Colleges of
Toxicologist, State
Transportation, Department of
Utilities and Transportation Commission
Washington State Lottery
WorkFirst Division

(Subject/Agency index at back of issue)
This issue contains documents officially
filed not later than May 5, 1999

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 May 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.

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

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following 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			
<i>For Inclusion in -</i>	<i>File no later than 12:00 noon -</i>			<i>Count 20 days from -</i>	<i>For hearing on or after</i>	<i>First Agency Adoption Date</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;

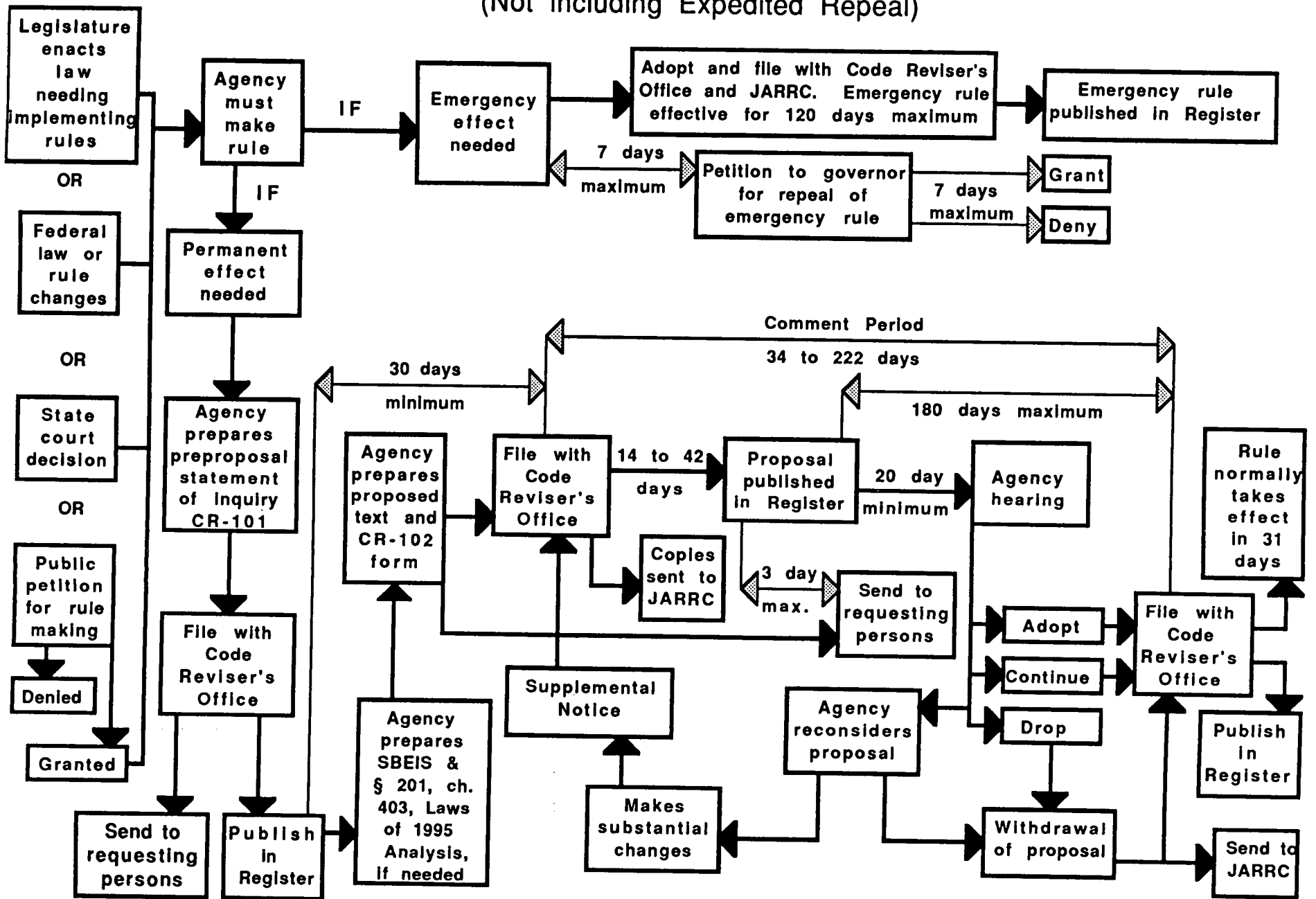
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 99-10-010**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Health and Rehabilitative Services Administration)
(Division of Alcohol and Substance Abuse)

[Filed April 23, 1999, 1:34 p.m.]

Subject of Possible Rule Making: Chapter 440-22 WAC, Certification requirements for chemical dependency treatment service providers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.96A.020, [70.96A].040, and [70.96A].090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The implementation of chapter 18.205 RCW, Certified chemical dependency professionals, makes it necessary for DSHS to make amendments to all sections in chapter 440-22 WAC that pertain to chemical dependency counselors (CDCs), youth CDCs, chemical dependency counselor interns (CIs), and probation assessment officers. A new section is proposed to further define patient noncompliance with court-referred chemical dependency treatment. Additional language is proposed for the intensive outpatient section to clarify minimum treatment requirements for patients referred to care through a deferred prosecution order. In addition, other sections of this chapter may also be subject to review and amendment as deemed appropriate in keeping with Governor Locke's Executive Order 97-02 and Secretary Quasim's April 17, 1997, Executive Order on Regulatory Improvement. The criteria to be used include: Need for rule; statutory authority and intent; effectiveness and efficiency; clarity; coordination with other rules; cost; and fairness.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington State Department of Health (DOH), Chemical Dependency Professional Program.

The Division of Alcohol and Substance Abuse is working in close collaboration with DOH as a member of its CDP Advisory Committee in the process of adopting new rules for their certification process. In turn, DOH will be providing input into this amendment process.

Process for Developing New Rule: Department of Social and Health Services welcomes the public to take part in developing the rules. 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 and will distribute copies to a mailing list and to 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 Gary Reynolds, Policy Leadworker, Certification Section, Division of Alcohol and Substance Abuse, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 438-8054, fax (360) 438-8057, e-mail reynogl@dshs.wa.gov.

April 23, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-10-015**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES**

[Filed April 27, 1999, 9:23 a.m.]

Subject of Possible Rule Making: Chapter 131-28 WAC, Tuition and fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28B.50 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To reflect changes made during 1999 legislative session and to clarify or streamline existing practice.

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

Process for Developing New Rule: Normal rule-making process; emergency rules are anticipated to be adopted in June 1999 followed by permanent adoption in September.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Scott Morgan, Director, Financial Services Division, State Board for Community and Technical Colleges, P.O. Box 42495, Olympia, WA 98504-2495, (360) 753-0880, or fax (360) 586-6440.

April 26, 1999

Claire C. Krueger
Executive Assistant and
Administrative Rules Coordinator

WSR 99-10-016**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING
(Board of Funeral Directors and Embalmers)**

[Filed April 27, 1999, 11:48 a.m.]

Subject of Possible Rule Making: A director fee hearing to increase the licensing and related fees in WAC 308-48-800, within the limits of Initiative 601, for all licenses and registrations issued by the Department of Licensing for the Board of Funeral Directors and Embalmers.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.39.181.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To amend WAC 308-48-800 to keep Board of Funeral Directors and Embalmers' revenues in line with expenditures.

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. Provide written comments to the board at Board of Funeral Directors and Embalmers, P.O. Box 9012, Olympia, WA 98507-9012, phone (360) 586-4905, fax (360) 664-2550.

April 26, 1999

Jon Donnellan
Administrator

WSR 99-10-017

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

(Cemetery Board)

[Filed April 27, 1999, 11:50 a.m.]

Subject of Possible Rule Making: A director fee hearing to increase the fees in WAC 98-70-010, within the limits of Initiative 601, for all licenses and registrations issued by the Department of Licensing for the Cemetery Board.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 68.05.205.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To amend WAC 98-70-010 to keep Cemetery Board revenues in line with expenditures.

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. Provide written comments to the board at Cemetery Board, P.O. Box 9012, Olympia, WA 98507-9012, phone (360) 586-4905, fax (360) 664-2550.

April 26, 1999
Jon Donnellan
Administrator

WSR 99-10-020

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF TRANSPORTATION**

[Filed April 27, 1999, 3:02 p.m.]

Subject of Possible Rule Making: Amending WAC 468-38-290 Farm implements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.44.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Provide economic relief to the farm community regarding permitting of over-dimensional farm implements for movement on public roads, and regarding certain pilot/escort vehicle requirements.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The WAC is enforced by the Washington State Patrol.

Process for Developing New Rule: Negotiated rule making, negotiated between the Department of Transportation, Potato Commission, Wheat Growers Association, Farm Bureau, Cattlemen's Association and Legislative Transportation Committee staff, with input from the Washington State Patrol.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barry Diseth, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98504-7367, fax (360) 664-9440.

April 26, 1999
Gerald E. Smith
Deputy Secretary, Operations

WSR 99-10-025

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed April 28, 1999, 11:44 a.m.]

Subject of Possible Rule Making: Chapter 296-14 WAC, Industrial insurance benefit rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 51.32.060, [51.32.]090, [51.32.]110, [51.32.]160, [51.32.]190, [51.32.]210, [51.32.]220, and [51.32.]240.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Labor and Industries is required by law to establish rules which govern the payment of medical and time loss claims for employees incurring accidents and/or injuries during the course of employment. We will work with the business community with use of focus groups and a stakeholding process to rewrite rules using clear rule writing for greater clarification and will be easier to understand.

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 solicit input from the business community through informal focus groups and a stakeholding process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Labor and Industries will solicit input from the business community through informal focus groups and a stakeholding process to encourage participation prior to publishing the proposed rules. Individuals interested in participating may contact Penny Lewis of the claims administration unit at (360) 902-4257.

April 23, 1999
Gary Moore
Director

WSR 99-10-029

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF TRANSPORTATION**

[Filed April 29, 1999, 8:44 a.m.]

Subject of Possible Rule Making: Chapter 468-54 WAC, Limited access hearings.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 47.52, 34.04 [34.05] RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Simplify language and update definitions.

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 Randy Deer, Department of Transpor-

tation, P.O. Box 47329, Olympia, WA 98504-7329, (360) 705-7251, fax (360) 705-6805.

April 28, 1999
Gerald E. Smith
Deputy Secretary, Operations

WSR 99-10-030

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF TRANSPORTATION

[Filed April 29, 1999, 8:46 a.m.]

Subject of Possible Rule Making: Chapter 468-58 WAC, Limited access highways.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 47.52, 34.04 [34.05] RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Simplify language and update definitions.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal Highway Administration, rule review and comment.

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 Deer, Department of Transportation, P.O. Box 47329, Olympia, WA 98504-7329, (360) 705-7251, fax (360) 705-6805.

April 28, 1999
Gerald E. Smith
Deputy Secretary, Operations

WSR 99-10-041

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 99-01—Filed April 30, 1999, 11:30 a.m.]

Subject of Possible Rule Making: Dangerous waste regulations, chapter 173-303 WAC, will be modified to incorporate several federal hazardous waste regulations, delete the exemption for steel mill flue dust used as fertilizer, modify transportation requirements, add mercury-containing lamps as a universal waste, and make editorial and technical corrections.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 70.105 and 70.105D RCW, the Hazardous Waste Management Act and Hazardous Waste Cleanup—Model Toxics Control Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: One key purpose of this rule making is to update the dangerous waste regulations by incorporating recent federal hazardous waste requirements into the state's regulations. By staying current with the federal program, the regulated community has primarily one environmental agency to work with. The second key purpose is to update state requirements, including changes to imple-

ment recommendations of the transportation and fertilizer projects to improve regulation of dangerous wastes in Washington.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Environmental Protection Agency (EPA) implements hazardous waste regulations in Washington until ecology adopts those regulations and begins implementing them. A formal authorization process follows adoption. EPA is aware of which federal regulations ecology intends to adopt during this rule making. Ecology will provide drafts to EPA for their review and will communicate with EPA throughout the rule-making process.

Process for Developing New Rule: One of the main purposes of this rule making is to update existing hazardous waste requirements with newer federal rules. Since most of these are already in effect (and were developed as part of federal rule making), the process will consist primarily of making draft and proposed rule language available for review and comment. Input will be sought where ecology may differ from the federal program. Other state-initiated rule changes have already benefitted from considerable stakeholder input (transportation requirements, used oil differences from the federal program, and fertilizer issues).

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. To receive information regarding the rule making (availability of draft and proposed rule language, hearing announcements, and opportunities for public involvement), or for more detailed information about the rule-making content and process, contact Patricia Hervieux at pher461@ecy.wa.gov; or you may call (360) 407-6756, or write P.O. Box 47600, Olympia, WA 98504-7600, or fax (360) 407-6715.

Visit ecology's environmental rules web page at <http://www.wa.gov/ecology/leg/laws-etc.html>.

April 29, 1999

Greg Sorlie
Program Manager

WSR 99-10-042

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 98-09—Filed April 30, 1999, 11:32 a.m.]

Subject of Possible Rule Making: The original CR-101 (WSR 98-10-090, filed May 6, 1998) explicitly stated that we would be considering revisions to chapters 173-415 and 173-481 WAC. The purpose of this revision is to state that we will also consider revisions to chapter 173-400 WAC when considering if and where to incorporate new federal standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Federal maximum achievable control technology standards, codified in 40 C.F.R. Part 63, Subpart LL need to be incorporated into state rules.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Ecology must adopt the new federal standards (or their equivalent) for hazardous air pol-

lutants. At present, chapter 173-400 WAC, states that 40 C.F.R. 63 Subpart LL is not adopted by reference. A possible outcome of this rule making is that we will adopt these federal provisions by reference into chapter 173-400 WAC.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The federal Environmental Protection Agency (EPA) has determined the maximum achievable control technology for emissions of hazardous air pollutants from aluminum smelters. Once ecology has adopted these regulations into state rules, EPA will delegate the authority to implement the federal standard to ecology.

Process for Developing New Rule: The process remains the same as outlined on the original CR-101.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Carol Piening to determine their level of involvement. Address: Washington State Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6858, fax (360) 407-6802, e-mail cpie461@ecy.wa.gov.

April 27, 1999
Stuart A. Clark
for Mary Burg
Program Manager

WSR 99-10-047
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed April 30, 1999, 2:35 p.m.]

Subject of Possible Rule Making: WAC 388-438-0110 Alien emergency medical.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Providers, clients, and staff have been confused about this program. This proposed WAC is to ensure understanding about this client population and the scope of covered services. Administrative changes are made to simplify this program for clients, providers, and staff.

Process for Developing New Rule: The department invites the interested public to review and provide input into the adopted language of this proposed WAC amendment. The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of the final rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joanie Scotston, Program Manager, Medical Assistance Administration, Mailstop 45530, Olympia, Washington 98504-5530, phone (360) 753-7462, e-mail

SCOTSJK@DSHS.WA.GOV, fax (360) 753-7315, TDD 1-800-848-5429.

April 30, 1999
Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-10-051
PREPROPOSAL STATEMENT OF INQUIRY
LOTTERY COMMISSION
[Filed May 3, 1999, 11:03 a.m.]

Subject of Possible Rule Making: Cash option for Lotto jackpot winners and past annuity winners.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 67.70.040(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The lottery is considering amending WAC 315-34-055 and/or adopting new rules, amending or repealing additional rules to specify the timing of a winner's choice of the cash option.

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 Mary Jane Ferguson, Rules Coordinator, at (360) 753-1947, fax (360) 586-6586, P.O. Box 43025, Olympia, WA 98504-3025, with any comments or questions regarding this statement of intent.

April 30, 1999
Mary Jane Ferguson
Rules Coordinator

WSR 99-10-054
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING
[Filed May 3, 1999, 1:48 p.m.]

Subject of Possible Rule Making: Chapter 308-58 WAC, Reporting destroyed vehicles, to include but not limited to WAC 308-58-010, 308-58-020, 308-58-030, 308-58-040, and 308-58-050.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110, 46.12.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

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 pub-

lication by contacting Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

May 3, 1999
Deborah McCurley
Acting Administrator
Title and Registration Services

WSR 99-10-055
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed May 3, 1999, 1:48 p.m.]

Subject of Possible Rule Making: Chapter 308-99 WAC, Procedures for operation of foreign plated vehicles in this state, to include but not limited to WAC 308-99-010, 308-99-020, 308-99-021, 308-99-025, 308-99-030, 308-99-040, and 308-99-050.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

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 Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

May 3, 1999
Deborah McCurley
Acting Administrator
Title and Registration Services

WSR 99-10-056
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed May 3, 1999, 1:49 p.m.]

Subject of Possible Rule Making: Chapter 308-96A WAC, Provisions for veteran's vehicle licensing and special license plates, to include but not limited to WAC 308-96A-046, 308-96A-050, 308-96A-056, 308-96A-057, 308-96A-505, 308-96A-510, 308-96A-520, 308-96A-530, and 308-96A-540.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110, 46.16.276, 43.17.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

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 Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

May 3, 1999
Deborah McCurley
Acting Administrator
Title and Registration Services

WSR 99-10-057
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING

[Filed May 3, 1999, 1:50 p.m.]

Subject of Possible Rule Making: Chapter 308-93 WAC, Vessel registration identification, to include but not limited to WAC 308-93-135, 308-93-140, 308-93-145, 308-93-155, and 308-93-320.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 88.02.070 and 88.02.100.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

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 Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

May 3, 1999
Deborah McCurley
Acting Administrator
Title and Registration Services

WSR 99-10-058

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed May 3, 1999, 1:50 p.m.]

Subject of Possible Rule Making: Chapter 308-96A WAC, Provisions for obtaining honorary consul and foreign organization special license plates, to include but not limited to WAC 308-96A-061, 308-96A-062, 308-96A-063, and 308-96A-064.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110, 46.16.276.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule making may be required as a result of this review in accordance with Executive Order 97-02.

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 Patrick J. Zlateff, Rules Coordinator, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831, TDD (360) 664-8885.

May 3, 1999

Deborah McCurley

Acting Administrator

Title and Registration Services

WSR 99-10-059

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed May 3, 1999, 2:33 p.m.]

Subject of Possible Rule Making: Commercial fishing rules.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is concerned with a decline in certain herring populations in Washington. Rules are needed to protect the remaining herring and assist in the rebuilding of herring stocks.

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 Bruce Crawford, Fish Program Assistant Director, 600 Capitol Way North, Olympia, WA 98501-

1091, (360) 902-2325. Contact by June 22, 1999, expected proposal filing June 23, 1999.

May 3, 1999

Evan Jacoby

Rules Coordinator

WSR 99-10-060

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed May 3, 1999, 2:34 p.m.]

Subject of Possible Rule Making: Personal use license rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080, 77.32.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Passage of SB 5020 sets new minimum dealer fees, allows for a transaction fee, and creates a two-day shellfish license. Rule amendments are needed.

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 Diane Ludwig, License Division Manager, Administrative Services Program, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2456, fax (360) 902-2945. Contact by June 22, 1999, expected proposal filing June 23, 1999.

May 3, 1999

Evan Jacoby

Rules Coordinator

WSR 99-10-063

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health and Rehabilitative Services Administration)
(Division of Developmental Disabilities)**

[Filed May 3, 1999, 3:28 p.m.]

Subject of Possible Rule Making: Division of Developmental Disabilities individual provider qualifications, chapter 275-27 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71A.12.030, 71A.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The division needs to establish basic qualifications for individual providers of service. Other parts of the department have established similar types of rules. The Division of Developmental Disabilities needs to establish qualifications to ensure equitable treatment of individuals applying to provide supports to persons with

developmental disabilities and to establish standards for providers.

Process for Developing New Rule: Department of Social and Health Services welcomes the public to take part in developing the rule(s). Anyone interested in participating should contact the staff person indicated below. After the rule(s) 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 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 Rita Dickey, Department of Social and Health Services, Division of Developmental Disabilities, P.O. Box 45310, Olympia, WA 98504, phone (360) 902-8451.

May 3, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

WSR 99-10-067

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

[Filed May 4, 1999, 9:10 a.m.]

Subject of Possible Rule Making: Chapter 365-170 WAC, Funding for early childhood education and assistance programs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.63A.060, 43.63A.065.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: ECEAP program performance standards have been modified to reflect changes in existing state law, regarding receipt of low income services, childcare quality standards, and educational requirements for adults and children. These changes necessitate changes to existing rules for purposes of consistency and compliance.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Changes in TANF eligibility will require that CTED coordinate and comply with new rules instated by DSHS.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. All ECEAP contractors and stakeholders have been an integral part of the rule-making process. CTED has hosted teleconference, videoconferences, and stakeholder meetings, and set up a list serve/computer bulletin board for clarification and input into the rule-making process.

May 3, 1999

Jean L. Ameluxen, Director
Intergovernmental Relations

WSR 99-10-070

PREPROPOSAL STATEMENT OF INQUIRY HIGHER EDUCATION COORDINATING BOARD

[Filed May 4, 1999, 10:29 a.m.]

Subject of Possible Rule Making: The running start program, chapter 250-79 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.600.390.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Changes in tuition and clarifying language related to the administration of the running start program.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: This is a jointly-administered program involving the HECB, the State Board for Community and Technical Colleges and the Superintendent of Public Instruction.

Process for Developing New Rule: Any hearings and subsequent emergency rule filings, and permanent rule adoptions will be jointly collaborated and agreed upon by the three agencies involved.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Belma Villa, Higher Education Coordinating Board, Executive Assistant, Rules Coordinator, P.O. Box 43430, Olympia, WA 98504-3430, phone (360) 753-7810, fax (360) 753-7808.

April 30, 1999

Belma Villa
Executive Assistant
Rules Coordinator

WSR 99-10-077

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed May 4, 1999, 2:41 p.m.]

Subject of Possible Rule Making: Amending and increasing transient accommodation licensing fees, WAC 246-360-990.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.62.220, 43.70.110, and 43.70.250.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Licensing fees have not changed for the last four years. Licensing costs have increased due to (1) increased number of facilities licensed, i.e., 9% or about one hundred forty facilities in the last four years, (2) the use of specially trained investigators from the FSL investigations section to investigate complaints of substantial health and safety violations, and (3) significantly increased enforcement actions for noncompliance with the law as well as with both health and safety rules and administrative rules. By adjusting the fees, the department will be able to cover costs to adequately administer the licensing program, which includes licensing administration, inspection/investigation, and enforcement activities.

Process for Developing New Rule: The department will conduct a fee study and present the study data with fee schedule options and attached survey via mailings to licensed transient accommodation facilities and industry representatives for feedback to the proposals.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bliss Moore, Manager, Accommodation Licensing, Construction Review and Support Services, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 705-6660, fax (360) 705-6654, e-mail bxm0303@wa.doh.gov; or Jennell Prentice, Rules Administrator, phone (360) 705-6661, e-mail jzp0303@wa.doh.gov.

April 28, 1999
K. Van Gorkom
Deputy Secretary

WSR 99-10-089

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed May 4, 1999, 3:43 p.m.]

Subject of Possible Rule Making: Chapter 180-51 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.05.060, chapter 28A.05 RCW, and 28A.05.064 [28A.230.090].

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis at (360) 753-6715.

May 4, 1999
Larry Davis
Executive Director

WSR 99-10-090

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed May 4, 1999, 3:44 p.m.]

Subject of Possible Rule Making: Chapter 180-52 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.04.120 [28A.305.130], 28A.31.118 [28A.210.160].

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To do one or more of the following as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis at (360) 753-6715.

May 4, 1999
Larry Davis
Executive Director

WSR 99-10-101

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LABOR AND INDUSTRIES

[Filed May 5, 1999, 9:36 a.m.]

Subject of Possible Rule Making: Chapter 296-31 WAC, Crime victims compensation program mental health treatment rules and fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 7.68.030, 51.04.030.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A task force was formed to develop guidelines for mental health treatment of crime victims. These amendments are made to implement the recommendations from the Mental Health Treatment Guidelines Task Force. Other sections of the rules affected have been rewritten for more clarity in connection with Executive Order 97-02 on regulatory improvement.

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

Process for Developing New Rule: Executive Order 97-02 and recommendations from Mental Health Treatment Guidelines Task Force.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cletus Nnanabu, CVC Program Manager, P.O. Box 44520, Olympia, WA 98504-4520, phone (360) 902-5340, fax (360) 902-5333, e-mail nnan235@ini.wa.gov.

Other Opportunities for Participation: (1) CVC Advisory Committee meetings; and (2) public hearing (to be scheduled).

April 30, 1999

Gary Moore
Director

AMENDATORY SECTION (Amending WSR 97-02-090, filed 12/31/96, effective 1/31/97)

WAC 296-31-010 ((Mental health treatment overview)) What mental health treatment and services are available? (1) The crime victims compensation program provides payment for mental health treatment and services to victims of crime (~~(, except for the provisions of WAC 296-30-025 (6)(b), secondary to treatment available from any other public or private insurance,))~~ who are eligible for compensation under ~~((the provisions of))~~ chapter 7.68 RCW, the Crime Victims' Act. ~~((Eligible claimants are entitled to receive proper and necessary mental health treatment.))~~

EXCEPTION: Benefits under the crime victims compensation program are secondary to services available from any other public or private insurance.

(2) Services and treatment are limited to ~~((those))~~ procedures ~~((which are proper and necessary, and at the least cost, consistent with accepted standards of mental health care which will enable the claimant to obtain maximum recovery and/or:~~

~~(3) In the case of a permanent partial disability, treatment or services are not to extend beyond the date when permanent partial impairment or disability compensation is awarded. No treatment or services will be authorized beyond the point that the accepted condition is fixed and stable.~~

~~(4) In the case of a permanent total disability, treatment is not to extend beyond the date on which the claimant is placed upon a permanent pension roll except that in the sole discretion of the department continued treatment for conditions previously accepted by the department may be allowed when such treatment is deemed necessary to protect the claimant's life or to provide for the administration of therapeutic measures. This includes payment of prescription medications necessary to alleviate continuing pain resulting from the accepted condition but does not include those controlled substances scheduled by the state board of pharmaceuticals as schedule I, II, III, IV substances under chapter 69.50 RCW.~~

~~(5) Mental health treatment requiring preauthorization:~~
~~Inpatient hospitalization;~~
~~Individual therapy exceeding one hour per week;~~
~~Group therapy exceeding one session per week;~~

~~Concurrent treatment;~~
~~Family therapy to family members of sexual assault victims beyond twelve sessions;~~
~~Therapy for survivors of victims of homicide beyond twelve sessions;~~
~~Electroconvulsive therapy;~~
~~Neuropsychological evaluation (testing);~~
~~Day treatment for seriously ill persons less than eighteen years of age;~~
~~Referrals to special programs;~~
~~Requests for authorization must be in writing and include a statement of:~~

~~(a) The condition(s) diagnosed;~~
~~(b) ICD-9-CM and/or DSM-III-R or DSM-IV codes;~~
~~(c) The relationship of the condition(s) diagnosed to the assault, if any;~~
~~(d) An outline of the proposed treatment program, its length and components, procedure codes, and expected prognosis;~~

~~(6) Rejected and closed claims. Therapy for eligible survivors of victims of homicide can be provided on closed claims:~~

~~No payment will be made for treatment or medication on rejected claims or for services rendered after the date of closure of a claim.~~

~~When the department has denied responsibility for an alleged crime victim injury or condition, the only services which will be paid are those which were carried out at the specific request of the department and/or those assessment or diagnostic services which served as a basis for the adjudication decision. Following the date of the order and notice of claim closure, the department will be responsible only for those services specifically requested or those assessments and/or diagnostic services necessary to complete and file a reopening application) that are:~~

~~(a) Proper and necessary for the diagnoses of an accepted condition;~~
~~(b) Available at the least cost;~~
~~(c) Consistent with accepted standards of mental health care; and~~
~~(d) Will enable the client to reach maximum recovery.~~

NEW SECTION

WAC 296-31-012 What mental health treatment and services are not authorized? (1) Services and treatment will not be authorized:

(a) Beyond the point that the accepted condition becomes fixed and stable (i.e., maintenance care);
(b) After the date a permanent partial disability award is made;
(c) After a client is placed on a permanent pension roll, except as allowed in RCW 51.36.010;
(d) After consultation and advice to the department, any treatment deemed to be dangerous or inappropriate; or
(e) When treatment is defined as unnecessary or prohibited in WAC 296-31-020.
(2) We will not pay for services or treatment, including medications:
(a) On rejected claims;

EXCEPTION: We will pay for assessments or diagnostic services used as a basis for the department's decision.

(b) After the date a claim is closed.

EXCEPTION: Therapy for eligible survivors of victims of homicide can be provided on closed claims.

NEW SECTION

WAC 296-31-016 What treatment or services require authorization from the department? (1) The department must authorize the following mental health services and/or treatment:

- (a) Treatment beyond thirty sessions for adults or forty sessions for children;
 - (b) Treatment beyond fifty sessions for adults or sixty sessions for children;
 - (c) Consultations beyond what are allowed in WAC 296-31-065;
 - (d) Inpatient hospitalization;
 - (e) Concurrent treatment with more than one provider;
 - (f) Electroconvulsive therapy;
 - (g) Neuropsychological evaluation (testing);
 - (h) Day treatment for seriously ill children under eighteen years old;
 - (i) Referrals for services or treatment not in our fee schedule (see WAC 296-31-040).
- (2) Your request for authorization must be in writing and include:
- (a) A statement of the condition(s) diagnosed;
 - (b) Current DSM or ICD codes;
 - (c) The relationship of the condition(s) diagnosed to the criminal act; and
 - (d) An outline of the proposed treatment program that includes its length, components, procedure codes and expected prognosis.

AMENDATORY SECTION (Amending WSR 95-15-004, filed 7/5/95, effective 8/5/95)

WAC 296-31-060 ((Reporting requirements.)) What reports are required from mental health providers? ((The department may require reports at any time as is necessary in order to determine initial or continued authorization of benefits or services. However, the department requires the following reports at various stages of a claim in order to authorize mental health treatment or services, time loss compensation, and bill payments for innocent victims of crime:

(1) **Initial report of injury:** To establish a claim, an application for benefits must be completed and submitted to the department. The provider may bill under code 1040M for the filing of the application. In addition, the examination or assessment charge may be billed. Reimbursement of these services will be paid if the claim is allowed by the department. Billing for an extended or comprehensive visit of more than one hour may require submission of additional reports.

(2) **Initial evaluation report:** This report must be submitted by the provider no later than thirty days from the date of first treatment or the date the claim is allowed, whichever is later. The report must include the preliminary diagnosis

and symptoms, proposed treatment plan and treatment goals, including the treatment modality or modalities to be employed, and expected length of treatment. It must also include a diagnosis of any preexisting conditions and their potential effect on the condition resulting from the assault. Any change in the treatment plan must be addressed either in a modified treatment plan submitted to the department or in a ninety-day narrative report. Absence of a response from the department to the proposed treatment plan or modification within fourteen days shall constitute authorization to proceed with the plan as long as the treatment plan does not contain measures requiring preauthorization per WAC 296-31-010(5).

(3) **Office notes and follow-up visits:** Legible copies of office or progress notes or other work products may be, as determined by the department, required documentation to substantiate all follow-up visits or treatment following the initial evaluation. Office notes are not acceptable in lieu of requested narrative reports.

(4) **Ninety-day narrative reports:** When treatment is to continue beyond ninety days from the first date of treatment, submission of a narrative report is required every ninety days to substantiate the need for continued care. A narrative report must contain the basic information outlined in these rules. A narrative report should be billed under code 0100C and described as a ninety-day report. Treatment in excess of ninety days may be authorized by the department only after receipt and review of the ninety-day narrative report. Absence of a response from the department to a report shall constitute authorization for continued treatment. When treatment beyond ninety days will not be authorized or is authorized with limits on frequency or provider type, notification will be sent by the department giving a thirty-day transition period. In the case of a contested decision, a claimant or a provider may file a written protest to the department or appeal to the board of industrial insurance appeals. Ninety-day progress reports must include current DSM III, DSM IV, and/or ICD-9-CM diagnosis(es), their relationship (if any) to the conditions sustained as the result of the criminal act, a summary of the progress made toward therapy goals or issue resolutions established in the initial evaluation, an estimate of the duration and frequency of further sessions and an updated prognosis for recovery.

(5) **Hospital reports:** When the claimant is hospitalized, it is the responsibility of the attending mental health provider to submit his or her reports to the hospital for submission with the hospital billing. The attending mental health provider may bill for hospital visits without attaching copies of the reports.

(6) **Consultation reports:** To substantiate treatment of more than one hundred eighty days, a consultation with a consultant chosen by the attending mental health provider is required. The department may require the claimant to be examined by the consultant as part of the consultation process with supervisory approval. Although no prior authorization is required for such consultations, the consultant must meet crime victims compensation program's provider registration requirements and the department must be notified when such consultation is arranged. The consultant is responsible for submitting a copy of the report, following guidelines

developed by the department, within fifteen days from the date of the consultation. Treatment may only be authorized to extend beyond one hundred eighty days in mental health cases after the department has received this report. Absence of response, by the department upon receipt of the report shall constitute authorization for additional treatment. When extended treatment will not be authorized or will be terminated, notification will be sent by the department giving a thirty day transition period. The department may request additional consultations and/or independent assessments as warranted by the individual case.

(7) Termination reports: When a mental health practitioner discontinues treatment of a claimant because the condition for which treatment was provided is fixed and stable or for any other reason, a termination report shall be completed and provided to the program within sixty days of the last visit.

(8) Reopening application: On claims closed over sixty days, the department will pay for completion of a reopening application (Code 1041M), an office visit and diagnostic studies necessary to complete the application. No other benefits will be paid until the adjudication decision is rendered. When reopening is granted, the department can pay benefits for a period not to exceed sixty days prior to the date the reopening application is received by the department. The department requires the following reports from mental health providers:

(1) Initial response and assessment: Form I: This report is required if you are seeing the client for **six sessions or less**, and must contain:

(a) The client's initial description of the criminal act for which they have filed a crime victims compensation claim;

(b) The client's presenting symptoms/issues by your observations and the client's report;

(c) An estimate of time loss from work as a result of the crime injury, if any. Provide an estimate of when the individual will return to work, why they are unable to work, the extent of impairment and the prognosis for future occupational functioning; and

(d) What type of intervention(s) you provided.

EXCEPTION: If you will be providing more than six sessions it is not necessary to complete form I, instead complete form II.

(2) Initial response and assessment: Form II: This report is required if **more than six sessions** are anticipated. Form II must be submitted no later than the sixth session, and must contain:

(a) The client's initial description of the criminal act for which they have filed a crime victims compensation claim;

(b) A summary of the essential features of the client's symptoms related to the criminal act, beliefs/attributions, vulnerabilities, defenses and/or resources that lead to your clinical impression (refer to current DSM and crime victims compensation program guidelines);

(c) Any preexisting or coexisting emotional/behavioral or health conditions relevant to the crime impact if present, and how they may have been exacerbated by the crime victimization;

(d) Specific diagnoses with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year;

(e) Treatment plan based on diagnoses and related symptoms, to include:

(i) Specific treatment goals you and the client have set;

(ii) How you will measure progress toward the goals;

(iii) Treatment strategies to achieve the goals; and

(iv) Any auxiliary care that will be incorporated.

(f) A description of your assessment of the client's treatment prognosis, as well as any extenuating circumstances and/or barriers that might affect treatment progress; and

(g) An estimate of time loss from work as a result of the crime injury, if any. Provide an estimate of when the individual will return to work, why they are unable to work, the extent of impairment and the prognosis for future occupational functioning.

(3) Progress note: Form III: This report must be completed **after session fifteen has been conducted**, and must contain:

(a) Whether there has been substantial progress towards recovery for the crime related condition(s);

(b) If you expect treatment will be completed within thirty visits (for adults) or forty visits (for children);

(c) What complicating or confounding issues are hindering recovery;

(d) The diagnoses at treatment onset with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year; and

(e) The current diagnoses, if different now, with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year.

(4) Treatment report: Form IV: This report must be completed for authorization for **treatment beyond thirty sessions for adults or forty sessions for children**, and must contain:

(a) The diagnoses at treatment onset with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year;

(b) The current diagnoses, if different now, with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year; and

(c) Proposed plan for treatment and number of sessions requested, and an explanation of:

(i) Substantial progress toward treatment goals;

(ii) Partial progress toward treatment goals; or

(iii) Little or no progress toward treatment goals.

(5) Treatment report: Form V: This report must be completed for authorization for **treatment beyond fifty sessions for adults or sixty sessions for children**, and must contain:

(a) The diagnoses at treatment onset with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year;

(b) The current diagnoses, if different now, with current DSM or ICD code(s), including axes 1 through 5, and the highest GAF in the past year;

(c) Proposed plan for treatment and number of sessions requested, and an explanation of:

- (i) Substantial progress toward treatment goals;
- (ii) Partial progress toward treatment goals; or
- (iii) Little or no progress toward treatment goals.
- (6) Termination report: Form VI: If you discontinue treatment of a client for any reason, a termination report should be completed within sixty days of the client's last visit, and must contain:**

- (a) Date of last session;
- (b) Diagnosis at the time client stopped treatment;
- (c) Reason for termination (e.g., goals achieved, client terminated treatment, client relocated, referred to other services, etc.); and

(d) At this point in time do you believe there is any permanent loss in functioning as a result of the crime injury? If yes, describe symptoms based on diagnostic criteria for a DSM diagnosis.

(7) Reopening application: This application is required to reopen a claim that has been closed more than ninety days, to demonstrate a worsening of the client's condition and a need for treatment. We will reimburse you for filing the application, for an office visit, and diagnostic studies needed to complete the application. No other benefits will be paid until a decision is made on the reopening. If the claim is reopened, we will pay benefits for a maximum of sixty days prior to the date we received the reopening application.

AMENDATORY SECTION (Amending WSR 95-15-004, filed 7/5/95, effective 8/5/95)

WAC 296-31-065 ((Ongoing treatment.)) Can my client be referred for a consultation? ~~((1) Cases that remain open more than one hundred eighty days: When the claimant requires treatment beyond one hundred eighty days, a consultation with another mental health provider who meets the department's provider registration requirements, is necessary to determine and/or establish the need for continued treatment and/or payment of time loss compensation. A detailed consultation report must be provided to the department.~~

Three levels of consultation are recognized: Limited, extensive and complex. Detailed descriptions of each type of consultation are included under procedure codes 0108C, 0109C and 0110C in the publication entitled *Crime Victims Compensation Mental Health Treatment Rules and Fees*.

~~(2) Procedures and/or continued treatment requiring consultation: In the event of complication, controversy, or dispute over the treatment aspects of any claim, the department will not authorize continued treatment until the complication, controversy, or dispute has been resolved and the department has received notification of any findings and reviewed any recommendations.~~

~~(a) The department may consider claims as complicated, controversial or disputed when involving treatment or conditions as follows:~~

- ~~(i) All counseling or psychotherapy, pertaining to immediate family members, requiring treatment sessions of more than twelve visits.~~
- ~~(ii) All family therapy visits, not including the claimant, requiring more than twelve visits.~~

~~(iii) All conditions not related to the accepted condition involving emotional, psychiatric, or social problems which are likely to complicate recovery.~~

~~(iv) All therapeutic procedures of a controversial nature or type not in common use for the specific condition.~~

~~(v) Cases where there are complications or unfavorable circumstances such as age, preexisting conditions, or, because of occupational requirements, etc.~~

~~(vi) Elective nonemergent hospital admission.~~

~~(vii) Any other circumstance that the department may define.~~

~~(b) The department may resolve issues of claim complication, controversy, or dispute using consultants, independent assessments and/or requesting a review of policies or procedures by the department's mental health advisory committee. The committee may recommend courses of action to resolve these issues to including, but not limited to, recommendation of an independent assessment.~~

~~(c) In cases presenting diagnostic or therapeutic problems difficult to resolve to the attending mental health provider (psychiatrist, psychologist and/or counselor), consultation with a specialist will be allowed without prior authorization. The consultant must submit his or her findings and recommendations immediately to the attending provider and the department.~~

~~(i) Whenever possible, the referring mental health provider should make his or her records available to the consultant to avoid unnecessary duplication. Consultants may proceed with indicated and reasonable diagnostic studies as permitted within their scope of practice.~~

~~(ii) Consultations must be held within the local geographic area of the claimant's residence, if possible, and with a consultant not having a mutual proprietary or business interest with the attending mental health provider. Exceptions to this requirement may be made only with department preauthorization. The department does not prohibit the use of members of the same professional or social associations.~~

~~(iii) The mental health provider will not arrange a consultation if notification has been received that an independent assessment is being arranged by the department. If a recent consultation has been completed and the attending mental health provider is notified that the department is arranging an assessment, the department must be advised immediately of the consultation.~~

~~(iv) The consultation fee will be paid only if a consultation report is complete and contains all psychological findings as well as all pertinent negative or normal findings. The report must be received in the department within fifteen days from the date of the consultation. No fee may be paid to the consultant, by the department, if the claimant misses/fails to attend the appointment. However, the claimant may be billed directly.~~

~~(v) The consultant may not order, prescribe, or provide treatment without the consent of the claimant. No transfer will be made to the consultant without the written request of the claimant.~~

~~(3) Concurrent treatment: In some cases, treatment by more than one provider may be allowed. The department will consider authorization of concurrent treatment when the accepted condition requires specialty or multidisciplinary~~

care. (Individual and group counseling sessions provided by more than one provider is not concurrent treatment.) When requesting consideration of concurrent treatment, the attending mental health provider must provide the department with the following: The name, address, discipline, and specialty of all other providers requested to assist in the treatment of the claimant and an outline of their responsibility in the case and an estimate of the length of the period of concurrent care. When concurrent care is allowed, the department will recognize one primary attending mental health provider, who will be responsible for directing the over-all treatment program; providing copies of all reports and other data received from the involved providers and, in time loss cases, providing the adequate certification evidence of the claimant's inability to work. The department will approve concurrent care on an individual case basis.

(4) ~~Transfer of attending provider: All transfers from one provider to another must be approved by the department. Normally transfers will be allowed only after the claimant has been under the care of the attending mental health provider for sufficient time for the provider to: Complete the necessary diagnostic studies, establish an appropriate treatment regimen, and evaluate the efficacy of the therapeutic program. Under RCW 51.36.010 claimants are entitled to free choice of attending provider subject to the limitations of RCW 7.68.130. Except as provided under (a) through (g) of this subsection, no reasonable request for transfer will be denied. The claimant must be advised when and why a transfer is denied. The department reserves the right to require a claimant to select another provider for treatment, under the following conditions:~~

~~(a) When more conveniently located providers, qualified to provide the necessary treatment, are available.~~

~~(b) When the attending provider fails to cooperate in observance and compliance with the department rules.~~

~~(c) In time loss cases where reasonable progress towards return to work is not shown.~~

~~(d) Cases requiring specialized treatment, which the attending provider's authority is not qualified to render, or is outside the scope of the attending provider's authority to practice.~~

~~(e) Where the department finds a transfer of provider to be appropriate and has requested the claimant to transfer in accordance with this rule, the department may select a new attending provider if the claimant unreasonably refuses or delays in selecting another attending provider.~~

~~(f) In cases where the attending provider is not qualified to treat each of several accepted conditions. This does not preclude concurrent care where indicated.~~

~~(g) No transfer will be approved to a consultant without the written request of the claimant. Transfers will be authorized for the foregoing reasons or where the department in its discretion finds that a transfer is in the best interest of returning the claimant to a productive role in society.)~~ (1) There may be instances when the client's accepted mental health condition presents a diagnostic or therapeutic challenge. In such cases, you or the department may refer the client for a consultation or you may ask the department for an independent mental health examination.

(2) There are two levels of consultations that can be performed: Limited and extensive. Descriptions and procedure codes are included in the *Crime Victims Compensation Program Mental Health Treatment Rules and Fees.*

(3) The consultant will be required to submit a report to the department that contains the following elements:

- (a) The reason(s) for the consultation referral; and
- (b) Consultants related recommendations.

(4) Authorization from the department is required for:

- (a) More than two consultations before the thirtieth session for adults or fortieth session for children; and
- (b) More than one consultation between thirty and fifty sessions for adults or between forty and sixty sessions for children.

(5) You may **not** make a referral for a consultation if:

- (a) An independent mental health examination has been scheduled;
- (b) Claim reopening is pending; or
- (c) The claim is closed.

Note: The consultant must meet provider registration requirements per WAC 296-31-030.

NEW SECTION

WAC 296-31-067 When is concurrent treatment allowed? (1) In some cases, treatment by more than one provider may be allowed. We may authorize concurrent treatment on an individual basis:

(a) If the accepted condition requires specialty or multi-disciplinary care.

Note: Individual and group counseling sessions given by more than one provider is not concurrent treatment.

(b) If we receive and approve your written request that contains:

(i) The name, address, discipline, and specialty of each provider requested to assist in treating the client;

(ii) An outline of each provider's responsibility in the case; and

(iii) An estimated length for the period of concurrent treatment.

(2) If we approve concurrent treatment, we will recognize one primary attending mental health treatment provider. That provider will be responsible for:

(a) Directing the overall treatment program for the client;

(b) Providing us with copies of all reports received from involved providers; and

(c) In time loss cases, providing us with adequate evidence certifying the claimant's inability to work.

NEW SECTION

WAC 296-31-068 When can a client transfer providers? (1) RCW 51.36.010 provides that clients are entitled to a free choice of attending providers, subject to the limits of RCW 7.68.130 and the requirements of the claimant's public or private insurance. The provider must meet registration requirements of WAC 296-31-030.

(2) The department must be notified if a client changes providers.

(3) We may require a client to select another provider for treatment under the following conditions:

- (a) When a provider, qualified and available to provide treatment, is more conveniently located;
- (b) When the attending provider fails to comply with our rules;
- (c) Subject to the limits of RCW 7.68.130 outlined in subsection (1) of this section.

WSR 99-10-103
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE

[Filed May 5, 1999, 9:45 a.m.]

Subject of Possible Rule Making: Pelt sealing; taxidermy reporting; trappers report; baiting for wild animals; hunting restrictions; hunting with live birds as decoys; baiting of game birds; repealing incisor tooth requirements.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.010, 77.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Elimination of duplicate information; requires tag be attached to pelt [to] ensure tag goes with correct pelt; wording and intent consistency; allows lethal dispatch of lawfully trapped nonfurbearing animals; makes it unlawful to use live wild turkey decoys to hunt turkey; makes it unlawful to hunt game birds in a posted upland bird feeding site.

These changes are being proposed as a result of agency and public review as per the Governor's Executive Order 97-02 on Regulatory Improvement.

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 Mike Kuttel, Assistant Director, Wildlife Management Program, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2504. Contact by June 1, 1999, rule proposal filing expected to be June 23, 1999.

May 5, 1999
Evan Jacoby
Rules Coordinator

WSR 99-10-104
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE

[Filed May 5, 1999, 9:47 a.m.]

Subject of Possible Rule Making: Migratory game bird, trapping, and small game seasons; game reserves, nontoxic shot pertaining to migratory game birds.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.010, 77.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Recreational opportunity for hunters and trappers.

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 Mike Kuttel, Assistant Director, Wildlife Management Program, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2504. Contact by June 1, 1999, rule proposal filing expected to be June 23, 1999.

May 5, 1999
Evan Jacoby
Rules Coordinator

WSR 99-10-106
PREPROPOSAL STATEMENT OF INQUIRY
SECRETARY OF STATE

[Filed May 5, 1999, 10:09 a.m.]

Subject of Possible Rule Making: Presidential primary procedures and general ballot format.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 29.19.070, 29.04.210.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The major political parties and the county auditors have requested that the absentee balloting process for the presidential primary be changed to allow voters to sign a declaration of party affiliation at the time the ballot is cast. Additionally, there are no rules pertaining to the approval of the form of the declarations of party affiliation by the political parties or the method in which party abbreviations are determined for placement on all primary and general election ballots. The proposed changes would decrease the number of mailings required to each absentee voter from two mailings to one, and provide a framework for approving declarations of party affiliation and abbreviations for political parties.

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; and 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 Tim Hill, Elections Division, Office of the Secretary of State, P.O. Box 40229, Olympia, WA 98504-0229, (360) 902-4169, fax (360) 586-5629, e-mail timh@sec-state.wa.gov.

May 5, 1999
Donald F. Whiting
Assistant Secretary of State

WSR 99-10-115
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE

[Filed May 5, 1999, 11:48 a.m.]

Subject of Possible Rule Making: Elk permit seasons.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.010, 77.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Recreational opportunity for hunters.

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 Mike Kuttel, Assistant Director, Wildlife Management Program, 600 Capitol Way North, Olympia, WA 98501-1091, (360) 902-2504. Contact by June 1, 1999, rule proposal filing expected to be June 23, 1999.

May 5, 1999

Evan Jacoby

Rules Coordinator



WSR 99-10-005

EXPEDITED REPEAL

EMPLOYMENT SECURITY DEPARTMENT

[Filed April 22, 1999, 1:56 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 192-12-035 Registration of political subdivisions and instrumentalities thereof, subsections (1), (2), (3), and (4).

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: George Mante, UI Tax Regulatory Reform Coordinator, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, fax (360) 902-9556.

Reason the Expedited Repeal of the Rule is Appropriate: This rule is needless duplication of multiple statutes that govern any instance covering political subdivisions and instrumentalities, specifically chapters 50.24 and 50.29 RCW in addition to RCW 50.44.020, [50.44].030 and [50.44].035 respectively.

In keeping with the given parameters of Governor Locke's Executive Order 97-02, WAC 192-12-035 should be repealed as redundant.

April 6, 1999
Carver Gayton
Commissioner

WSR 99-10-006

EXPEDITED REPEAL

EMPLOYMENT SECURITY DEPARTMENT

[Filed April 22, 1999, 1:57 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 192-12-080 Workers to procure Social Security account numbers, subsections (1), (2), (3), (4), and (5).

Rules Proposed for Expedited Repeal Meet the Following Criteria: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: George Mante, UI Tax Regulatory Reform Coordinator, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, fax (360) 902-9556.

Reason the Expedited Repeal of the Rule is Appropriate: Federal statutes provide for this information from employers. This WAC is repetitive of existing federal law and has no bearing in state statute.

In keeping with the given parameters of Governor Locke's Executive Order 97-02, WAC 192-12-080 should be repealed as redundant.

April 6, 1999
Carver Gayton
Commissioner

WSR 99-10-007

EXPEDITED REPEAL

EMPLOYMENT SECURITY DEPARTMENT

[Filed April 22, 1999, 1:58 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 192-12-110 Employing unit's liability for contributions due from contractors or subcontractors, subsections (1), (2), (3), and (4).

Rules Proposed for Expedited Repeal Meet the Following Criteria: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: George Mante, UI Tax Regulatory Reform Coordinator, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, fax (360) 902-9556.

Reason the Expedited Repeal of the Rule is Appropriate: The department has examined RCW 50.24.130 and finds that it is quite sufficient for unemployment insurance tax purposes and it guarantees the required compliance for contractors and subcontractors.

In keeping with the given parameters of Governor Locke's Executive Order 97-02, WAC 192-12-110 should be repealed as redundant.

April 6, 1999
Carver Gayton
Commissioner

WSR 99-10-008

EXPEDITED REPEAL

EMPLOYMENT SECURITY DEPARTMENT

[Filed April 22, 1999, 1:59 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 192-12-115 Bonding and deposit requirements, nonprofit organizations, subsections (1), (2), (3), (4), (5), and (6).

Rules Proposed for Expedited Repeal Meet the Following Criteria: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

EXPEDITED REPEAL

Address Your Objection to: George Mante, UI Tax Regulatory Reform Coordinator, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, fax (360) 902-9556.

Reason the Expedited Repeal of the Rule is Appropriate: UI tax administration no longer requires bonding and deposit requirements for nonprofit organizations.

In keeping with the given parameters of Governor Locke's Executive Order 97-02, WAC 192-12-115 should be repealed as no longer necessary in the administration of unemployment insurance taxes relating to nonprofit organizations.

April 6, 1999

Carver Gayton
Commissioner

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Mary Jane Ferguson, Rules Coordinator, Washington State Lottery, P.O. Box 43025, Olympia, WA 98504.

Reason the Expedited Repeal of the Rule is Appropriate: The scratch games covered by these rules have been closed.

April 29, 1999

Mary Jane Ferguson
Rules Coordinator

WSR 99-10-026

EXPEDITED REPEAL

DEPARTMENT OF LICENSING

[Filed April 28, 1999, 3:20 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 308-21-010 Definitions, 308-21-100 Certificate of registration, 308-21-200 Application, 308-21-300 Registration renewal—Penalties, 308-21-400 Disclosure statement, 308-21-500 Public viewing of disclosure statement, and 308-21-600 Fees.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Statute on which the rule was based has been repealed and has not been replaced by another statute providing statutory authority for the rule.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Department of Licensing, Business and Professions Division, Athlete Agent Registration, P.O. Box 9649, Olympia, WA 98507-9649.

Reason the Expedited Repeal of the Rule is Appropriate: The passage of SHB 1251 abolishes the athlete agent registration program administered by the Department of Licensing, and repeals chapter 18.175 RCW. This request will repeal the rules associated with this statute.

The effective date of SHB 1251 is July 1, 1999.

April 28, 1999

Joe Vincent Jr.
Program Manager

WSR 99-10-031

EXPEDITED REPEAL

WASHINGTON STATE LOTTERY

[Filed April 29, 1999, 11:31 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 315-11A-166 through 315-11A-182 and 315-11A-184 through 315-11A-186.

WSR 99-10-032

EXPEDITED REPEAL

DEPARTMENT OF REVENUE

[Filed April 29, 1999, 3:59 p.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 458-65-010 Time limitations.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Alan R. Lynn, Department of Revenue, Legislation and Policy Division, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail alanl@dor.wa.gov.

Reason the Expedited Repeal of the Rule is Appropriate: The provisions of this rule were declared invalid in *Pacific Northwest Bell Telephone Company v. The Department of Revenue*, 78 Wn.2d 961 (1971). A rule-making order repealing the balance of the rules in chapter 458-65 WAC was filed with the code reviser on March 25, 1999 (WSR 99-08-007).

April 29, 1999

Claire Hesselholt, Rules Manager
Legislation and Policy Division

WSR 99-10-068

EXPEDITED REPEAL

DEPARTMENT OF GENERAL ADMINISTRATION

[Filed May 4, 1999, 9:46 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 236-48-005, 236-48-009, 236-48-023, 236-48-026, 236-48-041, 236-48-051, 236-48-052, 236-48-061, 236-48-081, 236-48-082, 236-48-084, 236-48-093, 236-48-097, 236-48-101, 236-48-151, 236-48-155, 236-48-162, 236-48-163, 236-48-164, 236-48-254, 236-48-300, 236-49-040, 236-49-061, and 236-49-030.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Rule is no longer necessary because of changed circumstances.

Any person who objects to the repeal of the rule must file a written objection to the repeal within thirty days after publication of this preproposal statement of inquiry.

Address Your Objection to: Sherm Heathers, Office of State Procurement, P.O. Box 41017, Olympia, WA 98504-1017.

Reason the Expedited Repeal of the Rule is Appropriate: These rules outline various aspects of the procurement process. Several are redundant as they are already stated in statute (chapter 43.19 RCW) while others are addressed in our bid document or in general authorities. Several regulations have been combined with others where appropriate while others are being repealed as they no longer apply.

May 3, 1999

Pat Kohler
Assistant Director

EXPEDITED ADOPTION



WSR 99-09-088
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed April 21, 1999, 9:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-06-087.

Title of Rule: WAC 388-550-1050 Hospital definitions.

Purpose: To comply with the Governor's Executive Order 97-02, which mandates that rules be reviewed for clarity, foundation in law, etc.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.730, 42 U.S.C. 1395x(v), 42 C.F.R. 447.271, .11303, and .2652.

Statute Being Implemented: 42 C.F.R. 447.271, .11303, and .2652.

Summary: Clarifies certain defined terms and adds previously undefined terms used in rule.

Reasons Supporting Proposal: Clarifying and adding terms will help a person who reads the rule to understand the rule.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Linn, DOSS, 623 8th Street S.E., Olympia, WA 98501, (360) 753-4338.

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: The rule clarifies and adds certain terms to the definitions section of the hospital rules. The purpose and anticipated effect of doing this is to make it easier for a person who reads the rules to understand them.

Proposal Changes the Following Existing Rules: Amends the existing rule listed in Title of Rule above to add certain previously undefined terms used in rule.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has reviewed the proposed amendments and concludes that no new costs will be imposed on the small businesses affected by the amendments to the rule.

RCW 34.05.328 does not apply to this rule adoption. The rule does not fit the definition of a significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 8, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by May 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 June 8, 1999.

Date of Intended Adoption: June 8, 1999.

April 20, 1999

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 99-06-046, filed 12/18/97 [2/26/99], effective 1/18/98 [3/29/99])

WAC 388-550-1050 Definitions. See also chapter 388-500 WAC for other definitions and abbreviations used by ~~((the department))~~ MAA. Unless otherwise specified, the terms used in this chapter have the following meaning:

"**Accommodation costs**" means the expenses incurred by a hospital to provide its patients services for which a separate charge is not customarily made, such as, but not limited to, a regular hospital room, special care hospital room, dietary and nursing services, medical and surgical supplies, medical social services, psychiatric social services, and the use of certain hospital equipment and facilities.

"**Acute**" means a medical condition of severe intensity with sudden onset.

"**Acute care**" means care provided by an agency for clients who are not medically stable or have not attained a satisfactory level of rehabilitation. These clients require frequent monitoring by a health care professional in order to maintain their health status (WAC 248-27-015).

"**Acute physical medicine and rehabilitation (Acute PM&R)**" means a comprehensive inpatient rehabilitative program coordinated by a multidisciplinary team at an MAA-approved rehabilitation facility. The program provides twenty-four-hour specialized nursing services and an intense level of therapy for a diagnostic category for which the client shows significant potential functional improvement.

"**ADATSA/DASA assessment center**" means an agency contracted by the division of alcohol and substance abuse (DASA) to provide chemical dependency assessment for clients and pregnant women in accordance with the alcohol and drug addiction treatment and support act (ADATSA). Full plans for a continuum of drug and alcohol treatment services for pregnant women are also developed in ADATSA/DASA assessment centers.

"**Add-on procedure**" means a secondary procedure that is performed in addition to another procedure.

"**Administrative day**" means a day of a hospital stay in which an acute inpatient level of care is no longer necessary, and ~~((an appropriate))~~ noninpatient hospital placement is ~~((not available))~~ appropriate.

"**Admitting diagnosis**" means the diagnosis, coded according to the International Classification of Diseases, 9th Revision, Clinical Modifications (ICD-9-CM), indicating the medical condition which precipitated the client's admission to an inpatient hospital facility.

"**Advance directive**" means a document, such as a living will, executed by a client, that tells the client's health care providers and others the client's decisions regarding his or her medical care, particularly whether the client wishes to accept or refuse extraordinary measures to prolong his or her life.

"**Aggregate capital cost**" means the total cost or the sum of all capital costs.

PROPOSED

"Aggregate cost" means the total cost or the sum of all constituent costs.

"Aggregate operating cost" means the total cost or the sum of all operating costs.

"Alcohol and drug addiction treatment and support act (ADATSA)" means the law and the state-funded program it established which provides medical services for persons who are incapable of gainful employment due to alcoholism or substance addiction.

"Alcoholism and/or alcohol abuse treatment" means the provision of medical social services to an eligible client designed to mitigate or reverse the effects of alcoholism or alcohol abuse and to reduce or eliminate alcoholism or alcohol abuse behaviors and restore normal social, physical, and psychological functioning. Alcoholism or alcohol abuse treatment is characterized by the provision of a combination of alcohol education sessions, individual therapy, group therapy, and related activities to detoxified alcoholics and their families.

"All-patient grouper (AP-DRG)" means a computer program that determines the diagnosis-related group (DRG) assignments.

"Allowed charges" means the maximum amount for any procedure that the department will recognize.

"Ancillary hospital costs" means the expenses incurred by a hospital to provide additional or supporting services to its patients during their hospital stay. See **"ancillary services."**

"Ancillary services" means additional or supporting services, such as, but not limited to, laboratory, radiology, drugs, delivery room, operating room, postoperative recovery rooms, and other special items and services, provided by a hospital to a patient during his or her hospital stay.

"Approved treatment facility" means a treatment facility, either public or private, profit or nonprofit, approved by DSHS.

"Audit" means an assessment, evaluation, examination, or investigation of a health care provider's accounts, books and records, including:

(1) Medical, financial and billing records pertaining to billed services paid by the department through Medicaid or other state programs, by a person not employed or affiliated with the provider, for the purpose of verifying the service was provided as billed and was allowable under program regulations; and

(2) Financial, statistical and medical records, including mathematical computations and special studies conducted supporting Medicare cost reports HCFA Form 2552, submitted to the department for the purpose of establishing program rates of reimbursement to hospital providers.

"Audit claims sample" means a subset of the universe of paid claims from which the sample is drawn, whether based upon judgmental factors or random selection. The sample may consist of any number of claims in the population up to one hundred percent. See also **"random claims sample"** and **"stratified random sample."**

"Authorization number" means a nine-digit number assigned by MAA that identifies individual requests for approval of services or equipment. The same authorization

number is used throughout the history of the request, whether it is approved, pending, or denied.

"Authorization requirement" means MAA's requirement that a provider present proof of medical necessity to MAA, ~~((usually before))~~ prior to providing certain medical services or equipment to a client. This takes the form of a request for authorization of the service(s) and/or equipment, including a complete, detailed description of the client's diagnosis and/or any disabling conditions, justifying the need for the equipment or the level of service being requested.

"Average hospital rate" means the ~~((weighted))~~ average of hospital rates ~~((in the state of Washington))~~ for any particular type of rate that MAA uses.

"Bad debt" means an operating expense or loss incurred by a hospital because of uncollectible accounts receivables.

"Beneficiary" means a recipient of Social Security benefits, or a person designated by an insuring organization as eligible to receive benefits.

"Billed charge" - See **"usual and customary charge."**

"Blended rate" means a mathematically weighted average rate.

"Border area hospital" means a hospital located in an area defined by state law as:

(1) Oregon - Astoria, Hermiston, Hood River, Milton-Freewater, Portland, Rainier, or The Dalles; and

(2) Idaho - Coeur d'Alene, Lewiston, Moscow, Priest River or Sandpoint.

"Bundled services" mean interventions which are incidental to the major procedure and are not separately reimbursable.

"Buy-in premium" means a monthly premium the state pays so a client is enrolled in part A and/or part B Medicare.

"By report" means a method of reimbursement in which MAA determines the amount it will pay for a service that is not included in MAA's published fee schedules by requiring the provider to submit a "report" describing the nature, extent, time, effort and/or equipment necessary to deliver the service.

"Callback" means keeping physician staff on duty beyond their regularly scheduled hours, or having them return to the facility after hours to provide unscheduled services; usually associated with hospital emergency room, surgery, laboratory and radiology services.

"Capital-related costs" mean the component of operating costs related to capital assets, including, but not limited to:

- (1) Net adjusted depreciation expenses;
- (2) Lease and rentals for the use of depreciable assets;
- (3) The costs for betterment and improvements;
- (4) The cost of minor equipment;
- (5) Insurance expenses on depreciable assets;
- (6) Interest expense; and
- (7) Capital-related costs of related organizations that provide services to the hospital.

It excludes capital costs due solely to changes in ownership of the provider's capital assets.

"Case mix complexity" means, from the clinical perspective, the condition of the treated patients and the difficulty associated with providing care. Administratively, it

means the resource intensity demands that patients place on an institution.

"**Case mix index**" means a measure of the costliness of cases treated by a hospital relative to the cost of the average of all Medicaid hospital cases, using diagnosis-related group weights as a measure of relative cost.

"**Charity care**" means necessary hospital health care rendered to indigent persons, as defined in this section, to the extent that these persons are unable to pay for the care or to pay the deductibles or coinsurance amounts required by a third-party payer, as determined by the department.

"**Chemical dependency**" means an alcohol or drug addiction; or dependence on alcohol and one or more other psychoactive chemicals.

"**Children's hospital**" means a hospital primarily serving children.

"**Comorbidity**" means of, relating to, or caused by a disease other than the principal disease.

"**Complication**" means a disease or condition occurring subsequent to or concurrent with another condition and aggravating it.

"**Comprehensive hospital abstract reporting system (CHARS)**" means the department of health's hospital data collection, tracking and reporting system.

"**Contract hospital**" means a licensed hospital located in a selective contracting area, which is awarded a contract to participate in the department's selective contracting hospital program.

"**Contractual adjustment**" means the difference between the amount billed at established charges for the services provided and the amount received or due from a third-party payer under a contract agreement. A contractual adjustment is similar to a trade discount.

"**Conversion factor**" means a hospital-specific dollar amount that reflects the average cost of treating Medicaid clients in a given hospital. See "**cost-based conversion factor (CBCF)**" and "**negotiated conversion factor (NCF)**."

"**Cost proxy**" means an average ratio of costs to charges for ancillary charges or per diem for accommodation cost centers used to determine a hospital's cost for the services where the hospital has Medicaid claim charges for the services ((has)), but does not report costs in corresponding centers in its Medicare cost report.

"**Cost report**" means the HCFA Form 2552, Hospital and Hospital Health Care Complex Cost Report, completed and submitted annually by a provider:

- (1) To Medicare intermediaries at the end of a provider's selected fiscal accounting period to establish hospital reimbursable costs for per diem and ancillary services; and
- (2) To Medicaid to establish appropriate DRG and RCC reimbursement.

"**Costs**" mean MAA-approved operating, medical education, and capital-related costs as reported and identified on the HCFA 2552 form.

"**Cost-based conversion factor (CBCF)**" means a hospital-specific dollar amount that reflects the average cost of treating Medicaid clients in a given hospital. It is calculated from the hospital's cost report by dividing the hospital's costs for treating Medicaid clients during a base period by the num-

ber of Medicaid discharges during that same period and adjusting for the hospital's case mix. See also "**conversion factor**" and "**negotiated conversion factor**."

"**County hospital**" means a hospital established under the provisions of chapter 36.62 RCW.

"**Covered service**" means a service that is included in the Medicaid program and is within the scope of the eligible client's medical care program.

"**Critical care services**" mean services for critically ill or injured patients in a variety of medical emergencies that require the constant attendance of the physician (e.g., cardiac arrest, shock, bleeding, respiratory failure, postoperative complications). For Medicaid reimbursement purposes, critical care services must be provided in a Medicare qualified critical care area, such as the coronary care unit, intensive care unit, respiratory care unit, or the emergency care facility, to qualify for reimbursement as a special care level of service.

"**Current procedural terminology (CPT)**" means a systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians; it is published annually by the American Medical Association (AMA).

"**Customary charge payment limit**" means the limit placed on aggregate diagnosis-related group (DRG) payments to a hospital during a given year to assure that DRG payments do not exceed the hospital's charges to the general public for the same services.

"**Day outlier**" means a case that requires MAA to make additional payment to the hospital provider but which does not qualify as a high-cost outlier. See "**day outlier payment**" and "**day outlier threshold**."

"**Day outlier payment**" means the additional amount paid to a disproportionate share hospital for a client five years old or younger who has a prolonged inpatient stay which exceeds the day outlier threshold but whose charges for care fall short of the high cost outlier threshold. The amount is determined by multiplying the number of days in excess of the day outlier threshold and the administrative day rate.

"**Day outlier threshold**" means the average number of days a client stays in the hospital for an applicable DRG before being discharged, plus twenty days.

"**Deductible**" means the amount a beneficiary is responsible for, before Medicare starts paying; or the initial specific dollar amount for which the applicant or client is responsible.

"**Detoxification**" means treatment provided to persons who are recovering from the effects of acute or chronic intoxication or withdrawal from alcohol or other drugs.

"**Diabetic education program**" means a comprehensive, multidisciplinary program of instruction offered by an MAA-approved facility to diabetic clients on dealing with diabetes, including instruction on nutrition, foot care, medication and insulin administration, skin care, glucose monitoring, and recognition of signs/symptoms of diabetes with appropriate treatment of problems or complications.

"**Diagnosis code**" means a set of alphabetic, numeric, or alpha-numeric characters assigned by the International Classification of Diseases, 9th Revision, Clinical Modification

PROPOSED

(ICD-9-CM), as a shorthand symbol to represent the nature of a disease.

"Diagnosis-related group (DRG)" means a classification system which categorizes hospital patients into clinically coherent and homogenous groups with respect to resource use, i.e., similar treatments and statistically similar lengths of stay for patients with related medical conditions. Classification of patients is based on the International Classification of Diseases, the presence of a surgical procedure, patient age, presence or absence of significant co-morbidities or complications, and other relevant criteria.

"Direct medical education costs" means the direct costs of providing an approved medical residency program as recognized by Medicare.

"Discharging hospital" means the institution releasing a client from the acute care hospital setting.

"Disproportionate share payment" means additional payment(s) made by the department to a hospital which serves a disproportionate number of Medicaid and other low-income clients and which qualifies for one or more of the disproportionate share hospital programs identified in the state plan.

"Disproportionate share program" means a program that provides additional payments to hospitals which serve a disproportionate number of Medicaid and other low-income clients.

"Dispute conference" means a hospital rate appeal meeting for deliberation during a provider administrative appeal.

(1) At the first level of appeal it is usually a meeting between auditors and the audited provider and/or staff to resolve disputed audit findings, clarify interpretation of regulations and policies, provide additional supporting information and/or documentation.

(2) At the second level of appeal the dispute conference is ~~(a more formal hearing, held by the office of contracts and asset management which issues a decision articulating the department's final position on the contested issue(s)).~~

(3) See WAC 388-502-0230) an informal administrative hearing conducted by an MAA administrator for the purpose of resolving contractor/provider rate disagreements with any of the department's action at the first level of appeal. The dispute conference in this regard is not a formal adjudicative process held in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

"Distinct unit" means a Medicare-certified distinct area for rehabilitation services within a general acute care hospital or a department-designated unit in a children's hospital.

"DRG" - See **"diagnosis-related group."**

"DRG-exempt services" mean services which are paid for through other methodologies than those using cost-based or negotiated conversion factors.

"DRG payment" means the payment made by MAA for a client's inpatient hospital stay; it is calculated by multiplying the hospital-specific conversion factor by the DRG relative weight for the client's medical diagnosis.

"DRG relative weight" means the average cost or charge of a certain DRG divided by the average cost or charge, respectively, for all cases in the entire data base for

all DRGs (~~(expressed in comparison to a designated standard cost)).~~

"Drug addiction and/or drug abuse treatment" means the provision of medical and rehabilitative social services to an eligible client designed to mitigate or reverse the effects of drug addiction or drug abuse and to reduce or eliminate drug addiction or drug abuse behaviors and restore normal physical and psychological functioning. Drug addiction or drug abuse treatment is characterized by the provision of a combination of drug and alcohol education sessions, individual therapy, group therapy and related activities to detoxified addicts and their families.

"Elective procedure or surgery" means a nonemergent procedure or surgery that can be scheduled at convenience.

"Emergency room" or **"emergency facility"** means an organized, distinct hospital-based facility available twenty-four hours a day for the provision of unscheduled episodic services to patients who present for immediate medical attention, and capable of providing emergency services including trauma.

"Emergency services" mean medical services, including maternity services, required by and provided to a patient after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part. Inpatient maternity services are treated as emergency services.

"Equivalency factor" means a conversion factor used, in conjunction with two other factors (cost-based conversion factor and the ratable factor), to determine the level of state-only program payment.

"Exempt hospital" means a hospital that is either not located in a selective contracting area or is exempted by the department and is reimbursed for services to MAA clients through methodologies other than those using cost-based or negotiated conversion factors.

"Experimental treatment" means a course of treatment or procedure that:

(1) Is not generally accepted by the medical profession as effective and proven;

(2) Is not recognized by professional medical organizations as conforming to accepted medical practice;

(3) Has not been approved by the federal Food and Drug Administration (FDA) or other requisite government body;

(4) Is still in clinical trials, or has been judged to need further study;

(5) Is covered by the federal law requiring provider institutional review of patient consent forms, and such review did not occur; or

(6) Is rarely used, novel, or relatively unknown, and lacks authoritative evidence of safety and effectiveness.

"Facility triage fee" means the amount the medical assistance administration will pay a hospital for a medical evaluation or medical screening examination, performed in the hospital's emergency department, of a nonemergent condition of a *healthy options* client covered under the primary

care case management (PCCM) program. This amount corresponds to the professional care level A or level B service.

"Fee for service" means the general payment method MAA uses to reimburse for medical services provided to clients other than for those services provided through MAA's per capita *healthy options* program.

"Fiscal intermediary" means Medicare's designated fiscal intermediary for a region and/or category of service.

"Fixed per diem rate" means a contracted nonnegotiated daily amount, used to determine payment to a hospital for specific services.

~~("Formula price" means the hospital's payment rate, which is the product of the hospital-specific conversion factor multiplied by the DRG weight for the given hospitalization.)~~

"Global surgery days" means the number of preoperative and follow-up days that are included in the reimbursement to the physician for the major surgical procedure.

"Graduate medical education costs" means the direct and indirect costs of providing medical education in teaching hospitals.

"Grouper" - See "all-patient grouper (AP-DRG)."

"HCFA 2552" - See "cost report."

"Health care team" means a team of professionals and/or paraprofessionals involved in the care of a client.

"High-cost outlier" means a case with extraordinarily high costs when compared to other cases in the same DRG, in which the allowed charges prior to July 1, 1999, exceed three times the applicable DRG payment or twenty-eight thousand dollars, whichever is greater. On and after July 1, 1999, to qualify as a high-cost outlier, the allowed charges must exceed three times the applicable DRG payment or thirty-three thousand dollars, whichever is greater.

"Hospice" means a medically-directed, interdisciplinary program of palliative services which is provided under arrangement with a Title XVIII Washington state-licensed and Title XVIII-certified Washington state hospice for terminally ill clients and the clients' families.

"Hospital" means an entity which is licensed as an acute care hospital in accordance with applicable state laws and regulations, and which is certified under Title XVIII of the federal Social Security Act.

"Hospital admission" means admission as an inpatient to a hospital, for a stay of twenty-four hours or longer.

"Hospital base period" means, for purposes of establishing a provider rate, a specific period or timespan used as a reference point or basis for comparison.

"Hospital base period costs" mean costs incurred in or associated with a specified base period.

"Hospital cost report" - See "cost report."

"Hospital facility fee" - See "facility triage fee."

"Hospital market basket index" means a measure, expressed as a percentage, of the annual inflationary costs for hospital services, as measured by Data Resources, Inc., (DRI).

"Hospital peer group" means the peer group categories adopted by the former Washington state hospital commission for rate-setting purposes:

(1) Group A - rural hospitals paid under a ratio-of-costs-to-charges (RCC) methodology;

(2) Group B - urban hospitals without medical education programs;

(3) Group C - urban hospitals with medical education programs; and

(4) Group D - specialty hospitals and/or hospitals not easily assignable to the other three peer groups.

"Indigent patient" means a patient who has exhausted any third-party sources, including Medicare and Medicaid, and whose income is equal to or below two hundred percent of the federal poverty standards (adjusted for family size), or is otherwise not sufficient to enable the individual to pay for his or her care, or to pay deductibles or coinsurance amounts required by a third-party payor.

"Indirect medical education costs" means the indirect costs of providing an approved medical residency program as recognized by Medicare.

"Inflation adjustment" means, for cost inflation, the hospital inflation (~~factor determined by Data Resources, Inc., (DRI) and published in the DRI/McGraw Hill Report. See also "hospital market basket index."~~) adjustment. This adjustment is the vendor rate increase identified by the legislature as the adjustment to be applied to payment rates used to reimburse vendors, including health care providers, that provide services to the state. If the legislature does not identify an inflation adjustment for vendor rates for a given period, then there is no inflation adjustment for that period. For charge inflation, it means the inflation factor determined by comparing average discharge charges for the industry from one year to the next, as found in the comprehensive hospital abstract reporting system (CHARS) standard reports three and four.

"Inpatient hospital" means a hospital authorized by the department of health to provide inpatient services.

"Inpatient services" means all services provided directly or indirectly by the hospital to a patient subsequent to admission and prior to discharge, and includes, but is not limited to, the following services: Bed and board; medical, nursing, surgical, pharmacy and dietary services; maternity services; psychiatric services; all diagnostic and therapeutic services required by the patient; the technical and/or professional components of certain services; use of hospital facilities, medical social services furnished by the hospital, and such drugs, supplies, appliances and equipment as required by the patient; transportation services subsequent to admission and prior to discharge; and services provided by the hospital within twenty-four hours of the patient's admission as an inpatient.

"Interdisciplinary group (IDG)" means the team, including a physician, a registered nurse, a social worker, and a pastoral or other counselor, which is primarily responsible for the provision or supervision of care and services for a Medicaid client.

"Intermediary" - See "fiscal intermediary."

"International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) Edition" means the systematic listing that transforms verbal descriptions of

diseases, injuries, conditions and procedures into alpha-numerical designations (coding).

"Intervention" means any medical or dental service provided to a client that modifies the medical or dental outcome for that client.

"Length of stay (LOS)" means the number of days of inpatient hospitalization. The phrase more commonly means the average length of hospital stay for patients based on diagnosis and age, as determined by the Commission of Professional and Hospital Activities and published in a book entitled *Length of Stay by Diagnosis, Western Region*. See also **"professional activity study (PAS)."**

"Length of stay extension request" means a request from a hospital provider for MAA to approve a client's hospital stay exceeding the average length of stay for the client's diagnosis and age.

"Lifetime hospitalization reserve" means, under the Medicare Part A benefit, the nonrenewable sixty hospital days that a beneficiary is entitled to use during his or her lifetime for hospital stays extending beyond ninety days per benefit period. See also **"reserve days."**

"Low-cost outlier" means a case with extraordinarily low costs when compared to other cases in the same DRG, in which the allowed charges for the case prior to July 1, 1999, is less than or equal to ten percent of the applicable DRG payment or four hundred dollars, whichever is greater. On and after July 1, 1999, to qualify as a low-cost outlier, the allowed charges must be less than or equal to ten percent of the applicable DRG payment or four hundred and fifty dollars, whichever is greater. Reimbursement in such cases is determined by multiplying the case's allowed charges by the hospital's RCC ratio.

"Low income utilization rate" means a formula represented as $(A/B)+(C/D)$ in which:

(1) The numerator A is the hospital's total patient services revenue under the state plan, plus the amount of cash subsidies for patient services received directly from state and local governments in a period;

(2) The denominator B is the hospital's total patient services revenue (including the amount of such cash subsidies) in the same period as the numerator;

(3) The numerator C is the hospital's total inpatient service charge attributable to charity care in a period, less the portion of cash subsidies described in (1) of this definition in the period reasonably attributable to inpatient hospital services. The amount shall not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under the state plan); and

(4) The denominator D is the hospital's total charge for inpatient hospital services in the same period as the numerator.

"Major diagnostic category (MDC)" means one of the twenty-five mutually exclusive groupings of principal diagnosis areas in the DRG system. The diagnoses in each MDC correspond to a single major organ system or etiology and, in general, are associated with a particular medical specialty.

"Market basket index" - See **"hospital market basket index."**

"Medicaid cost proxy" means a figure developed to approximate or represent a missing cost figure.

"Medicaid inpatient utilization rate" means a formula represented as X/Y in which:

(1) The numerator X is the hospital's number of inpatient days attributable to patients who (for such days) were eligible for medical assistance under the state plan in a period.

(2) The denominator Y is the hospital's total number of inpatient days in the same period as the numerator's. Inpatient day includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

"Medical assistance program" means Medicaid and medical care services.

"Medical education costs" means the expenses incurred by a hospital to operate and maintain a formally organized graduate medical education program.

"Medical screening evaluation" means the service(s) provided by a physician or other practitioner to determine whether an emergent medical condition exists. See also **"facility triage fee."**

"Medical stabilization" means a return to a state of constant and steady function. It is commonly used to mean the client is adequately supported to prevent further deterioration.

"Medically indigent person" means a person certified by the department of social and health services as eligible for the limited casualty program-medically indigent (LCP-MI) program. See also **"indigent patient."**

"Medicare cost report" means the annual cost data reported by a hospital to Medicare on the HCFA form 2552.

"Medicare crossover" means a claim involving a client who is eligible for both Medicare benefits and Medicaid.

"Medicare fee schedule (MFS)" means the official HCFA publication of Medicare policies and relative value units for the resource based relative value scale (RBRVS) reimbursement program.

"Medicare Part A" means that part of the Medicare program that helps pay for inpatient hospital services, which may include, but are not limited to:

- (1) A semi-private room;
- (2) Meals;
- (3) Regular nursing services;
- (4) Operating room;
- (5) Special care units;
- (6) Drugs and medical supplies;
- (7) Laboratory services;
- (8) X-ray and other imaging services; and
- (9) Rehabilitation services.

Medicare hospital insurance also helps pay for post-hospital skilled nursing facility care, some specified home health care, and hospice care for certain terminally ill beneficiaries.

"Medicare part B" means that part of the Medicare program that helps pay for, but is not limited to:

- (1) Physician services;
- (2) Outpatient hospital services;
- (3) Diagnostic tests and imaging services;

- (4) Outpatient physical therapy;
- (5) Speech pathology services;
- (6) Medical equipment and supplies;
- (7) Ambulance;
- (8) Mental health services; and
- (9) Home health services.

"Medicare buy-in premium" - See **"buy-in premium."**

"Medicare payment principles" means the rules published in the federal register regarding reimbursement for services provided to Medicare clients.

"Mentally incompetent" means a client who has been declared mentally incompetent by a federal, state, or local court of competent jurisdiction for any purpose, unless the client has been declared competent for purposes which include the ability to consent to sterilization.

"Multiple occupancy rate" means the rate customarily charged for a hospital room with two or more patient beds.

"Negotiated conversion factor (NCF)" means a negotiated hospital-specific dollar amount which is used in lieu of the cost-based conversion factor as the multiplier for the applicable DRG weight to determine the DRG payment for a selective contracting program hospital. See also **"conversion factor"** and **"cost-based conversion factor."**

"Nonallowed service or charge" means a service or charge that cannot be billed to the department or client.

"Noncontract hospital" means a licensed hospital located in a selective contracting area (SCA) but which does not have a contract to participate in the selective contracting hospital program.

"Noncovered service or charge" means a service or charge that is not covered by medical assistance, including, but not limited to, such services or charges as a private room, circumcision, and video recording of the procedure.

"Nonemergent hospital admission" means any inpatient hospitalization of a client who does not have an emergent condition, as defined in WAC 388-500-0005, Emergency services.

"Nonparticipating hospital" means a noncontract hospital, as defined in this section.

"Operating costs" means all expenses incurred in providing accommodation and ancillary services, excluding capital and medical education costs.

"Orthotic device" means a fitted surgical apparatus designed to activate or supplement a weakened or atrophied limb or bodily function.

"Out-of-state hospital" means any hospital located outside the state of Washington or outside the designated border areas in Oregon and Idaho.

"Outlier set-aside factor" means the amount by which a hospital's cost-based conversion factor is reduced for payments of high cost outlier cases.

"Outlier set-aside pool" means the total amount of payments for high cost outliers which are funded annually based on payments for high cost outliers during the year.

"Outliers" means cases with extraordinarily high or low costs when compared to other cases in the same DRG.

"Outpatient" means a client who is receiving medical services in other than an inpatient hospital setting.

"Outpatient care" means medical care provided other than inpatient services in a hospital setting.

"Outpatient hospital" means a hospital authorized by the department of health to provide outpatient services.

"Outpatient stay" means a hospital stay of less than or approximating twenty-four hours, except that cases involving the death of a client, delivery or initial care of a newborn, or transfer to another acute care facility are not deemed outpatient stays.

"Pain treatment facility" means an MAA-approved inpatient facility for pain management, in which a multidisciplinary approach is used to teach clients various techniques to live with chronic pain.

"Participating hospital" means a licensed hospital that accepts MAA clients.

"PAS length of stay (LOS)" means the average length of hospital stay for patients based on diagnosis and age, as determined by the Commission of Professional and Hospital Activities and published in a book entitled *Length of Stay by Diagnosis, Western Region*. See also **"professional activity study (PAS)"** and **"length of stay."**

"Patient consent" means the informed consent of the client and/or the client's guardian to the procedure(s) to be performed upon or the treatment provided to the client, evidenced by the client's or guardian's signature on a consent form.

"Peer group" - See **"hospital peer group."**

"Peer group cap" means the reimbursement limit set for hospital peer groups B and C, established at the seventieth percentile of all hospitals within the same peer group for aggregate operating, capital, and direct medical education costs.

"Per diem charge" means the daily charge per client that a facility may bill or is allowed to receive as payment for its services.

"Personal comfort items" means items and services which do not contribute meaningfully to the treatment of an illness or injury or the functioning of a malformed body member.

~~"((Physical medicine and rehabilitation))PM&R(())" ((means a comprehensive inpatient rehabilitative program coordinated by a multidisciplinary team at an MAA-approved rehabilitation facility. The program provides twenty-four hour specialized nursing services and an intense level of therapy for a diagnostic category for which the client shows significant potential functional improvement.)) - See "Acute PM&R."~~

"Physician standby" means physician attendance without direct face-to-face patient contact and does not involve provision of care or services.

"Physician's current procedural terminology (CPT)" - See **"CPT."**

"Plan of treatment" or **"plan of care"** means the written plan of care for a patient which includes, but is not limited to, the physician's order for treatment and visits by the disciplines involved, the certification period, medications, and rationale indicating need for services.

"Pregnant and postpartum women (PPW)" means eligible female clients who are pregnant or within the first one hundred sixty days following delivery.

"Principal diagnosis" means the medical condition determined after study of the patient's medical records to be the principal cause of the patient's hospital stay.

"Principal procedure" means a procedure performed for definitive treatment rather than diagnostic or exploratory purposes, or because it was necessary due to a complication.

"Private room rate" means the rate customarily charged by a hospital for a one-bed room.

"Professional activity study (PAS)" means the compilation of inpatient hospital data by diagnosis and age, conducted by the Commission of Professional and Hospital Activities, which resulted in the determination of an average length of stay for patients. The data are published in a book entitled *Length of Stay by Diagnosis, Western Region*.

"Professional component" means the part of a procedure or service that relies on the physician's professional skill or training, or the part of a reimbursement that recognizes the physician's cognitive skill.

"Profitability factor" means a factor used to calculate a hospital's low income disproportionate share (LIDSH) payment. The methods used to determine the profitability factor are:

- (1) Determine the net revenue of each LIDSH qualified hospital. The net revenue amount will be the "net revenue" figure identified on the most recent MAA hospital disproportionate share application submitted by the hospital;
- (2) Add the net revenue figures for all hospitals together to determine one total net revenue figure for all hospitals together to determine one total net revenue figure for all LIDSH qualified hospitals;
- (3) Divide the hospital specific net revenue figure by the net revenue total for all hospitals; and
- (4) Subtract the resulting amount from 1.00. The outcome is the profitability factor.

"Prognosis" means the probable outcome of a patient's illness, including the likelihood of improvement or deterioration in the severity of the illness, the likelihood for recurrence, and the patient's probable life span as a result of the illness.

"Prolonged service" means direct face-to-face patient services provided by a physician, either in the inpatient or outpatient setting, which involve time beyond what is usual for such services.

"Prospective payment system (PPS)" means a system that sets payment rates for a pre-determined period for defined services, before the services are provided. The payment rates are based on economic forecasts and the projected cost of services for the pre-determined period.

"Psychiatric hospitals" means designated psychiatric facilities, state psychiatric hospitals, designated distinct part pediatric psychiatric units, and Medicare-certified distinct part psychiatric units in acute care hospitals.

"Public hospital district" means a hospital district established under chapter 70.44 RCW.

"Random claims sample" means a sample in which all of the items are selected randomly, using a random number

table or computer program, based on a scientific method of assuring that each item has an equal chance of being included in the sample. See also "audit claims sample" and "stratified random sample."

"Ratable" means a hospital-specific adjustment factor applied to the cost-based conversion factor (CBCF) to determine state-only program payment rates to hospitals.

"Ratio of costs to charges (RCC)" means the methodology used to pay hospitals for services exempt from the DRG payment method. It also refers to the factor applied to a hospital's allowed charges for medically necessary services to determine payment to the hospital for these DRG-exempt services.

"Readmission" means the situation in which a client who was admitted as an inpatient and discharged from the hospital is back as an inpatient within seven days as a result of one or more of the following: A new flair of illness, complication(s) from the first admission, a therapeutic admission following a diagnostic admission, a planned readmission following discharge, or a premature hospital discharge.

"Rebasing" means the process of recalculating the hospital cost-based conversion factors using more current data.

"Recalibration" means the process of recalculating DRG relative weights using more current data.

"Regional support network (RSN)" means a county authority or a group of county authorities recognized and certified by the department, that contracts with the department per chapters 38.52, 71.05, 71.24, 71.34, and 74.09 RCW and chapters 275-54, 275-55, and 275-57 WAC.

"Rehabilitation units" means specifically identified rehabilitation hospitals and designated rehabilitation units of general hospitals that meet Medicare criteria for distinct part rehabilitation units.

"Relative weights" - See "DRG relative weights."

"Remote hospitals" means hospitals located outside selective contracting areas (SCAs), or which:

- (1) Are more than ten miles from the nearest contract hospital in the SCA; and
- (2) Have fewer than seventy five beds; and
- (3) Have fewer than five hundred Medicaid admissions in a two-year period.

"Reserve days" means the days beyond the ninetieth day of hospitalization of a Medicare patient for a benefit period or spell of illness. See also "lifetime hospitalization reserve."

"Retrospective payment system" means a system that sets payment rates for defined services according to historic costs. The payment rates reflect economic conditions experienced in the past.

"Revenue code" means a nationally-used three-digit coding system for billing inpatient and outpatient hospital services, home health services, and hospice services.

"Room and board" means services provided in a nursing facility, including:

- (1) Assistance in the activities of daily living.
- (2) Socialization activities.
- (3) Administration of medication.
- (4) Maintenance of the resident's room.

(5) Supervision and assistance in the use of durable medical equipment and prescribed therapies.

See "**accommodation costs**" for services included in the hospital room and board category.

"**Rural health clinic**" means a clinic that is located in a rural area designated as a shortage area, and is not a rehabilitation agency or a facility primarily for the care and treatment of mental diseases.

"**Rural hospital**" means a rural health care facility capable of providing or assuring availability of health services in a rural area.

"**Secondary diagnosis**" means a diagnosis other than the principal diagnosis for which an inpatient is admitted to a hospital.

"**Selective contracting area (SCA)**" means an area in which hospitals participate in competitive bidding for hospital contracts. The boundaries of an SCA are based on historical patterns of hospital use by Medicaid patients.

"**Selective hospital contracting program**" or "**selective contracting**" means a competitive bidding program for hospitals within a specified geographic area to provide inpatient hospital services to medical assistance clients.

"**Semi-private room rate**" means a rate customarily charged for a hospital room with two to four beds; this charge is generally lower than a private room rate and higher than a ward room. See also "**multiple occupancy rate.**"

"**Short stay**" means a hospital stay of less than or approximating twenty-four hours where an inpatient admission was not appropriate.

"**Special care unit**" means a Medicare-certified hospital unit where intensive care, coronary care, psychiatric intensive care, burn treatment or other specialized care is provided.

"**Specialty hospitals**" means children's hospitals, psychiatric hospitals, cancer research centers or other hospitals which specialize in treating a particular group of clients or diseases.

"**Spenddown**" means the amount of excess income MAA has determined that a client has available to meet his or her medical expenses. The client becomes eligible for Medicaid coverage only after he or she meets the spenddown requirement.

"**Stat laboratory charges**" means the charges by a laboratory for performing a test or tests immediately. "Stat." is the abbreviation for the Latin word "statim" meaning immediately.

"**State plan**" means the plan filed by the department with the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), outlining how the state will administer the hospital program.

"**Stratified random sample**" means a sample consisting of claims drawn randomly, using statistical formulas, from each stratum of a universe of paid claims stratified according to the dollar value of the claims. See also "**audit claims sample**" and "**random claims sample.**"

"**Subacute care**" means care to a patient which is less intrusive than that given at an acute care hospital. Skilled nursing, nursing care facilities and other facilities provide subacute care services.

"**Surgery**" means the medical diagnosis and treatment of injury, deformity or disease by manual and instrumental operations. For reimbursement purposes, surgical procedures are those designated in CPT as procedure codes 10000 to 69999.

"**Swing-bed days**" means a bed day on which an inpatient is receiving skilled nursing services in a swing bed at the hospital's census hour. The hospital bed must be certified by the health care financing administration for both acute care and skilled nursing services.

"**Teaching hospital**" means, for purposes of the teaching hospital assistance program disproportionate share hospital (THAPDSH), the University of Washington Medical Center and Harborview (~~hospital~~) Medical Center.

"**Technical component**" means the part of a procedure or service that relates to the equipment set-up and technician's time, or the part of a reimbursement that recognizes the equipment cost and technician time.

"**Tertiary care hospital**" means a specialty care hospital providing highly specialized services to clients with more complex medical needs than acute care services.

"**Total patient days**" means all patient days in a hospital for a given reporting period, excluding days for skilled nursing, nursing care, and observation days.

"**Transfer**" means to move a client from one acute care facility to another.

"**Transferring hospital**" means the hospital transferring a client to another acute care facility.

"**Trauma care facility**" means a facility certified by the department of health as a level I, II (~~(or)~~), III, IV or V facility.

"**Trauma care service**" - See department of health's WAC 246-976-935.

"**UB-92**" means the uniform billing document intended for use nationally by hospitals, hospital-based skilled nursing facilities, home health, and hospice agencies in billing third party payers for services provided to clients.

"**Unbundled services**" means services which are excluded from the DRG payment to a hospital, including but not limited to, physician professional services and certain nursing services.

"**Uncompensated care**" - See "**charity care.**"

"**Uniform cost reporting requirements**" means a standard accounting and reporting format as defined by Medicare.

"**Uninsured indigent patient**" means an individual who receives hospital inpatient and/or outpatient services and who cannot meet the cost of services provided because the individual has no or insufficient health insurance or other resources to cover the cost.

"**Usual and customary charge (UCC)**" means the charge customarily made to the general public for a procedure or service, or the rate charged other contractors for the service if the general public is not served.

"**Vendor rate increase**" means an inflation adjustment determined by the legislature, used to periodically increase reimbursement to vendors, including health care providers, that do business with the state.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

PROPOSED

WSR 99-09-092
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Order 94-32—Filed April 21, 1999, 10:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-12-059.

Title of Rule: Chapter 173-548 WAC, Water resources program in the Methow River Basin, WRIA 48.

Purpose: Amend rule to establish trust water right water bank to assist with water management in the basin.

Statutory Authority for Adoption: Chapters 90.44, 90.54 RCW.

Statute Being Implemented: Chapter 90.54 RCW, Water Resources Act of 1971.

Summary: In early 1998, the Department of Ecology and Okanogan County signed a memorandum of agreement to work together, in conjunction with the Department of Fish and Wildlife and the Governor's Salmon Recovery Team, to cooperatively develop and implement an improved water resources management program for the Methow River Basin. As part of this agreement, ecology agreed to propose a rule amendment that would establish a water bank in the Methow Basin.

Reasons Supporting Proposal: While the basin's water is substantially renewed annually, there is not always water at the right place and time for all existing and proposed uses; the water bank would help address this situation.

Name of Agency Personnel Responsible for Drafting: John Monahan, Yakima, Washington, (509) 457-7112; Implementation and Enforcement: Bob Barwin, Yakima, Washington, (509) 457-7107.

Name of Proponent: Washington Department of Ecology and Okanogan County Commissioners, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Although water in the Methow River Basin is substantially renewed annually through rainfall and snowmelt, there is not always water at the right place and time for all existing and proposed uses. In early 1998, the Department of Ecology and Okanogan County signed a memorandum of agreement to work together, in conjunction with the Department of Fish and Wildlife and the Governor's Salmon Recovery Team, to cooperatively develop and implement an improved water resources management program to address the water situation in the basin.

As part of this agreement, ecology agreed to propose a rule amendment that would establish a trust water right "water bank" in the Methow Basin. The water bank would provide a means to account for water use and availability, and is perceived as a necessary step to assist with water management in the basin.

Proposal Changes the Following Existing Rules: The amendment would create a trust water right water bank in the Methow Basin. (please see above for more background).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment of chapter 173-548 WAC establishes an administrative

entity, a water bank, which will provide a process for tracking and allocating water in the Methow River Basin. As such, the amendment does not materially add to the administrative requirements for obtaining water rights, building permits, or other development-related permits or approvals in the area. Its effects on small businesses are not expected to differ from those on large businesses.

RCW 34.05.328 does not apply to this rule adoption. This amendment is not a significant rule under RCW 34.05.328 because it is procedural in nature, creating an entity for tracking and allocating water, it does not create additional administrative requirements for the regulated community.

Hearing Location: The Barn, 51 North Highway 20, Winthrop, WA, on June 10, 1999, at 7:00 p.m. to 9:00 p.m.

Assistance for Persons with Disabilities: Contact Paula Smith by June 1, 1999, TDD (360) 407-6006, or (360) 407-6607.

Submit Written Comments to: Thom Lufkin, Water Resources Program, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, or e-mail at tlhw461.ecy.wa.gov, fax (360) 407-6574, by June 18, 1999.

Date of Intended Adoption: July 7, 1999.

April 20, 1999

Daniel Silver

Deputy Director

Chapter 173-548 WAC

**WATER RESOURCES MANAGEMENT PROGRAM
 ((H)) FOR THE METHOW RIVER BASIN, WRIA 48**

WAC	
173-548-001	Purpose of rule.
173-548-002	Definitions.
173-548-005	Authority.
173-548-010	General provision.
173-548-015	Methow River basin map.
173-548-020	Establishment of base flows.
173-548-030	((Future allocations—Reservation of surface water for beneficial uses.)) Future water use—general.
173-548-031	Future water use—Storage facilities.
173-548-032	Future water use—Reservation of water for in-house domestic purposes.
173-548-033	Future water use—Change of place of use or point of diversion.
173-548-034	Future water use—Conservation and change of purpose of use.
173-548-035	Future water use—Salmonid habitat.
173-548-036	Future water use—Water reuse.
173-548-037	Future water use—Allocation of saved water.
173-548-040	((Priority of future water rights during times of water shortage.)) Future water use—Priority of appropriation.
173-548-050	Streams and lakes closed to further consumptive appropriations.
173-548-060	Ground water.
173-548-070	Effect on prior rights.

PROPOSED

173-548-075	Administration.
173-548-076	Organization and management of workload.
173-548-080	Enforcement.
173-548-090	Appeals.
173-548-100	Regulation review.

NEW SECTION

WAC 173-548-001 Purpose of rule. (1) The purposes of this rule are to establish a water bank and to provide guidelines and procedures for the management of the water resources in the Methow River basin. These guidelines and procedures apply to both surface water and ground water that is in hydraulic continuity with the Methow River or its tributaries. These guidelines and procedures are intended to provide a means to develop water supplies for beneficial out-of-stream uses such as domestic and agricultural purposes, protect and enhance beneficial instream uses, enhance habitat for anadromous salmon and steelhead, and protect existing water rights.

(2) It is determined that water is not reliably available for certain times of the year within the Methow River basin, including hydraulically connected ground water. New appropriations under water right applications filed under RCW 90.03.250 and RCW 90.44.050, must be made in accordance with the procedures described in WAC 173-548-030(1), WAC 173-548-031, or WAC 173-548-032.

(3) This rule complements and is implemented in conjunction with applicable Okanogan County ordinances and/or resolutions that require water to be used and managed in a manner consistent with state laws, regulations, and local management objectives described in the ordinances and/or resolutions.

(4) In promulgating this rule revision, consideration was given to the recommendations of the Methow River basin pilot planning committee; the Methow River basin ground water advisory committee; chapter 173-548-030 WAC, filed on December 28, 1976; Okanogan County subdivision and critical areas ordinances, comprehensive plan, zoning code, shoreline master program; and the Mazama water quality protection system.

NEW SECTION

WAC 173-548-002 Definitions. For purposes of this chapter, the following definitions apply:

(1) "Allocation" means the maximum rate and volume of water approved by the department under a water right permit or certificate for a specific beneficial use.

(2) "Community domestic use" means any water intended or used for human consumption for more than one single-family residence.

(3) "Community domestic water system" means a system that delivers water primarily for community domestic uses.

(4) "County" means Okanogan County.

(5) "Department" means the Washington state department of ecology.

(6) "Exempt water use" means any withdrawal of public ground waters for stock-watering purposes, or for the watering of a lawn or of a noncommercial garden not exceeding

one-half acre in area, or for single or group domestic uses in an amount not exceeding five thousand gallons a day, or for an industrial purpose in an amount not exceeding five thousand gallons a day.

(7) "Hydraulically connected ground water" means ground water aquifers or bodies where withdrawals of ground water have an impact on (reduce flow or level of) the surface waters.

(8) "Hydraulic continuity" means the connection and dynamic interaction between ground and surface water. An aquifer is in hydraulic continuity with lakes, streams, rivers, or other surface-water bodies whenever it is discharging to, or being recharged by, surface water.

(9) "Impairment" means the condition, caused by other than a natural event, where the holder of a valid water right cannot accomplish the beneficial use or uses for which the right was granted.

(10) "In-house use" means water used inside the home (e.g. sinks, toilets, shower/bath, laundry), and does not include uses of water outside the residence (e.g. lawn, garden, ornamental landscaping, car washing).

(11) "Net water savings" means the amount of water that is determined to be conserved and usable within a specified stream reach or reaches for other purposes without:

(a) Impairment or detriment to water rights existing at the time that a water conservation project is undertaken;

(b) Reducing the ability to deliver water; or

(c) Reducing the supply of water that otherwise would have been available to other existing water uses.

(12) "New water use" means a use of water which was not legally authorized before the effective date of this rule.

(13) "Open space" means land within or related to a development, not individually owned (undivided interest), which remains undeveloped and that is dedicated to one or more of the following purposes:

(a) Historical/architectural preservation;

(b) Fish or wildlife habitat;

(c) Agriculture; or

(d) Recreation.

(14) "Planned development" means land on which a variety of housing types and/or related commercial and industrial facilities are accommodated in a pre-planned environment under flexible standards, such as lot sizes and setbacks, different from those restrictions that would normally apply to a subdivision in the underlying zone. Planned development standards contain requirements in addition to those of the standard subdivision, such as building design principles and a landscaping plan. Planned developments are served by a community domestic water system as defined in this section.

(15) "Saved water" means the quantity of water historically diverted or withdrawn to satisfy a beneficial use that, as a result of system improvements or a change of use is no longer diverted or withdrawn from its source for the historical beneficial use.

(16) "Stream management units" are the four mainstem Methow River and three tributary segments, each of which contains a control station, that together make up the Methow River basin. Base flow levels and other elements of the 1977 water resource management program are defined by and will be administered within each management reach.

PROPOSED

(17) "Trust water right" means any water right acquired by or donated to the state under the trust water right provisions of chapter 90.42 RCW. Trust water rights are immediately junior to, but maintain the same priority date as, the water right from which they were acquired or donated.

(18) "Valid water right" means a water right recognized by law.

(19) "Water bank" means the system by which trust water rights can be dedicated to one of several future instream and out-of-stream uses.

NEW SECTION

WAC 173-548-005 Authority. This rule was developed and adopted based on Chapters 18.104, 43.27A, 90.03, 90.22, 90.42, 90.44, and 90.54 RCW, and was developed consistent with the rules and procedures in applicable Okanogan County ordinances and resolutions, Chapters 19.27, 36.36, 43.21A, 43.83B, 58.17, 90.46, and 90.48 RCW, and Chapters 173-100, 173-160, 173-200, and 173-500 WAC.

NEW SECTION

WAC 173-548-015 Methow River basin map.

AMENDATORY SECTION [(Amending Order DE 76-37, filed 12/28/76)]

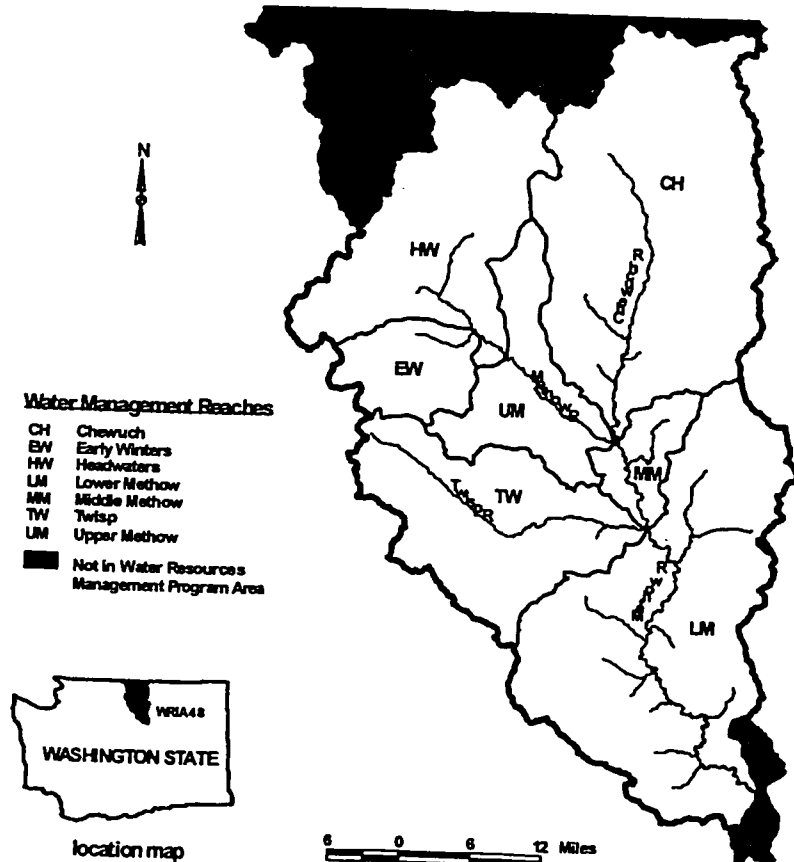
WAC 173-548-010 General provision. These rules, including any subsequent additions and amendments, apply to waters within and contributing to the Methow River basin within, WRIA 48 (see WAC 173-500-040). Chapter 173-500 WAC, the general rule((s)) of the department of ecology for the implementation of the comprehensive water resources program, applies to this chapter (~~(173-548 WAC)~~). The Methow River basin includes those lands which are depicted on the map in WAC 173-548-015. Information regarding stream management units in the Methow River basin is provided in WAC 173-548-020.

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.

PROPOSED

Methow River Basin - WRIA 48



AMENDATORY SECTION [(Amending Order DE 76-37, filed 12/28/76)]

WAC 173-548-020 Establishment of base flows. (1)

Base flows are established for stream management units with monitoring to take place at certain control ((points)) stations as follows:

STREAM MANAGEMENT UNIT INFORMATION

Stream Management Unit Name, Control Station Name and Number	Control Station Location by River Mile, Section, Township, Range	Affected Stream Reach (includes tributaries)
<u>Lower Methow</u> Methow R. nr. Pateros (12.4499.50)	6.7 20-30-23E	Methow River confluence with Wells Pool to confluence with Twisp River.
<u>Middle Methow</u> Methow R. nr. Twisp (12.4495.00)	40.0 17-33-22E	Methow River from confluence with Twisp River to confluence with ((Chewaek)) <u>Chewuch</u> River.
<u>Upper Methow</u> Methow R. nr. Winthrop (12.4473.89)	50.2 2-34-21E	Methow River from confluence with ((Chewaek)) <u>Chewuch</u> river to confluence with Little Boulder Creek and including Little Boulder Creek.
<u>Methow Headwaters</u> Methow R. at Little Boulder Cr. (12.4473.83)	65.3 25-36-19E	Methow River from confluence with Little Boulder Creek to headwaters.
<u>Early Winters Creek</u> Early Winters Cr. near Mazama	27-36-19E	Early Winters Creek from confluence with Methow River to headwaters.
((Chewaek)) <u>Chewuch River</u> ((Chewaek)) <u>Chewuch</u> R. nr. Boulder Creek (12.4475.00)	8.7 35-36-21E	((Chewaek)) <u>Chewuch</u> River confluence with Methow River to headwaters.
<u>Twisp River</u> Twisp R. nr. Twisp (12.4489.98)	0.3 7-33-22E	Twisp River from confluence with Methow River to headwaters.

(2) Base flows established for the stream management units in WAC 173-548-020(1) are as follows:

Base Flows in the Methow River
(All Figures in Cubic Feet Per Second)

[CODIFICATION NOTE: The graphic presentation of this table has been varied slightly in order that it would fall within the printing specification for the Washington Administrative Code. The following table was too wide to be accommodated in the width of the WAC column.

The table as codified has been divided into two tables with Part 1 covering the Lower Methow, Middle Methow and Upper Methow and with Part 2 covering the Methow Headwaters, Early Winters Creek, ((Chewaek)) Chewuch River and Twisp River.]

PART 1

Month	Day	Lower Methow (12.4499.50)	Middle Methow (12.4495.00)	Upper Methow (12.4473.89)
Jan.	1	350	260	120
	15	350	260	120
Feb.	1	350	260	120
	15	350	260	120
Mar.	1	350	260	120
	15	350	260	120
Apr.	1	590	430	199
	15	860	650	300
May	1	1,300	1,000	480
	15	1,940		690
			1,500	
Jun.	1	2,220	1,500	790
	15	2,220	1,500	790
Jul.	1	2,150	1,500	694
	15	800	500	240
Aug.	1	480	325	153
	15	300	220	100
Sep.	1	300	220	100
	15	300	220	100
Oct.	1	360	260	122
	15	425	320	150
Nov.	1	425	320	150
	15	425	320	150
Dec.	1	390	290	135
	15	350	260	120

PART 2

Month	Day	Methow Headwaters (12.4473.83)	Early Winters Creek	((Chewaek)) <u>Chewuch</u> River (12.4475.00)	Twisp River (12.4489.98)
Jan.	1	42	10	56	34
	15	42	10	56	34
Feb.	1	42	10	56	34
	15	42	10	56	34
Mar.	1	42	10	56	34
	15	42	10	56	34
Apr.	1	64	14	90	60
	15	90	23	140	100
May	1	130	32	215	170
	15	430	108	290	300
Jun.	1	1,160	290	320	440
	15	1,160	290	320	440

PROPOSED

PROPOSED

Month	Day	Methow Headwaters (12.4473.83)	Early Winters Creek	((Chewaek)) Chewuch River (12.4475.00)	Twisp River (12.4489.98)
Jul.	1	500	125	292	390
	15	180	45	110	130
Aug.	1	75	20	70	58
	15	32	8	47	27
Sep.	1	32	8	47	27
	15	32	8	47	27
Oct.	1	45	11	56	35
	15	60	15	68	45
Nov.	1	60	15	68	45
	15	60	15	68	45
Dec.	1	51	12	62	39
	15	42	10	56	34

(3) Base flow hydrographs, as represented in Figure 1 in the document entitled "water resources management program, Methow River basin" dated 1976, shall be used for definition of base flows on those days not specifically identified in WAC 173-548-020(2) ~~((and 173-548-030))~~.

(4) All rights hereafter established through the procedures in RCW 90.03.250 and RCW 90.44.050 shall be subject to the base flows established in WAC 173-548-020(1) through (3), except as provided under WAC 173-548-030(1) and WAC 173-548-032 through WAC 173-548-037.

(5) Future appropriations of water which would conflict with base flows shall be authorized, by the director, only in those situations when it is clear that overriding considerations of the public interest will be served.

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 Order DE 76-37, filed 12/28/76)]

~~WAC 173-548-030 ((Future allocations—Reservation of surface water for beneficial uses. The department determines that there are surface waters available for appropriation from the stream management units specified in the amount specified in cubic feet per second (cfs) during the time specified as follows:~~

~~(a) Maximum surface water available for future allocation from the indicated reach is as follows:~~

Month	Lower-Methow	Middle-Methow	Upper-Methow	Methow Headwaters	Early Winters Creek	Chewaek River	Twisp River
Oct.	95	50	44	15	29	09	14
Nov.	116	101	46	06	21	10	15
Dec.	112	99	44	17	26	10	15

Month	Lower-Methow	Middle-Methow	Upper-Methow	Methow Headwaters	Early Winters Creek	Chewaek River	Twisp River
Jan.	50	36	26	08	19	03	09
Feb.	51	37	29	09	19	04	10
Mar.	147	139	80	38	19	24	18
Apr.	565	590	273	336	35	118	148
May	2,922	2,927	784	412	403	809	703
Jun.	3,116	2,853	1,017	1,249	294	1,292	890
Jul.	965	877	583	608	189	308	298
Aug.	214	192	203	109	94	70	70
Sep.	62	55	76	33	47	23	26

All figures in cubic feet per second.

~~(b) The control station for each reach is defined in WAC 173-548-020.~~

~~(c) The appropriation limit is set forth to be an amount equal to the one in two year natural reach discharge on a monthly basis for all management reaches except Early Winters Creek. The appropriation limit for Early Winters Creek is set forth to be an amount equal to the estimated natural mean monthly streamflow for that stream.~~

~~(2) The amounts of water referred to in WAC 173-548-030(1) above are allocated for beneficial uses in the future as follows:~~

~~(a) Allocation of surface waters by use category (April through September):~~

Use Description	Apr.	May	Jun.	Jul.	Aug.	Sep.
<u>Lower-Methow</u>						
Single-Domestic and Stock-Use	2.0	2.0	2.0	2.0	2.0	2.0
Base-Flow	860	1,940	2,220	800	300	300
Public Water-Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030(1)(c)					
<u>Middle-Methow</u>						
Single-Domestic and Stock-Use	2.0	2.0	2.0	2.0	2.0	2.0
Base-Flow	650	1,500	1,500	500	220	220
Public Water-Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030(1)(c)					
<u>Upper-Methow</u>						
Single-Domestic and Stock-Use	2.0	2.0	2.0	2.0	2.0	2.0
Base-Flow	300	690	790	240	100	100
Public Water-Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030(1)(c)					

Use-Description	Apr.	May	Jun.	Jul.	Aug.	Sep.
<u>Methow Headwaters</u>						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	90	430	1,160	180	32	32
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(e)					
<u>Early Winters Creek</u>						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	23	108	290	45	8.0	11.0
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(e)					
<u>Chewack River</u>						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	140	290	320	110	47	47
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(e)					
<u>Twisp River</u>						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	100	300	440	130	27	27
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(e)					

Use-Description	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.
<u>Upper Methow</u>						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	150	150	120	120	120	120
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(e)					
<u>Methow Headwaters</u>						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	60	60	42	42	42	42
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(e)					
<u>Early Winters Creek</u>						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	15	15	10	10	10	10
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(e)					
<u>Chewack River</u>						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	68	68	56	56	56	56
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(e)					
<u>Twisp River</u>						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	45	45	34	34	34	34
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(e)					

All figures in cubic feet per second.

(b) Allocation of surface waters by use category (October through March):

Use-Description	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.
<u>Lower Methow</u>						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	425	425	350	350	350	350
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(e)					
<u>Middle Methow</u>						
Single Domestic and Stock Use	2.0	2.0	2.0	2.0	2.0	2.0
Base Flow	320	320	260	260	260	260
Public Water Supply, Irrigation, and Other Uses	Remaining waters up to the appropriation limit set forth in WAC 173-548-030 (1)(e)					

(c) Allocations presented in this section do not limit the utilization of waters stored for later release, provided such storage does not infringe upon existing rights or base flow and is duly permitted under RCW 90.03.290 and 90.03.350.

(d) As the amount of water allocated for each category of use approaches the amount available for future allocation set

PROPOSED

forth in WAC 173-548-030(1), the department shall review the program to determine whether there is a need for program revision:)) **Future water use—General.** (1) This rule amendment does not affect water uses under valid water rights or claims which existed before the effective date of its adoption. Authorization of new uses must be obtained from the department and the county through one of the processes defined in WAC 173-548-031 through 036 or, for single domestic and stock purposes, as described in subsection (2) of this section. The water needed to meet new consumptive water uses must now come from:

(a) Water stored during periods of high water flow in the basin;

(b) Transfer of valid water rights;

(c) Water saved from existing rights through the implementation of water conservation or conversion practices;

(d) The water bank; or

(e) Water obtained through reuse.

(2) Up to 2.0 cfs may be used within each stream management unit for single domestic and stock purposes. This amount of water was reserved for future use in the regulation adopted December 28, 1976. The amount that remains available for future single domestic and stock purposes differs within each management unit, based upon the number of appropriations made and the beneficial uses perfected subsequent to adoption of the regulation. Appropriations from this reservation have a priority date of December 28, 1976, and are not subject to the base or minimum instream flows described in WAC 173-548-020.

(3) The Methow River basin water bank is hereby established to account for water saved ("deposits") and water subsequently allocated ("withdrawals") as described in WAC 173-548-037.

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.

NEW SECTION

WAC 173-548-031 Future water use—Storage facilities. Storage projects may make water available during periods of low natural water availability. Capture and use of peak spring flows must not negatively affect anadromous fish migration travel time or the base flows in WAC 173-548-020. Evaluation of a storage project proposal in the Methow River basin is formally initiated when an application for a water right for this purpose is filed with the department in accordance with RCW 90.03.255 or 90.44.055. The department shall coordinate its evaluation with the local community and local, state, federal and tribal governments.

NEW SECTION

WAC 173-548-032 Future water use—Reservation of water for in-house domestic purposes. (1) The director finds that a reliable supply of water for community domestic uses during the period from the end of the irrigation season to the beginning of the following irrigation season is essential

for successful implementation of the pilot planning committee recommendations and is in the overriding interest of the public. Water, in the amount of 2 cfs within each stream management unit, may be appropriated under this section for systems providing community domestic uses, by filing an application in accordance with RCW 90.03.250 or RCW 90.44.050. However, such an appropriation may only take place during the period from the end of the irrigation season to the beginning of the following irrigation season, and only if the applicant has met the conditions described in subsection (2) of this section. Permits authorizing the use of water from this reservation are not subject to the base flows described in WAC 173-548-020.

(2) The applicant must save water during the irrigation season by implementing water conservation practices or by changing the purpose of use of the water, and the saved water must be conveyed to the state by a trust water agreement donating a portion of the existing water right to the accounts described in WAC 173-548-037(4) as follows:

(a) One-half of the conserved water or water for which the use was changed must be dedicated to the instream flow account; and

(b) One-sixth of the conserved water or water for which the use was changed must be dedicated to the development account.

(3) The reservation described in subsection (1) of this section will be reviewed and may be revised in a subsequent rule-making to establish the procedures and guidelines associated with the comprehensive water savings plan which will govern management of the water bank for each stream management unit.

NEW SECTION

WAC 173-548-033 Future water use—Change of place of use and point of diversion. [RESERVED]

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.

NEW SECTION

WAC 173-548-034 Future water use—Conservation and change of purpose of use. [RESERVED]

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.

NEW SECTION

WAC 173-548-035 Future water use—Salmonid habitat. [RESERVED]

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.

NEW SECTION

WAC 173-548-036 Future water use—Water reuse. [RESERVED]

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.

NEW SECTION

WAC 173-548-037 Future water use—Allocation of saved water. Allocation of water from the water bank must be consistent with chapter 90.42 RCW and the following:

- (1) Water placed in the trust of the water bank may only be authorized for single domestic, stock, instream flow, agriculture, community domestic, municipal, or other beneficial uses consistent with applicable regional plans for pilot planning areas, or to resolve critical water supply problems.
- (2) Water placed in the trust of the water bank must remain in the bank until criteria for the allocation of saved water have been established, unless the county and the department agree in writing to use water from the water bank to address critical water supply problems consistent with chapter 90.42 RCW.

(3) Water placed in the trust of the water bank may not be re-allocated to uses outside the Methow River basin.

(4) Water placed in the trust of the water bank must be designated to at least one of the following accounts which are hereby established for each stream management unit within the Methow River basin:

- (a) Agriculture account;
- (b) Development account;
- (c) Instream flow account; or
- (d) Habitat account.

AMENDATORY SECTION [(Amending Order DE 76-37, filed 12/28/76)]

WAC 173-548-040 (~~Priority of future water rights during times of water shortage.~~ **(1) Future water use—Priority of appropriation.** As between ~~(rights established in the)~~ future water uses within each use category, the following priority dates apply:

(1) For single domestic and stock uses described in WAC 173-548-030(2) the priority date is December 28, 1976, and

(2) For community domestic uses described in WAC 173-548-032, the priority date is the effective date of this section. ~~((pertaining to waters allocated in WAC 173-548-030 (2)(a) and (b), all rights subject to this program shall be regulated in descending order of use category priority regardless of the date of the priority of right.~~

~~(2) As between rights established in the future within a single use category allocation of WAC 173-548-030, the date of priority shall control with an earlier dated right being superior to those rights with later dates.))~~

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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 91-23-093, filed 11/19/91)]

WAC 173-548-050 Streams and lakes closed to further consumptive appropriations. (1) The department, hav-

ing determined based on existing information that there are no waters available for further appropriation through the establishment of rights to use water consumptively, closes the streams and lakes listed in ~~((a) and (b))~~ subsections (3) and (4) of this section, and ground water hydraulically connected with these surface waters to further consumptive appropriation. This includes rights to use water consumptively established through permit procedures and ground water withdrawals otherwise exempted from permit under RCW 90.44.050. Specific situations in which well construction may be approved are identified in section (2) of this section.

(2) No wells ~~((shall))~~ may be constructed for any purposes, including those exempt from permitting under RCW 90.44.050, unless one or more of the following conditions have been met and construction of the well has been approved in writing by the department ~~((prior to))~~ before the beginning of well construction:

~~((1))~~ (a) The proponent has a valid water right permit or certificate recognized by the department. For an existing community domestic use, a water right permit or certificate must be held by a purveyor of an approved system. (For the purposes of this chapter, an approved water system is one in compliance with the state drinking water regulations, chapter 246-290 WAC and the state surface and ground water codes, chapters 90.03 and 90.44 RCW); or

~~((2))~~ (b) The proponent has obtained a valid state surface water or ground water right through a transfer or change of water right approved by the department under the statutory authority of chapter 90.03 or 90.44 RCW; or

~~((3))~~ (c) The proponent is replacing or modifying an existing well used for an exempt use ~~((developed))~~ under ~~((the exemption from permit clause of))~~ RCW 90.44.050 ~~((and this has been approved in writing by the department));~~ or,

~~((4) If the ground water being sought for withdrawal has been determined by the department not to be hydraulically connected with surface waters listed as closed, the department may approve a withdrawal. When insufficient evidence is available to the department to make a determination that ground and surface waters are not hydraulically connected, the department shall not approve the withdrawal of ground water unless the person proposing to withdraw the ground water provides additional information sufficient for the department to determine that hydraulic continuity does not exist and that water is available.))~~ (d) The department has determined that ground water being sought for withdrawal is not hydraulically connected with streams or lakes listed as closed, and the department has issued a permit in response to an application in accordance with chapter 90.44 RCW.

~~((a))~~ (3) **STREAM CLOSURES**

The following streams are closed all year, including all ground waters hydraulically connected to these streams.

Stream Name
(Includes Tributaries)

- Wolf Creek
- Bear Creek
- (Davis Lake)

PROPOSED

Stream Name
(Includes Tributaries)

- Thompson Creek
- Beaver Creek
- Alder Creek
- Benson Creek
- Texas Creek
- Libby Creek
- Cow Creek
- Gold Creek
- McFarland Creek
- Squaw Creek
- Black Canyon Creek
- French Creek

~~((b))~~ (4) LAKE CLOSURES

The following lakes are closed all year, including all ground waters hydraulically connected to these lakes:

Name	Location
Alta Lake	3 mi. SW of Pateros
Black Lake	25 mi. N of Winthrop
Black Pine Lake	9 mi. SW of Twisp
Crater Lake	10 mi. W of Carlton
Davis Lake	Bear Creek Drainage
Eagle Lake	11 mi. SW of Carlton
French Creek	Sec.28, T.31N., R.23E. <u>W.M.</u>
Libby Lake	10 mi. W of Carlton
Louis Lake	20 mi. W of Winthrop
Middle Oval Lake	16 mi. W of Carlton
North Lake	20 mi. W of Winthrop
Patterson Lake	Sec.8, T.34N., R.21E. <u>W.M.</u>
Pearygin Lake	Sec.36, T.35N., R.21E. <u>W.M.</u>
Slate Lake	14 mi. W of Winthrop
Sunrise Lake	16 mi. W of Methow
Upper Eagle Lake	12 mi. W of Carlton
West Oval Lake	16 mi. W of Carlton

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

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 DE 76-37, filed 12/28/76)]

WAC 173-548-060 Ground water. If it is determined that a future development of ground water (~~((measurably affects))~~) is hydraulically connected to surface waters subject to the provisions of chapter 173-548 WAC, then rights to ~~((said))~~ that ground water shall be subject to the same conditions as affected surface waters.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

AMENDATORY SECTION [(Amending Order DE 76-37, filed 12/28/76)]

WAC 173-548-070 Effect on prior rights. Nothing in this chapter (~~((shall))~~) may be construed to lessen, enlarge, or modify existing rights, whether acquired by appropriation or otherwise, (~~((and))~~) which were legally vested (~~((prior to))~~) before the effective date of this chapter or amendments to this chapter. Rights established under chapter 173-548 WAC or emergency rule amendments thereof are subject to laws, rules, and regulations in effect at the time the right was established.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

NEW SECTION

WAC 173-548-075 Administration. The department and the county each have a role in the review of requests for new uses or requests to change existing rights and claims under this rule. These roles are described below. The water bank is created under this rule to manage the deposit and re-allocation of saved water. Re-allocation of saved water is only possible when water is available, or as identified in sections WAC 173-548-032 through WAC 173-548-035. In general, the process, and the responsibilities of the department and the county, are as follows:

(1) The county is responsible for initial contact from the landowner or developer proposing a development or seeking authorization of an existing unauthorized water use.

(2) The county and the department will together obtain information regarding existing water rights and proposed uses.

(3) The department and the county are responsible for working with the project proponent to identify potential sources of water for a proposed project.

(4) The department is responsible for evaluating water rights, and determining the amount of saved water to be deposited into state trust, and to be made available for future use through the water allocation system.

(5) The county is responsible for maintaining a record of withdrawals from and deposits to the water bank, consistent with this rule. This register must include records of department issued permits, change authorizations, and certificates.

(6) The county is to manage water bank accounts by stream management unit. In some instances, accounts may be managed by subbasin within a stream management unit. For each stream management unit or subbasin, separate accounts are administered for agricultural purposes and development.

(7) Water stored in the water bank maintains the priority date of the original right consistent with chapter 90.42 RCW.

(8) Municipal water supply systems must demonstrate they have employed water conservation practice before they can withdraw water from the water bank.

PROPOSED

NEW SECTION

WAC 173-548-076 Organization and management of workload. The department is generally required to process water right applications from the same water source or basin in the order that the applications were accepted. In order to better implement the policies contained within this rule and to more effectively use water resources, the department may process applications for new water rights or changes of existing water rights within each stream management unit based on the following priority order:

- (1) The application resolves or alleviates a public health or safety emergency caused by a failing public water supply system currently providing potable water to existing users. See WAC 173-152-050(1);
- (2) The application for change or transfer, if approved, would substantially enhance the quality of the natural environment;
- (3) The application is made under section 173-548-031 WAC;
- (4) The application is made under section 173-548-032 WAC;
- (5) The application is made under section 173-548-033 through 036 WAC;
- (6) The application is for a change or transfer of a water right; or
- (7) The application is for a new water right.

WSR 99-10-001
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed April 21, 1999, 3:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-06-078.

Title of Rule: WAC 180-29-040 Educational specifications—Review and comment.

Purpose: The existing rule requires that one copy of the completed educational specifications approved by the district board of directors shall be transmitted to the superintendent of public instruction for review and comment. This provision for the Office of Superintendent of Public Instruction review was repealed in another section of rule and should be deleted here also to be consistent.

Statutory Authority for Adoption: RCW 28A.525.020.

Summary: The State Board of Education amended another section of rules that require school districts to submit educational specifications so this rule should also be amended to be consistent.

Reasons Supporting Proposal: This rule should be amended to be consistent with other rule amendments.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The existing rule requires that one copy of the completed educational specifications approved by the district board of directors shall be transmitted to the superintendent of public instruction for review and comment. This provision for the Office of Superintendent of Public Instruction review was repealed in another section of rule and should be deleted here also to be consistent.

Proposal Changes the Following Existing Rules: Adopting the proposed rule change will make this rule consistent with other rule amendments that have deleted the requirement for the Office of Superintendent of Public Instruction review of educational specifications.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Washington State History Museum, 1911 Pacific Avenue, Tacoma, WA, on June 10, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Martin by May 27, 1999, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by June 3, 1999.

Date of Intended Adoption: June 10, 1999.

April 19, 1999

Larry Davis

Executive Director

AMENDATORY SECTION (Amending Order 12-83, filed 10/17/83)

WAC 180-29-040 Educational specifications—Review and comment. Prior to the commencement of the design of the proposed school facility, the school district shall cause to be prepared the educational specifications pursuant to chapter 180-26 WAC. ~~((One copy of the completed educational specifications approved by the district board of directors shall be transmitted to the superintendent of public instruction for review and comment.))~~

WSR 99-10-002
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed April 21, 1999, 3:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-06-039.

Title of Rule: WAC 180-85-075 Continuing education requirement.

Purpose: Clarification of the period of time allowed in which to complete the one hundred fifty clock hours required for maintenance of the continuing certificate.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: See above.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Washington State History Museum, 1911 Pacific Avenue, Tacoma, WA 98402, on June 10, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Martin by May 26, 1999, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by May 26, 1999.

Date of Intended Adoption: June 10, 1999.

April 19, 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 99-10-003

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed April 21, 1999, 3:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-06-038.

Title of Rule: WAC 180-79A-223 Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist, and school speech language pathologist or audiologist.

Purpose: The proposed amendment to this section identifies the National League for Nursing Accrediting Commission and the Commission on Collegiate Nursing Education as accrediting bodies for baccalaureate degrees in nursing required for certification.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: The Commission on Collegiate Nursing Education has become a nationally recognized accrediting agency for nursing degree programs.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 753-6715.

Name of Proponent: State Board of Education, governmental.

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

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

Proposal Changes the Following Existing Rules: See above.

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

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Washington State History Museum, 1911 Pacific Avenue, Tacoma, WA 98402, on June 10, 1999, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Patty Martin by May 26, 1999, TDD (360) 664-3631, or (360) 753-6715.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by May 26, 1999.

Date of Intended Adoption: June 10, 1999.

April 19, 1999

Larry Davis

Executive Director

PROPOSED

AMENDATORY SECTION (Amending WSR 99-01-174, filed 12/23/98, effective 1/23/99)

WAC 180-79A-223 Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist. Candidates for school nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist certification shall apply directly to the professional education and certification office. Such candidates shall complete the following requirements, in addition to those set forth in WAC 180-79A-150, except state approved college/university professional preparation program:

(1) School nurse.

(a) Initial.

(i) The candidate shall hold a valid license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree in nursing from a ~~((National League of Nursing accredited))~~ program accredited by the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school nurse and have completed forty-five quarter hours (thirty semester hours) of post-baccalaureate course work in education, nursing, or other health sciences.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2) School occupational therapist.

(a) Initial.

(i) The candidate shall hold a valid license as an occupational therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Occupational Therapy Association approved program in occupational therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which

will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school occupational therapist and have completed at least fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in occupational therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) School physical therapist.

(a) Initial.

(i) The candidate shall hold a valid license as a physical therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Physical Therapy Association accredited program in physical therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school physical therapist and have completed fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in physical therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(4) School speech-language pathologist or audiologist.

(a) Initial.

PROPOSED

(i) The candidate shall have completed all course work (except special project or thesis) for a master's degree from a college or university program accredited by the American Speech and Hearing Association (ASHA) with a major in speech pathology or audiology. Such program shall include satisfactory completion of a written comprehensive examination: Provided, That if any candidate has not completed a written comprehensive examination, the candidate may present verification from ASHA of a passing score on the National Teacher's Examination in speech pathology or audiology as a condition for certification.

(ii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the state board of education which will include schools and society; human growth, development, and learning; American school law; legal responsibilities of the ESA; and the responsibilities of the specific ESA role in a school setting including the state learning goals and essential academic learning requirements: Provided, That an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one hundred eighty calendar days which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major in speech pathology or audiology.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

WSR 99-10-028
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(WorkFirst Division)
[Filed April 28, 1999, 3:29 p.m.]

Supplemental Notice to WSR 99-05-071.

Preproposal statement of inquiry was filed as WSR 98-19-124.

Title of Rule: WAC 388-310-0800 Support services.

Purpose: Negotiations with the Employment Security Department after rule was proposed at public hearing on April 6, 1999, resulted in substantial changes to the support service guidelines.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.050.

Statute Being Implemented: RCW 74.08.090 and 74.04.050.

Summary: Revises guidelines for support service authorization.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sandy Jsames, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504-5480, e-mail jsamesm@dshs.wa.gov, fax (360) 413-3482, phone (360) 413-3239.

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: Adds new language that changes how support services are authorized.

Proposal Changes the Following Existing Rules: WAC 388-310-0800 Support services, changes support service guidelines.

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. This rule does not meet the definition of a significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on June 8, 1999, at 10:00.

Assistance for Persons with Disabilities: Contact Paige Wall by May 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 June 8, 1999.

Date of Intended Adoption: Not before June 9, 1999.

April 20, 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 388-310-0800 WorkFirst—Support ((service and direct component cost funding)) services.~~ (1) ((The purpose of support service and direct component cost funding is to provide participants access to necessary goods or services which cannot be paid for by another funding source.

~~(2) The department or its agent will fund support services when:~~

- ~~(a) Determined necessary by the department or its agent;~~
- ~~(b) Denial would prevent participation in the required component; and~~
- ~~(c) It is within available funds.~~

~~(3) Support services which may be funded include:~~

- ~~(a) Employment related needs such as work clothing or uniforms, tools, equipment, relocation expenses, or fees;~~
- ~~(b) Transportation costs such as mileage reimbursement, public transportation vouchers, and car repair;~~
- ~~(c) Professional services such as certification or diagnostic testing, counseling or medical examinations or services;~~
- ~~(d) Personal needs such as clothing appropriate for job search or other component activities; and~~

PROPOSED

(e) Special needs such as accommodations for employment:

(4) ~~The department will provide support services and direct component cost funding to support components approved prior to the effective date of this chapter until June 30, 1998 if the participant is making satisfactory progress toward completion of the activity:~~

(5) ~~WorkFirst participants are eligible for child care subsidy payments under chapter 388-290 WAC.~~

(6) ~~No funds available to carry out the WorkFirst program may be used to assist, promote, or deter religious activity:~~

(7) ~~The department may establish maximum funding limits for support services:~~

(8) ~~The department may provide funding for direct component costs for vocational education activities when the participant:~~

(a) ~~Is in an approved component as stated on the individual responsibility plan; and~~

(b) ~~Does not qualify for sufficient student financial aid to meet the cost.~~

(9) ~~Support services may be identified and provided in order to address specific needs American Indians may have due to location or employment needs:~~

(10) ~~If the person is not participating as required they will lose eligibility for direct component costs and support services))~~ **Why do I receive support services?**

Support services help you participate in work and Work-First activities that lead to financial independence. You can also get help in paying your child care expenses through the working connections child care assistance program. (Chapter 388-290 WAC describes the rules for this child care assistance program.)

(2) What support services may I receive?

You may receive support services, for example, for any of the following:

(a) Employment related needs such as work clothing or uniforms, tools, equipment, relocation expenses, or fees;

(b) Transportation costs such as mileage reimbursement, public transportation vouchers, and car repair;

(c) Professional services;

(d) Personal needs such as clothing appropriate for job search or other work activities;

(e) Special needs such as accommodations for employment;

(f) Identified specific needs due to location or employment if you are an American Indian;

(g) Job skills training, vocational education and/or basic education if:

(i) It is an approved activity in your individual responsibility plan; and

(ii) You do not qualify for sufficient student financial aid to meet the cost.

(3) When will I get support services?

The department or its agents will decide what support services you will receive, as follows:

(a) You need the support services to do the activities in your individual responsibility plan;

(b) It is within available funds; and

(c) It does not assist, promote, or deter religious activity.

(4) How much support services can I get?

The chart below shows the guidelines for the amount and type of support services you can get. There is a suggested limit of fifteen hundred dollars per person per calendar year for the amount of support services you can receive from the department and/or employment security.

Type of Support Service	Suggested Limit
Accommodation (reasonable)	\$1,000 per request
Books/supplies (school)	No limit
Car repair	\$500 per calendar year
Clothing-General	Participant-\$250 per request Each child-\$100 per request
Clothing/uniforms-Employment	Participant-\$200 per year
Clothing/uniforms-Training	No limit
Diapers	\$50 per child per month
Employer reimbursement	No limit
GED	No limit
Haircut	\$40 per request
License/fees	\$300 per each license or fee
Lunch	\$15 per event
Medical exams (not covered by Medicaid)	\$150 per exam
Mileage	\$0.315 per mile (not to exceed \$100 per week)
Personal hygiene	\$50 per request (up to three times per calendar year)
Professional, trade, association, union and bonds	\$300 per each due or fee
Public transportation	\$150 per month
Relocation	\$1,000 per calendar year
Rent, housing, deposits	\$500 per calendar year
Short-term lodging and meals	\$300 per request
Testing-Certification	\$100 each
Testing-Diagnostic	\$200 each
Tools (training)	No limit
Tools/equipment	\$300 per request
Tutoring	\$200 per month
Tuition and fees	No limit

(5) What if I request more support services than the guidelines allow?

If you request support services from your case manager, you can:

(a) Ask to see a copy of these guidelines;

(b) Ask for an exception, if you are requesting more than the guidelines allow or asking for services or goods not mentioned in the guidelines; and/or

(c) Request a fair hearing, if your request for support services is denied.

(6) What happens to my support services if I do not participate as required?

The department will discontinue your support services until you participate as required.

PROPOSED

WSR 99-10-033
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed April 29, 1999, 4:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-18-092.

Title of Rule: WAC 458-61-090 Interest and penalties—Date of sale.

Purpose: To explain how to determine the date of sale for the purposes of the real estate excise tax and how to calculate interest and/or penalties on delinquent taxes.

Statutory Authority for Adoption: RCW 82.45.150.

Statute Being Implemented: RCW 82.45.100.

Summary: This rule explains how to determine the date of sale for the purposes of the real estate excise tax program. It also explains the application of interest and penalties when the tax is not paid within thirty days of the date of sale.

Reasons Supporting Proposal: To incorporate provisions of chapter 149, Laws of 1996 and chapter 157, Laws of 1997.

Name of Agency Personnel Responsible for Drafting: Pat Moses, 711 Capitol Way South, Suite #303, Olympia, WA (360) 902-7111; 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 required to remit the real estate excise tax imposed by chapter 82.45 RCW, Excise tax on real estate sales and chapter 82.46 RCW, Counties and cities—Excise tax on real estate sales. The real estate excise tax is due and payable as of the date of sale. This rule explains how to determine the date of sale. It also explains the application of interest and penalties when the tax is not paid within thirty days of the date of sale.

Proposal Changes the Following Existing Rules: This is a revision to an existing rule. WAC 458-61-090 is being revised to incorporate the penalty provisions of section 5, chapter 149, Laws of 1996, and the interest provisions of section 4, chapter 157, Laws of 1997. Examples have been added to the rule to help explain the computation of interest.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the rule and the proposed amendments do not impose any requirements or burdens upon small businesses that are not already specifically required by statute.

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, 3rd Floor Audit Conference Room, 711 Capitol Way, Olympia, WA, on June 9, 1999, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Ginny Dale by May 26, 1999, TDD 1-800-451-7985, or (360) 586-0721.

Submit Written Comments to: Pat Moses, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail patm@dor.wa.gov, by June 9, 1999.

Date of Intended Adoption: June 23, 1999.

April 29, 1999

Claire Hesselholt

Rules Manager

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 94-04-088, filed 2/1/94, effective 3/4/94)

WAC 458-61-090 (~~Interest and penalties~~)Date of sale—~~Interest and penalty~~. (1) Introduction. The tax imposed under chapter 82.45 RCW (Excise tax on real estate sales) is due and payable to the county treasurer as of the date of sale (~~whether or not the contract of sale or instrument of conveyance is recorded at that time~~). This rule explains how to determine the date of sale. It also explains the application of interest and penalties when the tax liability is not paid within one month of the date of sale.

(2) Date of sale. The tax imposed under chapter 82.45 RCW is due and payable to the county treasurer as of the date of sale, whether or not the contract of sale or instrument of conveyance is recorded at that time.

(a) When a contract of sale or instrument of conveyance is signed and delivered by the grantor to an escrow agent licensed under chapter 18.44 RCW (Escrow Agent Registration Act), a title company, a title insurance company, or an attorney at law acting as an escrow agent, with instructions to deliver the instrument to the grantee upon the fulfillment of one or more conditions, the date of sale will be presumed to be the date that the instrument is presented for recording, subject to the following:

(i) A statement, as provided by WAC 458-61-150, signed by the escrow agent, the title company agent, the title insurance company agent, or attorney, is attached to the affidavit indicating that the instrument was delivered to such person in the capacity of an escrow agent; and

(ii) The date shown on the instrument is not more than ninety days prior to the date the affidavit is presented to the county treasurer for filing.

(b) In all other cases the date of sale will be presumed to be the date shown on the instrument. A taxpayer alleging a date of sale other than the instrument date has the burden of proving that delivery of title or ownership of the property in exchange for consideration occurred on the date alleged.

(3) Interest. If the tax is paid within (~~thirty days following~~) one month of the date of sale, interest will not be (~~applied~~) imposed. If the tax is not paid within (~~thirty days following~~) one month of the date of sale, (~~the amount of unpaid tax shall bear interest in the amount of one percent per each thirty day period, or part thereof, beginning with~~) interest will be imposed on the total amount of the unpaid tax (both the state and local components) from the date of sale to the date of full payment. RCW 82.45.100(1) and

PROPOSED

82.46.010(5). This interest is calculated on a monthly basis with a full month's interest accruing at the beginning of each month. Even if the full payment is not made at the end of a month, any portion of a month existing at the time of full payment will accrue a full month of interest. (See subsection (2)(b)(i) and (ii) and (c)(i) of this rule for examples of how interest is calculated and what day of each month interest accrues.)

(a) Interest imposed before January 1, 1999, is computed at the rate of one percent per month or portion of a month.

(b) Effective January 1, 1999, as a result of interest rate changes introduced in chapter 157, Laws of 1997, interest is computed per month or portion of a month at an annual variable interest rate determined as per RCW 82.32.050(2). This interest rate is adjusted on the first day of each January. The rate applied to any given month or portion of a month is the annual variable interest rate in effect at the beginning of that month, divided by twelve. Any interest imposed for a month or portion of a month that starts in December will be imposed at the interest rate effective in December, even though the interest rate may change on January 1st. The department of revenue will provide written notification to the county treasurers of the variable rate on or before December 1st of the year preceding the calendar year in which the variable interest rate applies. Other persons interested in the annual variable interest rate may contact the department of revenue special programs division directly.

(i) For example, assume a taxable real estate transaction with a November 20, 1998, date of sale. The original tax due is one thousand dollars and full payment is received on March 15, 1999. Interest begins on November 21st (the day after the date of sale). Prior to January 1, 1999, the interest rate for real estate excise tax is one percent per month. For this example only, assume that an annual variable interest rate of nine percent is effective on January 1, 1999, which is a monthly rate of seventy-five hundredths of a percent (nine percent annual variable interest rate divided by twelve months). Four months of interest is due and is computed as follows:

Nov 21 to Dec 20, 1998	\$1,000 tax at 1% per month	\$10.00
Dec 21 to Jan 20, 1999	\$1,000 tax at 1% per month	\$10.00
Jan 21 to Feb 20, 1999	\$1,000 tax at .75% per month	\$ 7.50
Feb 21 to Mar 15, 1999	\$1,000 tax at .75% per month	\$ 7.50

Total additional interest due with March 15, 1999, payment \$35.00

In this example, note that a full month's interest applies effective February 21st even though the period of February 21st through March 15th is only a partial month.

(ii) As an additional example, assume a taxable real estate transaction with a February 1, 1999, date of sale. The original tax due is one thousand dollars and full payment is received on April 15, 1999. Interest begins on February 2nd (the day after the date of sale). For this example, assume that an annual variable interest rate of nine percent is effective on January 1, 1999. Three months of interest is due and is computed as follows:

Feb 2 to Mar 1, 1999	\$1,000 tax at .75% per month	\$ 7.50
Mar 2 to Apr 1, 1999	\$1,000 tax at .75% per month	\$ 7.50

Apr 2 to Apr 15, 1999	\$1,000 tax at .75% per month	\$ 7.50
Total additional interest due with April 15, 1999, payment		\$22.50

(c) When interest must be calculated in a shorter month that does not have a day corresponding to the original date of sale, interest is computed on the first day of the following calendar month.

For example, assume a real estate transaction with a January 30th date of sale and a payment date of May 10th. Since February has only twenty-eight days (assuming it is not a leap year), the 28th of February most closely corresponds to the January 30th date of sale. If the tax liability is not paid on or before the last day of February (within one month of the date of sale), the liability is delinquent and the first two months of interest will be added on March 1st (the first day of the following calendar month). Interest begins on January 31st (the day after the date of sale). By the time the May 10th payment is made, four months of additional interest are due. For this example, assume that the original tax due is one thousand dollars and the annual variable interest rate is nine percent. The interest is computed as follows:

Jan 31 to Feb 28, 1999	\$1,000 tax at .75% per month	\$7.50
Mar 1 to Mar 30, 1999	\$1,000 tax at .75% per month	\$7.50
Mar 31 to Apr 30, 1999	\$1,000 tax at .75% per month	\$7.50
May 1 to May 10, 1999	\$1,000 tax at .75% per month	\$7.50

Total additional interest due with May 10, 1999, payment \$30.00

~~((3))~~ (4) **Penalty.** In addition to the interest described in subsection ~~((2))~~ (3) of this section, if the payment of any tax is not received by the county treasurer within one month of the date of sale a delinquent penalty applies. This penalty is imposed on the total amount of the unpaid tax (both state and local components). RCW 82.45.100(2) and 82.46.010(5).

(a) If tax is not paid:

~~((a))~~ (i) Within ~~((thirty days))~~ one month of the date of sale, a penalty of five percent of the amount of the tax will be added to the tax due;

~~((b))~~ (ii) Within ~~((sixty days))~~ two months of the date of sale, a total penalty of ten percent shall be added to the tax due; and

~~((c))~~ (iii) Within ~~((ninety days))~~ three months of the date of sale, a total penalty of twenty percent will be added to the tax due.

~~((4))~~ (b) Penalties ~~((shall))~~ will be assessed only against the grantor and ~~((shall))~~ will not be included in the lien arising under RCW 82.45.070. ~~((See RCW 82.45.100.~~

(5) When an instrument of sale or conveyance is signed and delivered by the grantor to an escrow agent licensed under chapter 18.44 RCW, a title company, a title insurance company, or an attorney at law acting as an escrow agent, with instructions to deliver the instrument to the grantee upon the fulfillment of one or more conditions, the date of sale will be presumed to be the date that the instrument is presented for recording, subject to the following:

(a) A statement, as provided by WAC 458-61-150, signed by the escrow agent, the title company agent, the title insurance company agent, or attorney, is attached to the affi-

PROPOSED

davit indicating that the instrument was delivered to such person in the capacity of an escrow agent; and

(b) The date shown on the instrument is not more than ninety days prior to the date the affidavit is presented to the county treasurer for filing.

(6) In all other cases the date of sale will be presumed to be the date shown on the instrument. A taxpayer alleging a date of sale other than the instrument date has the burden of proving that delivery of title or ownership of the property in exchange for consideration occurred on the date alleged.)

WSR 99-10-034

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed April 29, 1999, 4:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-15-127.

Title of Rule: WAC 458-20-228 Returns, remittances, penalties, extensions, interest, stay of collection.

Purpose: To explain the responsibility of taxpayers to timely pay their tax liabilities, and the acceptable methods of payment. The rule discusses the interest and penalties that are imposed by law when a taxpayer fails to correctly or timely pay a tax liability. It also discusses the circumstances under which the law allows the Department of Revenue to waive interest or penalties.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.32.045, [82.32].050, [82.32].080, [82.32].090, [82.32].105, [82.32].200, and 82.08.050, with respect to the penalty imposed for a buyer failing to remit sales tax to the seller.

Summary: Taxpayers are responsible for being informed about the applicable tax laws and to correctly and timely report their tax liability. This rule explains the interest and penalties imposed by law when a taxpayer fails to correctly or timely pay a tax liability, and describes how payments are applied to a liability that includes interest and/or penalties. The department is authorized to waive interest or penalties. The rule provides examples of circumstances qualifying for a waiver of interest or penalties, and explains how a taxpayer may request a waiver.

Reasons Supporting Proposal: To incorporate recent statutory changes, including provisions of chapter 149, Laws of 1996, chapter 54, Laws of 1997, and chapter 157, Laws of 1997.

Name of Agency Personnel Responsible for Drafting: Pat Moses, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 902-7111; 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 discusses the responsibility of taxpayers to timely pay their tax liabilities, and the acceptable methods of payment. The rule explains the statutory due dates for persons remitting combined excise tax returns on either a monthly, quarterly, or annual basis. It discusses the interest and penalties that are imposed by law when a taxpayer fails to correctly or timely pay a tax liability, and the department's authority to waive interest or penalties. The rule provides examples of qualifying circumstances for the waiver of interest and/or penalties, as well as circumstances that do not qualify. It describes how the taxpayer may request an interest and/or penalty waiver. The rule also explains the conditions under which the department will stay collection procedures for certain tax liabilities.

Proposal Changes the Following Existing Rules: This is a revision to an existing rule, WAC 458-20-228 Returns, remittances, penalties, extensions, interest, stay of collection. This rule is being revised to incorporate recent statutory changes, including chapter 149, Laws of 1996, chapter 54, Laws of 1997, and chapter 157, Laws of 1997.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the rule and the proposed amendments do not impose any requirements or burdens upon small businesses that are not already specifically required by statute.

RCW 34.05.328 does not apply to this rule adoption. This is not a significant legislative rule. It is an interpretative rule that is defined in RCW 34.05.328 (5)(c)(ii).

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way, Olympia, WA, on June 8, 1999, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Ginny Dale no later than ten days before the hearing date, TDD 1-800-451-7985, or (360) 586-0721.

Submit Written Comments to: Pat Moses, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail patm@dor.wa.gov, by June 8, 1999.

Date of Intended Adoption: June 23, 1999.

April 29, 1999

Claire Hesselholt, Rules Manager
Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 92-03-025, filed 1/8/92, effective 2/8/92)

WAC 458-20-228 Returns, remittances, penalties, extensions, interest, stay of collection. (1) Introduction. ~~((Taxpayers have a responsibility to become informed about applicable tax laws and to correctly and timely report their tax liability. The taxes imposed under chapter 82.24 RCW (Tax on cigarettes) are collected through sales of revenue stamps.~~

~~As to taxes imposed under chapter 82.04 RCW (Business and occupation tax), chapter 82.08 RCW (Retail sales tax), chapter 82.12 RCW (Use tax), chapter 82.14 RCW (Local sales and use taxes) chapter 82.16 RCW (Public utility tax), chapter 82.27 RCW (Tax on enhanced food fish), chapter 82.29A RCW (Leasehold excise tax), chapter 84.33 RCW~~

(Timber and forest lands), and chapter 82.26 RCW (Tobacco products tax), returns and remittances are to be filed with the department of revenue by the taxpayer. Returns shall be made upon forms provided or approved and accepted by the department. Forms provided by the department are mailed to all registered taxpayers prior to the due date of the tax. The tax reporting frequency is assigned by the department of revenue. See WAC 458-20-22801.

~~(2))~~ This rule discusses the responsibility of taxpayers to timely pay their tax liabilities, and the acceptable methods of payment. It discusses the interest and penalties that are imposed by law when a taxpayer fails to correctly or timely pay a tax liability. It also discusses the circumstances under which the law allows the department of revenue (department) to waive interest or penalties.

Washington's tax system is based largely on voluntary compliance. Taxpayer's have a legal responsibility to become informed about applicable tax laws, to register with the department, to seek instruction from the department, to file accurate returns, and to pay their tax liability in a timely manner (chapter 82.32A RCW, Taxpayer rights and responsibilities). The department has instituted a taxpayer services program to provide taxpayers with accurate tax-reporting assistance and instructions. The department staffs local district offices, maintains a toll-free question and information phone line (1-800-647-7706), provides information and forms on the Internet (<http://dor.wa.gov>), and conducts free public workshops on tax reporting. The department also publishes notices, interpretive statements, and rules discussing important tax issues and changes.

(2) Returns. A "return" is defined as any document a person is required to file by the state of Washington in order to satisfy or establish a tax or fee obligation which is administered or collected by the department, and that has a statutorily defined due date. RCW 82.32.090(8).

(a) Returns and payments are to be filed with the department by every person liable for any tax which the department administers and/or collects, except for the taxes imposed under chapter 82.24 RCW (Tax on cigarettes), which are collected through sales of revenue stamps. Returns must be made upon forms, copies of forms, or by other means, provided or accepted by the department. The department provides tax returns upon request or when a taxpayer opens an active tax reporting account. Tax returns are generally mailed to all registered taxpayers prior to the due date of the tax. However, it remains the responsibility of the taxpayers to timely request a return if one is not received, or to otherwise insure that their return is filed in a timely manner.

(b) Taxpayers whose accounts are placed on an "active nonreporting" status do not automatically receive a tax return and must request a return if they no longer qualify for this reporting status. (See WAC 458-20-101, Tax registration, for an explanation of the active nonreporting status.)

(c) Consumers that are not required to register with the department and obtain a tax registration endorsement (see subsection (2)(a)) may be required to pay use tax directly to the department if they have purchased items without paying Washington's sales tax. Use tax returns are available from the department at any of the local district offices, by fax, or through the Internet. The interest and penalty provisions of

this rule may apply to delinquent use tax liabilities, and unregistered consumers should refer to WAC 458-20-178 (Use tax) for an explanation of their tax reporting responsibilities.

(3) Method of payment. Payment ((of the taxes)) may be made by cash, check, cashier's check, money order, ((€)) and in certain cases by electronic funds transfers, or other electronic means approved by the department.

(a) Payment by cash ((must)) should only be made at an office of the department ((of revenue)) to ensure that the payment is safely received and properly credited.

(b) Payment ((of tax)) may be made by uncertified bank check, but if ((any such)) the check is not honored by the ((bank)) financial institution on which it is drawn, the taxpayer ((shall)) remains liable for the payment of the tax ((and may be subject to)), as well as any applicable interest and penalties. RCW 82.32.080. The department may refuse to accept any check which, in its opinion, would not be honored by the ((bank)) financial institution on which ((such)) that check is drawn. ((The remittance covered by any check which is so refused will be deemed not to have been made and the taxpayer will remain liable for the tax due and for the applicable penalties)) If the department refuses a check for this reason the taxpayer remains liable for the tax due, as well as any applicable interest and penalties.

(c) The law requires that certain taxpayers pay their taxes through electronic funds transfers. The department ((of revenue will inform)) notifies taxpayers who are required to pay their taxes in this manner, and can explain how to set up the electronic funds transfer process. (See WAC 458-20-22802 on electronic funds transfers.)

((3)) (4) Due dates. ((For monthly reporting taxpayers, the tax returns are due on the 25th of the following month. For quarterly and annually reporting taxpayers, the tax returns are due on the last day of the next month after the period covered by the return. For example, tax returns covering the first quarter of the year are due on April 30.)) RCW 82.32.045 provides that payment of the taxes due with the combined excise tax return must be made monthly and within twenty-five days after the end of the month in which taxable activities occur, unless the department assigns the taxpayer a longer reporting frequency. Payment of taxes due with returns covering a longer reporting frequency are due on or before the last day of the month following the period covered by the return. (For example, payment of the tax liability for a first quarter tax return is due on April 30th.) WAC 458-20-22801 (Tax reporting frequency—Forms) explains the department's procedure for assigning a quarterly or annual reporting frequency.

(a) If the date for ((filing the)) payment of the tax due on a tax return falls upon a Saturday, Sunday, or legal holiday, the filing shall be considered timely if performed on the next business day. ((See)) RCW 1.12.070 and 1.16.050.

(b) The postmark date as shown by the post office cancellation mark stamped on the envelope will be considered ((as)) conclusive evidence by the department in determining if a tax return or payment was timely ((mailed by the taxpayer)) filed or received. RCW 82.32.080. It is the responsibility of the taxpayer to mail the tax return or payment suffi-

PROPOSED

ciently in advance of the due date to assure that the postmark date is timely.

~~((4)) (c) Electronic funds transfer (EFT) payments are due on or before the banking day following the tax return due date. An EFT is timely when the state receives collectible U.S. funds on or before 3:00 p.m., Pacific time, of the EFT payment due date. RCW 82.32.085. (See also WAC 458-20-22802, which discusses the electronic funds transfer process and requirements.)~~

~~(5) Penalties.~~ Various penalties may apply as a result of the failure to correctly or accurately compute the proper tax liability, or to timely pay the tax. Separate penalties may apply and be cumulative for ~~((late payment, failure to follow specific written instructions, or evasion))~~ the same tax. Interest may also apply if any tax has not been paid when it is due, as explained in subsection (7) of this rule. Penalties apply as follows.

~~(a) Late payment of a return.~~ If the tax due on a return is not ~~((filed))~~ paid by the due date, a ~~((5%))~~ five percent penalty will apply; a ~~((10%))~~ ten percent penalty will apply if the ~~((return is not filed within 30 days of))~~ tax due is not paid on or before the last day of the month following the due date; and a ~~((20%))~~ twenty percent penalty will apply if the ~~((return is still delinquent 60 days from))~~ tax due is still not paid on or before the last day of the second month following the due date. The minimum penalty for late payment is five dollars. RCW 82.32.090(1).

~~(i) The department may refuse to accept any return which is not accompanied by ((a remittance)) payment of the tax shown to be due ((thereon, and if)) on the return. If the return is not accepted, the taxpayer ((shall be deemed)) is considered to have failed or refused to file ((a)) the return ((, and shall be subject to the above penalties)). RCW 82.32.080. If the tax return is accepted without payment and payment is not made by the due date, the late penalties will apply ((until the tax is paid)).~~

~~(ii) ((The aggregate of penalties for failure to file a return, late payment of any tax, increase or penalty, or issuance of a warrant may not exceed thirty five percent of the tax due, or twenty dollars, whichever is greater.~~

~~(iii) The department will apply the payment of the taxpayer first against interest, next against penalties, and then upon the tax, without regard to any direction of the taxpayer. In applying a partial payment to a tax assessment, the payment will be applied against the oldest tax liability first. For purposes of RCW 82.32.145, it will be assumed that any payments applied to the tax liability will be first applied against any retail sales tax liability. For example, an audit assessment is issued covering the years 1992 and 1993. The tax assessment includes interest and penalties of five hundred dollars, retail sales tax of four hundred dollars for the year 1992, six hundred dollars retail sales tax for the year 1993, two thousand dollars of other taxes for the year 1992, and seven thousand dollars of other taxes for the year 1993. The order of application of any payments will be first against the five hundred dollars interest and penalties, second against the four hundred dollars retail sales tax in 1992, third against the two thousand dollars of other taxes in 1992, fourth against the six hundred dollars retail sales tax of 1993, and finally against the seven thousand dollars of other taxes in 1993.)) The late~~

payment of return penalty is imposed if a person engages in a taxable business activity in Washington without voluntarily registering with the department. The department will consider a person to have voluntarily registered if, prior to contact by the department, that person contacts any other agency or entity participating in the unified business identifier (UBI) program and properly completes and submits a master application for the purpose of obtaining a UBI number, unless the person has:

~~(A) Collected retail sales tax from customers and failed to pay it to the department; or~~

~~(B) Engaged in fraud with respect to reporting their tax liabilities or other tax requirements; or~~

~~(C) Engaged in taxable business activities during a period of time in which their previously open tax reporting account has been closed and the person has failed to reopen the account and report their tax liability prior to being contacted by the department; or~~

~~(D) Engaged in unreported taxable business activities after their tax registration account was placed in an active-nonreporting status and the person has failed to notify the department that they no longer qualify for that status prior to being contacted by the department. The active-nonreporting status allows taxpayers, under certain conditions, to engage in business activities subject to the Revenue Act without having to file combined excise tax returns with the department. One of the conditions for qualifying for the active-nonreporting status is that the taxpayer may not incur a tax liability. The late payment of return penalty will be imposed if any tax due from unreported business activities is not paid by the due dates used for taxpayers that are on an annual reporting basis.~~

~~(b) Late payment of an assessment.~~ An additional penalty of ten percent of the tax due will be added to any taxes assessed by the department if payment of the taxes assessed is not received ~~((by the department))~~ by the due date specified in the notice, or any extension ~~((thereof))~~ of that due date. The minimum for this penalty is five dollars. RCW 82.32.090(2).

~~(c) Issuance of a warrant.~~ If the department ~~((may issue))~~ issues a tax warrant ~~((if))~~ for the collection of any fee, tax, increase, or penalty ~~((or any portion thereof is not paid within fifteen days after it becomes due. If a warrant is issued, a penalty will be added)),~~ an additional penalty will immediately be added in the amount of five percent of the amount of the tax due, but not less than ten dollars. RCW 82.32.090(3). Refer to WAC 458-20-217 for additional information on the application of warrants and tax liens.

~~(d) ((Negligence penalty-)) Disregard of specific written instructions.~~ If the department finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting of tax liabilities, ~~((the department will add a))~~ an additional penalty of ten percent of the additional tax found due will be imposed because of the failure to follow the instructions. RCW 82.32.090(4).

~~(i) The taxpayer will be considered ((as having)) to have disregarded specific written instruction when the department ((of revenue)) has informed the taxpayer in writing of its tax obligations and specifically advised the taxpayer that failure to act in accordance with those instructions may result in this penalty being imposed. The specific written instructions may~~

be given as a part of a tax assessment, audit, determination, or closing agreement. The penalty may be applied only against the taxpayer ~~((to whom))~~ given the specific written instructions ~~((were given))~~. However, the taxpayer will not be considered ~~((as having))~~ to have disregarded the instructions if the taxpayer has appealed the subject matter of the instructions and the department has not issued its final instructions or decision.

(ii) The penalty will not be applied if the taxpayer has made a good faith effort to comply with specific written instructions.

(e) **Evasion** ~~((penalty))~~. If the department finds that all or any part of the deficiency resulted from ~~((an intent to evade the tax due))~~ evasion, a penalty of fifty percent of the additional tax found to be due shall be added. RCW 82.32.090(5). The evasion penalty is imposed when a taxpayer knows a tax liability is due but attempts to escape detection through deceit, fraud, or other intentional wrongdoing. The department has the burden of showing the existence of evasion through clear, cogent and convincing evidence.

~~((+))~~ To the extent that the evasion involved only specific taxes, the evasion penalty will be added only to those taxes. The evasion penalty will not be applied to those taxes which were inadvertently underpaid. ~~((For example, if it is found that the taxpayer intentionally understated the purchase price of equipment in reporting use tax and also inadvertently failed to collect or remit the sales tax at the correct rate on retail sales of merchandise, the evasion penalty will be added only to the use tax deficiency.~~

(ii) At times it may be necessary for the department to issue its assessment to protect the state's interest prior to completion of its investigation or evaluation of all of the facts and circumstances surrounding the tax deficiency. The department at its option may issue the tax assessment without including the evasion penalty or the penalty for failure to follow written instructions and may revise the assessment to assert the penalty at a later date if it is the department's opinion that these penalties are due. In order to give the taxpayer some certainty and finality of its tax liability, these penalties will be assessed within six months of the time that the tax was assessed to which the penalties relate.

(iii) (f) **Misuse of resale certificates**. Any buyer who uses a resale certificate to purchase items or services without payment of sales tax, and who is not entitled to use the certificate for the purchase, will be assessed a penalty of fifty percent of the tax due. RCW 82.32.291. The penalty can apply even if there was no intent to evade the payment of the tax. For more information concerning this penalty or the proper use of a resale certificate, refer to WAC 458-20-102 (Resale certificates).

(g) **Failure to remit sales tax to seller**. The department may assert an additional ten percent penalty against a buyer who has failed to pay the seller the retail sales tax on taxable purchases, if the department proceeds directly against the buyer for the payment of the tax. This penalty is in addition to any other penalties or interest prescribed by law. RCW 82.08.050.

(h) **Failure to obtain the contractor's unified business identifier (UBI) number**. If a person who is liable for any

fee or tax imposed by chapters 82.04 through 82.27 RCW contracts with another person or entity for work subject to chapter 18.27 RCW (Electricians and electrical installations) or chapter 19.28 RCW (Registration of contractors), that person must obtain and preserve a record of the UBI number of the person or entity performing the work. A person failing to do so is subject to the public works contracting restrictions in RCW 39.06.010 (Contracts with unregistered or unlicensed contractors prohibited), and a penalty determined by the director, but not to exceed two hundred and fifty dollars. RCW 82.32.070(1)(b).

(6) **Statutory restrictions on imposing penalties**. Depending on the circumstances of a particular delinquent tax liability, the law may impose multiple penalties on the same tax liability. The law does provide a limited number of restrictions on imposing multiple penalties.

(a) The aggregate of the penalties imposed for the late payment of a return, the late payment of an assessment, and issuance of a warrant (see subsection (5)(a) through (c) of this rule) may be applied against the same tax, but may not exceed a total of thirty-five percent of the tax due, or twenty dollars, whichever is greater. This thirty-five percent penalty limitation does not prohibit or restrict full application of other penalties authorized by law, even when they are applied against the same tax. RCW 82.32.090(6).

(b) The department may impose either the evasion penalty (subsection (5)(e)) or the penalty for disregarding specific written instructions ~~((as appropriate in its opinion))~~ (subsection (5)(d)), but may not impose both penalties on the same tax ~~((which is found to be due))~~.

~~((f))~~ The department will add the late payment penalties described in (a) of this subsection to assessments of those taxpayers which had not voluntarily registered prior to being contacted by the department of revenue. However, a person will be considered to have voluntarily registered with the department of revenue if the person contacted any other agency of the state and was issued a uniform business identifier number prior to being contacted by the department of revenue.

(g) The department may assert an additional ten percent penalty against a buyer who has failed to pay the seller the retail sales tax on taxable purchases if the department proceeds directly against the buyer for the payment of the tax. Refer to RCW 82.08.050.

(5) RCW 82.32.090(7). The department also will not impose the penalty for the misuse of a resale certificate (subsection (5)(f)) in combination with either the evasion penalty or the penalty for disregarding specific written instructions on the same tax.

(7) **Interest**. The department ~~((of revenue))~~ is ~~((generally))~~ required by law to add interest to assessments for tax deficiencies and overpayments. RCW 82.32.050. Interest ~~((also))~~ applies to ~~((penalties))~~ taxes only. (Refer to WAC 458-20-229 for a discussion of interest as it relates to refunds and WAC 458-20-230 for a discussion of the statute of limitations as applied to interest.)

(a) For tax liabilities arising before January 1, 1992, interest will be added at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until the date of payment, or December 31, 1998,

whichever comes first. Any interest accrued on these liabilities after December 31, 1998, will be added at the annual variable interest rates described in subsection (7)(e). RCW 82.32.050.

(b) For tax liabilities arising after December 31, 1991, ((until the date of payment)) and before January 1, 1998, interest will be added ((with the rate of interest being variable)) at the annual variable interest rates described in subsection (7)(e), from the last day of the year in which the deficiency is incurred until the date of payment.

(c) For interest imposed after December 31, 1998, interest will be added from the last day of the month following each calendar year included in a notice, or the last day of the month following the final month included in a notice if not the end of the calendar year, until the due date of the notice. However, for 1998 taxes only, interest may not begin to accrue any earlier than February 1, 1999, even if the last period included in the notice is not at the end of calendar year 1998. If payment in full is not made by the due date of the notice, additional interest will be due until the date of payment. The rate of interest continues at the annual variable interest rates described in subsection (7)(e). RCW 82.32.050.

(d) The following is an example of how the interest provisions apply. Assume that a tax assessment is issued with a due date of June 30, 2000. The assessment includes periods from January 1, 1997, through September 30, 1999.

(i) For calendar year 1997 tax, interest begins January 1, 1998, (from the last day of the year). When the assessment is issued the interest is computed through June 30, 2000, (the due date of the assessment).

(ii) For calendar year 1998 tax, interest begins February 1, 1999, (from the last day of the month following the end of the calendar year). When the assessment is issued interest is computed through June 30, 2000, (the due date).

(iii) For the 1999 tax period ending with September 30, 1999, interest begins November 1, 1999, (from the last day of the month following the last month included in the assessment period). When the assessment is issued interest is computed through June 30, 2000, (the due date).

(iv) Interest will continue to accrue on any portion of the assessed taxes which remain unpaid after the due date, until the date those taxes are paid.

(e) The annual variable interest rate ((of interest)) will be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate will be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually, for the months of January, April, July, and October of the immediately preceding calendar year as published by the United States Secretary of the Treasury. The interest rate will be adjusted on the first day of January of each year.

((e)) The following are examples of how the interest provisions apply.

(i) Assume a tax assessment is paid on December 31, 1994, and the assessment indicated tax deficiencies in each of the years of 1991, 1992, 1993, and 1994. The interest for 1991 will be calculated at a fixed rate of nine percent per year until the assessment is paid in full. The interest for tax deficiencies in 1992 and 1993 will be calculated at the variable rate discussed in (b) of this subsection. The interest rate for

each year is calculated separately. For discussion purposes only, assume the compounded interest rate calculates to be eleven percent for the year 1992 and twelve percent for 1993. Since the tax deficiency for 1992 was not paid for a period of two years from the close of 1992, interest will be charged for two years on the 1992 deficiency. The interest amount is computed by multiplying the tax deficiency by twenty three percent. The deficiency for 1993 will bear interest at twelve percent and will be computed on the tax deficiency since the deficiency remained unpaid for only one year.

((ii)) If the assessment is not paid by the original due date, extension interest will be added based on the rate in effect at the time the extension is granted or the assessment is revised with the exception that extension interest will be computed at nine percent for all tax deficiencies which occurred prior to 1992.

((iii)) (f) If the assessment contains tax deficiencies in some years and overpayments in other years with the net difference being a tax deficiency, the interest rate for tax deficiencies will also be applied to the overpayments. (Refer to WAC 458-20-229 for interest on refunds.)

((6)) (8) Application of payment towards liability. The department will apply taxpayer payments first to interest, next to penalties, and then to the tax, without regard to any direction of the taxpayer. RCW 82.32.080.

(a) In applying a partial payment to a tax assessment, the payment will first be applied against the oldest tax liability. For purposes of RCW 82.32.145 (Termination, dissolution, or abandonment of corporate business—Personal liability of person in control of collected sales tax funds), it will be assumed that any payments applied to the tax liability will be first applied against any retail sales tax liability. For example, an audit assessment is issued covering a period of two years, which will be referred to as "YEAR 1" (the earlier year) and "YEAR 2" (the most recent year). The tax assessment includes total interest and penalties for YEAR 1 and YEAR 2 of five hundred dollars, retail sales tax of four hundred dollars for YEAR 1, six hundred dollars retail sales tax for YEAR 2, two thousand dollars of other taxes for YEAR 1, and seven thousand dollars of other taxes for YEAR 2. The order of application of any payments will be first against the five hundred dollars of total interest and penalties, second against the four hundred dollars retail sales tax in YEAR 1, third against the two thousand dollars of other taxes in YEAR 1, fourth against the six hundred dollars retail sales tax of YEAR 2, and finally against the seven thousand dollars of other taxes in YEAR 2.

(9) Waiver or cancellation of penalties. ((The department will waive or cancel the penalties imposed under RCW 82.32.090 and interest imposed under RCW 82.32.050 upon finding that the failure of a taxpayer to pay any tax by the due date was due to circumstances beyond the control of the taxpayer. The department has no authority to cancel penalties or interest for any other reason. Penalties will not be cancelled merely because of ignorance or a lack of knowledge by the taxpayer of the tax liability.)) RCW 82.32.105 authorizes the department to waive or cancel penalties under limited circumstances.

(a) Circumstances beyond the control of the taxpayer. The department will waive or cancel the penalties imposed

under chapter 82.32 RCW upon finding that the underpayment of the tax, or the failure to pay any tax by the due date, was the result of circumstances beyond the control of the taxpayer. Refer to WAC 458-20-102 (Resale certificates) for examples of circumstances which are beyond the control of the taxpayer specifically regarding the penalty for misuse of resale certificates found in RCW 82.32.291.

(i) A request for a waiver or cancellation of penalties ~~((must be in letter form and))~~ should contain all pertinent facts and be accompanied by such proof as may be available. The taxpayer bears the burden of establishing that the circumstances were beyond its control and directly caused the late payment. The request should be made in the form of a letter; however, verbal requests may be accepted and considered. Any petition for ~~((cancellation))~~ correction of assessment submitted to the department's appeals division for waiver of penalties must be made within the period for filing under RCW 82.32.160 (within thirty days after the issuance of the original notice of the amount owed or within the period covered by any extension of the due date granted by the department)~~((In all such cases the burden of proving the facts is upon the taxpayer.~~

(b) The following situations will be the only circumstances under which a cancellation of penalties will be considered by the department:

(i)), and must be in writing, as explained in WAC 458-20-100 (Appeals, small claims and settlements). Refund requests must be made within the statutory period.

(ii) The circumstances beyond the control of the taxpayer must actually cause the late payment. Circumstances beyond the control of the taxpayer are generally those which are immediate, unexpected, or in the nature of an emergency. Such circumstances result in the taxpayer not having reasonable time or opportunity to obtain an extension of the due date or otherwise timely file and pay. Circumstances beyond the control of the taxpayer include, but are not necessarily limited to, the following.

(A) The return payment was ~~((filed))~~ mailed on time but inadvertently ~~((mailed))~~ sent to another agency.

~~((ii) The delinquency was due to))~~ (B) Erroneous written information given to the taxpayer by a department officer or employee caused the delinquency. A penalty generally will not be waived when it is claimed that erroneous oral information was given by a department employee. The reason for not cancelling the penalty in cases of oral information is because of the uncertainty of the facts presented, the uncertainty of the instructions or information imparted by the department employee, ~~((or))~~ and the uncertainty that the taxpayer fully understood the information ~~((received))~~ given. Reliance by the taxpayer on incorrect advice received from the taxpayer's legal or accounting representative is not a basis for cancellation of ~~((the))~~ a penalty.

~~((iii))~~ (C) The delinquency was directly caused by death or serious illness of the taxpayer, or ~~((his))~~ a member of the taxpayer's immediate family ~~((or illness or death of his accountant or in the accountant's immediate family, prior to the filing date)).~~ The same circumstances apply to the taxpayer's accountant or other tax preparer, or their immediate family. This situation is not intended to have an indefinite application. A death or serious illness which denies a tax-

payer reasonable time or opportunity to obtain an extension or to otherwise arrange timely filing and payment is a circumstance eligible for penalty waiver.

~~((iv))~~ (D) The delinquency was caused by the unavoidable absence of the taxpayer or key employee, prior to the filing date. "Unavoidable absence of the taxpayer" does not include absences because of business trips, vacations, personnel turnover, or terminations.

~~((v))~~ (E) The delinquency was caused by the destruction by fire or other casualty of the taxpayer's place of business or business records.

~~((vi))~~ (F) The delinquency was caused by an act of fraud, embezzlement, theft, or conversion on the part of the taxpayer's employee or other persons contracted with the taxpayer, which the taxpayer could not immediately detect or prevent, provided that reasonable safeguards or internal controls were in place. See subsection (9)(a)(iii)(E).

(G) The taxpayer, prior to the time for filing the return, made timely application to the Olympia or district office ~~((or writing))~~ for proper forms and ~~((these))~~ the forms were not furnished in sufficient time to permit the completed return to be paid before its ~~((delinquent))~~ due date. In this circumstance, the taxpayer kept track of pending due dates and reasonably fulfilled its responsibility by timely requesting replacement returns from the department.

(iii) The following are examples of circumstances that are generally not considered to be beyond the control of the taxpayer and will not qualify for a waiver or cancellation of penalty:

(A) Financial hardship;

(B) A misunderstanding or lack of knowledge of a tax liability;

(C) The failure of the taxpayer to receive a tax return form, EXCEPT where the taxpayer timely requested the form and it was still not furnished in reasonable time to mail the return and payment by the due date, as described in subsection (9)(a)(ii)(G), above;

(D) Registration of an account that is not considered a voluntary registration, as described in subsection (5)(a)(ii);

(E) Mistakes or misconduct on the part of employees or other persons contracted with the taxpayer (not including conduct covered in subsection (9)(a)(ii)(F), above); and

(F) Reliance upon unpublished, written information from the department that was issued to and specifically addresses the circumstances of some other taxpayer.

~~((vii))~~ The delinquency penalty will be waived or cancelled on a one-time only basis if the delinquent tax return was received under the following circumstances:

(A) The return was received by the department with full payment of tax due within 30 days after the due date; i.e., within the five percent penalty period prescribed by RCW 82.32.090, and

(B) The delinquency was the result of an unforeseen and unintentional circumstance, not immediately known to the taxpayer, which circumstances will include the error or misconduct of the taxpayer's employee or accountant, confusion caused by communications with the department, failure to receive return forms timely, natural disasters such as a flood or earthquake, and delays or losses related to the postal service.

PROPOSED

(7)) (b) Waiver of the late payment of return penalty. The late payment of return penalty (see subsection (5)(a) above) may be waived either as a result of circumstances beyond the control of the taxpayer (RCW 82.32.105(1) and subsection (9)(a) of this rule) or after a twenty-four month review of that tax program, as described below.

(i) If the late payment of return penalty is assessed on a return but is not the result of circumstances beyond the control of the taxpayer, the penalty will still be waived or canceled if the following two circumstances are satisfied:

(A) The taxpayer requests the penalty waiver for a tax return which was required to be filed under RCW 82.32.045 (taxes reported on the combined excise tax return), RCW 82.23B.020 (oil spill response tax), RCW 82.27.060 (tax on enhanced food fish), RCW 82.29A.050 (leasehold excise tax), RCW 84.33.086 (timber and forest lands), RCW 82.14B.030 (tax on telephone access line use); and

(B) The taxpayer has timely filed and paid all tax returns due for that specific tax program for a period of twenty-four months immediately preceding the period covered by the return for which the waiver is being requested. RCW 82.32.105(2).

(ii) A return will be considered timely for purpose of the twenty-four month review if there is no tax liability on it when it is filed. Also, a return will be considered timely if any late payment penalties assessed on it were waived or canceled due to circumstances beyond the control of the taxpayer (see subsection (9)(a)). The number of times penalty has been waived due to circumstances beyond the control of the taxpayer does not influence whether the waiver in this subsection will be granted. A taxpayer may receive more than one of the waivers in this subsection within a twenty-four month period if returns for more than one of the listed tax programs are filed, but no more than one waiver can be applied to any one tax program in a twenty-four month period.

For example, a taxpayer files combined excise tax returns as required under RCW 82.32.045, and timber tax returns as required under RCW 84.33.086. This taxpayer may qualify for two waivers of the late payment of return penalty during the same twenty-four month period, one for each tax program. If this taxpayer had an unwaived late payment of return penalty for the combined excise tax return during the previous twenty-four month period, the taxpayer may still qualify for a penalty waiver for the timber tax program.

(iii) The term "twenty-four month review" refers to a specific twenty-four month period and the returns that provide the tax detail for those months. The twenty-four months reviewed for this type of waiver are not affected by the due date of the return for which the penalty waiver is requested, even if that due date has been extended beyond the original due date.

For example, assume a taxpayer's January 1999 return has had the original due date of March 1st extended to April 30th. The return and payment are received after the April 30th extended due date. A penalty waiver is requested under the twenty-four month review. Since the delinquent return represented the month of January, 1999, the twenty-four months which will be reviewed begin on January 1, 1997, and end with December 31, 1998, (the twenty-four months prior

to January, 1999). All of the returns representing that period of time will be included in the review. The extension of the original due date has no effect on the twenty-four month period under review.

(10) Waiver or cancellation of interest. The ((following situations will constitute circumstances under which a waiver or cancellation of interest upon assessments pursuant to RCW 82.32.050 will be considered by the)) department will waive or cancel interest imposed under chapter 82.32 RCW only in the following situations:

(a) The failure to pay the tax prior to issuance of the assessment was the direct result of written instructions given the taxpayer by the department((-); or

(b) The extension of the due date for payment of an assessment was not at the request of the taxpayer and was for the sole convenience of the department. RCW 82.32.105(3).

((8)) (11) Stay of collection. ((RCW 82.32.200 provides, "When any assessment or additional assessment (of taxes) has been made, the taxpayer may obtain a stay of collection, under such circumstances and for such periods as the department may by general regulation provide, of the whole or any part thereof, by filing with the department a bond in an amount, not exceeding twice the amount on which stay is desired, and with sureties as the department deems necessary, conditioned for the payment of the amount of the assessments, collection of which is stayed by the bond, together with the interest thereon at the rate of one percent of the amount of such assessment for each thirty days or portion thereof from the due date until paid."

(Note: RCW 82.32.190 authorizes issuance of an order by the department holding in abeyance tax collection during pendency of litigation. Such tax might be that due on excise tax returns or tax due for unaudited periods for which no assessment has been issued. If, however, an assessment has been issued and is unpaid, RCW 82.32.200, not RCW 82.32.190, is the operative statute for stay of collection with respect to such an assessment.)

(a) The department will give consideration to a request that it grant a stay of collection if:

(i) Written request for the stay is made prior to the due date for payment of the tax assessment, and

(ii) Payment of any unprotested portion of the assessment and other taxes due is timely made, and

(iii) The requested stay is accompanied by an offer of a cash bond, or the offer of a security bond, the conditions of which are guaranteed by a specified authorized surety insurer; in either case the amount of the bond will ordinarily be set in an amount equal to the assessment or portion thereof for which stay is requested together with interest thereon at the rate of one percent per month, but in appropriate cases the department may require a bond in an increased amount not to exceed twice the amount for which stay is requested.

(b)) RCW 82.32.190 allows the department to initiate a stay of collection, without the request of the taxpayer and without requiring any bond, for certain tax liabilities when they may be affected by the outcome of a question pending before the courts (see subsection (11)(a) of this rule). RCW 82.32.200 provides conditions under which the department, at its discretion, may allow a taxpayer to file a bond in order to obtain a stay of collection on a tax assessment (see subsec-

tion (11)(b) of this rule). The department will grant a taxpayer's stay of collection request, as described in RCW 82.32.200, only when ~~((it is satisfied and))~~ the department determines that ~~((it))~~ a stay is in the best interests of the state ~~((to do so. Factors which it will consider in making this determination include: The existence of +))~~.

(a) Circumstances under which the department may consider initiating a stay of collection without requiring a bond (RCW 82.32.190) include, but are not necessarily limited to, the existence of the following:

(i) A constitutional issue to be litigated by the taxpayer, the resolution of which is uncertain; ~~((2-))~~

(ii) A matter of first impression for which the department has little precedent in administrative practice; ~~((and 3-))~~ or

(iii) An issue affecting other similarly situated taxpayers for whom the department would be willing to stay collection of the tax.

(b) The department will give consideration to a request for a stay of collection of an assessment (RCW 82.32.200) if:

(i) A written request for the stay is made prior to the due date for payment of the assessment; and

(ii) Payment of any unprotected portion of the assessment and other taxes due is made timely; and

(iii) The request is accompanied by an offer of a cash bond, or a security bond that is guaranteed by a specified authorized surety insurer. The amount of the bond will generally be equal to the total amount of the assessment, including any penalties and interest. However, where appropriate, the department may require a bond in an increased amount not to exceed twice the amount for which the stay is requested.

(c) Claims of financial hardship or threat of litigation are not grounds ~~((which would))~~ that justify the granting of a stay of collection. However, the department will consider a claim of significant financial hardship as grounds for staying collection procedures, but this will be done only if a partial payment agreement is executed and kept in accordance with the department's procedures and with such security as the department deems necessary.

(d) If the department grants a stay of collection, the stay will be for a period of no longer than two calendar years from the date of acceptance of the taxpayer request ~~((therefor))~~, or thirty days following a decision not appealed from by a tribunal or court of competent jurisdiction upholding the validity of the tax assessed, whichever date occurs first. The department may extend the period of a stay originally granted, but only for good cause shown.

~~((9))~~ (e) Interest will continue to accrue against the unpaid tax portion of a liability under stay of collection. Effective January 1, 1997, the interest rates prescribed by RCW 82.32.190 and 82.32.200 changed from nine percent and twelve percent per annum, respectively, to the same predetermined annual variable rates as are described in subsection (7)(e), above.

(12) Extensions. The department, for good cause, may extend the due date for filing any return. Any permanent extension more than ten days beyond the due date, and any temporary extension in excess of thirty days, must be conditional upon deposit by the taxpayer with the department of an amount equal to the estimated tax liability for the reporting

period or periods for which the extension is granted. This deposit is credited to the taxpayer's account and may be applied to the taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where a temporary extension of more than thirty days has been granted.

The amount of the deposit is subject to departmental approval. The amount will be reviewed from time to time, and a change may be required at any time that the department concludes that such amount does not approximate the tax liability for the reporting period or periods for which the extension was granted.

WSR 99-10-039

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed April 30, 1999, 10:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-06-036.

Title of Rule: WAC 458-40-660 Timber excise tax—Stumpage value tables.

Purpose: RCW 84.33.091 requires that the stumpage value tables be revised twice annually by rule. WAC 458-40-660 contains the proposed stumpage values for the second half of 1999. Harvesters of timber use these values to calculate the timber excise tax.

Statutory Authority for Adoption: RCW 82.32.330 and 84.33.096.

Statute Being Implemented: RCW 84.33.091.

Summary: The rule contains eight tables of stumpage values. These eight tables represent the areas in the state in which timber is harvested. Each table breaks out the values by timber species, quality, and a downward adjustment for hauling. The rule also contains two harvest adjustment tables for the volume per acre that is harvested, logging conditions, remote island harvesting, and thinning. In addition, the rule also contains a domestic market adjustment table for some timber that is not sold by a competitive bidding process and that is prohibited from export.

Reasons Supporting Proposal: This rule and the breakdowns reflected above are required to be done twice a year by RCW 84.33.091.

Name of Agency Personnel Responsible for Drafting: Edward Ratcliffe, 711 Capitol Way South, #303, Olympia, WA, (360) 586-3505; Implementation and Enforcement: Gary O'Neil, 2735 Harrison N.W., Building 4, Olympia, WA, (360) 753-2871.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendment of WAC 458-40-660 complies with RCW 84.33.091. RCW 84.33.091 requires that the department publish stumpage values on a semi-annual basis. The tables set out the amount that each species or subclassifica-

PROPOSED

tion of timber would sell for at a voluntary sale made in the ordinary course of business for purposes of immediate harvest. Harvesters, other than certain electing small harvesters, of timber use the tables as a basis for calculating the amount of timber excise tax owed.

Proposal Changes the Following Existing Rules: Values are updated. See Explanation of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The stumpage value table is required by law. The agency is given no discretion in implementing the table. The rules do not impose a responsibility or require a small business to perform something that is not already required by law.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. These are significant legislative rules pursuant to subsection (5)(a)(i) of section 201, chapter 403, Laws of 1995, (RCW 34.05.328 (5)(a)(i)).

Hearing Location: Department of Revenue, Conference Room, Target Place Building, No. 4, 2735 Harrison Avenue N.W., Olympia, WA, on June 8, 1999, at 10 a.m.

Assistance for Persons with Disabilities: Contact Ginny Dale by May 28, 1999, TDD 1-800-451-7985, or (360) 586-0721.

Submit Written Comments to: Ed Ratcliffe, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, by June 8, 1999.

Date of Intended Adoption: June 30, 1999.

April 29, 1999

Claire Hesselholt, Rules Manager
Legislation and Policy

AMENDATORY SECTION (Amending WSR 99-02-032, filed 12/30/98, effective 1/1/99)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) Introduction. This section sets forth the stumpage value tables and the stumpage value adjustments that are used to calculate the amount of timber excise tax owed by a timber harvester.

(2) Stumpage value tables. The following stumpage value tables are hereby adopted for use in reporting the taxable value of stumpage harvested during the period ((January) July 1 through ((June 30)) December 31, 1999:

((TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			Distance Zone Number				
			1	2	3	4	5
Douglas Fir	DF	1	\$595	\$588	\$581	\$574	\$567
		2	484	477	470	463	456
		3	430	423	416	409	402
		4	288	281	274	267	260

((TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			Distance Zone Number				
			1	2	3	4	5
Western Redcedar ²	RC	1	1155	1148	1141	1134	1127
		2	861	854	847	840	833
		3	809	802	795	788	781
		4	797	790	783	776	769
Western Hemlock ³	WH	1	331	324	317	310	303
		2	322	315	308	301	294
		3	317	310	303	296	289
		4	278	271	264	257	250
Other Conifer	OC	1	331	324	317	310	303
		2	322	315	308	301	294
		3	317	310	303	296	289
		4	278	271	264	257	250
Red Alder	RA	1	199	192	185	178	171
		2	161	154	147	140	133
		3	135	128	121	114	107
Black Cottonwood	BC	1	55	48	41	34	27
		2	16	9	2	+	+
		3	13	6	+	+	+
Other Hardwood	OH	1	127	120	113	106	99
		2	99	92	85	78	71
		3	74	67	60	53	46
Douglas fir Poles	DFL	1	1038	1031	1024	1017	1010
Western Redcedar Poles	RCL	1	1038	1031	1024	1017	1010
Chipwood	CHW	1	3	2	+	+	+
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁴	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁵	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁵	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Alaska Cedar.

³Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

PROPOSED

TABLE 2 - Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 1999

Species Name	Quality	Timber	Stumpage Values per Thousand Board Feet Net Scribner Log Scale ¹																												
			Distance-Zone Number	Code Number	1	2	3	4	5																						
Other Christmas Trees ⁵	TFX	+	0.50	0.50	0.50	0.50	0.50	0.50	0.50																						
										Douglas-Fir	+	1	\$595	\$588	\$581	\$574	\$567														
																		RC	+	1	1155	1148	1141	1134	1127						
																										2	861	854	847	840	833
4	797	790	783	776	769																										

TABLE 2 - Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 1999

Species Name	Quality	Timber	Stumpage Values per Thousand Board Feet Net Scribner Log Scale ¹																									
			Distance-Zone Number	Code Number	1	2	3	4	5																			
Douglas-Fir	DF	+	1	\$595	\$588	\$581	\$574	\$567																				
									RC	+	1	1155	1148	1141	1134	1127												
																	2	861	854	847	840	833						
																							3	809	802	795	788	781

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska-Cedar.
³ Includes Western-Hemlock, Mountain-Hemlock, Pacific-Silver-Fir, Noble-Fir, Grand-Fir, and Subalpine-Fir. Pacific-Silver-Fir, Noble-Fir, Grand-Fir, and Subalpine-Fir are all commonly referred to as White Fir.
⁴ Stumpage value per 8 lineal feet or portion thereof.
⁵ Stumpage value per lineal foot.

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska-Cedar.
³ Includes Western-Hemlock, Mountain-Hemlock, Pacific-Silver-Fir, Noble-Fir, Grand-Fir, and Subalpine-Fir. Pacific-Silver-Fir, Noble-Fir, Grand-Fir, and Subalpine-Fir are all commonly referred to as White Fir.
⁴ Stumpage value per 8 lineal feet or portion thereof.
⁵ Stumpage value per lineal foot.

TABLE 3 - Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 1999

Species Name	Quality	Timber	Stumpage Values per Thousand Board Feet Net Scribner Log Scale ¹																									
			Distance-Zone Number	Code Number	1	2	3	4	5																			
Douglas-Fir ²	DF	+	1	\$595	\$588	\$581	\$574	\$567																				
									RC	+	1	1155	1148	1141	1134	1127												
																	2	861	854	847	840	833						
																							3	809	802	795	788	781

Species Name	Quality	Timber	Stumpage Values per Thousand Board Feet Net Scribner Log Scale ¹																									
			Distance-Zone Number	Code Number	1	2	3	4	5																			
Douglas-Fir	DF	+	1	\$595	\$588	\$581	\$574	\$567																				
									RC	+	1	1155	1148	1141	1134	1127												
																	2	861	854	847	840	833						
																							3	809	802	795	788	781

Species Name	Quality	Timber	Stumpage Values per Thousand Board Feet Net Scribner Log Scale ¹																							
			Distance-Zone Number	Code Number	1	2	3	4	5																	
Western-Redcedar ³	RC	+	1	1155	1148	1141	1134	1127																		
									2	861	854	847	840	833												
															3	809	802	795	788	781						
																					4	797	790	783	776	769

Species Name	Quality	Timber	Stumpage Values per Thousand Board Feet Net Scribner Log Scale ¹																							
			Distance-Zone Number	Code Number	1	2	3	4	5																	
Western-Redcedar	RC	+	1	1155	1148	1141	1134	1127																		
									2	861	854	847	840	833												
															3	809	802	795	788	781						
																					4	797	790	783	776	769

Species Name	Quality	Timber	Stumpage Values per Thousand Board Feet Net Scribner Log Scale ¹																							
			Distance-Zone Number	Code Number	1	2	3	4	5																	
Western-Hemlock ⁴	WH	+	1	319	312	305	298	291																		
									2	295	288	281	274	267												
															3	291	284	277	270	263						
																					4	254	247	240	233	226

Species Name	Quality	Timber	Stumpage Values per Thousand Board Feet Net Scribner Log Scale ¹																							
			Distance-Zone Number	Code Number	1	2	3	4	5																	
Western-Hemlock	WH	+	1	319	312	305	298	291																		
									2	295	288	281	274	267												
															3	291	284	277	270	263						
																					4	254	247	240	233	226

Species Name	Quality	Timber	Stumpage Values per Thousand Board Feet Net Scribner Log Scale ¹																							
			Distance-Zone Number	Code Number	1	2	3	4	5																	
Other Conifer	OC	+	1	319	312	305	298	291																		
									2	295	288	281	274	267												
															3	291	284	277	270	263						
																					4	254	247	240	233	226

Species Name	Quality	Timber	Stumpage Values per Thousand Board Feet Net Scribner Log Scale ¹																							
			Distance-Zone Number	Code Number	1	2	3	4	5																	
Other Conifer	OC	+	1	319	312	305	298	291																		
									2	295	288	281	274	267												
															3	291	284	277	270	263						
																					4	254	247	240	233	226

PROPOSED

**TABLE 3—Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 1999**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		3	13	6	1	1	1
Other Hardwood	OH	1	127	120	113	106	99
		2	99	92	85	78	71
		3	74	67	60	53	46
Douglas fir Poles	DFL	1	1038	1031	1024	1017	1010
Western Redcedar Poles	RCL	1	1038	1031	1024	1017	1010
Chipwood	CHW	1	3	2	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	FFX	1	0.50	0.50	0.50	0.50	0.50

¹Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵Stumpage value per 8 lineal feet or portion thereof.

⁶Stumpage value per lineal foot.

**TABLE 4—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 1999**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$733	\$726	\$719	\$712	\$705
		2	486	479	472	465	458
		3	462	455	448	441	434
		4	383	376	369	362	355
Lodgepole Pine	LP	1	203	196	189	182	175

**TABLE 4—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 1999**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Ponderosa Pine	PP	1	364	357	350	343	336
		2	219	212	205	198	191
Western Redcedar ²	RC	1	1155	1148	1141	1134	1127
		2	861	854	847	840	833
		3	809	802	795	788	781
		4	797	790	783	776	769
Western Hemlock ⁴	WH	1	352	345	338	331	324
		2	329	322	315	308	301
		3	317	310	303	296	289
		4	308	301	294	287	280
Other Conifer	OC	1	352	345	338	331	324
		2	329	322	315	308	301
		3	317	310	303	296	289
		4	308	301	294	287	280
Red Alder	RA	1	199	192	185	178	171
		2	161	154	147	140	133
		3	135	128	121	114	107
Black Cottonwood	BC	1	55	48	41	34	27
		2	16	9	2	1	1
		3	13	6	1	1	1
Other Hardwood	OH	1	127	120	113	106	99
		2	99	92	85	78	71
		3	74	67	60	53	46
Douglas fir Poles	DFL	1	1038	1031	1024	1017	1010
Western Redcedar Poles	RCL	1	1038	1031	1024	1017	1010
Chipwood	CHW	1	3	2	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	FFX	1	0.50	0.50	0.50	0.50	0.50

¹Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

PROPOSED

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵ Stumpage value per 8 lineal feet or portion thereof.

⁶ Stumpage value per lineal foot.

**TABLE 5—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1999**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$531	\$524	\$517	\$510	\$503
		2	489	482	475	468	461
		3	435	428	421	414	407
		4	283	276	269	262	255
Lodgepole Pine	LP	1	203	196	189	182	175
Ponderosa Pine	PP	1	364	357	350	343	336
		2	219	212	205	198	191
Western Redcedar ³	RC	1	1155	1148	1141	1134	1127
		2	861	854	847	840	833
		3	809	802	795	788	781
		4	797	790	783	776	769
Western Hemlock ⁴	WH	1	352	345	338	331	324
		2	352	345	338	331	324
		3	277	270	263	256	249
		4	277	270	263	256	249
Other Conifer	OC	1	352	345	338	331	324
		2	352	345	338	331	324
		3	277	270	263	256	249
		4	277	270	263	256	249
Red Alder	RA	1	199	192	185	178	171
		2	161	154	147	140	133
		3	135	128	121	114	107
Black Cottonwood	BC	1	55	48	41	34	27
		2	16	9	2	+	+
		3	13	6	+	+	+
Other Hardwood	OH	1	127	120	113	106	99
		2	99	92	85	78	71
		3	74	67	60	53	46
Douglas fir Poles	DFL	1	1038	1031	1024	1017	1010
Western Redcedar Poles	RCL	1	1038	1031	1024	1017	1010

**TABLE 5—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1999**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Chipwood	CHW	1	3	2	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Western Larch.

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵ Stumpage value per 8 lineal feet or portion thereof.

⁶ Stumpage value per lineal foot.

**TABLE 6—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1999**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$239	\$232	\$225	\$218	\$211
Engelmann Spruce	ES	1	200	193	186	179	172
Lodgepole Pine	LP	1	203	196	189	182	175
Ponderosa Pine	PP	1	364	357	350	343	336
		2	219	212	205	198	191
Western Redcedar ³	RC	1	427	420	413	406	399
True Firs ⁴	WH	1	214	207	200	193	186
Western White Pine	WP	1	423	416	409	402	395
Hardwoods	OH	1	50	43	36	29	22

PROPOSED

**TABLE 6—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1999**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western Redcedar Poles	RCL	1	516	509	502	495	488
Small Logs	SML	1	24	23	22	21	20
Chipwood	CHW	1	2	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁵	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁶	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵Stumpage value per 8 lineal feet or portion thereof.

⁶Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁷Stumpage value per lineal foot.

**TABLE 7—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1999**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$239	\$232	\$225	\$218	\$211
Engelmann Spruce	ES	1	200	193	186	179	172
Lodgepole Pine	LP	1	203	196	189	182	175
Ponderosa Pine	PP	1	364	357	350	343	336
		2	219	212	205	198	191
Western Redcedar ³	RC	1	427	420	413	406	399
True Firs ⁴	WH	1	214	207	200	193	186

**TABLE 7—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1999**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Western White Pine	WP	1	423	416	409	402	395
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	516	509	502	495	488
Small Logs	SML	1	23	22	21	20	19
Chipwood	CHW	1	2	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁵	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁶	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵Stumpage value per 8 lineal feet or portion thereof.

⁶Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁷Stumpage value per lineal foot.

**TABLE 8—Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 1999**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$719	\$712	\$705	\$698	\$691
		2	472	465	458	451	444
		3	448	441	434	427	420
		4	369	362	355	348	341
Lodgepole Pine	LP	1	203	196	189	182	175
Ponderosa Pine	PP	1	364	357	350	343	336

PROPOSED

TABLE 8—Stumpage Value Table
Stumpage Value Area 10
 January 1 through June 30, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁴

Species Name	Timber Quality Species Code Number	Hauling Distance Zone Number					
		1	2	3	4	5	
	2	219	212	205	198	191	
Western Redcedar ³	RC	1	1141	1134	1127	1120	1113
		2	847	840	833	826	819
		3	795	788	781	774	767
		4	783	776	769	762	755
Western Hemlock ⁴	WH	1	338	331	324	317	310
		2	315	308	301	294	287
		3	303	296	289	282	275
		4	294	287	280	273	266
Other Conifer	OC	1	338	331	324	317	310
		2	315	308	301	294	287
		3	303	296	289	282	275
		4	294	287	280	273	266
Red Alder	RA	1	185	178	171	164	157
		2	147	140	133	126	119
		3	121	114	107	100	93
Black Cottonwood	BC	1	41	34	27	20	13
		2	2	+	+	+	+
		3	+	+	+	+	+
Other Hardwood	OH	1	113	106	99	92	85
		2	85	78	71	64	57
		3	60	53	46	39	32
Douglas-fir Poles	DFL	1	1024	1017	1010	1003	996
Western Redcedar Poles	RCL	1	1024	1017	1010	1003	996
Chipwood	CHW	1	+	+	+	+	+
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

⁴Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

⁵Includes Western Larch.

⁶Includes Alaska Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵Stumpage value per 8 lineal feet or portion thereof.

⁶Stumpage value per lineal foot.))

TABLE 1—Stumpage Value Table
Stumpage Value Area 1
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Timber Quality Species Code Number	Hauling Distance Zone Number					
		1	2	3	4	5	
Douglas-Fir	DF	1	\$535	\$528	\$521	\$514	\$507
		2	421	414	407	400	393
		3	384	377	370	363	356
		4	380	373	366	359	352
Western Redcedar ²	RC	1	715	708	701	694	687
		2	715	708	701	694	687
		3	715	708	701	694	687
		4	715	708	701	694	687
Western Hemlock ³	WH	1	345	338	331	324	317
		2	324	317	310	303	296
		3	310	303	296	289	282
		4	299	292	285	278	271
Other Conifer	OC	1	345	338	331	324	317
		2	324	317	310	303	296
		3	310	303	296	289	282
		4	299	292	285	278	271
Red Alder	RA	1	213	206	199	192	185
		2	175	168	161	154	147
		3	122	115	108	101	94
Black Cottonwood	BC	1	77	70	63	56	49
		2	77	70	63	56	49
		3	15	8	1	1	1
Other Hardwood	OH	1	122	115	108	101	94
		2	112	105	98	91	84
		3	95	88	81	74	67
Douglas-fir Poles	DFL	1	958	951	944	937	930
Western Redcedar Poles	RCL	1	958	951	944	937	930
Chipwood	CHW	1	3	2	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93

PROPOSED

TABLE 1—Stumpage Value Table
Stumpage Value Area 1
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
RC & Other Posts ⁴	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁵	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁵	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Alaska-Cedar.

³Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁴Stumpage value per 8 lineal feet or portion thereof.

⁵Stumpage value per lineal foot.

TABLE 2—Stumpage Value Table
Stumpage Value Area 2
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$535	\$528	\$521	\$514	\$507
		2	475	468	461	454	447
		3	421	414	407	400	393
		4	350	343	336	329	322
Western Redcedar ²	RC	1	715	708	701	694	687
		2	715	708	701	694	687
		3	715	708	701	694	687
		4	715	708	701	694	687
Western Hemlock ³	WH	1	350	343	336	329	322
		2	345	338	331	324	317
		3	303	296	289	282	275
		4	303	296	289	282	275
Other Conifer	OC	1	350	343	336	329	322
		2	345	338	331	324	317
		3	303	296	289	282	275
		4	303	296	289	282	275
Red Alder	RA	1	213	206	199	192	185
		2	175	168	161	154	147

TABLE 2—Stumpage Value Table
Stumpage Value Area 2
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		3	122	115	108	101	94
Black Cottonwood	BC	1	77	70	63	56	49
		2	77	70	63	56	49
		3	15	8	1	1	1
Other Hardwood	OH	1	122	115	108	101	94
		2	112	105	98	91	84
		3	95	88	81	74	67
Douglas-fir Poles	DFL	1	958	951	944	937	930
Western Redcedar Poles	RCL	1	958	951	944	937	930
Chipwood	CHW	1	3	2	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁴	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁵	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁵	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Alaska-Cedar.

³Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁴Stumpage value per 8 lineal feet or portion thereof.

⁵Stumpage value per lineal foot.

TABLE 3—Stumpage Value Table
Stumpage Value Area 3
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$535	\$528	\$521	\$514	\$507
		2	399	392	385	378	371
		3	353	346	339	332	325

PROPOSED

TABLE 3—Stumpage Value Table
Stumpage Value Area 3
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		4	353	346	339	332	325
Western Redcedar ³	RC	1	715	708	701	694	687
		2	715	708	701	694	687
		3	715	708	701	694	687
		4	715	708	701	694	687
Western Hemlock ⁴	WH	1	345	338	331	324	317
		2	315	308	301	294	287
		3	291	284	277	270	263
		4	267	260	253	246	239
Other Conifer	OC	1	345	338	331	324	317
		2	315	308	301	294	287
		3	291	284	277	270	263
		4	267	260	253	246	239
Red Alder	RA	1	213	206	199	192	185
		2	175	168	161	154	147
		3	122	115	108	101	94
Black Cottonwood	BC	1	77	70	63	56	49
		2	77	70	63	56	49
		3	15	8	1	1	1
Other Hardwood	OH	1	122	115	108	101	94
		2	112	105	98	91	84
		3	95	88	81	74	67
Douglas-fir Poles	DFL	1	958	951	944	937	930
Western Redcedar Poles	RCL	1	958	951	944	937	930
Chipwood	CHW	1	3	2	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ²	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁴	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁴	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵Stumpage value per 8 lineal feet or portion thereof.

⁶Stumpage value per lineal foot.

TABLE 4—Stumpage Value Table
Stumpage Value Area 4
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$595	\$588	\$581	\$574	\$567
		2	426	419	412	405	398
		3	414	407	400	393	386
		4	380	373	366	359	352
Lodgepole Pine	LP	1	202	195	188	181	174
Ponderosa Pine	PP	1	358	351	344	337	330
		2	227	220	213	206	199
Western Redcedar ³	RC	1	715	708	701	694	687
		2	715	708	701	694	687
		3	715	708	701	694	687
		4	715	708	701	694	687
Western Hemlock ⁴	WH	1	345	338	331	324	317
		2	299	292	285	278	271
		3	297	290	283	276	269
		4	295	288	281	274	267
Other Conifer	OC	1	345	338	331	324	317
		2	299	292	285	278	271
		3	297	290	283	276	269
		4	295	288	281	274	267
Red Alder	RA	1	213	206	199	192	185
		2	175	168	161	154	147
		3	122	115	108	101	94
Black Cottonwood	BC	1	77	70	63	56	49
		2	77	70	63	56	49
		3	15	8	1	1	1
Other Hardwood	OH	1	122	115	108	101	94
		2	112	105	98	91	84
		3	95	88	81	74	67
Douglas-fir Poles	DFL	1	958	951	944	937	930
Western Redcedar Poles	RCL	1	958	951	944	937	930
Chipwood	CHW	1	3	2	1	1	1

PROPOSED

TABLE 4—Stumpage Value Table
Stumpage Value Area 4
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			RC Shake Blocks	RCS	1	303	296
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ²	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁴	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵Stumpage value per 8 lineal feet or portion thereof.

⁶Stumpage value per lineal foot.

TABLE 5—Stumpage Value Table
Stumpage Value Area 5
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir ²	DF	1	\$545	\$538
		2	424	417	410	403	396
		3	413	406	399	392	385
		4	307	300	293	286	279
Lodgepole Pine	LP	1	202	195	188	181	174
Ponderosa Pine	PP	1	358	351	344	337	330
		2	227	220	213	206	199
Western Redcedar ³	RC	1	715	708	701	694	687
		2	715	708	701	694	687
		3	715	708	701	694	687
		4	715	708	701	694	687
Western Hemlock ⁴	WH	1	368	361	354	347	340
		2	317	310	303	296	289
		3	266	259	252	245	238

TABLE 5—Stumpage Value Table
Stumpage Value Area 5
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Other Conifer	OC	1	368	361
		2	317	310	303	296	289
		3	266	259	252	245	238
		4	266	259	252	245	238
Red Alder	RA	1	213	206	199	192	185
		2	175	168	161	154	147
		3	122	115	108	101	94
Black Cottonwood	BC	1	77	70	63	56	49
		2	77	70	63	56	49
		3	15	8	1	1	1
Other Hardwood	OH	1	122	115	108	101	94
		2	112	105	98	91	84
		3	95	88	81	74	67
Douglas-fir Poles	DFL	1	958	951	944	937	930
Western Redcedar Poles	RCL	1	958	951	944	937	930
Chipwood	CHW	1	3	2	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ²	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ³	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁴	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵Stumpage value per 8 lineal feet or portion thereof.

⁶Stumpage value per lineal foot.

PROPOSED

TABLE 6—Stumpage Value Table
Stumpage Value Area 6
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$237	\$230	\$223	\$216	\$209
Engelmann Spruce	ES	1	207	200	193	186	179
Lodgepole Pine	LP	1	202	195	188	181	174
Ponderosa Pine	PP	1	358	351	344	337	330
		2	227	220	213	206	199
Western Redcedar ³	RC	1	404	397	390	383	376
True Firs ⁴	WH	1	227	220	213	206	199
Western White Pine	WP	1	423	416	409	402	395
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	516	509	502	495	488
Small Logs	SML	1	20	19	18	17	16
Chipwood	CHW	1	2	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁵	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁶	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25

TABLE 7—Stumpage Value Table
Stumpage Value Area 7
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$237	\$230	\$223	\$216	\$209
Engelmann Spruce	ES	1	207	200	193	186	179
Lodgepole Pine	LP	1	202	195	188	181	174
Ponderosa Pine	PP	1	358	351	344	337	330
		2	227	220	213	206	199
Western Redcedar ³	RC	1	404	397	390	383	376
True Firs ⁴	WH	1	227	220	213	206	199
Western White Pine	WP	1	423	416	409	402	395
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	516	509	502	495	488
Small Logs	SML	1	26	25	24	23	22
Chipwood	CHW	1	2	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁵	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁶	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵Stumpage value per 8 lineal feet or portion thereof.

⁶Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁷Stumpage value per lineal foot.

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵Stumpage value per 8 lineal feet or portion thereof.

⁶Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁷Stumpage value per lineal foot.

PROPOSED

TABLE 8—Stumpage Value Table
Stumpage Value Area 10
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$581	\$574	\$567	\$560	\$553
		2	412	405	398	391	384
		3	400	393	386	379	372
		4	366	359	352	345	338
Lodgepole Pine	LP	1	202	195	188	181	174
Ponderosa Pine	PP	1	358	351	344	337	330
		2	227	220	213	206	199
Western Redcedar ³	RC	1	701	694	687	680	673
		2	701	694	687	680	673
		3	701	694	687	680	673
		4	701	694	687	680	673
Western Hemlock ⁴	WH	1	331	324	317	310	303
		2	285	278	271	264	257
		3	283	276	269	262	255
		4	281	274	267	260	253
Other Conifer	OC	1	331	324	317	310	303
		2	285	278	271	264	257
		3	283	276	269	262	255
		4	281	274	267	260	253
Red Alder	RA	1	199	192	185	178	171
		2	161	154	147	140	133
		3	108	101	94	87	80
Black Cottonwood	BC	1	63	56	49	42	35
		2	63	56	49	42	35
		3	1	1	1	1	1
Other Hardwood	OH	1	108	101	94	87	80
		2	98	91	84	77	70
		3	81	74	67	60	53
Douglas-fir Poles	DFL	1	944	937	930	923	916
Western Redcedar Poles	RCL	1	944	937	930	923	916
Chipwood	CHW	1	1	1	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45

TABLE 8—Stumpage Value Table
Stumpage Value Area 10
 July 1 through December 31, 1999

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

²Includes Western Larch.

³Includes Alaska-Cedar.

⁴Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as White Fir.

⁵Stumpage value per 8 lineal feet or portion thereof.

⁶Stumpage value per lineal foot.

(3) **Harvest value adjustments.** Harvest value adjustments relating to the various logging and harvest conditions shall be allowed against the stumpage values as set forth in subsection (2) of this section for the designated stumpage value areas. See WAC 458-40-670 for more information about these adjustments.

The following harvest adjustment tables are hereby adopted for use during the period of ((January)) July 1 through ((June 30)) December 31, 1999:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
 ((January)) July 1 through ((June 30)) December 31, 1999

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	\$0.00
Class 2	Harvest of 20 thousand board feet to 40 thousand board feet per acre.	-\$4.00
Class 3	Harvest of 10 thousand board feet to but not including 20 thousand board feet per acre.	-\$7.00
Class 4	Harvest of 5 thousand board feet to but not including 10 thousand board feet per acre.	-\$9.00
Class 5	Harvest of less than 5 thousand board feet per acre.	-\$10.00
II. Logging conditions		

PROPOSED

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1	Most of the harvest unit has less than 30% slope. No significant rock outcrops or swamp barriers.	\$ 0.00
Class 2	Most of the harvest unit has slopes between 30% and 60%. Some rock outcrops or swamp barriers.	- \$17.00
Class 3	Most of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	- \$25.00
Class 4	For logs that are yarded from stump to landing by helicopter. This does not include special forest products.	- \$145.00

Note: A Class 2 adjustment may be used for slopes less than 30% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department.

III. Remote island adjustment:

For timber harvested from a remote island - \$50.00

IV. Thinning (see WAC 458-40-610(21))

Class 1	Average log volume of 50 board feet or more.	- \$25.00
Class 2	Average log volume of less than 50 board feet.	-\$125.00

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
 ((January)) July 1 through ((June 30)) December 31, 1999

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	- \$7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	- \$10.00
II. Logging conditions		
Class 1	Most of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	Most of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$20.00
Class 3	Most of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$30.00

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 4	For logs that are yarded from stump to landing by helicopter. This does not include special forest products.	- \$145.00
Note: A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department.		
III. Remote island adjustment:		
	For timber harvested from a remote island	- \$50.00

TABLE 11—Domestic Market Adjustment

Public Timber

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

Federal Timber Sales: All species except Alaska Yellow Cedar. (Stat. Ref. - 36 CFR 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Red Cedar only. (Stat. Ref. - 50 USC appendix 2406.1)

Private Timber

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

The adjustment amounts shall be as follows:

Class 1:	SVA's 1 through 6, and 10	\$0.00 per MBF
Class 2:	SVA 7	\$0.00 per MBF

Note: The adjustment will not be allowed on special forest products.

WSR 99-10-044
PROPOSED RULES
CLARK COLLEGE

[Filed April 30, 1999, 1:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-06-011.

Title of Rule: Chapter 132N-160 WAC, Admissions, registration, tuition and fees, waivers, and graduation practices.

PROPOSED

Purpose: Rule establishes practices that are necessary and appropriate for the administration of Clark College.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: Chapter 28B.50 RCW.

Summary: This rule establishes standard practices.

Reasons Supporting Proposal: The rule puts existing practice into the WAC.

Name of Agency Personnel Responsible for Drafting: Linda Calvert, Gaiser Hall, (360) 992-2392; Implementation and Enforcement: James Barbieri, Gaiser Hall, (360) 992-2102.

Name of Proponent: Clark College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule establishes a standard set of admission, registration, tuition and fees, waivers, and graduation practices. The rule establishes guidelines for admission exceptions, residency, and refunds. It also establishes an appeals process.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

RCW 34.05.328 does not apply to this rule adoption. Proposed rule is not a significant legislative rule or other selected rule as described in RCW 34.05.328(5).

Hearing Location: Clark College, Board Room, 1800 East McLoughlin Boulevard, Vancouver, WA, on June 28, 1999, at 4:00 p.m.

Assistance for Persons with Disabilities: Janelle Farley by June 14, 1999, (360) 992-2101.

Submit Written Comments to: Tana Hasart, President, fax (360) 992-2871, by June 14, 1999.

Date of Intended Adoption: June 28, 1999.

April 27, 1999

Tana L. Hasart

President

NEW SECTION

WAC 132N-160-010 Admissions, registration, tuition and fees, waivers, and graduation. This policy establishes a standard set of admission, registration, tuition and fees, waivers, and graduation practices that are necessary and appropriate for the administration of Clark College.

NEW SECTION

WAC 132N-160-020 Definitions. For the purpose of this code, the following terms are defined:

(1) "Admissions officer" shall mean the designated college administrator for admissions procedures.

(2) "Applicant" shall mean a person seeking admission to Clark College.

(3) "College" shall mean Clark College and any other community college centers or facilities established within Washington State Community College District I4.

(4) "Designee" shall mean a person appointed by an officer or another person designated to perform a function on the appointer's behalf.

(5) "GED" shall mean the General Educational Development Test of the American Council on Education.

(6) "International students" shall mean applicants or students who are not United States citizens and who need F-1 or M-1 visas to attend Clark College.

(7) "Nonresident students" shall mean students who meet the definition according to RCW 28B.15.012(3).

(8) "Persian Gulf veteran" shall mean a veteran of the Persian Gulf who has documented service in a combat zone as defined by the president during 1991, who qualified as a Washington resident as defined by RCW 28B.15.012(2) on August 1, 1990.

(9) "Registrar" shall mean the designated college administrator for registration and records procedures.

(10) "Resident students" shall mean those students who meet criteria defined in RCW 28B.15.012.

(11) "Student," unless otherwise qualified, shall mean and include any person who is an applicant for admission or an enrolled student of Clark College.

(12) "Veteran" shall mean an applicant or student who is eligible to receive Department of Veterans' Affairs educational benefits.

(13) "Veterans of Vietnam conflict" shall be those persons who have been on active federal service as a member of the armed military or naval forces of the United States between a period commencing August 5, 1964, to May 7, 1975, who qualify as Washington residents as defined by RCW 28B.15.012(2).

(14) "Waivers" shall mean those tuition and fee waivers authorized by state law and by the state board for community and technical colleges in accordance with chapter 131-28 WAC and adopted as policy where appropriate by the college board of trustees.

NEW SECTION

WAC 132N-160-030 Admissions policy. (1) Any applicant shall be admitted when he/she:

(a) Is at least eighteen years of age; or

(i) Is a graduate of a high school or the equivalent; or

(ii) Has applied for admission under the provisions of a student enrollment options program such as running start (chapter 392-169, 131-46, and/or 250-79 WAC) or a successor program.

(b) Is competent to profit from the curricular offerings of the college; and

(c) Would not, by his/her presence or conduct, create a disruptive atmosphere within the college with the purposes of the institution.

(2) Admission to the college shall entitle the student to enroll in any instructional program, provided that the student is qualified and complies with the rules and procedures established for enrollment in such program.

(3) In order to assist students in selecting courses and programs appropriate to their needs and interests, and to ensure that students will be able to profit from current curricular offerings or benefit from a particular class, course, or program, the college may require students to meet special admission requirements, take tests, or have special training prior to enrolling.

(4) Enrollment in classes, programs, or sections may be restricted by limitations of physical facilities or operating funds, when consistent with generally accepted educational practices regarding efficient maximum class sizes.

(5) The college reserves the ultimate right to determine admission to the college and/or to certain classes.

NEW SECTION

WAC 132N-160-040 Admission exceptions. The following guidelines apply to the admission of those students who do not meet the general admission criteria:

(1) Persons under the age of eighteen who have not earned a diploma from a high school or the equivalent may be admitted to college-level classes and some vocational classes on a space-available basis, except as in subsection (2) of this section.

(2) Persons who meet the requirements of the running start program (chapter 392-169, 131-46, and/or 250-79 WAC) may enroll in most college-level classes and selected vocational classes if such classes have student spaces open at the time of running start registration. Students must meet program eligibility requirements and deadlines to participate.

(3) Students age sixteen and over who meet the provisions of "Title III - Adult Education Programs" (Adult Education Act, 20 U.S.C. secs. 1201 et seq.) may enroll in certain basic education classes. Persons admitted into such classes (basic skills, academic support, and/or remedial) will be allowed to continue as long as they demonstrate, through measurable academic progress, an ability to benefit.

(4) Applicants in subsections (1), (2), and (3) of this section, above, must demonstrate sufficient maturity and academic ability or skill to compete with college students. Applicants under the age of sixteen may be required to follow the designated college procedures for admission.

NEW SECTION

WAC 132N-160-050 Residency. (1) Students who meet the definition of resident students according to RCW 28B.15.012(2) shall be classified as resident students. Students not eligible for residency classification will be classified as nonresident students.

(2) Students who have questions about their classification must complete a residency questionnaire and submit the necessary documentation to the college admissions officer. The college admissions officer will review the questionnaire and will notify the student in writing of the decision within one week.

(3) Students are responsible for registering under the proper residency classification.

(4) Appeals to residency classification will be reviewed by the vice-president of student services, in a brief adjudicative proceeding under RCW 34.05.482 through 34.05.494.

NEW SECTION

WAC 132N-160-060 Tuition and fees, waivers. (1) Tuition is based on residency requirements (WAC 132N-160-050) and upon chapter 28B.15 RCW, College and uni-

versity fees. Tuition is set by the Washington state legislature and subject to change. The current tuition fee schedule is listed in the quarterly class schedule.

(2) Some course enrollments may also require payment of lab or course fees in addition to or instead of tuition. These fees cover costs such as those associated with consumable supplies, computer software upgrading, and technical lab assistance.

(3) Clark College may periodically establish tuition and fee waivers as authorized by state law and by the state board for community and technical colleges. This will be done in accordance with chapter 131-28 WAC.

(a) Information regarding specific waivers will be available in the schedule of classes and from the registration office.

(b) Upon an applicant's request, individual determinations on tuition and fee waivers will be reviewed by the college registrar, in a brief adjudicative proceeding under RCW 34.05.482 through 34.05.494.

NEW SECTION

WAC 132N-160-070 Refunds. Refunds resulting from official withdrawal from courses will be computed as follows for state supported courses:

(1) First-time students receiving federal financial aid who officially withdraw from classes shall be provided a *pro rata* refund in accordance with federal guidelines.

(2) A refund of tuition and fees will be made to all other students officially withdrawing from the college according to the following schedule:

(a) One hundred percent of the amount paid if an official withdrawal form is received in the registration office during the first five business days of the quarter (Monday through Friday).

(b) One hundred percent of the amount paid for a course canceled by the college.

(c) Fifty percent of the total amount paid if an official withdrawal form is received in the registration office between the sixth business day and the twentieth calendar day of the quarter.

(3) No refund will be made after the twentieth calendar day of the quarter. Exceptions may be made for students inducted into military service or for medical or emergency reasons.

(4) Refunds for summer quarter, late starting, and condensed courses will be determined by the registrar in keeping with a prorated schedule of the college's regular refund policy.

(5) Fees, other than tuition and services and activities fees, not subject to this policy, are not refundable.

(6) Students dismissed for disciplinary reasons are not eligible for refunds.

NEW SECTION

WAC 132N-160-080 Graduation. (1) Students may complete their degree under the requirements set forth in any catalog issued during their attendance at Clark College. No catalog will be valid for more than seven years. Any student

not enrolled for two years or more must complete the requirements of the catalog in effect at the time of reentry or later enrollment.

(2) To qualify for more than one degree, a student must complete all requirements for the first degree and complete all specific program requirements for the additional degree.

NEW SECTION

WAC 132N-160-090 Appeals. (1) Students have the right to appeal admission, registration, waiver, refund, and graduation decisions. All appeals must be submitted in writing within two quarters of the initial decision. Students are entitled to two levels of appeal:

(a) Admission decisions are appealed at the first level to the college admissions officer and at the second level to the vice-president of student services or, in the case of applicants under the age of sixteen, to the vice-president of instruction.

(b) Registration, waivers, and tuition and fee decisions are appealed at the first level to the registrar and at the second level to the vice-president of student services.

(c) Decisions regarding issuing of degrees, certificates, or diplomas are appealed at the first level to the academic standards committee and at the second level to the vice-president of student services.

(2) The student must initiate an appeal at the first level. If the student is not satisfied with the appeal at the first level, he/she may submit an appeal at the second level.

(3) Appeals to admissions, registration, waiver, tuition and fee determinations will be reviewed by the vice-president of student services, in a brief adjudicative proceeding under RCW 34.05.482 through 34.05.494. The results of a second level appeal are final.

(4) Students may expect a written response to an appeal within ten working days.

WSR 99-10-052

PROPOSED RULES

LOTTERY COMMISSION

[Filed May 3, 1999, 11:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-090.

Title of Rule: WAC 315-33A-060 Quinto—Time of drawings.

Purpose: To permit up to one Quinto drawing per day.

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Mary Jane Ferguson, Rules Coordinator, Olympia, (360) 753-1947; Implementation and Enforcement: Merritt D. Long, Director, Olympia, (360) 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amendment to WAC 315-33A-060 will permit up to one drawing per day for the on-line game of Quinto.

Proposal Changes the Following Existing Rules: The amendments to WAC 315-33A-060 will permit up to one drawing per day for the on-line game of Quinto. Current rules for Quinto permit drawings only on Wednesday and Saturday.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: (1) The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and (2) the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

RCW 34.05.328 does not apply to this rule adoption. Said section does not apply to these proposed rules because they are not proposed by one of the listed agencies. As the rules are merely interpretive, the lottery does not voluntarily apply this section.

Hearing Location: 703 Broadway, Suite 710, Vancouver, WA, on July 16, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Jane Ferguson by July 14, 1999, (360) 753-1947.

Submit Written Comments to: Mary Jane Ferguson, Lottery, fax (360) 586-6586, by July 14, 1999.

Date of Intended Adoption: July 16, 1999.

April 30, 1999

Mary Jane Ferguson

Rules Coordinator

AMENDATORY SECTION (Amending WSR 93-19-052, filed 9/10/93, effective 10/11/93)

WAC 315-33A-060 Drawings. (1) The Quinto drawing pursuant to this chapter shall be held ~~((once each Saturday evening beginning November 2, 1991, and once each Wednesday evening beginning November 17, 1993, except that the director may change the drawing schedule if Saturday or Wednesday is a holiday))~~ up to once every twenty-four hours, at the discretion of the director.

(2) The drawing will be conducted by lottery officials.

(3) Each drawing shall determine, at random, five winning sets with the aid of mechanical drawing equipment which shall be tested before and after that drawing. Any drawn sets are not declared winners until the drawing is certified by the lottery. The winning sets shall be used in determining all Quinto winners for that drawing. If a drawing is not certified, another drawing will be conducted to determine actual winners.

(4) The drawing shall not be invalidated based on the liability of the lottery.

WSR 99-10-065
PROPOSED RULES
PARKS AND RECREATION
COMMISSION

[Filed May 3, 1999, 4:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-06-042.

Title of Rule: WAC 352-32-070 Use of horses, llamas, sled dogs or similar animals for recreation and 352-32-075 Use of nonmotorized cycles or similar devices.

Purpose: The agency intends to improve the process for designating trails as open or closed for equestrian or animal recreation, as well as for use by nonmotorized cycles. The agency proposes amendments to its rules to demonstrate a desire for greater public participation in the evaluation of user conflicts and to clarify the decision-making process used to designate trails as open or closed for these uses.

Statutory Authority for Adoption: Chapter 43.51 RCW.

Summary: WAC 352-32-070 Use of horses, llamas, sled dogs or similar animals for recreation, is proposed for amendment in order to clarify the director's role and the agency process for designating trails as open or closed for animal recreation.

WAC 352-32-075 Use of nonmotorized cycles or similar devices, is proposed for amendment in order to clarify the availability of public roads and trails for the use of nonmotorized cycles and to provide for public participation in a process for evaluating trail opening and closures for such use.

Reasons Supporting Proposal: The commission anticipates increased public use of its roads and trails for a variety of recreational uses and modes of travel. In the past, conflicts have occurred between user groups over access to trails. The amendments are needed to provide for greater consistency, clarity and public involvement in the evaluation of trail access and use.

Name of Agency Personnel Responsible for Drafting: Daniel Farber, State Parks, P.O. Box 42650, Olympia, WA 98504-2650, (360) 902-8652; Implementation: Kathy Smith, State Parks, P.O. Box 42650, Olympia, WA 98504-2650, (360) 902-8594; and Enforcement: Bill Gansberg, State Parks, P.O. Box 42650, Olympia, WA 98504-2650, (360) 902-8598.

Name of Proponent: Washington State Parks and Recreation Commission, Resources Development Division, Environmental Programs and Planning, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 352-32-070 Use of horses, llamas, sled dogs or similar animals for recreation, the existing rule prohibits horses and similar animals in state parks, except where specifically authorized. The rule, however, does not specify a process nor provide criteria for designating areas where animal recreation can be permitted. The amendments to this rule describe the criteria for designating animal recreation areas and provide for public input in the designation process.

WAC 352-32-057 Use of nonmotorized cycles or similar devices, the existing rule allows nonmotorized cycles and

similar devices on state park trails, unless specifically prohibited. The amendments to this rule prohibit the use of nonmotorized cycles unless specifically designated and posted to permit such activity. The amended rule will require public involvement in the designation of a trail to be opened for use by nonmotorized cycles, and provide that no change in such uses will occur until the evaluation process is followed.

The changes to both rules will improve management of these two recreational activities by ensuring greater consistency in the management requirements between similar recreational activities, by providing better control over these forms of recreational activities, and by increasing the level of public involvement in making related management decisions.

Proposal Changes the Following Existing Rules: The proposed amendments modify; WAC 352-32-070 Use of horses, llamas, sled dogs or similar animals for recreation and 352-32-057 Use of nonmotorized cycles or similar devices, by adding to or changing the text to ensure greater consistency in the management requirements between similar recreational activities. The amendments will require the agency to include public involvement in making management decisions related to these specific forms of recreational activities.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This WAC amendment does not regulate or have economic impact through regulations on small businesses. There are no compliance costs to small business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Significant legislative rule-making requirements are not imposed on the State Parks and Recreation Commission. The commission does not wish to voluntarily apply these requirements to this proposed rule-making action.

Hearing Location: Enzian Motor Inn, 590 Highway 2, Leavenworth, WA, on June 11, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Washington State Parks, Eastern Region Office, by June 1, 1999, TDD (509) 664-3162.

Submit Written Comments to: Washington State Parks, P.O. Box 42650, Attention: Randy Person, Olympia, WA 98504-2650, fax (360) 664-0278, by May 21, 1999.

Date of Intended Adoption: June 11, 1999.

May 3, 1999

Jim French

Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 96-01-078, filed 12/18/95, effective 1/18/96)

WAC 352-32-070 Use of horses, llamas, sled dogs or similar animals for recreation. (1) No horses, llamas, sled dogs or similar animals used for recreation shall be permitted on trails in any state park area, except where designated and posted to specifically ~~((permit,))~~ or conditionally permit~~((:))~~ such activity. The director or designee may open or close trails to such use. This decision shall include an evaluation of factors including, but not limited to, conflict with other park users, public safety, and damage to park resources and/or facilities. This evaluation shall include a reasonable effort to involve interested trail users of the park in question, includ-

ing, at a minimum, one public meeting advertised and conducted in the region where the park is located. Trails designated open for such use may be temporarily closed by the park manager due to emergency health, safety, or resource protection considerations.

(2) No horses, llamas, sled dogs or similar animals used for recreation shall be permitted off trails in any state park area, except where authorized by the commission and posted to specifically or conditionally permit such activity.

(3) Horses, llamas, sled dogs or similar animals used for recreation shall not be permitted in any designated swimming areas, campgrounds - except designated horse- or pack-oriented camping areas - or picnic areas, nor within a natural area preserve.

~~((3))~~ (4) Horses, llamas, sled dogs or similar animals used for recreation shall not be permitted within natural areas or natural forest areas, except that relocation of existing equestrian or other similar trails into natural areas or natural forest areas may be permitted upon a finding by the director that such relocation is for the purpose of reducing overall resource impacts to a state park area.

~~((4))~~ (5) No person shall ride any horse or other animal in such a manner that might endanger life or limb of any person or animal, or damage park resources and/or facilities, and no person shall allow a horse or other animal to stand unattended or insecurely tied. Persons using horses or other animals for recreation shall obey regulatory signs, including those permanently or temporarily erected, that govern the timing, location, speed, type and/or manner of use.

~~((5))~~ (6) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 98-04-065, filed 2/2/98, effective 3/5/98)

WAC 352-32-075 Use of nonmotorized cycles or similar devices. (1) Whenever used in this section, nonmotorized cycle or similar device shall mean any wheeled, operator-propelled equipment that transports the operator on land, including cycles, roller blades and skateboards, but not including wheelchairs or other devices utilized by persons with disabilities.

(2) Operation of nonmotorized cycles or similar devices shall be permitted upon public roads ~~((and trails))~~ in state park areas ~~((, except:~~

~~(a) Where posted with prohibitory signing by approval of the director or designee. Prior to such posting, a public meeting shall be advertised and conducted in the region where the park is located. A closure decision shall be based on))~~.

(3) No operation of nonmotorized cycles or similar devices shall be permitted on trails in any state park area, except where designated and posted to specifically or conditionally permit such activity, or as specified in (b) of this subsection.

(a) The director or designee may open or close trails to such use. This decision shall include an evaluation of factors including, but not limited to, the degree of conflict with other park users, public safety, ~~((or))~~ and damage to park resources and/or facilities related to these devices. This evaluation

shall include a reasonable effort to involve interested trail users of the park in question, including, at a minimum, one public meeting advertised and conducted in the region where the park is located.

(b) No existing trails open to use by nonmotorized cycles or similar devices prior to January 1, 1999, shall be closed to such use without an evaluation of use suitability following the criteria and process of (a) of this subsection; except for temporary closures by the park manager due to emergency health, safety, or resource protection considerations.

(4) No operation of nonmotorized cycles or similar devices shall be permitted off trails in any state park area, except where authorized by the commission and posted to specifically or conditionally permit such activity.

(5) Use of nonmotorized cycles or similar devices is prohibited in the following state park areas:

(a) Within designated natural areas, natural forest areas, or natural area preserves: Provided, That relocation of existing nonmotorized trails into natural areas or natural forest areas may be permitted upon a finding by the director that such relocation is for the purpose of reducing overall resource impacts to a state park area.

~~((e))~~ (b) Upon designated special use trails such as interpretive or exercise trails.

~~((d))~~ (c) Upon docks, piers, floats, and connecting ramps.

~~((3))~~ (6) Persons operating such devices in state park areas shall:

(a) Obey regulatory signs, including those permanently or temporarily erected, that govern the timing, location, speed, type and/or manner of operation, designed to promote visitor health and safety.

(b) Restrict speed and manner of operation to reasonable and prudent practices relative to terrain, prevailing conditions, equipment, personal capabilities, personal safety, and the safety of all other park visitors.

(c) Yield the right of way to pedestrians and animals.

(d) Dismount and walk in congested areas and posted walk zones.

(e) Slow down, make presence known well in advance, and use courtesy and caution when approaching or overtaking other persons or animals.

(f) Display adequate lighting during hours of darkness.

(g) Use caution when approaching turns or areas of limited sight distance.

(h) Not disturb or harass wildlife.

(i) When on public roads within a state park area, operate in compliance with any additional requirements of RCW 46.61.750 through 46.61.850.

~~((4))~~ (7) The director or designee may designate trails for preferential use by cyclists and may specifically authorize use of any facilities for special cycling recreation events, excluding roads or trails specified in subsection ~~((2))~~ (5) of this section.

~~((5))~~ (8) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

WSR 99-10-072
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed May 4, 1999, 10:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-01-147 [an expedited adoption] on December 22, 1998.

Title of Rule: Accident prevention program, chapter 296-24 WAC, General safety and health standards.

Purpose: The purpose of this change is to create within WAC 296-24-040 a central reference listing of all chapters that specify the development of specific requirements within an accident prevention plan for various industries and operations. There are twenty-five WISHA chapters that require employers to develop specific processes, activities, or instructions within their accident prevention plans. We are proposing to add a reference list of the various chapters having specific accident prevention plan requirements to WAC 296-24-040. We anticipate this action will improve the employer's ability to determine the specific standards that have accident prevention plan requirements applicable to their operation or industry. The proposed rule has also been rewritten using clear rule writing principles for clarification purposes. A proposal was previously filed as an "expedited" rule adoption, however, because of public comments we are now filing it using the normal process and will conduct a public hearing.

WAC 296-24-040 Accident prevention programs, state-initiated proposed amendments are made:

- To change the word "shall" to "must" for clarity.
- To delete the sentence "The department may be contacted for assistance in developing appropriate programs." The department will continue to provide assistance to employers as we do in relation to any standard. This statement in the rule gives the impression that the department provides something different and causes confusion to employers.
- To change the word "safety" to "formal accident prevention" for clarity.
- To change the phrase "in written format" to "in writing" for clarity.
- To add a "note" that lists twenty-five chapters that contain specific industry written accident prevention program requirements.

Statutory Authority for Adoption: RCW 49.17..010, [49.17].040, and [49.17].050.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendments to WAC 296-24-040 clarify the regulation and will have no economic impact on either large or small businesses within the state of Washington. No additional compliance requirements or costs for employers are anticipated from these amendments. Because costs to small businesses do not exceed the minor cost threshold specified in chapter 19.85 RCW, a small business economic impact statement is not required.

RCW 34.05.328 does not apply to this rule adoption. This proposal does not meet the criteria of a significant legislative rule because it does not add any new requirements to the current rule nor does it create any additional impact on the employer or employees. The proposal simply makes wording changes to improve clarity and understanding and provides a reference listing of other WACs of written accident prevention program requirements that may apply and must be considered by employers.

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on June 17, 1999, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Josh Swanson by June 11, 1999, at (360) 902-5484.

Submit Written Comments to: Tracy Spencer, Standards Manager, WISHA Services Division, P.O. Box 44620, Olympia, WA 98507-4620, by 5:00 p.m. on June 28, 1999. In addition to written comments, the department will accept comments submitted to fax (360) 902-5529. Comments submitted by fax must be ten pages or less.

Date of Intended Adoption: August 17, 1999.

April 23, 1999

Gary Moore

Director

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-040 Accident prevention programs. Each employer ((shall)) must develop a formal accident-prevention program, tailored to the needs of the particular plant or operation and to the type of hazards involved. ((The department may be contacted for assistance in developing appropriate programs:))

(1) The ((following are the)) minimal program elements for all employers are:

(a) A safety orientation program describing the employer's ((safety)) formal accident prevention program and including the following:

(i) How and when to report injuries, including instruction as to the location of first-aid facilities.

(ii) How to report unsafe conditions and practices.

(iii) The use and care of required personal protective equipment.

PROPOSED

(iv) The proper actions to take in event of emergencies including the routes of exiting from areas during emergencies.

(v) Identification of the hazardous gases, chemicals or materials involved along with the instructions on the safe use and emergency action following accidental exposure.

(vi) A description of the employer's total safety program.

(vii) An on-the-job review of the practices necessary to perform the initial job assignments in a safe manner.

(b) A designated safety and health committee consisting of management and employee representatives with the employee representatives being elected or appointed by fellow employees.

(2) Each accident-prevention program (~~shall~~) must be outlined in (~~written format~~) writing.

Note: What other written accident prevention program requirements may apply? The accident prevention plan information and/or documentation required by the following chapters can be part of the accident prevention program itself, or they can be covered in supplemental documents.

<u>First-aid requirements</u>	<u>WAC 296-24-061</u>	<u>If an employer chooses Option 1 for first-aid response, the requirements must be in writing in accordance with the standard.</u>
<u>Personal protective equipment</u>	<u>Chapter 296-24 WAC, Part A-2</u>	<u>The employer must provide a written certification that a workplace hazard assessment has been performed.</u>
<u>Safety procedure-control of hazardous energy (lockout/tagout)</u>	<u>Chapter 296-24 WAC, Part A-4</u>	<u>The employer shall establish a written program consisting of an energy control procedure in accordance with the standard.</u>
<u>Hazard communication</u>	<u>Chapter 296-62 WAC, Part C</u>	<u>If workers use or are exposed to chemicals, employers are required to have a written program.</u>
<u>Respiratory protection</u>	<u>Chapter 296-62 WAC, Part E</u>	<u>If the use of a respirator is needed because a hazard exists, a written program is required.</u>
<u>Hearing conservation</u>	<u>Chapter 296-62 WAC, Part K</u>	<u>If employees work in a high noise environment as defined by the standard, the employer must establish a hearing conservation program. Each employer shall maintain a written description of the training program instituted.</u>
<u>Confined space</u>	<u>Chapter 296-62 WAC, Part M</u>	<u>If the employer decides that its employees will enter permit spaces, the employer is required to develop and implement a written permit confined space program.</u>
<u>Biological agents</u>	<u>Chapter 296-62 WAC, Part J</u>	<u>Each employer having employees with occupational exposures as defined by the standard is required to establish a written exposure control plan.</u>
<u>Late night retail</u>	<u>Chapter 296-24 WAC, Part A-3</u>	<u>If a retail employer has employees working between 11:00 p.m. and 6:00 a.m., crime prevention training shall be a part of the accident prevention program.</u>
<u>Means of egress</u>	<u>Chapter 296-24 WAC, Part G-1</u>	<u>If an employer must have an emergency action plan as a requirement of another standard (i.e., process safety management, grain handling, air contaminants) it must be developed and in writing in accordance with the standard.</u>
<u>Welding, cutting and brazing</u>	<u>Chapter 296-24 WAC, Part I</u>	<u>Rules and instructions for the operation and maintenance of oxygen or fuel-gas supply equipment must be readily available in accordance with the standard.</u>

PROPOSED

<u>Powered platforms, etc.</u>	<u>Chapter 296-24 WAC, Part J-2</u>	<u>If employees use working platforms, written work procedures for the operation, safe use, and inspection must be provided for training in accordance with the standard.</u>
<u>Carcinogens (cancer causing)</u>	<u>Chapter 296-62 WAC, Part G</u>	<u>If employees are exposed to carcinogens, employers are required to implement a written program to reduce exposure to or below permissible limits.</u>
<u>Air contaminants (specific)</u>	<u>Chapter 296-62 WAC, Part I</u>	<u>If employees are exposed to air contaminants listed in this chapter, employers must establish and implement a written compliance program in accordance with the standard.</u>
<u>Asbestos, tremolite, anthophyllite and actinolite</u>	<u>Chapter 296-62 WAC, Part I-1</u>	<u>If employees are exposed to asbestos, tremolite, anthophyllite and actinolite, employers must establish and implement a written program to reduce employee exposure to or below the permissible limit.</u>
<u>Coke ovens</u>	<u>Chapter 296-62 WAC, Part O</u>	<u>If an employer operates coke ovens, they must implement a written program to reduce employee exposure in accordance with the standard.</u>
<u>Hazardous waste operations</u>	<u>Chapter 296-62 WAC, Part P</u>	<u>If employees are involved in hazardous waste operations, employers must develop and implement a written safety and health program in accordance with the standard.</u>
<u>Hazardous chemicals in laboratories</u>	<u>Chapter 296-62 WAC, Part Q</u>	<u>If employees are exposed to hazardous chemicals in laboratories, employers must develop and carry out the provisions of a written chemical hygiene plan in accordance with this standard.</u>
<u>Safety standards for process safety management of highly hazardous chemicals</u>	<u>Chapter 296-67 WAC</u>	<u>If employees work with toxic, reactive, flammable, or explosive chemicals, employers must develop a written plan as required by the standard.</u>
<u>Telecommunications</u>	<u>Chapter 296-32 WAC</u>	<u>There are additional accident prevention program requirements.</u>
<u>Diving operations</u>	<u>Chapter 296-37 WAC</u>	<u>The employer shall develop and maintain a safe practice manual.</u>
<u>Electrical workers</u>	<u>Chapter 296-45 WAC</u>	<u>There are additional accident prevention program requirements for employees working on or around high voltage.</u>
<u>Ski area facilities and operations</u>	<u>Chapter 296-59 WAC</u>	<u>The employer shall develop a written safety program.</u>
<u>Grain handling facilities</u>	<u>Chapter 296-99 WAC</u>	<u>The employer shall develop and implement a written housekeeping program.</u>
<u>Fire fighters</u>	<u>Chapter 296-305 WAC</u>	<u>The fire department shall develop a risk management policy that can be implemented into the function of incident command and the development on incident strategies.</u>

AgricultureChapter 296-307 WAC

Agricultural employees are not covered by chapter 296-24 WAC, but agricultural employers must follow the accident prevention program requirements in WAC 296-307-030, as well as any other applicable standards referenced in this note.

Note:

- The accident prevention program must be tailored to the needs of the particular plant or operation and to the type of hazards involved. This means that recognized hazards, such as vehicle use, workplace violence, emergency washing facilities, and musculoskeletal disorders, etc., differ from workplace to workplace depending on the activities or operations involved. In each workplace, those hazards that may exist would need to be addressed as part of the accident prevention program.
- In chapter 296-27 WAC and elsewhere, there are recordkeeping requirements of which employers need to be aware.

Certain job specific activities need written, site or activity specific work plans (for example, the fall protection work plan and lead exposure in construction work).

WSR 99-10-073**WITHDRAWAL OF PROPOSED RULES****DEPARTMENT OF
FISH AND WILDLIFE**

(By the Code Reviser's Office)

[Filed May 4, 1999, 1:49 p.m.]

WAC 220-56-250, proposed by the Department of Fish and Wildlife in WSR 98-21-089, appearing in issue 98-21 of the State Register, which was distributed on November 4, 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 99-10-074**PROPOSED RULES****HIGHER EDUCATION
COORDINATING BOARD**

[Filed May 4, 1999, 2:04 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-23-039.

Title of Rule: State need grant.

Purpose: Change awarding standards as recommended and adopted by the Higher Education Coordinating Board; technical corrections.

Statutory Authority for Adoption: Chapter 28B.80 RCW.

Statute Being Implemented: RCW 28B.10.800 - 28B.10.822.

Summary: The need grant award calculation is changed from a "cost-of-attendance" formula to a "tuition-based" formula. The changes include a minimum "self help" expectation for recipients and a requirement for the recipients [to] document the need for dependent care allowance.

Reasons Supporting Proposal: This is a Higher Education Coordinating Board approved revision of the program undertaken after extensive study and public input.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Klacik, 917 Lakeridge Way, Olympia, WA 98504-3430, (360) 753-7851.

Name of Proponent: Higher Education Coordinating Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These changes connect the value of the state need grant to the per sector value of tuition and fees rather than to the total cost of attendance. In addition, it establishes a minimum 25% self help expectation and requires dependent care documentation. The purpose is to better target funds to students with higher indebtedness, which corresponds to tuition changes. The purpose is also to better target dependent care funds to students who do not have access to similar support through other agencies and to demonstrate that no student receives all grants.

Proposal Changes the Following Existing Rules: 1. Bases the SNG award on tuition rather than cost-of-attendance.

2. Establishes a minimum 25% self help expectation for SNG receivers.

3. Requires SNG receiver to document the need for the child care allowance.

4. Permits previously eligible students to continue to receive the grant as long as their family income increases by no more than 3%.

5. Makes technical changes to correct errors and improve clarity such as:

a. Provide a more specific reference to the residency rules applicable to the SNG program.

b. Changes a reference from "creditor" to "credit or."

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules affect student's eligibility for state student aid. They do not affect small business.

RCW 34.05.328 does not apply to this rule adoption. The Higher Education Coordinating Board is not one of the agencies named as affected by RCW 34.05.328.

Hearing Location: Higher Education Coordinating Board, 3rd Floor Conference Room, 917 Lakeridge Way, on June 8, 1999, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Belma Villa by May 21, 1999, TDD (360) 753-7809, or (360) 753-7810.

Submit Written Comments to: John Klacik, e-mail johnk@hecb.wa.gov, fax (360) 704-6251, by June 8, 1999.

Date of Intended Adoption: July 15, 1999.

May 4, 1999

John Klacik

Associate Director
for Financial Aid

AMENDATORY SECTION (Amending WSR 90-04-067, filed 2/5/90, effective 7/1/90)

WAC 250-20-001 Applicability of rules. Unless specified, the term "state need grant" applies to both the state need grant program and the federal (~~(program for state student incentive grants)~~) leveraging educational assistance partnership program. Institutions participating in the state need grant program must comply with the regulations specified in chapter 250-20 WAC and conform to all requirements of the (~~(state student incentive grant)~~) leveraging educational assistance partnership program as specified in 34 Code of Federal Regulations, Part 692.

AMENDATORY SECTION (Amending WSR 95-17-045, filed 8/11/95, effective 9/11/95)

WAC 250-20-011 Student eligibility. For a student to be eligible for a state need grant he or she must:

(1) Be a "needy student" as determined by the higher education coordinating board in accordance with RCW 28B.10.802 or be a "disadvantaged student" who has completed a board approved program designed to promote early awareness of, and aspiration to, higher education.

(2) Be a resident of the state of Washington in accordance with RCW 28B.15.012 (2)(a) through (d).

(3) Be enrolled or accepted for enrollment as an undergraduate student at a participating postsecondary institution or be a student under an established program designed to qualify him or her for enrollment as a full-time student at a postsecondary institution in the state of Washington.

(a) For purposes of need grant eligibility, the student must be enrolled, at time of disbursement, in a course load of at least six credits per quarter or semester or, in the case of institutions which do not use credit hours, in a program of at least six hundred clock hours requiring at least twelve clock hours of instruction per week.

(b) A student enrolled less than half time may not receive this grant for the term in question, but is eligible for reinstatement or reapplication for a grant upon return to at least a half-time status. Correspondence courses may not comprise more than one-half of the student's minimum credit load for which aid is being considered.

(c) Have a high school diploma or its equivalent. Equivalent standards include a general education development certificate, a certificate of completion of a home study program recognized by the student's home state. For a student without a high school diploma or its equivalent, he or she must pass a

federally recognized ability-to-benefit test as is required for the receipt of federal student aid.

(4) Maintain satisfactory progress as defined in WAC 250-20-021(19).

(5) Not be pursuing a degree in theology.

(6) Not have received a state need grant for more than the equivalent of ten full-time semesters or fifteen full-time quarters or equivalent combination of these two, nor exceed one hundred twenty-five percent of the published length of time of the student's program. A student may not start a new associate degree program as a state need grant recipient until at least five years have elapsed since earning an associate degree as a need grant recipient, except that a student may earn two associate degrees concurrently. Upon receipt of a bachelor's degree, a student is no longer eligible.

(7) Have made a bona fide application for a Pell grant.

(8) Certify that he or she does not owe a refund on a state need grant, a Federal Pell Grant or a Federal Supplemental Educational Opportunity Grant, and is not in default on a loan made, insured, or guaranteed under the Federal Family Education Loan Program, the Federal Perkins Loan Program, or the Federal Direct Student Loan Program.

AMENDATORY SECTION (Amending WSR 96-18-024, filed 8/27/96, effective 9/27/96)

WAC 250-20-021 Program definitions. (1) The term "needy student" shall mean a post-high school student of an institution of postsecondary education who demonstrates to the higher education coordinating board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter. The determination of need shall be made in accordance with federal needs analysis formulas and provisions as recognized and modified by the board.

(2) The term "disadvantaged student" shall mean a student who by reasons of adverse cultural, educational, environmental, experiential, or familial circumstance is unlikely to aspire to, or enroll in, higher education. Generally, this shall mean a dependent student whose parents have not attained a college education and/or whose family income is substantially below the state's median.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington political subdivision thereof, or any other university, college, school or institute in the state of Washington offering instruction beyond the high school level which is a member institution of one of the following accrediting associations: The Northwest Association of Schools and Colleges, the Accrediting Bureau of Health Education Schools, the Accrediting Council for Continuing Education and Training, the Accrediting Commission of Career Schools and Colleges of Technology, the Accrediting Council for Independent Colleges and Schools, or the National Accrediting Commission of Cosmetology Arts and Sciences and if such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must

PROPOSED

be a separately accredited member institution of one of the above named accrediting associations.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW ~~((28B.15.011 through 28B.15.013))~~ 28B.15.012 (2)(a) through (d) and board-adopted rules and regulations pertaining to the determination of residency.

(5) "Dependent student" shall mean any post-high school student who does not qualify as an independent student in accordance with WAC 250-20-021(6).

(6) "Independent student" shall mean any student who qualifies as an independent student for the receipt of federal aid. These qualifications include a student who has either:

(a) Reached his or her twenty-fourth birthday before January 1st of the aid year; or,

(b) Is a veteran of the U.S. Armed Forces; or,

(c) Is an orphan or ward of the court; or,

(d) Has legal dependents other than a spouse; or,

(e) Is a married student or a graduate/professional student; or,

(f) Is determined to be independent for the receipt of federal aid on the basis of the professional judgment of the aid administrator.

(7) Definitions of "undergraduate students" will be in accord with definitions adopted for institutional use by the board.

(8) "Student budgets" shall consist of that amount required to support an individual as a student for nine months and may take into consideration cost factors for maintaining the student's dependents. This should be the amount used to calculate the student's total need for all state and federal funds.

(9) "State need grant cost-of-attendance" is the standard student cost per sector, as developed by the board.

(a) The costs-of-attendance for each sector are calculated by adding together a standard maintenance allowance for books, room, board, transportation and personal items, for all undergraduate students statewide as developed by the Washington Financial Aid Association, and the sector's regular tuition and fees for full-time, resident, undergraduate students.

(b) In no case may the costs-of-attendance exceed the statutory ceiling established by RCW 28B.10.808(4). The ceiling is calculated by adding together the same standard maintenance allowance used in determining the state need grant cost-of-attendance, plus the regular tuition and fees charged for a full-time resident undergraduate student at a research university, plus the current average state appropriation per student for operating expenses in all public institutions.

(c) For example, in the 1992-93 academic year, the value of the statutory ceiling is \$13,783. This value is composed of the Washington Financial Aid Association's maintenance budget of \$6,964, plus the regular tuition and fees charged for a resident undergraduate student at a research university of \$2,274, plus the current average state appropriation per student for operating expenses in all public institutions of \$4,545.

(d) The value of each element used in the construction of the statutory ceiling will be updated annually.

(e) The higher education coordinating board will consult with appropriate advisory committees and the representative association of student financial aid administrators, to annually review and adjust the costs-of-attendance. The costs-of-attendance for each sector will be published concurrent with annual guidelines for program administration.

(10) "Family income" is the student's family income for the calendar year prior to the academic year for which aid is being requested.

(a) Income means adjusted gross income and nontaxable income as reported on the federally prescribed application for federal student aid.

(b) For the dependent student family income means parental income.

(c) For the independent student family income means the income of the student and any other adult, if any, reported as part of the student's family.

(d) The institutional aid administrator may adjust the family's income up or down to more accurately reflect the family's financial situation during the academic year. When such adjustments are made they shall be consistent with guidelines for making changes to determine federal student aid eligibility.

(11) "Income cutoff" means the amount of family income below which a student is determined to be eligible for the state need grant.

(a) The cutoff shall be expressed as a percent of the state's median family income. The exact point of cutoff shall be determined each year by the board based on available funding.

(b) The board will endeavor to award students, in order, from the lowest income to the highest income, within the limits of available funding.

(c) At the discretion of the institution's aid administrator, a student who is eligible for a state need grant in a given academic year may be deemed eligible for the ensuing academic year if his or her family income increases by no more than three percent, even if the stated median family income cutoff for grant eligibility is lower than that amount.

(12) "Median family income" is the median income for Washington state, adjusted by family size and reported annually in the federal register.

(13) "~~((Maximum))~~ Base grant" is ~~((a percentage of))~~ the state need grant ~~((costs-of-attendance))~~ award for each sector before the addition of a dependent care allowance. ~~((The percentage will be no less than fifteen percent and no more than twenty percent, dependent each year upon available funding.))~~ The base grant per student will be no less than the published base grant in 1998-1999. The ~~((maximum))~~ base grant may be further adjusted according to the student's family income level and rate of enrollment as described in WAC 250-20-041.

For certain students who have completed board approved early awareness and preparation programs such as the Washington National Early Intervention Scholarship Program, its successor program, or a Trio program, the base grant will be an amount fixed annually by the board. Generally the base grant, in these cases, will be no less than the current value of the federal PELL grant program.

(14) "Dependent care allowance" is a flat grant amount, to be determined by the board, which is in addition to the eligible student's ((eligibility for the)) base grant.

(a) The allowance is awarded to those students who have dependents in need of care. The dependent must be someone (other than a spouse) living with the student.

(b) Care must be that assistance provided to the dependent ~~((which is paid to and provided))~~ by someone outside of the student's household and not paid by another agency.

(c) Eligible grant recipients must document their need for the dependent care allowance.

(15) "State need grant award" is the ~~((maximum))~~ base grant adjusted according to level of family income, plus a dependent care allowance, if applicable.

(16) "Academic year" is that period of time between July 1 and the following June 30 during which a full-time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(17) "Clock hours" means a period of time which is the equivalent of either:

(a) A 50 to 60 minute class, lecture, or recitation, or

(b) A 50 to 60 minute period of faculty-supervised laboratory shop training or internship.

(18) "Gift equity packaging policy" is the institution's policy for assigning gift aid to all needy, eligible students.

(19) "Satisfactory progress" is the student's successful completion of a minimum number of ~~((creditor))~~ credit or clock hours for each term in which the grant was received. Each school's policy for measuring progress of state need grant recipients must define satisfactory as the student's completion of the minimum number of ~~((creditor))~~ credit or clock hours for which the aid was disbursed.

(a) The minimum satisfactory progress standard for full-time students is twelve credits per term or 300 clock hours per term. Satisfactory progress for three-quarter time students is nine credits per term or 225 clock hours per term. Satisfactory progress for half-time students is six credits per term or 150 clock hours per term.

(b) Each school's policy must deny further disbursements of the need grant at the conclusion of any term in which he or she fails to complete at least one-half of the minimum number of credits or clock hours for which the aid was disbursed or otherwise fails to fulfill the conditions of the institution's satisfactory progress policy.

(c) The school may make disbursements to a student who is in a probationary status. "Probation" is defined as completion of at least one-half, but less than all of the minimum number of credits for which the aid was calculated and disbursed. The school must have a probation policy, approved by the board, which limits the number of terms in which a student may receive the need grant while in a probationary status.

(d) The school's aid administrator may at any time, using professional judgment exercised on a case-by-case basis, reinstate a student back into a satisfactory progress status, in response to an individual student's extenuating circumstances.

(20) The term "full institutional accreditation" shall mean the status of public recognition that an accrediting agency recognized by the U.S. Department of Education

grants to an educational institution that meets the agency's established standards and requirements. Institutional accreditation applies to the entire institution, indicating that each of an institution's parts is contributing to the achievement of the institution's objectives.

(21) The term "eligible program" for a public or private nonprofit educational institution, shall mean an associate or baccalaureate degree program; at least a two-year program that is acceptable for full credit toward a bachelor's degree, or at least a one-year educational program that leads to a degree or certificate and prepares the student for gainful employment in a recognized occupation. The term "eligible program" for a for-profit or a postsecondary vocational institution shall mean a program which provides at least a 15-week undergraduate program of 600 clock hours, 16 semester hours, or 24 quarter hours. The program may admit students without an associate degree or equivalent. The term "eligible program" for a for-profit or a postsecondary vocational institution may also be a program that provides at least a 10-week program of 300 clock hours, 8 semester hours, or 12 quarter hours. A program in this category must be an undergraduate program that admits only students with an associate degree or equivalent. To be an "eligible program," a program must be encompassed within the institution's accreditation and be an eligible program for purposes of the federal Title IV student financial aid programs.

(22) The three "public sectors of higher education" are the research universities, comprehensive universities, and the community and technical colleges.

(23) A "for-profit institution" is a postsecondary educational institution other than a public or private nonprofit institution which provides training for gainful employment in a recognized profession.

~~((23))~~ (24) A "postsecondary vocational institution" is a public or private nonprofit institution which provides training for gainful employment in a recognized profession.

AMENDATORY SECTION (Amending WSR 93-08-010, filed 3/25/93, effective 4/25/93)

WAC 250-20-031 Application procedure. (1) Application for a state grant must be made each year.

(2) All applications will be ranked anew each year.

(3) Application for a state need grant is accomplished through a student's application for admission to, and financial aid from, the institution of his or her choice.

(4) Financial data must be generated in accordance with the method set forth by the higher education coordinating board to assure that information will be consistent on a state-wide basis.

~~((The board shall each year develop criteria which shall be used to determine eligible need analysis processors in a multiple processor system. Further,))~~ The board shall ~~((each year))~~ annually specify the student data elements essential for determining state need grant eligibility and shall authorize the forms and processes for collecting and analyzing such data.

(5) The burden of proof of a grant recipient's eligibility is with the institution. At a minimum:

PROPOSED

(a) The institution must be able, on request of the board, to reconstruct the calculations and rationale for the student's grant eligibility and award amounts.

(b) The financial aid form or comparable financial status documents, with the resulting financial need analysis must be on record in the financial aid office for all grant recipients.

(c) The institution must also have on record justification for reawarding a need grant to any student who failed to make satisfactory progress.

(6) The board shall establish annual criteria by which the eligible student is to be identified, ranked, and awarded. That criteria shall include ~~((the state need grant cost of attendance for each sector,))~~ the maximum award~~((:))~~ for each sector and the income cutoff level.

(7) The institution shall examine the student's aid application to determine overall need and specific state need grant eligibility and the appropriate award, using the board-approved criteria.

(8) The board will make available to all participating institutions, a list of all students who owe state need grant repayments or have otherwise exhausted their state need grant eligibility. It is the institution's responsibility to ensure that no ineligible student receives a state need grant.

(9) The financial aid administrator at each institution will be required to sign a statement attesting to the fact that all eligible financial aid applicants within state need grant parameters will be identified and served to the extent funds are available and that financial information will be determined in strict adherence to program guidelines.

(10) No group of students, such as single parents or part-time students, may be advantaged or disadvantaged in its access to the state need grant by any institutional awarding policy.

AMENDATORY SECTION (Amending WSR 95-17-045, filed 8/11/95, effective 9/11/95)

WAC 250-20-041 Award procedure. (1) The institution will offer grants to eligible students from funds reserved by the board. It is the institution's responsibility to ensure that the reserve is not over expended within each academic year.

(2) The state need grant award for an individual student shall be the ~~((maximum))~~ base grant, appropriate for the sector attended~~((, adjusted for the student's level of family income,))~~ and a dependent care allowance, if applicable, adjusted for the student's family income and rate of enrollment. Each eligible student receiving a grant must receive the maximum grant award for which he or she is eligible, unless such award should exceed the student's overall need or the institution's approved gift equity packaging policy.

(3) The grant amount for students ~~((attending for-profit institutions))~~ shall be established as follows:

(a) ~~((Students enrolled in a baccalaureate degree program will be awarded at levels equal to those provided students attending public comprehensive universities.~~

~~((b) All other state need grant recipients attending for-profit institutions shall receive grants equal to those provided students attending public community and technical colleges.~~

(4)) The award shall be based on the representative average tuition, service, and activity fees charged within each

public sector of higher education. The average is to be determined annually by the higher education coordinating board.

(b) The base grant award shall not exceed the actual tuition and fees charged to the eligible student.

(c) The base grant award for students attending independent four-year institutions shall be equal to that authorized for students attending the public four-year research institutions. The base grant for students attending private vocational institutions shall be equal to that authorized for students attending the public community and technical colleges.

(4) The total state need grant award shall be reduced for students with family incomes greater than fifty percent of the state's median and for less than full-time enrollment.

(a) Students whose incomes are equal to fifty-one percent to seventy-five percent of the state's median family income shall receive seventy-five percent of the maximum award. Students whose incomes are equal to seventy-six percent to one hundred percent of the state's median family income shall receive fifty percent of the maximum award. Students whose incomes are equal to one hundred one percent to one hundred twenty-five percent of the state's median family income shall receive twenty-five percent of the maximum award.

(b) Eligible students shall receive a prorated portion of their state need grant for any academic period in which they are enrolled at least half-time, as long as funds are available. Students enrolled at a three-quarter time rate, at the time of disbursement, will receive seventy-five percent of their ~~((full-time base))~~ grant ~~((plus dependent care allowance))~~. Students enrolled half-time at the time of disbursement will receive fifty percent of their ~~((full-time base))~~ grant ~~((plus dependent care allowance))~~.

(5) Depending on the availability of funds, students may receive ~~((a))~~ the need grant for summer session attendance.

~~((5))~~ (6) The institution will be expected, insofar as possible, to match the state need grant with other funds sufficient to meet the student's need. Matching moneys may consist of student financial aid funds and/or student self-help.

~~((6))~~ (7) All financial resources available to a state need grant recipient, when combined, may not exceed the amount computed as necessary for the student to attend a postsecondary institution. The student will not be considered overawarded if he or she receives additional funds after the institution awards aid, and the total resources exceed his or her financial need by \$200 or less by the end of the academic year.

~~((7))~~ (8) The institution shall ensure that the recipient's need grant award, in combination with grant aid from all sources, not exceed seventy-five percent of the student's cost-of-attendance. In counting self-help sources of aid, the aid administrator shall include all loans, employment, work-study, scholarships, grants not based on need, family contribution, and unmet need.

(9) The institution will notify the student of receipt of the state need grant.

~~((8))~~ (10) Any student who has received at least one disbursement and chooses to transfer to another participating institution within the same academic year may apply to the board for funds to continue receipt of the grant at the receiving institution.

WSR 99-10-078
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed May 4, 1999, 2:44 p.m.]

Original Notice.

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

Title of Rule: WAC 246-08-400 Allowable fees for searching and duplicating medical records.

Purpose: The proposed changes adjust the fee that medical providers may charge for searching and duplicating medical records.

Other Identifying Information: The adjustment is based on the change in the consumer price index based on all consumers for the Seattle/Tacoma area for fiscal years 1996 and 1997.

Statutory Authority for Adoption: RCW 70.02.010(12) and 43.70.040.

Statute Being Implemented: RCW 70.02.101(12) [70.02.010(12)].

Summary: The fees that providers can charge for searching and duplicating medical records cannot exceed .79 cents per page for the first thirty pages and .60 cents per page for all others. The clerical fee may not exceed eighteen dollars.

Reasons Supporting Proposal: The proposed rule allows providers to recoup the inflationary costs of providing this service. This adjustment is mandated to occur biennially, and the last update was July 1997.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Yvette Lenz, 1112 S.E. Quince Street, Olympia, 98504, (360) 236-4606.

Name of Proponent: [Department of Health], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule increases the fees that medical providers may charge for searching and duplicating medical records. The fees are not to exceed .79 cents per page for the first thirty pages, .60 cents per page for all other pages, and clerical fees may not exceed \$18. The increase is designed to assist providers in recouping the cost for maintaining, searching, and duplicating medical records.

Proposal Changes the Following Existing Rules: The rule increases the fees that a provider may charge for searching and duplicating medical records.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is exempt under RCW 34.05.310(4), and therefore does not require a small business economic impact statement.

RCW 34.05.328 does not apply to this rule adoption. This rule is not a "legislatively significant rule." It does not subject individuals to penalties or sanctions, does not establish, alter or revoke a qualification or standard for licensure, and does not make significant amendment to a policy or regulatory program.

Hearing Location: Washington State Department of Health, 1107 Eastside Street, Olympia, WA 98504, on June 9, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Yvette Lenz by May 25, 1999, TDD (800) 833-6388.

Submit Written Comments to: Yvette Lenz, Department of Health, 1112 S.E. Quince Street, Mailstop 7850, Olympia, WA 98504-7850, fax (360) 236-4626, by June 1, 1999.

Date of Intended Adoption: June 10, 1999.

May 4, 1999

Mary C. Selecky
 Secretary

AMENDATORY SECTION (Amending WSR 97-12-087, filed 6/4/97, effective 7/5/97)

WAC 246-08-400 How much can a medical provider charge for searching and duplicating medical records? RCW 70.02.010(12) allows medical providers to charge fees for searching and duplicating medical records. The fees a provider may charge cannot exceed the fees listed below:

(1) Copying charge per page:

(a) No more than (~~seventy-four~~) seventy-nine cents per page for the first thirty pages;

(b) No more than (~~fifty-seven~~) sixty cents per page for all other pages.

(2) Additional charges:

(a) The provider can charge (~~a-seventeen~~) an eighteen dollar clerical fee for searching and handling records;

(b) If the provider personally edits confidential information from the record, as required by statute, the provider can charge the usual fee for a basic office visit.

(3) This section is effective July 1, 1997, through June 30, 1999.

WSR 99-10-080
PROPOSED RULES
DEPARTMENT OF LICENSING
 (Engineer Registration Board)
 [Filed May 4, 1999, 2:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-02-074.

Title of Rule: WAC 196-25-040 Provisions pertaining to both corporations and limited liability companies, this rule provides information for engineering and land surveying companies regarding designating an engineer or land surveyor, changing said designee or company name, renewals and liability.

Purpose: Amend the rule to describe the appropriate document that a corporation or limited liability company must submit to the board yearly to renew their certificate of authority to practice engineering and/or land surveying in the state.

Other Identifying Information: This rule was reviewed in accordance with the requirements in Executive Order 97-02.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

PROPOSED

Summary: WAC 196-25-040 was reviewed because the rule language was causing problems with renewing certificates of authority for businesses to practice. The review found that the rule required engineering and land surveying companies to submit a copy of their business license to renew each year. However, that license did not have the needed information on it. The rule is amended to describe the form issued by master license service that is needed and the pertinent language that would be on that form.

Reasons Supporting Proposal: Amending this rule will eliminate the confusion and decrease the current turn around time needed to renew a business' certificate of authority to practice.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, (360) 586-7298; Implementation and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule provides information to corporations and limited liability companies offering engineering and/or land surveying services. The purpose is to give guidance to said companies for designating engineers and land surveyors within the company, what to do if the designee or company name changes, what information must be submitted to renew their certificate of authority each year, and stating that the filing of a resolution does not relieve a business of its liability under chapter 18.43 RCW.

Amending the rule will clarify what information must be submitted to renew the certificate of authority and thus decrease the time it currently takes to process a business' renewal.

Proposal Changes the Following Existing Rules: The rule is amended to delete that a business license must be submitted for renewal and add that a document issued to the company by the master license service stating that the company has been "renewed by the authority of the secretary of state" must be submitted. The document must also show a current expiration date.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amending this rule has no fiscal impact [on] small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not one of the named agencies in this statute.

Hearing Location: Hilton Seattle Airport, 17620 Pacific Highway South, SeaTac, WA 98188, on June 21, 1999, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by June 14, 1999, TDD (360) 586-2788, or (360) 753-6966.

Submit Written Comments to: Rick Notestine, Program Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: June 21, 1999.

May 4, 1999
George A. Twiss
Executive Director

AMENDATORY SECTION (Amending WSR 98-12-053, filed 5/29/98, effective 7/1/98)

WAC 196-25-040 Provisions pertaining to both corporations and limited liability companies. (1) If the business offers both engineering and land surveying services, there must be a designee for each profession. If a person is licensed in both engineering and land surveying, that person may be designated for both professions.

(2) An affidavit must be signed by the designee(s) stating that he or she knows they have been designated by the business as being responsible for the engineering and/or land surveying activities in the state of Washington.

(3) The designated engineer and/or designated land surveyor must be an employee of the business.

(4) No person may be the designated engineer or designated land surveyor at more than one business at any one time.

(5) If there is a change in the designee(s), the business must notify the board in writing within thirty days of the effective date of the change and submit a new affidavit.

(6) If the business changes its name, the business must submit a copy of its amended certificate of authority or amended certificate of incorporation (for corporations) or a copy of the certificate of amendment (for LLC's), as filed with the secretary of state within thirty days of the filing.

(7) At the time of renewal, ~~((a copy of the business' business license must be submitted to insure that the company is registered with the secretary of state and has a current uniform business identification (UBI) number))~~ the corporation or limited liability company must submit a copy of the document issued to their company by the state of Washington master license service which states that the corporation or limited liability company has been "renewed by the authority of the secretary of state" and shows a current expiration date.

(8) The filing of the resolution shall not relieve the business of any responsibility or liability imposed upon it by law or by contract. Any business that is certified under chapter 18.43 RCW and this chapter is subject to the authority of the board as provided in RCW 18.43.035, 18.43.105, 18.43.110, and 18.43.120.

WSR 99-10-081
PROPOSED RULES
DEPARTMENT OF LICENSING
(Engineer Registration Board)
[Filed May 4, 1999, 2:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-07-134.

Title of Rule: WAC 196-24-058 Retired status certificate of registration, this rule describes the provisions for

PROPOSED

applying for retired status, what a licensee can do while in retired status, what the restrictions are, and how to reinstate the active license.

Purpose: Make house-keeping changes to incorporate wording about limited liability companies and designated land surveyors for corporations and limited liability companies as was changed in RCW 18.43.130, effective July 1, 1998.

Other Identifying Information: This rule was reviewed in accordance with the requirements in Executive Order 97-02.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

Summary: WAC 196-24-058 was reviewed as part of the board's rule review schedule. The 1997 legislature made changes to RCW 18.43.130 that deleted partnerships, added limited liability companies, designated land surveyors for corporations and designated engineers and land surveyors for limited liability companies. The rule was amended to incorporate those changes into it. Additionally, the rule was moved to a chapter where an applicant would logically look for this information.

Reasons Supporting Proposal: Amending this rule will make it current with existing language in RCW. Moving the rule to chapter 196-25 WAC will make it easier for applicants, licensees and the general public to find information on this topic.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, (360) 586-7298; **Implementation and Enforcement:** George Twiss, 405 Black Lake Boulevard, Olympia, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule describes retired status; what are the requirements to qualify, how to apply and what the benefits and restrictions are. The language was out of compliance with changes made to RCW 18.43.130 that took effect on July 1, 1998. The effect will be to bring the rule up to date so that those reading it will have current information. In addition, moving the rule from chapter 196-24 to 196-25 WAC, Business practices, will make the information easier to find.

Proposal Changes the Following Existing Rules: RCW 18.43.070 was inserted where appropriate. Subsections (3)(b) and (c) were amended to delete partnership and add language about limited liability companies, designated land surveyor for corporations and designated land surveyor and designated engineer for limited liability companies.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amending this rule has no fiscal impact [on] small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not one of the named agencies in this statute.

Hearing Location: Hilton Seattle Airport, 17620 Pacific Highway South, SeaTac, WA 98188, on June 21, 1999, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by June 14, 1999, TDD (360) 586-2788, or (360) 753-6966.

Submit Written Comments to: Rick Notestine, Program Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: June 21, 1999.

May 4, 1999

George A. Twiss
Executive Director

NEW SECTION

WAC 196-25-100 Retired status certificate of registration. In accordance with RCW 18.43.075, any individual who has been issued a certificate of registration, in accordance with chapter 18.43 RCW, as a professional engineer or professional land surveyor, having reached at least the age of sixty-five and having discontinued active practice as an engineer and/or land surveyor, may be eligible to obtain a "retired certificate of registration." If granted, further certificate of registration renewal fees are waived. For the purpose of this provision, "active practice" is defined as exercising direct supervision and control over the development and production of an engineering or land surveying document as provided in RCW 18.43.070 and/or any related activities pertaining to the offer of and/or the providing of professional engineering or land surveying services as defined in RCW 18.43.020.

(1) Applications. Those persons wishing to obtain the status of a retired registration shall complete an application on a form as provided by the board. Applications shall be sent to the executive director at the address of the board. Upon receipt of said application and, if deemed eligible by the board, the retired status would become effective on the first scheduled renewal date of the certificate of registration that occurs on or after the applicant reaches the age of sixty-five. It shall not be necessary that an expired certificate of registration be renewed to be eligible for this status. The board will not provide refund of renewal fees if the application for "retired" status is made and granted before the date of expiration of the certificate of registration.

(2) Privileges. In addition to the waiver of the renewal fee, a retired registrant is permitted to:

(a) Retain the board issued wall certificate of registration;

(b) Use the title professional engineer (PE) or professional land surveyor (PLS), provided that it is supplemented by the term retired, or the abbreviation "ret";

(c) Work as an engineer or land surveyor in a volunteer capacity, provided that the retired registrant does not create an engineering or land surveying document, and does not use their seal, except as provided for in (d) of this subsection;

(d) Provide experience verifications and references for persons seeking registration under chapter 18.43 RCW. If using their professional seal the retired registrant may place the word "retired" in the space designated for the date of expiration;

(e) Serve in an instructional capacity on engineering and/or land surveying topics;

PROPOSED

WSR 99-10-082

PROPOSED RULES

DEPARTMENT OF LICENSING

(Engineer Registration Board)

[Filed May 4, 1999, 2:51 p.m.]

(f) Provide services as a technical expert before a court, or in preparation for pending litigation, on matters directly related to engineering or land surveying work performed by the registrant before they were granted a retired registration;

(g) Serve in a function that supports the principles of registration and/or promotes the professions of engineering and land surveying, such as members of commissions, boards or committees;

(h) Serve in an engineering or land surveying capacity as a "good samaritan," as set forth in RCW 38.52.195 and 38.52.1951, provided said work is otherwise performed in accordance with chapter 18.43 RCW.

(3) Restrictions. A retired registrant is not permitted to:

(a) Perform any engineering or land surveying activity, as provided for in RCW 18.43.020, unless said activity is under the direct supervision of a Washington state professional engineer or professional land surveyor who has a valid/active registration in the records of the board;

(b) Act as the designated engineer or the engineer in responsible charge for a Washington engineering corporation or Washington engineering limited liability company, or act as the designated land surveyor or land surveyor in responsible charge for a Washington land surveying corporation or Washington land surveying limited liability company;

(c) Apply their professional engineers or land surveyors seal, as provided for in RCW 18.43.070, to any plan, specification, plat or report, except as provided for in subsection (2)(d) of this section.

(4) Certificate of registration reinstatement. A retired registrant, upon written request to the board and payment of the current renewal fee, may resume active engineering or land surveying practice. At that time the retired registrant shall be removed from retired status and placed on valid/active status in the records of the board. All rights and responsibilities of a valid/active registration will be in effect. At the date of expiration of the reinstated certificate of registration, the registrant may elect to either continue active registration or may again apply for retired registration in accordance with the provisions of this chapter.

(5) Exemptions. Under no circumstances shall a registrant be eligible for a retired registration if their certificate of registration has been revoked, surrendered or in any way permanently terminated by the board under RCW 18.43.110. Registrants who are suspended from practice and/or who are subject to terms of a board order at the time they reach age sixty-five shall not be eligible for a retired registration until such time that the board has removed the restricting conditions.

(6) Penalties for noncompliance. Any violations of this section shall be considered "misconduct and/or malpractice" as defined in RCW 18.43.105. Such violations are subject to penalties as provided for in RCW 18.43.110 and 18.43.120.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-24-058

Retired status certificate of registration.

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-02-075.

Title of Rule: WAC 196-24-090 Branch offices, this rule defines a branch office, explains how it differs from a project office and states that each branch office must have a resident professional engineer and/or professional land surveyor.

Purpose: Amend the rule to expand it to include "places of business" along with branch offices. Rewrite the language to make it more clear, concise and understandable.

Other Identifying Information: This rule was reviewed in accordance with the requirements in Executive Order 97-02.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

Summary: WAC 196-24-090 was reviewed as part of the board's rule review schedule. The title of the rule was expanded to include "places of business" and states that a firm must have a resident engineer or land surveyor at their home office as well as the branch office. The terms "resident professional engineer and resident professional land surveyor" as well as "project office" are more succinctly defined and clarified. The rule was also moved to a chapter where one would logically look for this information.

Reasons Supporting Proposal: Amending this rule will make the language more clear and concise and easier to understand. Moving the rule to chapter 196-25 WAC, Business practices, is a logical place for the rule and will make it easier for applicants, licensees and the general public to find information on this topic.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, (360) 586-7298; Implementation and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule defines branch office, project office, and resident professional engineer/land surveyor. The purpose is to put the licensee and general public on notice as to what these terms mean, to clarify what kinds of work may be done at branch and project offices, and to insure that the appropriate personnel are working at each kind of office. The effect will be that it is easier to understand what the board's intent is relative to these terms.

In addition, moving the rule from chapter 196-24 to 196-25 WAC puts the rule in a more logical location which will make the information easier to find.

Proposal Changes the Following Existing Rules: This rule is amended to make it more concise and easier to understand. The title was expanded to include "places of business" along with branch offices. In addition, the terms "resident

PROPOSED

professional engineer" and "resident professional land surveyor" and the term "project office" are more clearly defined.

This rule's citation in chapter 196-25 WAC will be WAC 196-25-050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amending this rule has no fiscal impact [on] small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not one of the named agencies in the statute.

Hearing Location: Hilton Seattle Airport, 17620 Pacific Highway South, SeaTac, WA 98188, on June 21, 1999, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by June 14, 1999, TDD (360) 586-2788, or (360) 753-6966.

Submit Written Comments to: Rick Notestine, Program Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: June 21, 1999.

May 4, 1999

George A. Twiss

Executive Director

NEW SECTION

WAC 196-25-050 Branch offices and places of business. (1) An engineering firm or land surveying firm maintaining branch offices shall have a resident professional engineer or resident professional land surveyor, as applicable, for each branch office as well as the parent location. A branch office of an engineering or land surveying firm shall be defined as an office established to solicit and/or provide engineering and/or land surveying services. A resident professional engineer or professional land surveyor shall be defined as a person who:

- (a) Holds a valid license in this state;
- (b) Maintains said branch office or parent location as his/her normal place of employment; and
- (c) Is in responsible charge of said engineering and/or land surveying services.

(2) A project office shall be defined as an extension of a firm that is used:

- (a) For supervision for construction of a project designed elsewhere.
- (b) As a convenient workplace for a specific land surveying or engineering project. A project office is not allowed to offer services and shall not be required to have a resident professional engineer or resident land surveyor.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-24-090 Branch offices.

WSR 99-10-083
PROPOSED RULES
DEPARTMENT OF LICENSING
(Engineer Registration Board)
[Filed May 4, 1999, 2:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-02-076.

Title of Rule: WAC 196-24-092 Offer to practice, this rule states that the offer to practice or provide engineering or land surveying services must be made by, or under the direct supervision of, a licensee qualified under chapter 18.43 RCW.

Purpose: Amend the rule to add the words "or provide" and to delete part of the rule language that does not contribute to the essence of the rule. It is also proposed to move the rule from chapter 196-24 to 196-25 WAC where it logically fits better under chapter 196-25 WAC, Business practices.

Other Identifying Information: This rule was reviewed in accordance with the requirements in Executive Order 97-02.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

Summary: WAC 196-24-092 was reviewed as part of the board's rule review schedule. Experience in working with the rule over the years indicated that it should be clarified. That was done by stating that both the offer to practice, or to provide, services must be done by or under the supervision of a licensee. In addition, part of the existing language was deleted to improve the clarity of the rule and make the language more concise. The rule will be moved to a chapter where an applicant would logically look for this information.

Reasons Supporting Proposal: Amending this rule will make the language more clear and concise and easier to understand. Moving the rule to chapter 196-25 WAC will make it easier for applicants, licensees and the general public to find information on this topic.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, (360) 586-7298; Implementation and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule makes a statement as to who may offer to practice or provide engineering and/or land surveying services. The purpose is to put applicants, licensees and the public on notice that only licensees qualified under chapter 18.43 RCW are authorized to offer or provide those services. The effects of the change will be to make the rule language more clear, concise and understandable, and moving it to chapter 196-25 WAC will make the information easier to find.

Proposal Changes the Following Existing Rules: The rule is amended to add the words "to provide" to state that both offering and providing engineering and/or land surveying services must only be done by, or under the direct super-

PROPOSED

vision of, a licensee qualified under chapter 18.43 RCW. There was also language deleted to improve the essence of the rule and make the language more concise. The language deleted is "...shall include, but not be limited to, identification of the scope of work and/or estimated cost of said services. Said offer to practice shall be performed...." Because the rule was deleted entirely from chapter 196-24 WAC, the deleted language does [not] show on the rule, only the proposed new language.

In moving the rule to chapter 196-25 WAC, it has a new citation which will be WAC 196-25-060.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amending this rule has no fiscal impact [on] small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not one of the named agencies in this statute.

Hearing Location: Hilton Seattle Airport, 17620 Pacific Highway South, SeaTac, WA 98188, on June 21, 1999, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by June 14, 1999, TDD (360) 586-2788, or (360) 753-6966.

Submit Written Comments to: Rick Notestine, Program Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: June 21, 1999.

May 4, 1999

George A. Twiss
Executive Director

NEW SECTION

WAC 196-25-060 Offer to practice. The offer to practice or provide engineering or land surveying services must be made by or under the direct supervision of a licensee qualified to offer said services under the provisions of chapter 18.43 RCW.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-24-092 Offer to practice.

WSR 99-10-084

PROPOSED RULES

DEPARTMENT OF LICENSING

(Engineer Registration Board)

[Filed May 4, 1999, 2:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-02-077.

Title of Rule: WAC 196-24-095 Seals, this rule states that individuals licensed in accordance with chapter 18.43

RCW must obtain a seal/stamp. The rule shows what the engineer and land surveyor seals look like and describes what information must be on them.

Purpose: Amend the rule to clarify issues that have arisen over the years of implementation, to modernize the rule for use with today's technology and to separate out parts of the rule that should be written as separate rules. Additionally, the rule will be moved from chapter 196-24 WAC to new chapter 196-23 WAC, Stamping and seals.

Other Identifying Information: This rule was reviewed in accordance with the requirements in Executive Order 97-02.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

Summary: WAC 196-24-095 was reviewed as part of the board's rule review schedule. The rule will be amended to state that it is the licensee's responsibility to maintain control over his/her stamp/seal, to delete specific size requirements for the seal/stamp and to add "date of expiration" to the list of information required on the seal/stamp. Additionally, the sections on "signature" and "direct supervision" were deleted from this rule and will be written as separate rules. The rule was moved to new chapter 196-23 WAC.

Reasons Supporting Proposal: The rule will be modernized making the seal easier to use with today's technology. In addition, information is separated out that should be written as their own rules. Moving the rule to chapter 196-23 WAC, is a logical place for the rule and will make it easier for applicants, licensees and the general public to find information on this topic.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, (360) 586-7298; Implementation and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule describes the seal/stamp that must be obtained by licensed engineers and land surveyors. The purpose is to put the licensees on notice that they must obtain a seal/stamp, describe what information must be on that seal/stamp, and inform the engineer/land surveyor that they must maintain control of the seal/stamp. The effect will be to modernize the rule language, make it more clear and concise, and to separate out language that should be written as its own rule.

In addition, moving the rule from chapter 196-24 to 196-23 WAC puts the rule in a more logical location which will make the information easier to find.

Proposal Changes the Following Existing Rules: This rule was amended to state that it is the licensee's responsibility to maintain control over their seal/stamp, to eliminate specific size requirements for the seal/stamp indicating only that it must be legible, and adding "date of expiration" to the information that must be on the seal/stamp. In addition, the sections on signature and direct supervision were deleted from this rule to be written as two separate rules.

This rule's citation in chapter 196-23 WAC will be WAC 196-23-010.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amending this rule has no negative fiscal impact [on] small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not one of the named agencies in this statute.

Hearing Location: Hilton Seattle Airport, 17620 Pacific Highway South, SeaTac, WA 98188, on June 21, 1999, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by June 14, 1999, TDD (360) 586-2788, or (360) 753-6966.

Submit Written Comments to: Rick Notestine, Program Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: June 21, 1999.

May 4, 1999

George A. Twiss
Executive Director

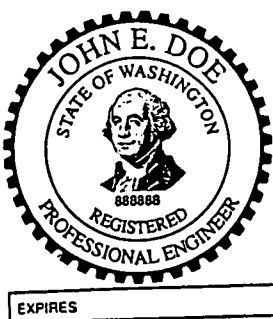
Chapter 196-23 WAC

STAMPING AND SEALS

NEW SECTION

WAC 196-23-010 **Seals.** All individuals licensed in accordance with chapter 18.43 RCW shall procure a seal/stamp that conforms to the design as authorized by the board. It is the responsibility of the licensee to maintain control over the use of his/her stamp/seal. The impression or image of the seal/stamp shall conform to the below-illustrated design and be of a size that assures full legibility of the following required information:

- (1) State of Washington;
- (2) Registered professional engineer or registered professional land surveyor;
- (3) Certificate number;
- (4) Licensee's name as shown on wall certificate;
- (5) Date of license expiration.



REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-24-095 Seals.

WSR 99-10-085
PROPOSED RULES
DEPARTMENT OF LICENSING
(Engineer Registration Board)
[Filed May 4, 1999, 2:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-02-078.

Title of Rule: WAC 196-24-097 Seal/stamp usage, this rule describes a variety of documents and how the seal/stamp must be affixed to them.

Purpose: To more clearly define "final documents," "preliminary documents," "plan sets," and "specifications" and describe how the seal/stamp must be affixed to these different documents. Add a new category called "document review" that the seal/stamp is also used on. These changes reflect the board's current policy on when and how a licensee's seal/stamp must be affixed. Additionally, the rule will be moved to new chapter 196-23 WAC to make the information easier to find.

Other Identifying Information: This rule was reviewed in accordance with the requirements in Executive Order 97-02.

Statutory Authority for Adoption: RCW 18.43.035.
Statute Being Implemented: Chapter 18.43 RCW.

Summary: WAC 196-24-097 was reviewed as part of the board's rule review schedule. This rule was rewritten to more clearly define "final documents," "preliminary documents," "plan sets," and "specifications" and to describe when and how the seal/stamp must be affixed to these various documents. A new section, "document review," explains what to do when reviewing the work of another engineer or land surveyor. The rule was moved to a chapter where an applicant would logically look for this information.

Reasons Supporting Proposal: Amending this rule will make public knowledge the board's current policy and intent of how and when a licensee's seal/stamp should be affixed to various documents. The language is now more clear and concise. Moving the rule to chapter 196-23 WAC will make it easier for applicants, licensees and the general public to find information on this topic.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, (360) 586-7298; Implementation and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule defines a variety of documents that engi-

PROPOSED

neers and land surveyors typically sign and seal and describes how and when the licensee must affix his or her seal to those documents. The purpose is to describe to licensees in clear, concise language the board's meaning of these documents and to explain when and how a licensee must affix his or her seal/stamp to the documents described in the rule. The effect is to modernized the rule language and make it more clear to the licensee what the board's interpretation is for certain kinds of documents and when and how the seal/stamp is to be affixed to those documents.

In addition, moving the rule from chapter 196-24 and put into chapter 196-23 WAC, Stamping and seals, will make the information easier to find.

Proposal Changes the Following Existing Rules: The rule was rewritten to more clearly define "final document," "preliminary documents," "plan sets," and "specifications" and to add a new category "document review." The rule also puts in more clear, concise language the board's current interpretation of when and how a licensee affixes his or her seal/stamp to those described documents.

The rule was repealed from chapter 196-24 WAC and put into chapter 196-23 WAC. The new citation is WAC 196-23-020.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amending this rule has no fiscal impact [on] small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not one of the named agencies in this statute.

Hearing Location: Hilton Seattle Airport, 17620 Pacific Highway South, SeaTac, WA 98188, on June 21, 1999, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by June 14, 1999, TDD (360) 586-2788, or (360) 753-6966.

Submit Written Comments to: Rick Notestine, Program Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: June 21, 1999.

May 4, 1999
George A. Twiss
Executive Director

NEW SECTION

WAC 196-23-020 Seal/stamp usage. The use of the seal/stamp shall be in accordance with chapter 18.43 RCW or as otherwise described herein:

(1) Final documents are those documents that are prepared and distributed for filing with public officials, use for construction, final agency approvals or use by clients. Any final document must contain the seal/stamp, license expiration date and signature of the licensee who prepared or directly supervised the work. For the purpose of this section "document" is defined as plans, specifications, plats, surveys and reports.

(2) Preliminary documents are those documents not considered final as defined herein, but are released or distributed by the licensee. Preliminary documents must be clearly iden-

tified as "PRELIMINARY" or contain such wording so it may be differentiated from a final document. Preliminary documents shall be stamped and dated, but need not be signed by the licensee.

(3) Plan sets: Every page of a plan set must contain the seal/stamp and signature of the licensee(s) who prepared or who had direct supervision over the preparation of the work.

(a) Plans/plats containing work prepared by or under the direct supervision of more than one licensee shall be sealed/stamped by each licensee and shall clearly note the extent of each licensee's responsibility.

(b) As provided for in subsections (1) and (2) of this section, each page of a plan set must contain the seal/stamp of the licensee who prepared or who had direct supervision over the preparation of the work and may contain the signature of the licensee depending on whether the plan set is final or preliminary.

(c) Plan/plat sheets containing and/or depicting background and/or supporting information that is duplicated from other plans need only be sealed/stamped by the licensee(s) who prepared or was in direct supervision of the design on that plan sheet. Whenever possible, the origin of the background information should be noted on the plan sheet.

(d) All design revisions to final plan/plat sheets shall be performed by qualified licensees and shall be done in accordance with the provisions of RCW 18.43.070. The revised plan/plat sheets shall clearly identify on each sheet; the revisions made and shall contain the name and seal of the licensee, and signature of licensee with the date the revision was made.

(4) Specifications: Specifications that are prepared by or under the direct supervision of a licensee shall contain the seal/stamp and signature of the licensee. If the specifications prepared by a licensee are a portion of a bound specification document that contains specifications other than that of an engineering or land surveying nature, the licensee need only seal/stamp that portion or portions of the documents for which the licensee is responsible. Nothing herein should be construed to require that each page of an engineering or land surveying specification be sealed/stamped by the licensee.

(5) Document review: When a licensee is required to review work prepared by another professional engineer or land surveyor, the reviewing licensee shall fully review those documents and shall prepare a report that discusses the findings of the review with any supporting calculations and sketches. The reviewing licensee would then seal/stamp and sign the report. The report would make reference to and/or be attached to the subject document(s) reviewed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-24-097

Seal/stamp usage.

WSR 99-10-086
PROPOSED RULES
DEPARTMENT OF LICENSING
 (Engineer Registration Board)
 [Filed May 4, 1999, 2:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-07-135.

Title of Rule: WAC 196-23-030 Providing direct supervision, this is a new rule. It provides the board's definition of "direct supervision" and describes how direct supervision is applied in practice between a licensee and the employee.

Purpose: To provide a clear, and concise definition of "direct supervision" and to explain the working relationship of a licensee providing direct supervision to an employee, taking into account the wide variety of communications currently available between licensee and employee.

Other Identifying Information: The basis for this new rule was taken from WAC 196-24-095 Seals. The language was updated to take into account the variety communication and supervision options.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

Summary: WAC 196-24-095 was reviewed as part of the board's rule review schedule and it was determined that the part describing direct supervision should be written as a separate rule. The new rule defines "direct supervision" and explains the working relationship of direct supervision between a licensee and employee. The rule takes into account the wide variety of communication techniques and supervision options available between a licensee and the employee.

Reasons Supporting Proposal: A significant part of engineer and land surveyor licensing is working under the direct supervision of a licensee. This new rule provides a modern, clear, concise definition of direct supervision which takes into account a wide variety of communication and supervision options.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, (360) 586-7298; Implementation and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 196-23-030 provides a modern, clear, concise definition of "direct supervision," describes the working relationship between licensee and employee, and takes into account a wide variety of communication and supervision options. The purpose is to provide this information to both licensees and their employees so that they are aware of the direct supervision requirements and the variety of options available for direct supervision.

By making this a separate rule, it is anticipated that the information will be more obvious, easier to find, more widely read, and easier to understand. Another effect will be to make licensees and employees aware that there is a wide vari-

ety of acceptable direct supervision options that were not available in the past.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amending this rule has no negative fiscal impact [on] small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not one of the named agencies in this statute.

Hearing Location: Hilton Seattle Airport, 17620 Pacific Highway South, SeaTac, WA 98188, on June 21, 1999, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by June 14, 1999, TDD (360) 586-2788, or (360) 753-6966.

Submit Written Comments to: Rick Notestine, Program Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: June 21, 1999.

May 4, 1999

George A. Twiss
 Executive Director

NEW SECTION

WAC 196-23-030 Providing direct supervision.

Direct supervision is a combination of activities by which a licensee maintains control over those decisions that are the basis for the finding, conclusions, analysis, rationale, details, and judgments that are embodied in the development and preparation of engineering or land surveying plans, specifications, plats, reports, and related activities. **Direct supervision** explains the relationship between the licensee and those persons who are performing the work controlled by the licensee. **Direct supervision** requires providing personal direction, oversight, inspection, observation and supervision of the work being certified.

Communications between the licensee and the employee, co-worker or subordinate (support staff), as defined herein, include, but are not limited to, use of any of the following ways: Direct face-to-face communications; written communications; U.S. mail; electronic mail; facsimiles; telecommunications, or other current technology: Provided, That the licensee retains, maintains, and asserts continuing control and judgment.

WSR 99-10-087
PROPOSED RULES
DEPARTMENT OF LICENSING
 (Engineer Registration Board)
 [Filed May 4, 1999, 2:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-02-079.

Title of Rule: WAC 196-24-098 Documents prepared by a corporation, organization or public agency, when a corpora-

PROPOSED

tion, organization or public agency does engineering or land surveying, their employees signing and sealing the documents must be registered in accordance with chapter 18.43 RCW.

Purpose: Amend the rule to change wording in the title and change the emphasis of the rule. The current rule emphasizes having licensed employees to sign and seal documents; the new rule more specifically addresses the business, organization or public agency. In addition to amending, the rule will be deleted from chapter 196-24 WAC and put into new chapter 196-23 WAC with other rules addressing similar issues related to stamping and sealing.

Other Identifying Information: This rule was reviewed in accordance with the requirements in Executive Order 97-02.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

Summary: WAC 196-24-098 was reviewed as part of the board's rule review schedule. In the title, "Documents prepared by a corporation" was changed to "Practice by businesses." This changes the emphasis from preparing documents to practice and recognized that there are many other forms of business besides corporations. Language related registered employees signing and sealing documents was deleted. The rule will be moved to a chapter where an applicant would logically look for this information.

Reasons Supporting Proposal: Amending this rule will make the language more clear and concise and easier to understand. Moving the rule to chapter 196-23 WAC will make it easier for applicants, licensees and the general public to find information on this topic.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, (360) 586-7298; **Implementation and Enforcement:** George Twiss, 405 Black Lake Boulevard, Olympia, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule talks about a corporation, organization or public agency employing qualified staff to sign and seal documents if they are providing engineering and/or land surveying services. The language was amended to expand "corporation" to all types of business and to emphasize practice by these businesses, organizations and public agencies and not the documents prepared by them. The purpose is to put businesses, organizations and public agencies that practice engineering and/or land surveying on notice that they must practice in accordance with chapter 18.43 RCW and applicable rules.

The effects of the change will be to make the rule language more clear, concise and understandable. It will also put these groups on notice that they must comply with chapter 18.43 RCW and applicable rules just the same as individual licensees. Moving the rule to chapter 196-23 WAC will make the information easier to find.

Proposal Changes the Following Existing Rules: The title of the rule is amended to change the words "Documents prepared by a corporation" to "Practice by businesses." The

rest of the title remains the same. The word "offer" was added to state that these groups must comply with RCW and WAC when they offer or perform engineering and/or land surveying services. Other wording in the rule was deleted to eliminate the emphasis on documents. The language deleted is "...and employees individuals registered in accordance with chapter 18.43 RCW, the registrant(s) signing and sealing the plans, specifications, maps and/or reports prepared by said corporation/agency shall do so..." Because the rule was deleted entirely from chapter 196-24 WAC, the deleted language does not show on the rule, only the proposed new language.

The rule is being moved from chapter 196-24 to 196-23 WAC. The new citation will be WAC 196-23-050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Amending this rule has no fiscal impact [on] small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not one of the named agencies in this statute.

Hearing Location: Hilton Seattle Airport, 17620 Pacific Highway South, SeaTac, WA 98188, on June 21, 1999, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by June 14, 1999, TDD (360) 586-2788, or (360) 753-6966.

Submit Written Comments to: Rick Notestine, Program Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: June 21, 1999.

May 4, 1999

George A. Twiss

Executive Director

NEW SECTION

WAC 196-23-050 Practice by businesses, organizations or public agencies. When a business, organization or public agency offers or performs engineering or land surveying services as defined in RCW 18.43.020, the business, organization or public agency shall perform its duties and responsibilities in accordance with chapter 18.43 RCW and applicable rules.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-24-098

Documents prepared by a corporation, organization, or public agency.

WSR 99-10-088
PROPOSED RULES
DEPARTMENT OF LICENSING
 (Engineer Registration Board)
 [Filed May 4, 1999, 2:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-02-073 and 99-02-072.

Title of Rule: WAC 196-24-060 Renewals, this rule provides guidance for renewal of the professional engineer of land surveying license. WAC 196-24-100 Meetings and officers, the rule provides information on board meetings, when officers are to be elected and filling officer vacancies.

Purpose: WAC 196-24-060 should be repealed. Parts of the rule are no longer pertinent and the rule is redundant with other license renewal information provided in chapter 196-26 WAC. WAC 196-24-100 should be amended to make it current by changing the title of the board's senior staff member from registrar to executive director.

Other Identifying Information: This rule was reviewed in accordance with the requirements in Executive Order 97-02.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

Summary: These rules were reviewed as part of the board's rule review schedule. The review of WAC 196-24-060 found that parts of the rule were no longer applicable and that pertinent information in the rule was redundant with license renewal information provided in chapter 196-26 WAC. Therefore this rule should be repealed in its entirety. A review of WAC 196-24-100 found that the title of the board's senior staff member had changed to executive director, but that change had not yet been made to this rule.

Reasons Supporting Proposal: Repealing WAC 196-24-060 will delete information that is no longer applicable and reduce redundancy in Title 196 WAC. Amending WAC 196-24-100 is a housekeeping change that will make the rule current.

Name of Agency Personnel Responsible for Drafting: Rick Notestine, 405 Black Lake Boulevard, Olympia, (360) 586-7298; Implementation and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 196-24-060 provides information about renewing engineering and land surveying licenses. Some information in the rule is no longer pertinent and the remaining parts of the rule are redundant with language in chapter 196-26 WAC. The effect will be to improve clarity of the rules by deleting rule language that is no longer needed.

WAC 196-24-100 provides guidance to the board on meetings, when board officers are to be elected and filling officer vacancies. Changing title "registrar" to "executive director" will make the rule current.

Proposal Changes the Following Existing Rules: It is proposed that WAC 196-24-060 be repealed in its entirety.

In WAC 196-24-100 the sentence "The registrar of the board shall serve as the secretary." should be changed to reflect the current title of the board's senior staff member. To do that, "registrar" must be changed to "executive secretary."

No small business economic impact statement has been prepared under chapter 19.85 RCW. Repealing WAC 196-24-060 and changing "registrar" to "executive secretary" in WAC 196-24-100 has no fiscal impact [on] small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not one of the named agencies in this statute.

Hearing Location: Hilton Seattle Airport, 17620 Pacific Highway South, SeaTac, WA 98188, on June 21, 1999, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by June 14, 1999, TDD (360) 586-2788, or (360) 753-6966.

Submit Written Comments to: Rick Notestine, Program Director, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649.

Date of Intended Adoption: June 21, 1999.

May 4, 1999

George A. Twiss
 Executive Director

AMENDATORY SECTION (Amending Order PM 606, filed 6/4/87)

WAC 196-24-100 Meetings and officers. The Washington state board of registration for professional engineers and land surveyors shall hold its regular public meeting annually in June. Special public meetings may be held at such times and places as the board may deem necessary. Public notice of all public meetings shall be issued as required by the Open Public Meetings Act, chapter 42.30 RCW.

At the regular annual meeting the board shall elect a chairman and vice-chairman to hold office for one year commencing July 9. The (~~registrar~~) executive director of the board shall serve as secretary. A vacancy in any office shall be filled for the remainder of the term by special election at the next special public meeting.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-24-060 Renewals.

WSR 99-10-097
PROPOSED RULES
PUGET SOUND AIR
POLLUTION CONTROL AGENCY
 [Filed May 5, 1999, 9:17 a.m.]

Original Notice.

PROPOSED

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Amend: Regulation II, Sections 1.05, 2.04, 2.05, 2.07, 2.08.

Repeal: Regulation II, Section 2.06.

Adopt: Regulation II, Section 2.01.

Purpose: The proposed amendments are designed largely to ensure the integrity of the gasoline vapor recovery program. This would be accomplished through periodic inspection and testing of vapor recovery equipment at gas stations, enhancements to the periodic testing requirements for transport tanks, and by requiring that gasoline vapors collected from gas stations are returned to a facility that is capable of recovering (or combusting) them.

A number of changes are being proposed to clarify and simplify the regulations, including but not limited to the addition of a definitions section specific to the gasoline marketing regulations, merging of the sections for terminals and bulk plants, and segregating the requirements for bulk gasoline distribution facilities from those for transport tanks. The requirements for large volatile organic compound storage tanks would be moved to a different article and revised slightly to reflect that they are sometimes used for products other than petroleum.

Other Identifying Information: Section 1.05 - Special Definitions; 2.01 - Definitions; 2.04 - Volatile Organic Compound Storage Tanks; 2.05 - Bulk Gasoline Distribution Facilities; 2.06 - Bulk Gasoline Plants; 2.07 - Gasoline Stations; 2.08 Gasoline Transport Tanks.

Statutory Authority for Adoption: Chapter 70.94 RCW. Statute Being Implemented: RCW 70.94.141.

Summary: Section 2.01, Definitions. This section would be added for definitions related to gasoline marketing. Pertinent definitions from Section 1.05 moved here and some would be revised.

Section 2.05, Bulk Gasoline Distribution Facilities. The requirements for bulk gasoline plants (Section 2.06) and gasoline loading terminals (2.05) would be merged into this section, which would apply to all facilities that supply gasoline to other facilities equipped with vapor recovery systems. Requirements related to gasoline loading equipment would be moved from Section 2.08 to this section and the emission standard would be tightened to 10 milligrams per liter of gasoline transferred. Technical specifications for continuous emission monitoring systems on vapor recovery systems using carbon adsorption would be added.

Section 2.07, Gasoline Stations. Stage 2 vapor recovery equipment would have to be inspected weekly and tested annually. Stage 1 vapor recovery equipment would have to be inspected after each bulk delivery to the station. Repairs to defective stage 1 and 2 equipment would have to be implemented within specified time frames.

Section 2.08, Gasoline Transport Tanks. Testing requirements for transport tanks would be tightened and test certificates would have to include more information.

Section 3.04, VOC Storage Tanks. The requirements for volatile organic compound storage tanks would be moved from Section 2.04 to this section, since they apply to products other than petroleum. The emission standard for control

equipment would be changed to a more general form (i.e., 95% control).

Reasons Supporting Proposal: Field testing has found that stage 2 vapor recovery equipment at gas stations is only achieving about 79% of the expected emission reduction. Testing of this equipment in accordance with its certification requirements is expected to reduce emissions by over 500 tons per year. Testing has been shown to be cost effective in California, reducing emissions for about \$750 per ton (about \$400 per station annually).

Similarly, field testing of gasoline transport tanks has found that vapor emissions during transport can be significantly reduced by testing the vapor valves on the transport tank and reducing the allowable leak rate from the storage compartments. The requirements have been imposed on all transport tanks loading at refineries and are based upon the requirements adopted in California.

Transport tanks delivering to storage tanks at gas stations and bulk gasoline plants equipped with a vapor recovery system have been required to recover the vapors from the stationary storage tank. The proposal would require the vapors to be delivered to a bulk gasoline distribution facility with vapor recovery equipment. The larger bulk gasoline distribution facilities are presently equipped with vapor recovery equipment. Smaller bulk gasoline distribution facilities would service their few accounts with vapor recovery directly from the larger bulk gasoline distribution facilities. No capital expenditures would be required, making this proposal reasonably cost effective.

Name of Agency Personnel Responsible for Drafting: Gerry Pade, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4065; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4050; and Enforcement: Neal Shulman, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4078.

Name of Proponent: Puget Sound Air Pollution Control Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Gasoline is a volatile commodity. In the Puget Sound region, over 1.3 billion gallons are consumed annually. The gasoline vapors are composed of hydrocarbons which are not only toxic but react with sunlight to produce photochemical smog (ozone). Gasoline vapor recovery is one of the principal control strategies to control smog formation.

Stage 2 vapor recovery takes vapors displaced during the filling of motor vehicle fuel tanks and returns them to the underground storage tank at the gas station. Stage 1 vapor recovery equipment takes these vapors and the vapors displaced during the filling of the underground storage tank and returns them to the transport tank. Bulk gasoline distribution facilities take these vapors when they fill the transport tank and either convert them back to a liquid product for sale or

combust them. In this manner, tens of thousands of tons of emissions are prevented and public health is protected.

The proposed amendments would significantly improve the vapor recovery program and prevent the release of between 500 and 1,000 tons per year of gasoline vapors.

Proposal Changes the Following Existing Rules: Section 2.01, Definitions. This section would be added for definitions related to gasoline marketing. Pertinent definitions from Section 1.05 moved here and some would be revised.

Section 2.05, Bulk Gasoline Distribution Facilities. The requirements for bulk gasoline plants (Section 2.06) and gasoline loading terminals (2.05) would be merged into this section, which would apply to all facilities that supply gasoline to other facilities equipped with vapor recovery systems. Requirements related to gasoline loading equipment would be moved from Section 2.08 to this section and the emission standard would be tightened to 10 milligrams per liter of gasoline transferred. Technical specifications for continuous emission monitoring systems on vapor recovery systems using carbon adsorption would be added.

Section 2.07, Gasoline Stations. Stage 2 vapor recovery equipment would have to be inspected weekly and tested annually. Stage 1 vapor recovery equipment would have to be inspected after each bulk delivery to the station. Repairs to defective stage 1 and 2 equipment would have to be implemented within specified time frames.

Section 2.08, Gasoline Transport Tanks. Testing requirements for transport tanks would be tightened and test certificates would have to include more information.

Section 3.04, VOC Storage Tanks. The requirements for volatile organic compound storage tanks would be moved from Section 2.04 to this section, since they apply to products other than petroleum. The emission standard for control equipment would be changed to a more general form (i.e., 95% control).

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, on June 10, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by June 3, 1999, TDD 1-800-833-6388, or 1-800-833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, fax (260) 343-7522, by June 1, 1999.

Date of Intended Adoption: June 10, 1999.

May 4, 1999

Gerald S. Pade
Engineer II

AMENDATORY SECTION

REGULATION II SECTION 1.05 SPECIAL DEFINITIONS

When used in Regulation II of the Puget Sound Air Pollution Control Agency:

(a) **AEROSPACE COMPONENT** means the fabricated part, assembly of parts, or completed unit of any aircraft, helicopter, missile or space vehicle.

(b) **ANTI GLARE/SAFETY COATING** means a coating that does not reflect light.

~~((e)) **BOTTOM LOADING** means the filling of a tank through a line entering the bottom of the tank.~~

~~((d)) **BULK GASOLINE PLANT** means a gasoline storage and transfer facility that receives more than 90% of its annual gasoline throughput by transport tank, and reloads gasoline into transport tanks.)~~

~~((e))~~ (c) **CAMOUFLAGE COATING** means a coating applied on motor vehicles to conceal such vehicles from detection.

~~((f))~~ (d) **COLOR MATCH** means the ability of a repair coating to blend into an existing coating so that color difference is not visible.

~~((g))~~ (e) **COMMERCIAL AEROSPACE PRIMER** means BMS 10-11, Type I.

~~((h))~~ (f) **COMMERCIAL AEROSPACE TOPCOAT** means BMS 10-11, Type II.

~~((i))~~ (g) **CUTBACK ASPHALT** means an asphalt that has been blended with more than 7% petroleum distillates by weight.

~~((j))~~ (h) **EXTREME PERFORMANCE COATING** means any coating used on the surface of a Group II vehicle, mobile equipment or their parts or components that during intended use is exposed to industrial grade detergents, cleaners or abrasive scouring agents or extreme environmental conditions as determined by the Control Officer.

~~((k))~~ (i) **FLEXOGRAPHIC PRINTING** means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.

~~((l)) **GASOLINE** means a volatile organic compound having a true vapor pressure greater than 10.5 kilopascals (kPa) (1.5 pounds per square inch absolute - psia) at 20°C temperature, that is a liquid at standard conditions of 102.9 kPa (14.7 psi) and 20°C, and is used as a fuel for internal combustion engines.~~

~~((m)) **GASOLINE LOADING TERMINAL** means a gasoline transfer facility that receives more than 10% of its annual gasoline throughput solely or in combination by pipeline, ship or barge, and loads gasoline into transport tanks.)~~

~~((n))~~ (j) **GELCOAT** means a polyester resin surface coating that provides a cosmetic enhancement and improves resistance to degradation from exposure to the environment.

~~((o))~~ (k) **GROUP I VEHICLES** means passenger cars, large/heavy-duty truck cabs and chassis ($\geq 10,000$ pounds gross vehicle weight), light- and medium-duty trucks and vans ($< 10,000$ pounds gross vehicle weight), and motorcycles.

PROPOSED

~~((p))~~ (l) **GROUP II VEHICLES** means public transit buses.

~~((q))~~ (m) **METALLIC/IRIDESCENT TOPCOAT** means any coating that contains more than 5 grams per liter (0.042 lb/gal) of metal or iridescent particles, as applied, where such particles are visible in the dried film.

~~((r))~~ (n) **MILITARY AEROSPACE PRIMER** means the current version of MIL-P-85582.

~~((s))~~ (o) **MILITARY AEROSPACE TOPCOAT** means the current version of MIL-C-85285.

~~((t))~~ (p) **MOBILE EQUIPMENT** means any equipment that may be drawn or is capable of being driven on a road-way, including, but not limited to, truck bodies, truck trailers, utility bodies, camper shells, mobile cranes, bulldozers, street cleaners, golf carts and implements of husbandry.

~~((u))~~ (q) **PACKAGING ROTOGRAVURE PRINTING** means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, that are, in subsequent operations, formed into packaging products and labels for articles to be sold.

~~((v))~~ **PETROLEUM REFINERY** means a facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products by distilling crude oils or redistilling, cracking, extracting or reforming unfinished petroleum derivatives.)

~~((w))~~ (r) **PETROLEUM SOLVENT** means organic material produced by petroleum distillation comprising a hydrocarbon range of 8 to 12 carbon atoms that exists as a liquid under standard conditions, frequently called "Stoddard" solvent.

~~((x))~~ (s) **POLYESTER RESIN** means a group of synthetic resins containing ethylenic unsaturation and capable of undergoing free radical polymerization with styrene monomer.

~~((y))~~ (t) **PRECOAT** means any coating that is applied to bare metal primarily to deactivate the metal surface for corrosion resistance to a subsequent water-based primer.

~~((z))~~ (u) **PRETREATMENT WASH PRIMER** means any coating that contains a minimum of 0.5% acid by weight, is necessary to provide surface etching and is applied directly to bare metal surfaces to provide corrosion resistance and adhesion.

~~((aa))~~ (v) **PRIMER** means a coating applied directly to a component for purposes of corrosion protection, protection from the environment, functional fluid resistance and adhesion of subsequent coatings.

~~((bb))~~ (w) **PRIMER SEALER** means any coating applied prior to the application of a topcoat for the purpose of corrosion resistance, adhesion of the topcoat, color uniformity, and to promote the ability of an undercoat to resist penetration by the topcoat.

~~((cc))~~ (x) **PRIMER SURFACER** means any coating applied prior to the application of topcoat for the purpose of corrosion resistance, adhesion of the topcoat, and that promotes a uniform surface by filling in surface imperfections.

~~((dd))~~ **PROCESS UNIT** means all the equipment essential to a particular production process.)

~~((ee))~~ (y) **PUBLICATION ROTOGRAVURE PRINTING** means rotogravure printing upon paper that is subsequently

formed into books, magazines, catalogues, brochures, directories, newspaper supplements and other types of printed materials.

~~((ff))~~ (z) **ROTOGRAVURE PRINTING** means the application of ink to a substrate by means of a roll printing technique that involves an intaglio or recessed image areas in the form of cells.

~~((gg))~~ (aa) **SOLVENT RECOVERY DRYER** means a dry cleaning dryer that employs a condenser to liquify and recover solvent vapors evaporated in a closed-loop, recirculating stream of heated air.

~~((hh))~~ (bb) **SPECIALTY COATINGS** are coatings that are necessary due to unusual job performance requirements. Said coatings include, but are not limited to, adhesion promoters, uniform finish blenders, elastomeric materials, gloss flatteners, bright metal trim repair, and antiglare/safety coatings.

~~((ii))~~ **SUBMERGED FILL LINE** means any discharge pipe or nozzle that meets either of the following conditions:

(1) Where the tank is filled from the top, the end of the discharge pipe or nozzle must be totally submerged when the liquid level is 6" from the bottom of the tank; or

(2) Where the tank is filled from the side, the discharge pipe or nozzle must be totally submerged when the liquid level is 18" from the bottom of the tank.)

~~((jj))~~ (cc) **TEMPORARY PROTECTIVE COATING** means a coating applied to an aerospace component to protect it from mechanical and environmental damage during manufacturing.

~~((kk))~~ (dd) **TOPCOAT** means a coating applied over a primer or directly to a component primarily for purposes of appearance or identification.

~~((ll))~~ (ee) **TOUCHUP** means the portion of the operation that is necessary to cover minor imperfections.

~~((mm))~~ **TRANSPORT TANK** means a container with a capacity greater than 1,000 liters (264 gallons) used for transporting gasoline, including but not limited to, tank truck, tank trailer, railroad car, and metallic or nonmetallic tank or cell conveyed on a flatbed truck, trailer, or railroad car.

~~((nn))~~ **TRUE VAPOR PRESSURE** means the equilibrium partial pressure of an organic liquid (determined with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks", May 1994).

~~((oo))~~ **TURNAROUND** means the shutting down and starting up of process units for periodic maintenance and repair of equipment, or other planned purpose.

~~((pp))~~ **VAPOR RECOVERY SYSTEM** means a process that prevents emission to the atmosphere of volatile organic compounds released by the operation of any transfer, storage, or process equipment.)

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.

NEW SECTION

REGULATION II SECTION 2.01 DEFINITIONS

When used in this Article:

(a) **GASOLINE** means any petroleum distillate or petroleum distillate/alcohol blend with a Reid vapor pressure of 4 pounds per square inch (27.6 kPa) or greater, which is used as a fuel for motor vehicles, marine vessels, or aircraft.

(b) **GASOLINE STATION** means any site that dispenses gasoline from stationary storage tanks into fuel tanks of motor vehicles, marine vessels, or aircraft.

(c) **PETROLEUM REFINERY** means a facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products by distilling crude oils or redistilling, cracking, extracting, or reforming unfinished petroleum derivatives. Not included are facilities re-refining used motor oils or waste chemicals, processing finished petroleum products, separating blended products, or air blowing asphalt.

(d) **SUBMERGED FILL LINE** means any discharge pipe or nozzle that meets either of the following conditions:

(1) Where the tank is filled from the top, the end of the discharge pipe or nozzle must be totally submerged when the liquid level is 6 inches (15 cm) from the bottom of the tank; or

(2) Where the tank is filled from the side, the discharge pipe or nozzle must be totally submerged when the liquid level is 18 inches (46 cm) from the bottom of the tank.

(e) **TRANSPORT TANK** means a container with a capacity greater than 264 gallons (1000 liters) used for shipping gasoline over roadways.

(f) **VAPOR RECOVERY SYSTEM** means a process that prevents the emission to the atmosphere of volatile organic compounds released by the operation of any transfer, storage, or process equipment.

AMENDATORY SECTION

REGULATION II SECTION ~~(2.04)~~ 3.02 VOLATILE ORGANIC COMPOUND STORAGE TANKS

(a) ~~((Section 2.04))~~ This section shall apply to all stationary storage tanks with a capacity of 40,000 gallons (151,400 liters) or greater storing ~~((that store))~~ volatile organic compounds with a true vapor pressure of ~~((10.5 kilopascals (kPa) or 1.5 pounds per square inch ((psia)) (10.5 (kPa) or greater at actual monthly average storage temperatures ((and have a capacity of 151,400 liters (40,000 gallons) or greater. Tanks used for the storage of gasoline in bulk gasoline plants equipped with vapor balance systems as required in Section 2.06(b) shall be exempt from the requirements of Section 2.04)).~~

(b) It shall be unlawful for any person to cause or allow ~~((the))~~ such storage ~~((of volatile organic compounds as specified in Section 2.04(a))~~ unless ~~((such stationary))~~ the storage tank ~~((or container))~~ is a pressure tank maintaining working pressures sufficient at all times to prevent organic vapor loss to the atmosphere, or is designed and equipped with one of the following vapor loss control devices:

(1) An external floating roof, consisting of a pontoon-type or double deck-type cover that rests on the surface of the liquid contents at all times and is equipped with a closure device between the tank shell and the roof edge. The closure

device shall consist of two seals, a primary seal and a rim mounted secondary seal above the primary; or

(2) A fixed roof with an internal floating-type cover that rests on the surface of the liquid contents at all times and is equipped with a closure device. The closure device shall prevent the emission of organic vapors such that the concentration of such vapors in the vapor space above the internal floating roof does not exceed 50% of the lower explosive limit (LEL) measured as propane; or

(3) A fixed roof tank with control equipment ~~((a vapor recovery system,))~~ that reduces emissions by 95% or greater ~~((meets the requirements of Section 2.05 of this regulation)).~~

(c) All primary seals or closure devices ~~((used with equipment subject to Section 2.04))~~ shall meet the following requirements:

(1) The primary seal shall contain no visible holes, tears, or other openings.

(2) No gap between the tank shell and the primary seal shall exceed 1 1/2 inches (3.8 cm) ~~((1 1/2 inches))~~. No continuous gap greater than 1/8 inch (0.32 cm) ~~((1/8 inch))~~ shall exceed 10% of the circumference of the tank. The cumulative length of all primary seal gaps exceeding 1/2 inch (1.3 cm) ~~((1/2 inch))~~ shall not be more than 10% of the circumference; and the cumulative length of all primary seal gaps exceeding 1/8 inch (0.32 cm) ~~((1/8 inch))~~ shall not be more than 40% of the circumference.

(d) All secondary seals or closure devices shall meet the following requirements:

(1) There shall be no visible holes, tears, or other openings in the secondary seal or seal fabric;

(2) The secondary seal shall be intact and uniformly in place around the circumference of the floating roof between the roof and the tank wall; and

(3) No gap between the tank shell and the secondary seal shall exceed 1/2 inch (1.3 cm) ~~((1/2 inch))~~. The cumulative length of all gaps exceeding 1/8 inch (0.32 cm) ~~((1/8 inch))~~ in width between the secondary seal and the tank wall shall not exceed 5% of the circumference of the tank.

(e) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves shall be:

(1) Equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and

(2) Equipped with projections into the tank that remain below the liquid surface at all times.

(f) Automatic bleeder vents shall be closed at all times except when the roof is floated off or landed on the roof leg supports.

(g) Rim vents shall be set to open when the roof is being floated off the leg supports or at the manufacturer's recommended setting.

(h) Emergency roof drains shall be provided with slotted membrane fabric covers or equivalent that cover at least 90% of the area of the opening.

(i) Routine inspections shall be performed by the owner or operator as follows:

(1) For external floating roof tanks, conduct a semi-annual visual inspection of all seals and closure devices and measure the primary and secondary seal gap annually;

PROPOSED

(2) For internal floating roof tanks, visually inspect all seals and measure the concentration of VOC in the vapor space above the internal floating roof semiannually; and

(3) Maintain records of the results of any inspections performed for a period of 2 years after the date on which the record was made.

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

REGULATION II SECTION 2.05 BULK GASOLINE ((LOADING TERMINALS)) DISTRIBUTION FACILITIES

((a) Section 2.05 shall apply to all gasoline loading terminals with an annual gasoline throughput greater than 7,200,000 gallons.

(b) It shall be unlawful for any person to cause or allow the loading of gasoline into any transport tank unless all the following conditions are met:

(1) The loading terminal shall employ bottom loading and be equipped with a vapor recovery system;

(2) All loading lines and vapor lines shall be equipped with vapor tight fittings that close automatically upon disconnect;

(3) All vapor return lines shall be connected between the transport tank and the vapor recovery system such that all displaced volatile organic compounds are vented to the vapor recovery system; and

(4) The back pressure in the vapor lines shall not exceed 4.5 kPa (18 inches) of water pressure.

(e) The vapor recovery system required by this section shall prevent the emission of at least 90% by weight of the volatile organic compounds and shall limit the emission of volatile organic compounds to no more than 35 milligrams per liter (mg/l) of gasoline transferred.

(d) The vapor recovery system required by Section 2.05(b) shall be equipped with a continuous emission monitoring system meeting the requirements of Article 12 of Regulation I.)

(a) This section shall apply to all facilities that load gasoline into transport tanks for delivery to gasoline stations or other bulk gasoline distribution facilities equipped with a vapor recovery system.

(b) It shall be unlawful for any person to cause or allow the loading or unloading of a transport tank with gasoline unless:

(1) A vapor recovery system is used that limits the emission of volatile organic compounds to no more than 0.083 pounds per thousand gallons of gasoline loaded (10 mg/l);

(2) The concentration of gasoline vapors is below the lower explosive limit (measured as propane) at all points a distance of 1 inch (2.5 cm) or greater from any potential vapor leak source in the system (including pressure relief vents);

(3) The gauge pressure in the vapor transfer line does not exceed 18 inches (46 cm) of water during loading of the

transport tank or - 6 inches (-15 cm) of water during unloading of the transport tank;

(4) The liquid transfer line enters the bottom of the transport tank and is equipped with couplers that leak no more than 3 drops per minute during product transfer and no more than 0.34 fluid ounces (10 ml) upon disconnect, averaged over three disconnects;

(5) The stationary storage tank is equipped with a submerged fill line or meets the requirements of Section 3.02 of this regulation; and

(6) At facilities with an annual gasoline throughput greater than 7,200,000 gallons (27,252,000 liters), a leak test certificate for the transport tank is on file demonstrating that within the past 12 months the transport tank has passed the annual certification tests specified in Section 2.08(b) of this regulation.

(c) The requirements of Section 2.05(b) shall also apply to the loading of products other than gasoline, where the transport tank contains gasoline or contained gasoline during the previous load.

(d) Vapor recovery systems using carbon adsorption shall be equipped with a continuous emission monitoring system (CEMS) meeting the requirements of Article 12 of Regulation I. Unless otherwise approved in writing by the Control Officer, the data recorder scale of the CEMS shall be 0 - 5% VOC and the span value shall be 4.5% VOC. Daily calibration drift measurements shall be made with a zero gas and with a high-level calibration gas in the range of 2.25% - 4.5% propane.

REPEALER

REGULATION II SECTION 2.06 BULK GASOLINE PLANTS

AMENDATORY SECTION

REGULATION II SECTION 2.07 GASOLINE STATIONS

((a) Stage 1 vapor recovery system requirements shall apply to:

(1) All gasoline stations with a total annual gasoline throughput greater than 200,000 gallons and total gasoline storage capacity greater than 10,000 gallons; and

(2) All new stationary gasoline storage tanks greater than 1,000 gallons capacity.

(b) It shall be unlawful for the owner or operator of a gasoline station subject to Stage 1 vapor recovery system requirements to cause or allow the transfer of gasoline from any transport tank into any stationary storage tank unless:

(1) The stationary storage tank is equipped with a permanent submerged fill line and a Stage 1 vapor recovery system certified by the California Air Resources Board;

(2) The transport tank is equipped to balance vapors; and

(3) All vapor return lines are connected between the transport tank and the stationary storage tank, and the Stage 1 vapor recovery system is operating.

(e) Stage 2 vapor recovery system requirements shall apply to:

~~(1) All gasoline stations located in King, Pierce, and Snohomish Counties with a total annual gasoline throughput greater than 600,000 gallons and a total gasoline storage capacity greater than 10,000 gallons;~~

~~(2) All gasoline stations located in Kitsap County with a total annual gasoline throughput greater than 840,000 gallons and a total gasoline storage capacity greater than 10,000 gallons; and~~

~~(3) All new stationary gasoline storage tanks greater than 1,000 gallons capacity.~~

~~(d) The owner or operator of a gasoline station subject to Stage 2 vapor recovery system requirements shall install a Stage 2 vapor recovery system in accordance with the following schedule:~~

~~(1) Businesses that own 10 or more gasoline stations in King, Pierce, Snohomish, and Clark Counties:~~

~~(A) At least 50% of facilities with an annual throughput greater than 840,000 gallons by May 1, 1994;~~

~~(B) The remaining facilities with an annual throughput greater than 840,000 gallons by May 1, 1995; and~~

~~(2) All gasoline stations with an annual throughput greater than 1,200,000 gallons by May 1, 1994; and~~

~~(3) All other gasoline stations by December 31, 1998.~~

~~(e) It shall be unlawful for the owner or operator of a gasoline station subject to Stage 2 vapor recovery system requirements to cause or allow the transfer of gasoline from any stationary storage tank into any motor vehicle fuel tank (except motorcycles) unless:~~

~~(1) The gasoline dispenser is equipped with a Stage 2 vapor recovery system certified by the California Air Resources Board and installed in accordance with the system's certification requirements;~~

~~(2) The vapor return line is connected between the stationary storage tank and the motor vehicle fuel tank;~~

~~(3) All bellows type nozzles are inspected daily, and if determined to be defective are taken out of service until repaired or replaced;~~

~~(4) Operating instructions for the Stage 2 vapor recovery nozzles are conspicuously posted and include a warning against topping off. The instructions shall include a prominent display of the Department of Ecology's toll-free telephone number for complaints regarding the operation and condition of the nozzles.))~~

~~(a) **Applicability.** This section shall apply to all facilities that load gasoline into the fuel tanks of motor vehicles, marine vessels, or aircraft directly from stationary storage tanks.~~

~~(1) Stage 1 vapor recovery system requirements shall apply to all gasoline storage tanks with a capacity of greater than 1,000 gallons:~~

~~(A) Installed after January 1, 1979; or~~

~~(B) Located at facilities with a total annual gasoline throughput greater than 200,000 gallons.~~

~~(2) Stage 2 vapor recovery system requirements shall apply to all gasoline storage tanks with a capacity of greater than 1,000 gallons (except those used exclusively for aviation or marine gasoline):~~

~~(A) Installed after August 2, 1991;~~

(B) Located at facilities in King, Pierce, and Snohomish Counties with a total annual gasoline throughput greater than 600,000 gallons; or

(C) Located at facilities in Kitsap County with a total annual gasoline throughput greater than 840,000 gallons.

(b) **Stage 1 Requirements.** It shall be unlawful for an owner or operator of the facility to cause or allow the transfer of gasoline from a transport tank into a stationary storage tank unless:

(1) The stationary storage tank is equipped with a submerged fill line and a Stage 1 vapor recovery system certified by the California Air Resources Board and installed in accordance with the system's certification requirements; and

(2) The system is visually inspected after each product delivery and any equipment found to be defective (e.g., loose caps or adaptors, stuck poppet valves, damaged gaskets) is repaired or replaced as soon as possible but no later than 7 days after the inspection.

(c) **Stage 2 Requirements.** It shall be unlawful for an owner or operator of the facility to cause or allow the transfer of gasoline from the stationary storage tank into a motor vehicle fuel tank (except motorcycles) unless:

(1) The stationary storage tank and dispenser are equipped with a Stage 2 vapor recovery system certified by the California Air Resources Board and installed in accordance with the system's certification requirements;

(2) Operating instructions are conspicuously posted and include a warning against topping off and the Department of Ecology's toll-free telephone number for complaints about the system;

(3) The system is inspected on a weekly basis and any equipment found to be defective (e.g., torn bellows, mini-boots or hoses, leaking spouts, swivels or hoses, missing latch coils, stiff swivels) is taken out of service until repaired or replaced; and

(4) The system is tested for compliance with its certification requirements (e.g., pressure decay, back-pressure, air/liquid ratio) and any equipment found to be defective is repaired/replaced and retested for compliance within 30 days. In the event that repair and retesting of defective equipment cannot be accomplished within 30 days, a 30-day extension may be granted in writing, provided that the owner or operator demonstrates in advance to the Control Officer that the equipment is being repaired and retested as soon as possible.

(d) **Compliance Tests.** Compliance with the requirements in Section 2.07 (c)(4) of this regulation shall be achieved no later than July 1, 2000. Tests shall be performed in accordance with the test methods and Executive Orders of the California Air Resources Board in effect July 1, 1998. (Testing frequencies are specified in the Executive Orders.) These tests shall be exempt from the requirements of Section 3.07 of this regulation. However, notification of the test date shall be submitted to the Agency at least 5 days in advance of the test and copies of all test results shall be kept on site for at least 2 years from the date of the test.

AMENDATORY SECTION

**REGULATION II SECTION 2.08 ((LEAKS FROM))
GASOLINE TRANSPORT TANKS ((AND VAPOR
RECOVERY SYSTEMS))**

((a) Section 2.08 shall apply to all gasoline transport tanks and all facilities subject to Sections 2.05, 2.06, and 2.07 of Regulation II.

(b) It shall be unlawful for any person to cause or allow the transfer of gasoline between a facility subject to the requirements of Section 2.08 and a gasoline transport tank unless a current leak test certification for the transport tank is on file with the facility or a valid inspection sticker is displayed on the vehicle.

(c) It shall be unlawful for any person to cause or allow the use of any transport tank for the transfer of gasoline at a facility subject to the requirements of Section 2.08, unless the tank:

- (1) Is leak tested annually;
- (2) Displays a sticker and carries a certificate that:
 - (A) Shows the date the tank last passed the leak test; and
 - (B) Shows the identification number of the tank; and
- (3) Is loaded and unloaded in such a manner that the concentration of gasoline vapors is below the lower explosive limit (expressed as propane) at all points a distance of 2.5 cm (1 inch) or greater from any potential leak source. Any transport tank that fails to meet the requirements of this paragraph shall be repaired and retested in accordance with the provisions of Section 2.08(e) within 10 days. The Control Officer shall be notified in writing within 5 days after the completion of the required leak test.

(d) It shall be unlawful for any person to cause or allow the operation of any facility subject to Section 2.08 unless the vapor recovery system and the gasoline loading equipment is operated during all loading and unloading of gasoline such that:

(1) The concentration of gasoline vapors is below the lower explosive limit (expressed as propane) at all points a distance of 2.5 cm (1 inch) or greater from any potential leak source; and

(2) There are no liquid leaks in excess of 3 drops per minute and there is no more than 10 ml of liquid drainage per disconnect.

(e) During the test required by Section 2.08(e), each transport tank shall sustain a pressure change of no more than 0.75 kPa (3 inches) of water in 5 minutes when pressurized to a gauge pressure of 4.5 kPa (18 inches) of water and evacuated to a gauge pressure of 1.5 kPa (6 inches) of water during the test:)

(a) This section shall apply to all transport tanks that deliver gasoline to gasoline stations or bulk gasoline distribution facilities equipped with a vapor recovery system.

(b) It shall be unlawful for the owner or operator of a transport tank to cause or allow the transfer of gasoline at a facility equipped with a vapor recovery system unless:

(1) The transport tank is also equipped with a vapor recovery system;

(2) The transport tank is tested annually in accordance with the procedures in Method 27 of 40 CFR Part 60, Appen-

dix A by pressurizing the tank to gauge pressures of 18 and 6 inches of water and waiting for a time period of 5 minutes during which the pressure change is no more than:

tank capacity (gallons)	pressure change (inches of water)
2,500 or more	1.0
1,500-2,499	1.5
1,000-1,499	2.0
999 or less	2.5

(3) The internal vapor valve of the transport tank is tested annually in accordance with the procedures in Method 27 of 40 CFR Part 60, Appendix A by repressurizing the tank to 18 inches of water, closing the vapor valve, relieving all the pressure in the vapor return line, resealing the vapor return line, and waiting for a time period of 5 minutes during which the pressure change in the vapor return line and manifold is no more than 5 inches of water;

(4) The transport tank carries a certificate that includes the following information:

(A) Testing company name, date, and test location;

(B) Tester's name, title, and signature;

(C) Transport tank owner's name and address;

(D) Transport tank identification number;

(E) Type of test: pressure decay, vacuum decay, or internal vapor valve;

(F) Vapor tightness repair (if any): nature of repair work and when performed in relation to the test; and

(G) Test results: pressure or vacuum change, time period of test.

(5) The transport tank displays a sticker near the Department of Transportation certification plate, which shows the identification number of the transport tank and the date the transport tank last passed the tests specified in this section; and

(6) The vapor recovery system is employed and the concentration of gasoline vapors is below the lower explosive limit (measured as propane) at all points a distance of 1 inch or greater from any potential leak source on the transport tank. (Any transport tank that fails to meet this requirement shall be repaired and retested for compliance with Sections 2.08 (b)(2) and (b)(3) of this regulation within 10 days, and a copy of the revised compliance certificate shall be sent to the Agency within 5 days after completing the required leak test.)

(c) Transport tanks tested prior to August 1, 1999 shall be subject to the requirements in Sections 2.08 (b)(2) and (b)(3) of this regulation at the time of their next annual test.

WSR 99-10-098

PROPOSED RULES

PUGET SOUND AIR

POLLUTION CONTROL AGENCY

[Filed May 5, 1999, 9:22 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Amend: Regulation I, Sections 5.03, 6.03, and 9.16.

PROPOSED

Purpose: To clarify reasonably available control technology (RACT) for spray-coating operations and to clearly define the exemptions that apply. Also to clarify the outdoor spray-coating requirements for a notice of construction approval.

Other Identifying Information: Section 5.03 - Registration Required; Section 6.03 - Notice of Construction; and Section 9.16 - Spray-Coating Operations.

Statutory Authority for Adoption: Chapter 70.94 RCW. Statute Being Implemented: RCW 70.94.141.

Summary: Clarifies the spray-coating operations rule and defines the exemptions.

Reasons Supporting Proposal: The current rule requirements are not clear and exemptions are not adequately defined.

Name of Agency Personnel Responsible for Drafting: Larry Vaughn, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4035; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4050; and Enforcement: Neal Shulman, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4078.

Name of Proponent: Puget Sound Air Pollution Control Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule will not change the spray-coating requirements, but will more clearly explain reasonably available control technology (RACT) for spray-coating operations. The proposed rule clarifies the outdoor spray-coating requirements for a notice of construction approval. Spray-coating operations that are not significant are defined and exempted.

Proposal Changes the Following Existing Rules: This proposal clarifies existing rules regarding spray-coating operations. It clarifies the outdoor spray-coating requirements for a notice of construction approval. Also the exemption of small-scale spray-coating operations is defined.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, on June 10, 1999, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by June 3, 1999, TDD 1-800-833-6388, or 1-800-833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, Puget Sound Air Pollution Control Agency Offices, 110 Union Street, #500, Seattle, WA 98101, fax (206) 343-7522, by June 1, 1999.

Date of Intended Adoption: June 10, 1999.

May 4, 1999

Larry C. Vaughn

Engineer I

AMENDATORY SECTION

REGULATION I SECTION 5.03 REGISTRATION REQUIRED

(a) The registration requirements of this article do not apply to:

- (1) motor vehicles;
- (2) nonroad engines or nonroad vehicles as defined in Section 216 of the federal Clean Air Act;
- (3) sources that require an operating permit under Article 7; ~~((6))~~

(4) spray-coating operations exempt under Section 9.16(b) of this regulation; or

~~((4))~~ (5) any source, including any listed in Section 5.03(b) below, that has been determined through review by the Control Officer not to warrant registration, due to the amount and nature of air contaminants produced or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property.

(b) It shall be unlawful for any person to cause or allow the operation of any source required to register under Section 5.03, unless it conforms to all the requirements of Article 5. Except as provided in Section 5.03(a), the owner or operator of each of the following stationary air contaminant sources shall register the source with the Agency by paying the annual fee required by Section 5.07 and submitting any reports required by Section 5.05.

(1) Any category of stationary sources to which a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart S (Primary Aluminum Reduction Plants), BB (Kraft Pulp Mills), or AAA (New Residential Wood Heaters), applies;

(2) Any source category subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) under 40 CFR Part 61, other than Subpart M (asbestos on roadways, asbestos demolition or renovation activities, or asbestos spraying), or 40 CFR Part 63;

(3) Any source that emits any of the following pollutants at a rate of emission equal to or greater than any one of the following rates (tons/year):

carbon monoxide	25
nitrogen oxides	25
sulfur dioxide	25
particulate matter (PM ₁₀)	25
particulate matter (PM _{2.5})	25
volatile organic compounds (VOC)	25
facility-combined total of all toxic air contaminants (TAC) . . .	6
any single toxic air contaminant (TAC)	2

(4) Any source that has equipment or control equipment, with an approved Notice of Construction under Article 6 of Regulation I;

(5) Any source that has been determined through review by the Control Officer to warrant registration, due to the

PROPOSED

amount and nature of air contaminants produced, or the potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property;

(6) Any source that has elected to opt out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability to EPA requirements under Sections 111 or 112 of the federal Clean Air Act;

(7) Other sources, such as:

- aerosol can-filling facilities;
- agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;
- agricultural drying and dehydrating operations;
- alumina processing;
- ammonium sulfate manufacturing plants;
- asphalt and asphalt products production facilities;
- automobile or light-duty truck surface coating operations;
- baker's yeast manufacturing;
- brick and clay manufacturing plants, including tiles and ceramics;
- cattle feedlots with operational facilities that have an inventory of 1,000 or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season;
- chemical manufacturing plants;
- coal preparation plants;
- coffee roasting facilities;
- composting operations, including commercial, industrial and municipal, but exempting agricultural and residential composting activities;
- concrete product manufacturers and ready-mix and pre-mix concrete plants;
- crematoria or animal carcass incinerators;
- dry cleaning plants;
- ethylene dichloride, polyvinyl chloride, or vinyl chloride plants;
- explosives production;
- flexible polyurethane foam production;
- flexible vinyl and urethane coating and printing operations;
- gasoline stations, bulk gasoline plants, and gasoline loading terminals;
- gelcoat, polyester, resin, or vinyl ester coating manufacturing operations at commercial or industrial facilities;
- glass manufacturing plants;
- grain, seed, animal feed, legume, and flour processing operations and handling facilities;
- hazardous waste treatment and disposal facilities;
- ink manufacturers;
- insulation fiber manufacturers;
- landfills, active and inactive, including covers, gas collection systems, or flares;
- lead-acid battery manufacturing plants;
- lime manufacturing plants;
- metal casting facilities and foundries, ferrous and non-ferrous;
- metal plating and anodizing operations;

metallic and nonmetallic mineral processing plants, including rock crushing plants and sand and gravel operations;

- metallurgical processing plants;
- mills such as lumber, plywood, shake, shingle, wood-chip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;
- mineral wool production;
- mineralogical processing plants;
- municipal waste combustors;
- nitric acid plants;
- paper manufacturers, except Kraft and sulfite pulp mills;
- petroleum refineries;
- pharmaceuticals production;
- plastics and fiberglass product fabrication facilities;
- pneumatic conveying operations and industrial house-keeping vacuuming systems that exhaust more than 1,000 acfm to the atmosphere;
- portland cement plants;
- primary copper smelters, lead smelters, magnesium refining and zinc smelters, but excluding primary aluminum plants;
- rendering plants;
- semiconductor manufacturing;
- shipbuilding and ship repair (surface coating);
- soil vapor extraction (active), thermal soil contaminant desorption, or groundwater air stripping remediation projects;
- sulfuric acid plants;
- surface-coating manufacturers;
- surface spray-coating operations, including automotive, metal, cans, pressure-sensitive tape, labels, coils, wood, plastic, rubber, glass, paper, and other substrates;
- synthetic fiber production facilities;
- synthetic organic chemical manufacturing industries;
- tire recapping facilities;
- vegetable oil production;
- wastewater treatment plants; or
- wood treatment.

AMENDATORY SECTION

REGULATION I SECTION 6.03 NOTICE OF CONSTRUCTION

(a) It shall be unlawful for any person to cause or allow the construction, installation, establishment, or modification of an air contaminant source, except those sources that are excluded in Section 6.03(b), unless a "Notice of Construction and Application for Approval" has been filed with and approved by the Agency.

(b) Except when part of a new major source or major modification in a nonattainment area, or when constructing or reconstructing a major source of hazardous air pollutants, the following air contaminant sources do not need a "Notice of Construction and Application for Approval" approved by the Agency prior to construction, installation, establishment, or modification:

(1) Ventilating systems, including fume hoods, not designed to prevent or reduce air contaminant emissions.

(2) Fuel burning equipment that has a maximum input rate of:

(A) less than 0.5 million Btu per hour (0.15 million joules per second) burning waste-derived fuel; or

(B) less than 10 million Btu per hour (3 million joules per second) burning natural gas, propane, or butane; or

(C) less than 1 million Btu per hour (0.3 million joules per second) burning any other fuel.

(3) Insecticide, pesticide, or fertilizer spray equipment.

(4) Internal combustion engines less than the size thresholds of the proposed United States Environmental Protection Agency (EPA) New Source Performance Standards (NSPS) 40 CFR Part 60 Subpart FF (Stationary Internal Combustion Engines, 44 FR 43152 7/23/79) or the promulgated EPA NSPS 40 CFR Part 60 Subpart GG (Stationary Gas Turbines).

(5) Laboratory equipment used exclusively for chemical or physical analyses.

(6) Laundry dryers without control equipment.

(7) Dryers or ovens used solely to accelerate evaporation.

(8) Routing, turning, carving, cutting, and drilling equipment used for metal, wood, plastics, rubber, leather, or ceramics which does not release air contaminants to the ambient air.

(9) Storage tanks:

(A) that do not store substances capable of emitting air contaminants; or

(B) with a rated capacity of 1,000 gallons (3,780 liters) or less used for storage of gasoline; or

(C) with a rated capacity of less than 10,000 gallons (38,000 liters) used for storage of volatile organic compounds; or

(D) with a rated capacity of less than 40,000 gallons (150,000 liters) used for storage of volatile organic compounds with a true vapor pressure less than 0.01 kPa (0.002 psia).

(10) Sanitary or storm drainage systems.

(11) Welding, brazing, or soldering equipment.

(12) Asphalt roofing and laying equipment (not including manufacturing or storage).

(13) Restaurants and other retail food-preparing establishments.

(14) Cold solvent cleaners using a solvent with a true vapor pressure less than or equal to 4.2 kPa (0.6 psia).

(15) Retail printing operations (not including web presses).

~~((16) Spray painting or blasting equipment used at a temporary location to clean or paint bridges, water towers, buildings, or similar structures.))~~

(16) Spray-coating operations exempt under Section 9.16 (b)(1), (3), (4), (5), and (6) of this regulation.

(17) Any source that has been determined through review by the Control Officer not to warrant a "Notice of Construction and Application for Approval", due to the minimal amount and nature of air contaminants produced and potential to contribute to air pollution, with special reference to effects on health, economic and social factors, and physical effects on property. The owner or operator shall submit to the Control Officer, the information necessary to make this

determination. The Control Officer shall notify the owner or operator in writing whether a "Notice of Construction and Application for Approval" is required for the source.

(c) Each Notice of Construction and Application for Approval shall be submitted on forms provided by the Agency and shall be accompanied by a set of plans that fully describes the proposed source, the means for prevention or control of the emissions of air contaminants, the appropriate fee as required by Section 6.04, and any additional information required by the Board or Control Officer to demonstrate that the proposed source will meet the requirements of Section 6.07.

(d) Within 30 days of receipt of a Notice of Construction and Application for Approval, the Agency shall notify the applicant in writing if any additional information is necessary to complete the application.

AMENDATORY SECTION

REGULATION I SECTION 9.16 SPRAY-COATING OPERATIONS

~~((a) It shall be unlawful for any person to cause or allow the use of spray equipment to apply any VOC-containing material, including any negligibly reactive compound, unless the operation is conducted inside an enclosed spray area that is registered with the Agency and incorporates either dry filters or water wash curtains to control the overspray or the use of another technique that has received the prior written approval of the Control Officer. The exhaust from the spray area shall be vented to the atmosphere through a vertical stack or through the use of another technique that has received the prior written approval of the Control Officer.~~

~~(b) The provisions of Section 9.16 shall not apply to:~~

~~(1) the use of hand-held aerosol cans;~~

~~(2) touch-up operations;~~

~~(3) the coating of marine vessels in dry docks;~~

~~(4) the coating of bridges, water towers, buildings or similar structures;~~

~~(5) insecticide, pesticide, or fertilizer spray equipment;~~

~~(6) the coating of items that cannot be reasonably handled in an enclosed spray area, provided the operation has received the prior written approval of the Control Officer.~~

~~(c) The provisions of Section 9.16 shall become effective January 1, 1992.))~~

(a) Applicability. This section applies to spray-coating operations at facilities subject to Article 5 (Registration), Article 6 (New Source Review), or Article 7 (Operating Permits) of this regulation, where a coating that protects or beautifies a surface is applied with spray-coating equipment.

(b) Exemptions. The following activities are exempt from the provisions of Sections 9.16 (c) and (d) of this regulation. Persons claiming any of the following spray-coating exemptions shall have the burden of demonstrating compliance with the claimed exemption.

(1) Application of architectural or maintenance coatings to stationary structures (e.g., bridges, water towers, buildings, stationary machinery, or similar structures);

(2) Aerospace coating operations subject to 40 CFR Part 63, Subpart GG. This includes all activities and materials listed in 40 CFR 63.741(f);

(3) Use of high-volume, low-pressure (HVLP) spray guns when:

(A) spray-coating operations do not involve motor vehicles or motor vehicle components;

(B) the gun cup capacity is 8 fluid ounces or less;

(C) the spray gun is used to spray-coat less than 9 square feet per day per facility;

(D) coatings are purchased in containers of 1 quart or less; and

(E) spray-coating is allowed by fire department, fire marshal, or other government agency requirements.

(4) Use of air-brush spray equipment with 0.5 to 2.0 CFM airflow and a maximum cup capacity of 2 fluid ounces;

(5) Use of hand-held aerosol spray cans with a capacity of 1 quart or less; or

(6) Indoor application of automotive undercoating materials using organic solvents having a flash point in excess of 100°F.

(c) General Requirements for Indoor Spray-Coating Operations. It shall be unlawful for any person subject to the provisions of this section to cause or allow spray-coating inside a structure, or spray-coating of any motor vehicles or motor vehicle components, unless the spray-coating is conducted inside an enclosed spray area. The enclosed spray area shall employ either properly seated paint arresters, or water-wash curtains with a continuous water curtain to control the overspray. All emissions from the spray-coating operation shall be vented to the atmosphere through an unobstructed vertical exhaust vent.

(d) General Requirements for Outdoor Spray-Coating Operations. After January 1, 2000, it shall be unlawful for any person subject to the provisions of this section to cause or allow spray-coating outside an enclosed structure unless such spray-coating operations are approved in a notice of construction permit issued in accordance with Article 6 of this regulation. The following minimum requirements for outdoor spray-coating operations will be included in all such notice of construction permits:

(1) Reasonable methods to confine overspray to the property where the spray-coating is being conducted shall be used (e.g., tarps, shrink wrap, mobile enclosure, or similar methods for control of overspray); and

(2) High-transfer efficiency spray equipment that minimizes overspray shall be used (e.g., HVLP, low-volume, low-pressure (LVLP), electrostatic, or air-assisted airless). Air-less spray equipment may be used where low viscosity and high solid coatings precludes the use of higher-transfer efficiency spray equipment.

(e) Compliance with Other Regulations. Compliance with this regulation does not exempt any person from compliance with Regulation I, Sections 9.11 and 9.15 and all other applicable regulations including those of other agencies.

WSR 99-10-100

PROPOSED RULES

PENINSULA COLLEGE

[Filed May 5, 1999, 9:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR [99-07-060].

Title of Rule: Title 132A WAC, Community Colleges—Peninsula College.

Purpose: Updating Title 132A WAC.

Statutory Authority for Adoption: RCW 28B.50.140 and chapter 28B.50 RCW.

Statute Being Implemented: RCW 28B.50.140.

Summary: Updating Title 132A WAC.

Reasons Supporting Proposal: To correspond with current policies, practices, and procedures.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bonnie Cauffman, Peninsula College, Port Angeles, (360) 417-6212.

Name of Proponent: Community College District No. 1, Peninsula College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Peninsula College's WACs need revision to correspond with current policies, practices, and procedures.

Proposal Changes the Following Existing Rules: Peninsula College's WACs need revision to correspond with current policies, practices, and procedures.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not a small business.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Peninsula College Campus, 1502 East Lauridsen Boulevard, Port Angeles, WA 98362, on June 22, 1999, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Bonnie Cauffman by June 4, 1999.

Submit Written Comments to: Bonnie Cauffman, fax (360) 417-6220, by June 15, 1999.

Date of Intended Adoption: July 17, 1999.

May 4, 1999

Bonnie Cauffman

Director of Human Resources

NEW SECTION

WAC 132A-104-011 The board of trustees. The government of Community College District No. 1 (Peninsula College) is vested in a five-person board of trustees. The trustees are appointed by the governor and serve five-year terms and/or until their successors are appointed. At its annual October meeting, the board elects a chairperson and vice-chairperson who serve for a term of one year and until their successors are elected from the membership of the board.

NEW SECTION

WAC 132A-104-016 Meetings of the board of trustees. The board customarily holds meetings on the second Tuesday of each month at such place as it may designate. Notice of the time and place of all regular and special meetings shall be governed by the requirements of the Open Public Meetings Act, chapter 42.30 RCW.

NEW SECTION

WAC 132A-104-021 Communication to the board of trustees. Persons who wish to bring a matter to the attention of the board of trustees may do so by submitting written communication to the Executive Secretary of the Board of Trustees, President's Office, Peninsula College, 1502 E. Lauridsen Boulevard, Port Angeles, Washington 98362.

Chapter 132A-108 WAC**PRACTICE AND PROCEDURE**NEW SECTION

WAC 132A-108-010 Adoption of model rules of procedure. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use at this institution. Those rules may be found in chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules adopted by this institution, the institution's rules shall govern. All procedural rules previously adopted at this institution are specifically repealed. These rules supersede all procedural rules previously adopted by this institution.

NEW SECTION

WAC 132A-108-020 Appointment of presiding officers. The president or president's designee shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the resident or designee, or any combination of the above. Where more than one individual is designated to be the presiding officer, one person shall be designated by the president or president's designee to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

NEW SECTION

WAC 132A-108-030 Method of recording. Proceedings shall be recorded by a method determined by the presiding officer, among those available pursuant to the model rules of procedure in WAC 10-08-170.

NEW SECTION

WAC 132A-108-040 Application for adjudicative proceeding. Applications for adjudicative proceedings shall be in writing. Application forms are available at the following address:

President's Office
Peninsula College
1502 E. Lauridsen Boulevard
Port Angeles, WA 98362

Written applications for adjudicative proceedings should be submitted to the above address within twenty days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

NEW SECTION

WAC 132A-108-050 Brief adjudicative procedures. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determination made pursuant to RCW 28B.15.013, conducted by the admissions/registration office;
- (2) Challenges to content of education records;
- (3) Student conduct proceedings. The procedural rules in chapter 132A-120 WAC apply to these proceedings;
- (4) Parking violations. The procedural rules in chapter 132A-116 WAC apply to these proceedings;
- (5) Outstanding debts owed by students or employees.

NEW SECTION

WAC 132A-108-060 Discovery. Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall make reference to the civil rules of procedure. The presiding officer shall have the power to control the frequency and nature of discovery permitted, and to order discovery conferences to discuss discovery issues.

NEW SECTION

WAC 132A-108-070 Procedure for closing parts of the hearings. A party may apply for a protective order to close part of a hearing. The party making the request should state the reasons for making the application to the presiding officer. If the other party opposes the request, a written response to the request shall be made to the presiding officer within ten days of the request. The presiding officer shall determine which, if any, parts of the proceeding shall be closed, and state the reasons therefor in writing within twenty days of receiving the request.

NEW SECTION

WAC 132A-108-080 Recording devices. No cameras or recording devices shall be allowed in those parts of proceedings which the presiding officer has determined shall be

PROPOSED

closed pursuant to WAC 132A-108-010, except for the method of official recording selected by the institution.

NEW SECTION

WAC 132A-108-090 Petitions for stay of effectiveness. Disposition of a petition for stay of effectiveness of a final order shall be made by the official, officer, or body of officers who entered the final order.

NEW SECTION

WAC 132A-116-001 Authority. Pursuant to the authority granted by RCW 28B.50.140(10), the board of trustees of Community College District No. 1 empowers the president or designee to make rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the college district.

NEW SECTION

WAC 132A-116-006 Registration. Employees requesting assigned parking are required to register and display parking permits on their vehicles.

NEW SECTION

WAC 132A-116-011 Parking fees. All employees on campus and all students will pay fees for campus parking. Fees for parking will be established by the board of trustees.

NEW SECTION

WAC 132A-116-016 Visitor parking. Parking spaces reserved for visitors are designated. Staff and student vehicles, regardless of registration, are not permitted to park in these areas. Unauthorized vehicles parked in violation may be towed away and impounded at the expense of the operator.

NEW SECTION

WAC 132A-116-021 General regulations. (1) Parking is prohibited:

- (a) In spaces assigned to specific vehicles.
 - (b) Along entrance or service roads to the campus designated as fire lanes.
 - (c) On the campus proper.
 - (d) In front of the residence hall.
 - (e) In assigned residence hall parking.
 - (f) In the area of the professional/technical shops except cars awaiting maintenance.
 - (g) In the area of the arts and crafts laboratories.
 - (h) In loading areas, except while in the process of loading or unloading, and not to exceed thirty minutes.
- (2) Traffic in the main parking area is one-way as marked. Back-in parking is not permitted.
- (3) Parking is permitted only in marked spaces. Cars must be parked within traffic lines on both sides.

NEW SECTION

WAC 132A-116-026 Enforcement. (1) Campus motor vehicle regulations are enforced by the Peninsula College employees operating under the direction of the college parking officer. Disabled and fire lane parking enforcement is monitored by local law enforcement agencies. Citations will be issued for traffic violations which include: Parking in "no parking" zones, parking in "visitors" area, parking in assigned staff areas, parking in disabled areas without appropriate permit, parking in service areas, parking in the residence hall area, back-in parking, violation of parking lanes.

(2) Citations issued for violations are payable at the business office. Penalty is four dollars per violation if paid within forty-eight hours and ten dollars if paid after the first forty-eight hours.

(3) Failure by students to clear violation penalties may result in the withholding of transcripts, denial or cancellation of admission or registration, or withholding of degree awards.

(4) Vehicles in repeated, uncleared violation of the campus parking regulations and abandoned vehicles may be impounded at the expense of the operator.

NEW SECTION

WAC 132A-116-030 Appeal of fines and penalties. Students may appeal parking fines and penalties for violations of rules and regulations in this chapter pursuant to the provisions of chapter 132A-120 WAC. Other violators may appeal fines or penalties directly to the college parking officer.

Chapter 132A-120 WAC

STUDENT ((CONDUCT CODE)) RIGHTS AND RESPONSIBILITIES

NEW SECTION

WAC 132A-120-006 Student rights. The following enumerated rights are guaranteed to each student within the limitations of the statutory law and college policy deemed necessary to achieve the educational goals of the college.

- (1) Academic freedom.
 - (a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.
 - (b) Students are free to pursue appropriate educational objectives from college course offerings and services, subject to the limitations of RCW 28B.50.090 (3)(b).
 - (c) Students are entitled to a learning environment free from unlawful discrimination, sexual harassment, and disrespectful conduct.
 - (d) Students are entitled to protection from arbitrary and capricious academic evaluation, but are responsible for meeting the standards of academic progress established by their instructors.
- (2) Due process.

(a) Students are guaranteed the right to be secure in their persons, quarters, papers and effects against unreasonable searches and seizures.

(b) Students are guaranteed that no disciplinary sanction may be imposed against them without an attempt to notify them of the nature of the charges against them.

(c) Students accused of violating this policy are entitled, upon request, to procedural due process as set forth in this chapter.

(3) Distributing and posting. Students are entitled to distribute or post printed or published materials subject to the procedures available in the office of student activities.

(4) Hosting off-campus speakers. Recognized student organizations shall have the right to invite outside speakers to address the college and community, subject to availability of campus facilities and compliance with college procedures established for such presentations.

NEW SECTION

WAC 132A-120-011 Student responsibilities. Any student shall be subject to disciplinary action as provided in this chapter who either interferes with, or assists others in interfering with, the personal rights or privileges of others or the educational purpose of the college; violates any provision of this policy; or who commits any of the personal, property, or other offenses which are hereafter enumerated.

(1) Personal offenses.

(a) Assault, reckless endangerment, intimidation or interference with another in the pursuit of educational goals.

(b) Disorderly or abusive behavior, refusal to follow instructions, or other conduct which interferes with the rights of others or which obstructs or disrupts the teaching, research, or administrative functions of the college.

(c) Illegal assembly, obstruction, disruption, or material and substantial interference with the conduct of classes, hearings, meetings, educational and administrative functions of the college; the private rights and privileges of others, or vehicular pedestrian traffic.

(d) Sexual harassment, engaging in unwelcome sexual advances, requesting sexual favors, or engaging in physical or verbal conduct of a sexual nature which offends the recipient, causes discomfort or humiliation, or interferes with job or academic performance.

(e) Filing a false complaint accusing another student or a college employee of violating a provision of this policy.

(f) Creating a false alarm by setting off or tampering with any emergency safety equipment, alarm, or other device provided for the safety of individuals or college facilities.

(2) Property offenses.

(a) Theft of college property.

(b) Malicious mischief in causing either intentional or negligent damage to or destruction of any college facility or other public or personal property.

(c) Trespass: Either declining a legal order to vacate college property or violating a legal prohibition of access to college facilities.

(d) Unauthorized use of college equipment and supplies or conversion of college equipment for personal gain. This includes intentionally and without authorization gaining

access to a computer system or electronic data of another student, a faculty member, or the district, in violation of RCW 9A.52.130.

(3) Other offenses.

(a) Cheating and plagiarism, submitting to a faculty member any work which is untruthfully represented as the student's own work for the purpose of meeting the requirements of any assignment or task required by the faculty member as a part of the student's program of instruction.

(b) Forgery or the alteration of official records, whereby a student either forges or offers a forged document as authentic to any agent acting on behalf of Peninsula College.

(c) Refusal to provide identification in appropriate circumstances to any college employee acting in the lawful discharge of the employee's duties.

(d) Illegal entry into any administrative or employee office or otherwise locked or closed college facility, at any time, without permission of the employee or an appropriate agent of the college.

(e) The use, possession, or sale of any controlled substances (as defined in chapter 69.50 RCW, now or hereafter amended) on college owned or leased property except when the use or possession of a drug is prescribed as medication by an authorized medical professional.

(f) The use, possession, or sale of any form of alcoholic beverage, or being demonstrably under the influence of alcohol on college owned or leased property. Excepted are sanctioned events, approved by the president or his or her designee and in compliance with state law.

(g) The possession on college property of weapons, explosives, or dangerous chemicals, or the unauthorized use or possession of any device or substance which can be used to inflict bodily harm or cause damage to real or personal property.

(h) Smoking in any nonresidential building or in any campus location not designated for smoking.

NEW SECTION

WAC 132A-120-016 Hazing. Student hazing includes any method of initiation into a student organization or living group or any pastime or amusement conducted by such an organization that causes or is likely to cause physical harm, bodily danger, or serious mental/emotional harm to the student. Conduct which does not meet the formal definition of hazing but is nevertheless offensive, including conduct resulting in serious embarrassment, ridicule, sleep deprivation, verbal abuse or personal humiliation, may be grounds for disciplinary action. Hazing shall not include customary athletic events or other similar contests or competitions, according to RCW 28B.10.900. Pursuant to RCW 28B.10.901 through 28B.10.903, Peninsula College shall enforce the following:

(1) No student may conspire to engage in hazing or participate in the hazing of another.

(2) Any person who hazes another shall forfeit for a period of one year entitlements to state-funded grants, scholarships, and awards.

(3) Any organization that knowingly permits hazing shall be deprived of official recognition by the college.

PROPOSED

(4) Any organization that knowingly permits hazing is strictly liable for harm caused to persons or property.

NEW SECTION

WAC 132A-120-021 Delegation of disciplinary authority. The director of student activities or designee shall have the authority to administer the disciplinary action prescribed in this chapter. The president shall be informed of all student dismissals, suspensions or probation proceedings by the director of student activities.

NEW SECTION

WAC 132A-120-026 Disciplinary action. The following disciplinary actions are hereby established and shall be imposed upon violators of the rules of conduct enumerated in this chapter, pursuant to the right of appeal as outlined in this chapter.

(1) Disciplinary warning. This shall consist of verbal notice to the student that the student has violated college rules of conduct or has failed to meet the college's expectations regarding student conduct. The student will be cautioned that repeated misconduct will result in additional sanctions.

(2) Disciplinary reprimand. This shall consist of a formal written censure provided to the student and shall detail the rules violated as well as the more serious disciplinary action which may result from repeated violations of the rules of conduct.

(3) Disciplinary probation. This shall consist of formal action by the disciplinary officer, placing specific conditions on the student's continued student status. Notice of probation shall be made in writing and shall specify the period of probation and the conditions. Probation may be for a specific period or may extend through the student's period of enrollment.

(4) Suspension. This shall consist of a formal but limited dismissal from the college. Notice of the action shall be given in writing and shall specify both the length of the dismissal and any conditions which must be met before reinstatement.

(5) Expulsion. This shall result in permanent termination of a student's eligibility for enrollment. Notice of the expulsion and its cause shall be presented in writing. The expelled student shall receive no refund of any tuition or fees which have been paid for the period of enrollment in which the expulsion occurs, or for any period of enrollment.

NEW SECTION

WAC 132A-120-031 Initiation of discipline. (1) A request for disciplinary action must be referred to the official designated by the president as responsible for college discipline. The request must be made within ten days of the discovery of the facts and must be made in writing and signed by the individual making the request.

(2) If in the opinion of the college discipline official the accused student's presence on campus represents a threat of danger or disruption, the student may be placed on suspension pending the commencement of disciplinary action.

(3) The student accused will be called for an informal meeting with the college discipline official and will be informed of the charges which have been made and the range of possible penalties should the student be judged guilty of having violated college regulations.

(4) After considering all evidence in the case, the discipline officer may take any of the following actions:

(a) Terminate the proceeding, exonerating the accused;

(b) Dismiss the case after whatever counseling and advice may be appropriate;

(c) Impose minor sanctions directly, including verbal warning, reprimand, or such sanctions as the student may agree to in writing, such as community service or restitution;

(d) Impose the formal sanctions of probation, limited dismissal, or expulsion. All formal sanctions will be subject to the student's right of appeal as set forth in the following procedures.

(5) The discipline officer shall inform both the person(s) making the accusation and the accused student of the disposition of the accusation. If the discipline includes formal sanctions, the decision will be rendered in writing and a copy will be provided to the office of the college president.

NEW SECTION

WAC 132A-120-036 Appeals. A student may appeal any decision which imposes the sanctions of probation, suspension, or expulsion. Such appeals shall meet the following conditions:

(1) All appeals must be in writing and must be filed with the office of the college president not later than ten days from the date on which the student was notified of the disciplinary action. Appeals must clearly state either errors in fact or matters of extenuation or mitigation which justify the appeal.

(2) Initial appeals of decisions rendered by the college discipline officer shall be made to the college discipline committee, which shall be composed of three college faculty members appointed by the college president and three full-time students appointed by the associated student president.

(3) A final appeal to the president of the college may be made from a decision of the discipline committee. The president shall review the record of the proceedings which gave rise to the appeal, as well as the recommendation of the college discipline officer and the records of the discipline committee. The president's decision shall be final.

NEW SECTION

WAC 132A-120-041 Hearing of appeals. (1) The discipline committee will hear all cases in which a student has appealed the decision of the college discipline officer imposing sanctions of suspension, termination of college residence, limited dismissal, or expulsion.

(2) When notified of an appeal, the committee shall meet to select a chairperson and establish a hearing date for the appeal not later than fourteen days from the date the appeal was filed with the office of the president.

(3) The student has a right to a fair and impartial hearing.

(a) If any member of the committee is unable to render a fair and impartial decision for any reason, including conflict

of interest or conscience, that member shall abstain from considering the issues.

(b) The student will be notified in writing, by personal service or by certified mail, of the time and place of the hearing. Such notice, to be provided not less than ten calendar days in advance of the hearing, shall include:

(i) A statement of the time, place and nature of the hearing;

(ii) A statement of the specific charges which will be considered;

(iii) To the extent known, a list of the witnesses who will appear, and a summary of the documentary or physical evidence which will be presented by the college.

(c) The student may request that a hearing date be advanced or that the hearing be continued for good cause. The discipline committee chair shall be authorized to alter the hearing date.

(d) The student shall be entitled to hear and examine the evidence against him or her and be informed of the identity of the source.

(e) The student shall be entitled to representation by the counsel of his or her choice at the hearing. If the student elects to choose as counsel an attorney licensed to practice in the state of Washington, the student shall notify the office of the college president of that choice at least five working days prior to the hearing.

(f) The student shall be allowed to present evidence on his or her own behalf and cross-examine witnesses testifying on behalf of the college as to the accuracy of their testimony.

(g) The hearing shall be closed unless the student specifically requests an open hearing. In a closed hearing, participants, excluding those admitted for the purpose of presenting evidence, shall be limited to: Members of the discipline committee and a single person chosen to record the proceedings; the student and counsel, not to exceed three persons in total; and the college authorities presenting the case and counsel, not to exceed three persons in total. If at any time during a closed or open hearing, there should be a disruption of the proceeding, the chairperson of the discipline committee may exclude from the hearing the person or persons causing the disruption.

(4) In all disciplinary proceedings, a college official shall be appointed to present the case of the college against the student accused of violating the rules of conduct. In cases in which the student elects to be represented by a licensed attorney, the college may elect to be represented by an assistant attorney general.

(5) An audio recording shall be made of any disciplinary hearing. In addition, the chair of the discipline committee may select either a member of the committee or an additional person to take notes during the hearing and prepare a record of the hearing. The record of the hearing shall consist of all documents presented, all evidence received and considered, all testimony offered, a statement of matters officially noted, questions and offers of proof, objections, and rulings made thereon and during the course of the hearing.

(6) All records of college disciplinary proceedings shall be maintained in the office of the college president during the disciplinary proceedings, and shall be available during that time only to the discipline committee, the student and his or

her attorney, and other college officials designated by the president. After the conclusion of the proceeding, access to records of the proceeding will be limited to those records designated by the president.

(7) Only the evidence presented at a disciplinary hearing will be considered in determining whether the accused student has violated the rules as charged. The chair, with the consent of the committee, shall exclude evidence which is incompetent, irrelevant, immaterial, or unduly repetitive. Evidence or testimony to be offered on behalf of the student as extenuation or mitigation shall be presented only after substantive and factual evidence has been presented.

(8) At the conclusion of the hearing, the discipline committee shall meet in closed session to consider all information presented and shall decide by majority vote whether to uphold the decision of the college discipline official or to recommend any of the following actions:

(a) That the college terminate proceedings and exonerate the student;

(b) That the college impose any of the disciplinary sanctions defined in WAC 132A-120-026.

(9) Within seven calendar days of the hearing's conclusion, the discipline committee shall provide its recommendations to the college president. A copy of the committee's findings of fact and its recommendations will be made available to the student. The student will be advised of his or her right to present within ten days a written statement to the president of the college appealing the recommendations of the committee.

(10) Any student may appeal the findings of the discipline committee by providing a written appeal to the president of the college. The president shall then review the written record of evidence provided at the discipline committee's hearing, as well as the recommendations offered. During the review the president may, but is not required to, suspend any recommended disciplinary action. At the conclusion of the president's review, a statement of findings will be issued. The student will either be exonerated or sanctions will be imposed. The president's review shall be final.

NEW SECTION

WAC 132A-120-046 Summary suspension and appeals. (1) Except in extraordinary cases disciplinary sanctions will be imposed only after the college discipline officer has conducted an interview with the student and the student has exercised or declined to exercise the right of appeal. Extraordinary circumstances will be considered to exist when the college discipline officer has cause to believe that the student has committed a felony or has violated one of the regulations defined in this policy and presents an imminent danger to himself or herself, other persons on the college campus, or the educational process.

(2) In such cases, the college discipline officer shall attempt to notify the student personally and shall send notice by certified mail at the student's last known address that the student is summarily suspended. The notice shall state the charges against the student, refer to the regulations alleged to have been violated, and summon the student to a meeting

PROPOSED

with the discipline officer at a time as early as possible following the suspension.

(3) If after meeting with the student, the college discipline officer determines that:

(a) There is probable cause to believe the student did commit one or more of the violations alleged;

(b) The alleged violations would be sufficient grounds for disciplinary action; and

(c) That summary suspension is necessary for the safety of the student, other students or persons on college facilities, or the educational processes of the institution, the college discipline officer shall continue the summary suspension. In this event the student will be notified within three days by personal service or by certified mail sent to the student's last known address. Notification shall include:

(i) The findings of fact and the conclusion which led to the continued summary suspension.

(ii) The duration of the suspension or the nature of additional disciplinary action.

(iii) The conditions under which the suspension can be terminated.

(4) Failure of the student to attend or participate in a meeting with the discipline officer shall not limit the college's ability to extend or enforce a summary suspension.

(5) The student retains the right to appeal from the discipline officer's decision to continue a summary suspension. Appeal may be made to the college discipline committee, provided that:

(a) The student has met with the discipline officer;

(b) The student has been officially notified of the outcome of that meeting;

(c) Summary suspension or another disciplinary sanction has been upheld; and

(d) The appeal is made in accordance with administrative procedure 501.03.

(6) The college discipline committee, in accordance with procedure 501.04, will conduct a hearing within five days to consider an appeal from summary suspension. The discipline committee shall render its recommendation(s) to the college president within three days of its hearing.

(7) The president shall consider the recommendations of the discipline committee and shall issue a final decision within three days.

NEW SECTION

WAC 132A-120-051 Student grievances. If a student believes he or she has been unfairly treated by a college administrator, faculty member, or staff member, the student may pursue resolution of the grievance either informally or formally. To be considered valid, a grievance must be initiated within three weeks of the event giving rise to the grievance. The procedures outlined below are to be used, except that:

(1) Grievances may not be filed based on the outcome of summary or other disciplinary proceedings already described in earlier sections of this policy; and

(2) A grievance may not be filed in protest against federal or state laws, or against policies, regulations, or proce-

dures adopted by the state community and technical college board or by the trustees of Peninsula College.

NEW SECTION

WAC 132A-120-056 Informal grievance procedures.

(1) A student wishing to pursue informal resolution of a grievance may contact the officer designated by the college president as ombudsman. The ombudsman may advise the grievant of possible courses of action, or may attempt to mediate or gain the satisfaction of all parties to the grievance.

(2) A student may instead choose an alternative informal grievance procedure, in which case the student shall: Contact the college employee with whom he or she has a grievance and attempt to resolve the matter through direct discussion. If such discussion does not resolve the issue, the student shall: Contact the employee's immediate supervisor, who shall serve as mediator and attempt to resolve the issue promptly and fairly. If a resolution is not reached in this manner, it shall be the responsibility of the immediate supervisor to forward the complaint to the college administrator who provides general supervision of the employee. This administrator will investigate the complaint, and will, within one week, determine how best to resolve the grievance and will provide a written opinion to all parties.

(3) Informal grievance procedures must be completed within three weeks, unless all parties agree to an extended process.

NEW SECTION

WAC 132A-120-061 Formal grievance procedures.

(1) If a grievance cannot be resolved through informal processes, the student may petition for formal grievance procedures by presenting to the college ombudsman within five days of the conclusion of informal procedures a written request for a formal hearing of the grievance. At the time of the presentation of the petition, the student and the ombudsman will establish whether the student wishes to be assisted by counsel, provided that if the student will be represented by an attorney, the college may be represented by an assistant attorney general.

(2) Members of the college discipline committee will hear the grievance. Three additional members chosen by classified employees will be added to the discipline committee, which will then elect its own chairperson. Each member of the grievance committee shall be provided with a copy of the written request for hearing.

(a) The committee shall meet within seven days of receiving the statement and shall be free to call witnesses and receive testimony that allows them to reach a fair and prompt resolution of the grievance.

(b) The committee meeting shall be closed unless all parties to the grievance agree that it shall be public.

(c) Records of the hearing will be maintained, although it is intended that the hearing will be informal and informational.

(d) The grievant may withdraw the grievance at any point in the process by requesting termination in writing. Failure of the grievant or appellant to appear at any hearing

without prior arrangement will be considered a withdrawal of the grievance or appeal.

(e) Within three days of the conclusion of the hearing, the committee shall issue a written recommendation, which shall be provided to all parties to the grievance. Additionally, the recommendation will be provided to the dean responsible for ultimate supervision of the employee involved. Within three working days the dean shall accept, modify, or reject the recommendations of the hearing committee and shall notify parties of the decision.

(3) If the student remains unsatisfied with the decision, he or she may request a review of the decision by the president of the college. Such a request shall be in writing and made within five working days of the recommendation. The president will review the record of the hearing committee, the decision of the dean, and the appeal of the grievant, and will render a final decision on behalf of the college.

NEW SECTION

WAC 132A-122-011 Policy. If any student or former student is indebted to the institution for an outstanding overdue debt, the institution need not provide services of any kind to such individual, including, but not limited to, conferring degrees and transmitting files, records, transcripts or other services which have been requested by such person.

NEW SECTION

WAC 132A-122-021 Withholding services for outstanding debts. Upon receipt of a request for services where there is an outstanding debt due the institution from the requesting person, the institution shall notify the person in writing by certified mail to the last known address, that the services will not be provided since there is an outstanding debt due the institution, and further that until that debt is satisfied, no such services will be provided to the individual.

Notification that services will be withheld shall also inform the individual that he or she has a right to a hearing before a person designated by the president of the institution if he or she believes that no debt is owed. Notification shall also indicate that the request for the hearing must be made within fifteen days from the date such notice is received. Upon receipt of a timely request for a hearing, the person designated by the president shall have the records and files of the institution available for review and, at that time, shall hold a brief adjudicative proceeding concerning whether the individual owes or owed any outstanding debts to the institution. After the brief adjudicative proceeding, an order shall be entered by the president's designee indicating whether the institution is correct in withholding services and/or applying off set for outstanding debt. If the outstanding debt is owed by the individual involved, no further services shall be provided. Notification of the decision shall be sent to the individual within ten days after the hearing. This hearing shall constitute a brief adjudicative proceeding in accordance with RCW 34.05.482 through 34.05.494.

Chapter 132A-130 WAC

TUITION AND FEE SCHEDULE

NEW SECTION

WAC 132A-130-010 Tuition and fee schedules. Chapter 28B.15 RCW sets the parameters for tuition and fee levels at state community colleges. The legislature establishes the tuition and fee rates each biennium. The tuition and fee rates charged by Peninsula College are based on this legislation. The specific amounts to be charged are transmitted to Peninsula College by the state board for community college education.

NEW SECTION

WAC 132A-130-020 Location of schedules. Additional and detailed information and specific amounts to be charged for each category of students will be found in the class schedule and at the following locations on the Peninsula campus:

- (1) The office of admissions;
- (2) The registration and records office;
- (3) The controller's office;
- (4) The continuing education office;
- (5) The financial aid office.

NEW SECTION

WAC 132A-130-030 Tuition and fee waivers. (1) Peninsula may periodically establish tuition and fee waivers as authorized by state law and by the state board for community and technical colleges. This will be done in accordance with chapter 131-28 WAC and under regular college fiscal processes. Information regarding specific waivers will be available as provided in WAC 132A-130-020.

(2) Upon an applicant's request, individual determinations on tuition and fee waivers will be reviewed by the college (registrar), in a brief adjudicative proceeding under RCW 34.05.482 through 34.05.494.

Chapter 132A-131 WAC

SCHOLARSHIPS AND FINANCIAL AID

NEW SECTION

WAC 132A-131-010 Scholarships. Detailed information concerning the criteria, eligibility, procedures for application and other information regarding scholarships may be obtained from the following address: Peninsula College, Attention: Scholarships, 1502 E. Lauridsen Blvd., Port Angeles, WA 98362.

NEW SECTION

WAC 132A-131-020 Financial aid. Federal, state, and private financial aid applications and information may be obtained from the following address: Peninsula College,

PROPOSED

Attention: Financial Aid, 1502 E. Lauridsen Blvd., Port Angeles, WA 98362.

Award of federal and state aid will be made in accordance with applicable federal and state laws and regulations.

Chapter 132A-133 WAC

ORGANIZATION

NEW SECTION

WAC 132A-133-020 Organization—Operation—Information. (1) Organization. Peninsula College, Community College District No. 1, is established in Title 28B RCW as a public institution of higher education. The institution is governed by a five-member board of trustees appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(2) Operation. The administrative office is located at the following address:

1502 E. Lauridsen Boulevard
Port Angeles, WA 98362

Customary office hours are 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(3) Information. Additional and detailed information concerning educational offerings may be obtained from the college catalog, copies of which are available at the following address:

1502 E. Lauridsen Boulevard
Port Angeles, WA 98362

Chapter 132A-140 WAC

USE OF COLLEGE FACILITIES(~~(—BUSINESS)~~)

NEW SECTION

WAC 132A-140-001 Use of college facilities. Community College District No. 1 serves Clallam and east Jefferson counties by providing continued educational opportunities for their citizens. In keeping with this general purpose, the college offers its facilities for a variety of uses of benefit to the general public, provided that such uses do not interfere with the educational mission of the college. However, as a state agency, Peninsula College is under no obligation to make its public facilities available for private purposes.

NEW SECTION

WAC 132A-140-006 Distribution of material on campus. (1) The college reserves the right to control and regulate the distribution of materials which might interfere with the college's educational mission.

(2) Off-campus and nonstudent groups or individuals must register with and obtain the approval of the director of student activities before distributing handbills, leaflets, or similar materials.

(3) Such materials must identify the publishing agency and distributing organization or individual.

NEW SECTION

WAC 132A-140-011 Use of facilities. (1) The buildings, properties, and facilities of the college, including those assigned to student programs, may be used for:

(a) The regularly established teaching, research, or public service activities of the college and its departments or related agencies.

(b) Cultural, educational, or recreational activities of the students, faculty, or staff.

(c) Short courses, conferences, seminars, or similar events conducted either in the public service or for the advancement of specific departmental professional interests when arranged under the sponsorship of the college or its departments.

(d) Public events of a cultural or professional nature, brought to the campus at the request of college departments or committees and presented with their active participation.

(e) Activities or programs sponsored by educational institutions, by state or federal agencies, by charitable agencies or civic or community organizations whose activities are of widespread public service and of a character appropriate to the college.

(2) Primary consideration shall be given at all times to activities specifically related to the mission of the college, and no arrangements shall be made that may interfere with or operate to the detriment of the teaching, research, or public service programs.

(3) College facilities may not be used for commercial solicitation, advertising, or promotional activities unless such activities serve educational objectives and/or further the mission of the college.

(4) Activities of a commercial or partisan political nature will not be approved if they involve the use of promotional signs or posters on buildings, trees, walls, or bulletin boards or the distribution of samples outside rooms or facilities to which access may be granted.

(5) Use of exterior audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of college affairs as determined by the college.

(6) The facilities of the college are available to recognized student groups subject to these general policies.

(7) The college reserves the right to establish administrative procedures, including rental fees, for the use of college facilities. Further information about the use of college facilities is available from the Director of Student Activities, Peninsula College, 1502 E. Lauridsen Boulevard, Port Angeles, WA 98362.

NEW SECTION

WAC 132A-140-016 Administrative control. The board hereby delegates to the president the authority to set up administrative procedures for proper review of the use of district facilities; to establish, within the framework of these pol-

icies, regulation governing such use; and to establish rental schedules where appropriate.

NEW SECTION

WAC 132A-140-021 Liability. Permission to use district and college facilities will be granted to an off-campus organization only under the express understanding and condition that such off-campus organization assumes full responsibility for any loss or damage resulting from such use and agrees to hold harmless and indemnify the district for any loss or damage or claims arising out of such use and agrees that in its use of facilities it will uphold the policies of Peninsula College and the laws of the state of Washington.

NEW SECTION

WAC 132A-140-026 Use of tobacco on campus. Smoking of tobacco or any other substance, either legal or illegal, is prohibited in all campus areas, including campus buildings, walkways, and doorways, except in designated smoking areas. This regulation shall apply to all individuals entering the campus grounds, whether as student, employee, or visitor. Except under circumstances where smoking may be allowed in individual rooms, this regulation shall also apply to the residence hall.

NEW SECTION

WAC 132A-140-030 Trespass. (1) Individuals who are not students or members of the faculty or staff and who violate these regulations will be advised of the specific nature of the violation, and if they persist in the violation, they will be requested by the president, or designee, to leave the college property. Such a request prohibits the entry of, and withdraws the license or privilege to enter onto or remain upon, any portion of the college facilities by the person or group of persons requested to leave. Such persons shall be subject to arrest for criminal trespass.

(2) Members of the college community (students, faculty, and staff) who do not comply with college regulations will be reported to the appropriate college office or agency for action in accord with established college policies.

(3) Persons who violate a district policy may have their license or privilege to be on district property revoked and be ordered to withdraw from and refrain from entering upon any district property.

Chapter 132A-150 WAC

HEALTH AND SAFETY

NEW SECTION

WAC 132A-150-010 Animals on campus. With the exception of trained guide dogs, animals are not allowed in public areas of buildings or in areas shared by staff. Any animal on college property must be attended and on a leash at all times. Animals may not be tied up and left unattended. Animals found locked in vehicles on college property will be

reported to the animal control authority. Violators are subject to institutional discipline and/or dismissal from campus.

NEW SECTION

WAC 132A-150-020 Firearms, explosives, and dangerous chemicals restrictions. No person shall have in his or her possession on college owned or leased property any guns (including shotguns, rifles, pistols, air guns and pellet guns), firearms, explosives, dangerous chemicals, or other dangerous weapons or instruments. Violation is grounds for disciplinary and/or legal action. Excepted are as follows:

(1) Authorized law enforcement officers carrying guns while engaged in regular duties;

(2) Activities requiring the use of prohibited items, subject to the president's approval.

NEW SECTION

WAC 132A-156-006 Applications. Application information for the residence hall can be obtained from the Residence Hall Manager, Peninsula College, 1502 E. Lauridsen Boulevard, Port Angeles, WA 98362, or in person at the residence hall.

NEW SECTION

WAC 132A-156-011 Fees. Resident fees are set each year by the board of trustees. Current fee schedules may be obtained from the residence hall manager.

NEW SECTION

WAC 132A-156-016 Discipline. Guides for residence hall conduct may be obtained from the residence hall manager and will be given to the student upon occupancy. All violations of this guide will be referred to the residence hall manager and will be handled in accordance with the guide.

NEW SECTION

WAC 132A-160-006 Peninsula College policy regarding admission and registration regulations and procedures. Admission and registration regulations and procedures for students wishing to attend Peninsula College are published in the college catalog. Copies of the catalog are available in the registration office. Questions and inquiries about regulations and procedures should be directed to the appropriate administrator.

NEW SECTION

WAC 132A-168-006 Purpose of the library. Peninsula College serves the information needs of students, faculty, staff, and the community in an environment which nurtures learning and fosters freedom of intellectual activity; the access, retrieval, management, application, and distribution of information are central to the college mission.

PROPOSED

NEW SECTION

WAC 132A-168-011 Materials selection. Information resources are acquired according to the principles and practices embodied in the Library/Media Center's *Collection Development and Materials Selection Policy*. Copies of this policy may be requested at the Library/Media Center.

NEW SECTION

WAC 132A-168-016 Hours. Library/Media Center hours are posted on the exterior of the John D. Glann library building and published annually in the student handbook. Any changes to regularly scheduled hours are posted and announced in advance.

NEW SECTION

WAC 132A-168-021 Circulation. The circulating collection is generally comprised of print resources, including, but not limited to, books, periodicals, catalogs, and vertical file materials. Noncirculating materials include reference resources and multimedia programs.

Loan time periods are based upon average demand and a reasonable turn-around time within the academic quarter. The loan time schedule is available upon request.

Circulation policies and practices are periodically revised to meet changing circumstances and are available upon request.

NEW SECTION

WAC 132A-168-026 Charges. Charges are levied for lost library materials based upon the cost of replacement plus an ordering and processing fee. Replacement costs for items no longer in print, or otherwise unavailable, are based upon the average cost of similar resources plus an ordering and processing fee.

NEW SECTION

WAC 132A-176-006 Environmental policy. It shall be the policy of Community College District No. 1 that capital projects proposed and developed by the district shall comply with the provisions of chapter 43.21C RCW, the State Environmental Policy Act (SEPA); chapter 197-10 WAC, guidelines for SEPA implementation; and WAC 131-24-030, SEPA implementation rules of the state board for community and technical college education; and comply with WAC 197-10-820 as presently enacted or hereafter amended. The district president or an administrative officer designated by the district president shall be the "responsible officer" for carrying out this policy.

NEW SECTION

WAC 132A-276-031 Public records officer. The district's public records shall be in the charge of the public records officer designated by the college president and located on the main college campus. The public records officer shall be responsible for implementing the district's

rules and regulations regarding release of public records, coordinating the staff of the district in this regard, and insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

AMENDATORY SECTION (Amending Order 3, filed 12/8/76)

WAC 132A-276-045 Copying. No fee shall be charged for the inspection of public records. The district (~~shall charge a fee of 10¢ per page of copy for providing copies of public records and for use of the district's copy equipment. This charge is the amount necessary to reimburse the district for its actual costs incident to such copying. If a particular request for copies requires an unusually large amount of time, or the use of any equipment not readily available, the district will provide copies at a rate sufficient to cover any additional cost~~) may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records; such charges shall not exceed the amount necessary to reimburse the district for its actual costs incident to such copying. All fees must be paid by money order, credit card, cashier's check, or cash in advance.

NEW SECTION

WAC 132A-280-006 Purpose. The purpose of this student records policy is to establish rules and procedures that appropriately implement the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. § 1232g). Peninsula College is committed to safeguarding appropriate access to student educational records as well as to maintaining individual student privacy.

(1) Generally, students have the right to review and copy their education records. Students also have the right to challenge the content of, the release of, or denial of access to, their educational records.

(2) The college normally will not permit access to or release of the student's education records to the public without authorization by the student, though some exceptions exist. Please see below for a complete description of the policy.

(3) The college may release directory information concerning a student unless the student requests in writing that directory information not be released.

NEW SECTION

WAC 132A-280-011 Definitions. For purposes of this chapter, the following terms shall have the indicated meanings:

(1) "Student" shall mean any person who is, or has been officially registered at, and is or has been attending Peninsula College and with respect to whom the college maintains education records or personally identifiable information.

(2) "Education records" shall refer to:

(a) Records, files, documents, and other materials maintained by Peninsula College or by a person acting for Penin-

sula College containing information directly related to a student;

(b) Records relating to an individual in attendance at the college who is employed as a result of his or her status as a student. However, records made and maintained by the college in the normal course of business which relate exclusively to a person's capacity as an employee are not education records.

(3) The term "education records" does not include the following:

(a) Records of instructional, supervisory, or administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.

(b) Records of the college's department of safety and security, maintained solely for law enforcement purposes, disclosed only to law enforcement officials, and maintained separately from education records in subsection (2) of this section, but only if said law enforcement personnel do not have access to the records under WAC 132A-280-065; or

(c) Records concerning a student created or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, and which are created, maintained, or used only in connection with the provision of treatment to the student and are not available to anyone other than persons providing such treatment. However, such records may be personally reviewed by a physician or other appropriate professional of the student's choice.

(4) "Personally identifiable information" shall refer to data or information which includes either:

(a) The name of a student, the student's parent, or other family member;

(b) The address of the student;

(c) The address of the student's family;

(d) A personal identifier, such as the student's Social Security number or student number;

(e) A list of personal characteristics which would make it possible to identify the student with reasonable certainty; or

(f) Other information which would make it possible to identify the student with reasonable certainty.

(5) "Registration director" shall refer to the dean of enrollment and student services.

NEW SECTION

WAC 132A-280-016 Direction to college offices retaining student education records. All college individuals or offices having custody of education records shall develop procedures in accordance with WAC 132A-280-026 through 132A-280-085. Any supplementary regulations found necessary by departments shall be filed with the college's records committee, which shall be responsible for periodic review of policy and procedures.

(1) Disciplinary records shall be kept separate from academic records, and transcripts and a student's academic record shall contain no notation of any disciplinary action. Special precautions shall be exercised to ensure that informa-

tion from disciplinary or counseling files is not revealed to unauthorized persons. Provision shall be made for periodic review and routine destruction of inactive disciplinary records by offices maintaining such records.

(2) No records shall be kept that reflect a student's political or ideological beliefs or association.

NEW SECTION

WAC 132A-280-021 Access to education records. (1) Except as provided in WAC 132A-280-026, students at Peninsula College shall have access to their education records. The right of access shall include the right to inspect, review, and obtain copies of education records.

(2) The director of registration shall prepare and maintain a list of the types of student education records maintained by Peninsula College.

(3) Students wishing access to their education records shall submit a written request for access to the director of registration. A request for access shall be acted upon by the director of registration within a reasonable period of time, not to exceed ten days.

(4) The director of registration shall provide students of the college with a reasonable opportunity to access education records, provided that the director of registration shall be responsible for taking appropriate measures to safeguard and ensure the security and privacy of the institution's records being inspected by students.

(5) The director of registration will inform in writing students who have requested access to their education records of the nature of any records which are being withheld from the student on the basis of exceptions set forth in WAC 132A-280-065 and 132A-280-070. A student may challenge a decision by the director of registration to withhold certain of the student's records by filing an appeal with the grievance review committee, WAC 132A-280-050.

(6) Where requested records or data include information on more than one student, the requesting student shall be entitled to receive or be informed of only that part of the record or data that pertains to him or herself.

(7) Students have the right to obtain copies of their education records. Charges for the copies shall not exceed the cost normally charged by the college (except in cases where charges have previously been approved by the board of trustees for certain specified services, such as transcripts and grade sheets).

(8) This section shall not prohibit the college from providing a student with a copy of the student's academic transcript without prior clearance from the director of registration.

NEW SECTION

WAC 132A-280-026 Access to education records—Limitations on access. (1) Peninsula College shall not make available to a student the following types of materials:

(a) The financial records of the student's parents or any information contained therein.

(b) Letters or statements of recommendation, evaluations, or comments provided to the college in express or

PROPOSED

implied confidence prior to January 1, 1975, provided that such letters or statements shall not be used for purposes other than those for which they were originally intended.

(c) If a student has signed a waiver of his or her right of access in accordance with subsection (2) of this section, confidential records relating to the following:

- (i) Admission to any educational agency or institution;
- (ii) An application for employment; or
- (iii) The receipt of an honor or honorary recognition.

(2) Students and other people applying for admission to the college may waive their right of access to the type of confidential records referred to in subsection(1)(c) of this section. Such waiver shall apply only if the student is, upon request, notified of the names of all persons making confidential recommendations, and such recommendations are used solely for the specific purpose for which the waiver has been granted. The college is not allowed to require such waivers as a condition for admissions, receipt of financial aid, or receipt of other services or benefits from the college.

(3) If any material or document in the education record of a student includes information concerning more than one student, the student shall only have the right either to inspect and review that portion of the material or document which relates to him or herself or to be informed of the specific information contained in that portion of the material or document.

NEW SECTION

WAC 132A-280-031 Right to copy education records. (1) The director of registration shall, at the request of a student, provide the student with copies of the student's education records. The fees for providing such copies shall not exceed the actual cost to the college of providing the copies.

(2) The college shall not provide to students official copies of transcripts from other educational institutions, such as high school or other college transcripts.

NEW SECTION

WAC 132A-280-035 Request for explanation or interpretation of record. The director of registration shall respond to reasonable requests for explanation or interpretation of the contents of student education records.

NEW SECTION

WAC 132A-280-040 Challenges—To content of education records, release of education records, or denial of access to education records. (1) Students who believe that inaccurate, misleading, or otherwise inappropriate data is contained within their education records shall be permitted to have included within the records a written explanation by the student concerning the content of the records.

(2) A student shall have the right, in accordance with the procedures set forth in WAC 132A-280-045 and 132A-280-050, to:

(a) Challenge the content of education records in order to ensure that the records are not inaccurate, misleading, or otherwise

in violation of the privacy or other rights of the students;

(b) Have the opportunity to correct or delete inaccurate, misleading, or otherwise inappropriate data contained within education records;

(c) Challenge the release of education records to specific persons as contrary to the provisions of this chapter; and

(d) Challenge a decision by the college to deny the student access to particular types of records.

(3) A student shall not be permitted under this chapter to challenge the validity of grades given in academic courses, except on the grounds that, as a result of clerical error, the student's record fails to accurately reflect the grade actually assigned by an instructor.

NEW SECTION

WAC 132A-280-045 Challenges—Informal proceedings. A student wishing to exercise the rights set forth in WAC 132A-280-040(2) shall first discuss with the director of registration the nature of the corrective action sought by the student. Failing resolution, the student may seek formal corrective action under WAC 132A-280-050.

NEW SECTION

WAC 132A-280-050 Challenges—Hearing before grievance review committee. (1) If informal proceedings fail to resolve the complaint of a student, the student may file with the director of registration a written request for a hearing before the grievance review committee of the college.

(2) Within a reasonable time after submission of a request for hearing, the grievance review committee shall conduct a hearing concerning the student's request for corrective action. The student and the college shall be given a full opportunity to present relevant evidence at the hearing before the student rights and responsibilities committee.

(3) If a student demonstrates that his or her education records are inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the student rights and responsibilities committee shall have authority to order the correction or deletion of inaccurate, misleading, or otherwise inappropriate data contained in the records.

(4) If a student demonstrates that the release of his or her education records would be improper under this chapter, the student rights and responsibilities committee shall have authority to order that the records not be released.

(5) If a student demonstrates that he or she is entitled to access particular documents under this chapter, the student rights and responsibilities committee shall have authority to order that the student be permitted access to the records.

(6) The decision of the student rights and responsibilities committee shall be rendered in writing within a reasonable period of time after the conclusion of the hearing.

NEW SECTION

WAC 132A-280-055 Release of personally identifiable information or education records. The college shall not permit access to or release of a student's education

records or personally identifiable information contained therein to any person without the written consent of the student, except as provided in WAC 132A-280-065, 132A-280-070, or 132A-280-075.

NEW SECTION

WAC 132A-280-060 Release of personally identifiable information or education records—Nature of consent required. Where the consent of a student is required under WAC 132A-280-055 for the release of education records or personally identifiable materials contained therein, the student's consent shall be in writing, shall be signed and dated by the student, and shall include a specification of the records to be released, the reasons for such release, and the names of the parties to whom the records may be released.

NEW SECTION

WAC 132A-280-065 Release of personally identifiable information or education records—Exceptions to consent requirement. (1) The college may permit access to or release of a student's education records or personally identifiable information contained therein to the following parties without the written consent of the student:

(a) College officials, including faculty members, when the information is required for a legitimate educational purpose within the scope of the recipient's official responsibilities with the college and will be used only in connection with the performance of those responsibilities;

(b) Federal or state officials requiring access to education records in connection with the audit or evaluation of federally or state-supported educational programs or in connection with the enforcement of federal or state legal requirements relating to such programs. In such cases, the information required shall be protected by the federal or state officials in a manner which shall not permit the personal identification of students or their parents to other than those officials. Such personally identifiable data shall be destroyed when no longer needed for the purposes for which it was provided;

(c) Agencies or organizations requesting information in connection with a student's application for, or receipt of, financial aid;

(d) Organizations conducting studies for or on behalf of the college for purposes of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, if such studies are conducted in a manner which will not permit the personal identification of students by persons other than representatives of such organizations. The information shall be destroyed when no longer needed for the purposes for which it was provided;

(e) Accrediting organizations in order to carry out their accrediting functions;

(f) Any person or entity authorized by judicial order or lawfully issued subpoena to receive such records or information, upon condition that the student is notified of all such orders or subpoenas in advance of compliance therewith by the college. Any college employee or official receiving a subpoena or judicial order for education records or personally

identifiable information contained therein shall immediately notify the assistant attorney general representing the college;

(g) An alleged victim of any crime of violence (as defined in 18 U.S.C. § 16), so long as the information disclosed is the result of a disciplinary proceeding for the crime conducted by the college against the alleged perpetrator.

(2) Release to third parties, with or without the student's consent, of education records of a student, or personally identifiable information contained therein, shall be conditioned upon a written agreement indicating that the information cannot subsequently be released in a personally identifiable form to any other party without the written consent of the student involved.

(3) The college shall maintain a record, kept with the education records of each student, indicating all parties, other than those parties specified in subsection (1)(a) of this section, who have requested or obtained access to the student's education records, and indicating the legitimate interest that each such party has in obtaining the records or information contained therein. This record of access shall be available only to the student, to the employees of the college responsible for maintaining the records, and to the parties identified under subsection (1)(a) and (c) of this section.

NEW SECTION

WAC 132A-280-070 Release of information in emergencies. (1) The director of registration or that person's designee may, without the consent of a student, release the student's education records or personally identifiable information contained therein to appropriate parties in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

(2) The following factors should be taken into consideration in determining whether records may be released under this section:

(a) The seriousness of the threat to the health or safety of the student or other persons;

(b) The need for personally identifiable information concerning the student to meet the emergency;

(c) Whether the parties to whom the records or information are released are in a position to deal with the emergency; and

(d) The extent to which time is of the essence in dealing with the emergency.

(3) If the college, pursuant to subsection (1) of this section, releases personally identifiable information concerning a student without the student's consent, the college shall notify the student as soon as possible of the identity of the parties to whom the records or information have been released and of the reasons for the release.

NEW SECTION

WAC 132A-280-075 Directory information. (1) The college may release "directory information" concerning a student to the public unless the student requests in writing of the director of registration that the student's directory informa-

PROPOSED

tion not be released except as provided in WAC 132A-280-055, 132A-280-065, or 132A-280-070.

(2) Peninsula College has designated the following items as directory information: Student name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, most recent previous school attended, and photograph.

NEW SECTION

WAC 132A-280-080 Destruction of student records. Except as otherwise provided by law, the college shall not be prevented under this chapter from destroying all or any portion of a student's education records in accordance with established records retention schedules, provided that no education record to which a student has requested access shall be removed or destroyed by the college prior to providing the student with the requested access.

NEW SECTION

WAC 132A-280-085 Notification of rights under this chapter. The college shall annually notify students currently in attendance of their rights under this chapter and the Family Educational Rights and Privacy Act.

The notice shall include a statement of the following student rights:

- (1) To inspect and review his or her education records;
- (2) To request an amendment of the education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
- (3) To allow or deny disclosures of personally identifiable information contained in the student's education records, except to the extent that these regulations and the regulations promulgated pursuant to the Family Educational Rights and Privacy Act allow;
- (4) To file a complaint with the United States Department of Education under 34 C.F.R. 99.64 concerning alleged failures by the college to comply with the requirements of the act;
- (5) To access information concerning the cost to be charged for reproducing copies of students' records; and
- (6) To access a copy of the regulations in this chapter.

The notice shall indicate the places where copies of these regulations are located.

Chapter 132A-320 WAC

LOSS OF ELIGIBILITY—STUDENT ATHLETIC PARTICIPATION

NEW SECTION

WAC 132A-320-010 Grounds for ineligibility. Any student found to have violated chapter 69.41 RCW by virtue of a criminal conviction or otherwise, insofar as it prohibits the possession, use or sale, or furnishing of legend drugs,

including anabolic steroids, will be disqualified from participation in any school-sponsored athletic event or activity.

NEW SECTION

WAC 132A-320-020 Suspension procedure—Right to information hearing. Any student notified of a violation of the above shall have the right to a brief adjudicative hearing if a written request for such a hearing is received by the president or his or her designee within three days of receipt of a declaration of further athletic ineligibility. If timely written request is made, the president or his or her designee shall designate a hearing officer, who shall be a college officer not involved with the athletic program, to conduct the brief adjudicative hearing. The hearing officer shall promptly conduct the hearing and permit affected parties to explain both the college's view of the matter and the student's view of the matter. If no written request is received within three days after receipt of the declaration of athletic ineligibility, the student shall be deemed to have waived any right to a brief adjudicative hearing and will be declared ineligible for further participation in school-sponsored athletic events for the remainder of the school year.

NEW SECTION

WAC 132A-320-030 Decision. The college official who acts as a hearing officer shall issue a written decision which shall include a brief statement of the reasons for the decision and a notice that judicial review may be available. All documents presented, considered or prepared by the hearing officer shall be maintained as the official record of the hearing. A decision must be promptly rendered after the conclusion of the hearing and in no event later than twenty days after the request for hearing is received by the president or his or her designee.

Chapter 132A-350 WAC

GRIEVANCES—DISCRIMINATION

NEW SECTION

WAC 132A-350-015 Peninsula College antidiscrimination policy. (1) **Preamble.** Peninsula College is committed to protecting the rights and dignity of each individual in the campus community and will not tolerate any form of discrimination. All Peninsula College employees and students may report alleged discriminatory behavior without fear of restraint, reprisal, interference, or coercion. No employee's or student's status with the college shall be adversely affected in any way because he or she utilizes the following procedures. Peninsula College's informal and formal grievance procedures are designed to ensure fairness and consistency in the college's relations with its employees and students. Nothing in these procedures shall be construed as abridging the right of an employee or student to allege discrimination in exercising constitutional or statutory rights which may be available.

(2) **Informal review procedures.** Any employee or student is urged to communicate his or her discrimination grievance to the appropriate supervisor. Every effort should be made to resolve the grievance informally within the department. However, should an employee or student feel that he or she is unable to discuss the grievance with the appropriate supervisor, then that employee or student should go to the major administrator for that unit, department, or division to discuss the problem. The employee or student may also wish to exercise his or her rights to pursue an informal resolution, which may include mediation with the assistance of the affirmative action officer.

(3) **Formal review procedures.** The following formal review procedures have been established for those kinds of discrimination problems which remain unsolved after informal review has occurred and when the informal procedure has failed to resolve the conflict to the satisfaction of the parties.

(a) Any employee or student who believes he or she has been discriminated against in connection with a violation of the college's affirmative action policy may, after the informal procedures have failed, file a formal complaint in writing with the college's affirmative action officer, stating the grievance and requesting a remedy. Within five working days of the filing, the affirmative action officer shall serve a copy of the complaint to the respondent and notify the respondent's major administrator. The respondent has five working days in which to respond to the allegations in the complaint in writing and submit the reply to the affirmative action officer. Within five working days of the receipt of the reply, the affirmative action officer shall show the reply to the complainant, and ask both the complainant and respondent if they will mediate the complaint. If so, the affirmative action officer will initiate the mediation within ten working days of receiving the reply, unless availability of the parties involved necessitates an extension.

(b) If the complaint is unresolved after mediation, or if either party refuses to mediate, the affirmative action officer, or a qualified designee shall then investigate the complaint. Depending upon the circumstances, this investigation may include meetings with the employee, the immediate supervisor, the major administrator, and any other person who may be involved. A finding of probable cause or no probable cause shall be given to the employee or student by the affirmative action officer within sixty working days of the filing of the complaint. This time may be extended by mutual agreement between the complainant and the committee.

(c) If the complainant or respondent is not satisfied with the results of the review as indicated above, that person may appeal to the college president. All information regarding the complaint shall be forwarded to the president by the affirmative action officer, and the complainant or respondent may submit any further information desired. The president shall, within ten working days, communicate in writing to the complainant or respondent a decision, with a copy to the affirmative action officer. Again, the time may be extended by mutual agreement. The decision of the president shall be the college's final decision.

NEW SECTION

WAC 132A-350-020 Grievance procedure—Sexual harassment, sex discrimination. (1) **Preamble.** It is the policy of Peninsula College to provide an environment in which employees can work free from sexual harassment and sexual intimidation. Sexual harassment is a form of sex discrimination. As such it is a violation of Title VII of the 1964 Civil Rights Act and Title IX of the 1972 Education Amendments.

(2) **Definitions.** Sexual harassment of an employee is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:

(a) Submission to the conduct is either explicitly or implicitly a term or condition of an individual's education, employment or career advancement; and/or

(b) Submission to or rejection of such conduct by an individual is used as the basis for education or employment decisions or any other decisions affecting that individual; and/or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's education or work or has the effect of creating an intimidating, hostile, or offensive environment.

(3) **Procedure.** A person who believes he or she has experienced gender discrimination or sexual harassment in the college environment may discuss the issue with a gender equity advisor who will help the claimant determine whether to proceed with mediation, formal hearing, or appeal. The advising process shall be designed to promote free discussion between the claimant and the advisor. Every attempt shall be made to protect the privacy of the individuals during the advising process.

(a) **Mediation.** After the advising process the claimant may request mediation among parties involved in his or her grievance. Both parties have the option to bring a support person to the mediation. A mutually agreed upon mediator will be selected from a list of mediators appointed by the president.

(b) **Formal hearing.** Any party may request a formal hearing by submitting a claim on Peninsula College's Complaint/Grievance Form to the affirmative action officer, who shall forward the claim to the sexual harassment investigative team appointed by the president and composed of classified student, faculty, and administrative representatives. At the conclusion of the investigation, the investigative team shall issue a written report which will include recommendations to the claimant, the respondent, and the college president. All parties are entitled to legal representation.

(c) **Appeal.** The claimant and respondent are entitled to file an appeal in writing to the college president within ten working days following receipt of the formal hearing report. Within ten working days after receipt of the written appeal, the college president shall conduct an appeal hearing and report the findings in writing to both the claimant and respondent. The decision of the college president shall be the college's final decision.

PROPOSED

NEW SECTION

WAC 132A-350-030 Disciplinary action. The president may take disciplinary action should the investigative team find discrimination in the form of gender inequity or sexual harassment. Disciplinary action may include, but is not limited to, findings placed in a personnel or student file, suspension, or dismissal.

NEW SECTION

WAC 132A-350-040 Reasonable accommodations/academic adjustment for persons with disabilities. Persons with disabilities have the right to request reasonable accommodations/academic adjustments that:

(1) Are necessary to ensure that employment/academic requirements do not discriminate based on disability or have the effect of discriminating based on disability against a qualified individual; and

(2) Do not impose an undue hardship on the college or require alteration of essential program requirements.

NEW SECTION

WAC 132A-350-045 Definitions. (1) Academic adjustment means modifications to academic requirements as necessary to ensure that such requirements do not discriminate against students with disabilities or have the effect of excluding a student solely on the basis of a disability.

(2) Individual with a disability is a student, employee, applicant, or visitor who has a physical, mental or sensory impairment that substantially limits one or more major life activities, has a record of such an impairment, is perceived to have such an impairment, or has an abnormal condition that is capable of being medically diagnosed.

(3) Reasonable accommodations means modifications or adjustments to academic procedures and job or work environment, policies, or practices that enable qualified individuals with disabilities to enjoy equal opportunities.

NEW SECTION

WAC 132A-350-050 Reasonable accommodations/academic adjustment disputes. The college shall not be mandated to furnish the requested accommodation, but will confer with the requester in an effort to achieve reasonable appropriate accommodations. If an individual believes the special needs coordinator or the counselor for students with disabilities has not identified or provided reasonable accommodations/academic adjustment or auxiliary aids, the individual may seek review of the action by contacting the vice president of educational services for academic adjustments or the vice president of administrative services for reasonable accommodations. The individual shall submit the appeal in writing to the appropriate vice-president. The vice-president shall review the individual's position and respond within five working days. If resolution is not reached, the vice-president will refer the appeal to the college president. The president shall review the dispute and make recommendations in writing for appropriate resolution. The decision of the president shall be the final decision.

WSR 99-10-105
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Economic Services Administration)

[Filed May 5, 1999, 10:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-22-056.

Title of Rule: WAC 388-408-0010 Assistance units for general assistance programs, 388-408-0015 Mandatory TANF and SFA assistance unit members, 388-462-0005 Pregnancy requirements for GA-S, 388-462-0010 Pregnancy requirements for TANF and SFA, and 388-462-0020 Post adoption cash benefit.

Purpose: The purpose in amending, adding and repealing these rules is to make federal TANF funds available to pregnant women and to phase out the general assistance for pregnant women (GA-S) program. Under RCW 74.04.055 and 74.04.057 the state must make available any federal funds for assistance programs. With the passage of Public Law 104-193 there is no longer a requirement under federal law for a pregnant woman with no other eligible child to be in her third trimester to qualify for temporary aid to needy families (TANF).

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

Statute Being Implemented: 42 U.S.C. 608 (a)(1) and RCW 74.04.005(6).

Summary: WAC 388-462-0005 is being repealed. WAC 388-462-0010 is being amended to eliminate the requirement that pregnant women must be in their 3rd trimester and deprivation to exist to be considered eligible for TANF or SFA. WAC 388-462-0020 is a new WAC that describes the criteria for a pregnant woman who relinquishes her only TANF or SFA eligible child for adoption to receive short post-adoption cash benefits. WAC 388-408-0010 is being amended to delete the reference to general assistance for pregnant women (GA-S) and the requirement for a husband and wife to be one assistance unit when the husband is incapacitated and his pregnant wife is not eligible for TANF. WAC 388-408-0015 eliminates reference to 3rd trimester requirement in description of TANF/SFA assistance unit.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dennis Vercillo, LGC, 1009 College Street S.E., Lacey, WA 98503, (360) 413-3093.

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: Eliminate the 3rd trimester and deprivation requirement for pregnant women to qualify for TANF or SFA. Repeal WAC 388-462-0005 and add 388-462-0020.

Proposal Changes the Following Existing Rules: WAC 388-462-0005, repealed.

WAC 388-462-0010, eliminates the requirement that pregnant women must be in their 3rd trimester to be consid-

ered eligible for TANF or SFA. In addition, deprivation is no longer a requirement for pregnant women.

WAC 388-408-0010, deletes reference to general assistance for pregnant women (GA-S) and the requirement for a husband and wife to be one assistance unit when the husband is incapacitated and his pregnant wife is not eligible for TANF.

WAC 388-408-0015, eliminates reference to 3rd trimester requirement in description of TANF/SFA assistance units.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not have an economic impact on small business

RCW 34.05.328 applies to this rule adoption. These rules do meet the definition of a significant legislative rule. However, RCW 34.05.328 (5)(b)(vii) exempts the Department of Social and Health Services rules that apply 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 June 8, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by May 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 June 8, 1999.

Date of Intended Adoption: July 1, 1999.

April 30, 1999

Marie Myerchin-Redifer, Manager
Rules and Policy Assistance Unit

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

WAC 388-462-0010 (~~Pregnancy requirement for TANF and~~) **Temporary assistance for needy families (TANF) or state family assistance (SFA) eligibility for pregnant women.** ((A woman who is not a caretaker relative of a TANF or SFA eligible child may be eligible for TANF or SFA if:))

(1) ~~((She is in the third trimester of pregnancy (the three calendar months preceding the expected month of birth) as medically verified; and))~~ If you are already receiving TANF or SFA benefits, your pregnancy will not change your eligibility or benefit level.

(2) ~~((The unborn, if born and living with the woman in the month of payment, would be deprived of parental support and care as defined in chapter 388-430 WAC))~~ If you are not currently receiving TANF or SFA benefits, you may be eligible for these benefits if your pregnancy and expected date of delivery has been verified by a licensed medical practitioner.

NEW SECTION

WAC 388-462-0020 **Post adoption cash benefit.** (1) Under RCW 74.04.005 (6)(g) recipients of TANF or SFA who lose their eligibility solely because of the birth and relinquishment of the qualifying child may receive general assis-

tance through the end of the month in which the period of six weeks following the birth of the child falls.

(2) The department will consider income and resources when determining eligibility and benefit amount for post adoption cash benefit in the same manner as TANF. Refer to chapters 388-450, 388-470, and 388-488 WAC.

(3) To receive the post adoption cash benefit, a client must have been receiving TANF or SFA in Washington state.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-462-0005 Pregnancy requirement for GA-S.

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

WAC 388-408-0010 Assistance units for general assistance programs. (1) ~~((A GA-S assistance unit includes only the pregnant woman.~~

~~(2))~~ A GA-U assistance unit includes:

(a) An incapacitated adult; or

(b) A married couple if both persons are incapacitated and living together.

~~((3))~~ ~~A married couple living together must be included in a single assistance unit when:~~

~~(a) The husband is incapacitated; and~~

~~(b) The wife is pregnant and not eligible for TANF.~~

~~(4))~~ (2) A GA-H assistance unit includes only the child or children eligible for GA-H.

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

WAC 388-408-0015 (~~Mandatory TANF and SFA~~) **Assistance ((unit members)) units for temporary assistance for needy families (TANF) or state family assistance (SFA).** ~~((1))~~ ~~A TANF assistance unit includes only a woman in her third trimester of pregnancy if there is no other eligible child in the home.~~

~~(2))~~ The department must include in a TANF((,SFA)) or ((combined TANF/SFA))SFA assistance ((unit must include the following)) unit certain persons((,if)) who are living together, unless ((the)) those person(s) must be excluded under WAC 388-408-0020 or ((is)) are excluded at the option of the family under WAC 388-408-0025. An assistance unit for TANF or SFA benefits or combination of TANF and SFA benefits must include the following:

~~((a))~~ (1) The child for whom assistance is requested and:

(a) That child's full, half or adoptive sibling(s);

(b) ~~((Any))~~ The natural or adoptive parent(s) or stepparent ((of any child who is included in the assistance unit)) (s); and

(c) ~~((Any))~~ The parent(s) of a pregnant ((minor)) or parenting minor ((parent)) who claims to be ((the needy care-

~~taker relative of~~) in need and is providing the primary care for the:

- (i) ~~((The)) Pregnant minor ((or minor parent));~~ ;'
 - (ii) ~~((The)) Minor parent;~~
 - (iii) Minor parent's child; or
 - ~~((iii) The pregnant minor or minor parent's)~~
 - (iv) Full, half or adoptive sibling(s) of a pregnant minor or minor parent.
- (2) A pregnant woman if there is no TANF or SFA eligible child in the home.

WSR 99-10-107

PROPOSED RULES

PUBLIC EMPLOYMENT RELATIONS COMMISSION

[Filed May 5, 1999, 10:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-04-013.

Title of Rule: Amendments to chapters 391-08, 391-55, and 391-65 WAC.

Purpose: To improve readability by cross-referencing filing and service requirements; to set forth procedures or grievance mediation services; and to clarify how referrals are made from dispute resolution panel.

Statutory Authority for Adoption: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050.

Statute Being Implemented: WAC 391-08-310 is RCW 2.40.010, 5.56.010 and 34.05.446; WAC 391-08-810 is RCW 28B.52.060, 41.56.070, 41.56.100, 41.56.440, 41.58.020, 41.59.120 and 49.08.010; WAC 391-55-010 is RCW 28B.52.060 and 41.56.100; WAC 391-10-090 is RCW 5.60.072; WAC 391-10-200 is RCW 41.56.450, 41.56.475 and 41.56.492; WAC 391-10-205, 391-10-210, 391-10-215, 391-10-220, 391-10-225, 391-10-230, 391-10-235, 391-10-240, 391-10-245, 391-10-255 and 391-10-265 is RCW 41.56.450; 391-55-310, 391-55-315, 391-55-320, 391-55-330, 391-55-335, 391-55-340, and 391-55-350 is RCW 41.59.120; and WAC 391-65-010, 391-65-030, 391-65-050, 391-65-070, 391-65-090, 391-65-110, 391-65-130, and 391-65-150 is RCW 41.56.125.

Summary: Rule changes are proposed concerning mediation, grievance mediation, grievance arbitration, dispute resolution panel, interest arbitration, fact finding and subpoenas.

Reasons Supporting Proposal: To conform to Executive Order 97-02, including codifying agency procedure where a related unfair labor practice complaint is filed during the pendency of an interest arbitration panel.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark S. Downing, Rules Coordinator, 603 Evergreen Plaza, (360) 753-2955.

Name of Proponent: Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The agency is proposing that these rule changes be adopted.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rule changes are designed to make the agency's rules clearer and easier to read. Proposed changes will emphasize confidential nature of mediation process, consolidate existing agency procedures for random selection of dispute resolution panel members, number of names supplied to parties, second lists, method of selection from a list, and payment of fees and expenses. Other changes will allow parties in grievance arbitration cases to jointly express a preference for the appointment of one or more, rather than just one, staff member as their arbitrator. The changes will affect all parties who use the services of the Public Employment Relations Commission.

Proposal Changes the Following Existing Rules: Examples of changes in the interest arbitration rules include requiring parties to submit to the mediator a list of issues they believe should be advanced to hearing, allowing waiver of partisan arbitrators and certain voluntary procedures if parties fail to act in timely manner, establishing minimum experience level for referrals from dispute resolution panel, increasing deadline for parties to exchange written proposals before arbitration hearing to fourteen days, allowing neutral chairperson discretion to convene a prehearing conference, providing that a tape recording is official record of hearing unless parties agree to take a transcript, and providing that although partisan arbitrator may not present a party's case at the hearing, another member of the same organization or firm may do so.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Agency rules only affect public employees and unions representing public employees, and do not impose costs on profit-making businesses.

RCW 34.05.328 does not apply to this rule adoption. Agency rules are excepted by RCW 34.05.328 (5)(a)(i) from the provisions of RCW 34.05.328.

Hearing Location: Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA, on June 8, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact James E. Lohr by June 1, 1999, (360) 586-7862.

Submit Written Comments to: Mark S. Downing, Rules Coordinator, P.O. Box 40919, Olympia, WA 98504-0919, fax (360) 586-7091, by June 1, 1999.

Date of Intended Adoption: June 8, 1999.

May 5, 1999

Marvin L. Schurke
Executive Director

AMENDATORY SECTION (Amending WSR 98-14-112, filed 7/1/98, effective 8/1/98)

WAC 391-08-310 Subpoenas—Form—Issuance to parties. (1) Every subpoena shall:

- (a) State the name of the agency as: State of Washington, public employment relations commission;
- (b) State the title of the proceeding and case number; and
- (c) Identify the party causing issuance of the subpoena.

(2) Every subpoena shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under his or her control at the time and place set for the hearing, except no subpoena shall be issued or given effect to require the attendance and testimony of, or the production of evidence by, any member of the commission or any member of the agency staff in any proceeding before the agency.

(3) Subpoenas may be issued by the commission or its presiding officer:

(a) On the request of counsel or other representative authorized to practice before the agency; or

(b) On the request of a party not represented by counsel or other representative authorized to practice before the agency, but may then be conditioned upon a showing of general relevance and reasonable scope of the testimony or evidence sought.

(4) Subpoenas may be issued by attorneys under the authority conferred upon them by RCW 34.05.446(1).

(5) A subpoena may be served by any suitable person over eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy of the subpoena, or by leaving a copy of the subpoena at the place of his or her abode. When service is made by any person other than an officer authorized to serve process, proof of service shall be made by affidavit.

(6) The party which issues or requests issuance of a subpoena shall pay the fees and allowances and the cost of producing records required to be produced by subpoena.

(a) Witness fees, mileage, and allowances for meals and lodging shall be at the rates and terms allowed by the superior court for Thurston County.

(b) Witnesses shall be entitled to payment in advance for their fees for one day's attendance, together with mileage for traveling to and returning from the place where they are required to attend, if their demand for payment is made to the officer or person serving the subpoena at the time of service.

(7) The presiding officer, upon motion made at or before the time specified in the subpoena for compliance therewith, may:

(a) Quash or modify the subpoena if it is unreasonable or oppressive; or

(b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(8) Subpoenas shall be enforced as provided in RCW 34.05.588(1).

AMENDATORY SECTION (Amending WSR 98-14-112, filed 7/1/98, effective 8/1/98)

WAC 391-08-810 Agency records—Confidentiality. The agency~~((+))~~ shall preserve the confidentiality of certain records, as follows:

(1) ~~In order to protect the privacy of individual employees ((and in order to respect the confidential nature of the mediation process)),~~ the agency shall not permit the disclosure to any person of ~~((+))~~ evidence furnished as a showing

of interest in support of a representation petition or motion for intervention~~((+))~~.

(2) In order to respect the confidential nature of mediation, the agency shall not permit the disclosure of notes and memoranda made by any member of the commission or its staff as a recording of communication made or received while acting in the capacity of a mediator between the parties to a labor dispute.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-001 Scope—Contents—Other rules. This chapter governs proceedings before the public employment relations commission relating to the resolution of impasses occurring in collective bargaining. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(2) Chapter 391-25 WAC, which ~~((contains rules relating to))~~ regulates representation proceedings ~~((on petitions for investigation of questions concerning representation of employees)).~~

(3) Chapter 391-35 WAC, which ~~((contains rules relating to))~~ regulates unit clarification proceedings ~~((on petitions for clarification of an existing bargaining unit)).~~

(4) Chapter 391-45 WAC, which ~~((contains rules relating to))~~ regulates unfair labor practice proceedings ~~((on complaints charging unfair labor practices)).~~

(5) Chapter 391-65 WAC, which ~~((contains rules relating to))~~ regulates grievance arbitration ~~((of grievance disputes arising out of the interpretation or application of a collective bargaining agreement))~~ proceedings.

(6) Chapter 391-95 WAC, which ~~((contains rules relating to determination of))~~ regulates union security ~~((disputes arising between employees and employee organizations certified or recognized as their bargaining representative))~~ non-association proceedings.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-002 Sequence and numbering of rules—Special provisions. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. ~~((Special provisions))~~ General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute ((are)), that special provision is set forth in a separate rule((s)) numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW, port employees (Employment relations—Collective bargaining and arbitration), are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

Special provisions relating to interest arbitration for bargaining units under chapter 41.56 RCW are set forth beginning with WAC 391-55-200.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter (~~and in a subchapter of rules~~). Special provisions relating to fact finding are set forth beginning with WAC 391-55-300.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-010 (~~(Resolution of impasses)~~) **Impasses in contract negotiations—Request for mediation—Service.** A request for mediation may be made in writing, by electronic telefacsimile transmission, or by telephone, but shall be confirmed in writing if made by telephone. The original request shall be submitted to the commission's Olympia office, as required by WAC 391-08-120(2). If the request is not submitted jointly, the party submitting the request shall serve a copy, as required by WAC 391-08-120 (3) and (4), on the other party to the dispute. The party or parties requesting mediation shall provide the following information to the agency:

(1) The name (~~and~~), address and telephone number of the employer and the name, address and telephone number of (~~the employer's~~) its principal representative (~~in the negotiations~~).

(2) The name (~~and~~), address and telephone number of the employee organization and the name, address and telephone number of (~~the employee organization's~~) its principal representative (~~in the negotiations~~).

(3) (~~Identification of the~~) The employer's principal business.

(4) The parties' contractual relationship, indicating that:

- (a) The parties' have never had a contract; or
- (b) A copy of the current or most recent applicable collective bargaining agreement is attached.

(5) A description of the bargaining unit involved, specifying inclusions and exclusions.

(6) The number of employees in the bargaining unit.

(7) The history of the bargaining unit, including at least the approximate date of its creation.

(8) The history of the current negotiations, including at least the number of meetings held, the date of the first meeting and whether both parties concur in the request for mediation.

(9) Identification of the issues in dispute and the parties' positions on those issues.

(10) The name(s), signature(s) and, (~~and capacity of each officer, attorney, or other individual acting for the filing~~) if any, title(s) of the representative(s) of the requesting party (~~or~~) (parties), and the date(s) of the signature(s).

NEW SECTION

WAC 391-55-020 **Grievance mediation—Request for grievance mediation—Service.** A request for appointment of a grievance mediator may be made in writing or by

electronic telefacsimile transmission. The original request shall be submitted to the commission's Olympia office, as required by WAC 391-08-120(2). If the request is not submitted jointly, the party submitting the request shall serve a copy, as required by WAC 391-08-120 (3) and (4), on the other party to the collective bargaining agreement under which the dispute arises. The party or parties requesting grievance mediation shall provide the following information to the agency:

(1) Information identifying the parties to the dispute, including:

(a) The name, address and telephone number of the employer and the name, address and telephone number of its principal representative;

(b) The name, address and telephone number of the employee organization and the name, address and telephone number of its principal representative;

(c) The employer's principal business;

(d) A copy of the current or most recent applicable collective bargaining agreement;

(e) A description of the bargaining unit involved, specifying inclusions and exclusions;

(f) The number of employees in the bargaining unit;

(g) The agreement of the party or parties making the request that any unresolved issues shall be submitted to an arbitrator for a final and binding decision; and

(h) The agreement of the party or parties making the request that there shall be no strike or lockout on the matters submitted to grievance mediation.

(2) Identification of the grievance to be resolved in grievance mediation.

(3) Designation of the request as:

(a) A request for appointment of a member of the agency staff as grievance mediator; or

(b) A request for the submission of a list containing a specified number of names from the dispute resolution panel created by WAC 391-55-110.

(4) The name(s), signature(s) and, if any, title(s) of the representative(s) of the requesting party (parties), and the date(s) of the signature(s).

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-030 (~~(Impasse resolution)~~) **Assignment of mediator.** (1) Upon (~~filing~~) submission of a request for (~~mediation~~) a mediator under WAC 391-55-010 or 391-55-020 (3)(a), the executive director shall appoint a (~~mediator from the list of qualified persons maintained by the commission for that purpose~~) member of the agency staff. If the parties have stipulated to the names of one or more persons who are acceptable to both parties as mediator, then the executive director shall consider their (~~desires~~) request.

(2) Upon submission of a request for a list under WAC 391-55-020 (3)(b), names shall be referred and a grievance mediator shall be selected under WAC 391-55-120.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-032 Special provision—Educational employees. Upon ~~((filing))~~ submission of a unilateral request for mediation, the executive director shall ~~((determine))~~ consider the position of the party other than the party making the request, and shall ~~((determine whether the assistance of the agency is needed. In making such determination the executive director shall determine))~~ evaluate whether the parties have exchanged and considered the proposals of one another and whether the intervention of the agency will have a beneficial impact on the negotiating process. Prior to making ~~((such))~~ this determination, the executive director or a member of the agency staff may make an on-site investigation and may engage in conciliation under the general authority ~~((of the))~~ conferred on the commission ~~((under))~~ by RCW 41.58.020(1). If it appears that the assistance of the agency is needed, the executive director shall appoint a mediator ~~((from the list of qualified persons maintained by the commission for that purpose. If the parties have stipulated the names of one or more persons who are acceptable to both parties as mediator, then the executive director shall consider their desires)).~~

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-050 ((Impasse resolution—))Submission of written proposals. Parties requesting the mediation services of the agency are encouraged to ~~((file with))~~ submit to the assigned mediator, in advance of scheduled meetings, copies of their latest written proposals on each issue in dispute.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-070 ((Impasse resolution—))Function of mediator. The mediator shall meet with the parties or their representatives, or both, either jointly or separately, and shall take ~~((such))~~ any steps ~~((as))~~ that the mediator deems appropriate ~~((in order))~~ to ~~((aid))~~ assist the parties in voluntarily resolving their differences and effecting an agreement.

AMENDATORY SECTION (Amending Order 88-08, filed 5/31/88)

WAC 391-55-071 Special provision—State patrol personnel. In the case of mediation involving officers of the Washington state patrol ~~((personnel as defined in RCW 41.56.020))~~ appointed under RCW 43.43.020, the mediator shall not consider rates of pay or wage ~~((or wage-related matters))~~ levels and any matters relating to retirement benefits or health care benefits or other employee insurance benefits.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-090 ((Impasse resolution—))Confidential nature of ((function)) mediation. ~~((All communications~~

~~between the mediator and the parties, and all materials submitted to or by the mediator, are privileged and confidential and shall not be divulged by the mediator outside of the mediation process.))~~ Mediation meetings shall ~~((be of an executive, private or nonpublic nature))~~ not be open to the public. Confidential information acquired by a mediator shall not be disclosed to others outside of the mediation process for any purpose, and a mediator shall not give testimony about the mediation in any legal or administrative proceeding.

AMENDATORY SECTION (Amending Order 83-05, filed 12/1/83, effective 1/1/84)

WAC 391-55-110 ((Impasse resolution—))Dispute resolution panel—Membership. The commission shall establish and maintain a panel of individuals qualified to serve in an impartial capacity in the resolution of labor disputes.

(1) Applicants for membership on the dispute resolution panel ~~((must))~~ shall demonstrate minimum background and experience equal to the minimum qualifications for the working level positions on the professional staff of the commission:

(a) A master's degree in labor relations, personnel management or industrial relations or closely allied field, or a law degree; and

(b) At least three years of experience ~~((equivalent to two years of full-time work))~~ in collective bargaining with major work assignments in ~~((collective bargaining))~~ negotiations, contract administration or related work as a union ~~((;))~~ or management ~~((or government official))~~ representative, mediator, arbitrator or educator in the above areas ~~((A law degree may be substituted for the master's degree.)); and~~

(c) Additional qualifying experience ~~((may be substituted))~~ shall substitute, year for year, for education.

(2) Applicants for membership on the dispute resolution panel ~~((must))~~ shall furnish letters of recommendation supporting their acceptability as an impartial from:

(a) At least one ~~((attorney, consultant or labor relations director representing))~~ management representative; and

(b) At least one ~~((attorney, union officer or business agent representing labor))~~ union representative; and

(c) At least one impartial arbitrator, mediator or labor relations administrative agency official. ~~((Such letters of recommendation must support the acceptability of the applicant as an impartial in the resolution of labor disputes.))~~

(3) Applicants who desire to be referred for interest arbitration proceedings shall demonstrate their experience as an impartial in at least five grievance arbitration, fact finding or interest arbitration cases, by submitting copies of arbitration awards which can be provided, upon request, to parties selecting an interest arbitrator.

(4) Applicants for membership on the dispute resolution panel ~~((must file))~~ shall submit, in the form specified by the executive director, information on their background, qualifications, professional certifications and affiliations. All information submitted shall be subject to administrative verification.

~~((4))~~ (5) Applications of persons appearing to be qualified for membership on the panel shall be forwarded to the

PROPOSED

commission for consideration and action. The commission shall review each application submitted to it, together with the supporting letters of recommendation, and shall notify the applicant of the determination made. ~~((Upon initial application or at any subsequent time as it may appear))~~

(6) Whenever it appears to the commission that ~~((the))~~ an applicant or member of the dispute resolution panel has failed or refused to comply with applicable statutes, rules and ethical standards, the application shall be rejected or the member shall be removed from the dispute resolution panel. A member shall also be removed from the panel if he or she has:

(a) Ceased accepting appointments as an impartial in the resolution of labor disputes; or

(b) Failed to keep the agency informed of their current address and telephone number.

~~((5))~~ (7) Persons referred from the dispute resolution panel ~~((must))~~ shall be impartial. No active member of the dispute resolution panel may serve in any capacity as an advocate or representative for either labor or management in labor relations matters. Any member of the panel who intends to engage in advocacy work shall ~~((so))~~ notify the executive director and shall be placed on inactive status ~~((on the panel))~~ while ~~((such))~~ their advocacy work continues.

~~((6))~~ Upon request of the parties, the executive director shall make a list of members of the dispute resolution panel available to parties for their use in selecting a neutral chairman for an interest arbitration panel, a grievance arbitrator, a fact finder or an ad hoc interest arbitrator. The parties may use any method agreed upon for selecting an impartial from the list provided by the executive director. In the absence of agreement on any other method, they shall alternately strike names from the list, with the order of striking determined by lot.

~~((7))~~ (8) Upon appointment to the dispute resolution panel by the commission, the panel member may be placed under contract pursuant to chapter 39.29 RCW ((39-29-010)). Only persons listed on the panel ~~((will))~~ shall be compensated by the agency under a personal service contract ~~((for services))~~.

NEW SECTION

WAC 391-55-120 Dispute resolution panel—Referral and selection procedures. (1) All referrals from the dispute resolution panel shall be by random selection among the panel members eligible for the type of proceeding involved, subject to the following:

(a) If the parties do not specify the number of names requested, the agency shall supply seven names.

(b) Where the parties request a specific number of names, the agency shall supply the number requested plus two additional names for use as alternates to reduce the potential need for second lists, or for use as agreed by the parties.

(c) The agency shall furnish biographical information, including background, qualifications and experience, on each of the arbitrators on the list supplied to the parties.

(d) The agency shall supply the parties with a second list, upon submission of their joint written request.

(2) The parties may use any method agreed upon for selecting an impartial from the list provided by the agency. In the absence of agreement on any other method, they shall alternately strike names from the list, with the order of striking determined by lot.

(3) All contacts and arrangements between the parties and a selected dispute resolution panel member are the responsibility of the parties. The fees and travel expenses of the dispute resolution panel member shall be paid by the parties under applicable rules or as agreed by the parties.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-130 ~~((Impasse resolution—))~~ Disclosure. Prior to accepting the appointment, or as soon ~~((thereafter))~~ as information giving rise to a problem of appearance of fairness becomes known, a person serving in an impartial capacity in a dispute resolution proceeding under the jurisdiction of the commission shall disclose to the parties and to the executive director any circumstances likely to create an appearance of bias or which might disqualify him or her from serving in the impartial capacity. Employment of the person or any member of his or her immediate family by any party shall be disqualifying. Each party to the proceeding shall immediately notify the executive director and the appointee or selectee whether it is willing to waive disqualification. If either party declines to waive the disqualification, the appointment shall be vacated.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-150 ~~((Impasse resolution—))~~ Vacancies. If any person serving in an impartial capacity in dispute resolution proceedings under the jurisdiction of the commission should resign, die, withdraw, refuse or be unable to serve, or should be or become disqualified to perform the duties of the office, the executive director shall declare the office vacant. The vacancy shall be filled in the same manner as ~~((provided in these rules))~~ an original appointment.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-200 Interest arbitration—~~((Onset of proceedings))~~ Certification of issues. (1) If a dispute involving a bargaining unit eligible for interest arbitration under RCW 41.56.030(7), 41.56.475 or 41.56.492 has not been settled after a reasonable period of mediation, and the mediator is of the opinion that his or her further efforts will not result in an agreement, the following procedure shall be implemented:

(a) The mediator shall notify the parties of his or her ~~((recommendation))~~ intention to recommend that the remaining issues in dispute be submitted to interest arbitration.

(b) Within seven days after being notified by the mediator, each party shall submit to the mediator and serve on the other party a written list (including article and section references to parties' latest collective bargaining agreement, if

any) of the issues that the party believes should be advanced to interest arbitration.

(2) The mediator shall review the lists of issues submitted by the parties.

(a) The mediator shall exclude from certification any issues that have not been mediated.

(b) The mediator shall exclude from certification any issues resolved by the parties in bilateral negotiations or mediation, and the parties may present those agreements as "stipulations" in interest arbitration under RCW 41.56.465 (1)(b), 41.56.475 (2)(b), or 41.56.492 (2)(b).

(c) The mediator may convene further mediation sessions and take other steps to resolve the dispute.

~~((H))~~ (3) If ~~((a))~~ the dispute ~~((for))~~ remains unresolved after the completion of the procedures in subsections (1) and (2) of this section, interest arbitration shall be initiated, as follows:

(a) For a bargaining unit covered by RCW 41.56.030(7) or 41.56.475 ~~((remains unresolved))~~, the mediator shall forward his or her recommendation and a list of unresolved issues to the executive director, who shall consider the recommendation of the mediator ~~((and any statements of position filed by the parties as to the existence of an impasse warranting arbitration))~~. The executive director may remand the matter for further mediation. If the executive director finds that the parties remain at impasse, the executive director shall ~~((issue a written notice to the parties certifying))~~ certify the unresolved issues for interest arbitration.

~~((2))~~ If a dispute ~~for~~ (b) For a bargaining unit covered by RCW 41.56.492 ~~((remains unresolved))~~, the mediator shall ~~((forward a list of unresolved issues to the parties and shall consider any statements of position filed by the parties as to the existence of an impasse warranting arbitration. If the mediator finds that the parties remain at impasse, the mediator shall issue a written notice to the parties certifying))~~ certify the unresolved issues for interest arbitration.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-205 Interest arbitration—Appointment of partisan arbitrators. Within seven days following the issuance of a certification of issues for interest arbitration under WAC 391-55-200, each party shall name one person who is available and willing to serve as its member of the arbitration panel, and shall notify the opposite party and the executive director of the name, address and telephone number of the ~~((person so designated))~~ partisan arbitrator. The ~~((members so appointed shall proceed as provided in RCW 41.56.450))~~ partisan arbitrators shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chairperson of the arbitration panel.

(1) The use of partisan arbitrators shall be deemed waived if neither party has notified the executive director of its appointee within fourteen days following the issuance of a certification of issues for interest arbitration, and the parties' principal representatives shall then select the neutral chairperson.

(2) A party which has designated a partisan arbitrator may substitute another person as its partisan arbitrator, upon notice to the other party and the executive director.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-210 Interest arbitration—Selection of ~~((impartial arbitrator))~~ neutral chairperson. (1) If the ~~((appointed members))~~ parties agree on the selection of a neutral ~~((chairman))~~ chairperson, they shall obtain a commitment from that person to serve, and shall notify the executive director of the identity of the ~~((neutral chairman so selected))~~ chairperson.

(2) If the ~~((appointed members))~~ parties agree to have the commission appoint a staff member as the neutral ~~((chairman))~~ chairperson, they shall ~~((file with))~~ submit a written joint request to the executive director ~~((a written joint request))~~. The parties ~~((and the appointed members))~~ are not entitled to influence the designation of ~~((an arbitrator))~~ a neutral chairperson under this subsection and shall not, either in writing or by other communication, attempt to indicate any preference for or against any person as the neutral ~~((chairman))~~ chairperson to be appointed by the commission. Upon the ~~((filing))~~ submission of a request in compliance with this subsection, the executive director shall appoint a neutral ~~((chairman))~~ chairperson from the commission staff ~~((or the dispute resolution panel))~~.

(3) If the ~~((appointed members))~~ parties desire to select a neutral ~~((chairman))~~ chairperson from a panel of arbitrators, they shall attempt to agree as to ~~((which of the agencies designated in RCW 41.56.450))~~ whether the commission, the Federal Mediation and Conciliation Service or the American Arbitration Association will supply the list of arbitrators. If the choice of agency is agreed, either party or the parties jointly shall proceed forthwith to request a panel of at least five arbitrators ~~((If the appointed members are unable to agree within seven days following their first meeting as to which agency is to supply the list of arbitrators, either of them may apply to the executive director for a list of five available neutral chairmen other than agency staff members and the neutral chairman shall be selected from the commission's dispute resolution panel. All requests for panels under this subsection shall specify))~~ specifying: "For interest arbitration proceedings under RCW 41.56.450." ~~((The))~~ Referrals and selection from the commission's dispute resolution panel shall be as provided in WAC 391-55-120. Referrals and selection ~~((of the impartial arbitrator))~~ from other panels shall be made ~~((pursuant to))~~ under the rules of the agency supplying the list of arbitrators ~~((, and the))~~. The parties shall notify the executive director of the identity of the ~~((arbitrator so selected))~~ neutral chairperson.

(4) If the parties have not notified the executive director of their selection of a neutral chairperson within twenty-eight days after certification of issues under WAC 391-55-200, the parties shall be deemed to have waived the procedures in subsections (1) through (3) of this section. The executive director shall issue a list of dispute resolution panel members and the neutral chairperson shall be selected as provided in WAC 391-55-120.

PROPOSED

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-215 Interest arbitration—Conduct of proceedings—Waiver of objections. Proceedings shall be conducted as provided in WAC 391-55-200 through 391-55-255. The neutral (~~(chairman)~~) chairperson shall interpret and apply (~~(these)~~) all rules (~~(insofar as they relate)~~) relating to the powers and duties of the neutral (~~(chairman)~~) chairperson. Any party who proceeds with arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state its objection (~~(thereto)~~) in writing, shall be deemed to have waived its right to object.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-220 Interest arbitration—Submission of proposals for arbitration. At least (~~(seven)~~) fourteen days before the date of the hearing, each party shall submit to the members of the panel and to the other party written proposals on all of the issues it intends to submit to arbitration. Parties shall not be entitled to submit issues which were not among the issues certified under WAC 391-55-200.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-225 Interest arbitration—Prehearing conference—Hearing. (1) The neutral chairperson may, upon his or her own motion or upon request of a party, convene a prehearing conference or conferences.

(a) The purpose or purposes of a prehearing conference include to consider:

(i) Simplification of issues;

(ii) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;

(iii) Limitations on the number and consolidation of the examination of witnesses;

(iv) Procedural matters;

(v) Distribution of written testimony and exhibits to the parties prior to the hearing; and

(vi) Such other matters as may aid in the disposition or settlement of the case.

(b) Prehearing conferences may be held by telephone conference call or at a time and place specified by the neutral chairperson.

(c) Following a prehearing conference, the neutral chairperson shall issue an order reciting the action taken at the conference, and the agreements made by the parties concerning all of the matters considered. If no objection is filed within ten days after the date that the order is mailed, it shall control the subsequent course of the case unless modified for good cause by subsequent order.

(2) The arbitration panel shall promptly establish a date, time, and place for a hearing and shall provide reasonable notice (~~(thereof)~~) to the parties. For good cause shown, the neutral (~~(chairman)~~) chairperson may adjourn the hearing

upon the request of a party or upon his or her own initiative. The parties may waive oral hearing by written agreement.

(a) A tape recording of the hearing shall be taken and shall be the official record of the hearing, unless the parties agree to take a transcript. If the parties do not agree to take a transcript and share in its cost, a party may take a transcript at its own expense. If a copy of the transcript is provided to the neutral chairperson, all parties shall have access to a copy.

(b) The statutory prohibition against a partisan arbitrator presenting the case for a party shall not preclude another member of the same organization or firm from presenting the case at the hearing.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-230 Interest arbitration—Order of proceedings and evidence. The order of presentation at the hearing shall be as agreed by the parties or as determined by the neutral (~~(chairman)~~) chairperson. The neutral (~~(chairman)~~) chairperson shall be the judge of the relevancy of the evidence. All evidence shall be taken in the presence of all parties, unless a party is absent in default or has waived its right to be present. Each documentary exhibit shall be (~~(filed with)~~) submitted to the neutral (~~(chairman)~~) chairperson and copies shall be provided to the (~~(appointed members)~~) partisan arbitrators and to the other parties. The exhibits shall be retained by the neutral (~~(chairman)~~) chairperson until an agreement has been signed or until any judicial review proceedings have been concluded, after which they may be disposed of as agreed by the parties or as ordered by the neutral (~~(chairman)~~) chairperson. The neutral chairperson has authority to administer oaths, to require the attendance of witnesses, and to require the production of documents that he or she may deem to be material.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-235 Interest arbitration—Arbitration in the absence of a party. The neutral (~~(chairman)~~) chairperson may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. Findings of fact and the determination of the issues in dispute shall not be made solely on the default of a party, and the neutral (~~(chairman)~~) chairperson shall require the participating party to submit (~~(such)~~) evidence as may be required for making of the findings of fact and determining the issues.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-240 Interest arbitration—Closing of arbitration hearings. The neutral (~~(chairman)~~) chairperson shall declare the hearing closed after the parties have completed presenting their testimony and/or exhibits and (~~(fitting)~~) submission of briefs within agreed time limits.

AMENDATORY SECTION (Amending WSR 98-14-112, filed 7/1/98, effective 8/1/98)

WAC 391-55-245 Interest arbitration—Award. The rulings and determination of the neutral ~~((chairman))~~ chairperson shall be controlling, and shall not require concurrence, but may be accompanied by the concurring and/or dissenting opinions of the ~~((appointed members))~~ partisan arbitrators. ~~((Such))~~ The rulings and determinations shall not be subject to appeal to the commission, but the neutral ~~((chairman))~~ chairperson shall submit a copy of the award to the executive director.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-255 Interest arbitration—Expenses of arbitration. Each party shall pay the expenses of presenting its own case and the expenses and fees of its member of the arbitration panel. The expenses of witnesses shall be paid by the party producing them. The fees and traveling expense of a neutral ~~((chairman))~~ chairperson appointed pursuant to WAC 391-55-210 (1) or (3), along with any costs for lists of arbitrators and for a tape recording of the proceedings, shall be shared equally between the parties. The fees and traveling expense of a neutral ~~((chairman))~~ chairperson appointed by the commission pursuant to WAC 391-55-210(2), along with the costs of tapes for a tape recording of the proceedings but not a transcription ~~((thereof))~~ or the services of a court reporter, shall be paid by the commission.

NEW SECTION

WAC 391-55-265 Interest arbitration—Suspension of arbitration pending outcome of unfair labor practice proceedings. (1) The executive director shall suspend the certification of some or all issues under WAC 391-55-200, as follows:

(a) A party which claims that a proposal being advanced to interest arbitration is not a mandatory subject of collective bargaining must communicate its concerns to the other party during bilateral negotiations and/or mediation. If the party advancing the proposal does not withdraw the proposal or modify it to eliminate the claimed illegality, the objecting party must file and process a complaint charging unfair labor practices under chapter 391-45 WAC prior to the conclusion of the interest arbitration proceedings.

(b) A party which claims that the other party to negotiations subject to interest arbitration has violated the "collective bargaining" obligations imposed by RCW 41.56.030(4) must file and process a complaint charging unfair labor practices under chapter 391-45 WAC prior to the conclusion of the interest arbitration proceedings.

(c) If a preliminary ruling is issued under WAC 391-45-110 that an unfair practice violation could be found on a complaint filed under (a) or (b) of this subsection, a final ruling on the unfair labor practice complaint shall be made before any determination is made in interest arbitration on the disputed issue or issues.

(2) Issues suspended under subsection (1) of this section shall be acted upon after the conclusion of the unfair labor practice proceedings, as follows:

(a) If it is concluded that the suspended issue or issues was/were unlawfully advanced or affected by unlawful conduct, the issue or issues shall be stricken from the certification under WAC 391-55-200, and the party advancing the proposal shall only be permitted to advance such modified proposals as are in compliance with the remedial order in the unfair labor practice proceedings.

(b) If it is concluded that the suspended issue or issues was/were lawfully advanced, the suspension under this section shall be terminated and the issue or issues shall be remanded to the interest arbitration panel for ruling on the merits.

AMENDATORY SECTION (Amending Order 83-05, filed 12/1/83, effective 1/1/84)

WAC 391-55-310 Educational employees—Selection of fact finder. (1) Upon the ~~((filing))~~ submission of a timely request for fact finding, the executive director shall ~~((furnish))~~ invite the parties ~~((a list of five members of the dispute resolution panel from which the parties will be invited))~~ to exercise their right under RCW 41.59.120(5). ~~((Within))~~

(a) The executive director shall furnish a list of members of the dispute resolution panel and the parties shall meet within seven days following receipt of the list, ((the parties shall meet)) to attempt to select a fact finder. Names shall be referred and any fact finder shall be selected under WAC 391-55-120. The parties may agree to designate the mediator as fact finder.

(b) If the parties agree on a fact finder, they shall obtain a commitment to serve and shall notify the executive director of the identity of the fact finder ~~((so selected))~~.

(c) If the parties are unable to agree on a fact finder under RCW 41.59.120(5), they shall notify the executive director.

(2) In the absence of an agreement of the parties under subsection (1) of this section, ((who)) the executive director shall designate a fact finder from the commission staff ((or the dispute resolution panel)) other than the person who was the mediator in the dispute. The parties are not entitled to influence the designation of a fact finder and shall not, either in writing or by other communication, attempt to indicate any preference for or against any person as the fact finder to be appointed by the commission.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-55-315 Educational employees—Conduct of fact finding proceedings—Waiver of objections. Proceedings shall be conducted as provided in WAC 391-55-300 through 391-55-355. The fact finder shall interpret and apply ~~((these))~~ all rules ~~((insofar as they relate))~~ relating to the powers and duties of the fact finder. Any party who proceeds with fact finding after knowledge that any provision or requirement of these rules has not been complied with and who fails to state its objection ~~((there))~~ in writing, shall be deemed to have waived its right to object.

PROPOSED

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-320 Educational employees—Submission of proposals for fact finding. At least seven days before the date of the hearing, each party shall submit to the fact finder and to the other party written proposals on all of the issues it intends to submit to fact finding. Parties shall not be entitled to submit issues which were not among the issues mediated under WAC 391-55-070.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-330 Educational employees—Order of proceedings and evidence. The order of presentation at the hearing shall be as agreed by the parties or as determined by the fact finder. The fact finder shall be the judge of the relevancy of the evidence. All evidence shall be taken in the presence of all parties, unless a party is absent in default or has waived its right to be present. Each documentary exhibit shall be ~~((filed with))~~ submitted to the fact finder and copies shall be provided to the other parties. The exhibits shall be retained by the fact finder until an agreement has been signed, after which they may be disposed of as agreed by the parties or as ordered by the fact finder.

AMENDATORY SECTION (Amending Order 81-01, filed 1/6/81)

WAC 391-55-335 Educational employees—Fact finding in the absence of a party. The fact finder may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. Fact finders shall treat any subject on which one party has taken a position that it is not a mandatory subject for bargaining in accordance with this rule. Findings of fact and recommendations shall not be made solely on the default of a party, and the fact finder shall require the participating party to submit ~~((such))~~ evidence as may be required for making of the findings of fact and recommendations.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-340 Educational employees—Closing of fact finding hearings. The fact finder shall declare the hearing closed after the parties have completed presenting their testimony and/or exhibits and ~~((filing))~~ submission of briefs within agreed time limits.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-350 Educational employees—Responsibility of parties after fact finding. ~~((Not more than))~~ Within seven days after the findings and recommendations have been issued, the parties shall notify the commission and each other whether they accept the recommendations of the fact finder. If the recommendations of the fact finder are rejected by one or both parties and their further efforts do not

result in an agreement, either party may request mediation pursuant to chapter 41.58 RCW and, upon the concurrence of the other party, the executive director shall assign a mediator.

AMENDATORY SECTION (Amending Order 80-9, filed 9/30/80, effective 11/1/80)

WAC 391-65-001 Scope—Contents—Other rules. This chapter governs proceedings before the public employment relations commission relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(2) Chapter 391-25 WAC, which ~~((contains rules relating to))~~ regulates representation proceedings ~~((on petitions for investigation of questions concerning representation of employees)).~~

(3) Chapter 391-35 WAC, which ~~((contains rules relating to))~~ regulates unit clarification proceedings ~~((on petitions for clarification of an existing bargaining unit)).~~

(4) Chapter 391-45 WAC, which ~~((contains rules relating to))~~ regulates unfair labor practice proceedings ~~((on complaints charging unfair labor practices)).~~

(5) Chapter 391-55 WAC, which ~~((contains rules relating to))~~ regulates the resolution of impasses ~~((occurring))~~ in collective bargaining.

(6) Chapter 391-95 WAC, which ~~((contains rules relating to determination of))~~ regulates union security ~~((disputes arising between employees and employee organizations certified or recognized as their bargaining representative))~~ non-association proceedings.

AMENDATORY SECTION (Amending Order 83-06, filed 12/1/83, effective 1/1/84)

WAC 391-65-002 Sequence and numbering of rules—Special provisions. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule ~~((s))~~ numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (professional negotiations—academic faculties of community college districts) are set forth in WAC sections num-

PROPOSED

bered three digits greater than the general rule on that subject matter.

~~((4) Special provisions relating to chapter 49.08 RCW (private sector employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.))~~

AMENDATORY SECTION (Amending Order 80-9, filed 9/30/80, effective 11/1/80)

WAC 391-65-010 Grievance arbitration—Who may ~~((file))~~ submit. Where there is an agreement to arbitrate, a request for appointment of an arbitrator to hear and determine issues arising out of the interpretation or application of a collective bargaining agreement may be ~~((filed))~~ submitted by the employer, the exclusive representative or their agents or by the parties jointly.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-65-030 Grievance arbitration—~~((Filing))~~ Request for grievance arbitration—Service. A request for appointment of a grievance arbitrator may be made in writing or by electronic telefacsimile transmission. The request shall be on a form furnished by the commission or prepared by the party or parties ~~((filing))~~ submitting the request in conformance with WAC 391-65-050. The original request shall be ~~((filed with))~~ submitted to the ~~((agency at its))~~ commission's Olympia office, as required by WAC 391-08-120(2). If the request is not ~~((filed))~~ submitted jointly(;) the party ~~((filing))~~ submitting the request shall serve a copy, as required by WAC 391-08-120 (3) and (4), on the other party to the collective bargaining agreement under which the dispute arises.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-65-050 Grievance arbitration—Contents of request. Each request for appointment of a grievance arbitrator shall contain:

(1) Information identifying the parties to the dispute, including:

(a) The name, address and telephone number of the employer and the name, address and telephone number of ~~((the employer's))~~ its principal representative ~~((for the purposes of collective bargaining));~~

(b) The name, address and telephone number of the ~~((exclusive representative))~~ employee organization and the name, address and telephone number of its principal representative;

(c) The employer's principal business;

(d) A copy of the current or most recent applicable collective bargaining agreement;

(e) ~~((The))~~ A description of the bargaining unit involved, specifying inclusions and exclusions;

(f) The number of employees in the bargaining unit;

(g) The agreement of the party or parties making the request to accept the decision of the arbitrator as final and binding; and

(h) The agreement of the party or parties making the request that there ~~((with))~~ shall be no strike or lockout on the matters submitted to arbitration.

(2) Identification of the grievance to be resolved in arbitration.

(3) Designation of the request as:

(a) A request for appointment of a member of the agency staff as arbitrator; or

(b) A request for the submission of a list containing a specified number of names from the dispute resolution panel created by WAC 391-55-110.

(4) The name(s), signature(s) and, if any, title(s) of the representative(s) of the requesting party (parties), and the date(s) of the signature(s).

AMENDATORY SECTION (Amending Order 80-9, filed 9/30/80, effective 11/1/80)

WAC 391-65-070 Grievance arbitration—Appointment of staff arbitrator. The parties shall not be permitted to select a grievance arbitrator from a list of agency staff members, or to exercise a right of rejection on appointments made by the executive director; but may jointly express a preference for appointment of ~~((a particular))~~ one or more staff members as their arbitrator, and the executive director shall consider their ~~((desires))~~ request. Upon the ~~((filing))~~ submission of a request by one party for the appointment of a member of the agency staff as grievance arbitrator, the executive director shall determine whether the other party to the collective bargaining agreement concurs in the appointment of a staff arbitrator. Upon concurrence or upon the ~~((filing))~~ submission of a joint request, the executive director shall assign a member of the agency staff as grievance arbitrator. In the absence of concurrence, the executive director shall notify the requesting party of the lack of concurrence and shall ~~((take no further action))~~ close the case if concurrence is not provided within a reasonable time.

AMENDATORY SECTION (Amending Order 80-9, filed 9/30/80, effective 11/1/80)

WAC 391-65-090 Grievance arbitration—Designation of panel of arbitrators. Upon the ~~((filing of a))~~ request ~~((for a panel of arbitrators))~~ of a party, the ~~((executive director))~~ agency shall furnish ~~((the parties))~~ a list of ~~((names selected from))~~ members of the dispute resolution panel. ~~((The list shall contain five names unless a different number is specifically requested by the parties or is specified in their collective bargaining agreement. The executive director shall furnish, whenever available, biographical information, including background, qualifications and experience, on each of the arbitrators on the list supplied to the parties. If one or more of those named is unavailable to accept appointment as arbitrator or must be disqualified, a substitute name will be provided upon the joint request of the parties. If all of those named are rejected by the parties, a second list will be provided upon the joint request of the parties. All contacts and arrangements between the parties and an arbitrator selected under this rule will be the responsibility of the parties.))~~

PROPOSED

Names shall be referred and an arbitrator shall be selected under WAC 391-55-120.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-65-110 Grievance arbitration—Conduct of proceedings. The arbitrator assigned or selected shall conduct the arbitration proceedings in the manner provided in the collective bargaining agreement under which the dispute arises (~~(-All such arbitrators shall maintain compliance with the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" adopted by the National Academy of Arbitrators, the American Arbitration Association and the Federal Mediation and Conciliation Service on May 29, 1985: Provided, however, That arbitration matters)),~~ subject to the following:

(1) Arbitration cases handled by members of the agency staff shall be ~~((filed))~~ kept in the public files of the agency ~~((and shall not be accorded the privacy required by such code)).~~

(2) The services of a member of the commission staff as arbitrator shall be subject to interruption for reassignment of ~~((such))~~ the staff member to other functions of the agency having a higher priority.

(3) Except as provided in subsections (1) and (2) of this section, all arbitrators shall maintain compliance with the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" adopted by the National Academy of Arbitrators, the American Arbitration Association and the Federal Mediation and Conciliation Service on May 29, 1985.

AMENDATORY SECTION (Amending WSR 96-07-105, filed 3/20/96, effective 4/20/96)

WAC 391-65-130 Grievance arbitration—Award. Any arbitrator assigned or selected under this chapter for a dispute involving public employees shall, after ~~((submission of))~~ sending the arbitration award to the parties, ~~((file))~~ submit a copy ~~((with))~~ to the executive director.

AMENDATORY SECTION (Amending Order 80-9, filed 9/30/80, effective 11/1/80)

WAC 391-65-150 Grievance arbitration—Expenses. Each party shall pay the expenses of presenting its own case and the expenses and fees of its member, if any, of an arbitration panel. The expenses of witnesses shall be paid by the party producing them. The ~~((fees and traveling expenses of an arbitrator selected by the parties from a panel designated by the commission and any))~~ costs for recording and/or transcription of proceedings shall be paid by the parties under the terms of their collective bargaining agreement or ~~((such other arrangements as they may agree upon))~~ as agreed by the parties. The commission shall pay the salary and traveling expenses of a staff member assigned ~~((as a grievance arbitrator))~~ under WAC 391-65-070, but no other expenses of the proceedings. The parties shall pay the fees and expenses of a

dispute resolution panel member selected under WAC 391-65-090, as provided in WAC 391-55-120.

**WSR 99-10-109
PROPOSED RULES
COMMISSION ON
JUDICIAL CONDUCT**

[R.D. 99-02—Filed May 5, 1999, 10:29 a.m.]

Original Notice.

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

Title of Rule: Rule 11 - Confidentiality.

Purpose: Amend and clarify existing rules on confidentiality.

Other Identifying Information: Commission on Judicial Conduct Rules of Procedure (WSR 96-17-025).

Statutory Authority for Adoption: Article IV, Section 31, Washington State Constitution.

Statute Being Implemented: Chapter 2.64 RCW and Article IV, Section 31, State Constitution.

Summary: The proposed action would amend and clarify Rule 11 concerning confidentiality of commission proceedings. The rule is intended as an alternative for consideration with existing Rule 11 and amendments previously proposed in WSR 99-09-050.

Reasons Supporting Proposal: The commission is directed to provide for rules of procedure and of confidentiality. This proposal is intended to update rules on confidentiality.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Akana, P.O. Box 1817, Olympia, WA 98507, (360) 753-4585.

Name of Proponent: Commission on Judicial Conduct, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed action would amend and clarify Rule 11 concerning confidentiality of commission proceedings. The rule is intended as an alternative for consideration with existing Rule 11 and amendments previously proposed in WSR 99-09-050.

Proposal Changes the Following Existing Rules: The amendment restates and clarifies commission confidentiality rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact statement is required for this proposal by chapter 19.85 RCW. The rule is procedural in nature.

RCW 34.05.328 does not apply to this rule adoption. The action would amend procedural rules.

Hearing Location: The Heathman Lodge, 7801 N.E. Greenwood Drive, Vancouver, WA 98662, on August 6, 1999, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Kathy Sullivan by July 30, 1999, TDD (360) 753-4585.

PROPOSED

Submit Written Comments to: Commission on Judicial Conduct, P.O. Box 1817, Olympia, WA 98507, fax (360) 586-2918, by July 21, 1999.

Date of Intended Adoption: August 6, 1999.

May 5, 1999

David Akana

Executive Director

AMENDATORY SECTION (Amending Order 96-001, filed 8/13/96)

RULE 11. CONFIDENTIALITY

(a) Investigative and initial p((P))roceedings.

(1) ((Prior to the filing of)) Before the commission files a statement of charges alleging misconduct by or incapacity of a judge, all proceedings, including commission deliberations, investigative files, records, and matters submitted to the commission, shall be held confidential by the commission, disciplinary counsel, investigative officer, and staff except as ((provided in Rule 17(e-)) follows:

(A) With the approval of the commission, the investigative officer may notify respondent that a complaint has been received and may disclose the name of the person making the complaint to respondent pursuant to Rule 17(e).

(B) The commission may inform a complainant or potential witness when respondent is first notified that a complaint alleging misconduct or incapacity has been filed with the commission. The name of the respondent, in the discretion of the commission, shall not be used in written communications to the complainant.

(C) The commission may disclose information upon a waiver in writing by respondent when:

(i) Public statements that charges are pending before the commission are substantially unfair to respondent; or

(ii) Respondent is publicly accused or alleged to have engaged in misconduct or with having a disability, and the commission, after a preliminary investigation, has determined that no basis exists to warrant further proceedings or a recommendation of discipline or retirement.

(2) Except as provided under this rule, the fact that any complaint has been made, or a statement has been given to the commission, ((After the filing of a statement of charges, all subsequent proceedings shall be public except as may be provided by protective order. The statement of charges alleging judicial misconduct or incapacity shall be available for public inspection. The records of the initial proceedings that formed the basis of a finding of probable cause shall become public on the first day of the hearing. The hearing before the commission shall be open to the public; however, all deliberations of the commission in reaching a decision on the statement of charges)) shall be confidential.

(A) Any person providing information to the commission shall not disclose the existence of an investigation to a third party before the commission files a statement of charges, dismisses the complaint, or otherwise closes the investigation or initial proceeding, except as provided in Rule 11 (a)(2)(B).

(B) A complainant or a person giving a statement to the commission may inform any third party, or the public gener-

ally, of the factual basis upon which a complaint is based or a statement has been given.

(b) Hearings on statement of charges ((Information)).

(1) After the filing of a statement of charges, all subsequent proceedings shall be public, except as may be provided by protective order. All proceedings at which issues of law and fact are tried before the commission constitute hearings for the purposes of these rules and shall be open to the public. ((Prior to the filing of a statement of charges, all information relating to a complaint shall be held confidential by the commission, disciplinary counsel, and staff, except that the commission may disclose information:

(A) When the commission has determined that there is a need to notify another person or agency in order to protect the public or the administration of justice; or

(B) Upon waiver in writing by respondent:

(i) If public statements that charges are pending before the commission are substantially unfair to respondent; or

(ii) If respondent is publicly associated with violating a rule of judicial conduct or with having an incapacity, and the commission, after a preliminary investigation, has determined there is no basis for further proceedings or for a recommendation of discipline or retirement.))

(2) The statement of charges alleging misconduct or incapacity, shall be available for public inspection. All investigative files and records of the initial proceeding that were the basis of a finding of probable cause shall be disclosed by the commission upon the date when hearings on the statement of charges commence. ((Except as provided in these rules, the fact that a complaint has been made, or a statement has been given to the commission, and all papers and matters submitted to the commission together with the investigation and initial proceedings conducted pursuant to these rules, shall be confidential. Any person providing information to the commission shall not disclose the existence of such investigation to a third party before the commission files a statement of charges, or the complaint is dismissed. However, the person filing a complaint or giving a statement to the commission is not prohibited by these rules from informing any third party, or the public generally, of the factual basis upon which a complaint is based, or a statement is given.))

((3) The commission may inform a complainant or potential witness when respondent is first given notice of misconduct or incapacity allegations.

The name of the respondent, in the discretion of the commission, shall not be used in written communication to the complainant.

(4) Disciplinary counsel's work product and records of the commission's deliberations shall not be disclosed.

(5) Investigative files and records prior to the date of the filing of the statement of charges shall not be disclosed unless they formed the basis for probable cause. Those records of the initial proceeding that were the basis of a finding of probable cause shall become public as of the date of the fact-finding hearing.

(6) Informal action taken by the commission prior to May 5, 1989, when amended rules were adopted eliminating private informal dispositions, may, in the commission's discretion, be disclosed to the Washington State Bar Associa-

PROPOSED

tion, American Bar Association, a judicial authority, any judicial appointive, selection or confirmation authority, or to law enforcement agencies, when required in the interests of justice, or to maintain confidence in the selection of judges or administration of the judiciary. The person to whom the information relates shall be informed of any information released.

(7) ~~Unless otherwise permitted by these rules, or from public documents, or from a public hearing, no person shall disclose information obtained by that person during commission proceedings or from papers filed with the commission. Any person violating confidentiality rules may be subject to a proceeding for contempt in superior court.)~~

(c) Commission deliberations.

(1) All deliberations of the commission in reaching a decision on the statement of charges shall be confidential. All files, records, statements, papers, and materials from the commission's deliberations shall be confidential.

(2) Disciplinary counsel's work product shall be confidential.

(d) General applicability and exceptions.

(1) Unless otherwise permitted by this rule, or from public documents, or from a hearing, no person shall disclose information obtained by that person during commission proceedings or from papers filed with the commission.

(2) Any person violating this rule may be subject to a proceeding for contempt in superior court.

(3) The commission, in its discretion, may at any time disclose information or records to any person, judicial authority, law enforcement agency, regulatory agency, the Washington State Bar Association, and any judicial appointive, selection or confirmation authority, when such disclosure is necessary to protect a compelling interest of an individual, the general health, safety or welfare of the public, or the administration of justice, or to maintain confidence in the selection of judges or administration of the judiciary. The commission may in its discretion inform the respondent that such disclosure will be or has been made. The commission may condition the terms of release and limit disclosure to a third party. Any condition shall consider the Preamble of these rules and the purpose for confidentiality as set forth in the Washington State Constitution, Article IV, Section 31.

(4) If the commission or its staff initiates a complaint under Rule 17 (b)(1), this rule as it applies to the commission, rather than those applicable to complainants, shall govern the commission and its staff.

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.

WSR 99-10-112

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed May 5, 1999, 10:58 a.m.]

The Washington State Department of Fish and Wildlife withdraws WSR 99-05-064 filed February 17, 1999.

Evan S. Jacoby
Rules Coordinator

WSR 99-10-114

**PROPOSED RULES
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT**

[Filed May 5, 1999, 11:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-06-025.

Title of Rule: Chapter 365-140 WAC, State funding of local emergency food programs, these rules govern the emergency food assistant program (EFAP), outlining broad policies and procedures for participants.

Purpose: Update WACs to correspond to changes recommended by the Department of Community, Trade and Economic Development and its advisory group.

Statutory Authority for Adoption: RCW 43.330.040.

Statute Being Implemented: RCW 43.330.130.

Summary: Changes include: Update RCW reference for EFAP; tighten definition of an eligible food bank; eliminate some of the details of allocation formulas; changing from "Centennial Accord tribes" to "federally recognized tribes" the tribes eligible to apply directly as contractors; allow tribes flexibility in using their EFAP funds in either of the EFAP programs; remove food banks' option to be sponsored by another nonprofit; allowing food banks to match EFAP funds with more in-kind contributions and less cash.

Reasons Supporting Proposal: The changes were all recommended by the advisory group for the program. The changes help clarify rules for participation, allow for greater flexibility, and will aid in the administration of the program.

Name of Agency Personnel Responsible for Drafting and Implementation: Susan Eichrodt, Department of Community, Trade and Economic Development, (360) 586-4921; and Enforcement: Mina Apacible, Department of Community, Trade and Economic Development, (360) 753-4979.

Name of Proponent: Department of Community, Trade and Economic Development, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: (1) RCW citation updated to reflect the current statutory authority for implementing program. (2) Definition of food bank would be clarified to allow better service to hungry clients. May also eliminate a very few food banks (2-4) that may not meet the new criteria. (3) Eliminate the specific details of the allocation formula for tribes and food banks.

PROPOSED

Would allow for greater flexibility in changing the formula when circumstances warrant change. (4) Allow federally recognized tribes instead of only tribes that signed the Centennial Accord to apply directly as contractors in the program. Would allow a greater number of tribes to participate as contractors. (5) Allow tribes to participate in either the food bank or voucher program or both. Would allow tribes the flexibility to put their money where it would do the greatest good. (6) No longer allow a food bank to be "sponsored" by another 501(c)3 agency. Food bank must be a 501(c)3 or be merged into a 501(c)3 organization in order to be eligible. The IRS does not recognize the sponsor relationship. Would increase the fiscal reliability of all food banks and oblige them to meet IRS standards. Might eliminate a very small number (3-5) of food banks that refuse to or cannot comply. This recommendation was made by advisory group two years ago. (7) Allow food banks that cannot meet the required cash match of at least 50% of the EFAP funds to meet the requirements by matching EFAP with 200% of in-kind donations (donated labor, food, etc.). Would allow more food banks to participate in the program that did not have sufficient cash match. (8) Clarification that a lead agency that is also a distribution center may only take 15% of the total contract for administration costs. No impact as this is not a change in policy.

Proposal Changes the Following Existing Rules: See above changes and impacts.

No small business economic impact statement has been prepared under chapter 19.85 RCW. CTED has determined that there is no impact on small businesses through implementation of these changes, therefore a small business economic impact statement is not necessary.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: Spokane Neighborhood Action Program, East 2116 First Street, Meeting Room, Spokane, WA 99202, on June 9, 1999, at 1:00 to 3:00 p.m.; and at the Department of Community, Trade and Economic Development, 906 Columbia Street S.W., Conference Room 5, Olympia, WA 98504, on June 10, 1999, at 10:00 a.m. to 12:00 p.m.

Assistance for Persons with Disabilities: Contact Susan Eichrodt by May 25, 1999, TDD (360) 753-2200, or (360) 586-4921.

Submit Written Comments to: Susan Eichrodt, Program Manager, Department of Community, Trade and Economic Development, 906 Columbia Street S.W., P.O. Box 48300, Olympia, WA 98504-8300.

Date of Intended Adoption: July 15, 1999.

May 5, 1999

Jean L. Ameluxen, Director
Intergovernmental Relations

AMENDATORY SECTION (Amending Order 87-11, filed 9/18/87)

WAC 365-140-010 Authority. These rules are adopted under the authority of RCW ((43.63A.060)) 43.330.040 (2)(g) which provides that the director shall ((~~make such rules and regulations and do all other things~~)) adopt rules necessary ((~~and proper~~)) to carry out the purposes of the chapter ((43.63A RCW)). RCW ((43.63A.065(2))) 43.330.130 pro-

vides that among its functions and responsibilities the department shall ((~~administer state and federal grants and programs which are assigned to the department by the governor or the legislature~~)) coordinate services to communities that are directed to the poor and disadvantaged, including emergency food assistance.

AMENDATORY SECTION (Amending WSR 95-12-002, filed 5/24/95, effective 7/1/95)

WAC 365-140-030 Definitions. (1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Food bank" means an emergency food program that distributes unprepared food ((~~on a regular basis without a charge~~)) without charge to its clients, is open a fixed number of hours and days each week or month, and such hours and days are publicly posted.

(4) "Food distributor" means a food distribution agency that collects, warehouses, and distributes food to emergency food programs and other charities on a county, regional, or state-wide basis.

(5) "Commodity program" means a program that primarily distributes USDA surplus commodities to clients (TEFAP).

(6) "Emergency food assistance program" means the state-wide activities of the department to assist local emergency food programs by allocating and awarding state funds.

(7) "Applicant" means a public or private nonprofit organization, tribe or tribal organization which applies for state emergency food assistance.

(8) "Contractor" means an applicant which has been awarded state funds under the emergency food assistance program, and which has entered into a contract with the department of community, trade, and economic development to provide emergency food assistance to individuals.

(9) "Lead agency contractor" means a contractor which may subcontract with one or more local food banks to provide emergency food assistance to individuals, and with food distributors to provide food to food banks.

(10) "Tribal food voucher program" means the state-wide activities of the department which allocate and award state funds to tribes and tribal organizations that issue food vouchers to clients.

(11) "Religious service" means any sectarian or non-denominational service, rite, or meeting that involves worship of a higher being.

(12) "Participating food bank" means a local public or private nonprofit food bank which enters into a subcontract with a lead agency contractor to provide emergency food assistance to individuals.

(13) "Emergency food" means food that is given to clients who do not have the means to acquire that food themselves, so that they will not go hungry.

(14) "Special dietary needs" mean funds to purchase food that meets the nutritional needs of special needs population.

(15) "In-kind" means the value of volunteer services or donated goods such as staff time, rent, food, supplies and transportation.

(16) "Administrative costs" mean management and general expenses, including membership dues, that cannot be readily identified with a particular program or direct services.

(17) "Operational expenses" mean those costs clearly identifiable with providing direct services to eligible clients, or distribution services to food banks such as staff time, transportation costs, and equipment rental.

AMENDATORY SECTION (Amending WSR 95-12-002, filed 5/24/95, effective 7/1/95)

WAC 365-140-040 Contractor funding allocation and award of contracts. At least seventy percent of the total allocation appropriated by the legislature shall be contracted to lead agency contractors. These funds shall be for the purpose of funding the activities of food banks and food distributors, the purchase of special dietary needs foods, and providing special dietary needs training. The specific appropriation for timber and salmon dependent communities shall be contracted to food banks in those communities. Of the remainder of the total allocation, not including department administrative costs, allocations shall be contracted to a discretionary program if the department elects to award such contracts, the tribal food voucher program, and additional special dietary needs training. Allocations for each county shall be contracted to lead agency contractors on the following basis:

(1) A formula for distributing the funds in proportion to need shall be established by the department in consultation with a committee appointed by the director or the director's designee. ~~((The formula shall address the following:~~

~~(a) Poverty population in each county; and~~

~~(b) Unemployed population in each county.))~~ This formula may only be changed at the beginning of a biennial contract period.

(2) The department shall award the lead agency contract to an eligible contractor as defined by the department, that is supported by a least two-thirds of the participating food banks in a county.

(3) The department may award the combined allocation for two or more counties to a single applicant.

(4) The department shall award a contract to no more than one lead agency contractor in each county, with the exception of King County, where there may be three lead agency contractors, to administer subcontracts with one or more participating food banks and food distributors.

(5) Federally recognized tribes ~~((that have signed the Centennial Accord))~~ may apply to the department directly for the food bank program without having to subcontract with the lead agency. They must meet all the same criteria and requirements as lead agencies.

(6) Within each lead agency service area, except for the additional funds specifically allocated for food banks in timber and salmon dependent communities, funds shall be allocated between food distributors, food banks, and special dietary needs foods and training based on a two-thirds vote of all participating food banks and the lead agency.

(7) The additional funds specifically allocated for food banks in timber and salmon dependent communities shall remain in the amounts identified by the legislature.

(8) If participating food banks designate funds for food distribution, they shall elect with a two-thirds vote of the participating food banks and the lead agency, an eligible distributor as defined by the department. They may choose more than one distributor with which to subcontract. The lead agency contractor shall be responsible for subcontracting with the food distributor(s).

(9) A formula for distributing the funds to each tribe and tribal organization participating in the ~~((tribal food voucher))~~ emergency food assistance program in proportion to need shall be established by the department in consultation with a committee ~~((appointed by the director or the director's designee. The formula shall address the following:~~

~~(a) Poverty population in each tribe; and~~

~~(b) Unemployment population in each tribe))~~ consisting of representatives from all tribes participating in the program. This formula may only be changed at the beginning of a biennial contract period.

(10) The department shall pay for services provided under the emergency food assistance program after the contractor submits a monthly report of expenditures incurred and a request for reimbursement.

(11) Tribes may apply for ~~((either))~~ the food bank funds or ~~((tribal))~~ the food voucher funds ~~((, but not for))~~ or both. ~~((A tribe's allocation for either the tribal food voucher program or the food bank program shall be the amount that the tribe would receive as a participant in the tribal voucher program. (E.g., should a tribe participate in the food bank program, its allocation will not be computed from the county's total food bank funds available, but from the tribal food voucher program's total funds available.))~~ Tribes will receive the same amount of funds whether they participate in one or both programs, computed as their share of the allocated EFAP tribal funds. It will be up to the discretion of each participating tribe how it allocates the EFAP funds.

(12) In the event that funds are not claimed by an eligible organization in a county or that a portion of the funds allocated to a county remains unspent, the lead agency contractor may request authorization from the department to reallocate funds, within its service area, to an area of unmet need.

(13) In the event that a portion of the funds allocated to a subcontracting tribe within a tribal contractor's contract remains unspent or unclaimed, the tribal contractor may request authorization from the department to reallocate funds to one of its other subcontracting tribes with unmet needs.

AMENDATORY SECTION (Amending WSR 95-12-002, filed 5/24/95, effective 7/1/95)

WAC 365-140-050 Applicant eligibility criteria. (1) The applicant must have a certified form from the IRS stating nonprofit status under section 501(c)3, or be a public nonprofit agency, be a recognized tribe, a tribal organization with 501(c)3 status, or an unrecognized tribe with 501(c)3 status.

(2) The applicant for funding as lead agency must have been operating as a public nonprofit or private nonprofit with

501(c)3 status for one year prior to the beginning date of the contract.

(3) The applicant for funding as a participating food bank must have been operating as a public nonprofit or private nonprofit with 501(c)3 status food bank for one year prior to the beginning date of the subcontract. ~~((Participating private nonprofit food banks without 501(c)3 status may also be sponsored by a local public nonprofit agency or private nonprofit agency with 501(c)3 status.))~~

(4) The applicant for funding as a food distributor must have been operating as a public nonprofit or a private nonprofit with 501(c)3 status food distributor for one year prior to the beginning date of the contract.

(5) The applicant for lead agency or tribal contractor may or may not actually provide emergency food program services.

(6) The applicant must practice nondiscrimination in providing services and employment.

(7) The applicant must not require participation in a religious service as a condition of receiving emergency food or a food voucher.

(8) Applicants within a county or multicounty region, or tribes with established parameters for service, may define their service area boundaries for the purpose of equitably allocating resources. The department encourages the provider to serve the client no matter what service areas the client resides in. If appropriate, the provider may then refer the client to the agency servicing the area in which the client resides, or to the tribe which has established jurisdiction over the individual, for further assistance. Providers must practice nondiscrimination when applying their service area policies.

(9) The applicant may not charge for food or food vouchers given to a client.

AMENDATORY SECTION (Amending WSR 95-12-002, filed 5/24/95, effective 7/1/95)

WAC 365-140-060 Financial support application process. (1) Potential applicants will be notified by the department that in order to be considered for state emergency food financial assistance, an application must be submitted to the department.

(2) An applicant must make formal application using forms issued and procedures established by the department. Such application shall be for the period indicated on the contract face sheet. Failure of an applicant to make application in a timely manner, as specified by the department, may result in denial of the funding request.

(3) Department funds may not supplant other existing funding sources.

(4) Department funds may not be used to defray costs of distributing USDA commodities under the commodity program.

(5) The department shall notify successful applicants and shall provide to each of them a contract for signature. This contract must be signed by an official with authority to bind the applicant and must be returned to the department prior to the award of any funds under this program.

(6) Applicants that receive food bank or food distribution funds are subject to the following fiscal requirements:

(a) The total funds from the department received by a nontribal lead agency contractor ~~((participating food bank))~~ or a food ~~((distributor))~~ distribution subcontractor ~~((for the emergency food assistance program))~~ must be equally matched by funds from other sources during the fiscal year. No more than fifty percent of that match may be documented in-kind contributions. Nontribal participating food banks receiving funds from the department have two options for matching funds: They may equally match the EFAP funds, with no more than fifty percent being documented in-kind contributions; if they do not have at least one-half of their minimum match as cash, they may match their department funds by at least two hundred percent in in-kind contributions from other sources.

(b) Administrative costs for food bank and food distributor subcontractors under this program are limited to ten percent of their total contract award. Administrative costs for a lead agency contractor ~~((s))~~ who also provides direct emergency food assistance services as a participating food bank and/or services as a food distributor are limited to ten percent of the contractor's allocation for providing direct services ~~((as a participating food bank, and))~~, ten percent of the contractor's allocation for providing direct services, ten percent of the contractor's allocation for providing food distributor services, and ten percent of the total contract award as food bank lead agency ~~((contractor))~~; total administrative costs, however, may not exceed fifteen percent of the total contract award. Administrative costs for agencies who are lead agency contractors only are limited to ten percent of their total contract award.

(7) Tribal applicants ~~((that receive tribal food voucher funds))~~ are subject to the following fiscal requirements:

(a) Tribal contractors and subcontractors must match thirty-five percent of the funds received by the department for the emergency food assistance program. No more than fifty percent of that match may be documented in-kind contributions.

(b) Of ~~((their total))~~ a contract award allocated to the tribal food voucher program, tribal contractors may not spend more than ten percent on administrative costs, and five percent on operational expenditures. The balance of funds is to be used for food vouchers issued to clients. Of funds allocated to the food bank program, tribal contractors are subject to the same spending requirements as nontribal food bank contractors as per WAC 365-140-060 (6)(b).

PROPOSED



WSR 99-09-052
EXPEDITED ADOPTION
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Adult Services Administration)
 [Filed April 19, 1999, 1:45 p.m.]

Title of Rule: Chapter 388-78A WAC, Boarding home licensing.

Purpose: To change cross-references in chapter 388-78A WAC from chapter 246-316 WAC to chapter 388-78A WAC.

Statutory Authority for Adoption: RCW 18.20.240.

Statute Being Implemented: Chapter 18.20 RCW.

Summary: In 1998, the legislature transferred the responsibility for licensing and inspection of boarding homes from the Department of Health (DOH) to the Department of Social and Health Services (DSHS). Chapter 246-316 WAC contained the DOH regulations on boarding home licensing and inspection. At the request of DSHS, the code reviser recodified chapter 246-316 WAC to chapter 388-78A WAC. The internal cross-references within the text were not changed. For instance, WAC 388-78A-040(3) refers to WAC 246-316-045. The reference should be WAC 388-78A-045.

Reasons Supporting Proposal: Internal consistency - inspectors must cite regulations when issuing their findings, confusion results when the regulations contain reference to a nonexistent WAC chapter.

Name of Agency Personnel Responsible for Drafting: Patricia Hague, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, 753-0631; Implementation and Enforcement: Pat Lashway, P.O. Box 45600, Mailstop 45600, Olympia, WA 98504-5600, 493-2560.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: In 1998, the legislature transferred the responsibility for licensing and inspection of boarding homes from the Department of Health (DOH) to the department of Social and Health Services (DSHS). Chapter 246-316 WAC contained the DOH regulations on boarding home licensing and inspection. At the request of DSHS, the code reviser recodified chapter 246-316 WAC to chapter 388-78A WAC. The internal cross-references were not changed. For instance, WAC 388-78A-040(3) refers to WAC 246-316-045. The reference should be WAC 388-78A-045. Inspectors must cite regulations when issuing their findings, confusion results when the regulations contain reference to a nonexistent WAC chapter.

Proposal Changes the Following Existing Rules: In chapter 388-78A WAC, change any reference to chapter 246-316 WAC to chapter 388-78A WAC. For instance, WAC 388-78A-040(3) refers to WAC 246-316-045. The reference should be WAC 388-78A-045.

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 Paige Wall, Rules Coordinator, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504-5850, AND RECEIVED BY July 7, 1999.

April 7, 1999

Marie Myerchin-Redifer, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 98-20-021, filed 9/25/98, effective 9/25/98)

WAC 388-78A-020 Licensure—Initial, renewal, day care approval respite care, modifications. (1) A person shall have a current license issued by the department before operating or advertizing a boarding home.

(2) An applicant for initial licensure shall submit to the department, forty-five days or more before commencing business:

(a) A completed application on forms provided by the department;

(b) Verification of department approval of facility plans submitted for construction review;

(c) A criminal history background check in accordance with WAC ((246-316-045(2))) 388-78A-045(2);

(d) The fee specified in WAC ((246-316-990)) 388-78A-990; and

(e) Other information as required by the department.

(3) A licensee shall apply for license renewal annually at least thirty days before the expiration date of the current license by submitting to the department:

(a) A completed application on forms provided by the department;

(b) A criminal history background check in accordance with WAC ((246-316-045(2))) 388-78A-045(2);

(c) The fee specified in WAC ((246-316-990)) 388-78A-990; and

(d) Other information as required by the department.

(4) A licensee, prior to accepting adults for day care, shall:

(a) Submit a letter to the department which includes:

(i) The maximum number of adults in the proposed day care program; and

(ii) An attestation of meeting the requirements in WAC ((246-316-330)) 388-78A-330;

(b) Obtain written department approval, including the maximum approved capacity for day care adults; and

(c) Maintain and post written approval in a conspicuous place on the boarding home premises.

(5) A licensee may provide respite care within the licensed bed capacity.

(6) A licensee, prior to changing the licensed bed capacity, shall:

EXPEDITED ADOPTION

(a) Submit a letter requesting approval to the department at least thirty days before the intended change;

(b) Submit the prorated fee as determined by the department; and

(c) Obtain an amended license indicating the new bed capacity.

(7) A licensee, prior to changing the location or use of rooms listed on the licensed room list shall:

(a) Notify the department in writing thirty days or more before the intended change; and

(b) Maintain a copy of the licensed room list.

(8) At least thirty days before selling, leasing, or renting the boarding home or changing officers or partners, and immediately upon a change of administrator, the licensee shall submit to the department:

(a) Name and address of the boarding home;

(b) Type of change;

(c) Full names of the present and prospective licensee;

(d) Date of proposed change;

(e) Names and addresses of all responsible officers or controlling partners; and

(f) A signed statement attesting that any new controlling officers are in compliance with this chapter.

AMENDATORY SECTION (Amending WSR 98-20-021, filed 9/25/98, effective 9/25/98)

WAC 388-78A-040 Administrator. (1) The licensee shall employ an administrator and designate an alternate administrator who are twenty-one or more years of age, and:

(a) Hold an associate degree in health, personal care, or business administration, such as:

(i) Social work;

(ii) Nursing;

(iii) Nutrition;

(iv) Physical therapy;

(v) Occupational therapy; or

(vi) Management; or

(b) Hold an advanced degree in a field specified in (a) of this subsection; or

(c) Are certified by a department-recognized national accreditation health or personal care organization, such as the American Association of Homes for the Aging; or

(d) Have a high school diploma or equivalent and two years experience as a resident-care staff person, including one year of caring for residents representative of the population in the boarding home; or

(e) Held the position of an administrator in a Washington state licensed boarding home or nursing home prior to August 1, 1994.

(2) The administrator, or alternate administrator when acting as the administrator, shall:

(a) Be responsible for the overall twenty-four-hour-per-day operation of the boarding home; and

(i) Provide for the care of residents; and

(ii) Comply with this chapter and policies of the licensee; and

(b) Be available in person or by telephone or electronic pager at all times.

(3) The administrator and alternate administrator shall meet the requirements for criminal history background checks in WAC ((246-316-045)) 388-78A-045.

(4) Upon the appointment of a new administrator or alternate administrator, the licensee shall provide in writing to the department:

(a) The full name of the new administrator or alternate administrator; and

(b) A statement that the new administrator or alternate administrator is in compliance with this chapter.

AMENDATORY SECTION (Amending WSR 98-20-021, filed 9/25/98, effective 9/25/98)

WAC 388-78A-050 Staff. (1) The licensee shall:

(a) Develop and maintain written job descriptions for the administrator and each staff position;

(b) Verify work references;

(c) Verify required credentialing is current and in good standing for licensed and certified staff;

(d) Document and retain weekly staffing schedules, as planned and worked, for the last twelve months;

(e) Provide sufficient, trained staff in each boarding home to:

(i) Furnish the services and care needed by residents;

(ii) Maintain the boarding home free of safety hazards; and

(iii) Implement fire and disaster plans;

(f) Assure one or more resident-care staff eighteen years of age or older, with current cardiopulmonary resuscitation and first-aid cards, is present to assist residents at all times:

(i) On the boarding home premises when one or more residents are present;

(ii) Off the boarding home premises during boarding home activities; and

(iii) When staff transport a resident;

(g) Assure staff provide "on-premises" supervision when any resident is working for, or employed by, the boarding home; and

(h) Provide staff orientation and appropriate training for expected duties, including:

(i) Organization of boarding home;

(ii) Physical boarding home layout;

(iii) Specific duties and responsibilities; and

(iv) Policies, procedures, and equipment necessary to perform duties.

(2) The licensee shall, in addition to following WISHA requirements, protect residents from tuberculosis by requiring each staff person to have, upon employment:

(a) A tuberculin skin test by the Mantoux method, unless the staff person:

(i) Documents a previous positive Mantoux skin test, which is ten or more millimeters of induration read at forty-eight to seventy-two hours;

(ii) Documents meeting the requirements of this subsection within the six months preceding the date of employment; or

(iii) Provides a written waiver from the department or authorized local health department stating the Mantoux skin test presents a hazard to the staff person's health;

- (b) A second test one to three weeks after a negative Mantoux skin test for staff thirty-five years of age or older;
- (c) A chest x-ray within seven days of any positive Mantoux skin test.

(3) The licensee shall report positive chest x-rays to the appropriate public health authority, and follow precautions ordered by a physician or public health authority.

(4) The licensee shall retain records of tuberculin test results, reports of x-ray findings, exceptions, physician or public health official orders, and waivers in the boarding home.

(5) The licensee shall assure that all resident-care staff including those transporting residents and supervising resident activities, except licensed staff whose professional training exceeds first-responder training, have within thirty days of employment:

- (a) Current cardiopulmonary resuscitation cards from instructors certified by:
 - (i) American Red Cross;
 - (ii) American Heart Association;
 - (iii) United States Bureau of Mines; or
 - (iv) Washington state department of labor and industries;

and
(b) Current first-aid cards from instructors certified as in (a) of this subsection, except nurses do not need first-aid cards.

(6) The licensee shall restrict a staff person's contact with residents when the staff person has a known communicable disease in the infectious stage which is likely to be spread in the boarding home setting or by casual contact.

(7) The licensee shall assure any staff person suspected or accused of abuse does not have access to any resident until the licensee investigates and takes action to assure resident safety to the satisfaction of the department.

(8) The licensee shall not interfere with the investigation of a complaint, coerce a resident, or conceal evidence of alleged improprieties occurring within the boarding home.

(9) The licensee shall prohibit an employee from being directly employed by a resident or a resident's family during the hours the employee is working for the boarding home.

(10) The licensee shall maintain the following documentation on the boarding home premises, during employment, and at least two years following termination of employment:

- (a) Staff orientation and training pertinent to duties, including cardiopulmonary resuscitation, first-aid, tuberculin skin testing and HIV/AIDS training;
- (b) Criminal history disclosure and background checks as required in WAC ((~~246-316-045~~) 388-78A-045); and
- (c) Verification of contacting work references and professional licensing and certification boards as required by subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 98-20-021, filed 9/25/98, effective 9/25/98)

WAC 388-78A-055 Policies and procedures. (1) The licensee shall establish and observe the following written policies and procedures, consistent with this chapter and services provided:

(a) Accepting and retaining residents, including specific policies, if any, for accepting or retaining residents needing state income assistance;

(b) Anti-discrimination;

(c) Limited nursing services consistent with WAC ((~~246-316-265~~) 388-78A-265);

(d) Health care services arranged by a resident under the provisions of WAC ((~~246-316-268~~) 388-78A-268), specifying the types of services allowed in the boarding home, and who has the responsibility for each aspect of the resident's care;

(e) Infection control, including:

(i) Cleaning and disinfecting toilets, bathing fixtures, floors, furniture, and common areas;

(ii) Cleaning resident rooms and furnishings;

(iii) Handwashing;

(iv) Managing staff and residents with communicable disease;

(v) Reporting communicable diseases in accordance with the requirements in chapter 246-100 WAC;

(vi) Handling and storing supplies and equipment used for resident services;

(vii) Infectious waste disposal;

(viii) Bloodborne pathogens in accordance with chapter 296-62 WAC; and

(ix) Laundry and handling of soiled and clean linens;

(f) Supervising and monitoring residents;

(g) Managing aggressive, assaultive residents, including but not limited to:

(i) Controlling violent residents; and

(ii) When and how to seek outside intervention;

(h) Food services, including but not limited to:

(i) Food service sanitation;

(ii) Procuring and storing food;

(iii) Meal times;

(iv) Modified diets;

(v) Food preparation;

(vi) Nutrient supplements; and

(vii) Food and meal substitution;

(i) Maintaining resident records and register;

(j) Medication services for each service category offered in the boarding home;

(k) Boarding home safety;

(l) Adult day care;

(m) Care of residents with dementia, delineating special services required;

(n) Emergency medical care and first-aid, including:

(i) Major emergencies;

(ii) Minor emergencies; and

(iii) Staff actions upon finding a resident not responsive to appropriate stimuli;

(o) Death of a resident;

(p) Suspected abuse, neglect, or exploitation including but not limited to:

(i) Reporting requirements according to chapters 26.44 and 74.34 RCW;

(ii) Responsibility of staff to immediately contact the department directly regarding suspected or alleged abuse or other improprieties, without retaliation from the licensee or administrator;

(iii) Protocol to protect residents according to WAC ((246-316-050(7))) 388-78A-050(7); and

(iv) Additional steps to take in the event of suspected rape or sexual abuse, including:

(A) Immediate medical examination of the alleged victim, with prior notice to the examining physician that the patient may have been raped or sexually abused;

(B) Arranging for a counselor or other professional knowledgeable in the field of rape and sexual assault to question or interview the resident, and provide counseling or intervention, when appropriate; and

(C) Allowing only staff with special training in the field of rape and sexual assault to question the victim or the suspected perpetrator regarding the alleged incident, unless the department, police or prosecutor's office instructs otherwise;

(q) Protecting residents and maintaining living accommodations during internal and external disasters, such as fires, explosions, earthquakes, flooding, hazardous environmental contamination, and other events that jeopardize the safety of residents, describing:

(i) On-duty staff responsibilities;

(ii) Provisions for summoning emergency assistance;

(iii) Plans for evacuating residents from area or building;

(iv) Alternative resident accommodations;

(v) Provisions for essential resident needs, supplies and equipment; and

(vi) Emergency communication plan;

(r) Advance directives as described in chapter 70.122 RCW, Natural Death Act;

(s) Resident's temporary absence from the boarding home;

(t) Confidentiality of resident information;

(u) Criminal history background checks in accordance with WAC ((246-316-045)) 388-78A-045;

(v) Resident trust funds; and

(w) Smoking, including means to protect nonsmokers.

(2) The licensee shall make the policies and procedures specified in subsection (1) of this section available to staff at all times and residents and residents' representatives upon request.

AMENDATORY SECTION (Amending WSR 98-20-021, filed 9/25/98, effective 9/25/98)

WAC 388-78A-150 Resident room—Room furnishings—Storage. (1) The licensee shall provide each resident sleeping room or area, except as permitted in subsection (3) of this section, with:

(a) Eighty or more square feet of usable floor space in a one-person room or area;

(b) Seventy or more square feet of usable floor space per individual in a room occupied by two or more individuals;

(c) A minimum ceiling height of seven feet six inches over all square footage considered usable floor space;

(d) A maximum room occupancy of:

(i) Four individuals if the boarding home was licensed before July 1, 1989, and licensed continuously thereafter; and

(ii) Two individuals if the boarding home applied for initial licensure or to increase the number of resident sleeping rooms after June 30, 1989;

(e) Room identification and resident capacity consistent with the licensed room list;

(f) Unrestricted direct access to a hallway, living room, outside, or other common-use area;

(g) One or more outside windows with:

(i) A total clear glass area equal to at least one-tenth of the room area;

(ii) Minimum area of ten square feet;

(iii) Window sills no more than three feet eight inches from the floor; and

(iv) Window sills at or above grade, with grade extending horizontally ten or more feet from the building;

(v) Easy operation if necessary for fire exit or ventilation; and

(vi) Adjustable curtains, shades, blinds, or equivalent for visual privacy;

(h) One or more duplex electrical outlets per bed if the boarding home was initially licensed after July 1, 1983;

(i) A light control switch located by the entrance for a light fixture in the room;

(j) Lighting at bedside when requested by a resident;

(k) One or more noncombustible waste containers, and no combustible waste containers;

(l) An individual towel and washcloth rack or equivalent;

(m) When requested by the resident, a lockable drawer, cupboard or other secure space measuring at least one-half cubic foot with a minimum dimension of four inches;

(n) Storage facilities in or immediately adjacent to the resident's sleeping room to adequately store a reasonable quantity of clothing and personal possessions;

(o) A comfortable bed, thirty-six or more inches wide, appropriate for size, age and physical condition of the resident and room dimensions, including but not limited to:

(i) Standard household bed;

(ii) Studio couch;

(iii) Hide-a-bed;

(iv) Day bed; or

(v) Water bed, if structurally and electrically safe;

(p) A bed mattress which:

(i) Fits the bed frame;

(ii) Is in good condition; and

(iii) Is at least four inches thick unless otherwise requested or necessary for resident health or safety;

(q) Beds spaced at least three feet from other beds unless otherwise requested by all affected residents;

(r) One or more comfortable pillows;

(s) Bedding, in good repair, changed weekly or more often as necessary to maintain cleanliness;

(t) Clean towels and washcloths provided weekly or more often as necessary to maintain cleanliness; and

(u) A sturdy, comfortable chair, appropriate for the age and physical condition of the resident.

(2) The licensee shall not allow the use of a resident room for a passageway or corridor.

(3) The licensee may, upon a resident's request, permit the resident to use personal furniture and furnishings when such usage does not jeopardize the health and safety of any resident.

(4) The licensee shall:

(a) Document the functional ability of each resident to use cooking facilities safely; and

(b) Limit access to cooking facilities by any resident deemed by the licensee unable to cook safely.

(5) The licensee may use or allow use of carpets and other floor coverings when:

(a) Securely fastened to the floor or provided with non-skid backing; and

(b) Kept clean and free of hazards such as curling edges or tattered sections.

(6) The licensee shall, prior to the purchase and installation of carpeting, submit samples to the department for approval in accordance with WAC ((246-316-070)) 388-78A-070.

AMENDATORY SECTION (Amending WSR 98-20-021, filed 9/25/98, effective 9/25/98)

WAC 388-78A-240 Criteria for accepting and retaining residents. (1) The licensee shall evaluate the ability of staff and facilities to meet a prospective resident's housing, domiciliary, dementia, and nursing care needs, based on:

(a) Space, equipment and furniture requirements;

(b) General behavior including the tendency to wander, fall, act verbally or physically abusive or socially inappropriate;

(c) Current medication status and need for assistance in obtaining or administering medications;

(d) Height, weight and age;

(e) Functional abilities, including but not limited to:

(i) Ambulatory status and need for mobility aides;

(ii) Mental status and behavioral problems;

(iii) Ability to perform activities of daily living independently or with assistance; and

(iv) Conditions requiring staff monitoring or care of the resident.

(2) If the licensee accepts residents requiring limited nursing services, in addition to the information specified in subsection (1) of this section, the licensee shall consider:

(a) Medical diagnosis;

(b) Blood pressure;

(c) Any chewing, swallowing, mouth and dental problems and treatments;

(d) Any infections, skin rashes, ulcers and open lesion problems and treatments;

(e) Appetite and hydration status;

(f) Need for chemotherapy, radiation and dialysis; and

(g) Any urethral catheter use and type.

(3) The licensee shall accept and retain an individual as a resident only when:

(a) The individual is ambulatory unless the boarding home is approved by the Washington state director of fire protection to care for semi-ambulatory or nonambulatory residents;

(b) The individual does not need medical or nursing care exceeding that allowed by WAC ((246-316-265)) 388-78A-265 and ((246-316-268)) 388-78A-268;

(c) A nonsmoking individual can be accommodated with a smoke-free room and smoke-free common-use areas;

(d) A smoking individual can be accommodated by areas meeting the requirements in WAC ((246-316-140(2))) 388-78A-140(2);

(e) The individual can be accommodated by:

(i) The physical plant, facilities and spaces;

(ii) Furniture and equipment;

(iii) Staff who are available and sufficient to provide the type of domiciliary care required and desired by the individual; and

(iv) Staff who are available and sufficient to provide limited nursing services, as required by the individual, if the boarding home provides such services;

(f) The appropriate medication service type pursuant to RCW 18.20.160 and WAC ((246-316-300)) 388-78A-300 is available in the boarding home; and

(g) The individual meets the acceptance criteria defined in the boarding home policies and procedures.

(4) The licensee shall not accept or retain individuals:

(a) Exhibiting continuing overt acts which present a risk of harming self or others, including but not limited to self-mutilation, suicide attempts, and hitting or striking out at others;

(b) Having major areas of skin breakdown and open wounds; or

(c) Whose needs can only be met by inpatient care in a hospital, nursing home, or other facility licensed under chapter 18.51, 71.12, or 70.41 RCW; and

(5) Upon admitting a resident, the licensee shall document in the resident's health record, the resident's choice regarding:

(a) Definite arrangements with a health care practitioner; and

(b) The identity of individuals to contact in case of an emergency, illness or death.

AMENDATORY SECTION (Amending WSR 98-20-021, filed 9/25/98, effective 9/25/98)

WAC 388-78A-265 Limited nursing services. This section applies only to licensees who choose to provide limited nursing services. This section does not apply when residents care for themselves or arrange for independent nursing or health care services pursuant to WAC ((246-316-268)) 388-78A-268.

(1) The licensee shall employ or contract directly or indirectly with a RN or physician to:

(a) Provide or supervise limited nursing services;

(b) Assess, or supervise a LPN's assessment of each resident needing limited nursing services upon admittance, and develop the nursing component of the individual's resident plan;

(c) Reassess, or supervise a LPN's reassessment of the resident's nursing needs when staff notice a change in the resident's functional ability or health status, and amend the nursing component of the individual's resident plan accordingly; and

(d) Be available in person, by pager, or by telephone during hours of limited nursing services.

(2) A licensee shall ensure the following services are only provided by a RN, or a LPN under the supervision of a RN:

- (a) Insertion of urethral catheters, including indwelling;
- (b) Any other nursing service requested by the licensee and approved in writing by the department.

(3) The licensee may allow unlicensed staff to provide the following services under the delegation and supervision of a RN:

(a) Routine ostomy care that is well-established, with no breakdown or maintenance care;

(b) Enema;

(c) Uncomplicated routine colostomy and urethral care when the resident is unable to supervise these activities;

(d) Care of wounds that are superficial without drainage or infection; and

(e) Assistance with glucometer testing if the resident can perform the finger stick.

(4) The licensee shall not provide the following nursing services on the premises:

(a) Respiratory ventilation;

(b) Intravenous procedures;

(c) Suctioning;

(d) Feeding tube insertion or site maintenance; and

(e) Care of residents who are bed-bound for more than fourteen consecutive days as a result of a medical condition.

(5) A licensee providing limited nursing services shall assure that employed or contracted nursing services are consistent with chapters 18.78 and 18.88 RCW.

(6) A licensee providing limited nursing services shall provide for safe and sanitary:

(a) Storage and handling of clean and sterile nursing equipment and supplies;

(b) Storage and handling of soiled laundry and linens;

(c) Cleaning and disinfecting soiled equipment; and

(d) Refuse and infectious waste disposal.

(7) In new construction designed for limited nursing services, or upon starting a limited nursing services program within an existing boarding home, the licensee shall provide the following, accessible only by staff:

(a) A clean utility area for the purposes of storing and preparing clean and sterile nursing supplies, equipped with:

(i) A work counter or table; and

(ii) Adjacent handwashing sink, with soap and paper towels or other approved hand-drying device; and

(b) A soiled utility area for the purposes of storing soiled linen, cleaning and disinfecting soiled nursing care equipment, and disposing of refuse and infectious waste, equipped with:

(i) A work counter or table;

(ii) Sinks for handwashing and cleaning/sanitizing, with soap and paper towels or other approved hand-drying device.

AMENDATORY SECTION (Amending WSR 98-20-021, filed 9/25/98, effective 9/25/98)

WAC 388-78A-320 Resident health record. (1) The licensee shall maintain a health record with entries in ink, typewritten or equivalent, for each resident including:

(a) Full name, date of birth, and former address of resident;

(b) Date of moving in and moving out;

(c) The name, address, and telephone number of individuals to contact in case of an emergency, illness or death;

(d) Resident's representative, if any;

(e) Name, address, and telephone number of resident's personal physician or health care practitioner;

(f) Resident admitting information, including any medical diagnoses pertinent to care services needed by the resident and provided by the boarding home;

(g) Documented staff entries about:

(i) Dates and descriptions of the resident's illnesses, accidents, and incidents;

(ii) Changes in the resident's physical, mental, emotional and social abilities to cope with the affairs and activities of daily living, physical and mental coordination; and

(iii) Actions of staff related to (g)(i) and (ii) of this subsection;

(h) Orders documented by the resident's health care practitioner for any modified diet, concentrate or supplement provided by the boarding home;

(i) Medication orders and records as specified in WAC ((246-316-300)) 388-78A-300;

(j) Clinical information such as weight, temperature, blood pressure, blood sugar and other laboratory tests that are ordered or required by the individual's resident plan;

(k) Advance notice for relocation as specified in chapter 214, Laws of 1994, long-term care facilities—resident rights;

(l) Notice of relocation as specified in WAC ((246-316-280)) 388-78A-280; and

(m) Proof of resident's receipt of the list of resident rights and rules and regulations governing resident conduct and responsibilities as required by chapter 214, Laws of 1994, long-term care facilities—resident rights.

(2) The licensee shall:

(a) Maintain a systematic and secure method of identifying and filing resident health records for easy access;

(b) Allow authorized representatives of the department and other authorized regulatory agencies access to resident records;

(c) Provide any individual or organization access to resident records upon written consent of the resident or the resident's representative, unless state or federal law provide for broader access;

(d) Maintain resident records and health care information for residents receiving category B or C medication services or limited nursing services in accordance with chapter 70.02 RCW; and

(e) Retain each resident health record at least five years after the resident moves from the boarding home.

AMENDATORY SECTION (Amending WSR 98-20-021, filed 9/25/98, effective 9/25/98)

WAC 388-78A-330 Adult day care. A licensee approved by the department to provide adult day care services for less than a contiguous twenty-four-hour period shall:

(1) Accept only those adults meeting the resident criteria in WAC ((~~246-316-240~~)) 388-78A-240;

(2) Provide dining room and day room facilities according to WAC ((~~246-316-170~~)) 388-78A-170 and ((~~246-316-180~~)) 388-78A-180;

(3) Provide toilets and handwashing sinks according to WAC ((~~246-316-160~~)) 388-78A-160;

(4) Provide sufficient furniture for the comfort of day care adults, in addition to furniture provided for residents, including:

(a) Sturdy comfortable chairs, appropriate for the age and physical condition of the day care adults; and

(b) Napping furniture such as lounge chairs, recliners, or couches which are placed three or more feet apart if needed or requested;

(5) Provide staff to supervise and assist day care adults in activities of daily living, limited nursing services and medication services as described in WAC ((~~246-316-260~~)) 388-78A-260, ((~~246-316-265~~)) 388-78A-265 and ((~~246-316-300~~)) 388-78A-300;

(6) Provide a meal, which meets at least one-third of the recommended dietary allowance described in WAC ((~~246-316-170(2)~~)) 388-78A-170(2), during every five-hour period of stay or no more than fourteen hours between the evening meal and breakfast;

(7) Ensure rights according to WAC ((~~246-316-250~~)) 388-78A-250;

(8) Provide services, notification, and safety as described in WAC ((~~246-316-260~~)) 388-78A-260, ((~~246-316-265~~)) 388-78A-265, ((~~246-316-280~~)) 388-78A-280, and ((~~246-316-290~~)) 388-78A-290;

(9) Maintain a separate register of all day care adults using the format described in WAC ((~~246-316-310~~)) 388-78A-310; and

(10) Maintain a health record for each day care adult as described for residents in WAC ((~~246-316-320~~)) 388-78A-320.

WSR 99-10-019

EXPEDITED ADOPTION STATE TOXICOLOGIST

[Filed April 27, 1999, 1:10 p.m.]

Title of Rule: Administration of breath test.

Purpose: Amends this section for consistency with other recently adopted changes to regulations for breath alcohol testing.

Statutory Authority for Adoption: RCW 46.61.506.

Statute Being Implemented: RCW 46.61.506.

Summary: Amends section with incorrectly listed acceptable range for external standard simulator result. Section is now consistent with remaining sections of rule.

Reasons Supporting Proposal: Section was inadvertently not amended leading to inconsistency with other changes effective April 1, 1999.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barry K. Logan, 2203 Airport Way South, Seattle, WA 98134, (206) 343-5435.

Name of Proponent: State Toxicologist, 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 regulation is to correct an oversight in establishing the admissibility standards for breath alcohol test results. This regulation is remedial in nature and is designed to ensure that the standards for the admissibility of breath test results in judicial proceedings are consistent with the regulations for performing a valid test.

When other amendments to Title 448 WAC were adopted effective April 1, 1999, this section was inadvertently not amended. As now written, it will correct this oversight.

The rule will now reflect that the acceptable range for the simulator external standard result for breath alcohol tests administered on or after April 1, 1999, is 0.072 to 0.088 inclusive.

Proposal does not change existing rules.

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 Barry K. Logan Ph.D., State Toxicologist, 2203 Airport Way South, Seattle, WA 98134, AND RECEIVED BY July 3, 1999.

April 27, 1999

Barry K. Logan Ph.D.

State Toxicologist

AMENDATORY SECTION (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

WAC 448-13-060 Validity and certification of test results. A test shall be a valid test and so certified, if the requirements of WAC 448-13-040, 448-13-050 and 448-13-055 are met, and in addition the following criteria for precision and accuracy, as determined solely from the breath test document, are met:

(1) The internal standard test results in the message "verified."

(2) In order to be valid, the two breath samples must agree to within plus or minus ten percent of their mean. This shall be determined as follows:

(a) The breath test results shall be reported, truncated to three decimal places.

(b) The mean of the two breath test results shall be calculated and rounded to four decimal places.

(c) The lower acceptable limit shall be determined by multiplying the above mean by 0.9, and truncating to three decimal places.

(d) The upper acceptable limit shall be determined by multiplying the mean by 1.1 and truncating to three decimal places.

(e) If the results fall within and inclusive of the upper and lower acceptable limits, the two breath samples are valid.

(3) The simulator external standard result must lie between .090 to .110 inclusive for tests conducted prior to April 1, 1999, and .072 to .088 inclusive for tests conducted on or after April 1, 1999. This provision is remedial in nature and applies to any judicial proceeding conducted after April 27, 1999.

(4) All four blank tests must give results of .000.

If these criteria are met, then these and no other factors are necessary to indicate the proper working order of the instrument, and so certify it, at the time of the breath test.

WSR 99-10-069

EXPEDITED ADOPTION DEPARTMENT OF GENERAL ADMINISTRATION

[Filed May 4, 1999, 9:52 a.m.]

Title of Rule: Procurement.

Purpose: To propose amendments to the WAC 236-48-003, 236-48-011, 236-48-012, 236-48-013, 236-48-021, 236-48-024, 236-48-025, 236-48-035, 236-48-036, 236-48-071, 236-48-079, 236-48-083, 236-48-085, 236-48-094, 236-48-096, 236-48-098, 236-48-099, 236-48-111, 236-48-121, 236-48-122, 236-48-123, 236-48-124, 236-48-132, 236-48-141, 236-48-142, 236-48-143, 236-48-153, 236-48-165, 236-48-166, 236-48-167, 236-48-230, 236-48-250, 236-48-251, 236-48-252, 236-48-253, 236-49-001, 236-49-010, 236-49-020, 236-49-055, and 236-49-060.

Statutory Authority for Adoption: Chapter 43.19 RCW.

Summary: These amendments streamline the internal procurement process and add additional flexibility to that process to enable the Office of State Procurement to improve our business.

Reasons Supporting Proposal: These amendments are the result of extensive input received from customers, businesses and the Office of State Procurement staff and management.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sherm Heathers, Olympia, (360) 902-7283.

Name of Proponent: Office of State Procurement

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules govern the procurement process for the purchase of goods and services by the Office of State Procurement and all general government agencies. These amendments update existing rules and streamline our internal procurement process while adding flexibility to that process for the future. These changes will enable us to improve the way we do business.

Proposal Changes the Following Existing Rules: See sections below.

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 Sherm Heathers, Department of General Administration, Office of State Procurement, P.O. Box 41017, Olympia, WA 98504-1017, AND RECEIVED BY July 17, 1999.

April 26, 1999

Pat Kohler

Assistant Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 99-11 issue of the Register.

WSR 99-10-012
PERMANENT RULES
COMMUNITY COLLEGES OF SPOKANE

[Filed April 26, 1999, 11:20 a.m.]

Date of Adoption: April 20, 1999.

Purpose: Repeal of WAC 132Q-12-010. Other institutional policies made the rule redundant. In addition, the repealed rule referred to another agency's rule that has been repealed.

Citation of Existing Rules Affected by this Order:
 Repealing WAC 132Q-12-010.

Statutory Authority for Adoption: RCW 28B.50.140(14).

Adopted under notice filed as WSR 99-05-040 on March 3 [February 12], 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 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 0.

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

April 20, 1999

Geoffrey J. Eng

District Director

AA/Administrative Services

WSR 99-10-013
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[General Order No. R-462, Docket No. UT-971469—Filed April 26, 1999, 1:32 p.m., effective August 18, 1999]

In the matter of adopting WAC 480-120-052 and 480-120-058, relating to protection of customer prepayments and prepaid calling services.

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 98-24-124, filed with the Code Reviser on December 2, 1998. The commission brings this proceeding pursuant to RCW 80.36.140.

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 Environ-

mental Policy Act of 1971 (chapter 34.21C [43.21C] RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The commission adopted this rule on January 27, 1999.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: The rules define prepaid calling services, establish disclosure requirements for relevant terms, and establish technical and customer service standards. The rules also require that any company collecting customer prepayments must post a bond, establish an escrow account, or provide other satisfactory evidence of financial ability to provide customer refunds if necessary.

REFERENCE TO AFFECTED RULES: This rule changes the following sections of the Washington Administrative Code (WAC): None.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a Preproposal Statement of Inquiry (CR-101) on February 13, 1998, at WSR 98-05-055.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The CR-101 statement advised interested persons that the commission was considering entering a rule making relating to prepaid calling services and protection of consumer prepayments. 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), providing notice to all registered telecommunications companies, and by providing notice to the commission's list of telecommunications attorneys.

NOTICE OF PROPOSED RULE MAKING: The commission filed a Notice of Proposed Rule Making (CR-102) on December 4, 1998, at WSR 98-24-124. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 98-24-124 on Wednesday, January 27, 1999 in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice also provided interested persons the opportunity to submit written comments to the commission.

MEETINGS OR WORKSHOPS; ORAL COMMENTS: The commission convened a workshop on May 28, 1998, prior to filing the notice of proposed rule making (CR-102). Many interests participated in the CR-101 phase discussions, and a number of issues were resolved during that phase. The commission commends the parties for the spirit of cooperation and the efforts that produced a high degree of consensus about most aspects of the rule-making.

Several persons presented oral comments at the commission's January 27, 1999, rule-making hearing. Theresa Jensen, representing US WEST Communications, Inc., asked whether the proposed rule would apply to the company's prepaid T-1 services. The rule will not apply to T-1 services as currently marketed. By definition it would only apply to prepaid services that are depleted as the customer uses the service, and when the prepaid time is exhausted the customer's access is terminated. This satisfied US WEST's concerns.

Manuel Chavallo and Tim Hegert of MUNDO Telecommunications asked whether the bonding requirement in the rule applied to all telecommunications companies, even those who resell wholesale service to the public. The rule will

apply to such companies and to any telecommunications company that is collecting customer prepayments.

Howard Segermark, International Telecard Association (ITA) stated that the reporting requirements in the rule require prepaid calling card companies to estimate their Washington figures since they distribute cards through wholesale distributors and cannot identify where the cards are actually sold. He suggested that the language be amended to read "The report must contain the following estimated information" and opposed the rule with its proposed language, "the report must contain the following information." The suggestion is rejected because the rule applies to all telecommunications companies that collect advanced payments, not only prepaid calling card providers. Most other services are marketed in ways that easily identify the value of service sold in Washington. This reporting requirement now applies to most prepaid calling card providers currently operating in the state, pursuant to a condition in the companies' registrations, and they appear to be providing adequate information based on staff experience where it was necessary to collect on the bond.

COMMENTERS (written and oral comments): The commission received written and oral comments from many interested persons prior to the adoption hearing. These included the following:

Ron Gayman and Janet Browne, AT&T

Howard Segermark and Steve Trotman, International Telecard Association

Michael Welch, Global Communications Network

Manuel Chavallo and Tim Hegert of MUNDO Telecommunications Rogelio Pena, MCI Worldcom

Andrew Isar, Telecommunications Resellers Association

Elizabeth Holowinski, Law Offices of Thomas K. Crowe

Dan Agar, Paracom

Andrew Jones, Sprint

Richard L. Goldberg, Sprint

Nancy Judy, Sprint

Theresa Jensen, Joyce Morris and Bob Couture, US WEST

Tim Peters, Electric Lightwave

Glenn Harris, Sprint

Karen Markle, BLT Technologies/Worldcom prepaid

Sjelby Gilje, Seattle Times

Sunny Kim and Cliff Chow, TTI Telecommunications

Marcy Greene, PT-1 Communications, Inc.

Robert Munoz, WORLDCOM

James L. Forney, Fone America, Inc.

Linda Tong and Joan Gage, GTE

Heidi Kristen Yore, MCI

Comments suggesting changes that the commission accepted (and adopted changes from the language noticed) or rejected (to adopt the noticed language) are set out below under the relevant headings. Here the commission identifies written and oral comments of a general nature.

Mundo Telecommunications (Manuel Chavallo) submitted general comments on the rules asking that enforcement mechanisms be implemented to deal with companies not providing proper disclosure; failing to comply with technical standards or providing service within the state without proper registration. No changes to the rule were necessary. Staff

indicated that the commission would enforce compliance with the new rules provisions in the same manner as it enforces existing rules. This satisfied the company's concerns.

Sprint (Andrew Jones) supports both the requirement that technical assistance be available to customers twenty-four hours a day, seven days a week and the requirement that a company must make an announcement when the prepaid account or prepaid calling card balance is about to be depleted. It stated that these requirements should not be lessened under the guise of fostering competition.

The Telephone Resellers Association ("TRA", by Andrew Isar) urged the commission to authorize out of state providers to deposit prepayments in out of state banks having Washington-state branches. This rule will allow companies to use out of state banks that have a branch in Washington when customer prepayments are maintained in an in-state branch.

RULE-MAKING HEARING: The rule proposal was considered for adoption, pursuant to the notice, on Wednesday, January 27, 1999, before Chairwoman Anne Levinson via teleconference and Commissioner Richard Hemstad. The commission heard oral comments from Mary Taylor, representing commission staff; Theresa Jensen, US WEST Communications; Howard Segermark, International Telecard Association; Manuel Chavallo and Tim Hegert of MUNDO Telecommunications. Comments of a general nature are set out above.

SUGGESTIONS FOR CHANGE THAT ARE REJECTED: In this discussion, the adopted rules will be referred to as sections 052 and 058. Both are within chapter 480-120 WAC; the chapter designation is deleted for convenience and ease in reference.

In response to industry comments, commission staff withdrew a proposal that companies publish the availability of the commission to resolve problems and a telephone number to reach the commission. It proposed and the commission adopted a new subsection 052(7) merely restating companies' existing obligation to provide information about the commission in certain settings. AT&T, ITA and MCIW commented on the new subsection (7). AT&T and ITA believe it is an improvement over the prior proposal. MCIW argued the sufficiency of its current approach — merely referring consumers to the blue pages of their telephone directory. MCIW contends that the requirement of referral to many different jurisdictions is unnecessarily expensive. The commission rejects MCIW's suggestion. Simply referring customers to the directory does not meet the commission's present requirement under WAC 480-120-101. The additional requirement will have minimal expense. The commission accepts the new subsection (7) but rejects MCIW's suggested changes.

ITA also stated that new phone cards may become available that offer unlimited service for a number of days. The company proposed language to state that cards offering unlimited domestic and international service within a given period need not post their per-minute rates or their decrementing policies, which would be irrelevant. The commission defers the subject to another time in the absence of information that such cards actually are on the market and require a change in the rule proposal. The rule's requirement that all

rates, surcharges, fees or taxes be outlined in the presale documentation should cover this situation. If it does not, companies may request an exemption from the rule or petition for its amendment.

ITA addressed subsection 052 (5)(b)(iii), requiring the disclosure of expiration policies in presale documents. ITA stated that some firms have issued cards with no expiration, but impose a monthly "line-maintenance" charge if the card is not used in six months. ITA urged the commission to adopt Florida language that "Cards without a specific expiration period printed on the card, and with a balance of service remaining, shall be considered active for a minimum of one year from the date of first use, or if recharged, from the date of the last recharge." The commission rejects the proposal. Any "line-maintenance" fee must be disclosed under subsection 052 (5)(b)(ii), and the commission believes that the expiration policy stated in subsection 052 (5)(b)(iii) is reasonable, appropriate, and should be adopted.

ITA suggested deleting subsection 052 (10)(b), requiring customer notice of a company's termination of business in the state, contending that no phonecard issuer knows the identity of its customers. The commission rejects the suggestion because the rule language is clear that a company is only required to comply with this provision if it knows the relevant information.

Thomas K. Crowe (by Elizabeth Holowinski) proposed that the commission require companies to report the number of prepaid calling card intrastate minutes used by consumers in the state of Washington within a reporting period. The commission received similar suggestions on this issue from MCIW and ITA. We reject the proposal because under it the commission would only be able to identify services used within Washington. The bond is designed to protect the unused portion of prepaid service purchased in the state, because the consumer may elect to use it all within the state. The commission accepts the commission staff observation that while some debit card companies may be structured so that they cannot identify the actual cards sold in Washington, they certainly can make reasonably accurate estimates based on the information they retain about their businesses. The rule will not only apply to companies providing prepaid calling services, it will apply to any company that is collecting customer prepayments within the state. Many such companies do track the information on a Washington-specific basis.

MCI commented on the requirement in subsection 052 (4)(d) that companies provide call detail report free of charge to customers upon request. The company contended that, while it can provide call detail reports for a given day, providing accumulative call detail reports for individual prepaid personal identification numbers is particularly onerous and will require costly systems modifications to implement. ITA comments that companies should be able to provide the information orally to a customer and charge the customer if a written report is requested. Sprint stated that other sections of the rule adequately disclose this information to the customer, and therefore the call detail requirement is unnecessary. Sprint also stated concerns about a company's possible liability if it released information to someone other than the actual user of the service. The commission believes that a consumer with a dispute will reasonably expect — and a company

should be required to provide — sufficient information to resolve a billing inquiry. When a dispute is related to prepaid services the company must be capable of explaining how, when and where prepaid service was depleted. Under modified language, it is clear that companies may take steps to confirm that the person making the request was the actual user of the service.

Sprint, AT&T, ITA, and MCIW commented on subsection 052(8), relating to refunds for unused balances. All four stated that refunds should only be required when a company has failed to provide service as promised. Additionally AT&T indicated that companies should only be required to refund unused balances after commission review. ITA urged that the refunds should be made in-kind and at the discretion of the service provider. MCI stated that because it does not collect full retail price for prepaid calling cards it should not be required to refund based on the retail value remaining on the card. Prior language, focusing on contentions of failure to provide service as opposed to actual failure, has been changed so it is clear that refunds are required in instances of service failure. The commission rejects MCIW's contention that it need not refund the full cost of service because it does not receive full payment. A consumer who is experiencing service problems should not be penalized because a company chooses to provide service through retail sellers who purchase the cards at a wholesale rate. The customer has paid a specific dollar amount for a prepaid calling card, and must receive a refund of the unused amount if the company fails to provide service.

TRA argues that twenty-four hour staffing is unreasonable and burdensome to small companies, asserting that perpetual staffing is unnecessary for discretionary services, such as prepaid calling cards. The commission believes that twenty-four hour coverage for technical assistance is a reasonable requirement for all providers of telecommunications services because the need for such services continues around the clock. Prepaid service may well be the only service available to a customer. It is entirely reasonable to require that any company electing to provide the service will support it at any time it may be needed. We decline to modify the proposed language.

TRA asked that subsection 052(9), performance standards for prepaid calling services, be modified to recognize that resellers who rely exclusively on the technical network services provided by underlying carriers are incapable of meeting the commission's proposed standard. TRA agrees with commission staff that the reseller should work with its underlying carrier to resolve network problems, but argues that to hold a reseller unilaterally responsible for substandard performance when it has made a good faith effort to resolve service affecting problems with its underlying carrier would serve to punish the reseller and allow the underlying carrier to operate with seeming impunity. This would be particularly harmful if the underlying carrier is also competing against the reseller. TRA also raised this argument during both the CR-101 and CR-102 comment periods, and commission staff did not support the suggestions. The commission shares commission staff's concern that any company holding itself out to provide service to the public should be ultimately responsible to that consumer for the service. To do otherwise would

reduce the carrier's incentives to secure adequate service from existing or other possible suppliers. The underlying carrier's failures may also be the subject of private or commission enforcement action, as well.

COMMISSION ACTION: After considering all of the information regarding the proposal, the commission adopted the proposed rules with the changes recommended by commission staff.

CHANGES FROM PROPOSAL: The commission adopted the proposal with several changes from the text noticed at WSR 98-24-124. We describe here the changes that the commission adopted, other than grammatical, organizational, or clearly nonsubstantive changes.

WAC 480-120-052:

1. Subsection (1). Exclude credit and debit cards from "prepaid services" in the rule, and explain how such cards are treated. US WEST Communications, Inc. (Joyce Morris) asked that the definitions section be amended to make it clear the prepaid calling services rule did not apply to credit cards (e.g., Visa, Mastercard) or cash equivalent ("debit") cards. The commission modifies this section to make clear the distinctions among the various cards commonly used to secure service, and how each is considered for regulatory purposes.

2. Subsections (2) and (3). Clarification that the without-charge number for technical assistance may be the same as the business office number. International Telecard Association (ITA) (Howard Segermark) suggested a clarification stating that a company may use the same toll-free number for both its business office function and its technical assistance function. The proposal is accepted. This change makes it clear that companies are not required to have different toll-free numbers for technical and business purposes, as long as the twenty-four hour technical service support requirement is met. This change clarifies that companies are not required to bear the cost of two toll-free lines.

3. Subsection (4). Require that billing increments be defined in the company staff's price list, tariff, or presale documentation. This change on the commission's initiative requires a definition of billing increment, so the company's compliance with the definition and the terms of its prepaid service may be verified.

4. Subsection (4). Reduce from 36 to 30 months the time for retention of call records. This change reduces the cost to companies of retaining records, to better balance consumer and regulatory needs with the costs of compliance. Commission staff recommends the change after consultation with affected companies to reduce the costs of compliance.

5. Subsection (4). Require production of only information that the company possesses. MCIW states that it does not always acquire originating number information and it is thus not always able to retain the information to comply with subsection (4)(e)(ii) of the rule as proposed. The commission modifies the rule to specify that the information only must be maintained when it is actually passed to the company.

6. Subsection (4). Call detail reports. In response to a concern voiced by ITA, the modified rule allows companies to first provide an oral call detail report and to take measures to confirm that the person requesting call detail is the actual account holder. The change reduces costs to companies while preserving consumer protections.

7. Subsection (5). Require that, if a consumer is required to call a company to obtain an access number for use with the service, the company must publish a toll-free telephone number for that purpose on the prepaid calling card. The change responds to comments by MCI and provides marketing flexibility without hampering consumer interests.

8. Subsection (5). Allow expiration to be defined by a period of availability (e.g., 90 days) as well as by a date certain. This change recognizes the business problems of providers who market through retail outlets and may have little control over how long a card may stay in inventory before it is sold. The provision gives providers the flexibility to standardize the period of service availability to assure equal value for customers and to provide accurate information for consumer information and comparison. Paracom also addressed subsection (5)(a)(vi) which required that an expiration date, if applicable, be printed on prepaid calling cards. The company stated that it prints a large number of cards at a time in order to achieve necessary economies of scale and keep prices low. The actual expiration date of these cards will vary depending on their distribution date. The company suggested an amendment providing an option in the dialing menu to provide the expiration date by pressing key on telephone. MCI addressed similar concerns and advocated printing a specific expiration date or policy statement to inform customers how the expiration date is determined, and making the actual expiration date available to consumers by calling customer service. The commission adopts amended language that allows a company whose expiration dates are established based on initial use to print a statement on the card that indicates the length of time the card will be active after the initial activation.

9. Subsection 5. Remove a requirement to warn consumers that lost cards may be irreplaceable. Both MCI and ITA objected to the proposed language in subsection (5)(a)(viii) which required that a statement be placed on a prepaid calling card warning customers to safeguard their cards because they would assume full liability for lost or stolen cards. Commission staff supported removing this subsection entirely; the commission accepts the staff recommendation on the basis that the consequences of loss are within the public's general understanding and that the limited space available for notices should be devoted to matters of higher priority.

10. Subsection (6). Remove requirement for advance disclosure of international rates in presale documentation. AT&T (Ron Gayman), Paracom, and Thomas Crowe argue for deletion of a requirement to disclose international rates in the presale documentation, on the basis that it is impossible to include because the charges vary from country to country and fluctuate much more often than rates for domestic calls. There is wide disparity and great volatility as to international rates. Quoted rates may be outdated before use and the space required to state all rates could be out of proportion with the consumer benefit.

As a result the commission removed proposed disclosure requirements relating to international rates and removed references to international rates from subsections 052 (5)(b)(i) and (6)(a)(vi). The change reduces the burdens of compliance. MCI questioned the commission's jurisdiction over the requirements in subsections (5)(b)(i) and (6)(a)(vi) that rates for interstate as well as international calls be disclosed in pre-

sale documents. Interstate rates are discussed above. The commission is not asserting jurisdiction over interstate rates. The commission is asserting jurisdiction over disclosure of rates to Washington state consumers.

11. Subsection (7). Remove the draft requirement of presale disclosure of consumers' right to commission assistance with complaints; remove requirement of referral to commission at time of unresolved complaint and substitute the requirement to provide the commission's complaint number to a consumer upon request or in compliance with other rule. AT&T, ITA, TRA, Sprint, and Thomas K. Crowe commented on subsections 052 (5)(b)(v) and (6)(a)(x) of the proposal, requiring sellers of prepaid services to disclose in presale documents consumers' right to assistance from the state regulatory agency in the state where the prepaid service was purchased. AT&T argued that this section is unnecessary because existing WAC 480-120-101 already requires supervisors to make unhappy customers aware of the commission. Mr. Crowe argued that this requirement would be discriminatory since no other segment of the telecommunications industry is required to provide this information in its bills or point of sale materials. ITA argued that the statement would require too much room on a prepaid calling card. TRA argued that the commission cannot lawfully require prepaid telecommunications service providers to include a general statement about consumer rights to contact regulatory agencies in other states, no matter how technically correct such a statement may be. Sprint suggested that the information be provided via the company's customer service number, not written material. The commenters raise valid points. In response to the comments the commission accepts the commission staff recommendation to eliminate the two subsections in question and substitute new subsection (7), which restates companies' responsibility under WAC 480-120-101.

12. Clarify that information must be placed either on the card or card packaging, or at the point of sale, but not both. MCI commented that the proposed rules relating to packaging and point of sale documents will be difficult and costly to implement, and that it has only limited control over retail cooperation in displaying the information. The proposal's intent was that the information be in either form, at the company's option. The commission modifies the rule language to clarify the intent.

13. Subsection (7). Clarify that refunds other than for failure to charge proper rates or failure to meet technical standards are within a company's discretion and may be undertaken pursuant to the company's own form. The rule requires companies to refund prepaid service when the company fails to meet technical standards and when it fails to charge the proper rates. This change, in response to ITA and AT&T comments, clarifies that refunds for other reasons are within the company's business discretion, and authorizes companies to develop forms to assist them in gathering accurate and sufficient information.

14. Subsection (9). Reduce from 99% to 98% the standards for call completion. This change brings the standard for prepaid service into consistency with the standard for other types of telecommunications service, and reduces the burden of compliance on companies subject to the rule.

15. Subsection (11). Extend the phase-in of disclosure compliance by extending compliance in printing for ninety days and display for nine months (up from ninety days) after the rule's effective date. Both ITA and MCIW objected to the ninety day time frame for compliance with WAC 480-120-052(10). They argued that requiring compliance with the rule on that schedule would cause extraordinary costs to prepaid calling card companies, citing costs including destruction of existing inventory, reprinting cards, and producing entirely new and unforeseen packaging and point of sale materials. Both argued that the commission should consider allowing nine months for compliance to permit depletion of existing inventory. The adopted rule is amended to require that any material printed more than ninety days after the effective date of the rule must conform with the new requirements. All printed materials on display or distributed more than nine months after the effective date of the rule must comply with the rule provisions. The remaining provisions will be effective ninety days from the effective date of the rule. This change reduces burdens on companies by allowing them to continue to print existing materials while designing replacements, and by allowing them to exhaust much or all of their stock of such materials before using new materials. It reflects a balancing of consumer and commercial interests.

16. WAC 480-120-052 (7)(vi) is added, requiring supervisory personnel when dealing with dissatisfied consumers to provide the consumer with the commission's toll-free number and address, clarifying that the requirement applicable to all telecommunications companies does apply to prepaid service providers.

17. WAC 480-120-052 (8)(a) is modified slightly to clarify that companies must only provide refunds when they fail to provide service as promised, not simply when a customer "contends" that the company has failed to provide service as promised.

18. WAC 480-120-052(11) proposed language would have allowed ninety days from the effective date of this rule for compliance. The language is modified so that companies have nine months to have all written materials in circulation (e.g. prepaid calling cards and presale documents) in compliance with the rule provisions. The remaining rule requirements retain the ninety day implementation deadline. This change is to mitigate costs of compliance and to better balance consumer and provider interests.

WAC 480-120-058:

19. Allow companies that seek exemption from bonding or guarantee provisions to present any evidence they believe will demonstrate the adequate protection of consumer interests. Paracom requested that language that would excuse a company from posting a bond if the company has transferred funds sufficient to cover all outstanding customer prepayments to its underlying carrier if the carrier meets the requirements of subsection (a) or (b). It also advocated a new section (4)(e) which would allow a company to petition the commission on an exception basis and state reasons for requesting exemption from bonding requirements. Paracom's resale agreement is unique and it is not appropriate to address each unique situation in the rule. The commission does add subsection (e) to the rule, which allows a company to petition for a waiver of the rule and to present any additional informa-

tion it believes supports a contention that consumers will be adequately protected if the financial security requirement is reduced or waived. Doing so allows the commission to minimize financial burdens on companies to the greatest extent consistent with protection of consumer interests.

20. In WAC 480-120-058, protection of customer prepayments, subsection (4), the commission added language to clarify that a company may petition for waiver of the bonding requirement to offer evidence that consumer interests will be adequately protected without the requirement. This charge reduces regulatory burdens on business while retaining consumer protections.

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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, 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 That:

1. WAC 480-120-052 and 480-120-058, as set forth in Appendix A, is adopted as a rule of the Washington Utilities and Transportation Commission, to take effect on the ninety-first day after the distribution date of the issue of the Washington State Register in which it appears.

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.

3. The commission sets out in this order its reasons for adoption of the proposed rule, for adopting changes from the language originally noticed, and for declining to adopt suggested changes. This discussion supplements and may modify information and reasoning set out in 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. To provide a complete picture, the commission adopts the commission staff memoranda, in conjunction with the text of this order, as its concise explanatory statement as required by RCW 34.05.025.

DATED at Olympia, Washington, this 23rd day of April 1999.

Washington Utilities and Transportation Commission
William R. Gillis, Commissioner
Richard Hemstad, Commissioner

NEW SECTION

WAC 480-120-052 Prepaid calling services. (1) Prepaid calling services - Defined.

(a) Prepaid calling services (PPCS) means any transaction in which a consumer pays for service prior to use and the prepaid account is depleted as a consumer uses the service. Prepaid calling services may require the use of an access number or authorization code. The transaction often includes an object the size of a credit card which displays relevant information about the service. These objects are defined as prepaid calling cards.

(b) This section excludes credit cards and cash equivalent cards. Services provided at pay telephones using these cards are regulated under the provisions of WAC 480-120-138.

(i) Credit cards: Cards that can be used to make consumer purchases utilizing preapproved bank credit (e.g., Visa, MasterCard). Consumers utilizing such cards to complete pay telephone calls are charged the applicable tariffed coin operator rates on file with the commission for pay phone provider service at that location.

(ii) Cash equivalent cards: Are cards that may either be purchased for exclusive use at card reader pay telephones or may be used both for consumer purchases and use at card reader pay telephones. Cash equivalent cards are not purchased for the exclusive use through an individual telecommunications provider. Consumers utilizing such cards to complete pay telephone calls are charged the applicable tariffed coin operator rates on file with the commission for pay phone provider service at that location.

(2) Business office requirements for providers of prepaid calling services. A company offering prepaid calling services must provide consumers a without charges telephone number staffed by live personnel during regular business hours. The personnel must be sufficient to respond to all service related inquires and must be capable of answering general account related questions. The without charge number business office number may be the same as the technical assistance number required in subsection (3) of this section.

(3) Technical assistance requirements when providing prepaid calling services. A company offering prepaid calling services must provide consumers a without charge number staffed by live personnel twenty-four hours a day, seven days a week. The personnel must be sufficient to respond to all inquires and must be capable of assisting consumers with technical problems or questions related to their service. The without charge number for technical assistance may be the same as the business office number required in subsection (2) of this section as long as the number is staffed twenty-four hours a day.

(4) Billing requirements for prepaid calling services.

(a) Billing increments must be defined in the company's price list, or tariff and presale document. If a company uses an increment based on a time measurement, the increments must not exceed one minute. If the company bills usage in "unit" measurements, units must clearly be defined using both equivalent dollar amounts and time measurement. Unit billing increments can not exceed the equivalent one minute rate.

(b) Service may be rated only for the actual time a circuit is open that allows for conversation. Conversation time of less than a full billing increment shall not be rounded up beyond that full increment.

(c) Companies may not reduce the value of a PPCS account by more than the charges specified on the prepaid calling card; prepaid calling card packaging; visible display at the point of sale; rates specified in the presale document; or the rate authorized by the commission at the time of purchase. The PPCS may, however, be recharged by the consumer at a rate different from that specified in the initial presale agreement or the last recharge information so long as the rate and surcharges conform with the company's tariff or price list at the time of purchase. The consumer must be informed of the new rates at the time of recharge.

(d) Companies providing prepaid calling services must be capable of providing consumers, upon request, call detail reports at no charge.

(i) Companies may establish verification procedures to confirm the person requesting the call detail was the actual user of the service.

(ii) Call detail reports may be provided orally to a consumer. The company will only be required to provide a written call detail report at no charge if the user requests the information in writing.

(e) Companies providing prepaid calling services must maintain call data for a minimum of thirty months. The data must include the following:

- (i) Dialing and signaling information that identifies the inbound access number called or the access identifier;
- (ii) The number of the originating phone when the information is passed to the prepaid calling provider;
- (iii) The date and time the call was originated;
- (iv) The duration or termination time of the call;
- (v) The called number; and
- (vi) The personal identification number (PIN) and/or account number.

(5) Written disclosure requirements for prepaid calling services - Prepaid calling cards.

(a) *Information required on prepaid calling cards.* At a minimum the cards must contain the following information:

(i) The company's name as registered with the commission. A "doing business as" name may only be used if officially filed with the commission. The language must clearly indicate that the company is providing the prepaid telecommunication services.

(ii) The toll-free or without charge number to reach the company's business office;

(iii) The toll-free or without charge number to reach the company's technical assistance office, if different than the business office number;

(iv) The company's toll-free or without charge number used to access the company's service, if applicable;

(v) Authorization code, if required to access the service or if applicable the toll-free number user is required to call to establish access capability;

(vi) Expiration date, if applicable. If a card expires after a set period of time from activation, (e.g., ninety days after first use) the company must place a general statement on the card outlining this expiration policy. If an expiration date or

expiration policy is not disclosed on the card it will be considered live indefinitely; and

(vii) Cards must be voided or otherwise physically marked if they were produced as a "nonlive" card so that it is clear to the user that the card is only a sample and is not active. If the card is not disclosed as a nonoperative card, the card is considered live and the issuing company must honor it.

(b) *Prepaid calling card - Presale or point of sale documents.* The following information must be legibly printed on the card, packaging, or display visible in a prominent area at the point of sale of the prepaid calling card in such a manner that the consumer may make an informed decision prior to purchase. If the information below is to be provided on a visible display at the point of sale the company must ensure by contract with its retailers or distributors that the information is provided to the consumer.

(i) Maximum charge per billing increment for prepaid calling card service. If a company charges varying rates for intrastate and interstate calls all applicable rates must be provided. The rates displayed must be no more than those approved in the tariff or price list of the company at the time of retail purchase;

(ii) Approved charges for all services, and surcharges, fees, and taxes, if applicable and the method of application;

(iii) Expiration policy, if applicable. If an expiration date is not disclosed the service will be considered live until the prepaid balance is depleted;

(iv) Recharge policy, if applicable. If an expiration date is not disclosed at the time service is recharged the service will be considered live indefinitely; and

(6) Written disclosure requirement for prepaid calling service - Other than prepaid calling cards. *Presale agreement.* The following information shall be provided in a presale document to an applicant prior to consumer prepayment and initiation of service:

(i) The company's name as registered with the commission. A "doing business as" name may only be used if officially filed with the commission. The language must clearly indicate that the company is providing the prepaid telecommunication services.

(ii) The toll-free or without charge number to reach the company's business office;

(iii) The toll-free or without charge number to reach the company's technical assistance office, if different than the business office number;

(iv) The company's toll-free or without charge number used to access the company's network, if applicable;

(v) Authorization code, if required to access the service;

(vi) Maximum charge per billing increment for prepaid calling service. If a company charges varying rates for intrastate and interstate calls all applicable rates must be provided. The rates displayed shall be no more than those approved in the tariff or price list of the company at the time of retail purchase;

(vii) Approved charges for all services, and surcharges, fees, and taxes if applicable, and the method of application;

(viii) Expiration date, if applicable;

(ix) Recharge policy, if applicable.

(7) Verbal disclosure requirements for prepaid calling services.

(a) Companies offering prepaid calling service must:

(i) Provide an announcement at the beginning of each call indicating the time remaining on the prepaid account or prepaid calling card;

(ii) Provide an announcement when the prepaid account or prepaid calling card balance is about to be depleted. This announcement must be made at least one minute prior to depletion.

(iii) When requested by a Washington state consumer, the company's business office and technical assistance office must provide the consumer the number for the Washington utilities and transportation commission consumer services line; and

(iv) Company supervisory personnel must provide dissatisfied applicants or subscribers the commission's toll-free number and address in conformance with WAC 480-120-101.

(8) Requirements for refund of unused balances.

(a) When a company has failed to provide service at rates provided in presale documentation or quoted at the time an account is recharged, or that the company has failed to meet technical standards, companies offering prepaid calling services must provide refunds for any unused service or provide equivalent credit in services offered when requested by a customer. Refunds must equal the value remaining on the prepaid calling account or prepaid card. The customer is allowed to choose either the refund or equivalent service option.

(b) Refund requests received from consumers for reasons other than improper rates or failure to meet technical standards may be made at the sole discretion of and in a form prescribed by the company.

(9) Performance standards for prepaid calling services. Each company shall ensure that:

(a) A minimum of ninety-eight percent of all call attempts are completed to the called party's number. Station busies and unanswered calls will be considered completed calls.

(b) A minimum of ninety-eight percent of all call attempts are completed to a company's business office number. Station busies and unanswered calls will not be counted as completed calls.

(c) A minimum of ninety-eight percent of all call attempts are completed to the company's technical assistance number. Station busies and unanswered calls will not be counted as completed calls.

(10) Requirements when a company ceases operations in the state of Washington. When a company ceases operations in the state, the company must:

(a) Provide the commission with thirty days advance notice in writing.

(b) At least twenty-one days before termination, provide written notice to customers at the address on file with the company, if applicable, indicating that service will be ending, and explain how customers may receive a refund on any unused service.

(c) Beginning at least fifteen days before termination, provide oral notice of termination at the beginning of each

call originated in Washington, including the date of termination and a number to call for more information.

(d) Provide information to consumers via its customer service number outlining the procedure for obtaining refunds and continue to provide this information for sixty days from the date company ceases operations.

(e) Within twenty-four hours after ceasing operations, provide the commission and the company's bonding agent a list of all account numbers with unused balances. The list must include the following:

(i) The identification number used by the company on each account for billing/debit purposes;

(ii) The unused portion of any prepaid monthly fee on each account;

(iii) The unused time, stated in units or minutes as applicable on each account and the equivalent dollar amount.

(11) Compliance requirements for prepaid calling services.

(a) Printed materials including prepaid calling cards, presale documents, and point of sale documents.

(i) All materials printed ninety days after the effective date of the rule must comply with provisions of this rule;

(ii) All printed materials in circulation must comply with this rule within nine months of the effective date of this rule.

(b) Rules requirements - excluding printed material. Companies providing prepaid calling services within the state of Washington must be in compliance with this rule within ninety days of the effective date of this rule.

(12) Other regulatory requirements. Companies providing prepaid calling services must comply with all other laws and commission rules relating to provision of telecommunications services unless the company has filed for and received waiver from the commission.

(13) Penalties for provision of service by an unregistered telecommunications company. When a penalty is imposed upon finding that an unregistered company has provided prepaid calling services within the state of Washington, the commission may assess penalties of up to one hundred dollars per day per violation under RCW 80.04.405 and/or up to one thousand dollars per day per violation under RCW 80.04.380.

NEW SECTION

WAC 480-120-058 Protection of customer prepayments. (1) A company that intends to collect customer prepayments must first demonstrate to the commission that it meets (a), (b), or (c) of this subsection.

(a) The company has a corporate debt rating, according to Standard & Poor's of BBB or higher, or according to Moody's of BAA or higher, with respect to outstanding debt obligation; or

(b) The company has a performance bond satisfactory to the commission sufficient to cover any customer prepayments; or

(c) The company has made provision for deposit of customer prepayments in a federally insured interest bearing trust account maintained by applicant solely for customer advances. The prepayments must be deposited in a bank, savings and loan association, mutual savings bank, or licensed escrow agent with access to such funds only for the

purpose of refunding prepayments to customers. The funds must be maintained in an account within the state of Washington. In any order granting certification, the commission may require either bond or trust account or escrow as a condition.

(2) Reporting requirements for every bond or trust account.

(a) Each company collecting customer prepayments must submit to the commission a report within fifteen days after the end of each calendar quarter. The report must contain the following information specific to state of Washington operations:

(i) Total outstanding balance of customer prepayments at the beginning of the reporting period;

(ii) Dollar amount of prepaid services sold during the reporting period;

(iii) Depleted usage of prepaid services during the reporting period; and

(iv) Total outstanding prepaid service balances at the end of the reporting period.

(b) Nothing in this rule precludes commission staff from requesting current company financial or operating information at any time.

(c) A company may petition the commission for a reduction in reporting requirements. The commission may grant or deny the request by letter from the commission secretary.

(3) Calculation of trust or bond levels.

(a) The initial level of the bond or trust must comply with the provisions of subsection (1)(b) or (c) of this section.

(b) The company must adjust the subsequent level of the bond or trust based upon quarterly reports data and the company must notify the commission of that adjustment.

(4) A company may petition for and the commission may grant waiver of the bond/trust requirement either at the time of registration or at such later time as the company can demonstrate to the commission's satisfaction that it meets standards for waiver of the bond/trust requirement. The petitioning company must provide documentation to the commission in support of the petition. The commission may grant or deny the request by letter from the commission secretary. The commission will evaluate the following to determine whether a waiver of the bond/trust requirement will be granted:

(a) Certified financial statements establishing adequate financial resources sufficient to provide service to consumers of prepaid telecommunications service;

(b) Confirmation that the company has received approval for and has been providing comparable services satisfactorily in one or more other state jurisdictions. The documentation must consist of information from the regulatory agency in the other state and must demonstrate that the company has complied with that states' rules and regulations and has provided adequate levels of service for twelve consecutive months;

(c) Compliance, following registration with the commission, with Washington rules and provision of adequate levels of service for at least twelve consecutive months;

(d) Documentation that the company has established a bond rating as provided for in subsection (1)(a) of this section;

(e) Other evidence demonstrating that consumer interests will be adequately protected.

WSR 99-10-024

PERMANENT RULES

DEPARTMENT OF FINANCIAL INSTITUTIONS

[Filed April 28, 1999, 9:52 a.m., effective June 25, 1999]

Date of Adoption: April 27, 1999.

Purpose: To increase fees of the Division of Banks (DOB) in an amount up to the "fiscal growth factor" through July 1, 2001.

Citation of Existing Rules Affected by this Order: Amending chapters 50-44 and 419-14 WAC.

Statutory Authority for Adoption: RCW 30.04.030, 30.04.070, 30.08.095, 33.04.025, 43.320.040.

Adopted under notice filed as WSR 99-07-131 on March 24, 1999 (published on April 7, 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 0, Amended 2, Repealed 0.

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

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

Effective Date of Rule: June 25, 1999.

April 27, 1999

John L. Bley

Director

NEW SECTION

WAC 50-44-037 Charges and fees effective June 25, 1999. Effective June 25, 1999, the rate of charges and fees under WAC 50-12-045, 50-44-020 and 50-44-030 shall be as follows:

(1) WAC 50-12-045 (1)(c) and (d) - The fee shall be \$100.00 for the issuance and filing of certificates.

(2) WAC 50-12-045 (1)(e) - The fee shall be 50 cents per page.

(3) WAC 50-12-045(2) - The fee shall be \$93.76 per employee hour expended.

(4) WAC 50-44-020(1) - The rates shall be the following:

PERMANENT

If total assets are: The assessment is:

Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	500	0	.000014668	0
500	1,000	7,344	.000014064	500
1,000	10,000	14,366	.000013855	1,000
10,000	—	139,061	.000	10,000

(5) WAC 50-44-020(2) - The rate shall be .000036659.

(6) WAC 50-44-030(1) - The fee shall be \$67.71 per hour.

(7) WAC 50-44-030(2) - The fee shall be \$93.76 per hour.

NEW SECTION

WAC 50-44-039 Charges and fees effective July 1, 1999. (1) Effective July 1, 1999, the rate of charges and fees under WAC 50-12-045, 50-44-020 and 50-44-030 shall be as follows:

(a) WAC 50-12-045 (1)(c) and (d) - The fee shall be \$100.00 for the issuance and filing of certificates.

(b) WAC 50-12-045 (1)(e) - The fee shall be 50 cents per page.

(c) WAC 50-12-045(2) - The fee shall be \$96.87 per employee hour expended.

(d) WAC 50-44-020(1) - The rates shall be the following:

If total assets are: The assessment is:

Over	But not Over	This Amount	Plus	Of Excess Over
Million	Million			Million
0	500	0	.0000151549	0
500	1,000	7,577	.0000145309	500
1,000	10,000	14,842	.0000143149	1,000
10,000	—	143,676	.000	10,000

(e) WAC 50-44-020(2) - The rate shall be .000037876.

(f) WAC 50-44-030(1) - The fee shall be \$69.95 per hour.

(g) WAC 50-44-030(2) - The fee shall be \$96.87 per hour.

(2) Thereafter, effective July 1, 2000, and again on July 1, 2001, the charges and fees set forth in subsection (1)(c), (d), (e), (f), and (g) of this section shall be increased by the fiscal growth factor as determined by the office of financial management pursuant to RCW 43.135.025.

(3) The director may suspend the collection of any or all of the charges and/or fees imposed under this section when he or she determines the banking examination fund established in RCW 43.320.110 exceeds the projected acceptable minimum fund balance level approved by the office of financial

management and that such course of action would be fiscally prudent.

NEW SECTION

WAC 419-14-135 Charges and fees effective June 25, 1999. Effective June 25, 1999, the rate of charges and fees under chapter 419-14 and 419-56 WAC shall be as follows:

(1) WAC 419-14-030(1) - The fee shall be \$41.67 per hour.

(2) WAC 419-14-030(2) - The fee shall be \$46.88 per hour.

(3) WAC 419-14-030(3) - The fee shall be \$52.09 per hour.

(4) WAC 419-14-040 - The asset charge shall be .031254 per thousand dollars of assets.

(5) WAC 419-14-075 - The fee shall be \$2,500.00 for the first branch and \$500.00 for each additional branch.

(6) WAC 419-14-080 - The fee shall be \$50.00 for the home office and each branch.

(7) WAC 419-14-090 - The fee shall be \$62.50 per hour.

(8) WAC 419-14-100 - The fee shall be \$52.09 per hour.

(9) WAC 419-14-110 - The fee shall be \$52.09 per hour.

(10) WAC 419-14-110 - The fee shall be \$5,000.00.

(11) WAC 419-56-070 - The fee shall be \$1,000.00.

NEW SECTION

WAC 419-14-140 Charges and fees effective July 1, 1999. (1) Effective July 1, 1999, the rate of charges and fees under chapters 419-14 and 419-56 WAC shall be as follows:

(a) WAC 419-14-030(1) - The fee shall be \$43.05 per hour.

(b) WAC 419-14-030(2) - The fee shall be \$48.43 per hour.

(c) WAC 419-14-030(3) - The fee shall be \$53.81 per hour.

(d) WAC 419-14-040 - The asset charge shall be .0322916 per thousand dollars of assets.

(e) WAC 419-14-075 - The fee shall be \$2,500.00 for the first branch and \$500.00 for each additional branch.

(f) WAC 419-14-080 - The fee shall be \$50.00 for the home office and each branch.

(g) WAC 419-14-090 - The fee shall be \$64.57 per hour.

(h) WAC 419-14-100 - The fee shall be \$53.81 per hour.

(i) WAC 419-14-110 - The fee shall be \$53.81 per hour.

(j) WAC 419-14-110 - The fee shall be \$5,000.00.

(k) WAC 419-56-070 - The fee shall be \$1,000.00.

(2) Thereafter, effective July 1, 2000, and again on July 1, 2001, the charges and fees set forth in subsection (1)(a), (b), (c), (d), (g), (h), and (i) of this section shall be increased by the fiscal growth factor as determined by the office of financial management pursuant to RCW 43.135.025.

(3) The director may suspend the collection of any or all of the charges and/or fees imposed under this section when he or she determines the banking examination fund established in RCW 43.320.110 exceeds the projected acceptable minimum fund balance level approved by the office of financial management and that such course of action would be fiscally prudent.

PERMANENT

WSR 99-10-027
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(WorkFirst Division)

[Filed April 28, 1999, 3:26 p.m.]

Date of Adoption: April 28, 1999.

Purpose: Shortens and simplifies language to bring it into compliance with Governor Locke's Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-0300, 388-310-0400, 388-310-0500, 388-310-0600, 388-310-0700, 388-310-0900, 388-310-1000, 388-310-1050, 388-310-1100, 388-310-1200, 388-310-1400, 388-310-1500, 388-310-1600, 388-310-1700, 388-310-1800, and 388-310-1900.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.050.

Adopted under notice filed as WSR 99-05-071 on February 17, 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 0, Amended 16, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 16, 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 16, Repealed 0.

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

April 28, 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 99-11 issue of the Register.

WSR 99-10-043
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 30, 1999, 1:10 p.m., effective July 1, 1999]

Date of Adoption: April 17, 1999.

Purpose: Update conversion factors used to calculate maximum payment levels for services reimbursed under RBRVS and anesthesia fee schedules to adjust for changes in payment policies and to give cost of living increases to providers. Update the maximum daily rate for physical and occupational therapies to give a cost of living increase to pro-

viders. Strike language referring to a method of payment that does not use conversion factors.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-135, 296-23-220, and 296-23-230.

Statutory Authority for Adoption: RCW 51.04.020(4) and 51.04.030.

Adopted under notice filed as WSR 99-05-079 filed on February 17, 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 0, Amended 3, Repealed 0.

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

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

Effective Date of Rule: July 1, 1999.

April 29, 1999

Gary 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 ~~(((\$47.64))~~ **\$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 WSR 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.

WSR 99-10-045

PERMANENT RULES

BELLEVUE COMMUNITY COLLEGE

[Filed April 30, 1999, 1:27 p.m.]

Date of Adoption: April 28, 1999.

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.

Citation of Existing Rules Affected by this Order: Repealing chapter 132H-168 WAC.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 99-05-018 on February 8, 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 1.

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

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

April 28, 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.
- 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

PERMANENT

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.

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

NEW SECTION

WAC 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 1232g), 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 carefully 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 99-10-046

PERMANENT RULES PIERCE COLLEGE

[Filed April 30, 1999, 1:48 p.m.]

Date of Adoption: April 30, 1999.

Purpose: To repeal chapter 132K-16 WAC, Student rights and responsibilities and adoption of chapter 132K-125 WAC, Student rights and responsibilities.

Citation of Existing Rules Affected by this Order: Repealing chapter 132K-16 WAC, Student rights and responsibilities.

Statutory Authority for Adoption: RCW 128B.50.140(13) [28B.50.140(13)].

Adopted under notice filed as WSR 99-04-008 [99-07-109] on April 23, 1999 [March 23, 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 0, Amended 0, Repealed [10].

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New [43], 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.

April 27, 1999

Mr. Ed Brewster

Executive Dean of Students

REPEALER

The following chapter of the Washington Administrative Code is repealed:

Chapter 132K-16 WAC Student rights and responsibilities.

Chapter 132K-125 WAC

STUDENT RIGHTS AND RESPONSIBILITIES

SECTION I INTRODUCTION

NEW SECTION

WAC 132K-125-010 Title. This chapter shall be known as the Student Code of Community College District No. 11.

NEW SECTION

WAC 132K-125-020 Preamble. Pierce College, an agency of the state of Washington, exists for the development

of students and the general well-being of society. To fulfill this purpose, the college provides a variety of continuing educational opportunities which include programs of general education, including university-parallel transfer courses, developmental-remedial programs, vocational-technical curricula and the opportunities to examine the cultural, social and recreational aspects of society.

Students are encouraged through free inquiry and free expression to develop their capacity for critical judgment and to engage in sustained and independent search for knowledge. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility.

The student is in the unique position of being a member of the community at large, having the rights and responsibilities of any citizen, and of being a member of the college community. Admissions to Pierce carries with it the presumption that students will conduct themselves as responsible members of such community. This includes an expectation that students will obey the law, will comply with rules and regulations of the college; will maintain a high standard of integrity and honesty; will respect the rights, privileges and property of other members of the college community; and will not interfere with legitimate college affairs.

Pierce College may take appropriate disciplinary action when student conduct unreasonably interferes with the college's educational responsibilities, its subsidiary responsibilities, or to protect the health and safety of persons on or in college facilities, to maintain and protect college property or private property on college facilities, to protect college records, to provide college services, and/or to sponsor nonclassroom activities such as lectures, concerts, athletic events and social functions.

The responsibility and commitment to secure and to respect general conditions conducive to the freedom to learn and self-development is shared by the students, faculty and staff at Pierce College. The purpose of this statement is to enumerate the essential provisions to safeguard this freedom, the violations of which may constitute sufficient cause for disciplinary action as described in and in accordance with the procedures established in WAC 132K-125-170 through 132K-125-390.

NEW SECTION

WAC 132K-125-030 Procedural standards in disciplinary proceedings. (1) In assisting students to develop responsible behavior, the Student Conduct Code has been developed to play a complementary role to counseling, guidance, and other forms of student development actions. At the same time, Pierce College has a duty and the corollary disciplinary powers to protect its educational endeavors through the setting of standards of scholarship and conduct for its students and through the regulations of the use of its facilities.

(2) If these rules are broken, discipline will be administered so as to guarantee procedural fairness to an accused student. The regular disciplinary procedures, rules of conduct, including the student's right to appeal a decision will be clearly formulated and communicated in advance. Disciplinary

procedures may vary in formality with the gravity of the offense and the sanctions that may be applied. Some Student Conduct Code violations may be adjudicated informally under prescribed procedures.

(3) Pierce College will adhere to procedural fairness by requiring that in all situations the student be informed of the nature of the charges against him or her, and that he or she be given a fair opportunity to refute them.

(4) If a student is charged with an off-campus violation of the law, the matter shall be of no disciplinary concern to the college unless the student is convicted in a court of law and unable to comply with academic requirements. If the violation of law occurs on campus and is also a violation of a published college regulation, the college may institute its own proceedings against the offender or may refer the violation to the appropriate civilian authorities for disposition. The college shall not proceed with a disciplinary action that duplicates punishment for the same offense unless the interests of the college are distinct and clearly involved by violation of law.

NEW SECTION

WAC 132K-125-040 Definitions. As used in this chapter, the following words and phrases shall be defined as follows:

(1) "Academic dishonesty" means plagiarism, cheating on examinations, fraudulent representation of student work product or other acts of academic dishonesty.

(2) "Alcoholic beverages" means liquor as defined in RCW 66.04.010(15) as now law or hereafter amended.

(3) "Assembly" means any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons or group of persons.

(4) "ASPCFS" means the associated students of Pierce College - Ft. Steilacoom as defined in the Constitution of that body.

(5) "ASPCP" means the associated students of Pierce College - Puyallup as defined in the Constitution of that body.

(6) "Board" means the board of trustees of Community College District No. 11, state of Washington.

(7) "President" means the chief executive officer of the college and of Community College District No. 11, state of Washington or in his or her absence, the acting chief executive officer.

(8) "College" means Pierce College and any other community college center or facilities established within Community College District No. 11.

(9) "Member of Pierce College community" includes any person who is a student, faculty member, Pierce College official, trustee, guest on a college owned or controlled facility or any other person employed by Pierce College. A person's status in a particular situation shall be determined by the executive dean of student services or director of human resources.

(10) "College facilities" means and includes any and all personal property and real property owned, rented, leased, or operated by or used on behalf of the college or associated stu-

dents and the board of trustees of Community College District No. 11 and shall include all buildings and appurtenances affixed thereon or attached thereto.

(11) "College official" includes any person employed by Pierce College performing assigned administrative professional or staff responsibilities.

(12) "Executive dean of student services" means the administrator responsible for student services or designee and that person designated by the college president to be responsible for the administration of this chapter.

(13) "Faculty" means any person hired by Pierce College to conduct one or a combination of instruction, counseling, or library services.

(14) "Student" includes all persons taking courses at Pierce College, both full time and part time. Persons who are not officially enrolled for a particular term, but who have a continuing relationship with Pierce College are considered "students."

(15) "Disciplinary action" means and includes the warning, reprimand, probation, suspension, summary suspension, dismissal or expulsion of any student by the executive dean of student services or the college disciplinary committee, issued pursuant to this chapter for the violation of any law or designated rule or regulation of college policy or the rules and regulations of conduct for which a student is subject to disciplinary action.

(16) "College disciplinary committee" means the judicial body provided in this chapter.

(17) "Judicial body" means any person or persons authorized by the executive dean of student services to determine whether a student has violated the Student Conduct Code and to recommend imposition of sanctions.

(18) "Judicial advisor" means a Pierce College official authorized by the executive dean of student services to determine whether a student has violated the Student Conduct Code. The executive dean of student services may authorize a judicial advisor to serve simultaneously as a judicial advisor and the sole member or one of the members of a judicial body. The executive dean of student services may authorize the same judicial advisor to impose sanctions in all cases.

(19) "Rules and regulations of conduct" means those rules contained within this chapter as now exist or which may be hereafter amended, the violation of which subjects a student to disciplinary action.

(20) "Drug" means a narcotic drug as defined in RCW 69.50.101, a controlled substance as defined in RCW 69.50.201 through 69.50.212, or a legend drug as defined as RCW 69.41.010.

(21) "Cheating" includes, but is not limited to:

(a) Use of any unauthorized assistance in taking quizzes, tests, or examinations; writing papers, preparing reports, solving problems, or carrying out other assignments; or

(b) The acquisition, without permission, of tests or other academic material belonging to a member of Pierce College faculty or staff.

(22) "Plagiarism" includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materi-

als prepared by another person or agency engaged in the selling of term papers or other academic materials.

(23) "Organization" means any number of persons who have complied with the formal requirements for college or student government recognition.

(24) "Shall" is used in the imperative sense.

(25) "May" is used in the permissive sense.

(26) "Policy" is defined as the written regulations of Pierce College as found in, but not limited to, the student code, the *Student Handbook*, class schedules and college catalogs.

(27) "Hazing" means any method of initiation into a student organization or living group or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause - bodily danger or physical harm - or serious mental or emotional harm - to any student or other person attending any institution of higher education or post secondary institution. Excluded from this definition are "customary athletic events or other similar contests or competitions."

(28) "Trespass" means the definition of trespass as contained in chapter 9A.52 RCW as now law or hereafter amended.

NEW SECTION

WAC 132K-125-050 Jurisdiction. (1) All rules herein adopted shall apply to every student whenever said student is present at or engaged in any college or student organization sponsored program, activity or function which is held on or off college facilities. It shall also mean for enforcement of the rules and regulations of conduct to include facilities in which students are engaged in official college training and/or activities including places of training internships, cooperative education, practicums or supervised work experiences.

(2) Faculty members, other college employees, students, and members of the public who breach or who aid or abet another in the breach of any provision of this chapter shall be subject to:

(a) Possible prosecution under the civil or criminal laws or regulations of Washington;

(b) Appropriate disciplinary action pursuant to the state of Washington higher education personnel board rules or the district's policies and regulations; or

(c) Any sanctions imposed pursuant to this chapter or in other college policies and regulations.

(3) Provisions of the Revised Code of Washington cited in this document are on file and available in the college library.

SECTION II

STUDENT RIGHTS AND RESPONSIBILITIES

NEW SECTION

WAC 132K-125-060 Freedom of access to higher education. Pierce College is an open-door institution that, within the limits of its facilities and subject to the prevailing admissions policy, is open to all students. The facilities and services of the college are open to all of its enrolled students.

Provisions allow that the executive dean of student services may deny admission to a prospective student, or continued attendance to an enrolled student, if it reasonably appears that the student would not be competent to profit from the curriculum offerings of the college, or would, by the student's presence or conduct, create a disruptive atmosphere within the college or a substantial risk of actual harm to a member of the campus community.

NEW SECTION

WAC 132K-125-070 Right to demand identification.

(1) For the purpose of determining whether probable cause exists for the application of any section of this code to any behavior by any person on a college facility, any college personnel or other authorized personnel may demand that any person on college facilities produce identification and that students produce evidence of enrollment at the college.

(2) Refusal by any individual to produce identification as required shall be cause for disciplinary action.

NEW SECTION

WAC 132K-125-080 Academic freedom. (1) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(2) Students are free to pursue appropriate educational objectives from among the college's curricula, programs and services, subject to the provisions of this chapter and statutory limitations of RCW 28B.50.090 (3)(b).

(3) Students shall be protected against prejudice or arbitrary and capricious academic evaluation. At the same time, they are responsible for maintaining the standards of academic performance established by each of their instructors.

(4) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(5) Students are protected against improper disclosure of information about their views, beliefs, and political associations that instructors acquire in the course of their work as instructors, advisers, and counselors. Such information is considered confidential. Students have the right to privacy of all student records according to the Family Education Rights and Privacy Act of 1974.

NEW SECTION

WAC 132K-125-090 Freedom of expression. Students and student organizations are free to examine and to discuss all questions of interest to them, and to express opinions publicly and privately. They are free to support causes by orderly means that do not disrupt the regular and essential operation of the institution. At the same time, it should be made clear to the campus community and the larger community that in their public expressions or demonstrations, students or student organizations speak only for themselves.

NEW SECTION

WAC 132K-125-100 Freedom of assembly. (1) Students shall have the right of "assembly" as defined in WAC 132K-125-040 upon college facilities that are generally available to the public provided that such assembly shall:

(a) Be conducted in an orderly manner;

(b) Not unreasonably interfere with vehicular or pedestrian traffic;

(c) Not unreasonably interfere with classes, schedules, meetings, or ceremonies, or with educational and administrative functions of the college;

(d) Not unreasonably interfere with the regular activities of the college; and

(e) Not cause damage or destruction to college property or private property on college facilities.

(2) A student or student organization who conducts or participates in an assembly violative of any provision of this code shall be subject to disciplinary action.

(3) Nonstudents who participate in or aid or abet any assembly or assemblies in violation of this section shall be subject to possible prosecution under the state criminal trespass law and/or any other possible civil or criminal remedies available to the college.

(4) Assemblies which violate these rules may be ordered to disperse by the college in accordance with Washington state statutes.

NEW SECTION

WAC 132K-125-110 Freedom of association. (1) Students are free to organize and join associations to promote any legal purpose whether it be religious, cultural, political, educational, recreational or social. Student organizations must be granted a charter by the ASPCP or ASPCFS before they may be officially recognized. Procedures for becoming chartered are located in the student programs office.

(2) Campus organizations, including those affiliated with an extramural organization, are open to all students without respect to race, religion, disability, gender, sexual preference, color, age, marital status, veteran status, ancestry or national origin. Affiliation with an extramural organization does not itself disqualify a student organization from institutional recognition provided that other conditions for charter issuance have been met.

NEW SECTION

WAC 132K-125-120 Distribution and posting. Students may distribute or post material subject to official procedures printed and available in the office of student programs. The college may restrict distribution of any publications, where such distribution unreasonably interferes with college operations. Any person desiring to distribute such publications shall first register with the respective office of student programs so that reasonable areas and times can be assured and the activities of the institution will not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization and individual.

NEW SECTION

WAC 132K-125-130 Off-campus speaker policy. (1) Student organizations officially recognized by the college shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding and in compliance of college procedures available in the respective office of student programs. Speakers are subject to the legal restraints imposed by the laws of the United States and the state of Washington.

(2) The appearance of an invited speaker on college facilities does not represent an endorsement, either implicitly or explicitly, or views or opinions of the speaker by the college, its students, its faculty, its college personnel, its administration or its board.

NEW SECTION

WAC 132K-125-140 Incidental sales. Students have the right to engage in incidental sales of personal property in a private transaction provided college facilities are not explicitly used for this purpose.

NEW SECTION

WAC 132K-125-150 Commercial activities. (1) College facilities will not be used for commercial solicitation, advertising or promotional activities except when such activities clearly serve Community College District No. 11 educational objectives, including but not limited to display of books of interest to the academic community or the display or demonstration of technical or research equipment, and when such commercial activities relate to educational objectives and are conducted under the sponsorship or the request of a college department or the office of student programs of the college, provided that such solicitation does not interfere with or operate to the detriment of the conduct of college affairs or the free flow of pedestrian or vehicular traffic.

(2) For the purpose of this regulation, the term "commercial activities" does not include handbills, leaflets, newspapers, and similarly related materials as regulated in WAC 132K-125-120.

NEW SECTION

WAC 132K-125-160 Student participation in college governance. As members of the college community, students will be free, individually and collectively, to express their views on college policy, and on matters of general interest to the student body. The ASPCP and ASPCFS constitutions and the college's administrative procedures provide clearly defined means to participate in the formulation and application of institutional policy affecting academic and student affairs.

SECTION III
STUDENT CONDUCT CODENEW SECTION

WAC 132K-125-170 Rules and regulations. Any student may be subject to disciplinary action as described in this chapter if the student, whether as a principle actor, aider, abettor or accomplice as defined in RCW 9A.08.020 as now law or hereafter amended, interferes with the personal rights or privileges of others or with the college's educational process and violates any provision of this chapter. Grounds for disciplinary action include, but are not limited to, the following:

(1) Acts of dishonesty, including, but not limited to, the following:

(a) Cheating, plagiarism, or other forms of academic dishonesty.

(b) Furnishing false information to any Pierce College official, faculty member, or office.

(c) Forgery, alteration, or misuse of a Pierce College document, record, fund or instrument of identification.

(d) Tampering with the election of any Pierce College recognized student organization.

(2) Assault, reckless endangerment, intimidation or interference upon another person in the manner set forth in RCW 9A.36.010 through 9A.36.050 and RCW 9A.36.070, or in RCW 28B.10.570 through 28B.10.572, as now or hereafter amended.

(3) Disruption or obstruction of teaching, research, administration, disciplinary proceedings, other Pierce College activities, including its public-service functions on or off college facilities, or other authorized non-Pierce College activities, when the act occurs on college facilities.

(4) Any acts of misconduct, substantially disrupting any college class by engaging in conduct that renders it difficult or impossible to maintain the decorum of the class, shall be subject to disciplinary action.

(5) Filing a formal complaint, falsely accusing another student or college employee of violating a provision of this chapter.

(6) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or the college.

(7) Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal, written or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(8) Engaging in racial harassment, which includes ethnic and racial jokes, racial slurs, demeaning comments, looks or gestures or other verbal, written or physical conduct deliberately designed to humiliate and/or cause discomfort to the recipient or which interferes with job or school performance.

(9) Engaging in attempted or actual theft or robbery, which is defined as theft of and/or damage to property of the college, the college community or other personal or public property or of another as set forth in RCW 9A.56.010 through 9A.56.050 and RCW 9A.56.100, as now law or hereafter amended.

PERMANENT

(10) Engaging in malicious mischief, which is defined as intentional or negligent damage to or destruction of any college facility or other public or private, real or personal property.

(11) Converting of college or associated students' equipment or supplies or other property for personal gain or use, without proper authority.

(12) Intentionally gaining access, without authorization, to a computer system or electronic data owned or used by the Washington state Community College District No. 11 shall be subject both to disciplinary action pursuant to this chapter and to criminal prosecution pursuant to RCW 9A.52.110 through 9A.52.130, and any or all other statutory laws or regulations pertaining thereto.

(13) Forging or tendering any forged records or instruments as defined in RCW 9A.60.010 through 9A.60.020 as now law or hereafter amended, of any district record or instrument to an employee or agent of the district acting in her/his official capacity.

(14) Unauthorized possession, duplication or use of keys to any Pierce College facilities or entering or using any college administrative or other employee office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge.

(15) Smoking in college facilities is prohibited or any other smoking not in compliance with chapter 70.160 RCW as now law or hereafter amended.

(16) Use, possession or distribution of alcoholic beverages, or intoxication on or at any college sponsored event, on or off campus, or appearance on campus while under the influence of intoxication.

(17) Use, possession, manufacture, distribution, being under the influence of, or selling any narcotic or controlled substance as defined in chapter 69.50 RCW as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning set forth in RCW 69.50.410 as now law or hereafter amended.

(18) Pierce College has adopted and implemented a policy and program to prevent the unlawful possession, use or distribution of illicit drugs or alcohol by students. The policy and program statement are on file in the office of the executive dean of student services and personnel office and describe criminal and other sanctions which may be imposed against students and employees for the unlawful possession, use or distribution of illicit drugs or alcohol by students and employees at Pierce College.

(19) Possession or use (to include exhibiting, displaying or drawing any weapon) of firearms, explosives, other weapons or instrumentalities or dangerous chemicals or any other device or substance which can be used to inflict bodily harm or damage real or personal property on college facilities, except for authorized college purposes or for law enforcement officers.

(20) Violation of:

- (a) Pierce College policies, rules or regulations; and/or
- (b) Federal, state or local law on Pierce College facilities at Pierce College sponsored or supervised activities.

(21) Failure to comply with the directions of Pierce College officials or law enforcement officers acting in performance of their duties.

(22) Obstruction of the free flow of pedestrian or vehicular traffic on Pierce College facilities or at Pierce sponsored or supervised activities.

(23) Conduct which is disorderly, lewd, or indecent; breach of peace; or aiding, abetting, or procuring another person to breach the peace on Pierce College facilities or at functions sponsored by, or participated in by, Pierce College.

(24) Engaging in actions or behaviors that result in the damage to property of the college, the college community or other personal or public property.

(25) Theft or other abuse of computer time, including, but not limited to:

(a) Unauthorized entry into a file to use, read, or change the contents, or for any other purpose.

(b) Unauthorized transfer of a file.

(c) Unauthorized use of another individual's identification and password.

(d) Unauthorized use of phone and electronic devices such as radios, etc.

(e) Use of computing facilities to interfere with the work of another student, faculty member or Pierce College official.

(f) Use of computing facilities to send or receive obscene or abusive messages.

(g) Use of computing facilities to interfere with normal operation of the college computing systems.

(26) Intentionally and repeatedly following another person to that person's home, school, place of employment, business, or any other location, or following the person while in transit between locations may be subject to disciplinary action if the person being followed is intimidated, harassed, or placed in fear that the stalker intends to injure the person or property of the person being followed, or another person. The feeling of fear, intimidation, or harassment must be one that a reasonable person in the same situation would experience under all the circumstances. RCW 9A.46.110 and 10.14.020 shall be guidance for this regulation.

(27) Physical abuse, verbal abuse, threats, intimidation, harassment, coercion, and/or other conduct based on facts, which threatens or endangers the health and safety of any person. This is to include acts or threats to one's personal safety and/or life.

(28) Any student who, by any act of misconduct, substantially disrupts any college function by engaging in conduct that renders it difficult or impossible to continue such a function in an orderly manner shall be subject to disciplinary action.

(29) Abuse of the judicial system, including, but not limited to:

(a) Failure to obey the summons of a judicial body or Pierce College official.

(b) Falsification, distortion, or misrepresentation of information before a judicial body.

(c) Disruption or interference with the orderly conduct of a judicial proceeding.

(d) Institution of a judicial proceeding knowingly without cause.

(e) Attempting to discourage an individual's proper participation in, or use of, the judicial system.

(f) Attempting to influence the impartiality of a member of a judicial body prior to and/or during the course of the judicial proceeding.

(g) Harassment (verbal or physical) and/or intimidation of a member of the judicial system and/or a college disciplinary committee prior to, during, and/or after a judicial proceeding.

(h) Failure to comply with the sanction(s) imposed under the Student Code.

(i) Influencing or attempting to influence another person to commit an abuse of the judicial system.

NEW SECTION

WAC 132K-125-180 Trespass. (1) The executive dean of student services or his/her designee is authorized in the instance of any event deemed to be disruptive of order or deemed to impede the movement of persons or vehicles or which the executive dean of student services deems to disrupt or threatens to disrupt the ingress and/or egress of persons from college facilities. The executive dean of student services or such other person designated by the executive dean of student services, shall have the authority and power to:

(a) Prohibit the entry of, or withdraw the license or privilege of a person or persons or any group of persons to enter onto or remain upon any portion of college property or of a college facility; or

(b) To give notice against trespass by any manner provided by law, to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from, entering onto or remaining upon all or any portion of college property or a college facility; or

(c) To order any person, persons, or group of persons to leave or vacate all of any portion of college property or of a college facility.

(2) Any individual who shall disobey a lawful order given by the executive dean of student services, or his or her designee, shall be subject to disciplinary action and/or charges of criminal trespass.

NEW SECTION

WAC 132K-125-190 Hazing policy. (1) Hazing is prohibited.

(2) Penalties.

(a) Any organization, association or student living group that knowingly permits hazing shall:

(i) Be liable for harm caused to persons or property resulting from hazing; and

(ii) Be denied recognition by Pierce College as an official organization, association or student living group on this campus. If the organization, association or student living group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(b) A person who participates or conspires to participate in the hazing of another shall forfeit any entitlement to state-

funded grants, scholarships or awards for a period of not less than one quarter and up to permanent forfeiture.

(c) An act of hazing, in addition to violating this policy, may constitute a violation of the student Code of Conduct. WAC 132K-125-170(2) Assault, reckless endangerment, etc. These offenses are subject to disciplinary action.

(d) Hazing violations are also misdemeanors punishable under state criminal law according to RCW 9A.20.021.

(3) Sanctions for impermissible conduct not amounting to hazing.

(a) Impermissible conduct associated with initiation into a student organization or living group or any pastime or amusement engaged in, with respect to the organization or living group, will not be tolerated.

(b) Impermissible conduct which does not amount to hazing may include conduct which causes embarrassment, sleep deprivation or personal humiliation, or may include ridicule or unprotected speech amounting to verbal abuse.

(c) Impermissible conduct not amounting to hazing is subject to any sanction available under the student Code of Conduct, depending upon the seriousness of the violation.

NEW SECTION

WAC 132K-125-200 Judicial authority. (1) All disciplinary action in which there is a recommendation that a student be suspended or expelled from the college shall be acted upon by the president as defined in WAC 132K-125-040(7).

(2) Administration of this chapter is the responsibility of the executive dean of student services.

(3) The instructor is responsible for conduct in the classroom and is authorized to take such steps as are reasonably necessary when behavior of the student interrupts the normal classroom procedure. When such behavior may be as serious as to result in summary suspension from the class, the instructor must report the infraction in writing to the executive dean of student services within twenty-four hours of the infraction.

(4) The student has the right to appeal any disciplinary action of an instructor to the executive dean of students as in accordance with the procedures set forth in WAC 132K-125-230 through 132K-125-280.

NEW SECTION

WAC 132K-125-210 Initiation of proceedings. (1) Any member of the Pierce College community may file charges against any students for violation of provisions of this code. Charges shall be prepared in writing and directed to the judicial advisor responsible for the administration of the Pierce College judicial system. Any charges should be submitted as soon as reasonably possible after the event takes place, preferably within five academic days.

(2) All disciplinary proceedings will be initiated by the executive dean of student services. The student may be placed on suspension pending commencement of disciplinary action, pursuant to the conditions set forth in WAC 132K-125-230.

(3) Any student charged by the judicial advisor with a violation of any provision of this code will be so informed by

regular United States mail or by personal service of the charges and of the time, date (not less than five nor more than fifteen business days after the student has been notified), and place of a conference between the judicial advisor and the student. The notice shall be sent to the student's last known address shown on college records.

(4) A student may be advised and represented at the student's own expense by counsel or personal advisor.

(5) After a review of the evidence and interview the student(s) involved in the case, the judicial advisor may take any of the following actions:

(a) Terminate the proceeding exonerating the student or students;

(b) Dismiss the case;

(c) Impose verbal warning to the student directly, not subject to the student's right of appeal as provided in this code;

(d) Impose additional sanctions of reprimand, probation, suspension or expulsion, subject to the student's right of appeal as provided in this code; or

(e) Refer the matter to the college disciplinary committee for a recommendation as to appropriate action.

(6) The student will be notified in writing of the determination made by the judicial advisor within ten business days of the proceeding. The student will also be notified of his or her right to appeal pursuant to WAC 132K-125-220.

NEW SECTION

WAC 132K-125-220 Appeals. (1) Appeals contesting any disciplinary action, except for summary suspension, may be made by the student(s) involved. Such appeals shall be made in the following order:

(a) Disciplinary action taken by the executive dean of student services, or his or her designee(s) may be appealed to the college disciplinary committee, which may at the request of the student(s), hear the case de novo.

(b) Disciplinary action taken by the college disciplinary committee may be appealed to the college president. The president shall review the record of the proceedings which gave rise to the appeal, as well as the recommendations made by the executive dean of student services or his or her designee(s) and the college disciplinary committee. The president's decision shall be final.

(2) Any appeal by a student receiving a disciplinary sanction must meet the following conditions:

(a) The appeal must be in writing and must clearly state errors in fact or matters in extenuation or mitigation which justify the appeal; and

(b) The appeal must be filed within twenty business days from the date on which the student was notified that disciplinary action was being taken.

(3) All appellate decisions shall be sent from the office of the executive dean of student services. Written decisions shall include the signatures of the college disciplinary committee.

NEW SECTION

WAC 132K-125-230 Summary suspension proceedings. Each college employee has the right to suspend, remove or have removed from a college class or college function and/or the college for one class day any student who by an act of misconduct renders it difficult or impossible to maintain the decorum of a class or to continue such function in an orderly manner. The college employee shall notify the executive dean of student services in writing within twenty-four hours of the infraction and the action taken.

(1) Ordinarily, disciplinary sanctions will be imposed only after the appropriate informal or formal hearing has taken place and after the student has, if he/she so chooses, exercised his/her right to appeal. However, if the executive dean of student services or his/her designee(s) has cause to believe that any student:

(a) Has committed a felony; or

(b) Has violated any provision of this chapter; or

(c) Presents an imminent danger either to himself or herself, other persons of the Pierce College community, Pierce College property, or poses a threat of disruption of or interferes with the normal operations of Pierce College; that student shall be summarily suspended and shall be notified by certified and regular mail at the student's last known address, or shall be personally served. Summary suspension is appropriate only where (c) of this subsection can be shown, either alone or in conjunction with (a) or (b) of this subsection.

(2) The notice shall be entitled "notice of summary suspension proceedings" and shall state:

(a) The charges against the student including reference to the provisions of WAC 132K-125-170 or statutory law involved; and

(b) That the student charged must appear before the executive dean of student services or his or her designee(s) at a time specified in the notice for a hearing. The hearing shall be held as soon as reasonably possible after the summary suspension.

NEW SECTION

WAC 132K-125-240 Procedures of summary suspension hearing. (1) The summary suspension hearing shall be considered an informal hearing. The hearing must be conducted as soon as reasonably possible and the executive dean of student services or his or her designee(s) shall preside.

(2) The executive dean of student services shall decide whether there is probable cause to believe that continued suspension is necessary and/or whether some other disciplinary action is appropriate.

NEW SECTION

WAC 132K-125-250 Decision by the executive dean of student services. If the executive dean of student services, following the summary suspension hearing, finds that there is probable cause to believe that:

(1) The student against whom specific violations are alleged has committed one or more such violations; and

(2) Summary suspension of that student is necessary for the safety and well-being of the student, other members of the Pierce College community on college facilities, the educational process of the institutions or to restore order to the campus; and

(3) Such violation or violations constitute grounds for disciplinary action as provided for in WAC 132K-125-170; the executive dean of student services or his or her designee may continue to enforce the suspension of the student from the college and may also impose any other disciplinary action appropriate.

NEW SECTION

WAC 132K-125-260 Notice of suspension. (1) If a student's summary suspension is upheld or if the student is otherwise disciplined, the student will be provided with a written notice including the findings of fact and conclusions which lead the executive dean of student services to believe that the summary suspension of the student should continue.

(2) The student suspended pursuant to the authority of this rule shall be served a copy of the notice of suspension by personal service or by certified and regular mail at the student's last known address within three business days following the conclusion of the hearing with the executive dean of student services.

(3) The notice of suspension shall state the duration of the suspension or nature of the disciplinary action and conditions under which the suspension may be terminated.

NEW SECTION

WAC 132K-125-270 Suspension for failure to appear. The executive dean of student services is authorized to enforce the suspension of the summarily suspended student in the event the student has been served pursuant to the notice requirement and fails to appear at the time designated for the summary suspension proceeding.

NEW SECTION

WAC 132K-125-280 Appeals from summary suspension hearing. (1) Any student aggrieved by an order issued at the summary suspension proceeding may appeal to the college disciplinary committee. No such appeal shall be entertained, however, unless:

(a) The student has first appeared before the executive dean of student services at the hearing called for in WAC 132K-125-260; and

(b) The student has been officially notified of the outcome of that hearing; and

(c) Summary suspension or another disciplinary sanction has been upheld; and

(d) The appeal conforms to the standards set forth in WAC 132K-125-220.

(2) The college disciplinary committee shall, within five business days, conduct a formal hearing according to the provisions of WAC 132K-125-320. Appeals from summary suspension take precedence over other matters before the college disciplinary committee.

NEW SECTION

WAC 132K-125-290 Final decision. The president or his or her designee(s) shall review the findings and conclusions of the executive dean of student services in conjunction with the recommendations of the college disciplinary committee and will issue a final decision within three business days. The president or his or her designee(s) shall notify the appealing student by certified and regular mail at the student's last known address or by personal service.

NEW SECTION

WAC 132K-125-300 Purpose of disciplinary action. Disciplinary action, up to and including expulsion from the college, may be imposed upon a student or group or organization for violation of the provisions of this chapter. Disciplinary action proceedings shall determine whether and under what conditions the violator may continue as a student at the college.

NEW SECTION

WAC 132K-125-310 Disciplinary sanctions. The following sanctions may be imposed upon any student found to have violated any section of this chapter:

(1) Disciplinary warning. A notice in writing to the student by the executive dean of student services or his or her designee(s) that the student has violated the rules of conduct as outlined in this chapter or has otherwise failed to satisfy the college's expectations regarding conduct. Such warnings imply that continuing or repeating the specific violation or engaging in other misconduct will result in one of the more serious disciplinary sanctions described below. Formal files or records will not be kept on warnings.

(2) Disciplinary reprimand. Formal action censuring a student for violating the rules and regulations of student conduct as outlined in this chapter. Reprimands shall be made in writing to the student by the executive dean of student services or his or her designee(s), with copies placed on file in the office of student services. A reprimand shall indicate to the student that continuing or repeating the specific violation involved will result in one of the more serious disciplinary actions described below.

(3) Disciplinary probation. Formal action by executive dean of student services or designee(s), placing conditions upon the student's continued attendance for violation of rules of student conduct. Notice shall be made in writing and shall specify the period of probation and the conditions, such as limiting the student's participation in extracurricular activities. Disciplinary probation may be for a specific term or for an indefinite period that may extend to graduation or other termination of the student's enrollment in the college.

(4) Restitution. Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement. Failure to make restitution by the time limits established by the executive dean of student services or the college disciplinary committee will result in suspension for an indefinite period of time as set forth in subsection (5) in this section. Student(s) may be reinstated upon payment.

(5) Suspension. Temporary dismissal from the college and termination of the person's student status for violation of rules of student conduct. Notice shall be given in writing and specify the duration of the dismissal and any special conditions that must be met before readmission.

(6) Expulsion. Permanent termination of a student's status for violation of rules of student conduct. Notice must be given in writing. There shall be no refund of fees for the quarter in which the action is taken, but fees paid in advance for a subsequent quarter will be refunded.

(7) Sanctions imposed upon groups or organizations. The following sanctions may be imposed upon groups or organizations:

(a) Those sanctions listed in subsections (1) through (4) of this section; and/or

(b) Deactivation: Loss of privileges including college recognition, for a specified period of time.

NEW SECTION

WAC 132K-125-320 Composition of college disciplinary committee. (1) The college disciplinary committee shall be composed of six members and shall be appointed no later than October 15 of each academic year. Replacements on the committee shall be made from respective panels. The membership will be selected as follows:

(a) One full-time student representative in good academic standing and one alternate chosen by the ASPCP council to serve a one year appointment; or

(b) One full-time student representative in good academic standing and one alternate chosen by the ASPCFS student government to serve a one year appointment;

(c) Two faculty members and an alternate chosen by the faculty association to serve a two-year, nonconcurrent term;

(d) One administrator (excluding the executive dean of student services) chosen by the president to serve a one-year term.

(e) One student services administrator chosen by the executive dean of student services to serve a one-year term.

(2) A quorum of the committee shall consist of four members with at least one student member present. All committee members shall have voting rights. The committee shall select its chair who shall preside at all meetings and hearings. The chair shall not vote except to break a tie vote. The chair shall also not be a student representative.

(3) If any member of the college disciplinary committee is unable to consider a particular disciplinary proceeding for any reason (including, but not limited to, conflict of interest, matters of conscience or related reasons), such members shall abstain from considering the issues. The chair of the college disciplinary committee shall make temporary appointments where members abstain. If the committee chair abstains pursuant to the above procedure, the members of the college disciplinary committee shall elect a temporary chair who will preside over the hearing.

NEW SECTION

WAC 132K-125-330 Hearing procedures before the college disciplinary committee. (1) The college disciplinary

committee shall hear, de novo, and make recommendations to the president of the college on all disciplinary cases referred to it by the executive dean of student services or by appeal as specified in WAC 132K-125-220.

(2) A hearing will be conducted within twenty-one business days after disciplinary action has been referred to the committee.

(3) Where a person is charged with an offense punishable by suspension, limited dismissal, or termination of her/his relationship with the college, and where the person:

(a) Waives the opportunity for an informal hearing; or

(b) By a person's conduct (in the judgment of the hearing chair) makes it impossible to conduct an informal hearing; or

(c) Is dissatisfied with the results of the informal hearing; that person is entitled to a formal hearing conducted according to the provisions of RCW 34.05.410 and the guidelines of this chapter. Where an adjudicative proceeding is neither required by law nor requested by the student or the college, the matter may be resolved informally. Brief adjudicative proceedings before the disciplinary committee shall be conducted in any manner which will bring about a prompt, fair resolution of the matter.

(4) The student has a right to a fair and impartial hearing before the college disciplinary committee on any charge of violating the rules and regulations of conduct. The student's failure to cooperate with the committee's hearing procedures, however, shall not preclude the college committee on student conduct from making its findings of facts, conclusions, and recommendations.

(5) Written notice of the time and place of the hearing before the college disciplinary committee shall be given to the student by personal service or certified mail not less than fourteen business days in advance of the hearing. Such notice shall include:

(a) A statement of the time, place, and nature of the disciplinary proceedings; and

(b) A statement of the specific charges against her/him including reference to the particular sections of the rules of conduct involved; and

(c) To the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the hearings.

(6) The student shall be entitled to:

(a) Hear and examine the evidence against her or him and be informed to the identity of its source; and

(b) Present evidence in her or his own behalf and to cross-examine witnesses testifying on behalf of the college as to factual matters; and

(c) Take depositions upon oral examination or written interrogatories. Discovery shall be done according to the rules of civil procedure or by a less formal method where all parties agree.

(7) The student has the right to be assisted by any advisor they choose, at their own expense. The advisor cannot be an employee of the college. If the student elects to choose a duly licensed attorney admitted to practice in the state of Washington as counsel, notice thereof must be tendered by the student to the executive dean of student services at least seven business days prior to the hearing. The student is responsible

for presenting her or his own case and, therefore, the advisor is not permitted to speak or to participate directly in any hearing before a judicial body.

(8) In all disciplinary proceedings, the college may be represented by a designee appointed by the executive dean of student services; that designee may then present the college's case against the student accused of violating the rules of conduct; provided, that in those cases in which the student elects to be represented by a licensed attorney, the executive dean of student services may elect to have the college represented by an assistant attorney general.

(9) The executive dean of student services shall designate a recorder to take notes during the hearing and to prepare a written summary of all evidence, facts, and testimony presented to the college disciplinary committee during the course of the hearing. The proceedings of the hearing, with the exception of the committee deliberations, shall also be tape recorded, and in some instances may be videotaped.

(10) The record in a formal hearing shall contain:

- (a) All documents, motions, and intermediate rules; and
- (b) Evidence received and considered; and
- (c) A statement of matters officially noticed; and
- (d) Questions and offers of proof, objections, and rulings thereon; and
- (e) As specified in RCW 34.05.476 as now law or hereafter amended.

(11) Following final disposition of the case and any appeals therefrom, the president may direct the destruction of any records of any disciplinary proceedings, provided that such destruction is in conformance with the requirements of chapter 40.14 RCW, as now law or hereafter amended.

(12) The time of the hearing may be advanced or continued for good cause by the college disciplinary committee at the request of the student.

NEW SECTION

WAC 132K-125-340 Conduct of hearings. (1) Hearings conducted by the college disciplinary committee will be held in closed session; provided, the accused student may request the hearing to be held in open session.

(2) Admission of any person to the hearing shall be at the discretion of the college disciplinary committee.

(3) If at any time during the conduct of a hearing visitors disrupt the proceedings, the committee chair may exclude such persons from the hearing room.

(4) Any student of the college attending the disciplinary hearing who continues to disrupt the proceedings after the presiding officer has asked her/him to cease or leave the hearing room shall be subject to disciplinary action.

(5) All procedural questions are subject to the final decision of the chairperson of the college disciplinary committee.

NEW SECTION

WAC 132K-125-350 Evidence admissible in hearings. (1) Only those matters presented at the hearing, in the presence of the accused student, except where the student fails to attend after receipt of proper notice, will be considered in determining whether the college disciplinary commit-

tee has sufficient cause which is established by the preponderance of the evidence to believe that the accused student has violated the rules he/she is charged with having violated.

(2) In determining whether sufficient cause exists as stated in subsection (1) of this section members of the college disciplinary committee shall admit evidence upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.

(3) The chair shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state.

(4) Evidence or testimony to be offered by or on behalf of the student in extenuation or mitigation shall not be presented or considered until all substantive evidence or testimony has been presented.

NEW SECTION

WAC 132K-125-360 Decision by the college disciplinary committee. (1) Upon conclusion of the disciplinary hearing, the college disciplinary committee shall consider all the evidence therein presented and decide by majority vote whether to uphold the initial disciplinary action or to recommend institution of any of the following actions:

(a) That the college terminate the proceedings and exonerate the student; or

(b) That the college impose any of the disciplinary actions as provided in this chapter.

(2) The committee's written decision shall include findings of fact, conclusions regarding whether the student(s) violated any provisions of this chapter and recommendations for the final disposition of the matter at issue.

(3) Within seven business days of the conclusion of the hearing, the student will be provided with a copy of the committee's findings of fact and conclusions. The copy shall be dated and contain a statement advising the student of her or his right, to present a written statement to the president of the college appealing the recommendation of the disciplinary committee.

NEW SECTION

WAC 132K-125-370 Final appeal. (1) Any student feeling aggrieved by the findings or conclusions of an appeal pursuant to WAC 132K-125-350 may appeal the same in writing to the president within twenty business days following notification to the student of the action taken by the college disciplinary committee on student conduct. The president has the discretion to suspend any disciplinary action pending determination of the merits of the findings, conclusions and disciplinary actions imposed. In the consideration of such an appeal, the president shall base her or his findings and decision only on the official written record of the case and on any reports or recommendations of the college disciplinary committee and the executive dean of student services.

(2) If the president decides that discipline is to be imposed or altered after the review provided by subsection (1) of this section, the president or the president's designee shall notify the student in writing, within ten business days,

by regular or certified mail or personal service of the discipline imposed. The final order will also include a statement of findings of fact and conclusions of law. The decision of the president shall be final and not reviewable.

NEW SECTION

WAC 132K-125-380 Readmission after dismissal.

Any student dismissed from the college for disciplinary cases may be readmitted only on written petition to the office of the executive dean of student services. Such petitions must indicate how specified conditions have been met and, if the term of the dismissal has not expired, any reasons which support a reconsideration of the matter. Because the president of the college participates in all disciplinary actions dismissing students from the college, decisions on such petitions of readmission must be reviewed and approved by the president before readmission is granted.

NEW SECTION

WAC 132K-125-390 Reporting, recording and maintenance of records. Records of all disciplinary cases shall be kept by the office of the executive dean of student services. Except in proceedings wherein the student is exonerated, all documentary or other physical evidence produced or considered in disciplinary proceedings and all recorded testimony shall be preserved insofar as possible for at least five years. No record of proceedings wherein the student is exonerated, other than the fact of exonerated, shall be maintained in the student's file or other official college repository after the date of the student's graduation.

SECTION IV TECHNICAL PROVISIONS

NEW SECTION

WAC 132K-125-400 Interpretation and revision. (1) Any question of interpretation regarding the Student Code shall be referred to the executive dean of student services or his or her designee for final determination.

(2) The Student Code shall be reviewed every three years under the direction of the executive dean of student services.

NEW SECTION

WAC 132K-125-410 Prior rules. The rules contained within this chapter supersede all former rules relating to student conduct.

NEW SECTION

WAC 132K-125-420 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

NEW SECTION

WAC 132K-125-430 Effective date. WAC 132K-125-010 through 132K-125-430 shall take effect on May 12, 1999, and shall apply to all rule-making actions and proceedings begun on or after that date.

WSR 99-10-048

PERMANENT RULES

DEPARTMENT OF FISH AND WILDLIFE

[Order 99-57—Filed April 30, 1999, 4:35 p.m.]

Date of Adoption: April 30, 1999.

Purpose: Amend small scale mining rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-110-204 and 220-110-205.

Statutory Authority for Adoption: RCW 75.20.330.

Adopted under notice filed as WSR 99-05-023 on February 9, 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 0, Amended 2, Repealed 0.

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

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

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

April 30, 1999

Larry W. Peck

for Jeff Koenings

Director

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 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 99-10-061
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-60—Filed May 3, 1999, 2:38 p.m.]

Date of Adoption: December 5, 1998.
 Purpose: Amend aquaculture transfer rules.
 Citation of Existing Rules Affected by this Order:
 Amending WAC 220-72-076.
 Statutory Authority for Adoption: RCW 75.08.080.
 Adopted under notice filed as WSR 98-21-055 on October 19, 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 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.
 May 3, 1999

Debbie Nelson
 for Kelly White, Chairman
 Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 97-56, filed 4/2/97, effective 5/3/97)

WAC 220-72-076 Unlawful acts—Permit required.

(1) It shall be unlawful to transfer shellfish, shellfish aquaculture products (including oyster seed, cultch and shell), aquaculture equipment (including aquaculture vehicles and vessels) or any marine organisms adversely affecting shellfish from a restricted area into an unrestricted area without obtaining written permission from the director of fish and wildlife or the director's authorized agent. Such written permit must be affixed to or otherwise accompany the conveyance affecting the physical transfer of such shellfish, shellfish aquaculture products (including oyster seed, cultch and shell), aquaculture equipment (including aquaculture vehicles and vessels) oyster drills, or drill-infested or marine organisms harmful to shellfish. Areas found to have aquatic diseases or

pests (including the oyster drill *Cerastostoma inornatum*) will be immediately considered restricted by the department of fish and wildlife. The department will immediately notify property owners of the restricted status.

(2) It is unlawful to transfer shellfish aquaculture products (including all oysters and clams, oyster seed, cultch, and shell), and aquaculture equipment (including aquaculture vehicles and vessels) from the waters and tidelands of Grays Harbor inside and easterly of a line projected from the outermost end of the north jetty to the outermost end of the south jetty and from the waters and tidelands of Willapa Bay inside and easterly of a line projected from the most northern tip of Leadbetter Point true north to Cape Shoalwater without obtaining written permission from the director of fish and wildlife or the director's authorized agent. Transfers to the waters and tidelands of Willapa Bay inside and easterly of a line projected from the most northern tip of Leadbetter Point true north to Cape Shoalwater are exempted from this written permission requirement. Such written permit must be affixed to or otherwise accompany the conveyance affecting the physical transfer of such shellfish, shellfish aquaculture products (including oyster seed, cultch, and shell), or aquaculture equipment (including aquaculture vehicles and vessels).

WSR 99-10-062
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-59—Filed May 3, 1999, 2:42 p.m.]

Date of Adoption: December 5, 1998.
 Purpose: Amend commercial fishing rules.
 Citation of Existing Rules Affected by this Order:
 Amending WAC 220-52-046.
 Statutory Authority for Adoption: RCW 75.08.080.
 Adopted under notice filed as WSR 98-21-090 on October 21, 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 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.
 May 3, 1999

Debbie Nelson
 for Kelly White, Chairman
 Fish and Wildlife Commission

PERMANENT

AMENDATORY SECTION (Amending Order 98-185, filed 9/4/98, effective 10/5/98)

WAC 220-52-046 Crab fishery—Seasons and areas. "Commercial crab fishing" means any taking, fishing, use, or operation of gear to fish for crabs for commercial purposes, and shall include the possession of crab on the water for commercial purposes, and the landing or initial delivery of crab for commercial purposes.

The lawful open times and areas for commercial crab fishing are as follows:

(1) All Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas are open for commercial crab fishing beginning 8:00 a.m. October 1st through the following April 15th and, after October 1, one-half hour before sunrise to one-half hour after sunset, except:

(a) Areas 25C, 26B, 26C, 26D, 27A, 27B, 27C, 28A, 28B, 28C, and 28D are not open to commercial crab fishing; and

(b) The areas and times provided by other subsections below are not open to commercial crab fishing.

(2) The following areas are closed to commercial crab fishing except for treaty Indian commercial crab fishing where the treaty Indian crab fisher is following tribal openings that are in accordance with provisions of court orders in *United States v. Washington*:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point are closed March 1 through April 15.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A in Lummi Bay east of a line projected from the entrance buoy at Sandy Point to Gooseberry Point.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder at Point Francis to the pilings at Stevie's Point.

(d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A east of lines projected north from the most westerly tip of Skagit Island and south to the most westerly tip of Hope Island, thence southeast to Seal Rocks, thence southeast to the green can buoy at the mouth of Swinomish Channel, thence easterly to the west side of Goat Island.

(e) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24B inside a line projected from Priest Point to the five-meter tower between Gedney Island and Priest Point, thence northwesterly on a line between the five-meter tower and Barnum Point to the intersection with a line projected true west from Kayak Point, thence east to shore.

(f) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24B north of a line projected true west from Kayak Point and south and west of a line from Kayak Point to Barnum Point.

(g) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of a line from the new

Dungeness Light to the mouth of Cooper Creek are closed through November 15th of each year.

(h) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25D within a line projected from the Point Hudson Marina entrance to the northern tip of Indian Island, thence to Kala Point, and thence following the shoreline to the point of origin.

(3) The following areas are closed to commercial crab fishing during the periods indicated:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24C inshore of the 400 foot depth contour within an area bounded by parallel lines projected northeasterly from Sandy Point and the entrance to the marina at Langley are closed October 1 through October 31, and March 1 through April 15 of each year.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A in Useless Bay north and east of a line from Indian Point to a point on shore 1.5 miles northeast of Double Bluff are closed October 1 through October 31, and March 1 through April 15 of each year.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21B inside lines from Oyster Creek to the fisheries monument on Samish Island and from Oyster Creek to Point Williams are closed shoreward of the ten fathom contour October 1 through October 31, and March 1 through April 15 of each year.

(d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cap Sante Marina to the northern end of the eastern most oil dock are closed October 1 through October 31, and March 1 through April 15 of each year.

(e) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A in Coronet Bay south of a line projected true east and west from the northernmost tip of Ben Ure Island are closed October 1 through October 31, and March 1 through April 15 of each year.

(4) The following areas are closed to commercial crab fishing until further notice:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24A within a line projected from Rocky Point northeast to the red number 2 buoy, thence to Brown Point.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 24D south of a line from Dines Point to the point just north of Beverly Beach.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A south and east of a line projected from the 3A buoy at the Snohomish River mouth to the outermost tip of the ferry dock at Mukilteo.

(d) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within a line from the green number 1 buoy at Scatchet Head to the green number 1 buoy at Possession Point thence following the 200 foot contour to a point due east from the Glendale Dock.

(e) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21B in Samish Bay south of a line from Oyster Creek to the fisheries management monument on Samish Island.

(f) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Westcott and Garrison Bays east of a line projected due south from Point White to San Juan Island.

(g) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A in Birch Bay east of a line projected from the boat ramp at the western boundary of Birch Bay State Park to the western point of the entrance to the Birch Bay Marina.

(h) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A shoreward of the ten-fathom (MLLW) contour in Chuckanut Bay.

(i) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Blind Bay south of a line projected due west from Point Hudson to Shaw Island.

(j) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(k) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Fisherman Bay south of a line projected east-west through the red number 4 entrance buoy.

(l) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Mud Bay south of a line projected from Lopez Island through Crab and Fortress Islands to Lopez Island.

(m) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Padilla Bay within a line projected from the northern end of the eastern most oil dock to the red number 2 buoy, thence southeasterly to the red number 8 buoy, thence west to shore.

(n) All waters in the San Juan Islands Marine Preserve Area.

(5) Coastal, Pacific Ocean, Grays Harbor, Willapa Bay and Columbia River waters are open to commercial crab fishing December 1 through September 15 except that it is lawful to set baited crab gear beginning at 8:00 a.m. November 28. However, the department may delay opening of the coastal crab fishery due to softshell crab conditions, in which case the following provisions will apply:

(a) After consultation with the Oregon Department of Fish and Wildlife, the director may, by emergency rule, establish a softshell crab demarcation line.

(b) For waters of the Pacific Ocean north of Point Arena, California, it is unlawful for a person to use a vessel to fish in any area for which the season opening has been delayed due to softshell crab for the first thirty days following the opening of such an area if the vessel was employed in the coastal crab fishery during the previous forty-five days.

(c) Fishers may not set crab gear in any area where the season opening has been delayed, except that gear may be set as allowed by emergency rule and shall allow setting sixty-four hours in advance of the delayed season opening time.

(d) It is unlawful to fish for or possess Dungeness crabs or to set crab gear in waters of the Pacific Ocean adjacent to the states of Oregon or California except during the lawful open seasons, areas and times specified by the individual states.

(6) The following areas (Special Management Area; SMA's) are closed to commercial crab fishing during the

periods indicated, except for treaty Indian commercial crab fishing where the treaty Indian crab fisher is following tribal openings that are in accordance with provisions of court orders in United States v. Washington:

(a) Those waters bounded by lines projected between the following coordinates:

Southern SMA Description:

NW corner:	47°09.00'N	124°23.80'W (LORAN 41885)
NE corner:	47°09.00'N	124°16.30'W
SW corner:	46°58.00'N	124°22.00'W (LORAN 41885)
SE corner:	46°58.00'N	124°15.30'W

Northern SMA Description:

NW corner:	47°32.00'N	124°34.00'W (LORAN 41865)
NE corner:	47°32.00'N	124°29.50'W (LORAN 41880)
SW corner:	47°27.00'N	124°33.00'W (LORAN 41865)
SE corner:	47°27.00'N	124°28.60'W (LORAN 41880)

~~((The non-Indian fishery will be closed within these areas through January 4, 1998. The areas will open to the non-Indian fishery on January 5, 1998, and remain open through September 15, 1998.))~~ The non-Indian fishery will be closed within these areas December 1, 1998, through January 4, 1999. The areas will open to the non-Indian fishery on January 5, 1999, and remain open through September 15, 1999, except as provided for in (d) of this subsection.

(b) Those waters between 47°40.50'N (Destruction Island) north to 48°02.25'N, east of a line (to the coastline) described by the following points:

Southern point:	47°40.50'N	124°37.50'W
Central point:	48°00.00'N	124°49.50'W
Northern point:	48°02.25'N	124°50.00'W

~~((This area is closed to non-Indian fishing through January 7, 1998. It will reopen to non-Indian fishing on January 8, 1998, and close on February 5, 1998. This area will reopen on March 28, 1998, and remain open through September 15, 1998.))~~ This area is closed to non-Indian fishing from December 1, 1998, through January 7, 1999. It will reopen to non-Indian fishing on January 8, 1999, and close on February 5, 1999. This area will reopen on March 28, 1999, and remain open through September 15, 1999, except as provided for in (d) of this subsection.

(c) Those waters east of a line approximating the 25 fathom curve, from 48°02.15'N 124°50'00"W to 48°07'36"N 124°51'24"W to 48°20'00"N 124°50'00"W to Cape Flattery. This area will close to non-Indian fishing December 29, 1997, (after 28 days of fishing) and remain closed through March 31, 1998. The area will reopen on April 1, 1998, and remain open through September 15, 1998.

(d) It is unlawful to place gear, fish for or take Dungeness crab for commercial purposes in the following area from July 1 through September 15:

Those waters west of straight lines drawn in sequence from south to north between the following coordinates:

PERMANENT

	<u>Land description</u>	<u>Coordinate</u>
(i)	<u>Washington - Oregon border</u>	<u>46°15.00'N 124°10.00'W</u>
(ii)	<u>Seaview</u>	<u>46°20.00'N 124°10.00'W</u>
(iii)	<u>Willapa Bay entrance</u>	<u>46°40.00'N 124°10.00'W</u>
(iv)	<u>N. Willapa Bay spits</u>	<u>46°43.50'N 124°11.50'W</u>
(v)	<u>Grayland</u>	<u>46°50.00'N 124°12.30'W</u>
(vi)	<u>Grays Harbor</u>	<u>46°54.70'N 124°16.00'W</u>
(vii)	<u>Ocean Shores</u>	<u>47°00.00'N 124°16.00'W</u>
(viii)	<u>Moclips</u>	<u>47°15.00'N 124°19.00'W</u>
(ix)	<u>Cape Elizabeth</u>	<u>47°20.00'N 124°25.00'W</u>
(x)	<u>Raft River</u>	<u>47°27.00'N 124°28.60'W</u> (follow TD 41880 to way-point # 11 N. Destruction Island)
(xi)	<u>N. Destruction Island</u>	<u>47°42.40'N 124°31.50'W</u>
(xii)	<u>Lapush</u>	<u>47°55.00'N 124°46.00'W</u>
(xiii)	<u>Carol Island</u>	<u>48°00.00'N 124°49.50'W</u>
(xiv)	<u>N. Lake Ozette</u>	<u>48°07.60'N 124°51.40'W</u>
(xv)	<u>Makah Bay</u>	<u>48°20.00'N 124°50.00'W</u>
(xvi)	<u>Cape Flattery</u>	<u>Point on land</u>

WSR 99-10-064**PERMANENT RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed May 3, 1999, 3:32 p.m.]

Date of Adoption: May 3, 1999.

Purpose: To implement a federal option as allowed in the Balanced Budget Act (BBA) of 1997 which provides for twelve continuous months of medical benefits for children. It has also been rewritten in order to comply with the principles of Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 388-418-0025.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.057.

Other Authority: Section 4731 of the BBA (Public Law 105-33).

Adopted under notice filed as WSR 99-07-137 on March 24, 1999.

Changes Other than Editing from Proposed to Adopted Version: Added language in subsections (1) and (4) to clarify the intent of the department concerning when a person's medical program is to be redetermined and when a person is eligible for a medical extension. Eliminated the reference to an obsolete program.

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 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: Thirty-one days after filing.

May 3, 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 388-418-0025 Effect of changes on medical program eligibility. (1) ~~((Categorically needy (CN) medical and medically needy (MN) medical is continued until a re-termination of))~~ A client continues to receive Medicaid until the department determines the client's eligibility ((is made for other)) or ineligibility for another medical ((programs when changes cause a client to become ineligible for)) program. This applies to a client who, during a certification period, becomes ineligible for, is terminated from, or requests termination from:

(a) A Medicaid program or SFA-related medical program; or

(b) Any of the following cash grants:

~~((i) TANF((/)) or SFA; ((or~~

~~((b)))~~ (ii) SSI; ((or

~~((e)))~~ (iii) GA-H; or

~~((d))~~ GA-S; or

~~((e))~~ CN medical)) (iv) GA-X. See WAC 388-434-0005 for changes reported during eligibility review.

(2) ~~((When changes cause a refugee cash assistance client to be ineligible,))~~ A child remains continuously eligible for medical benefits for a period of twelve months from the date of certification for medical benefits or last review, whichever is later. This applies unless the child:

(a) Moves out of state;

(b) Loses contact with the department or the department does not know the child's whereabouts;

(c) Turns eighteen years of age if receiving children's health program benefits;

(d) Turns nineteen years of age if receiving children's CN or CN scope of care program benefits; or

(e) Dies.

(3) When a client becomes ineligible for refugee cash assistance, refugee medical assistance can ((only)) be continued only through the eight-month ((residence)) limit, as described in WAC ((388-400-0030(6))) 388-400-0035(6).

~~((3))~~ (4) A client receiving a TANF or SFA cash (recipients are) grant is eligible for a medical extension, as described under WAC 388-523-0100, when ((termination)) the client's cash grant is terminated as a result of:

- (a) ~~((Increased employment))~~ Earned income; or
- (b) Collection of ((, or increased collection of,)) child or spousal support.

~~((4))~~ Clients who report changes in income or resources during a certification period will have their medical continued until eligibility is redetermined for:

- (a) ~~CN or medically needy (MN) for TANF/SFA related, SSI related, or refugee related medical; or~~
- (b) ~~Medically indigent (MI) program;)~~

(5) ~~((Changes))~~ A change in income ((reported by clients)) during a certification period ((will not have an affect on medical)) does not affect eligibility for:

- (a) ~~((The))~~ Pregnant women's medical programs; or
- (b) ~~((The children's CN program; or~~
- (c) ~~The children's health program; or~~
- (d) ~~The first six months of the TANF/SFA related medical extension; or~~
- (e) ~~The newborn medical program))~~ The first six months of the TANF/SFA-related medical extension.

WSR 99-10-066

PERMANENT RULES

LIQUOR CONTROL BOARD

[Filed May 4, 1999, 8:11 a.m.]

Date of Adoption: April 14, 1999.

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.

Citation of Existing Rules Affected by this Order: Amending WAC 314-68-010, 314-68-020, 314-68-030, 314-68-040, and 314-68-050.

Statutory Authority for Adoption: RCW 66.08.030, 66.12.120.

Adopted under notice filed as WSR 99-05-014 on February 5, 1999.

Changes Other than Editing from Proposed to Adopted Version: In WAC 314-68-020(2), the definition of "personal or household use" was changed from "The alcoholic beverages are to be consumed by the private individual or the person's family or guests, in the individual's private residence" to "The alcoholic beverages are to be consumed by the private individual or the person's family or guests, or gifted to another private individual or a nonprofit organization that is not licensed by the board."

In WAC 314-68-030, the matrix contains a column on how much alcohol may be brought into the state beyond the amount exempted from payment of tax and markup. The proposed rules were published stating "A reasonable amount" above the exempted limit may be brought into the state upon payment of tax and markup. The adopted language states "An amount..."

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 4, 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 4, Repealed 0.

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

April 29, 1999

Eugene Prince

Chairman

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, or gifted to another private individual or a nonprofit organization that is not licensed by the board; and

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

PERMANENT

(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>An 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>An 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 unli-~~

PERMANENT

~~licensed 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 99-10-071
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed May 4, 1999, 10:50 a.m., effective September 1, 1999]

Date of Adoption: May 4, 1999.

Purpose: Changes improve worker protection, making the respiratory protection and methylene chloride rules as effective as OSHA by adding new OSHA requirements. Other changes make it easier to use, understand and comply with the rules by writing the rules in plain language, improving clarity and consistency, providing more descriptions, eliminating redundancy, and correcting errors.

Citation of Existing Rules Affected by this Order: Sections in chapter 296-24 WAC, General safety and health standards:

WAC Section #	Title of Section	Action	29 CFR amended by OSHA
WAC 296-24-07501	General requirements in Part A-2 PPE.	Amend	
WAC 296-24-51005	Definitions in Part F-2 anhydrous ammonia.	Amend	1910.111
WAC 296-24-51009	Basic rules in Part F-2.	Amend	1910.111
WAC 296-24-58513	Protective clothing in Part G-2 Fire protection.	Amend	1910.156
WAC 296-24-58515	Respiratory protection devices in Part G-2.	Amend	1910.156
WAC 296-24-58517	Appendix A—Fire brigades in Part G-2.	Amend	1910.156
WAC 296-24-67507	Definitions in Part H-2 Abrasive Blasting.	Amend	1926.57
WAC 296-24-67515	Personal protective equipment in Part H-2.	Amend	1926.57
WAC 296-24-67517	Air supply and air compressors in Part H-2.	Amend	1926.57
WAC 296-24-71507	Ventilation in confined spaces in Part I welding, cutting and brazing.	Amend	1910.252
WAC 296-24-71513	Lead in Part I.	Amend	1910.252
WAC 296-24-71517	Cadmium in Part I.	Amend	1910.252
WAC 296-24-71519	Mercury in Part I.	Amend	1910.252

Sections in chapter 296-62 WAC, General occupational health standards:

PERMANENT

WAC Section #	Title of Section	Action	29 CFR amended by OSHA
WAC 296-62-071	Respiratory protection.	Amend	1910.134
WAC 296-62-07101	Scope.	Amend	1910.134
WAC 296-62-07103	Purpose.	Amend	1910.134
WAC 296-62-07105	Definitions.	Amend	1910.134
WAC 296-62-07107	Permissible practice.	Amend	1910.134
WAC 296-62-07109	Minimal acceptable respirator program.	Amend	1910.134
WAC 296-62-07111	Respirable air and oxygen for self-contained breathing apparatus and supplied air respirators.	Amend	1910.134
WAC 296-62-07113	Selection of respirators.	Amend	1910.134
WAC 296-62-07115	Use of respirators.	Amend	1910.134
WAC 296-62-07117	Maintenance of respirators.	Amend	1910.134
WAC 296-62-07119	Identification of air-purifying respirator canisters.	Repeal	1910.134
WAC 296-62-07121	Effective date.	Repeal	1910.134
WAC 296-62-07306	Requirements for areas containing carcinogens listed in WAC 296-62-07302.	Amend	1910.1003
WAC 296-62-07308	General regulated area requirements.	Amend	1910.1003
WAC 296-62-07329	Vinyl chloride.	Amend	1910.1017
WAC 296-62-07336	Acrylonitrile.	Amend	1910.1045
WAC 296-62-07337	Appendix A—Substance safety data sheet for acrylonitrile.	Amend	1910.1045
WAC 296-62-07342	1,2-dibromo-3-chloropropane.	Amend	1910.1044
WAC 296-62-07343	Appendix A—Substance safety data sheet for DBCP.	Amend	1910.1044
WAC 296-62-07347	Inorganic arsenic.	Amend	1910.1018
WAC 296-62-07367	Respiratory protection and personal protective equipment.	Amend	1910.1047
WAC 296-62-07369	Emergency situations.	Amend	1910.1047
WAC 296-62-07379	Dates.	Repeal	
WAC 296-62-07383	Appendix A—Substance safety data sheet for ethylene oxide (nonmandatory).	Amend	1910.1047
WAC 296-62-07413	Respirator protection.	Amend	1910.1027
WAC 296-62-07425	Communication of cadmium hazards to employees.	Amend	1910.1027
WAC 296-62-07431	Dates.	Repeal	
WAC 296-62-07441	Appendix A—Substance safety data sheet—Cadmium.	Amend	1910.1027
WAC 296-62-07445	Appendix C—Qualitative and quantitative fit testing procedures—(Fit test protocols).	Repeal	1910.1027
WAC 296-62-07460	Butadiene.	Amend	1910.1051
WAC 296-62-07470	Methylene chloride.	Amend	1910.1052
WAC 296-62-07521	Lead.	Amend	1910.1025
WAC 296-62-07523	Benzene.	Amend	1910.1028
WAC 296-62-07533	Appendix E Qualitative and quantitative fit testing procedures.	Repeal	1910.1028
WAC 296-62-07540	Formaldehyde.	Amend	1910.1048
WAC 296-62-07550	Appendix E—Qualitative and quantitative fit testing procedures.	Repeal	1910.1048
WAC 296-62-07615	Respiratory protection.	Amend	1910.1050
WAC 296-62-07635	Effective Dates.	Repeal	
WAC 296-62-07639	Startup dates.	Repeal	
WAC 296-62-07662	Appendix E to WAC 296-62-076—Qualitative and quantitative fit testing.	Repeal	1910.1050

WAC Section #	Title of Section	Action	29 CFR amended by OSHA
WAC 296-62-07664	Appendix E-1—Qualitative fit test protocols.	Repeal	1910.1050
WAC 296-62-07666	Appendix E-1-a—Isoamyl acetate (banana oil) protocol.	Repeal	1910.1050
WAC 296-62-07668	Appendix E-1-b—Saccharin solution aerosol protocol.	Repeal	1910.1050
WAC 296-62-07670	Appendix E-1-c—Irritant fume protocol.	Repeal	1910.1050
WAC 296-62-07672	Appendix E-2—Quantitative Fit test procedures.	Repeal	1910.1050
WAC 296-62-07715	Respiratory protection.	Amend	1910.1001 & 1926.1101
WAC 296-62-07722	Employee information and training.	Amend	1910.1001 & 1926.1101
WAC 296-62-07733	Appendices.	Amend	1910.1001 & 1926.1101
WAC 296-62-07739	Appendix C—Qualitative and quantitative fit testing procedures—Mandatory.	Repeal	1910.1001 & 1926.1101
WAC 296-62-11019	Spray-finishing operations.	Amend	1926.57
WAC 296-62-11021	Open surface tanks.	Amend	1926.57
WAC 296-62-14533	Cotton dust.	Amend	1910.1043
WAC 296-62-20011	Respiratory protection.	Amend	1910.1029
WAC 296-62-20019	Employee information and training.	Amend	1910.1029
WAC 296-62-20027	Appendix A—Coke oven emissions substance information sheet.	Amend	1910.1029

Sections in Chapter 296-155 WAC, Construction work:

WAC Section #	Title of Section	Action	29 CFR amended by OSHA
WAC 296-155-17317	Respiratory protection in Part B-1 MDA.	Amend	1926.60
WAC 296-155-17335	Effective date in B-1.	Repeal	
WAC 296-155-17337	Appendices in B-1.	Amend	
WAC 296-155-17341	Appendix A to WAC 296-155-173—Substance data sheet, for 4-4'-methylenedianiline.	Amend	1926.60
WAC 296-155-17349	Appendix E to WAC 296-155-173—Methylenedianiline—Qualitative and quantitative fit testing procedures.	Repeal	1926.60
WAC 296-155-17351	Appendix E-1—Qualitative protocols.	Repeal	1926.60
WAC 296-155-17353	Appendix E-1-a—Isoamyl acetate (banana oil) protocol.	Repeal	1926.60
WAC 296-155-17355	Appendix E-1-b—Saccharin solution and aerosol protocol.	Repeal	1926.60
WAC 296-155-17357	Appendix E-1-c—Irritant fume protocol.	Repeal	1926.60
WAC 296-155-17359	Appendix E-2—Quantitative fit test procedures.	Repeal	1926.60
WAC 296-155-174	Cadmium in Part B-1.	Amend	1926.1127
WAC 296-155-17613	Respiratory protection for lead in Part B-1.	Amend	1926.62
WAC 296-155-17625	Employee information and training for lead in Part B-1.	Amend	
WAC 296-155-17635	Startup dates.	Repeal	
WAC 296-155-17652	Appendix B to WAC 296-155-176—Employee standard summary.	Amend	1926.62
WAC 296-155-17656	Appendix D to WAC 296-155-176—Qualitative and quantitative fit test protocols.	Repeal	1926.62
WAC 296-155-220	Respiratory Protection in Part C PPE and life saving equipment.	Amend	1926.103
WAC 296-155-367	Masonry saws in Part G.	Amend	

WAC Section #	Title of Section	Action	29 CFR amended by OSHA
WAC 296-155-655	General protection requirements in Part N, Excavation, trenching and shoring.	Amend	
WAC 296-155-730	Tunnels and shafts in Part Q, Underground construction.	Amend	1926.800

Other chapters affected:

WAC Section #	Title of Section	Action	29 CFR amended by OSHA
WAC 296-56-60053	Hazardous atmospheres and substances.	Amend	
WAC 296-56-60235	Welding, cutting and heating (hot work).	Amend	
WAC 296-78-665	Sanding machines.	Amend	
WAC 296-78-71019	Exhaust systems.	Amend	
WAC 296-304-03005	Mechanical paint removers.	Amend	
WAC 296-305-02501	Emergency medical protection.	Amend	

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, and [49.17].050.

Adopted under notice filed as WSR 98-23-085 on [November 17, 1998, and published on] December 2, 1998, and December 16, 1998.

Changes Other than Editing from Proposed to Adopted Version:

Changes to chapter 296-24 WAC, General safety and health standards:

WAC 296-24-07501 General requirements.

- Changed the reference to respiratory protection in subsection (1)(a), making it consistent with wording in other rules and adding a reference to the general respiratory protection standard based on public comment.
- Corrected reference to the general respiratory protection in subsection (4) to be consistent with references in other rules.

WAC 296-24-58515 Respiratory protection devices.

Deleted obsolete requirements in subsection (2)(c). On November 8, 1988 NIOSH certified positive pressure SCBAs (certification # TC-13-F233).

Changes to chapter 296-62 WAC, General occupational health standards:

WAC 296-62-07101 To whom does chapter 296-62 WAC, Part E apply? Added reference to personal protective equipment requirements in chapter 296-24 WAC, Part A-2, based on public comment.

WAC 296-62-07103 What are your responsibilities as an employer? Added "written" to subsection (4) to clarify and be like OSHA's rule.

WAC 296-62-07105 Definitions.

- Changed the assigned protection factor (APF) definitions, making it consistent with the 1992 ANSI Z88.2 standard based on public comment. New definition reads: "Assigned protection factor (APF) is the expected level of workplace respiratory protection provided by a properly functioning respirator worn by

properly fitted and trained individuals. It describes the ratio of the ambient concentration of an airborne substance to the concentration of the substance inside the respirator."

- Added "particulate air" and "(HEPA)" to the high-efficiency particulate air (HEPA) definition, providing the complete name for a HEPA filter.
- Deleted the word "toxic" from the sorbent definition to improve accuracy of definition. This change is based on public comment.

WAC 296-62-07107 When is a respiratory protection program required?

- Separated requirements into two subsections, making it easier to understand and comply with both requirements.
- Deleted "required" to avoid confusion.

WAC 296-62-07111 What must be included in your written respiratory protection program?

- Changed the format of subsections from numbers to bullet points, showing one citable requirement with multiple conditions.
- Simplified wording in first bullet to read "...the proper type of respirator for each respiratory hazard..."
- Deleted references related to issuing the proper type of respirator to avoid confusion. References included in the proposal were incomplete.
- Corrected references related to training of employees to "WAC 296-62-07188" and added more specific references in WAC 296-62-07188, making it easier to comply with the requirements.

WAC 296-62-07113 What are the requirements for a program administrator? Changed subsections to bullet points, showing one citable requirement with two conditions.

WAC 296-62-07115 Who pays for the respirators, training, medical evaluations, and fit testing? Added reference for voluntary use to make it easier to find related requirements.

PERMANENT

WAC 296-62-07117 What must you do when employees choose to wear respirators when respirators are not required? In Figure 1, changed "heed" to "follow" to make it easier [to] understand. Change is based on public comment.

WAC 296-62-07131, What else must you consider when selecting a respirator for use in atmospheres that are not IDLH?

- The following changes make Table 1—Assigned Protection Factors consistent with the 1992 ANSI Z88.2 standard, correct errors, and make it easier to use.
 - Eliminated the two columns labeled "permitted for use in oxygen-deficient atmosphere" and "permitted for use in immediately-dangerous-to-life-or-health";
 - Deleted two PAPR entries related to dust/mist—Full face;
 - Added four major headings in the first column identifying the four major types of respirators;
 - Deleted "without escape provisions" in one of the SAR entries;
 - Deleted duplicate entry for SAR continuous flow or press-demand, full facepiece;
 - Added "continuous flow" to two SAR entries;
 - Added clarification in footnote a;
 - Deleted footnote c and references to footnote c; and
 - Ranked the respirators under each major heading from lowest to highest APF.
- Changed the format in subsection (4) so that proposed (a) and (b) become part of the same sentence.
- Formatted subsection (4) with two sets of bullet points, showing one requirement with multiple conditions and making it easier to understand. Two types of bullet points identify different aspects of the requirement and list the conditions employers must meet to comply with the requirement.
- Changed the format in subsection (5) to bullet points, showing one citable requirement with three conditions. Changed the sentence structure in the third bullet point to be like other bullet points.
- Added a new bullet point to subsection (5) to read "for filters to be changed as required in WAC 296-62-07171(4)," helping users find related requirements.

WAC 296-62-07132 What else must you consider when selecting a respirator for use in IDLH atmospheres? Changed the format in subsection (1) to bullet points to show one citable requirement with two conditions.

WAC 296-62-07133 What else must you consider when selecting a respirator for emergency and rescue use? Added "based on the above considerations" to subsection (1).

Medical Evaluations: Changed the order of the proposed requirements in WAC 296-62-07151 through 296-62-07154 so that the requirements appear in the order that an employer would follow when complying with the medical evaluation provisions. The list provides an outline of the steps for employers to follow when complying with the requirements.

WAC 296-62-07150 What are the general requirements for medical evaluations?

- Changed the format of subsection (1) to contain the requirements as proposed in this section. Bullet points added in subsection (1) to show one requirement, including the conditions that must be met when relying on an employee's medical evaluation completed by a previous employer.
- Clarified the exemption in subsection (1).
- Added a list in subsection (2), showing the steps necessary to comply with the medical evaluation requirements in this chapter. The order of the medical evaluation in other sections is changed to be the same as this list. The list reflects the sequence that you would follow when complying with the medical requirements in this chapter.

WAC 296-62-07151 Who must perform medical evaluations?

- Changed the section title from "What are the procedures for determining if your employee is able to use a respirator?" to "Who must perform medical evaluations?"
- Moved the initial medical evaluation and follow-up evaluation provisions to WAC 296-62-07153.
- Retained the requirement about identifying a PLHCP to perform medical evaluations.
- Added "a telephone conversation," clarifying example. This change is based on public comment.

WAC 296-62-07152 What information must you provide to the PLHCP in addition to the questionnaire?

- Added new section by moving the requirements proposed from WAC 296-62-07154 to 296-62-07152.
- Changed the format from subsections to bullet points, listing the information employers must give to their PLHCP.
- Places the information about subsequent evaluations and the note after the list, clarifying requirement.
- Added the phrase "(including, but not limited to, a list of respirators as required in WAC 296-62-07111(1) and fit testing procedures as required in WAC 296-62-07111(3))," highlighting important elements of the written program. Change is based on public comment.

WAC 296-62-07153 How must the medical evaluations and the questionnaire be administered?

- Changed the title to include the initial evaluation requirement moved into this section from WAC 296-62-07151.
- Changed wording in subsection (1) to better explain requirement.
- Added more explanation about confidentiality, providing different options for administering the questionnaire.

WAC 296-62-07154 Who must review the questionnaire and determine what, if any, follow-up evaluations are needed?

- Changed the title to reflect requirements moved into this section from WAC 296-62-07151.

- Change the format by adding "you must provide for PLHCP follow-up evaluations in accordance with the following" and added bullet points, showing one citable requirement with three conditions.

WAC 296-62-07155 What must be included in the PLHCP's written recommendation?

- Change the title to better reflect the contents of this section, making it easier to find provisions about the PLHCP's written recommendation.
- Moved subsection (1) to the beginning of the section, correcting an error in proposal.
- Added "about the employee" to clarify what information employers must give their PLHCP.
- Changed the format in subsection (1) to bullet points, showing one citable requirement with three conditions.
- Changed the format and wording in subsection (2), making it easier to understand the requirement.

WAC 296-62-07156 When are additional medical evaluations required? Changed the format to bullet points, showing one citable requirement with multiple conditions.

WAC 296-62-07160 When is fit testing required?

- Changed the format to bullet points, showing one citable requirement with multiple conditions.
- Corrected WAC references to include WAC 296-62-07162.

WAC 296-62-07162 How must fit testing be done?

- Moved "only" to clarify.
- Changed wording in subsection (2), making it easier to understand when qualitative fit testing may be used. Change is based on public comment.

WAC 296-62-07170 How must you prevent problems with the seal on tight-fitting facepieces?

- Added information clarifying the requirement related to facial hair based on public comment.
- Changed the format of subsection (1) to bullet points, showing one citable requirement with multiple conditions.

WAC 296-62-07171 How do you monitor continuing effectiveness of your employees' respirators? Changed the format to bullet points, showing one citable requirement with multiple conditions.

WAC 296-62-07172 What are the standby procedures when respirators are used in IDLH situations?

- Combined subsections (1), (2), and (3) and changed the format to bullet points, showing one citable requirement with multiple conditions. Also, changed numbering of subsequent subsections.
- Added parentheses in "employee(s)" to clarify the requirement based on public comment.
- Combined the last two requirements found in subsection (8)(b) and (c) of the proposal into one requirement found in subsection (6)(b) in the final adoption, correcting an error. The phrase "or equivalent means..." relates to the appropriate retrieval equipment for removing employees and is not a separate requirement.

WAC 296-62-07175 How must respirators be cleaned and disinfected?

- Changed the last sentence to read "before being worn by a different employee," clarifying when respirators must be cleaned. This change is based on public comment.
- Changed subsection (3) to bullet points, showing one citable requirement with four conditions.

WAC 296-62-07176 How must respirators be stored?

Changed the wording in subsection (2), showing four stand-alone, citable requirements in subsections (2)(a), (b), (c), and (d).

WAC 296-62-07177 When must respirators be inspected?

- Changed the format to bullet points, showing one citable requirement with multiple conditions.
- Moved requirement for monthly inspection of SCBAs from WAC 296-62-07178(2) to WAC 296-62-07177, so that it is correctly placed with other requirements about when respirators must be inspected.

WAC 296-62-07178 How must respirators be inspected?

- Changed the format in subsections (1), (2), and (3) to bullet points, showing one citable requirement in each subsection with two conditions.
- Changed the wording in subsection (2) to parallel the other subsections, making it easier to understand and comply with the requirements.

Breathing Air Quality Heading. Deleted the words "and use" to more accurately reflect provisions under this heading.

WAC 296-62-07182 What are the breathing gas requirements for atmosphere-supplying respirators?

- Changed the format in subsection (2) to show two sets of bullet points, showing one requirement with multiple conditions. Two types of bullet points are used to help identify different aspects of the requirement and provide a second list of the conditions for Grade D compressed breathing air.
- Changed the first sentence in subsections (5) and (6) to titles.
- Changed wording in subsection (6)(a), (b), (c), and (d) to complete sentences, showing separate citable requirements.
- Added "sorber bed and filter" to subsection (6)(d), clarifying the requirements based on public comment.
- Changed the last sentence in subsection (9) for clarity.

WAC 296-62-07186 What are the general training requirements? Changed the format in subsection (1) to bullet points, showing one citable requirement with multiple conditions.

WAC 296-62-07188 How do you know if you adequately trained your employees?

- Changed the format to bullet points, showing one citable requirement with multiple conditions.
- Added references to help users find the more specific requirements in other sections.

WAC 296-62-07190 When must your employees be trained? Changed the format in subsection (4) to bullet points, showing one citable requirement with multiple conditions.

WAC 296-62-07192 How must you evaluate the effectiveness of your respiratory protection program?

- Changed the format in subsection (3) to bullet points, showing one citable requirement with multiple conditions.
- Added the existing WISHA requirement for medical and bioassay surveillance found previously in WAC 296-62-07109(13). This change is based on public comment.

WAC 296-62-07194 What are the record-keeping requirements?

- Changed "information" to "records" in subsection (1).
- Changed "medical evaluations" to "written recommendations from the PLHCP" to clarify what type of medical records employers must keep.
- Changed the title and wording in subsection (2). The new title—"access to medical records"—and new wording clarify what records employers must make available.
- Changed the format in subsection (3) to bullet points, showing one citable requirement with multiple conditions.

WAC 296-62-07202 What are the general requirements for fit testing? Changed wording in subsection (10) to read "if the employee's respirator fails," clarifying requirements. This change is based on public comment.

WAC 296-62-07203 What are the fit test exercise requirements? Added "controlled negative pressure" to identify the "CNP" acronym. This change is based on public comment.

WAC 296-62-07208 Isoamyl acetate protocol (QLFT). Change wording to clarify what must happen to particulate respirators when using this fit testing protocol.

WAC 296-62-07225 What is the irritant smoke fit testing procedure (QLFT)? Added "eyes" to subsection (2), correcting an error in the proposal.

WAC 296-62-07255 Appendix C: WISHA Respirator Medical Evaluation Questionnaire—Mandatory. The following changes are based on public comment.

- Changed the instructions "to the employer" to emphasize that questionnaires must be administered confidentially.
- Added heading "to the employer's PLHCP" to better reflect information about the questions that will not require a medical examination.
- Changed question 11(a) to read "dust mask style, half facepiece respirators without cartridges" to be more accurate.
- Changed question 11(b) to provide a more complete list of respirators for employees to check, avoiding the need for PLHCPs to request more information following initial evaluation of the questionnaire.

- Added new Section 3 titled "SCBA or Full Facepiece Respirator Users Only" in Part A of the questionnaire. Section 3 contains question 10 through 15, clarifying when these questions must be answered.
- Added a title to Part B—"PLHCP Discretionary Questions," describing the questions that follow.
- Changed the wording in the first sentence under Part B to read "if appropriate to specific job requirements or conditions, additional questions—including but not limited to the following—may be added at the discretion of the PLHCP to clarify an employee's ability to use a respirator."
- Removed question to the employee about whether they can read, because if they cannot read they cannot answer this question.

WAC 296-62-07261 How do you classify respiratory hazards? Changed the first sentence to read "respiratory hazards are classified into the following categories" based on public comment.

WAC 296-62-07265 What needs to be considered when combinations of contaminants occur in the workplace? Moved the phrase "gas, vapor and particulates" from the title into the first sentence, making the title shorter and easier to understand. This change is based on public comment.

WAC 296-62-07267 What are the two major types of respirators? Added "or airline" to subsection (2) for clarity.

WAC 296-62-07269 What are air-purifying respirators (APRs)? The following changes are based on public comment.

- Changed "by passing ambient air through" to "by passing contaminated air through" to clarify.
- Changed "air to the respirator-inlet covering" to "air to the user" to clarify.

WAC 296-62-07271 What are the general limitations for air-purifying respirators (APRs)? The following changes are based on public comment.

- Changed "sorption" to "absorption" in subsection (1), correcting an error.
- Deleted "efficiency" in subsection (2), eliminating this word to avoid confusion.
- Deleted "inward" in subsection (3), eliminating this word to avoid confusion.

WAC 296-62-07279 What types of filters, canisters and cartridges are available for air-purifying respirators (APRs)? The following changes are based on public comment.

- Change the wording in subsection (1), making it easier to understand how particulate filters are classified.
- Added a table showing the nine types of particulate respirators by class.
- Clarified that N-100, R-100, and P-100 filters are also referred to as HEPA filters.

WAC 296-62-07283 What are the capabilities and limitations of atmosphere-supplying respirators? The following changes correct errors and are based on public comment.

- Changed "sorption" to "absorption."
- Deleted "tritium."
- Changed "organic phosphate" to "organo-phosphate."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 67, Amended 58, Repealed 19; 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 20, Amended 11, Repealed 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 87, Amended 46, 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 87, Amended 69, Repealed 24.

Effective Date of Rule: September 1, 1999.

May 4, 1999

Gary Moore

Director

AMENDATORY SECTION (Amending Order 81-19, filed 7/27/81)

WAC 296-62-071 Respiratory protection. ((This section contains the requirements to be followed when establishing a respiratory protection program.))

AMENDATORY SECTION (Amending Order 82-10, filed 3/30/82)

WAC 296-62-07101 ((Scope.)) To whom does chapter 296-62 WAC, Part E apply? ((This standard sets forth accepted practices when respiratory protection is used in controlling employee exposures to harmful air contaminants to comply with permissible exposure limits or to protect employees in oxygen deficient atmospheres, or when respirators are utilized for emergency or rescue use.)) Chapter 296-62 WAC, Part E applies to all employers covered by WISHA. Other requirements for personal protective equipment (PPE) are found in chapter 296-24 WAC, Part A-2.

PERMISSIBLE PRACTICE

NEW SECTION

WAC 296-62-07102 When are you allowed to rely on respirators to protect employees from breathing contaminated air? In the control of those occupational diseases caused by breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, vapors, or aerosols the goal must be to prevent atmospheric contamination. You must use, if feasible, accepted engineering control measures (for example, enclosure or confinement of the operation, general and local ventilation, and substitution of less toxic materials). When effective engineering controls are not feasible,

or while they are being instituted, you must use respirators as required by chapter 296-62 WAC, Part E.

EMPLOYER RESPONSIBILITIES

AMENDATORY SECTION (Amending Order 81-19, filed 7/27/81)

WAC 296-62-07103 ((Purpose.)) What are your responsibilities as an employer? ((The purpose of this standard is to provide minimum performance requirements for the selection and use of respirators and the implementation of a respirator program.)) (1) You must provide respirators, when necessary, to protect the health of your employees against recognized respiratory hazards including any exposures in excess of the permissible exposure limit.

(2) You must provide NIOSH-certified respirators that are applicable and suitable for the purpose intended.

(3) You must make sure your employees use respirators when required or when otherwise necessary.

(4) You must establish and maintain a written respiratory protection program that includes the requirements outlined in WAC 296-62-07111.

DEFINITIONS

AMENDATORY SECTION (Amending WSR 95-04-007, filed 1/18/95, effective 3/1/95)

WAC 296-62-07105 Definitions. ((Abrasives—blasting respirator. See "respirator." A respirator designed to protect the wearer against inhalation of abrasive material and against impact and abrasion from rebounding abrasive material.

Accepted. Reviewed and listed as satisfactory for a specified use by the director or his or her designee.

Aerodynamic diameter. The diameter of a unit density sphere having the same settling velocity as the particle in question of whatever shape and density.)) The following definitions are important terms used in this part.

Aerosol((-A system consisting of particles, solid or liquid, suspended in air.

Air-line respirator. See "respirator.)) means a suspension of liquid or solid particles in air.

Air-purifying respirator((-See "respirator."

Air-regulating valve. An adjustable valve used to regulate, but which cannot completely shut off the airflow to the facepiece, helmet, hood, or suit of an air-line respirator.

Air-supply device. A hand- or motor-operated blower for the hose mask, or a compressor or other source of respirable air for the air-line respirator.

Approved. Tested and listed as satisfactory by the Bureau of Mines (BM) of the U.S. Department of Interior, or jointly by the Mining Enforcement and Safety Administration (MESA) of the U.S. Department of Interior and the National Institute for Occupational Safety and Health (NIOSH) of the U.S. Department of Health and Human Services, or jointly by the Mine Safety and Health Administration (MSHA) of the U.S. Department of Labor and NIOSH under the provisions of Title 30, Code of Federal Regulations, Part 11.

Bioassay. A determination of the concentration of a substance in a human body by an analysis of urine, feces, blood, bone, or tissue.

Breathing tube. A tube through which air or oxygen flows to the facepiece, mouthpiece, helmet, hood, or suit) means a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

Assigned protection factor (APF) is the expected level of workplace respiratory protection provided by a properly functioning respirator worn by properly fitted and trained individuals. It describes the ratio of the ambient concentration of an airborne substance to the concentration of the substance inside the respirator.

Atmosphere-supplying respirator means a respirator that supplies the respirator user with breathing air from an uncontaminated source, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

Canister or cartridge (air-purifying)((-)) means a container with a filter, sorbent, or catalyst, or any combination ((thereof)) of these materials, which removes specific contaminants from the air drawn through it.

Canister (oxygen-generating)((-)) means a container filled with a chemical ((which)) that generates oxygen by chemical reaction.

Carcinogen. A substance known to produce cancer in some individuals following a latent period (for example: Asbestos, Chromates, radioactive particulates).

Cartridge (air-purifying). A small canister.

Catalyst. In respirator use, a substance which converts a toxic gas (or vapor) into a less-toxic gas (or vapor).

Ceiling concentration. The concentration of an airborne substance that shall not be exceeded.

Chemical cartridge respirator. See respirator.

Contaminant. A harmful, irritating, or nuisance material that is foreign to the normal atmosphere.

Corrective lens. A lens ground to the wearer's individual corrective prescription to permit normal visual acuity.

Demand. A type of self-contained breathing apparatus or type of air-line respirator which functions due to the negative pressure created by inhalation (i.e., air flow into the facepiece on "demand").

Detachable coupling. A device which permits the respirator wearer, without using hand tools, to detach the air supply line from that part of the respirator worn on the person.))

Demand respirator means an atmosphere-supplying respirator that admits breathing air to the facepiece only when suction is created inside the facepiece by inhalation.

Dust means a solid, mechanically-produced particle with sizes varying from submicroscopic to visible. See WAC 296-62-07001(1).

(Emergency respirator use. Wearing a respirator when a hazardous atmosphere suddenly occurs that requires immediate use of a respirator either for escape from the hazardous atmosphere or for entry into the hazardous atmosphere.

Exhalation valve. A device that allows exhaled air to leave a respirator and prevents outside air from entering through the valve.

Eyepiece. A gas-tight, transparent window(s) in a full facepiece, helmet, hood, or suit, through which the wearer may see.

Facepiece. That portion of a respirator that covers the wearer's nose and mouth in quarter-mask (above the chin) or half-mask (under the chin) facepiece or that covers the nose, mouth, and eyes in a full facepiece. It is designed to make a gas-tight or particle-tight fit with the face and includes the headbands, exhalation valve(s), and connections for an air-purifying device or respirable gas source, or both.

Face shield. A device worn in front of the eyes and a portion of, or all of, the face, whose predominant function is protection of the eyes and the face.

Fibrosis-producing dust. Dust which, when inhaled, deposited, and retained in the lungs, may produce findings of fibrotic growth that may cause pulmonary disease.)) **Emergency situation** means any occurrence that may or does result in an uncontrolled significant release of an airborne contaminant. Causes of emergency situations include, but are not limited to, equipment failure, rupture of containers, or failure of control equipment.

Employee exposure means exposure to a concentration of an airborne contaminant that would occur if the employee were not using respiratory protection.

End-of-service-life indicator (ESLI) means a system that warns the respirator user of the approach of the end of adequate respiratory protection: For example, that the sorbent is approaching saturation or is no longer effective.

Escape-only respirator means a respirator intended to be used only for emergency exit.

Filter((-A media)) or air-purifying element means a component used in respirators to remove solid or liquid ((particles from the inspired air)) aerosols from the air when it is breathed.

((Filter respirator. See respirator.)) **Filtering facepiece (dust mask)** means a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium.

Fit factor means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio between the measured concentration of a substance in ambient air to its concentration inside the respirator when worn.

Fit test means the use of an accepted protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual (see also Qualitative fit test QLFT and Quantitative fit test QNFT).

Fog((-)) means a mist of sufficient concentration to perceptibly obscure vision.

Full facepiece((-See facepiece)) means a respirator that covers the wearer's nose, mouth, and eyes.

Fume means a solid condensation particle of extremely small particle size, generally less than one micrometer in diameter. See WAC 296-62-07001(2).

((Gas. An aeriform fluid which is in the gaseous state at ordinary temperature and pressure.

Gas mask. See respirator.

Goggle. A device, with contour shaped eye cups with glass or plastic lenses, worn over eyes and held in place by a

headband or other suitable means for the protection of the eyes and eye sockets.))

Half((-mask)) facepiece((-See facepiece)) means a respirator that covers the wearer's nose and mouth.

((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.

Head-harness. That part of a facepiece assembly which secures the facepiece to the wearer.))

Helmet((-That)) means the rigid portion of a respirator ((which shields the eyes, face, neck, and other parts of the head)) that also provides protection against impact or penetration.

High-efficiency particulate air filter((-)) (HEPA) means a filter ((which)) that removes from air 99.97% or more of monodisperse dioctyl phthalate (DOP) particles having a mean particle diameter of 0.3 micrometer.

Hood((-That)) means the portion of a respirator ((which)) that completely covers the head((-)) and neck((-and portions of the shoulders)); may also cover portions of the shoulders and torso.

((Hose mask. See respirator.))

Immediately dangerous to life or health (IDLH)((-Any)) means an atmosphere that poses an immediate ((hazard to life or produces immediate irreversible debilitating effects on health.

Inhalation valve. A device that allows respirable air to enter a respirator and prevents exhaled air from leaving the respirator through the valve.

Irrespirable. Unfit for breathing.

Maximum use limit of filter, cartridge, or canister. The maximum concentration of a contaminant for which an air-purifying filter, cartridge, or canister is approved for use) threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere.

Loose-fitting facepiece means a respiratory inlet covering that is designed to form a partial seal with the face.

Mist means a liquid condensation particle with sizes ranging from submicroscopic to visible. See WAC 296-62-07001(4).

((Mouthpiece. That portion of a respirator which is held in the wearer's mouth and is connected to an air-purifying device or respirable gas source, or both. It is designed to make a gas-tight or particle-tight fit with the mouth.

MPCa. Maximum permissible airborne concentration. These concentrations are set by the National Committee on Radiation Protection. They are recommended maximum average concentrations of radionuclides to which a worker may be exposed, assuming that he/she works 8 hours a day, 5 days a week, and 50 weeks a year.))

Negative pressure respirator((-A)) means a tight-fitting respirator in which the air pressure inside the ((respiratory inlet covering is positive during exhalation in relation to the air pressure of the outside atmosphere and negative during inhalation in relation to the air pressure of the outside atmosphere)) facepiece is lower than the ambient air pressure outside the respirator during inhalation.

Nonroutine respirator use((-)) means wearing a respirator when carrying out a special task that occurs infrequently.

((Nose clamp. A device used with a respirator equipped with a mouthpiece that closes the nostrils of the wearer (sometimes called a nose clip).

Not immediately dangerous to life or health. Any hazardous atmosphere which may produce physical discomfort immediately, chronic poisoning after repeated exposure, or acute adverse physiological symptoms after prolonged exposure.))

Odor threshold limit((-)) means the lowest concentration of a contaminant in air that can be detected by ((the olfactory sense)) smell.

Oxygen ((deficiency—immediately dangerous to life or health. An atmosphere which causes an oxygen partial pressure of 95 millimeters of mercury column or less or has less than 12.5% by volume in the freshly inspired air in the upper portion of the lungs which is saturated with water vapor.

Oxygen deficiency—not immediately dangerous to life or health. An atmosphere having an oxygen concentration below the minimum legal requirement of 19.5% by volume or has a partial pressure of oxygen of 148 millimeters of mercury for respirable air at sea level conditions, but above that which is immediately dangerous to life or health) **deficient atmosphere** means an atmosphere with an oxygen content below 19.5% by volume.

Particulate ((matter. A suspension of fine)) means a solid or liquid ((particles in air,)) aerosol such as((-)): dust, fog, fume, mist, smoke, or spray. ((Particulate matter suspended in air is commonly known as an aerosol.))

Permissible exposure limit (PEL)((-)) means the legally established time-weighted average (TWA) concentration or ceiling concentration of a contaminant that ((shall)) must not be exceeded.

((Permit required confined space. See chapter 296-62 WAC, Part M.

Pneumoconiosis producing dust. Dust which, when inhaled, deposited, and retained in the lungs, may produce signs, symptoms, and findings of pulmonary disease.)) **Physician or other licensed health care professional (PLHCP)** means an individual whose legally permitted scope of practice (for example, license, registration, or certification) allows him or her to independently provide, or be delegated the responsibility to provide, some or all of the health care services required in WAC 296-62-07150 through 296-62-07156.

Positive-pressure respirator((-)) means a respirator in which the air pressure inside the respiratory-inlet covering ((is positive in relation to the air pressure of the outside atmosphere during exhalation and inhalation)) exceeds the ambient air pressure outside the respirator.

Powered air-purifying respirator((-See respirator)) (PAPR) means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

Pressure demand((-Similar to a demand type respirator but so designed to maintain positive pressure in the facepiece at all times.

Protection factor. ~~The ratio of the ambient concentration of an airborne substance to the concentration of the substance inside the respirator at the breathing zone of the wearer. The protection factor is a measure of the degree of protection provided by a respirator to the wearer. As used herein, a protection factor is synonymous with the fit factor assigned to a respirator facepiece by the use of qualitative and quantitative fitting tests.~~

Rescue respirator use. ~~Wearing a respirator for entry into a hazardous atmosphere to rescue a person(s) in the hazardous atmosphere.~~

Resistance. ~~Opposition to the flow of air, as through a canister, cartridge, particulate filter, orifice, valve, or hose))~~ **respirator** means a positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation or leakage.

Qualitative fit test (QLFT) means a pass/fail fit test that relies on the individual's response to the test agent to assess the adequacy of respirator fit for an individual.

Quantitative fit test (QNFT) means an assessment of the adequacy of respirator fit for an individual by numerically measuring the amount of leakage into the respirator.

Respirable((-)) means air that is suitable for breathing.

Respirator((-)) means a device designed to protect the wearer from ~~((the inhalation of))~~ breathing harmful atmospheres.

Respiratory-inlet covering((-)) means that portion of a respirator ~~((which connects the wearer's respiratory tract to an air-purifying device or respirable gas))~~ that forms the protective barrier between the user's respiratory tract and an air-purifying device or breathing air source, or both. It may be a facepiece, helmet, hood, suit, or mouthpiece((-)) respirator with nose clamp.

~~((Routine respirator use. Wearing a respirator as a normal procedure when carrying out a regular and frequently repeated task.~~

Sanitization. ~~The removal of dirt and the inhibiting of the action of agents that cause infection or disease.))~~

Self-contained breathing apparatus((-See respirator)) (SCBA) means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

Service life((-)) means the period of time that a respirator, filter or sorbent, or other respiratory equipment provides adequate protection to the wearer((-)). For example, the period of time that an air-purifying device is effective for removing a harmful substance from ~~((inspired))~~ air when it is breathed.

Smoke((-)) means a system ~~((which))~~ that includes the products of combustion, pyrolysis, or chemical reaction of substances in the form of visible and invisible solid and liquid particles and gaseous products in air. Smoke is usually of sufficient concentration to perceptibly obscure vision.

Sorbent((-A)) is the material ~~((which is))~~ contained in a cartridge or canister ~~((and which))~~ that removes ~~((toxic))~~ gases and vapors from the inhaled air.

Spray((-)) means a liquid, mechanically-produced particle with sizes generally in the visible ~~((or macroscopic range)).~~

Supplied-air respirator((-See respirator.

Supplied-air suit. ~~A suit that is impermeable to most particulate and gaseous contaminants and that is provided with an adequate supply of respirable air))~~ **(SAR) or airline respirator** means an atmosphere-supplying respirator for which the source of breathing air is drawn from a separate, stationary system or an uncontaminated environment.

Tight-fitting facepiece means a respiratory inlet covering that forms a complete seal with the face.

Time-weighted average (TWA)((-)) means the average concentration of a contaminant in air during a specific time period.

User seal check means an action conducted by the respirator user to determine if the respirator is properly seated to the face.

Valve (air or oxygen)((-A device which)) means a device that controls the pressure, direction, or rate of flow of air or oxygen.

~~((Vapor. The gaseous state of a substance that is solid or liquid at ordinary temperature and pressure.~~

Welding helmet. ~~A device designed to provide protection for the eyes and face against intense radiant energy and molten metal splatter encountered in the welding and cutting of metals.))~~

Window indicator((-)) means a device on a cartridge or canister that visually denotes the service life of the cartridge or canister.

You means the employer or the employer's designee except in WAC 296-62-07117(2) "Important Information About Voluntary Use of Respirators" when you refers to the employee.

Your refers to the employer or the employer's designee except in WAC 296-62-07117(2) "Important Information About Voluntary Use of Respirators" when your refers to the employee.

RESPIRATORY PROTECTION PROGRAM

AMENDATORY SECTION (Amending Order 90-01, filed 4/10/90, effective 5/25/90)

WAC 296-62-07107 ((Permissible practice.)) **When is a respiratory protection program required?** ~~((1) In the control of those occupational diseases caused by breathing air contaminated with harmful dusts, fumes, sprays, mists, fogs, smokes, vapors, gases, or other airborne contaminants, the primary objective shall be to prevent atmospheric contamination. When effective administrative or engineering controls are not feasible, or while they are being instituted or evaluated, appropriate respirators shall be used pursuant to the following requirements.~~

~~(2) Employer responsibility.~~

~~(a) Respirators shall be provided at no cost to an employee by the employer and the employer shall ensure the use of such equipment when such equipment is necessary to protect the health of the employee.~~

(b) ~~The employer shall provide respirators which are applicable and suitable for the purpose intended.~~

(c) ~~The employer shall be responsible for the establishment and maintenance of a respiratory protection program which shall minimally include the general requirements outlined in WAC 296-62-07109.~~

(3) ~~Employee responsibility. The employee shall use the provided respiratory protection in accordance with instructions and training received. The employee shall notify a responsible person of any defect.~~ (1) In any workplace where respirators are necessary to protect the health of the employee or whenever you require respirator use, you must develop and implement a written respiratory protection program with worksite-specific procedures and specifications for required respirator use.

(2) Upon request, you must provide the director's representative a copy of your written respiratory protection program.

Note: OSHA's *Small Entity Compliance Guide* contains criteria for the selection of a program administrator and a sample program that meets the requirements of this paragraph. Copies of the *Small Entity Compliance Guide* will be available from the Occupational Safety and Health Administration's Office of Publications, Room N 3101, 200 Constitution Avenue, NW, Washington, DC, 20210.

AMENDATORY SECTION (Amending Order 82-22, filed 6/11/82)

WAC 296-62-07109 ((Minimal acceptable respirator program.)) When must you update your written respiratory protection program? ((1) Standard operating procedures. Written standard operating procedures covering a complete respirator program shall be established and implemented in conformance with subsections (2) through (15) of this section. The employer shall, upon request, submit a copy of the written standard operating procedures to the director.

(2) Program administration. Responsibility and authority for the respirator program shall be assigned to a single person. This program administrator shall have sufficient knowledge of respiratory protection to properly supervise the respirator program.

(3) Physiological and psychological limitations for respirator wearers. The respirator program administrator or his or her designee, using guidelines established by a physician, shall determine whether or not a person may be assigned to a task requiring the use of a respirator. Persons with physical disabilities such as, but not limited to, respiratory impairments, or claustrophobia when wearing a respirator, shall not be assigned to tasks requiring the use of respirators unless it has been determined by a qualified physician that they are physically able to perform the work and use the equipment. All respirator user's medical status should be reviewed annually.

(4) Approved or accepted respirators shall be used. Any modification of an approved respirator that is not authorized by the approving agencies voids the approval.

(5) Respirator selection. Respirators shall be selected on the basis of the hazards to which the worker is exposed. (See WAC 296-62-07113)

(6) Training. Each worker required to wear a respirator shall be given training such that he or she is knowledgeable and proficient with respect to the respirator to be worn. Refresher training shall be given at least annually.

(7) Respirator fit. Each respirator wearer shall be fitted in accordance with WAC 296-62-07113. Each wearer of a respirator equipped with a facepiece shall check the seal of the respirator by appropriate means. This may be done by using procedures recommended by the respirator manufacturer.

(8) Facial hair, contact lenses, and eye and face protective devices. 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 valve function. The wearer of a respirator shall not be allowed to wear contact lenses if the risk of eye damage is increased by their use. If a spectacle, goggle, face shield, or welding helmet must be worn with a facepiece, it shall be worn so as not to adversely affect the seal of the facepiece to the face. (See WAC 296-62-07115(3).)

(9) Issue of respirators. The proper type of respirator for each respiratory hazard shall be listed in the written standard operating procedures.

(10) Respirator inspection. The respirator shall be inspected by the wearer prior to each use to ensure that it is in proper working condition. Each respirator stored for emergency or rescue use shall be inspected at least once a month. (See WAC 296-62-07115 and 296-62-07117.)

(11) Monitoring respirator use. Supervisory personnel shall periodically monitor the use of respirators to ensure that they are worn properly. (See WAC 296-62-07115(7).)

(12) Evaluating respiratory hazard. Appropriate surveillance of work area conditions and degree of employee exposure or stress shall be maintained. (See WAC 296-62-07115(8).)

(13) Medical and bioassay surveillance. When appropriate, medical surveillance, including bioassay, shall be carried out to determine if respirator wearers are receiving adequate respiratory protection. A physician shall determine the requirements of the surveillance program.

(14) Respirator maintenance. Respirator maintenance shall be performed regularly. Maintenance shall be carried out on a schedule which ensures that each respirator wearer is provided with a respirator that is clean and in good operating condition. Maintenance shall include: (a) Washing, sanitizing, rinsing, and drying, (b) inspection for defects, (c) replacement of worn or deteriorated parts, (d) repair if necessary, and (e) storage to protect against dust, sunlight, excessive heat, extreme cold, excessive moisture, damaging chemicals, and physical damage. (See WAC 296-62-07117.)

(15) Respirator program evaluation. An appraisal of the effectiveness of the respirator program shall be carried out at least annually. Action shall be taken to correct defects found in the program.) The program must be updated as necessary to reflect those changes in workplace conditions that may affect respirator use.

PERMANENT

AMENDATORY SECTION (Amending Order 81-19, filed 7/27/81)

WAC 296-62-07111 (~~Respirable air and oxygen for self-contained breathing apparatus and supplied air respirators.~~) What must be included in your written respiratory protection program? ((Compressed gaseous air, compressed gaseous oxygen, liquid air, and liquid oxygen used for respiration shall be of high purity. Compressed gaseous or liquid oxygen shall meet the requirements of the United States Pharmacopeia for medical or breathing oxygen. Chemically generated oxygen shall meet the requirements of U.S. Department of Defense Military Specification MIL-E-83252 or Military Specification MIL-O-15633e. Compressed gaseous air shall meet at least the requirements of the specification for Type I Grade D breathing air, and liquid air shall meet at least the requirements for Type II Grade B breathing air as described in American National Standard Commodity Specification for Air, ANSI Z86.1-1973 (Compressed Gas Association Commodity Specification for Air, G-7.1, 1973).)

(1) ~~Compressed gaseous air may contain low concentrations of oil. If high pressure oxygen passes through an oil or grease coated orifice, an explosion or fire may occur. Therefore, compressed gaseous oxygen shall not be used in supplied air respirators or in open circuit type self-contained breathing apparatus that have previously used compressed air.~~

(2) ~~Breathing air may be supplied to respirators from cylinders or air compressors. Cylinders shall be tested and maintained in accordance with applicable department of transportation specifications for shipping containers (Title 49, Code of Federal Regulations, Part 173, General Requirements for Shipments and Packagings, and Part 178, Shipping Container Specifications). A compressor shall be constructed and situated so as to avoid entry of contaminated air into the air supply system and shall be equipped with a suitable in-line particulate filter followed by a bed of activated charcoal and, if necessary, a moisture adsorber to further assure breathing air quality. These filters should be placed before any receiver and after the discharge in the compressor. If an oil lubricated compressor is used, it shall be equipped with a carbon monoxide alarm or an equally as effective alternative if approved by the department.~~

(a) ~~If a carbon monoxide alarm is used, it shall be calibrated to activate at or below 20 parts per million carbon monoxide at least once per month. A calibration and maintenance log shall be kept and shall be available for review and copying by the director or his or her designee. The log shall identify the test method, date, time of test, results, and the name of the person performing the test. The log shall be retained for at least one year from the date of the test.~~

(b) ~~If the use of an alarm at the compressor will not effectively provide warning to the respirator wearer of a carbon monoxide problem, a remote alarm or other means of warning the wearer shall be used.~~

(3) ~~Breathing air couplings shall be incompatible with outlets for nonrespirable plant air or other gas systems to prevent inadvertent servicing of air line respirators with nonrespirable gases.~~

(4) ~~Breathing gas containers shall be marked in accordance with American National Standard Method of Marking Portable Compressed Gas Containers to Identify the Material Contained, ANSI Z48.1-1954 (R1971); Federal Specification BB-A-1034a, June 21, 1968, Air, Compressed for Breathing Purposes; or Interim Federal Specification GG-B-675d, September 23, 1976, Breathing Apparatus, Self-Contained. Further details on sources of compressed air and its safe use will be found in Compressed Gas Association Pamphlet G-7, 1976, Compressed Air for Human Respiration.)~~ Include the following provision in your written program, as applicable:

• Procedures for selecting respirators for use in the workplace and a list identifying the proper type of respirator for each respiratory hazard (see WAC 296-62-07130 through 296-62-07133);

• Medical evaluations of employees required to use respirators (see WAC 296-62-07150 through 296-62-07156);

• Fit testing procedures for tight-fitting respirators (see WAC 296-62-07160 through 296-62-07162, and WAC 296-62-07201 through 296-62-07248, Appendices A-1, A-2, and A-3);

• Procedures for proper use of respirators in routine tasks, nonroutine tasks, reasonably foreseeable emergency and rescue situations (see WAC 296-62-07170 through 296-62-07172);

• Procedures for issuing the proper type of respirator based on the respiratory hazards for each employee;

• Procedures and schedules for cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respirators (see WAC 296-62-07175 through 296-62-07179 and WAC 296-62-07253);

• Procedures to make sure adequate air quality, quantity, and flow of breathing air for atmosphere-supplying respirators (see WAC 296-62-07182);

• Training of employees in the respiratory hazards to which they are potentially exposed during routine, nonroutine, and unforeseeable emergency and rescue situations (see WAC 296-62-07188);

• Training of employees in the proper use of respirators, including putting on and removing them, any limitations on their use, and their maintenance (see WAC 296-62-07188); and

• Procedures for regularly evaluating the effectiveness of the program (see WAC 296-62-07192).

AMENDATORY SECTION (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

WAC 296-62-07113 (~~Selection of respirators.~~) What are the requirements for a program administrator? (((1) ~~General considerations. Proper selection of respirators shall be made in accordance with the classification, capabilities, and limitations listed in tables I through IV of this section. Additional guidance may be obtained by referring to American National Standard Practices for Respiratory Protection Z88.2-1980.~~

(2) ~~Respirator protection factor (PF). Respirators shall be selected according to the characteristics of the hazards involved, the capabilities and limitations of the respirators, and the ability of each respirator wearer to obtain a satisfac-~~

tory fit with a respirator. Taking into account the capabilities and limitations of respirators and the results of respirator fitting tests, a table of respirator protection factors has been prepared (see Table V). A respirator protection factor is a measure of the degree of protection provided by a respirator to a wearer. Multiplying either (a) the permissible time-weighted average concentration or the permissible ceiling concentration, whichever is applicable, for a toxic substance, or (b) the maximum permissible airborne concentration for a radionuclide by a protection factor assigned to a respirator gives the maximum concentration of the hazardous substance in which the respirator can be used. Limitations of filters, cartridges, and canisters also shall be considered (see Table V).

(3) Respirator fitting tests. A qualitative or quantitative respirator fitting test shall be used to determine the ability of each individual respirator wearer to obtain a satisfactory fit with a negative pressure respirator. The results of qualitative or quantitative respirator fitting tests shall be used to select specific types, makes, and models of negative pressure respirators for use by individual respirator wearers. A respirator fitting test shall be carried out for each wearer of a negative pressure respirator equipped with a facepiece. Respirator fitting tests shall not be required for positive pressure respirators or for mouthpiece respirators.

(a) Qualitative respirator fitting test—A person wearing a respirator is exposed to an irritant smoke, an odorous vapor, or other suitable test agent. An air purifying respirator must be equipped with an air purifying element(s) which effectively removes the test agent from inspired air. If the respirator wearer is unable to detect penetration of the test agent into the respirator, the respirator wearer has achieved a satisfactory fit with the respirator.

(b) Quantitative respirator fitting test—A person wears a respirator in a test atmosphere containing a test agent in the form of an aerosol, vapor, or gas. Instrumentation, which samples the test atmosphere and the air inside the respiratory inlet covering of the respirator, is used to measure quantitatively the penetration of the test agent into the respiratory inlet covering.

(c) When carrying out a qualitative or quantitative respirator fitting test, the respirator wearer shall carry out a series of exercises which simulate work movements.

(d) When carrying out respirator fitting tests, it shall be an acceptable procedure to make the following modifications to respirators provided that such modifications do not affect the seal of the respirators to wearers.

(i) When carrying out a qualitative or quantitative respirator fitting test which uses an aerosol as the test agent, it

shall be acceptable procedure to equip an air purifying respirator with a high efficiency filter.

(ii) When carrying out a qualitative or quantitative respirator fitting test which uses a vapor or gas as the test agent, it shall be acceptable procedure to equip an air purifying respirator with an appropriate cartridge or canister which removes the vapor or gas from air.

(iii) When carrying out a quantitative respirator fitting test, it shall be acceptable procedure to attach a sampling probe to the respirator which is connected by flexible tubing to an instrument which measures the penetration of the test agent into the respirator.

(e) If a qualitative respirator fitting test has been used in respirator selection, a person shall be allowed to use only the specific make(s) and model(s) of respirator(s) for which the person obtained a satisfactory fit, and the respirator protection factor listed under "qualitative test" in Table V shall apply. Under no circumstances shall a person be allowed to use any respirator for which the results of the qualitative respirator fitting test indicate that the person is unable to obtain a satisfactory fit.

(f) If a quantitative respirator fitting test has been used in selecting a respirator, the test results shall be used to assign a respirator protection factor to each person for each specific make and model of respirator tested. The assigned respirator protection factor shall be applied when the person wears the specific respirator in a hazardous atmosphere, but it shall not exceed the respirator protection factor listed under "quantitative test" in table V for the particular type of respirator.

(4) Respirator fitting test records. Records of respirator fitting tests shall be kept for at least the duration of employment. These records shall include the following information:

- (a) Type of respirator fitting test used;
- (b) Specific make and model of respirator tested;
- (c) Name of person tested;
- (d) Name of test operator;
- (e) Date of test;
- (f) Results of respirator fitting tests;

(i) Success or failure of person to obtain satisfactory fit if a qualitative respirator fitting test was carried out.

(ii) Respirator protection factor based upon test results if a quantitative respirator fitting test was carried out.

(5) Face dimensions and facepiece sizes. The wide range of face dimensions may require more than a single size of respirator facepiece to provide a proper fit to all respirator users. Therefore, respirator facepieces of more than one size should be available in any respirator selection program involving respirators equipped with facepieces.

Table 1
Classification of Respiratory Hazards According to Their Biological Effect

Oxygen Deficiency	Gas and Vapor Contaminants	Particulate Contaminants (Dust, fog, fume, mist, smoke, and spray)
Minimum legal requirements: 19.5% by volume for respirable air at sea level conditions. (See Note 1.)	Asphyxiants: Interfere with utilization of oxygen in the body.	Relatively inert: May cause discomfort and minor irritation, but generally without injury at reasonable concentrations (for example: marble, gypsum).

PERMANENT

Oxygen Deficiency

Gas and Vapor Contaminants

Particulate Contaminants

(Dust, fog, fume, mist, smoke, and spray)

Occurrence: Confined or unventilated cellars, wells, mines, ship holds, tanks, burning buildings, and enclosures containing inert atmospheres.

Atmospheric oxygen content (percent by volume) versus expected conditions:

20.9%: Oxygen content of normal air at sea-level conditions.

Oxygen Volume Percent at Sea Level Physiological Effects

16% - 12% Loss of peripheral vision, increased breathing volume, accelerated heart beat, impaired attention and thinking, impaired coordination.

12% - 10% Very faulty judgment, very poor muscular coordination, muscular exertion causes fatigue that may cause permanent heart damage, intermittent respiration

10% - 6% Nausea, vomiting, inability to perform vigorous movement, unconsciousness followed by death.

Less than 6% Spasmodic breathing, convulsive movements, death in minutes.

Simple asphyxiants: Physiologically inert substances that dilute oxygen in the air (for example: nitrogen, hydrogen, helium, methane). See Oxygen Deficiency, Column 1.

Chemical asphyxiants: Low concentrations interfere with supply or utilization of oxygen in the body (for example: carbon monoxide, hydrogen cyanide, cyanogen, and nitriles).

Irritants: Corrosive in action. May cause irritation and inflammation of parts of the respiratory system (also skin and eyes) and pulmonary edema (for example: ammonia hydrogen chloride, formaldehyde, sulfur dioxide, chlorine, ozone, nitrogen dioxide, phosgene, and arsenic trichloride).

Anesthetics: Causes loss of feeling and sensation with unconsciousness and death possible (for example: nitrous oxide, hydro-carbons and ethers). Some anesthetics injure body organs (for example: carbon tetrachloride (liver and kidneys), chloroform (liver and heart), benzene (bone marrow), and carbon disulfide (nervous system)).

Sensitizers: Cause increased probability of physiological reactions (for example: isocyanates, epoxy-resin systems).

Systemic poisons: Damage organs and systems in the body (for example: mercury (nervous system and various organs), phosphorus (bone), hydrogen sulfide (respiratory paralysis), and arsine (red blood cells and liver)).

Carcinogens: produce cancer in some individuals after a latent period (for example: vinyl chloride, benzene).

Pulmonary fibrosis producing: produce nodulation and fibrosis in the lung, possibly leading to complications (for example: quartz, asbestos).

Carcinogens: Produce cancer in some individuals after latent period (for example: asbestos, chromates, radioactive particulates).

Chemical irritants: Produce irritation, inflammation, and ulceration in the upper respiratory tract (for example: acidic mists, alkalies).

Systemic poisons: Produce pathologic reactions in various systems of the body (for example: lead, manganese, cadmium).

Allergy producing: Produce reactions such as itching, sneezing, and asthmas (for example: pollens, spores, and animal fur).

Febrile reaction producing: Produce chills followed by fever (for example: fumes of zinc and copper).

Combination of Gas, Vapor, and Particulate Contaminants

Combinations of contaminants may occur simultaneously in the atmosphere. Contaminants may be entirely different substances (dusts and gases from blasting) or the particulate and vapor forms of the same substance. Synergistic effects (joint action of two or more agents that results in an effect which is greater than the sum of their individual effects) may occur. Such effects may require extraordinary protective measures.

NOTE 1: See definition in WAC 296-62-07105 for "oxygen deficiency - not immediately dangerous to life or health" and "oxygen deficiency - immediately dangerous to life or health."

PERMANENT

Table 2
Classification of Respiratory Hazards According to
Their Properties Which Influence Respirator Selection

Gas and Vapor Contaminants	Particulate Contaminants
<p>Inert: Substances that do not react with other substances under most conditions, but create a respiratory hazard by displacing air and producing oxygen deficiency (for example: helium, neon, argon).</p>	<p>Particles are produced by mechanical means by disintegration processes such as grinding, crushing, blasting, and spraying; or by physio-chemical reactions such as combustion, vaporization, distillation, sublimation, calcination, and condensation. Particles are classified as follows:</p>
<p>Acidic: Substances that are acids or that react with water to produce an acid. In water, they produce positively charged hydrogen ions (H⁺) and a pH of less than 7. They taste sour, and many are corrosive to tissues (for example: hydrogen chloride, sulfur dioxide, fluorine, nitrogen dioxide, acetic acid, carbon dioxide, hydrogen sulfide, and hydrogen cyanide).</p>	<p>Dust: A solid, mechanically produced particle with sizes varying from submicroscopic to visible or macroscopic. Spray: A liquid, mechanically produced particle with sizes generally in the visible or macroscopic range.</p>
<p>Alkaline: Substances that are alkalis or that react with water to produce an alkali. In water, they result in the production of negatively charged hydroxyl ions (OH⁻) and a pH greater than 7. They taste bitter, and many are corrosive to tissues (for example: ammonia, amines, phosphine, arsine, and stibine).</p>	<p>Fume: A solid condensation particle of extremely small particle size, generally less than one micrometer in diameter. Mist: A liquid condensation particle with sizes ranging from submicroscopic to visible or macroscopic.</p>
<p>Organic: The components of carbon. Examples are saturated hydrocarbons (methane, ethane, butane) unsaturated hydrocarbons (ethylene, acetylene) alcohols (methyl ether, ethyl ether) aldehydes (formaldehyde), ketones (methyl ketone), organic acids (formic acid, acetic acid), halides (chloroform, carbon tetrachloride), amides (formamide, acetamide), nitriles (acetonitrile), isocyanates (toluene diisocyanate), amines (methylamine), epoxies (epoxy ethane, propylene oxide), and aromatics (benzene, toluene, xylene).</p>	<p>Fog: A mist of sufficient concentration to perceptibly obscure vision. Smoke: A system which includes the products of combustion, pyrolysis, or chemical reaction of substances in the form of visible and invisible solid and liquid particles and gaseous products in air. Smoke is usually of sufficient concentration to perceptibly obscure vision.</p>
<p>Organometallic: Compounds in which metals are chemically bonded to organic groups (for example: ethyl silicate, tetraethyl lead, and organic phosphate).</p>	
<p>Hydrides: Compounds in which hydrogen is chemically bonded to metals and certain other elements (for example: diborane and tetraborane).</p>	

Table 3
Classification and Description of Respirators by Mode of Operation

Atmosphere-Supplying Respirators	Air Purifying
<p>A respirable atmosphere independent of the ambient air is supplied to the wearer.</p>	<p>Ambient air, prior to being inhaled, is passed through a filter, cartridge, or canister which removes particles, vapors, gases, or a combination of these contaminants. The breathing action of the wearer operates the nonpowered type of respirator. The powered type contains a blower stationary or carried by the wearer which passes ambient air through an air purifying component and then supplies purified air to the respirator inlet covering. The nonpowered type is equipped with a facepiece or mouth piece and nose clamp. The powered type is equipped with a facepiece, helmet, hood, or suit.</p>
<p>Self-Contained Breathing Apparatus (SCBA) A supply of air, oxygen, or oxygen-generated material is carried by the wearer. Normally equipped with full facepiece, but may be equipped with a quarter-mask facepiece, half-mask facepiece, helmet, hood or mouthpiece and nose clamp.</p>	<p>Vapor and Gas Removing Respirators Equipped with cartridge(s) or canister(s) remove a single vapor or gas (for example: chlorine gas), a single class of vapors or gases (for example: organic vapors), or a combination of two or more classes of vapors or gases (for example: organic vapors and acidic gases) from air.</p> <p>Particulate Removing Respirators Equipped with filter(s) to remove a single type of particulate matter (for example: dust) or a combination of two or more types of particulate matter (for example: dust and fume) from air. Filter may be a replaceable part or a permanent part of the respirator. Filter may be of the single use or the reusable type.</p>
<p>Supplied Air Respirators (1) Hose Mask Equipped with a facepiece, breathing tube, rugged safety harness, and large diameter heavy duty non-kinking air supply hose. The breathing tube and air supply hose are securely attached to the harness. The facepiece is equipped with an exhalation valve. The harness has provision for attaching a safety line.</p>	

Atmosphere-Supplying Respirators

Air-Purifying

(1) Closed-Circuit SCBA (oxygen-only, negative-pressure^a or positive pressure^b):

(a) Compressed liquid oxygen type. Equipped with a facepiece or mouth piece and nose clamp. High pressure oxygen from a gas cylinder passes through a high pressure reducing valve, and in some designs, through a low pressure admission valve to a breathing bag or container. Liquid oxygen is converted to low pressure gaseous oxygen and delivered to the breathing bag. The wearer inhales from the bag through a corrugated tube connected to a mouthpiece or facepiece and a one-way check valve. Exhaled air passes through another check valve and tube into a container of carbon dioxide removing chemical and reenters the breathing bag. Make-up oxygen enters the bag continuously or as the bag deflates sufficiently to actuate an admission valve. A pressure-relief system is provided, and a manual bypass and saliva trap may be provided depending upon the design.

(b) Oxygen-generating type. Equipped with a facepiece or mouth-piece and nose clamp. Water vapor in the exhaled breath reacts with chemical in the canister to release oxygen to the breathing bag. The wearer inhales from the bag through a corrugated tube and one-way check valve at the facepiece.

Exhaled air passes through a second check valve/breathing tube assembly into the canister. The oxygen release rate is governed by the volume of exhaled air. Carbon dioxide in the exhaled breath is removed by the canister fill.

(2) Open-Circuit (SCBA) (compressed air, compressed oxygen, liquid air, liquid oxygen). A bypass system is provided in case of regulator failure except on escape-type units:

(a) Hose mask with blower. Air is supplied by a motor-driven or hand-operated blower. The wearer can continue to inhale through the hose if the blower fails. Up to 300 feet (91 meters) of hose length is permissible.

(b) Hose mask without blower. The wearer provides motivating force to pull air through the hose. The hose inlet is anchored and fitted with a funnel or like object covered with a fine mesh screen to prevent entrance of coarse particulate matter. Up to 75 feet (23 meters) of hose length is permissible.

(2) Air-Line Respirator. Respirable air is supplied through a small diameter hose from a compressor or compressed air cylinder(s). The hose is attached to the wearer by a belt or other suitable means and can be detached rapidly in an emergency. A flow control valve or orifice is provided to govern the rate of air flow to the wearer. Exhaled air passes to the ambient atmosphere through a valve(s) or opening(s) in the enclosure (facepiece, helmet, hood, or suit). Up to 300 feet (91 meters) of hose length is permissible.

(a) Continuous-flow class. Equipped with a facepiece, hood, helmet, or suit. At least 115 liters (four cubic feet) of air per minute to tight-fitting facepieces and 170 liters (six cubic feet) of air per minute to loose-fitting helmets, hoods and suits is required. Air is supplied to a suit through a system of internal tubes to the head, trunk and extremities through valves located in appropriate parts of the suit.

Combination Particulate and Vapor and Gas Removing Respirators Equipped with cartridge(s) or canister(s) to remove particulate matter, vapors and gases from air. The filter may be a permanent part or a replaceable part of a cartridge or canister.

PERMANENT

Atmosphere-Supplying Respirators

Air-Purifying

~~(a) Demand type.^c—Equipped with a facepiece or mouthpiece and nose clamp. The demand valve permits oxygen or air flow only during inhalation. Exhaled breath passes to ambient atmosphere through a valve(s) in the facepiece.~~

(b) Demand type.^c—Equipped with a facepiece only. The demand valve permits flow of air only during inhalation.

~~(b) Pressure-demand type.^d—Equipped with a facepiece only. Positive pressure is maintained in the facepiece. The apparatus may have provision for the wearer to select the demand or pressure-demand mode of operation, in which case the demand mode should be used only when donning or removing the apparatus.~~

(c) Pressure-demand type.^d—Equipped with a facepiece only. A positive pressure is maintained in the facepiece.

~~Combination Air-Line Respirators with Auxiliary Self-Contained Air Supply~~
~~Includes an air-line respirator with an auxiliary self-contained air supply. To escape from a hazardous atmosphere in the event the primary air supply fails to operate, the wearer switches to the auxiliary self-contained air supply. Devices approved for both entry into and escape from dangerous atmospheres have a low-pressure warning alarm and contain at least a 15-minute self-contained air supply.~~

~~Combination Atmosphere-Supplying and Air-Purifying Respirators~~

~~Provide the wearer with the option of using either of two different modes of operation: (1) an atmosphere-supplying respirator with an auxiliary air-purifying attachment which provides protection in the event the air supply fails or (2) an air-purifying respirator with an auxiliary self-contained air supply which is used when the atmosphere may exceed safe conditions for use of an air-purifying respirator.~~

- ~~a Device produces negative pressure in respiratory inlet covering during inhalation.~~
- ~~b Device produces positive pressure in respiratory inlet covering during both inhalation and exhalation.~~
- ~~c Equipped with a demand valve that is activated on initiation of inhalation and permits the flow of breathing atmosphere to the facepiece. On exhalation, pressure in the facepiece becomes positive and the demand valve is deactivated.~~
- ~~d A positive pressure is maintained in the facepiece by a spring-loaded or balanced regulator and exhalation valve.~~

Table 4
Capabilities and Limitations of Respirators

Atmosphere-Supplying Respirators	Air-Purifying Respirators
<p>(See WAC 296-62-07111 for specifications on respirable atmospheres.)</p> <p>Atmosphere-supplying respirators provide protection against oxygen deficiency and toxic atmospheres. The breathing atmosphere is independent of ambient atmospheric conditions.</p> <p>General limitations:—Except for some air-line suits, no protection is provided against skin irritation by materials such as ammonia and hydrogen chloride, or against sorption of materials such as hydrogen cyanide, tritium, or organic phosphate pesticides through the skin. Facepieces present special problems to individuals required to wear prescription lenses. Use of atmosphere-supplying respirators in atmospheres immediately dangerous to life or health is limited to specific devices under specified conditions (see Table 5.)</p>	<p>General limitations:—Air-purifying respirators do not protect against oxygen-deficient atmospheres nor against skin irritation by, or sorption through the skin of airborne contaminants.</p> <p>The maximum contaminant concentration against which an air-purifying respirator will protect is determined by the design efficiency and capacity of the cartridge, canister, or filter and the facepiece-to-face seal on the user. For gases and vapors, the maximum concentration for which the air-purifying element is designed is specified by the manufacturer or is listed on labels of cartridges and canisters.</p>

PERMANENT

Atmosphere-Supplying Respirators

Air-Purifying Respirators

Self-Contained Breathing Apparatus (SCBA)

The wearer carries his own breathing atmosphere.

Limitations: The period over which the device will provide protection is limited by the amount of air or oxygen in the apparatus, the ambient atmospheric pressure (service life of open-circuit devices is cut in half by a doubling of the atmospheric pressure), and the type of work being performed. Some SCBA devices have a short service life (less than 15 minutes) and are suitable only for escape (self-rescue) from an irreparable atmosphere.

Chief limitations of SCBA devices are their weight or bulk, or both, limited service life, and the training requirements for their maintenance and safe use.

(1) Closed-Circuit SCBA. The closed-circuit operation conserves oxygen and permits longer service life at reduced weight.

The negative-pressure type produces a negative pressure in the respiratory inlet covering during inhalation, and this may permit inward leakage of contaminants; whereas the positive-pressure type always maintains a positive pressure in the respiratory inlet covering and is less apt to permit inward leakage of contaminants.

(2) Open-Circuit SCBA.

The demand type produces a negative pressure in the respiratory inlet covering during inhalation, whereas the pressure-demand type maintains a positive pressure in the respiratory inlet covering during inhalation and is less apt to permit inward leakage of contaminants.

Supplied-Air Respirators

The respirable air supply is not limited to the quantity the individual can carry, and the devices are lightweight and simple.

Limitations: Limited to use in atmospheres from which the wearer can escape unharmed without the aid of the respirator.

The wearer is restricted in movement by the hose and must return to a respirable atmosphere by retracing his route of entry. The hose is subject to being served or pinched off.

(1) Hose Mask-

The hose inlet or blower must be located and secured in a respirable atmosphere.

(a) Hose mask with blower. If the blower fails, the unit still provides protection, although a negative pressure exists in the facepiece during inhalation.

(b) Hose mask without blower. Maximum hose length may restrict application of device.

(2) Air-Line Respirator (Continuous Flow, Demand and Pressure-Demand Types).

The demand type produces a negative pressure in the facepiece on inhalation, whereas continuous flow and pressure-demand types maintain a positive pressure in the respirator inlet covering and are less apt to permit inward leakage of contaminants.

Air-line suits may protect against atmospheres that irritate the skin or that may be absorbed through the unbroken skin.

Limitations: Air-line respirators provide no protection if the air supply fails. Some contaminants, such as tritium, may penetrate the material of an air-line suit and limit its effectiveness.

Nonpowered air-purifying respirators will not provide the maximum design protection specified unless the facepiece or mouthpiece/nose clamp is carefully fitted to the wearer's face to prevent inward leakage (WAC 296-62-07115(4)). The time period over which protection is provided is dependent on canister, cartridge, or filter type; concentration of contaminant; humidity levels in the ambient atmosphere; and the wearer's respiratory rate.

The proper type of canister, cartridge, or filter must be selected for the particular atmosphere and conditions. Nonpowered air-purifying respirators may cause discomfort due to a noticeable resistance to inhalation. This problem is minimized in powered respirators. Respirator facepieces present special problems to individuals required to wear prescription lenses. These devices do have the advantage of being small, light, and simple in operation.

Use of air-purifying respirators in atmospheres immediately dangerous to life or health is limited to specific devices under specified conditions (See Table 5).

Vapor and Gas-Removing Respirators

Limitations: No protection is provided against particulate contaminants. A rise in canister or cartridge temperature indicates that a gas or vapor is being removed from the inspired air.

An uncomfortably high temperature indicates a high concentration of gas or vapor and requires an immediate return to fresh air.

Use should be avoided in atmospheres where the contaminant(s) lack sufficient warning properties (that is, odor, taste, or irritation at a concentration in air at or above the permissible exposure limit). Vapor and gas-removing respirators are not approved for contaminants that lack adequate warning properties.

Not for use in atmospheres immediately dangerous to life or health unless the device is a powered-type respirator with escape provisions (see Table 5).

(1) Full Facepiece Respirator.

Provides protection against eye irritation in addition to respiratory protection.

(2) Quarter-Mask and Half-Mask Facepiece Respirator. A fabric covering (facelet) available from some manufacturers shall not be used.

Particulate-Removing Respirators

Limitations: Protection against non-volatile particles only. No protection against gases and vapors. Not for use in atmospheres immediately dangerous to life or health unless the device is a powered-type respirator with escape provisions (see Table 5).

(1) Full Facepiece Respirator.

Provides protection against eye irritation in addition to respiratory protection.

(2) Quarter-Mask and Half-Mask Facepiece Respirator. A fabric covering (facelet) available from some manufacturers shall not be used unless approved for use with respirator.

(3) Mouthpiece Respirator.

Shall be used only for escape applications. Mouth-breathing prevents detection of contaminant by odor. Nose clamp must be securely in place to prevent nasal breathing.

A small, lightweight device that can be donned quickly.

PERMANENT

Atmosphere-Supplying Respirators

Air-Purifying Respirators

~~Other contaminants, such as fluorine, may react chemically with the material of an air-line suit and damage it.~~

~~(3) Mouthpiece Respirator. Shall be used only for escape application. Mouth-breathing prevents detection of contaminant by odor. Nose clamp must be securely in place to prevent nasal breathing.~~

Combination Airline Respirators with Auxiliary SCBA Air Supply

~~The auxiliary self-contained air supply on this type of device allows the wearer to escape from a dangerous atmosphere. This device with auxiliary self-contained air supply is approved for escape and may be used for entry when it contains at least 15-minute auxiliary self-contained air supply. (See Table 5).~~

~~A small lightweight device that can be donned quickly.~~

Combination Particulate and Vapor and Gas Removing Respirators

~~The advantages and disadvantages of the component sections of the combination respirator as described above apply.~~

Combination Atmosphere-Supplying and Air-Purifying Respirators

~~The advantages and disadvantages, expressed above, of the mode of operation being used will govern. The mode with the greater limitations (air-purifying mode) will mainly determine the overall capabilities and limitations of the respirator, since the wearer may for some reason fail to change the mode of operation even though conditions would require such a change.~~

**Table 5
Respirator Protection Factors^a**

Type of Respirator	Permitted for Use in		Qualitative Test	Quantitative Test
	Oxygen-Deficient Atmosphere	Immediately-Dangerous-to-Life-or-Health Atmosphere ^f		
Particulate filter quarter-mask or half-mask facepiece ^{b,c}	No	No	10	As measured on each person with maximum of 100.
Vapor or gas removing, quarter-mask or half-mask facepiece ^d	No	No	10, or maximum use limit of cartridge or canister for vapor or gas, whichever is less	As measured on each person with maximum of 100, or maximum use limit of cartridge or canister for vapor or gas ^{d,t} , whichever is less.
Combination particulate filter and vapor or gas removing, quarter-mask or half-mask facepiece ^{b,c}	No	No	10, or maximum use limit of cartridge or canister for vapor or gas, whichever is less	As measured on each person with maximum of 100, or maximum use limit of cartridge or canister for vapor or gas ^{d,t} , whichever is less.
Particulate filter, full facepiece ^b	No	No	100	As measured on each person with maximum of 100 if dust, fume, or mist filter is used or maximum of 1,000 if high-efficiency filter is used.
Vapor or gas removing, full face-piece	No	No	100, or maximum use limit of cartridge or canister for vapor or gas, whichever is less	As measured on each person with maximum of 1000, or maximum use limit of cartridge or canister for vapor or gas ^{d,t} , whichever is less.

PERMANENT

Type of Respirator	Permitted for Use in Oxygen-Deficient Atmosphere	Permitted for Use in Immediately-Dangerous-to-Life or Health Atmosphere ^f	Qualitative Test	Quantitative Test
Combination particulate filter and vapor or gas removing, full face-piece ^b	No	No	100, or maximum use limit of cartridge or canister for vapor or gas, which ever is less	As measured on each person with maximum of 100 if dust, fume, or mist filter is used and maximum of 1,000 if high efficiency filter is used, or maximum use limit of cartridge or canister for vapor or gas ^{h,i} which ever is less.
Powered particulate filter, any respiratory inlet covering ^{b,c,d}	No	No (yes, if escape provisions are provided ^d)	NA No tests are required due to positive pressure operation of respirator. The maximum protection factor is 100 if dust, fume, or mist filter is used and 3,000 if high efficiency filter is used.	NA
Powered vapor or gas removing, any respiratory inlet covering ^{c,d}	No	No (yes, if escape provisions are provided ^d)	NA No tests are required due to positive pressure operation of respirator. The maximum protection factor is 3,000 or maximum use limit of cartridge or canister for vapor of gas ^{h,i} , whichever is less.	NA
Powered combination particulate filter and vapor or gas removing, any respirator inlet covering ^{b,c,d}	No	No (yes, if escape provisions are provided ^d)	NA No tests are required due to positive pressure operation of respirator. The maximum protection factor is 100 if dust, fume, or mist filter is used and 3,000 if high efficiency filter is used, or maximum use limit of cartridge or canister for vapor of gas ^{h,i} whichever is less.	NA
Air line, demand, quarter mask or half mask facepiece, with or without escape provisions ^{c,e}	Yes ^f	No	10	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately dangerous to life or health (IDLH) values.
Air line, demand, full face piece, with or without escape provisions ^e	Yes ^f	No	100	As measured on each person but limited to the use of the respirators in concentrations of contaminants below the immediately dangerous to life or health (IDLH) values.
Air line, continuous flow or pressure demand type, any facepiece without escape provisions ^e	Yes ^f	No	NA No tests are required due to positive pressure operation of respirator. The protection factor provided by the respirator is limited to the use of the respirator in concentrations of contaminants below the immediately dangerous to life or health (IDLH) values.	NA
Air line, continuous flow or pressure demand type, any facepiece with escape provisions ^{c,e}	Yes ^f	Yes	NA No tests are required due to positive pressure operation of respirator. The maximum protection factor is 10,000 plus.	NA

PERMANENT

Type of Respirator	Permitted for Use in Oxygen-Deficient Atmosphere	Permitted for Use in Immediately Dangerous to Life or Health Atmosphere ^f	Qualitative Test	Quantitative Test
Air-line, continuous flow, helmet, hood, or suit, without escape provisions	Yes ^f	No	NA No tests are required due to positive pressure operation of respirator. The protection factor provided by the respirator is limited to the use of the respirator in concentrations of contaminants below the immediately dangerous to life or health (IDLH) values.	NA
Air-line, continuous flow, helmet, hood, or suit, with escape provisions ^e	Yes ^e	No	NA No tests are required due to positive pressure operation of respirator. The maximum protection factor is 10,000 plus ^h .	NA
Hose mask, with or without blower, full facepiece	Yes ^f	No	10	As measured on each person, but limited to the use of the respirators in concentrations of contaminants below the immediately dangerous to life or health (IDLH) values.
Self-contained breathing apparatus, demand-type open-circuit, or negative-pressure type closed-circuit quarter-mask or half-mask facepiece ^e	Yes ^f	No	10	As measured on each person, but limited to the use of the respirators in concentrations of contaminants below the immediately dangerous to life or health (IDLH) values.
Self-contained breathing apparatus, demand-type open-circuit, or negative-pressure type closed-circuit, full facepiece or mouthpiece/nose clamp ^e	Yes ^f (Yes ^e , if respirator is used for mine rescue and mine recovery operations.)	No (Yes if respirator is used for mine rescue and mine recovery operations.)	100	As measured on each person, but limited to the use of the respirators in concentrations of contaminants below the immediately dangerous to life or health (IDLH) values, except when the respirator is used for mine rescue and mine recovery operations.
Self-contained breathing apparatus, pressure-demand type open-circuit, or positive-pressure type closed-circuit quarter-mask or half-mask facepiece or mouthpiece/nose clamp ^e	Yes ^e	Yes	NA No tests are required due to positive pressure operation of respirator. The maximum protection factor is 10,000 plus ^h .	NA

Combination respirators. The type and mode of operation having the lowest respirator protection factor shall be applied to the Combination Respirator not listed.

N/A

means not applicable since a respirator fitting test is not carried out.

a

A respirator protection factor is a measure of the degree of protection provided by a respirator to a respirator wearer. Multiplying the permissible time-weighted average concentration or the permissible ceiling concentration, whichever is applicable, for a toxic substance, or the maximum permissible airborne concentration for a radionuclide, by a protection factor assigned to a respirator gives the maximum concentration of the hazardous substance for which the respirator can be used. Limitations of filters, cartridges, and canisters used in air-purifying respirators shall be considered in determining protection factors.

b

When the respirator is used for protection against airborne particulate matter having a permissible time-weighted average concentration less than 0.05 milligram particulate matter per cubic meter of air or less than 2 million particles per cubic foot of air, or for protection against airborne radionuclide particulate matter, the respirator shall be equipped with a high efficiency filter(s).

PERMANENT

Type of Respirator	Permitted for Use in Oxygen-Deficient Atmosphere	Permitted for Use in Immediately Dangerous to Life or Health Atmosphere ^f	Qualitative Test	Quantitative Test
e	If the air contaminant causes eye irritation, the wearer of a respirator equipped with a quarter-mask or half-mask facepiece or mouthpiece and nose clamp shall be permitted to use a protective goggle or to use a respirator equipped with a full facepiece. Mouthpiece and nose clamp respirators are approved by NIOSH only for escape from IDLH atmospheres.			
d	If the powered air-purifying respirator is equipped with a facepiece, the escape provision means that the wearer is able to breathe through the filter, cartridge, or canister and through the pump. If the powered air-purifying respirator is equipped with a helmet, hood, or suit, the escape provision shall be an auxiliary self-contained supply of respirable air.			
e	The escape provision shall be an auxiliary self-contained supply of respirable air.			
f	For definition of "oxygen deficiency not immediately dangerous to life or health" see WAC 296-62-07105.			
g	For definition of "oxygen deficiency immediately dangerous to life or health" see WAC 296-62-07105.			
h	The protection factor measurement exceeds the limit of sensitivity of the test apparatus. Therefore, the respirator has been classified for use in atmospheres having unknown concentrations of contaminants.			
i	The service life of a vapor or gas removing cartridge canister depends on the specific vapor or gas, the concentration of the vapor or gas in air, the temperature and humidity of the air, the type and quantity of the sorbent in the cartridge or canister, and the activity of the respirator wearer. Cartridges and canisters may provide only very short service lives for certain vapors and gases. Vapor/gas service life testing is recommended to ensure that cartridges and canisters provide adequate service lives. Reference should be made to published reports which give vapor/gas life data for cartridges and canisters.			
j	Vapor and gas removing respirators are not approved for contaminants that lack adequate warning properties of odor, irritation, or taste at concentrations in air at or above the permissible exposure limits.			

Note: Respirator protection factors for air-purifying type respirators equipped with a mouthpiece/nose clamp form of respirator inlet covering are not given, since such respirators are approved only for escape purposes.)

concerning plans covering these respirator uses to ensure the safe use of respirators.

(b) Standard operating procedures for emergency and rescue use of respirators. It is recognized that it is not possible to foresee every emergency and rescue use of respirators for every kind of operation. Nevertheless, a wide variety of possible conditions requiring the emergency or rescue use of respirators can be envisioned and an adequate emergency and rescue respirator response capability can be achieved through a serious effort to anticipate the worst possible consequences of particular malfunctions or mishaps.

The written standard operating procedures governing the emergency and rescue uses of respirators shall be developed in the following manner:

(i) An analysis of the emergency and rescue uses of respirators that may occur in each operation shall be made by careful consideration of materials, equipment, processes, and personnel involved. Such an analysis shall be reviewed by the person who is thoroughly familiar with the particular operation. Consideration shall be given to past occurrences requiring emergency or rescue uses of respirators as well as conditions which resulted in such respirator applications. The possible consequences of equipment or power failures, uncontrolled chemical reactions, fire, explosion, or human error shall be given consideration. All potential hazards which may result in emergency or rescue use of respirators shall be listed.

(ii) Based upon the analysis, appropriate types of respirators shall be selected, an adequate number shall be provided for each area where they may be needed for emergency or rescue use, and these respirators shall be maintained and stored so that they are readily accessible and operational when needed.

You must designate a program administrator qualified by training or experience appropriate to the needs of your program to:

- Oversee the respiratory protection program; and
- Conduct the required evaluations of program effectiveness.

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-07115 ((Use of respirators-)) Who pays for the respirators, training, medical evaluations, and fit testing? ((1) Standard operating procedures. Written standard operating procedures shall cover a complete respirator program and shall include information necessary for the proper use of respirators, including training of respirator wearers, respirator sealing tests, issuance of respirators, inspection of respirators prior to use, monitoring respirator use, monitoring respiratory hazard, and planning for routine, nonroutine, emergency, and rescue uses of respirators.

(a) The written standard operating procedures shall include plans necessary to ensure the safe routine use and nonroutine use of respirators. Emergency and rescue uses of respirators shall be anticipated, and the written standard operating procedures shall include plans necessary to ensure the safe emergency and rescue uses of respirators. Persons who wear respirators routinely, who wear respirators nonroutinely, and who may be required to wear respirators for emergency and rescue work shall be given adequate information

PERMANENT

(iii) In areas where the wearer, with failure of the respirator, could be overcome by a toxic or oxygen deficient atmosphere, at least one additional person shall be present. Communications (visual, voice, or signal line) shall be maintained between both or all individuals present. Planning shall be such that one individual will be unaffected by any likely incident and have the proper rescue equipment to be able to assist the other(s) in case of emergency.

(iv) When self contained breathing apparatus or airline respirators with an escape provision are used in atmospheres immediately dangerous to life or health, standby workers must be present at the nearest fresh air base with suitable rescue equipment.

(v) Persons using air line respirators in atmospheres immediately hazardous to life or health shall be equipped with safety harnesses and safety lines for lifting or removing persons from hazardous atmospheres or other and equivalent provisions for the rescue of persons from hazardous atmospheres shall be used. A standby worker or workers with suitable self contained breathing apparatus shall be at the nearest fresh air base for emergency rescue.

(2) Training. The supervisor, the person issuing respirators, and the respirator wearers shall be given adequate training by a qualified person(s) to ensure the proper use of respirators. Written records shall be kept of the names of the persons trained and the dates when training occurred.

(a) Training of supervisor. A supervisor that is, a person who has the responsibility of overseeing the work activities of one or more persons who must wear respirators shall be given adequate training to ensure the proper use of respirators.

(b) Training of person issuing respirators. A person assigned the task of issuing respirators to persons who must wear respirators for protection against harmful atmospheres shall be given adequate training to ensure that the correct respirator is issued for each application in accordance with written standard operating procedures.

(c) Training of respirator wearer. To ensure the proper and safe use of a respirator, the minimum training of each respirator wearer shall include the following elements:

- (i) The reasons for the need of respiratory protection.
- (ii) The nature, extent, and effects of respiratory hazards to which the person may be exposed.
- (iii) An explanation of why engineering controls are not being applied or are not adequate and of what effort is being made to reduce or eliminate the need for respirators.
- (iv) An explanation of why a particular type of respirator has been selected for a specific respiratory hazard.
- (v) An explanation of the operation, and the capabilities and limitations, of the respirator selected.
- (vi) Instruction in inspecting, donning, checking the fit of, and wearing the respirator.
- (vii) An opportunity for each respirator wearer to handle the respirator, learn how to don and wear it properly, check its seals, wear it in a safe atmosphere, and wear it in a test atmosphere.
- (viii) An explanation of how maintenance and storage of the respirator is carried out.
- (ix) Instructions in how to recognize and cope with emergency situations.

(x) Instructions as needed for special respirator use.

(xi) Regulations concerning respirator use.

(A) Wearing instructions and training. Wearing instructions and training, including practice demonstrations, shall be given to each respirator wearer and shall cover:

(I) Donning, wearing, and removing the respirator.

(II) Adjusting the respirator so that its respiratory inlet covering is properly fitted on the wearer and so that the respirator causes a minimum of discomfort to the wearer.

(III) Allowing the respirator wearer to wear the respirator in a safe atmosphere for an adequate period of time to ensure that the wearer is familiar with the operational characteristics of the respirator.

(IV) Providing the respirator wearer an opportunity to wear the respirator in a test atmosphere to demonstrate that the respirator provides protection to the wearer. A test atmosphere is any atmosphere in which the wearer can carry out activities simulating work movements and respirator leakage or respirator malfunction can be detected by the wearer.

(B) Retraining. Each respirator wearer shall be retrained as necessary to assure effective respirator use. Refresher training shall be given at least annually and shall include the provisions of (c)(vii) through (xi)(A)(III) of this subsection.

(3) Respirator sealing problems. Respirators shall not be worn when conditions prevent a seal of the respirator to the wearer.

(a) A person who has hair (stubble, moustache, sideburns, beard, low hairline, bangs) which passes between the face and the sealing surface of the facepiece of the respirator shall not be permitted to wear such a respirator.

(b) A person who has hair (moustache, beard) which interferes with the function of a respirator valve(s) shall not be permitted to wear the respirator.

(c) A spectacle which has temple bars or straps which pass between the sealing surface of a respirator full facepiece and the wearer's face shall not be used.

(d) A head covering which passes between the sealing surface of a respirator facepiece and the wearer's face shall not be used.

(e) The wearing of a spectacle, a goggle, a face shield, a welding helmet, or other eye and face protective device which interferes with the seal of a respirator to the wearer shall not be allowed.

(f) If scars, hollow temples, excessively protruding cheekbones, deep creases in facial skin, the absence of teeth or dentures, or unusual facial configurations prevent a seal of a respirator facepiece to a wearer's face, the person shall not be permitted to wear the respirator.

(g) If missing teeth or dentures prevent a seal of a respirator mouthpiece in a person's mouth, the person shall not be allowed to wear a respirator equipped with a mouthpiece.

(h) If a person has a nose of a shape or size which prevents the closing of the nose by the nose clamp of a mouthpiece/nose clamp type of respirator, the person shall not be permitted to wear this type of respirator.

(4) Respirator sealing tests. To ensure proper protection, the wearer of a respirator equipped with a facepiece shall check the seal of the facepiece prior to each entry into a hazardous atmosphere. This may be done using procedures rec-

ommended by respirator manufacturers or by approved field tests.

(5) Issuance of respirators. The proper respirator shall be specified for each application and shall be listed in the written standard operating procedures. If a respirator is marked for the worker to whom it is assigned or for other identification purposes, the markings shall not affect the respirator performance in any way.

(6) Respirator inspection prior to use. Each person issued a respirator for routine, nonroutine, emergency, or rescue use shall inspect the respirator prior to its use to ensure that it is in good operating condition.

(7) Monitoring respirator use. The use of respirators on a routine or nonroutine basis shall be monitored to ensure that the correct respirators are being used, that the respirators are being worn properly and that the respirators being used are in good working condition.

(8) Evaluation of respiratory hazard during use. The level of the respiratory hazard in the workplace to which a person wearing a respirator is exposed shall be evaluated periodically.

(9) Leaving a hazardous area. A respirator wearer shall be permitted to leave the hazardous area for any respirator-related cause. Reasons which may cause a respirator wearer to leave a hazardous area include, but are not limited to, the following:

- (a) Failure of the respirator to provide adequate protection.
- (b) Malfunction of the respirator.
- (c) Detection of leakage of air contaminant into the respirator.
- (d) Increase in resistance of respirator to breathing.
- (e) Severe discomfort in wearing the respirator.
- (f) Illness of respirator wearer, including: Sensation of dizziness, nausea, weakness, breathing difficulty, coughing, sneezing, vomiting, fever, and chills.)

When respirators are required, you must provide respirators, training, medical evaluations, and fit testing at no cost to your employees (including expenses such as wages and travel). For voluntary use, see WAC 296-62-07117(3).

VOLUNTARY USE OF RESPIRATORS

AMENDATORY SECTION (Amending Order 81-19, filed 7/27/81)

WAC 296-62-07117 (~~Maintenance of respirators.~~)

What must you do when employees choose to wear respirators when respirators are not required? ((1) General. A program for the maintenance of respirators shall be adjusted to the type of plant, working conditions, hazards involved, and shall include the following:

- (a) Cleaning and sanitizing.
- (b) Inspection for defects.
- (c) Repair.
- (d) Storage.

Each respirator shall be properly maintained to retain its original shape and effectiveness.

(2) Cleaning and sanitizing. Each respirator shall be cleaned and sanitized to ensure that the respirator wearer is

provided with a clean and sanitized respirator at all times. A respirator issued for other than continuous personal use by a particular worker, such as with routine, nonroutine, emergency, or rescue use, shall be cleaned and sanitized after each use.

(3) Inspection. Each respirator shall be inspected routinely before and after use. A respirator shall be inspected by the user immediately prior to each use to ensure that it is in proper working condition.

(a) After cleaning and sanitizing, each respirator shall be inspected to determine if it is in proper working condition, if it needs replacement of parts or repairs, or if it should be discarded. Each respirator stored for emergency or rescue use shall be inspected at least monthly. Respirator inspection shall include a check for tightness of connections; for the condition of the respiratory inlet covering, head harness; valves, connecting tubes, harness assemblies, filters, cartridges, canisters, end-of-service-life indicator, and shelf life date(s); and for the proper function of regulators, alarms, and other warning systems.

(b) Each rubber or other elastomeric part shall be inspected for pliability and signs of deterioration. Each air and oxygen cylinder shall be inspected to ensure that it is fully charged according to the manufacturer's instructions.

(c) A record of inspection dates, findings, and remedial actions shall be kept for each respirator maintained for emergency or rescue use.

(4) Part replacement and repair. Replacement of parts or repairs shall be done only by persons trained in proper respirator assembly and correction of possible respirator malfunctions and defects. Replacement parts shall be only those designed for the specific respirator being repaired. Reducing or admission valves, regulators, and alarms shall be returned to the manufacturer or to a trained technician for repair or adjustment. Instrumentation for valve, regulator, and alarm adjustments and tests must be approved by the valve, regulator, or alarm manufacturer.

(5) Storage. Respirators shall be stored in a manner that will protect them against dust, sunlight, heat, extreme cold, excessive moisture, or damaging chemicals. Respirators shall be stored to prevent distortion of rubber or other elastomeric parts. Respirators shall not be stored in such places as lockers and tool boxes unless they are protected from contamination, distortion, and damage. Emergency and rescue use respirators that are placed in work areas shall be quickly accessible at all times, and the storage cabinet or container in which they are stored shall be clearly marked. (1) You may provide respirators at the request of employees or permit employees to use their own respirators, if you determine that such respirator use will not in itself create a hazard.

(2) If you determine that any voluntary respirator use is permissible, you must provide the respirator users with the following information:

PERMANENT

Figure 1 Important Information About Voluntary Use of Respirators

Note: "You" and "your" mean the employee in the following information.

Respirators protect against airborne contaminants when properly selected and worn. Respirator use is encouraged, even when exposure to contaminants are below the exposure limit(s), to provide an additional level of comfort and protection for workers. However, if a respirator is used improperly or not kept clean, the respirator itself can become a hazard to you. Sometimes, workers may wear respirators to avoid exposures to hazards, even if the amount of hazardous contaminants (chemical biological) does not exceed the limits set by WISHA standards. If your employer provides respirators for your voluntary use, or if you are allowed to provide your own respirator, you need to take certain precautions to be sure that the respirator itself does not present a hazard.

You should do the following:

1. Read and follow all instructions provided by the manufacturer on use, maintenance, cleaning and care, and warnings regarding the respirators limitations.
2. Choose respirators certified for use to protect against the contaminant of concern. NIOSH, the National Institute for Occupational Safety and Health of the U.S. Department of Health and Human Services, certifies respirators. A label or statement of certification should appear on the respirator or respirator packaging. It will tell you what the respirator is designed for and how much it will protect you.
3. Do not wear your respirator into atmospheres containing contaminants for which your respirator is not designed to protect against. For example, a respirator designed to filter dust particles will not protect you against solvent vapor or smoke (since smoke particles are much smaller than dust particles).
4. Keep track of your respirator so that you do not mistakenly use someone else's respirator.

(3) In addition, you must establish, implement, and pay for those elements of a written respiratory protection program necessary to make sure that:

- Any employee using a respirator voluntarily is medically able to use that respirator, and that
- The respirator is cleaned, stored, and maintained so that its use does not present a health hazard to the user.

EXCEPTION: You are not required to include in a written respiratory protection program those employees whose only use of respirators involves the voluntary use of filtering facepieces (for example, dust masks).

RESPIRATOR SELECTION**NEW SECTION**

WAC 296-62-07130 What must be considered when selecting any respirator? (1) You must identify and evaluate the respiratory hazard(s) in the workplace. This evaluation must reasonably estimate employee exposures to respiratory hazard(s) and identify the contaminant's chemical state and physical form. Where you cannot identify or reasonably estimate the employee exposure, you must consider the atmosphere to be IDLH.

(2) You must identify relevant factors pertaining to the workplace and respirator user that affect respirator performance and reliability.

(3) You must select and provide the appropriate respirators based on the respiratory hazards and the relevant factors related to the workplace and user.

(4) You must select a NIOSH-certified respirator. The respirator must be used in compliance with the conditions of its certification.

(5) You must select respirators from a sufficient number of respirator models and sizes so that the respirator is acceptable to, and correctly fits, the user.

NEW SECTION

WAC 296-62-07131 What else must you consider when selecting a respirator for use in atmospheres that are not IDLH? (1) You must provide a respirator that is adequate to protect the health of the employee and ensure compliance with all other WISHA statutory and regulatory requirements for routine, nonroutine, and reasonably foreseeable emergency and rescue situations.

(2) You must use the assigned protection factors (APFs) in Table 1 when selecting respirators.

Table 1—Assigned Protection Factors

Type of Respirator	Assigned Protection Factor ^a
Air-Purifying Respirators (APRs)	
Half-facepiece ^b for: <ul style="list-style-type: none"> • Particulate-filter • Vapor- or gas-removing • Combination particulate-filter and vapor- or gas-removing 	10
Full facepiece for: <ul style="list-style-type: none"> • Particulate-filter; • Vapor- or gas-removing; • Combination particulate-filter and vapor- or gas-removing 	100
Powered Air-Purifying Respirators (PAPRs)	
Powered air-purifying, loose fitting facepiece	25
Powered air-purifying, half facepiece	50
Powered air-purifying, full facepiece, equipped with HEPA filters	1000
Powered air-purifying, hood or helmet equipped with HEPA filters	1000
Supplied-Air (Airline) Respirators	
Supplied-air, demand, half facepiece	10
Supplied-air, continuous-flow, loose fitting facepiece	25
Supplied-air, continuous-flow or pressure-demand type, half facepiece	50
Supplied-air, demand, full facepiece	100
Supplied-air, continuous-flow or pressure-demand type, full facepiece	1000
Supplied-air, continuous-flow, helmet or hood	1000
Self-Contained Breathing Apparatus (SCBAs)	
Self-contained breathing apparatus, demand-type, half facepiece ^b	10
Self-contained breathing apparatus, demand-type, full facepiece	100
Self-contained breathing apparatus, pressure-demand type, full facepiece	10,000

Combination respirators. For combination respirators (such as, airline respirators with an air-purifying filter), the type and mode of operation having the lowest respirator protection factor must be applied to the combination respirator not listed.

^a An assigned protection factor is a numeric rating given to respirators, which tells how much protection the respirator can provide.

^b If the air contaminant causes eye irritation, the wearer of a respirator equipped with a quarter-mask or half-mask facepiece or mouthpiece and nose clamp must be permitted to use a protective goggle or to use a respirator equipped with a full facepiece. Mouthpiece and nose clamp respirators are approved by NIOSH only for escape from IDLH atmospheres.

(3) The respirator selected must be appropriate for the chemical state and physical form of the contaminant.

(4) For protection against gases and vapors, you must provide an atmosphere-supplying respirator or an air-purifying respirator, provided that:

- The respirator is equipped with an end-of-service-life indicator (ESLI) certified by NIOSH for the contaminant; or

- If there is no ESLI appropriate for the conditions in your workplace, you must implement a change schedule for canisters and cartridges that is based on objective information or data that will make sure that canisters and cartridges are changed before the end of their service life. Your respirator program must describe:

- ◆ The information and data relied upon; and
- ◆ The basis for the canister and cartridge change schedule; and

◆ The basis for reliance on the data.

(5) For protection against particulates, you must provide:

- An atmosphere-supplying respirator; or
- An air-purifying respirator equipped with a filter certified by NIOSH under 30 CFR Part 11 as a high efficiency particulate air (HEPA) filter, or an air-purifying respirator equipped with a filter certified for particulates by NIOSH under 42 CFR Part 84; or
- An air-purifying respirator equipped with any filter certified for particulates by NIOSH for contaminants consisting primarily of particles with mass median aerodynamic diameters (MMAD) of at least 2 micrometers; or
- For filters to be changed as required in WAC 296-62-07171(4).

NEW SECTION

WAC 296-62-07132 What else must you consider when selecting a respirator for use in IDLH atmospheres?

(1) You must provide the following respirators for your employees to use in IDLH atmospheres:

- A full facepiece pressure demand SCBA certified by NIOSH for a minimum service life of thirty minutes; or
- A combination full facepiece pressure demand supplied-air respirator (SAR) with auxiliary self-contained air supply.

PERMANENT

(2) Respirators provided only for escape from IDLH atmospheres must be NIOSH-certified for escape from the atmosphere in which they will be used.

(3) All oxygen-deficient atmospheres must be considered IDLH unless you demonstrate that, under all foreseeable conditions, the oxygen concentration can be maintained within the ranges specified in Table 2 of this section (i.e., for the altitudes set out in the table). In such cases, any atmosphere-supplying respirator may be used.

Table 2 Altitudes for Oxygen Deficient Atmospheres

Altitude (ft.)	Oxygen deficient atmospheres (%O ₂) for which the employer may rely on any atmosphere-supplying respirator
Less than 3,001	16.0 - 19.5
3,001 - 4,000	16.4 - 19.5
4,001 - 5,000	17.1 - 19.5
5,001 - 6,000	17.8 - 19.5
6,001 - 8,000	19.3 - 19.5

¹Above 8,000 feet the exception does not apply. Oxygen-enriched breathing air must be supplied above 14,000 feet.

NEW SECTION

WAC 296-62-07133 What else must you consider when selecting a respirator for emergency and rescue use? (1) You must analyze emergency and rescue uses of respirators that may occur in each operation by carefully considering materials, equipment, processes, and personnel involved in each operation. The person who is thoroughly familiar with the particular operation must review the analysis. As part of your analysis, you must:

- Consider past occurrences requiring emergency or rescue use of respirators as well as conditions that resulted in such respirator applications;
- Consider the possible consequences of equipment or power failures, uncontrolled chemical reactions, fire, explosion, or human error; and
- Based on the above considerations, list potential hazards that may result in emergency or rescue use of respirators.

(2) Based upon the analysis, you must:

- Select the appropriate types of respirators;
- Provide an adequate number of respirators for each area where they may be needed for emergency or rescue use; and
- Maintain and store the respirators so that they are readily accessible and operational when needed.

MEDICAL EVALUATIONS

NEW SECTION

WAC 296-62-07150 What are the general requirements for medical evaluations? Before an employee is fit tested or required to use a respirator in the workplace, you

must provide a medical evaluation to determine the employee's ability to use a respirator. You may rely upon a previous employer's medical evaluation, if you can show that:

- You have been provided with a copy of the written recommendation as required in WAC 296-62-07155 from the PLHCP approving the employee to use the respirator chosen; and
- The previous working conditions, which required respirator use as detailed in WAC 296-62-07154(1), are substantially similar to yours.

Exception: If an employee uses no other respirator than an escape-only respirator, medical evaluations are not required. This exception does not apply to respirators with tight-fitting facepieces (such as, gas masks).

Steps necessary for completing a medical evaluation:

- You identify a PLHCP (WAC 296-62-07151);
- You provide information to the PLHCP (WAC 296-62-07152);
- PLHCP reviews information and determines what additional questions, if any, to add to Part A of the questionnaire (WAC 296-62-07153(1));
- You administer the questionnaire confidentially (WAC 296-62-07153(2));
- PLHCP reviews and evaluates the questionnaire (WAC 296-62-07154);
- PLHCP completes any follow-up medical evaluations with employees (WAC 296-62-07154);
- PLHCP completes the written recommendation and sends it to the employee and you (WAC 296-62-07155 (1) and (2));
- You respond appropriately to written recommendations (WAC 296-62-07155) and maintain records (WAC 296-62-07194);
- You provide additional medical evaluations when required by your PLHCP (WAC 296-62-07156).

NEW SECTION

WAC 296-62-07151 Who must perform medical evaluations? You must identify a physician or other licensed health care professional (PLHCP) to perform medical evaluations.

NEW SECTION

WAC 296-62-07152 What information must you provide to the PLHCP in addition to the questionnaire? You must provide the following information to the PLHCP before the PLHCP makes a recommendation concerning an employee's ability to use a respirator:

- The questionnaire found in WAC 296-62-07255, Appendix C;
- The type and weight of the respirator to be used by the employee;
- The duration and frequency of respirator use (including use for rescue and escape);
- The expected physical work effort;
- Additional protective clothing and equipment to be worn;

PERMANENT

- Temperature and humidity extremes that may be encountered;
- A copy of your written respiratory protection program (including, but not limited to, a list of respirators as required in WAC 296-62-07111(1) and fit testing procedures as required in WAC 296-62-07111(3)); and
- A copy of chapter 296-62 WAC, Part E, Respiratory protection.

When an employee needs a subsequent medical evaluation, you do not have to provide any information previously given to the PLHCP if the information and the PLHCP remain the same.

Note: When you change your PLHCP, you must make sure that the new PLHCP obtains this information, either by providing the documents directly to the PLHCP or having the documents transferred from the former PLHCP to the new PLHCP. WISHA does not expect you to have employees medically reevaluated solely because a new PLHCP has been selected.

NEW SECTION

WAC 296-62-07153 How must the medical evaluations and the questionnaire be administered? (1) An initial evaluation must be completed. You may use the questionnaire in WAC 296-62-07255. It is not necessary to have an initial medical examination. However, an initial medical examination may be substituted for the questionnaire if it obtains the same information. Questions in Section 1 and 2 of Part A must be answered by all respirator users, while questions in Section 3 must be answered by SCBA and full facepiece respirator users. The PLHCP determines what additional questions must be used in the questionnaire from Part B in WAC 296-62-07255.

(2) The medical questionnaire and examinations must be administered confidentially during the employee's normal working hours or at a time and place convenient to the employee.

Confidentiality. The medical questionnaire must be administered in a way that makes sure that the employee understands its content. To ensure confidentiality, you must not review an employee's questionnaire at any time. This includes looking at the completed questions or any other interaction that may be considered a breach of confidentiality.

The following are different options that may be used to administer questionnaires confidentially:

- You may administer the questionnaire and arrange for employee access to a PLHCP if there are any questions. For example, you may provide employees a copy of the questionnaire, ask them to fill it out, and place it in a sealed envelope that is sent to the PLHCP.
- Your PLHCP may administer the questionnaire.
- You may hire a third party to confidentially administer the questionnaire.

(3) You must provide the employee with an opportunity to discuss the questionnaire and examination results with the PLHCP.

NEW SECTION

WAC 296-62-07154 Who must review the questionnaire and determine what, if any, follow-up evaluations are needed? You must provide for the following PLHCP evaluations.

- For the initial medical evaluation, the PLHCP must review the information obtained by the questionnaire in WAC 296-62-07255.

- The PLHCP must provide a follow-up medical evaluation for any employee who gives a positive response to any one of questions 1 through 8 in Section 2 of Part A in WAC 296-62-07255 or whose initial medical evaluation demonstrates the need for follow-up evaluation.

- The follow-up medical evaluation must include any consultations (for example, a telephone conversation to evaluate positive responses on the questionnaire), medical tests, or diagnostic procedures that the PLHCP deems necessary to make a final determination.

Note: When you replace a PLHCP, you must make sure that the new PLHCP obtains this information, either by providing the documents directly to the PLHCP or having the documents transferred from the former PLHCP to the new PLHCP. However, WISHA does not expect you to have employees medically reevaluated solely because a new PLHCP has been selected.

NEW SECTION

WAC 296-62-07155 What must be included in the PLHCP's written recommendation? (1) In determining the employee's ability to use a respirator, you must obtain a written recommendation regarding the employee's ability to use the respirator from the PLHCP. The recommendation must provide only the following information about the employee:

- Any limitations on respirator use related to the medical condition of the employee, or relating to the workplace conditions in which the respirator will be used, including whether or not the employee is medically able to use the respirator;

- The need, if any, for follow-up medical evaluations; and
- A statement that the PLHCP has provided the employee with a copy of the PLHCP's written recommendation.

(2) You must provide a PAPR, if:

- The respirator is a negative pressure respirator and the PLHCP finds a medical condition that may place the employee's health at increased risk if the respirator is used;

- The PLHCP's medical evaluation finds that the employee can use such a respirator. You no longer must provide a PAPR, if a subsequent medical evaluation finds that the employee is medically able to use a negative pressure.

NEW SECTION

WAC 296-62-07156 When are additional medical evaluations required? At a minimum, you must provide additional medical evaluations that comply with the requirements in WAC 296-62-07151 through 296-62-07155 if:

- An employee reports medical signs or symptoms related to his or her ability to use a respirator;

PERMANENT

- A PLHCP, supervisor, or the respirator program administrator informs you that an employee needs to be reevaluated;

- Information from the respiratory protection program, including observations made during fit testing and program evaluation, indicates a need for employee reevaluation; or

- A change occurs in workplace conditions (for example, physical work effort, protective clothing, temperature) that may result in a substantial increase in the physiological burden placed on an employee.

You may discontinue an employee's medical evaluations when the employee is no longer required to use a respirator.

FIT TESTING

NEW SECTION

WAC 296-62-07160 When is fit testing required?

You must make sure that employees using a negative or positive pressure tight-fitting facepiece respirator pass an appropriate qualitative fit test (QLFT) or quantitative fit test (QNFT). Fit testing must occur:

- Prior to initial use of the respirator;
- Whenever a different respirator facepiece (size, style, model or make) is used;
- At least annually thereafter; and
- Whenever the employee reports to you or your PLHCP observes changes in the employee's physical condition that could affect respirator fit. Such conditions include, but are not limited to, facial scarring, dental changes, cosmetic surgery, or an obvious change in body weight.

You may rely on a current fit test completed by a previous employer for the same employee if you obtain written documentation of the fit test and all other applicable requirements in WAC 296-62-07160 through 296-62-07162 have been satisfied.

NEW SECTION

WAC 296-62-07161 What is required when an employee finds the respirator's fit unacceptable? If after passing a qualitative fit test or a quantitative fit test, your employee subsequently notifies you or your PLHCP that the fit of the respirator is unacceptable, you must give the employee a reasonable opportunity to select a different respirator facepiece and to be retested.

NEW SECTION

WAC 296-62-07162 How must fit testing be done? (1) The fit test must be administered using WISHA-accepted quantitative or qualitative protocol. These protocols are contained in WAC 296-62-07201 through 296-62-07248 (Appendices A-1, A-2 and A-3 of this part).

(2) Qualitative fit testing may be used to fit test negative pressure air-purifying respirators only when they will be used in atmospheres where the concentration is less than 10 times the PEL. For respirator use in higher concentrations, quantitative fit testing must be used.

(3) If the fit factor, as determined through WISHA-accepted quantitative fit testing protocol, is equal to or greater than 100 for tight-fitting half facepieces, or equal to or greater than 500 for tight-fitting full facepieces, the employee passed the quantitative fit test for that respirator.

(4) Fit testing of tight-fitting atmosphere-supplying respirators and tight-fitting powered air-purifying respirators must be accomplished by performing quantitative or qualitative fit testing in the negative pressure mode, regardless of the mode of operation (negative or positive pressure) that is used for respiratory protection.

(a) Qualitative fit testing of these respirators must be accomplished by temporarily converting the respirator user's actual facepiece into a negative pressure respirator with appropriate filters, or by using an identical negative pressure air-purifying respirator facepiece with the same sealing surfaces as a surrogate for the atmosphere-supplying or powered air-purifying respirator facepiece.

(b) Quantitative fit testing of these respirators must be accomplished by modifying the facepiece to allow sampling inside the facepiece in the breathing zone of the user, midway between the nose and mouth. This requirement must be accomplished by installing a permanent sampling probe onto a surrogate facepiece, or by using a sampling adapter designed to temporarily provide a means of sampling air from inside the facepiece.

(c) Any modifications to the respirator facepiece for fit testing must be completely removed, and the facepiece restored to NIOSH-approved configuration, before that facepiece can be used in the workplace.

USE OF RESPIRATORS

NEW SECTION

WAC 296-62-07170 How must you prevent problems with the seal on tight-fitting facepieces? (1) You must not permit respirators with tight-fitting facepieces to be worn during fit testing and respirator use by employees who have:

- Any facial hair that is visibly projecting above the skin (stubble, moustache, sideburns, portions of a beard, low hair-line, bangs) that comes between the sealing surface of the facepiece and the face or that interferes with valve function; or
- Any other condition that interferes with the face-to-facepiece seal or valve function.

(2) If an employee wears corrective glasses or goggles or other personal protective equipment, you must make sure that such equipment is worn in a manner that does not interfere with the seal of the facepiece.

(3) For all tight-fitting respirators, you must make sure that employees perform a user seal check each time they put on the respirator using the procedures in Appendix B-1 or procedures recommended by the respirator manufacturer that you demonstrate are as effective as those in Appendix B-1 of chapter 296-62 WAC, Part E.

NEW SECTION

WAC 296-62-07171 How do you monitor continuing effectiveness of your employees' respirators? (1) You must maintain appropriate surveillance of work area conditions and degree of employee exposure or stress.

(2) When there is a change in work area conditions or degree of employee exposure or stress that may affect respirator effectiveness, you must reevaluate the continued effectiveness of the respirator.

(3) You must make sure that employees leave the respirator use area:

- To wash their faces and respirator facepieces as necessary to prevent eye or skin irritation associated with respirator use; or
- If they detect vapor or gas breakthrough, changes in breathing resistance, or leakage of the facepiece; or
- To replace the respirator or the filter, cartridge, or canister elements; or
- If the employee experiences severe discomfort in wearing the respirator; or
- If the employee becomes ill or experiences sensations of dizziness, nausea, weakness, breathing difficulty, coughing, sneezing, vomiting, fever, and chills.

(4) If the employee detects vapor or gas breakthrough, changes in breathing resistance, or leakage of the facepiece, you must replace or repair the respirator before allowing the employee to return to the work area.

NEW SECTION

WAC 296-62-07172 What are the standby procedures when respirators are used in IDLH situations? (1) You must provide standby employees when employees are working in IDLH atmospheres.

In certain IDLH situations, one standby employee is permitted when the IDLH atmosphere is well characterized and you can show that one employee can adequately:

- Monitor the employee(s) in the IDLH atmosphere;
- Implement communication activities; and
- Initiate rescue duties.

For all other IDLH situations, you must have at least two employees located outside the IDLH atmosphere.

(2) Visual, voice, or signal line communication must be maintained between the employee(s) in the IDLH atmosphere and the employee(s) located outside the IDLH atmosphere.

(3) The employee(s) located outside the IDLH atmosphere must be trained and equipped to provide effective emergency rescue.

(4) You or your designee must be notified before the employee(s) located outside the IDLH atmosphere enter the IDLH atmosphere to provide emergency rescue.

(5) You or your designee, once notified, must provide necessary assistance appropriate to the situation.

(6) Standby employee(s) located outside the IDLH atmospheres must be equipped with:

- (a) Pressure demand or other positive pressure SCBAs, or a pressure demand or other positive pressure supplied-air respirator with auxiliary SCBA; and either

(b) Appropriate retrieval equipment for removing the employee(s) who enter(s) these hazardous atmospheres where retrieval equipment would contribute to the rescue of the employee(s) and would not increase the overall risk resulting from entry; or equivalent means for rescue where retrieval equipment is not required.

MAINTENANCE AND CARE OF RESPIRATORSNEW SECTION

WAC 296-62-07175 How must respirators be cleaned and disinfected? (1) You must provide each respirator user with a respirator that is clean, sanitary, and in good working order.

(2) You must make sure that respirators are cleaned and disinfected using the procedures in WAC 296-62-07253, Appendix B-2, or procedures recommended by the respirator manufacturer, provided that such procedures are as effective.

(3) The respirators must be cleaned and disinfected as follows:

- Respirators issued for the exclusive use of an employee must be cleaned and disinfected as often as necessary to be maintained in a sanitary condition;
- Respirators issued to more than one employee must be cleaned and disinfected before being worn by different individuals;
- Respirators maintained for emergency use must be cleaned and disinfected after each use; and
- Respirators used in fit testing and training must be cleaned and disinfected before being worn by a different employee.

NEW SECTION

WAC 296-62-07176 How must respirators be stored?

(1) You must make sure that all respirators are stored to protect them from damage, contamination, dust, sunlight, extreme temperatures, excessive moisture, and damaging chemicals. You must also make sure that they are packed or stored to prevent deformation of the facepiece and exhalation valve.

(2) When storing emergency respirators.

(a) You must keep respirators accessible to the work area.

(b) You must store respirators in compartments or in covers that are clearly marked as containing emergency respirators.

(c) You must store respirators in accordance with any applicable manufacturer instructions.

(d) You must provide an adequate number of respirators for each work area where they may be needed.

NEW SECTION

WAC 296-62-07177 When must respirators be inspected? You must make sure that:

- All respirators used in routine situations are inspected before each use and during cleaning;

- All respirators maintained for use in emergency situations are inspected at least monthly and in accordance with the manufacturer's recommendations, and are checked for proper function before and after each use;

- Emergency escape-only respirators are inspected before being carried into the workplace for use; and

- Self-contained breathing apparatus (SCBAs) must be inspected monthly.

NEW SECTION

WAC 296-62-07178 How must respirators be inspected and maintained? (1) You must make sure that respirator inspections include:

- A check of respirator function, tightness of connections, and the condition of the various parts including, but not limited to, the facepiece, head straps, valves, connecting tube, and cartridges, canisters or filters; and

- A check of elastomeric parts for pliability and signs of deterioration.

(2) For self-contained breathing apparatus you must:

- Maintain air and oxygen cylinders in a fully charged state and recharge the cylinders when the pressure falls to 90% of the manufacturer's recommended pressure level; and

- Determine that the regulator and warning devices function properly.

(3) For respirators maintained for emergency use, you must:

- Certify the respirator by documenting the date the inspection was performed, the name (or signature) of the person who made the inspection, the findings, required remedial action, and a serial number or other means of identifying the inspected respirator; and

- Provide this information on a tag or label that is attached to the storage compartment for the respirator, is kept with the respirator, or is included in inspection reports stored as paper or electronic files. This information must be maintained until replaced following a subsequent certification.

NEW SECTION

WAC 296-62-07179 How must respirators be repaired and adjusted? (1) You must make sure that respirators that fail an inspection or are otherwise found to be defective are no longer used until they are repaired or adjusted properly;

(2) Repairs or adjustments to respirators must be made only by persons appropriately trained to perform such operations, who must use only the respirator manufacturer's NIOSH-approved parts designed for the respirator;

(3) Repairs must be made according to the manufacturer's recommendations and specifications for the type and extent of repairs to be performed; and

(4) Reducing and admission valves, regulators, and alarms must be adjusted or repaired only by the manufacturer or a technician trained by the manufacturer.

BREATHING AIR QUALITY

NEW SECTION

WAC 296-62-07182 What are the breathing gas requirements for atmosphere-supplying respirators? (1) You must provide employees using atmosphere-supplying respirators (supplied-air and SCBA) with breathing gases of high purity.

(2) You must make sure that compressed air, compressed oxygen, liquid air, and liquid oxygen used for respiration accords with the following specifications:

- Compressed and liquid oxygen must meet the United States Pharmacopoeia requirements for medical or breathing oxygen; and

- Compressed breathing air must meet at least the requirements for Grade D breathing air described in ANSI/Compressed Gas Association Commodity Specification for Air, G-7.1-1989, to include:

- ◆ Oxygen content (v/v) of 19.5-23.5%;

- ◆ Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;

- ◆ Carbon monoxide (CO) content of 10 ppm or less;

- ◆ Carbon dioxide content of 1,000 ppm or less; and

- ◆ Lack of noticeable odor.

(3) You must make sure that compressed oxygen is not used in atmosphere-supplying respirators that have previously used compressed air.

(4) You must make sure that oxygen concentrations greater than 23.5% are used only in equipment designed for oxygen service or distribution.

(5) Cylinders used to supply breathing air to respirators.

(a) Cylinders must be tested and maintained as prescribed in the Shipping Container Specification Regulations of the Department of Transportation (49 CFR Part 173 and Part 178);

(b) Cylinders of purchased breathing air must have a certificate of analysis from the supplier that the breathing air meets the requirements for Grade D breathing air; and

(c) The moisture content in the cylinder must not exceed a dew point of -50°F (-45.6°C) at 1 atmosphere pressure.

(6) Compressors used to supply breathing air to respirators.

(a) Compressors must be constructed and situated so as to prevent entry of contaminated air into the air-supply system.

(b) Compressors must minimize moisture content so that the dew point at 1 atmosphere pressure is 10°F (5.56°C) below the ambient temperature.

(c) Compressors must have suitable in-line air-purifying sorbent beds and filters to further make sure that the supplied-air is breathing air quality. Sorbent beds and filters must be maintained and replaced or refurbished periodically following the manufacturer's instructions.

(d) Compressors must have a tag containing the most recent sorbent bed and filter change date and the signature of the person authorized by the employer to perform the change. The tag must be maintained at the compressor.

(7) For compressors that are not oil-lubricated, you must make sure that carbon monoxide levels in the breathing air do not exceed 10 ppm.

(8) For oil-lubricated compressors, you must use a high-temperature or carbon monoxide alarm, or both, to monitor carbon monoxide levels. If only high-temperature alarms are used, the air supply must be monitored at intervals sufficient to make sure the concentration of carbon monoxide in the breathing air does not exceed 10 ppm.

(9) You must make sure that breathing air couplings are incompatible with outlets for nonrespirable worksite air or other gas systems. Asphyxiating substances must not be introduced into breathing air lines.

(10) You must use breathing gas containers marked in accordance with the NIOSH respirator certification standard, 42 CFR Part 84.

IDENTIFICATION OF FILTERS, CARTRIDGES AND CANISTERS

NEW SECTION

WAC 296-62-07184 How must filters, cartridges and canisters be labeled? You must make sure that all filters, cartridges and canisters used in the workplace are labeled and color coded with the NIOSH approval label. The label must not be removed and must remain legible. Table 3 provides information about color coding for air-purifying respirator filters, cartridges, and canisters.

TABLE 3 — Color Coding of Respirator Filters, Cartridges and Canisters

Atmospheric Contaminants to be Protected Against	Colors Assigned*
Acid gases	White.
Hydrocyanic acid gas	White with 1/2 - inch green stripe completely around the canister near the bottom.
Chlorine gas	White with 1/2 - inch yellow stripe completely around the canister near the bottom.
Organic vapors	Black.
Ammonia gas	Green.
Acid gases and ammonia gas	Green with 1/2 - inch white stripe completely around the canister near the bottom.
Carbon monoxide	Blue.
Acid gases and organic vapors	Yellow.
Hydrocyanic acid gas and chloropicrin vapor	Yellow with 1/2 - inch blue stripe completely around the canister near the bottom.

Atmospheric Contaminants to be Protected Against	Colors Assigned*
Acid gases, organic vapors, and ammonia gases	Brown.
Radioactive materials, excepting tritium and noble gases	Purple (Magenta).
Particulates (dusts, fumes, mists, fogs, or smokes) in combination with any of the above cases or vapors	Canister color for contaminant, as designated above, with 1/2 - inch gray stripe completely around the canister near the top.
All of the above atmospheric contaminants	Red with 1/2 - inch gray stripe completely around the canister near the top.

*Gray must not be assigned as the main color for a canister designed to remove acids or vapors.

Note: Orange must be used as a complete body, or stripe color to represent gases not included in this table. The user will need to refer to the canister label to determine the degree of protection the canister will afford

TRAINING AND INFORMATION

NEW SECTION

WAC 296-62-07186 What are the general training requirements? (1) You must provide effective training to:

- Employees required to use respirators;
- Supervisors; and
- Any person issuing respirators.

(2) The training must be done so your employees understand it.

(3) The training must be provided by qualified persons.

NEW SECTION

WAC 296-62-07188 How do you know if you adequately trained your employees? At a minimum, you must make certain that each employee can demonstrate:

- Why the respirator is necessary and how improper fit, use, or maintenance can compromise the protective effect of the respirator;
- What the respirator is capable of doing and what its limitations are;

• How to use the respirator effectively in emergency situations, including situations in which the respirator malfunctions;

• How to inspect (see WAC 296-62-07178), put on and remove, use (see WAC 296-62-07170 through 296-62-07172), and check the seals (see WAC 296-62-07251) of the respirator;

• The procedures for maintaining (see WAC 296-62-07175 through 296-62-07179, 296-62-07182(5) and 296-62-

PERMANENT

07253) and storing (see WAC 296-62-07176) of the respirator;

- How to recognize medical signs and symptoms that may limit or prevent the effective use of respirators; and
- The general requirements of chapter 296-62 WAC, Part E.

NEW SECTION

WAC 296-62-07190 When must your employees be trained? (1) You must train employees before they are required to use a respirator in the workplace.

(2) If you are able to demonstrate that a new employee has received training within the last 12 months that addresses the elements specified in WAC 296-62-07132 and 296-62-07186, then you are not required to repeat the training provided that the employee can demonstrate knowledge of the element(s) required in WAC 296-62-07188.

(3) If you do not repeat initial training for an employee, then you must provide retraining no later than 12 months from the date of the employee's previous training.

(4) Retraining must be completed annually, and when the following situations occur:

- Changes in the workplace or the type of respirator render previous training obsolete or incomplete;
- The employee's knowledge or use of the respirator indicates that the employee has not retained the understanding or skill as required in WAC 296-62-07188 above; or
- Any other situation arises when retraining appears to be necessary to make sure respirators are used safely.

PROGRAM EVALUATION

NEW SECTION

WAC 296-62-07192 How must you evaluate the effectiveness of your respiratory protection program? (1) You must evaluate the workplace as necessary to make sure that the requirements of the current written program are being effectively carried out and that the program continues to be effective.

(2) Evaluation must include periodic monitoring by the supervisor to make sure respirators are properly worn.

(3) You must regularly ask employees required to use respirators their views on the program's effectiveness and use their input to identify any problems. Any problems identified must be corrected. At a minimum, you must evaluate the following factors:

- Respirator fit (including the employee's ability to use the respirator without interfering with effective workplace performance);
- Appropriate respirator selection for the hazards to which the employee is exposed;
- Proper respirator use under the workplace conditions the employee encounters; and
- Proper respirator maintenance.

(4) Medical and bioassay surveillance. When appropriate, medical surveillance, including bioassays, must be carried out to determine if employees using respirators are

receiving adequate respiratory protection. A physician must determine the requirements of the surveillance program.

RECORDKEEPING

NEW SECTION

WAC 296-62-07194 What are the recordkeeping requirements? (1) General. You must keep written records of the following:

- Written recommendations from the PLHCP;
- Fit testing;
- The respirator program; and
- Training.

(2) Access to medical records. You must make the written recommendations from the PLHCP and any other medical records you are maintaining available as required by chapter 296-62 WAC, Part B.

(3) Fit testing. You must keep a record of any qualitative and quantitative fit tests completed for each employee. The record must include:

- The name or identification of the employee tested;
- Type of fit test performed;
- Specific make, model, style, and size of respirator tested;
- Date of test; and
- The pass/fail results for QLFTs or the fit factor and strip chart recording or other recording of the test results for QNFTs.

Fit test records must be retained for respirator users until the next fit test is administered.

(4) You must keep a written copy of the current respirator program.

- (5) You must keep written training records that include:
- Names of the employees trained; and
 - The dates when the employees were trained.

(6) Written materials required by this part must be made available upon request for examination and copying to affected employees and to the director or the director's designee.

NEW SECTION

WAC 296-62-07201 Appendix A-1: General Fit Testing Requirements for Respiratory Protection—Mandatory. This is a mandatory appendix to chapter 296-62 WAC, Part E, which includes WAC 296-62-07201 through 296-62-07203.

NEW SECTION

WAC 296-62-07202 What are the general requirements for fit testing? (1) You must conduct fit testing using the procedures found in appendices A-1 through A-3. The requirements in these appendices apply to all WISHA-accepted qualitative (QLFT) and quantitative (QNFT) fit test methods.

(2) You must allow your employees to pick the most acceptable respirator from a sufficient number of respirator

models and sizes so that the respirator is acceptable to, and correctly fits, the user.

(3) Prior to selecting a respirator, you must show your employees how to:

- Put on a respirator;
- Positioned the respirator on the face;
- Set strap tension; and
- Determine an acceptable fit.

(4) You must provide a mirror for your employees to use when evaluating the fit and positioning of the respirator. This instruction does not constitute your employees' formal training on respirator use, because it is only a review.

(5) You must inform your employees that:

- They are being asked to select the respirator that provides the most acceptable fit;
- Each respirator represents a different size and shape; and
- If fitted and used properly, each respirator will provide adequate protection.

(6) You must have your employees hold each chosen facepiece up to their face and eliminate those that obviously do not give an acceptable fit.

(7) You must note the more acceptable facepieces in case the one selected proves unacceptable. The most comfortable mask must be put on and worn at least five minutes to make sure it is comfortable. You must help your employee assess comfort by discussing the points in subsection (8) of this section. If the employee is not familiar with using a particular respirator, have the employee put on the mask several times and adjust the straps each time to become adept at setting proper tension on the straps.

(8) You must review how to assess the comfort of a respirator by reviewing the following points with the employee and allowing the employee enough time to check the comfort of the respirator chosen:

- (a) Position of the mask on the nose;
- (b) Room for eye protection;
- (c) Room to talk;
- (d) Position of mask on face and cheeks.

(9) You must use the following criteria to determine if the respirator adequately fits each employee:

- (a) Chin properly placed;
- (b) Adequate strap tension, not overly tightened;
- (c) Fit across nose bridge;
- (d) Respirator of proper size to span distance from nose to chin;
- (e) Tendency of respirator to slip;
- (f) Self-observation in mirror to evaluate fit and respirator position.

(10) The employees must complete a user seal check. They must use either the negative and positive pressure seal checks described in WAC 296-62-07251, Appendix B-1 or those recommended by the respirator manufacturer that provide equivalent protection to the procedures in WAC 296-62-07251, Appendix B-1. Before conducting the negative and positive pressure checks, the employee must be told to seat the mask on the face by moving the head from side-to-side and up and down slowly while taking in a few slow deep breaths. Another facepiece must be selected and retested if the employee's respirator fails the user seal check tests.

(11) You must not conduct the fit test if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, mustache or sideburns that cross the respirator sealing surface. Any type of apparel that interferes with a satisfactory fit must be altered or removed.

(12) If the employee has difficulty in breathing during the tests, you must refer the employee to a physician or other licensed health care professional, as appropriate, to determine whether the employee can wear respirators while performing the employee's duties.

(13) If the employee finds the fit of the respirator unacceptable, you must give the employee the opportunity to select a different respirator and the employee must be retested.

- (14) Prior to starting the fit test, you must describe the:
- Fit test to the employee;
 - Employee's responsibilities during the test procedure; and
 - Test exercises that the employee will be performing.

(15) The employee must wear the respirator at least 5 minutes before starting the fit test.

(16) When performing the fit test, you must have your employee wear any applicable safety equipment that may be worn during actual respirator use that could interfere with respirator fit.

NEW SECTION

WAC 296-62-07203 What are the fit test exercise requirements? (1) You must have your employees perform the following test exercises for all fit testing methods required in the appendices for Respiratory Protection Part E, except for the controlled negative pressure (CNP) testing. The CNP protocol contains a different fit testing exercise regimen. The employee must perform exercises, in the test environment, in the following ways:

(a) Normal breathing. In a normal standing position, without talking, the employee must breathe normally.

(b) Deep breathing. In a normal standing position, the employee must breathe slowly and deeply, taking caution so as not to hyperventilate.

(c) Turning head side to side. Standing in place, the employees must slowly turn their heads from side to side between the extreme positions on each side, holding their heads at each extreme momentarily so they can inhale at each side.

(d) Moving head up and down. Standing in place, the employees must slowly move their heads up and down, inhaling in the up position (when looking toward the ceiling).

(e) Talking. The employee must talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The employee can read from a prepared text such as the Rainbow Passage, count backward from 100, or recite a memorized poem or song.

Rainbow Passage

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a

long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(f) Grimace. The employee must grimace by smiling or frowning (this applies only to QNFT testing; it is not performed for QLFT).

(g) Bending over. Employees must bend at their waist as if they were touching their toes. Jogging in place must be substituted for this exercise in those test environments such as shroud type QNFT or QLFT units that do not permit bending over at the waist.

(h) Normal breathing. Repeat exercise (a) for normal breathing.

(2) Each test exercise must be performed for one minute except for the grimace exercise, which must be performed for 15 seconds.

(3) You must question the employee about the comfort of the respirator after completing the test exercises. If the respirator has become unacceptable, you must try another model of respirator.

(4) Any adjustments during fit testing will void the test, making it necessary to begin again.

NEW SECTION

WAC 296-62-07205 Appendix A-2: Qualitative Fit Testing (QLFT) Protocols for Respiratory Protection—Mandatory. This is a mandatory appendix to chapter 296-62 WAC, Part E, which includes WAC 296-62-07205 through 296-62-07225.

NEW SECTION

WAC 296-62-07206 What are the general qualitative fit testing (QLFT) protocols? (1) You must make sure the person who administers QLFT is able to:

- Prepare test solutions;
- Calibrate equipment and perform tests properly;
- Recognize invalid tests; and
- Make sure that test equipment is in proper working order.

(2) You must make sure that QLFT equipment is kept clean and well maintained so it operates within the parameters for which it was designed.

NEW SECTION

WAC 296-62-07208 Isoamyl acetate protocol (a QLFT).

Note: You must equip particulate respirators with an organic vapor cartridge or canister when using the isoamyl acetate protocol for fit testing.

NEW SECTION

WAC 296-62-07209 What are the odor threshold screening procedures for isoamyl acetate (QLFT)? (1) Why use odor threshold screening?

Odor threshold screening, performed without wearing a respirator, determines if the employee tested can detect the odor of isoamyl acetate at low levels.

(2) How are the test solutions for odor threshold screening prepared?

- (a) Use three 1 liter glass jars with metal lids.
- (b) Use odor-free water (for example, distilled or spring water) at approximately 25°C (77°F) for preparing the solutions.
- (c) Stock solution: Prepare the isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution by:
 - Adding 1 ml of pure IAA to 800 ml of odor-free water in a 1 liter jar;
 - Closing the lid; and
 - Shaking for 30 seconds.

A new stock solution must be prepared at least weekly.

(d) Daily test solution: Prepare the daily odor test solution in a second jar by placing 0.4 ml of the IAA stock solution into 500 ml of odor-free water using a clean dropper or pipette. Shake the solution for 30 seconds and allow it to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. The daily test solution must be used for only one day.

(e) Prepare a test blank in a third jar by adding 500 cc of odor-free water.

(f) Clearly label and identify the daily odor test solution and test blank jar lids (for example, 1 and 2). Place the labels on the lids so that they can be peeled off periodically and switched to maintain the integrity of the test.

(g) Prepare the solutions used in the IAA odor detection test in an area separate from where the test is performed, in order to prevent olfactory (smelling) fatigue in the employee.

(3) What are the odor threshold screening procedures?

(a) Conduct the screening test in a different room from the one used for actual fit testing. The two rooms must be well-ventilated to prevent the odor of IAA from becoming evident in the general room air where testing takes place.

(b) Type the following instructions on a card and place them on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(c) If the employee is unable to correctly identify the jar containing the odor test solution, do not perform the IAA qualitative fit test.

(d) If the employee correctly identifies the jar containing the odor test solution, the employee may proceed to respirator selection and fit testing.

NEW SECTION

WAC 296-62-07210 What are the isoamyl acetate fit testing procedures (QLFT)? (1) The fit test chamber must be a clear 55-gallon drum liner suspended inverted over a 2-foot diameter frame so that the top of the chamber is about 6 inches above the employee's head. If no drum liner is available, construct a similar chamber using plastic sheeting.

(2) Attach a small hook to the inside top center of the chamber.

(3) Equip each respirator used for the fitting and fit testing with organic vapor cartridges or offer protection against organic vapors.

(4) After selecting, putting on, and properly adjusting a respirator, the employee must wear it to the fit testing room.

(5) This room used for fit testing must be separate from the room used for odor threshold screening and respirator selection. It must be well-ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(6) A copy of the test exercises and any prepared text from which the employee is to read must be taped to the inside of the test chamber.

(7) Upon entering the test chamber, give the employee a 6-inch by 5-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half and wetted with 0.75 ml of pure IAA.

(8) Have the employee hang the wet towel on the hook at the top of the chamber. An IAA test swab or ampule may be substituted for the IAA wetted paper towel provided it has been demonstrated that the alternative IAA source will generate an IAA test atmosphere with a concentration equal to that generated by the paper towel method.

(9) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the employee; to explain the fit test, the importance of the employee's cooperation in the fit test, and the purpose for the test exercises; or to demonstrate some of the exercises.

(10) If at any time during the test, the employee detects the banana-like odor of IAA, the test is failed. The employee must quickly exit from the test chamber and leave the test area to avoid olfactory (smelling) fatigue.

(11) If the test is failed, the employee must return to the selection room and remove the respirator. The employee must:

- Repeat the odor sensitivity test;
- Select and put on another respirator;
- Return to the test area; and
- Again begin the fit test procedure described in subsections (1) through (8) of this section.

The process continues until a respirator that fits well has been found.

(12) Should the odor sensitivity test be failed, the employee must wait at least 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(13) If the employee passes the test, the efficiency of the test procedure must be demonstrated by having the employee break the respirator face seal and take a breath before exiting the chamber.

(14) When the employee leaves the chamber, the employee must remove the saturated towel and return it to the person conducting the test, so that there is no significant IAA concentration buildup in the chamber during subsequent tests.

(15) The used towels must be kept in a self-sealing plastic bag to keep the test area from being contaminated.

NEW SECTION

WAC 296-62-07212 Saccharin solution aerosol protocol (QLFT). The entire screening and testing procedure must be explained to the employee prior to conducting the screening test.

NEW SECTION

WAC 296-62-07213 What are the taste threshold screening procedures for saccharin (QLFT)? (1) Why use saccharin taste threshold screening?

The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the employee being tested can detect the taste of saccharin.

(2) What are the saccharin solution aerosol procedures?

(a) During threshold screening as well as during fit testing, the employee must wear an enclosure over the head and shoulders that is approximately 12 inches in diameter by 14 inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts #FT 14 and #FT 15 combined, is adequate.

(b) The test enclosure must have a 3/4-inch (1.9 cm) hole in front of the employee's nose and mouth area to accommodate the nebulizer nozzle.

(c) Have the employee put on the test enclosure.

(d) Throughout the threshold screening test, the employee must breathe through a slightly open mouth with tongue extended.

(e) Instruct the employees to report when they detect a sweet taste.

(f) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, spray the threshold check solution into the enclosure. The nozzle is directed away from the nose and mouth of the person. This nebulizer must be clearly marked to distinguish it from the fit test solution nebulizer.

(g) Saccharin threshold check solution. Prepare the threshold check solution by dissolving 0.83 gram of sodium saccharin USP in 100 ml of warm water. It can be prepared by putting 1 ml of the fit test solution in 100 ml of distilled water.

(h) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(i) Ten squeezes are repeated rapidly and then the employee is asked whether the saccharin can be tasted. If the employee tastes a sweet taste during the ten squeezes, the screening test is completed. The taste threshold is noted as ten regardless of the number of squeezes actually completed.

(j) If the first response is negative, ten more squeezes are repeated rapidly and the employee is again asked whether the

saccharin is tasted. If the employee tastes a sweet taste during the second ten squeezes, the screening test is completed. The taste threshold is noted as twenty regardless of the number of squeezes actually completed.

(k) If the second response is negative, ten more squeezes are repeated rapidly and the employee is again asked whether the saccharin is tasted. If the employee tastes a sweet taste during the third set of ten squeezes, the screening test is completed. The taste threshold is noted as thirty regardless of the number of squeezes actually completed.

(l) Note the number of squeezes required to solicit a taste response.

(m) If the saccharin is not tasted after 30 squeezes (step k), the employee is unable to taste saccharin and must not perform the saccharin fit test.

Note: If employees eat or drink something sweet before the screening test, they may be unable to taste the weak saccharin solution.

(n) If a taste response is elicited, ask the employee to take note of the taste for reference in the fit test.

(o) Correct use of the nebulizer means that approximately 1 ml of liquid is used at a time in the nebulizer body.

(p) The nebulizer must be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

NEW SECTION

WAC 296-62-07214 What is the saccharin solution aerosol fit testing procedure (QLFT)? (1) The employee must not eat, drink (except plain water), smoke, or chew gum for 15 minutes before the test.

(2) The fit test uses the same enclosure described in WAC 296-62-07210.

(3) Have the employee put on the enclosure while wearing the respirator selected in WAC 296-62-07202. The respirator must be properly adjusted and equipped with a particulate filter(s).

(4) Use a second DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent to spray the fit test solution into the enclosure. Clearly mark this nebulizer to distinguish it from the screening test solution nebulizer.

(5) Prepare the fit test solution adding 83 grams of sodium saccharin to 100 ml of warm water.

(6) As before, the employees must breathe through a slightly open mouth with tongue extended, and report if they taste the sweet taste of saccharin.

(7) Insert the nebulizer into the hole in the front of the enclosure and spray an initial concentration of saccharin fit test solution into the enclosure.

(8) Use the same number of squeezes (either 10, 20 or 30 squeezes) based on the number of squeezes required to elicit a taste response as noted during the screening test. A minimum of 10 squeezes is required.

(9) After generating the aerosol, instruct the employee to perform the exercises in WAC 296-62-07202.

(10) Replenish the aerosol concentration every 30 seconds using one half the original number of squeezes used initially (for example, 5, 10 or 15).

(11) Instruct the employees to tell you if at any time during the fit test the taste of saccharin is detected. If the employee does not detect tasting the saccharin, the test is passed.

(12) If the taste of saccharin is detected, the fit is deemed unsatisfactory and the test is failed. A different respirator must be tried and the entire test procedure is repeated (taste threshold screening and fit testing).

(13) Since the nebulizer has a tendency to clog during use, periodically check the nebulizer to make sure that it is not clogged. If the nebulizer is clogged at the end of the test session, the test is invalid.

NEW SECTION

WAC 296-62-07217 Bitrex™ (denatonium benzoate) solution aerosol qualitative fit testing (QLFT) protocol. General information. The Bitrex™ (denatonium benzoate) solution aerosol QLFT protocol uses the published saccharin test protocol because that protocol is widely accepted. Bitrex™ is routinely used as a taste aversion agent in household liquids that children should not be drinking and is endorsed by the American Medical Association, the National Safety Council, and the American Association of Poison Control Centers. The entire screening and testing procedure must be explained to the employee prior to the conduct of the screening test.

NEW SECTION

WAC 296-62-07218 What is the taste threshold screening procedure for Bitrex™ (QLFT)? (1) Why use odor threshold screening?

The Bitrex™ taste threshold screening, performed without wearing a respirator, is intended to determine whether the employee being tested can detect the taste of Bitrex™.

(2) What are the taste threshold screening procedures for Bitrex™ (QLFT)?

(a) During threshold screening as well as during fit testing, employees must wear an enclosure over the head and shoulders that is approximately 12 inches (30.5 cm) in diameter by 14 inches (35.6 cm) tall. The front portion of the enclosure must be clear from the respirator and allow free movement of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts #14 and #15 combined, is adequate.

(b) The test enclosure must have a 3/4-inch (1.9 cm) hole in front of the employee's nose and mouth area to accommodate the nebulizer nozzle.

(c) Have the employee put on the test enclosure.

(d) Throughout the threshold screening test, the employees must breathe through a slightly open mouth with tongue extended.

(e) Instruct the employees to tell you when they detect a bitter taste.

(f) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, spray the threshold check solution into the enclosure. Clearly mark this nebulizer to distinguish it from the fit test solution nebulizer.

(g) Prepare the threshold check solution by adding 13.5 milligrams of Bitrex™ to 100 ml of 5% salt (NaCl) solution in distilled water.

(h) To produce the aerosol, the nebulizer bulb is firmly squeezed so that the bulb collapses completely, and is then released and allowed to fully expand.

(i) Rapidly repeat an initial ten squeezes and then ask the employee if the Bitrex™ can be tasted. If the employee reports tasting the bitter taste during the ten squeezes, the screening test is completed. Note the taste threshold as ten regardless of the number of squeezes actually completed.

(j) If the first response is negative, rapidly repeat ten more squeezes and ask the employee if the Bitrex™ is tasted. If the employee reports tasting the bitter taste during the second ten squeezes, the screening test is completed. Note the taste threshold as twenty regardless of the number of squeezes actually completed.

(k) If the second response is negative, rapidly repeat ten more squeezes and ask the employee if the Bitrex™ is tasted. If the employee reports tasting the bitter taste during the third set of ten squeezes, the screening test is completed. Note the taste threshold as thirty regardless of the number of squeezes actually completed.

(l) Note the number of squeezes required to solicit a taste response.

(m) If the Bitrex™ is not tasted after 30 squeezes (step k), the employee is unable to taste Bitrex™ and must not perform the Bitrex™ fit test.

(n) If a taste response is elicited, ask the employee to take note of the taste for reference in the fit test.

(o) Correct use of the nebulizer means that approximately 1 ml of liquid is used at a time in the nebulizer body.

(p) The nebulizer must be thoroughly rinsed in water, shaken to dry, and refilled at least each morning and afternoon or at least every four hours.

NEW SECTION

WAC 296-62-07219 What is the Bitrex™ solution aerosol fit testing procedure (QLFT)? (1) The employee must not eat, drink (except plain water), smoke, or chew gum for 15 minutes before the test.

(2) The fit test uses the same enclosure as that described in WAC 296-62-07210.

(3) Have the employee put on the enclosure while wearing the respirator selected according to WAC 296-62-07202. The respirator must be properly adjusted and equipped with any type particulate filter(s).

(4) Use a second DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent to spray the fit test solution into the enclosure. Clearly mark this nebulizer to distinguish it from the screening test solution nebulizer.

(5) Prepare the fit test solution by adding 337.5 mg of Bitrex™ to 200 ml of a 5% salt (NaCl) solution in warm water.

(6) As before, the employees must breathe through a slightly open mouth with tongue extended.

(7) Instruct the employees to tell you when they detect the bitter taste of Bitrex™.

(8) Insert the nebulizer into the hole in the front of the enclosure. Spray an initial concentration of the fit test solution into the enclosure. Use the same number of squeezes (either 10, 20 or 30 squeezes) based on the number of squeezes required for the employee to taste the bitter tastes as noted during the screening test.

(9) After generating the aerosol, instruct the employee to perform the exercises in WAC 296-62-07203.

(10) Replenish the aerosol concentration every 30 seconds using one half the number of squeezes used initially (for example, 5, 10 or 15).

(11) Have the employees tell you if at any time during the fit test they taste the bitter taste of Bitrex™. If the employee does not detect tasting the Bitrex™, the test is passed.

(12) If the taste of Bitrex™ is tasted, the fit is deemed unsatisfactory and the test is failed. A different respirator must be tried and the entire test procedures must be repeated (taste threshold screening and fit testing).

NEW SECTION

WAC 296-62-07222 Irritant smoke (stannic chloride) protocol (QLFT). This qualitative fit test uses a person's response to the irritating chemicals released in the "smoke" produced by a stannic chloride ventilation smoke tube to detect leakage into the respirator.

NEW SECTION

WAC 296-62-07223 What are the general requirements and precautions for irritant smoke fit testing (QLFT)? (1) The respirator to be tested must be equipped with high efficiency particulate air (HEPA) or P100 series filter(s).

(2) Use only stannic chloride smoke tubes for this protocol.

(3) Do not use any form of a test enclosure or hood.

(4) The smoke can be irritating to the eyes, lungs, and nasal passages. Take precautions to minimize the employee's exposure to irritant smoke. Sensitivity varies, and certain employees may respond to a greater degree to irritant smoke. Care must be taken when performing the sensitivity screening checks to use only the minimum amount of smoke necessary to elicit a response from the employee. Sensitivity screening checks determine whether the employee can detect the irritant smoke.

(5) The fit test must be performed in an area with adequate ventilation to prevent exposure of the person conducting the fit test or the build-up of irritant smoke in the general atmosphere.

NEW SECTION

WAC 296-62-07224 What is the sensitivity screening check protocol for irritant smoke (QLFT)? (1) Why use irritant smoke sensitivity screening checks?

Employees must be tested to see if they can detect a weak concentration of the irritant smoke.

(2) What are the sensitivity screening check procedures?

(a) Break both ends of a ventilation smoke tube containing stannic chloride, and attach one end of the smoke tube to a low flow air pump set to deliver 200 milliliters per minute, or an aspirator squeeze bulb.

(b) Cover the other end of the smoke tube with a short piece of tubing to prevent potential injury from the jagged end of the smoke tube.

(c) Advise the employees that the smoke can be irritating to the eyes, lungs, and nasal passages and instruct them to keep their eyes closed while the test is performed.

(d) Allow the employee to smell a weak concentration of the irritant smoke before putting on a respirator to become familiar with its irritating properties and determine if they can detect the irritating properties of the smoke.

(e) Carefully direct a small amount of the irritant smoke toward the employees being tested to see if they can detect it.

NEW SECTION

WAC 296-62-07225 What is the irritant smoke fit testing procedure (QLFT)? (1) Have the employee put on the respirator without assistance, and perform the required user seal check(s).

(2) Instruct the employees to keep their eyes closed.

(3) Direct the stream of irritant smoke from the smoke tube toward the face seal area of the employee, using the low flow pump or the squeeze bulb. Begin at least 12 inches from the facepiece and move the smoke stream around the whole perimeter of the mask. Gradually make two more passes around the perimeter of the mask, moving to within six inches of the respirator.

(4) If the person being tested has not had an involuntary response and/or detected the irritant smoke, proceed with the test exercises.

(5) Have the employee perform the exercises required in WAC 296-62-07203 while the respirator seal is being continually challenged by the smoke. Direct the smoke around the perimeter of the respirator at a distance of six inches.

(6) If the employee being fit tested detects the irritant smoke at any time, the test is failed. An employee being retested must repeat the entire sensitivity check and fit test procedures.

(7) Have the employee remove the respirator.

(8) Give employees passing the irritant smoke test without evidence of a response (involuntary cough, irritation) a second sensitivity screening check, with the smoke from the same smoke tube used during the fit test to determine if they still react to the smoke. The fit test is void if an employee does not respond to the smoke.

(9) If the employee responds to the second sensitivity check, then the fit test is passed.

NEW SECTION

WAC 296-62-07230 Appendix A-3: Quantitative Fit Testing (QNFT) Protocols for Respiratory Protection—Mandatory. This is a mandatory appendix to chapter 296-62 WAC, Part E, which includes WAC 296-62-07230 through 296-62-07248.

The following quantitative fit testing procedures are acceptable protocols:

- Nonhazardous test aerosol (such as corn oil, polyethylene glycol 400 [PEG 400], di-2-ethyl hexyl sebacate [DEHS], or sodium chloride) generated in a test chamber, and employing instrumentation to quantify the fit of the respirator;
- Ambient aerosol as the test agent and appropriate instrumentation (condensation nuclei counter) to quantify the respirator fit;
- Controlled negative pressure and appropriate instrumentation to measure the volumetric leak rate of a facepiece to quantify the respirator fit.

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.

NEW SECTION

WAC 296-62-07231 What are the general requirements for quantitative fit testing (QNFT)? (1) You must make sure that persons administering QNFT are able to:

- Calibrate equipment and perform tests properly;
- Recognize invalid tests;
- Calculate fit factors properly; and
- Make sure that test equipment is in proper working order.

(2) You must make sure that QNFT equipment is kept clean, and is maintained and calibrated according to the manufacturer's instructions so as to operate at the parameters for which it was designed.

NEW SECTION

WAC 296-62-07233 Generated aerosol quantitative fit testing protocol (QNFT).

NEW SECTION

WAC 296-62-07234 What equipment is required for generated aerosol fit testing (QNFT)? (1) Instrumentation. Use aerosol generation, dilution, and measurement systems using particulates (corn oil, polyethylene glycol 400 [PEG 400], di-2-ethyl hexyl sebacate [DEHS] or sodium chloride) as test aerosols for quantitative fit testing.

(2) Test chamber.

(a) The test chamber must be large enough to permit all employees to perform freely all required exercises without disturbing the test agent concentration or the measurement apparatus.

(b) The test chamber must be equipped and constructed so that the test agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

(3) When testing air-purifying respirators, replace the normal filter or cartridge element with a high efficiency particulate air (HEPA) or P100 series filter supplied by the same manufacturer.

(4) Select the sampling instrument so that a computer record or strip chart record may be made of the test showing the rise and fall of the test agent concentration with each inspiration and expiration at fit factors of at least 2,000. Inte-

grators or computers that integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

(5) Do not expose the employee to any combination of substitute air-purifying elements, test agent and test agent concentration in excess of an established exposure limit for the test agent at any time during the testing process. Base the employee's exposure on the length of the exposure and the exposure limit duration.

(6) Construct the sampling port and place it on the test specimen respirator so that:

- No leaks occurs around the port (for example, where the respirator is probed);
- A free air flow is allowed into the sampling line at all times; and
- There is no interference with the fit or performance of the respirator.

The in-mask sampling device (probe) must be designed and used so that the air sample is drawn from the breathing zone of the employee, midway between the nose and mouth and with the probe extending into the facepiece cavity at least 1/4-inch.

(7) The person administering the fit test must be able to observe the employee inside the chamber during the test.

(8) The equipment generating the test atmosphere must maintain the concentration of test agent constant to within a 10 percent variation for the duration of the test.

(9) Keep the time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) to a minimum. You must be able to clearly see when an event occurs and when it is recorded on the strip chart or computer.

(10) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port must be:

- Equal in diameter;
- Made of the same material; and
- Equal in length.

(11) The exhaust flow from the test chamber must pass through an appropriate filter (i.e., high efficiency particulate filter) before release.

(12) When sodium chloride aerosol is used, the relative humidity inside the test chamber must not exceed 50 percent.

(13) Take into account the limitations of instrument detection when determining the fit factor.

(14) Test respirators must be maintained in proper working order and be inspected regularly for deficiencies such as cracks or missing valves and gaskets.

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.

NEW SECTION

WAC 296-62-07235 What are the procedures for generated aerosol quantitative fit testing (QNFT)? (1) When performing the initial user seal check using a positive or negative pressure check, crimp the sampling line in order to avoid air pressure leakage during either of these pressure checks.

(2) Using an abbreviated screening QLFT test is optional. You may use a QLFT screening test to quickly identify poor fitting respirators that passed the positive and/or negative pressure test and reduce the amount of QNFT time. Another option is to use the CNC QNFT instrument in the count mode to obtain a quick estimate of fit and eliminate poor fitting respirators before going on to perform a full QNFT.

(3) A reasonably stable test agent concentration must be measured in the test chamber prior to testing. For canopy or shower curtain types of test units, determine the test agent's stability after the employee has entered the test environment.

(4) Immediately after the employee enters the test chamber, measure the test agent concentration inside the respirator to make sure that the peak penetration does not exceed 5 percent for a half-mask or 1 percent for a full facepiece respirator.

(5) Obtain a stable test agent concentration prior to the actual start of testing.

(6) Do not over-tighten respirator restraining straps for testing. Have the employee adjust the straps, without assistance, to give a reasonably comfortable fit typical of normal use.

(7) Do not adjust the respirator once the fit test exercises begin.

(8) Stop the test whenever any single peak penetration exceeds 5 percent for half-masks and 1 percent for full facepiece respirators. The employee must be refitted and retested.

(9) Do not permit the employee to wear a half-mask or quarter facepiece respirator unless:

- A minimum fit factor of 100 is obtained; or
- A full facepiece respirator unless a minimum fit factor of 500 is obtained.

(10) Filters used for quantitative fit testing must be replaced whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media.

NEW SECTION

WAC 296-62-07236 How are fit factors calculated (QNFT)? (1) Determine the fit factor for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration measured inside the respirator for each test exercise except the grimace exercise.

(2) Calculate the average test chamber concentration using one of the following:

- Arithmetic average of the concentration measured before and after each test (i.e., 7 exercises); or
- Arithmetic average of the concentration measured before and after each exercise; or
- True average measured continuously during the respirator sample.

(3) Determine the concentration of the challenge agent inside the respirator by one of the following methods:

(a) Average peak penetration method. Average peak penetration method determines how much test agent penetrates into the respirator using a strip chart recorder, integrator, or computer. Determine the agent penetration averaging

the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers that calculate the actual test agent penetration into the respirator for each exercise also will meet the requirements of the average peak penetration method.

(b) Maximum peak penetration. Maximum peak penetration method determines how much test agent penetrates into the respirator using a strip chart recordings of the test. The highest peak penetration for a given exercise represents the average penetration into the respirator for that exercise.

(c) Area under the peaks. Integrate the area under the individual peak for each exercise except the grimace exercise using computerized integration or other appropriate calculations.

(d) Overall fit factor. Calculate the overall fit factor using individual exercise fit factors.

- Convert the exercise fit factors to the penetration values.
- Determine the average.
- Then convert the average result back to a fit factor.

Use the following equation to calculate overall fit factor:

$$\text{Overall Fit Factor} = \frac{\text{Number of exercises}}{1/ff_1 + 1/ff_2 + 1/ff_3 + 1/ff_4 + 1/ff_5 + 1/ff_6 + 1/ff_7 + 1/ff_8}$$

Where $ff_1, ff_2, ff_3, \text{ etc.}$ are the fit factors for exercises 1, 2, 3, etc.

NEW SECTION

WAC 296-62-07238 Ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol.

NEW SECTION

WAC 296-62-07239 General information about ambient aerosol condensation nuclei counter (CNC) protocol (QNFT). (1) The ambient aerosol condensation nuclei counter (CNC) quantitative fit testing (Portacount™) protocol uses a probe to quantitatively fit tests respirators. A probed respirator has a special sampling device, installed on the respirator, that allows the probe to sample the air from inside the mask.

(2) The probed respirator is only used for quantitative fit tests.

(3) A probed respirator is required for each make, style, model, and size that the employer uses and can be obtained from the respirator manufacturer or distributor.

(4) The CNC instrument manufacturer, TSI Inc., also provides probe attachments (TSI sampling adapters) that permit fit testing in an employee's own respirator.

NEW SECTION

WAC 296-62-07240 What are the general requirements for ambient aerosol condensation nuclei counter (CNC) protocol (QNFT)? (1) A minimum fit factor pass level of at least 100 is necessary for a half-mask respirator.

(2) A minimum fit factor pass level of at least 500 is required for a full facepiece negative pressure respirator.

(3) The entire screening and testing procedure must be explained to the employee prior to the conduct of the screening test.

NEW SECTION

WAC 296-62-07242 What are the Portacount fit test procedures? (1) Check the respirator to make sure the:

- Sampling probe and line are properly attached to the facepiece; and
- Respirator is fitted with a particulate filter capable of preventing significant penetration by the ambient particles used for the fit test (for example, NIOSH 42 CFR 82 series 100, series 99, or series 95 particulate filter) per manufacturer's instruction.

(2) Instruct the employee to put on the respirator for five minutes before the fit test starts. This purges the ambient particles trapped inside the respirator and permits the employee to make certain the respirator is comfortable. Before fit testing, train the employee on how to wear the respirator properly.

(3) Check the following conditions for the adequacy of the respirator fit:

- Chin properly placed;
- Adequate strap tension, not overly tightened;
- Fit across nose bridge;
- Respirator of proper size to span distance from nose to chin;
- Tendency of the respirator to slip;
- Self-observation in a mirror to evaluate fit and respirator position.

(4) Have the employee do a user seal check. If leakage is detected, determine the cause. If leakage is from a poorly fitting facepiece, try another size of the same model respirator, or another model of respirator.

(5) Follow the manufacturer's instructions for operating the Portacount and begin the test.

(6) Have the employee perform the exercises in WAC 296-62-07203.

(7) After the test exercises, ask the employee about comfort of the respirator. If the respirator is unacceptable, try another model of respirator.

NEW SECTION

WAC 296-62-07243 How is the Portacount test instrument used? (1) The Portacount will automatically stop and calculate the overall fit factor for the entire set of exercises. The overall fit factor is what counts. The pass or fail message will indicate whether or not the test was successful. If the test was a pass, the fit test is over.

(2) Since the pass or fail criterion of the Portacount is user programmable, you must make sure that the pass or fail criterion meets the requirements for minimum respirator performance in WAC 296-62-07235.

(3) Keep a record of successful fit tests on file. The record must contain:

- The employee's name;
- Overall fit factor;
- Make, model, style, and size of respirator used; and
- Date tested.

NEW SECTION

WAC 296-62-07245 Controlled negative pressure (CNP) quantitative fit testing protocol (QNFT). The CNP protocol provides an alternative to aerosol fit test methods.

NEW SECTION

WAC 296-62-07246 How does controlled negative pressure (CNP) fit testing work (QNFT)? (1) The CNP fit test method technology is based on exhausting air from a temporarily sealed respirator facepiece to generate and then maintain a constant negative pressure inside the facepiece. The rate of air exhaust is controlled so that a constant negative pressure is maintained in the respirator during the fit test. The level of pressure is selected to replicate the mean inspiratory pressure that causes leakage into the respirator under normal use conditions. With pressure held constant, air flow out of the respirator is equal to air flow into the respirator. Therefore, measurement of the exhaust stream that is required to hold the pressure in the temporarily sealed respirator constant yields a direct measure of leakage air flow into the respirator.

(2) The CNP fit test method measures leak rates through the facepiece as a method for determining the facepiece fit for negative pressure respirators.

(3) Manufacturer attachments. The CNP instrument manufacturer Dynatech Nevada also provides attachments (sampling manifolds) that replace the filter cartridges to permit fit testing in an employee's own respirator.

(4) Performing the test. To perform the test, the employees close their mouths and hold their breath, after which an air pump removes air from the respirator facepiece at a preselected constant pressure.

(5) Facepiece fit. The facepiece fit is expressed as the leak rate through the facepiece, expressed as milliliters per minute.

(6) The quality and validity of the CNP fit tests are determined by the degree to which the in-mask pressure tracks the test pressure during the system measurement time of approximately five seconds. Instantaneous feedback in the form of a real-time pressure trace of the in-mask pressure is provided and used to determine test validity and quality.

NEW SECTION

WAC 296-62-07247 What are the controlled negative pressure (CNP) fit testing requirements and procedures (QNFT)? (1) Fit factor.

- A minimum fit factor pass level of 100 is necessary for a half-mask respirator.
- A minimum fit factor of at least 500 is required for a full facepiece respirator.

(2) The entire screening and testing procedure must be explained to the employee prior to the conduct of the screening test.

(3) The instrument must have a nonadjustable test pressure of 15.0 mm water pressure.

(4) When performing fit tests, set the CNP system defaults at:

- 15 mm of water (-0.58 inches of water) test pressure and
- 53.8 liters per minute for the modeled inspiratory flow rate.

Note: CNP systems have built-in capability to conduct fit testing that is specific to unique work rate, mask, and gender situations that might apply in a specific workplace. Use of system default values, which were selected to represent respirator wear with medium cartridge resistance at a low-moderate work rate, will allow inter-test comparison of the respirator fit.

(5) The person conducting the CNP fit testing must be thoroughly trained to perform the test.

(6) Replace the respirator filter or cartridge with the CNP test manifold. Temporarily remove or prop open the inhalation valve downstream from the manifold.

(7) Train employees to hold their breath for at least 20 seconds.

(8) Have the employee put on the test respirator without any assistance from the individual who conducts the CNP fit test.

(9) The QNFT protocol must be followed according to WAC 296-62-07231 with an exception for the CNP test.

(10) The test instrument must have an effective audio warning device when the employee fails to hold his or her breath during the test.

(11) Stop the test whenever the employees fail to hold their breath. The employees must be refitted and retested.

(12) A record of the test must be kept on file, assuming the fit test was successful. The record must contain the employee's name; overall fit factor; make, model, style and size of respirator used; and date tested.

NEW SECTION

WAC 296-62-07248 What test exercises are required for controlled negative pressure (CNP) fit testing (QNFT)? (1) Normal breathing. In a normal standing position, without talking, the employees must breathe normally for 1 minute. After the normal breathing exercise, the employees must hold their head straight ahead and hold their breath for 10 seconds during the test measurement.

(2) Deep breathing. In a normal standing position, the employees must breathe slowly and deeply for 1 minute, being careful not to hyperventilate. After the deep breathing exercise, the employees must hold their head straight ahead and hold their breath for 10 seconds during test measurement.

(3) Turning head side to side.

- Standing in place, the employees must slowly turn their heads from side to side between the extreme positions on each side for 1 minute, holding their heads each extreme momentarily so they can inhale at each side.

- After the turning head side to side exercise, have the employees hold their heads full left and hold their breath for 10 seconds during test measurement.

- Next, have the employees need to hold their head full right and hold their breath for 10 seconds during test measurement.

(4) Moving head up and down.

- Standing in place, the employees must slowly move their heads up and down for 1 minute.
- Instruct the employee to inhale in the up position (when looking toward the ceiling).
- After the moving head up and down exercise, the employees must hold their heads full up and hold their breath for 10 seconds during test measurement.
- Next, the employees must hold their heads full down and hold their breath for 10 seconds during test measurement.

(5) Talking. The employee must talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The employee can read from a prepared text such as the Rainbow Passage, count backward from 100, or recite a memorized poem or song for 1 minute. After the talking exercise, the employee must hold his or her head straight ahead and hold his or her breath for 10 seconds during the test measurement.

(6) Grimace. The employee must grimace by smiling or frowning for 15 seconds.

(7) Bending over. Employees must bend at the waist as if they were touching their toes for 1 minute. Jogging in place must be substituted for this exercise in those test environments such as shroud-type QNFT units that prohibit bending at the waist. After the bending over exercise, the employees must hold their head straight ahead and hold their breath for 10 seconds during the test measurement.

(8) Normal Breathing.

- The employee must remove and put on the respirator again within a one-minute period.
- Then, in a normal standing position, without talking, the employee must breathe normally for 1 minute.
- After the normal breathing exercise, the employee must hold his or her head straight ahead and hold his or her breath for 10 seconds during the test measurement.

(9) After the test exercises, question the employee about the comfort of the respirator. If the respirator has become unacceptable, another model of a respirator must be tried.

NEW SECTION

WAC 296-62-07251 Appendix B-1: User Seal Check Procedures—Mandatory. This is a mandatory appendix to chapter 296-62 WAC, Part E.

The individual who uses a tight-fitting respirator must perform a user seal check to make sure that the respirator makes an adequate seal each time it is put on. Either the positive and negative pressure checks listed in this appendix, or the respirator manufacturer's recommended user seal check method must be used. User seal checks are not substitutes for qualitative or quantitative fit tests.

(1) Facepiece positive and/or negative pressure checks.

(a) Positive pressure check. Close off the exhalation valve and exhale gently into the facepiece. For most respirators this method of leak testing requires the wearer to first remove the exhalation valve cover before closing off the exhalation valve. The face fit is considered adequate if a slight positive pressure (inflation) can be built up inside the facepiece without any evidence of outward leakage of air at

the seal. Carefully replace the exhalation valve cover, if it was removed, after the test.

(b) Negative pressure check. Close off the inlet opening of the canister or cartridge(s) by covering with the palm of the hand(s) or by replacing the filter seal(s), inhale gently so that the facepiece collapses slightly, and hold the breath for ten seconds. If the design of the inlet opening of the cartridges cannot be effectively covered with the palm of the hand, cover the inlet opening of the cartridge with a thin latex or nitrile glove. If the facepiece remains in its slightly collapsed condition and no inward leakage of air is detected, the tightness of the respirator is considered satisfactory.

(2) Manufacturer's recommended user seal check procedures. The respirator manufacturer's recommended procedures for performing a user seal check may be used instead of the positive and/or negative pressure check procedures describe above provided that you demonstrate that the manufacturer's procedures are equally effective.

NEW SECTION

WAC 296-62-07253 Appendix B-2: Respirator Cleaning Procedures—Mandatory. This is a mandatory appendix to chapter 296-62 WAC, Part E.

(1) These procedures are provided for you to use when cleaning respirators. They are general in nature, and as an alternative you may use the cleaning recommendations provided by the manufacturer of the respirators used by your employees, if the manufacturer's procedures are as effective as those listed here in Appendix B-2. Procedures are as effective when they meet the requirements in Appendix B-2, i.e., that must make sure that the respirator is properly cleaned and disinfected so that the respirator is not damaged and does no harm to the user.

(2) Procedures for cleaning respirators.

(a) Remove filters, cartridges, or canisters. Remove speaking diaphragms, demand and pressure-demand valve assemblies, hoses, or any components recommended by the manufacturer. Discard or repair any defective parts.

(b) Wash components in warm (43°C [110°F] maximum) water with a mild detergent or with a cleaner recommended by the manufacturer. A stiff bristle (not wire) brush may be used to facilitate the removal of dirt.

(c) Rinse components thoroughly in clean, warm (43°C [110°F] maximum), preferably running water. Drain.

(d) When the cleaner used does not contain a disinfecting agent, respirator components should be immersed for two minutes in one of the following:

(i) Hypochlorite solution (50 ppm of chlorine) made by adding approximately one milliliter of laundry bleach to one liter of water at 43°C (110°F); or,

(ii) Aqueous solution of iodine (50 ppm iodine) made by adding approximately 0.8 milliliters of tincture of iodine (6-8 grams ammonium and/or potassium iodide/100 cc of 45% alcohol) to one liter of water at 43°C (110°F); or,

(iii) Other commercially available cleansers of equivalent disinfectant quality when used as directed, if their use is recommended or approved by the respirator manufacturer.

(e) Rinse components thoroughly in clean, warm (43°C [110°F] maximum), preferably running water. Drain. The importance of thorough rinsing cannot be overemphasized. Detergents or disinfectants that dry on facepieces may result in dermatitis. In addition, some disinfectants may cause deterioration of rubber or corrosion of metal parts if not completely removed.

(f) Components should be hand-dried with a clean lint-free cloth or air-dried.

(g) Reassemble facepiece, replacing filters, cartridges, and canisters where necessary.

(h) Test the respirator to make sure that all components work properly.

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.

NEW SECTION

WAC 296-62-07255 Appendix C: WISHA Respirator Medical Evaluation Questionnaire—Mandatory. This is a mandatory appendix to chapter 296-62 WAC, Part E.

To the employer:

You must not review employee questionnaires.

To the employer's PLHCP:

Answers to questions in Section 1 and question 9 in Section 2 of Part A do not require further medical evaluations.

To the employee:

Your employer must allow you to answer this questionnaire during normal working hours, or at a time and place that is convenient to you. To maintain your confidentiality, your employer or supervisor must not look at or review your answers, and your employer must tell you how to deliver or send this questionnaire to the health care professional who will review it.

Part A. Section 1. Mandatory

The following information must be provided by every employee who has been selected to use any type of respirator (please print).

- 1. Today's date:
2. Your name:
3. Your age (to nearest year):
4. Sex (circle one): Male/Female
5. Your height: ft. in.
6. Your weight: lbs.
7. Your job title:
8. A phone number where you can be reached by the health care professional who reviews this questionnaire (include the Area Code):
9. The best time to phone you at this number:
10. Has your employer told you how to contact the health care professional who will review this questionnaire (circle one): Yes/No
11. Check the type of respirator you will use (you can check more than one category):

- a. N, R, or P disposable respirator (dust mask style, half facepiece respirators without cartridges).
b. Check all that apply.
[] Half mask [] Full facepiece [] Helmet hood [] Escape mask
[] Nonpowered cartridge or canister
[] Powered air-purifying cartridge respirator (PAPR)
[] Supplied-air or Air-line
[] Disposable filtering facepiece (for example N-95)
Self contained breathing apparatus [] Demand or [] Pressure demand (SCBA):
Other: _____

12. Have you worn a respirator (circle one): Yes/No
If "yes," what type(s): _____

Part A. Section 2. Mandatory

Questions 1 through 9 below must be answered by every employee who has been selected to use any type of respirator (please circle "yes" or "no").

- 1. Do you currently smoke tobacco, or have you smoked tobacco in the last month: Yes/No
2. Have you ever had any of the following conditions?
a. Seizures (fits): Yes/No
b. Diabetes (sugar disease): Yes/No
c. Allergic reactions that interfere with your breathing: Yes/No
d. Claustrophobia (fear of closed-in places): Yes/No
e. Trouble smelling odors: Yes/No
3. Have you ever had any of the following pulmonary or lung problems?
a. Asbestosis: Yes/No
b. Asthma: Yes/No
c. Chronic bronchitis: Yes/No
d. Emphysema: Yes/No
e. Pneumonia: Yes/No
f. Tuberculosis: Yes/No
g. Silicosis: Yes/No
h. Pneumothorax (collapsed lung): Yes/No
i. Lung cancer: Yes/No
j. Broken ribs: Yes/No
k. Any chest injuries or surgeries: Yes/No
l. Any other lung problem that you've been told about: Yes/No
4. Do you currently have any of the following symptoms of pulmonary or lung illness?
a. Shortness of breath: Yes/No
b. Shortness of breath when walking fast on level ground or walking up a slight hill or incline: Yes/No
c. Shortness of breath when walking with other people at an ordinary pace on level ground: Yes/No
d. Have to stop for breath when walking at your own pace on level ground: Yes/No

PERMANENT

- e. Shortness of breath when washing or dressing yourself: Yes/No
- f. Shortness of breath that interferes with your job: Yes/No
- g. Coughing that produces phlegm (thick sputum): Yes/No
- h. Coughing that wakes you early in the morning: Yes/No
- i. Coughing that occurs mostly when you are lying down: Yes/No
- j. Coughing up blood in the last month: Yes/No
- k. Wheezing: Yes/No
- l. Wheezing that interferes with your job: Yes/No
- m. Chest pain when you breathe deeply: Yes/No
- n. Any other symptoms that you think may be related to lung problems: Yes/No
5. Have you *ever had* any of the following cardiovascular or heart problems?
- a. Heart attack: Yes/No
- b. Stroke: Yes/No
- c. Angina: Yes/No
- d. Heart failure: Yes/No
- e. Swelling in your legs or feet (not caused by walking): Yes/No
- f. Heart arrhythmia (heart beating irregularly): Yes/No
- g. High blood pressure: Yes/No
- h. Any other heart problem that you've been told about: Yes/No
6. Have you *ever had* any of the following cardiovascular or heart symptoms?
- a. Frequent pain or tightness in your chest: Yes/No
- b. Pain or tightness in your chest during physical activity: Yes/No
- c. Pain or tightness in your chest that interferes with your job: Yes/No
- d. In the past two years, have you noticed your heart skipping or missing a beat: Yes/No
- e. Heartburn or indigestion that is not related to eating: Yes/No
- f. Any other symptoms that you think may be related to heart or circulation problems: Yes/No
7. Do you *currently* take medication for any of the following problems?
- a. Breathing or lung problems: Yes/No
- b. Heart trouble: Yes/No
- c. Blood pressure: Yes/No
- d. Seizures (fits): Yes/No
8. If you've used a respirator, have you *ever had* any of the following problems? (If you've never used a respirator, check the following space and go to question 9:)
- a. Eye irritation: Yes/No
- b. Skin allergies or rashes: Yes/No
- c. Anxiety: Yes/No
- d. General weakness or fatigue: Yes/No
- e. Any other problem that interferes with your use of a respirator: Yes/No
9. Would you like to talk to the health care professional who will review this questionnaire about your answers to this questionnaire: Yes/No

Part A. Section 3. Mandatory for SCBA or Full Facepiece Respirator Users

Questions 10 to 15 below must be answered by every employee who has been selected to use either a full-facepiece respirator or a self-contained breathing apparatus (SCBA). For employees who have been selected to use other types of respirators, answering these questions is voluntary.

10. Have you *ever lost* vision in either eye (temporarily or permanently): Yes/No
11. Do you *currently* have any of the following vision problems?
- a. Wear contact lenses: Yes/No
- b. Wear glasses: Yes/No
- c. Color blind: Yes/No
- d. Any other eye or vision problem: Yes/No
12. Have you *ever had* an injury to your ears, including a broken ear drum: Yes/No
13. Do you *currently* have any of the following hearing problems?
- a. Difficulty hearing: Yes/No
- b. Wear a hearing aid: Yes/No
- c. Any other hearing or ear problem: Yes/No
14. Have you *ever had* a back injury: Yes/No
15. Do you *currently* have any of the following musculoskeletal problems?
- a. Weakness in any of your arms, hands, legs, or feet: Yes/No
- b. Back pain: Yes/No
- c. Difficulty fully moving your arms and legs: Yes/No
- d. Pain or stiffness when you lean forward or backward at the waist: Yes/No
- e. Difficulty fully moving your head up or down: Yes/No
- f. Difficulty fully moving your head side to side: Yes/No
- g. Difficulty bending at your knees: Yes/No
- h. Difficulty squatting to the ground: Yes/No
- i. Climbing a flight of stairs or a ladder carrying more than 25 lbs: Yes/No
- j. Any other muscle or skeletal problem that interferes with using a respirator: Yes/No

Part B: PLHCP Discretionary Questions

If appropriate to specific job requirements or conditions, additional questions - including but not limited to the following - may be added at the discretion of the health care professional to clarify an employee's ability to use a respirator.

1. In your present job, are you working at high altitudes (over 5,000 feet) or in a place that has lower than normal amounts of oxygen: Yes/No

If "yes," do you have feelings of dizziness, shortness of breath, pounding in your chest, or other symptoms when you're working under these conditions: Yes/No

2. At work or at home, have you ever been exposed to hazardous solvents, hazardous airborne chemicals (for example, gases, fumes, or dust), or have you come into skin contact with hazardous chemicals: Yes/No

If "yes," name the chemicals if you know them: _____

3. Have you ever worked with any of the materials, or under any of the conditions, listed below:

- a. Asbestos: Yes/No
- b. Silica (for example, in sandblasting): Yes/No
- c. Tungsten/cobalt (for example, grinding or welding this material): Yes/No
- d. Beryllium: Yes/No
- e. Aluminum: Yes/No
- f. Coal (for example, mining): Yes/No
- g. Iron: Yes/No
- h. Tin: Yes/No
- i. Dusty environments: Yes/No
- j. Any other hazardous exposures: Yes/No

If "yes," describe these exposures: _____

4. List any second jobs or side businesses you have:

5. List your previous occupations: _____

6. List your current and previous hobbies: _____

7. Have you been in the military services? Yes/No

If "yes," were you exposed to biological or chemical agents (either in training or combat): Yes/No

8. Have you ever worked on a HAZMAT team? Yes/No

9. Other than medications for breathing and lung problems, heart trouble, blood pressure, and seizures mentioned earlier in this questionnaire, are you taking any other medications for any reason (including over-the-counter medications): Yes/No

If "yes," name the medications if you know them: _____

10. Will you be using any of the following items with your respirator(s)?

- a. HEPA Filters: Yes/No
- b. Canisters (for example, gas masks): Yes/No
- c. Cartridges: Yes/No

11. How often are you expected to use the respirator(s) (circle "yes" or "no" for all answers that apply to you):

- a. Escape only (no rescue): Yes/No
- b. Emergency rescue only: Yes/No
- c. Less than 5 hours per week: Yes/No
- d. Less than 2 hours per day: Yes/No
- e. 2 to 4 hours per day: Yes/No
- f. Over 4 hours per day: Yes/No

12. During the period you are using the respirator(s), is your work effort:

a. Light (less than 200 kcal per hour): Yes/No

If "yes," how long does this period last during the average shift: _____ hrs. _____ mins.

Examples of a light work effort are *sitting* while writing, typing, drafting, or performing light assembly work; or *standing* while operating a drill press (1-3 lbs.) or controlling machines.

b. Moderate (200 to 350 kcal per hour): Yes/No

If "yes," how long does this period last during the average shift: _____ hrs. _____ mins.

Examples of moderate work effort are *sitting* while nailing or filing; *driving* a truck or bus in urban traffic; *standing* while drilling, nailing, performing assembly work, or transferring a moderate load (about 35 lbs.) at trunk level; *walking* on a level surface about 2 mph or down a 5-degree grade about 3 mph; or *pushing* a wheelbarrow with a heavy load (about 100 lbs.) on a level surface.

c. Heavy (above 350 kcal per hour): Yes/No

If "yes," how long does this period last during the average shift: _____ hrs. _____ mins.

Examples of heavy work are *lifting* a heavy load (about 50 lbs.) from the floor to your waist or shoulder; working on a loading dock; *shoveling*; *standing* while bricklaying or chipping castings; *walking* up an 8-degree grade about 2 mph; climbing stairs with a heavy load (about 50 lbs.).

13. Will you be wearing protective clothing and/or equipment (other than the respirator) when you're using your respirator: Yes/No

If "yes," describe this protective clothing and/or equipment:

14. Will you be working under hot conditions (temperature exceeding 77°F): Yes/No

15. Will you be working under humid conditions: Yes/No

16. Describe the work you'll be doing while you're using your respirator(s):

17. Describe any special or hazardous conditions you might encounter when you're using your respirator(s) (for example, confined spaces, life-threatening gases):

18. Provide the following information, if you know it, for each toxic substance that you'll be exposed to when you're using your respirator(s):

Name of the first toxic substance: _____
Estimated maximum exposure level per shift: _____
Duration of exposure per shift _____

PERMANENT

Name of the second toxic substance: _____
Estimated maximum exposure level per shift: _____
Duration of exposure per shift: _____

Name of the third toxic substance: _____
Estimated maximum exposure level per shift: _____
Duration of exposure per shift: _____

The name of any other toxic substances that you'll be exposed to while using your respirator:

19. Describe any special responsibilities you'll have while using your respirator(s) that may affect the safety and well-being of others (for example, rescue, security): _____

NEW SECTION

WAC 296-62-07257 Appendix D: Health Care Provider Respirator Recommendation Form—Non-mandatory This is a non-mandatory appendix to chapter 296-62 WAC, Part E.

This form is for the use of PLHCPs who are providing recommendations to employers regarding employee clearance for respirator use. Completion of this form satisfies the requirement for PLHCP's recommendations as detailed in WAC 296-62-07155. The following information is purposely limited in order to maintain employee confidentiality.

<u>Employee Name:</u>	<u>Health Care Professional Name:</u>
<u>Employer Name:</u>	
Address:	Address:
Phone:	Phone:

Type of Respirator This Individual is Medically Cleared to Use
Check all that apply.

- Half-mask Full facepiece Helmet Hood Escape mask
- Non-powered cartridge or canister Powered air-purifying cartridge respirator (PAPR)
- Supplied-air or Air-line Disposable filtering facepiece (for example N-95)

Self contained breathing apparatus (SCBA):

- Demand or Pressure demand
- Other: _____

Respirator Clearance

Under the conditions described in the supplemental information provided by the employer, this individual: (please check one)

_____ is medically cleared for use of the respirator(s) without limitations.
_____ is medically cleared for use of the respirator(s) with the following limitations:

_____ is not medically cleared for use of a respirator.

Workload Limitations

- unrestricted heavy medium light

Follow-up Medical Evaluations

This individual will/will not (circle one) require additional follow-up medical evaluation(s). The recommended schedule for follow-up medical evaluations, if necessary, is as follows:

Employee Notification

I certify that the above named individual for whom this respirator clearance form is provided has received a copy of this recommendation.

Signature _____ Date _____
(Physician or other Licensed Health Care Professional)

NEW SECTION

WAC 296-62-07260 Appendix E: Additional Information Regarding Respirator Selection—Non-Mandatory. This is a non-mandatory appendix to chapter 296-62 WAC, Part E, which includes WAC 296-62-07260 through 296-62-07295.

NEW SECTION

WAC 296-62-07261 How do you classify respiratory hazards? Respiratory hazards are classified into the following categories:

- Oxygen deficient;
- Physical properties (gas, vapor, biological aerosols, and particulate contaminants, which include dust, fog, fume, mist, smoke, and spray);
- Physiological effects on the body (for example, asphyxiant, carcinogenic, or toxic);
- Concentration of toxic material or radioactivity level;
- Established exposure limits; and
- Established immediately dangerous to life or health concentrations.

When selecting a respirator, you must determine which of the categories listed above apply to your workplace.

NEW SECTION

WAC 296-62-07263 What are oxygen deficient respiratory hazards? (1) The oxygen content of normal air at sea-level conditions is 20.9%.

(2) Minimum legal requirements: An oxygen deficient atmosphere is one that has 19.5% or less oxygen by volume for respirable air at sea-level conditions.

(3) They commonly occur in confined or unventilated cellars, wells, mines, ship holds, tanks, burning buildings, and enclosures containing inert atmospheres.

NEW SECTION

WAC 296-62-07265 What needs to be considered when combinations of contaminants occur in the workplace? Combinations of contaminants (gas, vapor and particulate) may occur simultaneously in the atmosphere. Contaminants may be entirely different substances (dusts and gases from blasting) or the particulate and vapor forms of the same substance. Synergistic effects (joint action of two or more agents that results in an effect that is greater than the sum of their individual effects) may occur. Such effects may require extraordinary protective measures.

PERMANENT

NEW SECTION

WAC 296-62-07267 What are the two major types of respirators? Respirators are classified into the following categories:

(1) Air-purifying respirators. The following types of air-purifying respirators are available:

- Particulate-removing;
- Gas- and vapor-removing; and
- Combination particulate- and either gas- or vapor-removing.

(2) Atmosphere-supplying respirators. The following types of atmosphere-supplying respirators are available:

- Supplied-air or airline;
- Combination supplied-air and air-purifying;
- Combination supplied-air with auxiliary self-contained air supply; and
- Self-contained breathing apparatus (SCBA).

AIR-PURIFYING RESPIRATORS (APRS)NEW SECTION

WAC 296-62-07269 What are air-purifying respirators (APRs)? (1) Air-purifying respirators remove particles, vapors, gases, or a combination of these contaminants by passing contaminated air through a filter, cartridge, or canister. The breathing action of the wearer operates the nonpowered type of respirator. The powered type contains a blower (usually carried by the wearer), that pulls contaminated air through air-purifying media and then blows the purified air to the respirator user. The nonpowered type is equipped with a tight-fitting facepiece or without one (for example, mouthpiece/nose clamp types). The powered type is equipped with a tight-fitting facepiece, helmet, hood, or suit.

(2) Air-purifying respirators are classified into the following categories:

- Particulate-removing respirators;
- Vapor- and gas-removing respirators; and
- Combinations of the above.

(3) Air-purifying respirators (APRs) are available as nonpowered, tight-fitting respirators, powered-air-purifying respirators (PAPRs) and mouthpiece respirators.

(4) A variety of tight-fitting APR styles are available ranging from half facepiece to full facepiece masks, including PAPRs. PAPRs are also available in loose-fitting styles, featuring a hood or helmet instead of a tight-fitting facepiece. Gas masks are only available in the full-facepiece style and some are classified as PAPRs.

(5) Mouthpiece respirators do not provide for a mask-to-face seal and are designed to be worn with a mouth bit and nose clamp.

(6) The most commonly used type of APR is a nonpowered, tight-fitting half-mask. The facepieces available for this type of respirator may be composed of silicone or other elastomeric materials if a cartridge type respirator is needed. Noncartridge types are called filtering facepiece respirators and are primarily composed of fibrous materials.

(7) Disposable options are available for either elastomeric or filtering facepiece type half-masks. Some dispos-

ables may last for only a brief period of use while others are designed for prolonged use (designed to have nonreplaceable parts), sometimes referred to as low maintenance respirators. Disposables are generally less expensive than nondisposable type half-masks.

(8) In addition, special cartridge-type half facepiece models may also be available with features designed for specific work operations. For example, low profile type half-masks are available to be worn under welding hoods.

NEW SECTION

WAC 296-62-07271 What are the general limitations for air-purifying respirators (APRs)? (1) Air-purifying respirators do not protect against oxygen-deficient atmospheres nor against skin irritation by, or absorption through the skin of, airborne contaminants.

(2) The maximum contaminant concentration against which an air-purifying respirator will protect is determined by the design and capacity of the cartridge, canister, or filter and the facepiece-to-face seal on the user. For gases and vapors, the maximum concentration for which the air-purifying element is designed is specified by the manufacturer or is listed on labels of cartridges and canisters.

(3) Nonpowered air-purifying respirators may not provide the assigned level of protection specified unless the facepiece is carefully fitted to the wearer's face to prevent leakage. The time period over which protection is provided is dependent on:

- Canister, cartridge, or filter capacity;
- Concentration of contaminant(s);
- Humidity levels in the ambient atmosphere; and
- The wearer's respiratory rate.

(4) The proper type of canister, cartridge, or filter must be selected for the particular atmosphere and conditions. Nonpowered air-purifying respirators may cause discomfort due to a noticeable resistance to inhalation. This problem is minimized with use of powered respirators. Respirator facepieces present special problems to individuals required to wear prescription lenses (spectacle kits are available from some manufacturers). These devices do have the advantage of being small, light, and simple in operation.

NEW SECTION

WAC 296-62-07273 What are particulate-removing respirators? Particulate-removing respirators are equipped with filter(s) to remove a single type of particulate matter (for example, dust) or a combination of two or more types of particulate matter (for example, dust and fume) from air. The filter may be a replaceable part or a permanent part of the respirator. It may also be a single-use or reusable type of filter.

(1) General limitations. Particulate-removing respirators provide protection against nonvolatile particles only. They do not protect against gases and vapors. They are not for use in atmospheres immediately dangerous to life or health (see WAC 296-62-07132).

(2) Full facepiece particulate respirators provide protection against eye irritation in addition to respiratory protection.

(3) Mouthpiece respirators must be used only for escape. Mouth breathing prevents detection of contaminant by odor. The nose clamp must be securely in place to prevent nasal breathing. A small, lightweight device that can be donned quickly.

(4) In environments with oil aerosols, you must not use "N" type particulate respirators.

(5) Combination particulate- and vapor- and gas-removing respirators are subject to the advantages and disadvantages of the component sections of the combination respirator as described above.

NEW SECTION

WAC 296-62-07275 What are vapor- and gas-removing respirators? Vapor- and gas-removing respirators are equipped with cartridge(s) or canister(s) to remove a single vapor or gas (for example, chlorine gas); a single class of vapors or gases (for example, organic vapors); or a combination of two or more classes or gases (for example, organic vapors, and acidic gases) from air.

(1) General limitations. Vapor and gas removing respirators do not provide protection against particulate contaminants. A rise in canister or cartridge temperature indicates that a gas or vapor is being removed from the inspired air. An uncomfortably high temperature indicates a high concentration of gas or vapor and requires immediate return to fresh air. Use must be avoided unless an ESLI or a change out schedule is available. They are not for use in atmospheres immediately dangerous to life or health.

(2) Full facepiece vapor- and gas-removing respirators provide protection against eye irritation in addition to respiratory protection.

(3) Mouthpiece respirators must be used only for escape. Mouth breathing prevents detection of contaminant by odor. The nose clamp must be securely in place to prevent nasal breathing. These are small lightweight devices that can be put on quickly.

NEW SECTION

WAC 296-62-07277 What are combination particulate- and vapor-and gas-removing respirators? Combination particulate- and vapor-and gas-removing respirators are equipped with cartridge(s) or canister(s) to remove particulate matter, vapors and gases from air. The filter may be a permanent part or a replaceable part of a cartridge or canister.

NEW SECTION

WAC 296-62-07279 What types of filters, canisters and cartridges are available for air-purifying respirators (APRs)? (1) Filters. Filters currently available for use against particulate contaminants are appropriate for solid particulates such as dusts or fumes, as well as being appropriate for nonvolatile, liquid particles such as sprays, mists and fogs.

(a) Cartridges or canister filters are available in addition to separate filter pads that can be added to some manufacturers' cartridges. They also may be formed into a filtering face-

piece mask or as a wafer-like attachment. Regardless of how they are constructed, particulate filters are classified by physical limitations as "N," "R," and "P". Within each class, manufacturers may supply three different types of filters that reflect the efficiency rating (see below).

Class	Efficiency Rating		
	95	99	100
N	95	99	100
R	95	99	100
P	95	99	100

(i) Filters that are classified as N-100, R-100, and P-100 are also referred to as HEPA filters. New particulate filters are more effective than older types of filters referred to as:

- Dust;
- Dust/mist; or
- Dust/fume/mist filters.

These older types of filters have highly variable efficiencies. They are no longer being manufactured and sold.

(ii) Any filter designated with "N" is appropriate for use in environments that do not contain oil. If you have oil aerosols, "R" or "P" designated filters are appropriate for use.

(b) Combination filters. Some vapor and gas cartridges and canisters have an added filter component for particulates. These are available as combination cartridges and will have a separate certification number listed on the respirator, packaging or in the operations manual for each type of contaminant.

(2) Canisters. Gas mask canisters are available for specific contaminants including ammonia, carbon monoxide, chlorine, phosphine and sulfur dioxide. Canisters are also available for general categories of chemical contaminants including acid gases, organic vapors, and pesticides. Canisters attachment options available are chin-, belt- or chest-mounted and a variety of canister sizes are available.

(3) Cartridges (nongas mask canisters). Cartridges are available for protection against specific contaminants and combinations of specific contaminants, including ammonia, chlorine, chlorine dioxide, formaldehyde, hydrogen chloride, hydrogen fluoride, hydrogen sulfide, mercury, methylamine, sulfur dioxide and vinyl chloride. Cartridges are also available for protection against general categories of chemical contaminants, including organic vapors, paints/lacquers/enamels and pesticides. Cartridge attachment options available include face-, chin-, belt- or helmet-mounted.

ATMOSPHERE-SUPPLYING RESPIRATORS

NEW SECTION

WAC 296-62-07281 How do atmosphere-supplying respirators work? (1) Atmosphere-supplying respirators supply a respirable atmosphere to the wearer.

(2) The two types of atmosphere-supplying respirators are:

- Self-contained breathing apparatus (SCBA); and
- Supplied-air respirators.

PERMANENT

NEW SECTION

WAC 296-62-07283 What are the capabilities and limitations of atmosphere-supplying respirators? See WAC 296-62-07180 for the requirements on breathing gases used with atmosphere-supplying respirators.

(1) Capabilities. Atmosphere-supplying respirators provide protection against oxygen deficient and toxic atmospheres. The breathing atmosphere is independent of contaminated atmospheric conditions.

(2) General limitations. Except for some supplied-air suits, no protection is provided against skin irritation by materials such as ammonia and hydrogen chloride, or against absorption of materials such as hydrogen cyanide or organophosphate pesticides through the skin. Facepieces present special problems to individuals required to wear prescription lenses. Use of atmosphere-supplying respirators in atmospheres immediately dangerous to life or health is limited to specific devices under specified conditions (see WAC 296-62-07132).

NEW SECTION

WAC 296-62-07285 What is a supplied-air respirator? A supplied-air (or air-line) respirator provides respirable air through a small-diameter hose from a compressor or compressed-air cylinder(s). The hose is attached to the wearer by a belt or other suitable means and can be detached rapidly in an emergency. A flow-control valve or orifice is provided to govern the rate of air flow to the wearer. Exhaled air passes to the ambient atmosphere through a valve(s) or opening(s) in the enclosure (facepiece, helmet, hood, or suit). Up to 300 feet (91 meters) of hose length is permissible. Hose supplied by the manufacturer and recommended operating pressures and hose lengths must be used.

Supplied-air respirators are classified in the following ways:

(1) Continuous-flow respirators, which are equipped with a facepiece, hood, helmet, or suit. At least 115 liters (four cubic feet) of air per minute to tight-fitting facepieces and 170 liters (six cubic feet) of air per minute to loose fitting helmets, hoods and suits are required. Air is supplied to a suit through a system of internal tubes to the head, trunk and extremities through valves located in appropriate parts of the suit.

(2) Demand type (negative pressure) respirators, which are only equipped with a facepiece. The demand valve permits flow of air only during inhalation.

(3) Pressure-demand type (positive pressure) respirators, which are only equipped with a facepiece. A positive pressure is maintained in the facepiece.

NEW SECTION

WAC 296-62-07287 What are the general capabilities and limitations of supplied-air respirators? (1) Capabilities. The respirable air supply is not limited to the quantity the individual can carry, and the devices are lightweight and simple. The demand type produces a negative pressure in the facepiece on inhalation, whereas continuous-flow and

pressure-demand types maintain a positive-pressure in the respirator-inlet covering and are less apt to permit inward leakage of contaminants. Supplied-air suits may protect against atmospheres that irritate the skin or that may be absorbed through the unbroken skin.

(2) Limitations. Employees are restricted in movement by the hose and must return to a respirable atmosphere by retracing their route of entry. The hose may be severed or pinched off. Supplied-air respirators provide no protection if the air supply fails. Some contaminants, such as tritium, may penetrate the material of an supplied-air suit and limit its effectiveness. Other contaminants, such as fluorine, may react chemically with the material of a supplied-air suit and damage it.

NEW SECTION

WAC 296-62-07289 What are combination supplied-air and air-purifying respirators? Combination supplied-air and air-purifying respirators provide the wearer with the option of using either of two different modes of operation:

(1) A supplied-air respirator with an auxiliary air-purifying attachment which provides protection in the event the air supply fails; or

(2) The advantages and disadvantages previously described for supplied-air and air-purifying respirators apply when these respirators are used in combination. The mode with the greater limitations (air-purifying mode) will generally determine the overall capabilities and limitations of the respirator, since the wearer may for some reason fail to change the mode of operation even though conditions require such a change.

NEW SECTION

WAC 296-62-07291 What are combination supplied-air respirators with auxiliary self-contained air supply? Some combination supplied-air respirators have an auxiliary self-contained air supply. To escape from a hazardous atmosphere in the event the primary air supply fails to operate, the wearer switches to the auxiliary self-contained air supply. Devices approved for both entry into and escape from dangerous atmospheres have a low-pressure warning alarm and contain at least a 5-minute self-contained air supply. The auxiliary self-contained air supply on this type of device allows the wearer to escape from a dangerous atmosphere. This device with auxiliary self-contained air supply is approved for escape and may be used for entry when it contains at least a 15-minute auxiliary self-contained air supply and not more than 20 percent of the rated self-contained air supply is used during entry (see WAC 296-62-07132).

NEW SECTION

WAC 296-62-07293 What is a self-contained breathing apparatus respirator (SCBA)? SCBAs are respirators designed so that the supply of air, oxygen, or oxygen-generated material is carried by the wearer. They are normally equipped with a full facepiece, but may be equipped with a

half-mask facepiece, helmet, hood or mouthpiece and nose clamp.

SCBAs are classified in the following ways:

(1) Closed-circuit SCBA (oxygen only, negative pressure or positive pressure). There are two types of closed-circuit SCBAs. They are:

(a) Compressed liquid oxygen respirators, which are equipped with a facepiece or mouthpiece and nose clamp. High-pressure oxygen from a gas cylinder passes through a high-pressure reducing valve and, in some designs, through a low-pressure admission valve to a breathing bag or container. Liquid oxygen is converted to low-pressure gaseous oxygen and delivered to the breathing bag. The wearer inhales from the bag through a corrugated tube connected to a mouthpiece or facepiece and a one-way check valve. Exhaled air passes through another check valve and tube into a container of carbon-dioxide removing chemical and reenters the breathing bag. Make-up oxygen enters the bag continuously or as the bag deflates sufficiently to actuate an admission valve. A pressure-relief system is provided, and a manual bypass and saliva trap may be provided depending upon the design.

(b) Oxygen-generating respirators, which are equipped with a facepiece or mouthpiece and nose clamp. Water vapor in the exhaled breath reacts with the chemical in the canister to release oxygen to the breathing bag. The wearer inhales from the bag through a corrugated tube and one-way check valve at the facepiece. Exhaled air passes through a second check valve/breathing tube assembly into the canister. The oxygen-release rate is governed by the volume of exhaled air. Carbon dioxide in the exhaled breath is removed by the canister fill.

(2) Open-circuit (SCBA) (compressed air, compressed oxygen, liquid air, liquid oxygen). A bypass system is provided in case of regulator failure except on escape-type units. There are two types of open-circuit SCBAs. They are:

(a) Demand-type respirators, which are equipped with a facepiece or mouthpiece and nose clamp. The demand valve permits oxygen or air flow only during inhalation. Exhaled breath passes to ambient atmosphere through a valve(s) in the facepiece.

(b) Pressure-demand type respirators, which are equipped with a facepiece only. Positive pressure is maintained in the facepiece. The apparatus may have provision for the wearer to select the demand or pressure-demand mode of operation, in which case only the demand mode must be used when putting on or removing the apparatus.

NEW SECTION

WAC 296-62-07295 What are the limitations for self-contained breathing apparatus respirators (SCBA)? (1) The period over which the SCBAs will provide protection is limited by the amount of air or oxygen in the apparatus, the ambient atmospheric pressure (service life of open-circuit devices is cut in half by a doubling of the atmospheric pressure), and the type of work being performed. Some SCBA devices have a short service life (less than 15 minutes) and are suitable only for escape (self-rescue) from an irreparable atmosphere. Chief limitations of SCBA devices are their

weight, bulk, limited service life, and the training requirements for their maintenance and safe use.

(2) What are the limitations for closed-circuit SCBAs?

The closed-circuit operation conserves oxygen and permits longer service life at reduced weight. The negative-pressure type produces a negative pressure in the respiratory-inlet covering during inhalation, and this may permit inward leakage of contaminants; the positive-pressure type always maintains a positive pressure in the respiratory-inlet covering and is less apt to permit inward leakage of contaminants.

(3) What are the limitations for open circuit SCBAs?

The demand type produces a negative pressure in the respiratory-inlet covering during inhalation, whereas the pressure-demand type maintains a positive pressure in the respiratory-inlet covering during inhalation and is less apt to permit inward leakage of contaminants.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-62-07119	Identification of air-purifying respirator canisters.
WAC 296-62-07121	Effective date.

AMENDATORY SECTION (Amending Order 94-16, filed 9/30/94, effective 11/20/94)

WAC 296-24-07501 General requirements. (1) Application.

(a) Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory (~~devices~~) protection according to chapter 296-62 WAC, Part E, and protective shields and barriers, shall be provided, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(b) Employee owned equipment. Where employees provide their own protective equipment, the employer shall be responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

(c) Design. All personal protective equipment shall be of safe design and construction for the work to be performed. Protectors shall be durable, fit snugly and shall not unduly interfere with the movements of the wearer.

(2) Hazard assessment and equipment selection. This subsection does not apply to WAC 296-24-092, Electrical protective devices, and (~~WAC 296-62-071 through 296-62-07121~~) chapter 296-62 WAC, Part E, Respiratory protection.

(a) The employer shall assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE). If such hazards are present, or likely to be present, the employer shall:

(i) Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

(ii) Communicate selection decisions to each affected employee; and

(iii) Select PPE that properly fits each affected employee.

Note: Nonmandatory Appendix B contains an example of procedures that would comply with the requirement for a hazard assessment.

(b) The employer shall verify that the required workplace hazard assessment has been performed through a written certification that identifies the workplace evaluated; the person certifying that the evaluation has been performed; the date(s) of the hazard assessment; and, which identifies the document as a certification of hazard assessment.

(3) Defective and damaged equipment. Defective or damaged personal protective equipment shall not be used.

(4) Training. This subsection does not apply to WAC 296-24-092, Electrical protective devices, and ~~((WAC 296-62-071 through 296-62-07121))~~ chapter 296-62 WAC, Part E, Respiratory protection.

(a) The employer shall provide training to each employee who is required by this section to use PPE. Each such employee shall be trained to know at least the following:

(i) When PPE is necessary;

(ii) What PPE is necessary;

(iii) How to properly don, doff, adjust, and wear PPE;

(iv) The limitations of the PPE; and

(v) The proper care, maintenance, useful life and disposal of the PPE.

(b) Each affected employee shall demonstrate an understanding of the training specified in (a) of this subsection, and the ability to use PPE properly, before being allowed to perform work requiring the use of PPE.

(c) When the employer has reason to believe that any affected employee who has already been trained does not have the understanding and skill required by (b) of this subsection, the employer shall retrain each such employee. Circumstances where retraining is required include, but are not limited to, situations where:

(i) Changes in the workplace render previous training obsolete; or

(ii) Changes in the types of PPE to be used render previous training obsolete; or

(iii) Inadequacies in an affected employee's knowledge or use of assigned PPE indicate that the employee has not retained the requisite understanding or skill.

(d) The employer shall verify that each affected employee has received and understood the required training through a written certification that contains the name of each employee trained, the date(s) of training, and that identifies the subject of the certification.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-51005 Definitions. The following definitions are applicable to all sections of this chapter which

include WAC 296-24-510 in the section number and shall be construed to have the meanings below.

(1) "Approved" as used in these standards means:

(a) Listed by a recognized testing laboratory, or

(b) Recommended by the manufacturer as suitable for use with anhydrous ammonia and so marked, or

(c) Accepted by the authority having jurisdiction.

(2) "Appurtenance" refers to all devices such as pumps, compressors, safety relief devices, liquid-level gaging devices, valves and pressure gages.

(3) "Capacity" refers to the total volume of the container measured in U.S. gallons, unless otherwise specified.

(4) "Cylinder" means a container of 1000 pounds water capacity or less constructed in accordance with United States Department of Transportation Specifications.

(5) The "code" refers to the Unfired Pressure Vessel Code of the American Society of Mechanical Engineers (Section VIII of the ASME Boiler Construction Code), 1952, 1956, 1959, 1962, 1965, 1968 and 1971 editions, the joint code of the American Petroleum Institute and the American Society of Mechanical Engineers (API-ASME Code) 1951 edition, and subsequent amendments to or later editions of the same, as adopted.

(6) "Container" includes all vessels, tanks, cylinders or spheres used for transportation, storage or application of anhydrous ammonia.

(7) "Design pressure" is identical to the term "maximum allowable working pressure" used in the code.

(8) An "implement of husbandry" is a farm wagon-type tank vehicle of not over 3000 gallons capacity, used as a field storage "nurse tank" supplying the fertilizer to a field applicator and moved on highways only for bringing the fertilizer from a local source of supply to farms or fields or from one farm or field to another.

(9) "Filling density" means the per cent ratio of the weight of the gas in a container to the weight of water at 60°F that the container will hold. One lb. H₂O = 27.737 cu. in. at 60°F. For determining the weight capacity of the tank in pounds, the weight of a gallon (231 cubic inches) of water at 60°F in air shall be 8.32828 pounds.

(10) "Gas" refers to anhydrous ammonia in either the gaseous or liquefied state.

(11) "Gas mask" refers to gas masks approved by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH). ~~((See American National Standards Institute for Respiratory Protection, Z88-2. (See Appendix C for availability.))~~

(12) "DOT regulations" refer to hazardous materials regulations of the department of transportation (Title 49—Transportation, Code of Federal Regulations, Parts 171 to 190), including Specifications for Shipping Containers.

(13) "Systems" as used in these standards refers to an assembly of equipment consisting essentially of the container or containers, appurtenances, pumps, compressors, and interconnecting piping.

(14) The abbreviations "psig" and "psia" refer to pounds per square inch gage and pounds per square inch absolute, respectively.

(15) The terms "charging" and "filling" are used interchangeably and have the same meaning.

(16) "Trailer" as used in these standards refers to every vehicle designed for carrying property and for being drawn by a motor vehicle and so constructed that no part of its weight except the towing device rests upon the towing vehicle.

(17) "Tank motor vehicle" means any motor vehicle designed or used for the transportation of anhydrous ammonia in any tank designed to be permanently attached to any motor vehicle or any container not permanently attached to any motor vehicle which by reason of its size, construction or attachment to any motor vehicle must be loaded and/or unloaded without being removed from the motor vehicle.

(18) "Semitrailer" refers to every vehicle designed for carrying property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(19) "Safety relief valve" refers to an automatic spring loaded or equivalent type pressure activated device for gas or vapor service characterized by pop action upon opening, sometimes referred to as a pop valve. (Refer to American National Standards Institute, Terminology for Pressure Relief Devices, B95.1.)

(20) "Hydrostatic relief valve" refers to an automatic pressure activated valve for liquid service characterized by throttle or slow weep opening (nonpop action). (Refer to American National Standards Institute, Terminology for Pressure Relief Devices, B95.1.)

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-24-51009 Basic rules. This section applies to all sections of this chapter which include WAC 296-24-510 in the section number unless otherwise noted.

(1) Approval of equipment and systems. Each appurtenance shall be approved in accordance with (a), (b), (c), and (d) of this subsection.

(a) It was installed before February 8, 1973 and was approved and tested, and installed in accordance with either the provisions of the American National Standard for the Storage and Handling of Anhydrous Ammonia, K61.1, or the Fertilizer Institute Standards for the Storage and Handling of Agricultural Anhydrous Ammonia, M-1, in effect at the time of installation; or

(b) It is accepted, or certified, or listed, or labeled, or otherwise determined to be safe by a nationally recognized testing laboratory; or

(c) It is a type which no nationally recognized testing laboratory does, or will undertake to accept, certify, list, label, or determine to be safe; and such equipment is inspected or tested by any federal, state, municipal, or other local authority responsible for enforcing occupational safety provisions of a federal, state, municipal or other local law, code, or regulation pertaining to the storage, handling, transport, and use of anhydrous ammonia, and found to be in compliance with either the provisions of the American National Standard for the Storage and Handling of Anhydrous Ammonia, K61.1, or the Fertilizer Institute Standards for the Stor-

age and Handling of Agricultural Anhydrous Ammonia, M-1, in effect at the time of installation; or

(d) It is a custom-designed and custom-built unit, which no nationally recognized testing laboratory, or federal, state, municipal or local authority responsible for the enforcement of a federal, state, municipal, or local law, code or regulation pertaining to the storage, transportation and use of anhydrous ammonia is willing to undertake to accept, certify, list, label or determine to be safe, and the employer has on file a document attesting to its safe condition following the conduct of appropriate tests. The document shall be signed by a registered professional engineer or other person having special training or experience sufficient to permit him/her to form an opinion as to safety of the unit involved. The document shall set forth the test bases, test data and results, and also the qualifications of the certifying person.

(e) For the purposes of this section the word "listed" means that equipment is of a kind mentioned in a list which is published by a nationally recognized laboratory which makes periodic inspection of the production of such equipment, and states such equipment meets nationally recognized standards or has been tested and found safe for use in a specified manner. "Labeled" means 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. "Certified" means 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 it bears a label, tag, or other record of certification.

(f) For purposes of this section, refer to federal regulation 29 CFR 1910.7 for definition of nationally recognized testing laboratory.

(2) Requirements for construction, original test and requalification of not-refrigerated containers.

(a) Containers used with systems covered in WAC 296-24-51011 and 296-24-51017 through 296-24-51021 shall be constructed and tested in accordance with the code except that construction under Table UW - 12 at a basic joint efficiency of under eighty percent is not authorized.

Containers built according to the code do not have to comply with paragraphs UG-125 to UG-128, inclusive, and paragraphs UG-132 and UG-133 of the code.

(b) Containers exceeding thirty-six inches in diameter or two hundred fifty gallons water capacity shall be constructed to comply with one or more of the following:

(i) Containers shall be stress relieved after fabrication in accordance with the code, or

(ii) Cold-formed heads, when used, shall be stress relieved, or (:))

(iii) Hot-formed heads shall be used.

(c) Welding to the shell, head, or any other part of the container subject to internal pressure shall be done in compliance with WAC 296-24-51005(5). Other welding is permitted only on saddle plates, lugs, or brackets attached to the container by the container manufacturer.

(d) Containers used with systems covered by subsection (3)(b)(iv) of this section shall be constructed and tested in accordance with the DOT specifications.

(e) The provisions of (a) of this subsection shall not be construed as prohibiting the continued use or reinstallation of containers constructed and maintained in accordance with the 1949, 1950, 1952, 1956, 1959, 1962, 1965 and 1968 editions of the Unfired Pressure Vessel Code of the ASME or any revisions thereof in effect at the time of fabrication.

(3) Markings on nonrefrigerated containers and systems other than DOT containers.

(a) System nameplates, when required, shall be permanently attached to the system so as to be readily accessible for inspection and shall include markings as prescribed in (b) of this subsection.

(b) Each container or system covered in WAC 296-24-51011, 296-24-51017, 296-24-51019 and 296-24-51021 shall be marked as specified in the following:

(i) With a marking identifying compliance with the rules of the code under which the container is constructed.

(ii) With a notation on the container and system nameplate when the system is designed for underground installation.

(iii) With the name and address of the supplier of the container or the trade name of the container and with the date of fabrication.

(iv) With the water capacity of the container in pounds at 60°F or gallons, United States standard.

(v) With the design pressure in pounds per square inch gage.

(vi) With the wall thickness of the shell and heads.

(vii) With marking indicating the maximum level to which the container may be filled with liquid anhydrous ammonia at temperatures between 20°F and 100°F except on containers provided with fixed maximum level indicators, such as fixed length dip tubes, or containers that are filled by weight. Markings shall be in increments of not more than 20°F.

(viii) With the outside surface area in square feet.

(ix) With minimum temperature in Fahrenheit for which the container is designed.

(x) Marking specified on container shall be on the container itself or on a nameplate permanently affixed thereto.

(c) All main operating valves on permanently installed containers having a capacity of over three thousand water gallons shall be identified to show whether the valve is in liquid or vapor service. The recommended method of identification may be legend or color code as specified in (c)(i) and (ii) of this subsection:

(i) Legend: The legend **liquid** (or **liquid valve**), **vapor** (or **vapor valve**), as appropriate, shall be placed on or within twelve inches of the valve by means of a stencil tag, or decal.

(ii) Color code: Liquid valves shall be painted orange and vapor valves shall be painted yellow. The legend **orange-liquid**, **yellow-vapor** shall be displayed in one or more conspicuous places at each permanent storage location. The legend shall have letters at least two inches high and shall be placed against a contrasting background. This is in accordance with American National Standard A13.1 "Schemes for Identification of Piping Systems"—1956, Page 5.

(4) Marking refrigerated containers. (See WAC 296-24-51013(3). Marking refrigerated containers.)

(5) Location of containers.

(a) Consideration shall be given to the physiological effects of ammonia as well as to adjacent fire hazards in selecting the location for a storage container. Containers shall be located outside of buildings or in buildings or sections thereof especially approved for this purpose.

(b) Containers shall be located at least fifty feet from a dug well or other sources of potable water supply, unless the container is a part of a water treatment installation.

(c) The location of permanent storage containers shall be outside densely populated areas.

(d) Container locations shall comply with the following table:

Nominal Capacity of Container	Minimum Distances (feet) from Container to:		
	Line of Adjoining Property Which may be Built upon, Highways & Mainline of Railroad	Place of Public Assembly	Institution Occupancy
Over 500 to 2,000	25	150	250
Over 2,000 to 30,000	50	300	500
Over 30,000 to 100,000	50	450	750
Over 100,000	50	600	1,000

(e) Storage areas shall be kept free of readily ignitable materials such as waste, weeds and long dry grass.

(6) Container appurtenances.

(a) All appurtenances shall be designed for not less than the maximum working pressure of that portion of the system on which they are installed. All appurtenances shall be fabricated from materials proved suitable for anhydrous ammonia service.

(b) All connections to containers except safety relief devices, gaging devices, or those fitted with a No. 54 drill size orifice shall have shutoff valves located as close to the container as practicable.

(c) Excess flow valves where required by these standards shall close automatically at the rated flows of vapor or liquid as specified by the manufacturer. The connections and line including valves and fittings being protected by an excess flow valve shall have a greater capacity than the rated flow of the excess flow valve.

(d) Liquid level gaging devices that require bleeding of the product to the atmosphere and which are so constructed that outward flow will not exceed that passed by a No. 54 drill size opening need not be equipped with excess flow valves.

(e) Openings from container or through fittings attached directly on container to which pressure gage connections are made need not be equipped with excess flow valves if such openings are not larger than No. 54 drill size.

(f) Excess flow and back pressure check valves where required by these standards shall be located inside of the con-

PERMANENT

tainer or at a point outside as close as practicable to where the line enters the container. In the latter case, installation shall be made in such manner that any undue stress beyond the excess flow or back pressure check valve will not cause breakage between the container and the valve.

(g) Excess flow valves shall be designed with a bypass, not to exceed a No. 60 drill size opening to allow equalization of pressures.

(h) Shutoff valves provided with an excess flow valve shall be designed for proper installation in a container connection so that the excess flow valve will close should the shutoff valve break.

(i) All excess flow valves shall be plainly and permanently marked with the name or trademark of the manufacturer, the catalog number, and the rated capacity.

(7) Piping, tubing and fittings.

(a) All piping, tubing and fittings shall be made of material suitable for anhydrous ammonia service.

(b) All piping, tubing and fittings shall be designed for a pressure not less than the maximum pressure to which they may be subjected in service.

(c) All piping shall be well supported and provision shall be made for expansion and contraction. All refrigeration system piping shall conform to the Refrigeration Piping Code (ANSI B31.5 1966 addenda B31.1a-1968), a section of the American Standard Code for Pressure Piping, as it applies to ammonia.

(d) Piping used on nonrefrigerated systems shall be at least ASTM A-53-1969 Grade B Electric Resistance Welded and Electric Flash Welded Pipe or equal. Such pipe shall be at least Schedule 40 when joints are welded, or welded and flanged. Such pipe shall be at least Schedule 80 when joints are threaded. Brass, copper, or galvanized steel pipe or tubing shall not be used.

(e) All metal flexible connections for permanent installations shall have a minimum working pressure of 250 p.s.i.g. (safety factor of 4). For temporary installations, hose meeting the requirement of subsection (8) of this section may be used.

(f) Cast iron fittings shall not be used but this shall not prohibit the use of fittings made specially for ammonia service of malleable or nodular iron such as Specification ASTM A47 or ASTM A395.

(g) Provisions shall be made for expansion, contraction, jarring, vibration, and for settling.

(h) Adequate provisions shall be made to protect all exposed piping from physical damage that might result from moving machinery, the presence of automobiles or trucks, or any other undue strain that may be placed upon the piping.

(i) Joint compounds shall be resistant to ammonia.

(j) After assembly, all piping and tubing shall be tested and proved to be free from leaks at a pressure not less than the normal operating pressure of the system.

(8) Hose specification.

(a) Hose used in ammonia service and subject to container pressure shall conform to the joint Rubber Manufacturers Association and the Fertilizer Institute "Hose Specifications for Anhydrous Ammonia" (see Appendix B).

(b) Hose subject to container pressure shall be designed for a minimum working pressure of 350 p.s.i.g. and a minimum burst pressure of 1750 p.s.i.g. Hose assemblies, when

made up, shall be capable of withstanding a test pressure of 500 p.s.i.g.

(c) Hose and hose connections located on the low pressure side of flow control or pressure reducing valves on devices discharging to atmospheric pressure shall be designed for the maximum low side working pressure. All connections shall be designed, constructed, and installed so that there will be no leakage when connected.

(d) Where liquid transfer hose is not drained of liquid upon completion of transfer operations, such hose shall be equipped with an approved shutoff valve at the discharge end. Provision shall be made to prevent excessive hydrostatic pressure in the hose. (See subsection (9)(j) of this section.)

(e) On all hose one-half inch O.D. and larger, used for the transfer of anhydrous ammonia liquid or vapor, there shall be etched, cast, or impressed at five-foot intervals the following information:

"Anhydrous Ammonia"
xxx p.s.i.g. (Maximum working pressure)
Manufacturer's Name or Trademark
Year of Manufacture

(9) Safety relief devices.

(a) Every container used in systems covered by WAC 296-24-51011, 296-24-51017, 296-24-51019 and 296-24-51021 shall be provided with one or more safety relief valves of the spring-loaded or equivalent type. The discharge from safety relief valves shall be vented away from the container, upward and unobstructed to the atmosphere. All safety relief valve discharge openings shall have suitable raincaps that will allow free discharge of the vapor and prevent the entrance of water. Provision shall be made for draining condensate which may accumulate. The rate of the discharge shall be in accordance with the provisions of Appendix A.

(b) Container safety relief valves shall be set to start-to-discharge as follows, with relations to the design pressure of the container.

Containers	Minimum	Maximum*
ASME U-68, U-69	110%	125%
ASME U-200, U-201	95%	100%
ASME 1952, 1956, 1959, 1962, 1965, 1968 or 1971	95%	100%
API-ASME	95%	100%
U.S. Coast Guard (As required by USCG regulations)		
DOT (As required by DOT regulations)		

*Note: A relief valve manufacturer's tolerance of plus ten percent is permitted.

(c) Safety relief devices used in systems covered by WAC 296-24-51011, 296-24-51017, 296-24-51019 and 296-24-51021 shall be constructed to discharge at not less than the rates required in (a) of this subsection before the pressure is in excess of one hundred twenty percent (not including the ten percent tolerance referred to in (b) of this subsection) of the maximum permitted start-to-discharge pressure setting of the device.

PERMANENT

(d) Safety relief valves shall be so arranged that the possibility of tampering will be minimized. If the pressure setting adjustment is external, the relief valves shall be provided with means for sealing the adjustment.

(e) Shutoff valves shall not be installed between the safety relief valves and the containers or systems described in WAC 296-24-51011, 296-24-51017, 296-24-51019 and 296-24-51021, except that a shutoff valve may be used where the arrangement of this valve is such as always to afford required capacity flow through the relief valves.

Note: The above exception is made to cover such cases as a three-way valve installed under two safety relief valves, each of which has the required rate of discharge and is so installed as to allow either of the safety relief valves to be closed off, but does not allow both safety valves to be closed off at the same time. Another exception to this may be where two separate relief valves are installed with individual shutoff valves. In this case, the two shutoff valve stems shall be mechanically interconnected in a manner which will allow full required flow of one safety relief valve at all times. Still another exception is a safety relief valve manifold which allows one valve of two, three, four or more to be closed off and the remaining valve or valves will provide not less than the rate of discharge shown on the manifold nameplate.

(f) Safety relief valves shall have direct communication with the vapor space of the container.

(g) Each safety relief valve used with systems described in WAC 296-24-51011, 296-24-51017, 296-24-51019 and 296-24-51021 shall be plainly and permanently marked as follows:

(i) With the letters "AA" or the symbol "NH3."

(ii) The pressure in pounds per square inch gage (p.s.i.g.) at which the valve is set to start-to-discharge.

(iii) The rate of discharge of the valve in cubic feet per minute of air at 60°F and atmospheric pressure (14.7 p.s.i.a.).

(iv) The manufacturer's name and catalog number.

For example, a safety relief valve marked AA-250-4200 (air) would mean that this valve is suitable for use on an anhydrous ammonia container; that it is set to start-to-discharge at 250 p.s.i.g.; and that its rate of discharge (see subsection (8)(a) through (c) of this section) is four thousand two hundred cubic feet per minute of air.

(h) The flow capacity of the safety relief valve shall not be restricted by any connection to it on either the upstream or downstream side.

(i) The manufacturer or supplier of a safety relief valve manifold shall publish complete data showing the flow rating through the combined assembly of the manifold with safety relief valves installed. The manifold flow rating shall be determined by testing the manifold with all but one valve discharging. If one or more openings have restrictions not present in the remaining openings, the restricted opening or openings or those having the lowest flow shall be used to establish the flow rate marked on the manifold nameplate. The marking shall be similar to that required in (g) of this subsection for individual valves.

(j) A hydrostatic relief valve shall be installed between each pair of valves in the liquid ammonia piping or hose where liquid may be trapped so as to relieve into the atmosphere at a safe location.

(k) Discharge from safety relief devices shall not terminate in or beneath any building.

(10) Safety. See CGA Pamphlet G-2, TFI Operational Safety Manual M-2 and MCA Safety Data Sheet SD-8 (see Appendix C for availability).

(a) Personnel required to handle ammonia shall be trained in safe operating practices and the proper action to take in the event of emergencies. Personnel shall be instructed to use the equipment listed in (c) of this subsection in the event of an emergency. (Rev. 1-22-76)

(b) If a leak occurs in an ammonia system, the personnel trained for and designated to act in such emergencies shall:

(i) See that persons not required to deal with an emergency are evacuated from the contaminated area.

(ii) Put on a suitable gas mask.

(iii) Wear gauntlet type plastic or rubber gloves and wear plastic or rubber suits in heavily contaminated atmospheres.

(iv) Shut off the appropriate valves.

(c) All stationary storage ((systems)) installations shall have ((on hand, as a minimum, the following equipment for emergency and rescue purposes)) at least:

((*) (i) ((One full face gas mask with anhydrous ammonia refill canisters.)) Two suitable gas masks in readily accessible locations. Full face masks with ammonia canisters as certified by NIOSH under 42 CFR Part 84, are suitable for emergency action for most leaks, particularly those that occur outdoors. For protection in concentrated ammonia atmospheres self-contained breathing apparatus is required.

((**) (ii) One pair of protective gloves made of rubber or other material impervious to ammonia.

((**) (iii) One pair of protective boots made of rubber or other material impervious to ammonia.

((**) (iv) One protective slicker and/or protective pants and jacket made of rubber or other material impervious to ammonia.

(v) Easily accessible shower and/or at least fifty gallons of clean water in an open top container.

(vi) Tight fitting vented goggles or one full face shield.

((* An ammonia canister is effective for short periods of time in light concentrations of ammonia vapor, generally fifteen minutes in concentrations of three percent and will not protect breathing in heavier concentrations. If ammonia vapors are detected when mask is applied the concentration is too high for safety. The life of a canister in service is controlled by the percentage of vapors to which it is exposed. Canisters must not be opened until ready for use and should be discarded after use. Unopened canisters may be guaranteed for as long as three years. All should be dated when received because of this limited life. In addition to this protection, an independently supplied air mask of the type used by fire departments may be used for severe emergencies.

** Gloves, boots, slickers, jackets and pants shall be made of rubber or other material impervious to ammonia.))

(d) Where several persons are usually present, additional safety equipment may be desirable.

(e) Each tank motor vehicle transporting anhydrous ammonia, except farm applicator vehicles, shall carry a container of at least five gallons of water and shall be equipped with a full face gas mask, a pair of tight-fitting goggles or one full face shield. The driver shall be instructed in their use and the proper action to take to provide for his/her safety.

(f) If a leak occurs in transportation equipment and it is not practical to stop the leak, the driver should move the vehicle to an isolated location away from populated communities or heavily traveled highways.

(g) If liquid ammonia contacts the skin or eyes, the affected area should be promptly and thoroughly flushed with water. Do not use neutralizing solutions or ointments on affected areas. A physician shall treat all cases of eye exposure to liquid ammonia.

(11) Filling densities. (See WAC 296-24-51005(9).)

(a) The filling densities for nonrefrigerated containers shall not exceed the following:

	Aboveground	Underground
(i) Uninsulated	56%*	58%
(ii) Insulated	57%	
(iii)	DOT containers shall be filled in accordance with DOT regulations.	

* This corresponds to 82% by volume at -28°F, 85% by volume at 5°F, 87.5% by volume at 30°F, and 90.6% by volume at 60°F.

(b) The filling density for refrigerated storage tanks temperature corresponding to the vapor pressure at the start-to-discharge pressure setting of the safety relief valve.

(c) If containers are to be filled according to liquid level by any gaging method other than a fixed length dip tube gage, each container should have a thermometer well so that the internal liquid temperature can be easily determined and the amount of liquid and vapor in the container corrected to a 60°F basis.

(12) Transfer of liquids.

(a) Anhydrous ammonia shall always be at a temperature suitable for the material of construction and design of the receiving containers. Ordinary steels are not suitable for refrigerated ammonia. See Appendix R of API Standard 620 "Recommended Rules for Design and Construction of Large Welded Low-Pressure Storage Tanks" for materials for low temperature service.

(b) At least one attendant shall supervise the transfer of liquids from the time the connections are first made until they are finally disconnected.

(c) Flammable gases or gases which will react with ammonia (such as air) shall not be used to unload tank cars or transport trucks.

(d) Containers shall be charged or used only upon authorization of the owner.

(e) Containers shall be gaged and charged only in the open atmosphere or in buildings approved for that purpose.

(f) Pumps used for transferring ammonia shall be recommended and labeled for ammonia service by the manufacturer.

(i) Pumps shall be designed for at least 250 p.s.i.g. working pressure.

(ii) Positive displacement pumps shall have installed, off the discharge port, a constant differential relief valve discharging into the suction port of the pump through a line of sufficient size to carry the full capacity of the pump at relief valve setting, which setting and installation shall be according to pump manufacturer's recommendations.

(iii) On the discharge side of the pump, before the relief valve line, there shall be installed a pressure gage graduated from 0 to 400 p.s.i.g.

(iv) Plant piping shall contain shutoff valves located as close as practical to pump connections.

(g) Compressors used for transferring or refrigerating ammonia shall be recommended and labeled for ammonia service by the manufacturer.

(i) Compressors, except those used for refrigeration, shall be designed for at least 250 p.s.i.g. working pressure. Crank cases of compressors not designed to withstand system pressure shall be protected with a suitable safety relief valve.

(ii) Plant piping shall contain shutoff valves located as close as practical to compressor connections.

(iii) A safety relief valve large enough to discharge the full capacity of the compressor shall be connected to the discharge before any shutoff valve.

(iv) Compressors shall have pressure gages at suction and discharge graduated to at least one and one-half times the maximum pressure that can be developed.

(v) Adequate means, such as drainable liquid trap, may be provided on the compressor suction to minimize the entry of liquid into the compressor.

(vi) Where necessary to prevent contamination, an oil separator shall be provided on the discharge side of the compressor.

(h) Loading and unloading systems shall be protected by suitable devices to prevent emptying of the storage container or the container being loaded or unloaded in the event of severance of the hose. Backflow check valves or properly sized excess flow valves shall be installed where necessary to provide such protection. In the event that such valves are not practical, remotely operated shutoff valves may be installed.

(i) Meters used for the measurement of liquid anhydrous ammonia shall be recommended and labeled for ammonia service by the manufacturer.

(i) Liquid meters shall be designed for a minimum working pressure of 250 p.s.i.g.

(ii) The metering system shall incorporate devices that will prevent the inadvertent measurement of vapor.

(13) Tank car unloading points and operations.

(a) Provisions for unloading tank cars shall conform to the regulations of the department of transportation.

(b) Unloading operations shall be performed by reliable persons properly instructed and made responsible for careful compliance with all applicable procedures.

(c) Caution signs shall be so placed on the track or car as to give necessary warning to persons approaching car from open end or ends of siding and shall be left up until after car is unloaded and disconnected from discharge connections. Signs shall be of metal or other suitable material, at least twelve by fifteen inches in size and bear the words "STOP—Tank car connected" or "STOP—Men at work" the word "STOP," being in letters at least four inches high and the other words in letters at least two inches high. The letters shall be white on a blue background.

(d) The track of a tank car siding shall be substantially level.

(e) Brakes shall be set and wheels blocked on all cars being unloaded.

PERMANENT

(f) Tank cars of anhydrous ammonia shall be unloaded only at approved locations meeting the requirements of subsections (9)(c) and (12)(h) of this section.

(14) Liquid level gaging device.

(a) Each container except those filled by weight shall be equipped with an approved liquid level gaging device.

(b) All gaging devices shall be arranged so that the maximum liquid level to which the container is filled is readily determined. (See subsection (4)(b)(vii) of this section.)

(c) Gaging devices that require bleeding of the product to the atmosphere such as the rotary tube, fixed tube, and slip tube devices, shall be designed so that the maximum opening of the bleed valve is not larger than No. 54 drill size unless provided with an excess flow valve. (This requirement does not apply to farm vehicles used for the application of ammonia as covered in WAC 296-24-51021.)

(d) Gaging devices shall have a design pressure equal to or greater than the design pressure of the container on which they are installed.

(e) Fixed liquid level gages shall be so designed that the maximum volume of the container filled by liquid shall not exceed eighty-five percent of its water capacity. The coupling into which the fixed liquid level gage is threaded must be placed at the eighty-five percent level of the container. If located elsewhere, the dip tube of this gage must be installed in such a manner that it cannot be readily removed.

Note: This does not apply to refrigerated storage.

(f) Gage glasses of the columnar type shall be restricted to stationary storage installation. They shall be equipped with shutoff valves having metallic handwheels, with excess-flow valves, and with extra heavy glass adequately protected with a metal housing applied by the gage manufacturer. They shall be shielded against the direct rays of the sun.

(15) Painting of containers. Aboveground uninsulated containers should have a reflective surface maintained in good condition. White is recommended for painted surfaces, but other light reflecting colors are acceptable.

(16) Electrical equipment and wiring.

(a) Electrical equipment and wiring for use in ammonia installations shall be general purpose or weather resistant as appropriate.

(b) Where concentrations of ammonia in air in excess of sixteen percent by volume are likely to be encountered, electrical equipment and wiring shall be of a type specified by and be installed according to chapter 296-24 WAC Part L, for Class I, Group D locations.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-58513 Protective clothing. The following requirements apply to those employees who perform interior structural fire fighting. The requirements do not apply to employees who use fire extinguishers or standpipe systems to control or extinguish fires only in the incipient stage.

(1) General.

(a) The employer shall provide at no cost to the employee and assure the use of protective clothing which complies with the requirements of this section. The employer

shall assure that protective clothing ordered or purchased after January 1, 1982, meets the requirements contained in this section. As the new equipment is provided, the employer shall assure that all fire brigade members wear the equipment when performing interior structural fire fighting. After July 1, 1985, the employer shall assure that all fire brigade members wear protective clothing meeting the requirements of this section when performing interior structural fire fighting.

(b) The employer shall assure that protective clothing protects the head, body, and extremities, and consists of at least the following components: Foot and leg protection; hand protection; body protection; eye, face and head protection.

(2) Foot and leg protection.

(a) Foot and leg protection shall meet the requirements of (b) and (c) of this subsection, and may be achieved by either of the following methods:

(i) Fully extended boots which provide protection for the legs; or

(ii) Protective shoes or boots worn in combination with protective trousers that meet the requirements of subsection (3) of this section.

(b) Protective footwear shall meet the requirements of WAC 296-24-088 for Class 75 footwear. In addition, protective footwear shall be water-resistant for at least five inches (12.7 cm) above the bottom of the heel and shall be equipped with slip-resistant outer soles.

(c) Protective footwear shall be tested in accordance with WAC 296-24-63599(1) Appendix E, and shall provide protection against penetration of the midsole by a size 8D common nail when at least 300 pounds (1330 N) of static force is applied to the nail.

(3) Body protection.

(a) Body protection shall be coordinated with foot and leg protection to ensure full body protection for the wearer. This shall be achieved by one of the following methods:

(i) Wearing of a fire-resistive coat meeting the requirements of (b) of this subsection, in combination with fully extended boots meeting the requirements of subsection (2)(b) and (c) of this section; or

(ii) Wearing of fire-resistive coat in combination with protective trousers both of which meet the requirements of (b) of this subsection.

(b) The performance, construction, and testing of fire-resistive coats and protective trousers shall be at least equivalent to the requirements of the National Fire Protection Association (NFPA) standard NFPA No. 1971-1975, "Protective Clothing for Structural Fire Fighting," (see WAC 296-24-63499, Appendix D) with the following permissible variations from those requirements:

(i) Tearing strength of the outer shell shall be a minimum of eight pounds (35.6 N) in any direction when tested in accordance with WAC 296-24-63599(2), Appendix E; and

(ii) The outer shell may discolor but shall not separate or melt when placed in a forced air laboratory oven at a temperature of 500°F (260°C) for a period of five minutes. After cooling to ambient temperature and using the test method specified in WAC 296-24-63599(3) Appendix E, char length

shall not exceed 4.0 inches (10.2 cm) and after-flame shall not exceed 2.0 seconds.

(4) Hand protection.

(a) Hand protection shall consist of protective gloves or glove system which will provide protection against cut, puncture, and heat penetration. Gloves or glove system shall be tested in accordance with the test methods contained in the National Institute for Occupational Safety and Health (NIOSH) 1976 publication, "The Development of Criteria for Fire Fighter's Gloves; Vol. II, Part II: Test Methods," (see WAC 296-24-63499, Appendix D—Availability of publications incorporated by references in WAC 296-24-58505—Fire brigades) and shall meet the following criteria for cut, puncture, and heat penetration:

(i) Materials used for gloves shall resist surface cut by a blade with an edge having a 60 degree included angle and a .001 inch (.0025 cm.) radius, under an applied force of 16 lbf (72N) and at a slicing velocity of greater or equal to 60 in/min. (2.5 cm/sec);

(ii) Materials used for the palm and palm side of the fingers shall resist puncture by a penetrometer (simulating a 4d lath nail), under an applied force of 13.2 lbf (60N) and at a velocity greater or equal to 20 in/min. (.85 cm/sec); and

(iii) The temperature inside the palm and gripping surface of the fingers of gloves shall not exceed 135°F (57°C) when gloves or glove system are exposed to 932°F (500°C) for five seconds at 4 psi (28 kPa) pressure.

(b) Exterior materials of gloves shall be flame resistant and shall be tested in accordance with WAC 296-24-63599(3) Appendix E. Maximum allowable after-flame shall be 2.0 seconds, and the maximum char length shall be 4.0 inches (10.2 cm).

(c) When design of the fire-resistive coat does not otherwise provide protection for the wrists, protective gloves shall have wristlets of at least 4.0 inches (10.2 cm) in length to protect the wrist area when the arms are extended upward and outward from the body.

(5) Head, eye and face protection.

(a) Head protection shall consist of a protective head device with ear flaps and chin strap which meet the performance, construction, and testing requirements of the National Fire Safety and Research Office of the National Fire Prevention and Control Administration, United States Department of Commerce (now known as the United States Fire Administration), which are contained in, "Model Performance Criteria for Structural Fire Fighters' Helmets," (August 1977) (see WAC 296-24-63499, Appendix D).

(b) Protective eye and face devices which comply with WAC 296-24-078 shall be used by fire brigade members when performing operations where the hazards of flying or falling materials which may cause eye and face injuries are present. Protective eye and face devices provided as accessories to protective head devices (face shields) are permitted when such devices meet the requirements of WAC 296-24-078.

(c) Full facepieces, helmets, or hoods of breathing apparatus which meet the requirements of (~~WAC 296-62-074~~) chapter 296-62 WAC, Part E and 296-24-58515, shall be

acceptable as meeting the eye and face protection requirements of (b) of this subsection.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-58515 Respiratory protection devices.

(1) General requirements.

(a) ~~The employer shall ((provide at no cost to the employee and assure the use of respirators which comply with the requirements of this section. The employer shall assure that respiratory protective devices worn by brigade members meet the requirements contained in WAC 296-62-074, and the requirements contained in this section, and are certified under 30 CFR Part II)) ensure that respirators are provided to, and used by, fire brigade members, and that the respirators meet the requirements of chapter 296-62 WAC, Part E and this section.~~

(b) ~~((Approved self-contained breathing apparatus with full facepiece, or with approved helmet or hood configuration, shall be provided to and worn by fire brigade members while working inside buildings or confined spaces where toxic products of combustion or an oxygen deficiency may be present. Such apparatus shall also be worn during emergency situations involving toxic substances.)) The employer must ensure that all employees engaged in interior structural fire fighting use self-contained breathing apparatus (SCBAs).~~

(c) Approved self-contained breathing apparatus may be equipped with either a "buddy-breathing" device or a quick disconnect valve, even if these devices are not certified by NIOSH. If these accessories are used, they shall not cause damage to the apparatus, or restrict the air flow of the apparatus, or obstruct the normal operation of the apparatus.

(d) Approved self-contained compressed air breathing apparatus may be used with approved cylinders from other approved self-contained compressed air breathing apparatus provided that such cylinders are of the same capacity and pressure rating. All compressed air cylinders used with self-contained breathing apparatus shall meet DOT and NIOSH criteria.

(e) Self-contained breathing apparatus shall have a minimum service life rating of (~~thirty~~) 30 minutes in accordance with the methods and requirements (~~of the mine safety and health administration (MSHA) and~~) specified by NIOSH under 42 CFR part 84, except for escape self-contained breathing apparatus (ESCBA) used only for emergency escape purposes.

(f) Self-contained breathing apparatus shall be provided with an indicator which automatically sounds an audible alarm when the remaining service life of the apparatus is reduced to within a range of twenty to twenty-five percent of its rated service time.

(2) Positive-pressure breathing apparatus.

(a) The employer shall assure that self-contained breathing apparatus ordered or purchased after January 1, 1982, for use by fire brigade members performing interior structural fire fighting operations, are of the pressure-demand or other positive-pressure type. Effective July 1, 1983, only pressure-demand or other positive-pressure self-contained breathing

apparatus shall be worn by fire brigade members performing interior structural fire fighting.

(b) This section does not prohibit the use of a self-contained breathing apparatus where the apparatus can be switched from a demand to a positive-pressure mode. However, such apparatus shall be in the positive-pressure mode when fire brigade members are performing interior structural fire fighting operations.

~~((c) Negative pressure self contained breathing apparatus with a rated service life of more than two hours and which have a minimum protection factor of 5,000, as determined by an acceptable quantitative fit test performed on each individual, is acceptable for use only during those interior structural fire fighting situations for which the employer demonstrates that long duration breathing apparatus is necessary. Quantitative fit test procedures shall be available for inspection by the director or authorized representative. Such negative pressure breathing apparatus will continue to be acceptable for eighteen months after a positive pressure breathing apparatus with the same or longer rated service life is certified by NIOSH. After this eighteen month period, all self contained breathing apparatus used for these long duration situations shall be of the positive pressure type.))~~

NEW SECTION

WAC 296-24-58516 Procedures for interior structural fire fighting. In addition to the requirements in WAC 296-62-07172, in interior structural fires, the employer must ensure that:

- (1) At least two employees enter the IDLH atmosphere and remain in visual or voice contact with one another at all times; and
- (2) At least two employees are located outside the IDLH atmosphere.

Note 1: One of the two individuals located outside the IDLH atmosphere may be assigned to an additional role, such as incident commander in charge of the emergency or safety officer, so long as this individual is able to perform assistance or rescue activities without jeopardizing the safety or health of any fire fighter working at the incident.

Note 2: Nothing in this section is meant to preclude fire fighters from performing emergency rescue activities before an entire team has assembled.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-58517 Appendix A—Fire brigades. (1) Scope. This section does not require an employer to organize a fire brigade. However, if an employer does decide to organize a fire brigade, the requirements of this section apply.

(2) Prefire planning. It is suggested that prefire planning be conducted by the local fire department and/or the workplace fire brigade in order for them to be familiar with the workplace and process hazards. Involvement with the local fire department or fire prevention bureau is encouraged to facilitate coordination and cooperation between members of the fire brigade and those who might be called upon for assistance during a fire emergency.

(3) Organizational statement. In addition to the information required in the organizational statement, WAC 296-24-58507(1), it is suggested that the organizational statement also contain the following information: A description of the duties that the fire brigade members are expected to perform; the line authority of each fire brigade officer; the number of the fire brigade officers and number of training instructors; and a list and description of the types of awards or recognition that brigade members may be eligible to receive.

(4) Physical capability. The physical capability requirement applies only to those fire brigade members who perform interior structural fire fighting. Employees who cannot meet the physical capability requirement may still be members of the fire brigade as long as such employees do not perform interior structural fire fighting. It is suggested that fire brigade members who are unable to perform interior structural fire fighting be assigned less stressful and physically demanding fire brigade duties, e.g., certain types of training, recordkeeping, fire prevention inspection and maintenance, and fire pump operations.

Physically capable can be defined as being able to perform those duties specified in the training requirements of WAC 296-24-58509. Physically capable can also be determined by physical performance tests or by a physical examination when the examining physician is aware of the duties that the fire brigade member is expected to perform.

It is also recommended that fire brigade members participate in a physical fitness program. There are many benefits which can be attributed to being physically fit. It is believed that physical fitness may help to reduce the number of sprain and strain injuries as well as contributing to the improvement of the cardiovascular system.

(5) Training and education. The section on training and education does not contain specific training and education requirements because the type, amount, and frequency of training and education will be as varied as are the purposes for which fire brigades are organized. However, the section does require that training and education be commensurate with those functions that the fire brigade is expected to perform; i.e., those functions specified in the organizational statement. Such a performance requirement provides the necessary flexibility to design a training program which meets the needs of individual fire brigades.

At a minimum, hands-on training is required to be conducted annually for all fire brigade members. However, for those fire brigade members who are expected to perform interior structural fire fighting, some type of training or education session must be provided at least quarterly.

In addition to the required hands-on training, it is strongly recommended that fire brigade members receive other types of training and education such as: Classroom instruction, review of emergency action procedures, prefire planning, review of special hazards in the workplace, and practice in the use of self-contained breathing apparatus.

It is not necessary for the employer to duplicate the same training or education that a fire brigade member receives as a member of a community volunteer fire department, rescue squad, or similar organization. However, such training or education must have been provided to the fire brigade member within the past year and it must be documented that the

fire brigade member has received the training or education. For example: There is no need for a fire brigade member to receive another training class in the use of positive-pressure self-contained breathing apparatus if the fire brigade member has recently completed such training as a member of a community fire department. Instead, the fire brigade member should receive training or education covering other important equipment or duties of the fire brigade as they relate to the workplace hazards, facilities and processes.

It is generally recognized that the effectiveness of fire brigade training and education depends upon the expertise of those providing the training and education as well as the motivation of the fire brigade members. Fire brigade training instructors must receive a higher level of training and education than the fire brigade members they will be teaching. This includes being more knowledgeable about the functions to be performed by the fire brigade and the hazards involved. The instructors should be qualified to train fire brigade members and demonstrate skills in communication, methods of teaching, and motivation. It is important for instructors and fire brigade members alike to be motivated toward the goal of the fire brigade and be aware of the importance of the service that they are providing for the protection of other employees and the workplace.

It is suggested that publications from the International Fire Service Training Association, the National Fire Protection Association (NFPA-1041), the International Society of Fire Service Instructors and other fire training sources be consulted for recommended qualifications of fire brigade training instructors.

In order to be effective, fire brigades must have competent leadership and supervision. It is important for those who supervise the fire brigade during emergency situations, e.g., fire brigade chiefs, leaders, etc., to receive the necessary training and education for supervising fire brigade activities during these hazardous and stressful situations. These fire brigade members with leadership responsibilities should demonstrate skills in strategy and tactics, fire suppression and prevention techniques, leadership principles, prefire planning, and safety practices. It is again suggested that fire service training sources be consulted for determining the kinds of training and education which are necessary for those with fire brigade leadership responsibilities.

It is further suggested that fire brigade leaders and fire brigade instructors receive more formalized training and education on a continuing basis by attending classes provided by such training sources as universities and university fire extension services.

The following recommendations should not be considered to be all of the necessary elements of a complete comprehensive training program, but the information may be helpful as a guide in developing a fire brigade training program.

All fire brigade members should be familiar with exit facilities and their location, emergency escape routes for handicapped workers, and the workplace "emergency action plan."

In addition, fire brigade members who are expected to control and extinguish fires in the incipient stage should, at a minimum, be trained in the use of fire extinguishers, stand-

pipes, and other fire equipment they are assigned to use. They should also be aware of first aid medical procedures and procedures for dealing with special hazards to which they may be exposed. Training and education should include both classroom instruction and actual operation of the equipment under simulated emergency conditions. Hands-on type training must be conducted at least annually but some functions should be reviewed more often.

In addition to the above training, fire brigade members who are expected to perform emergency rescue and interior structural fire fighting should, at a minimum, be familiar with the proper techniques in rescue and fire suppression procedures. Training and education should include fire protection courses, classroom training, simulated fire situations including "wet drills" and, when feasible, extinguishment of actual mock fires. Frequency of training or education must be at least quarterly, but some drills or classroom training should be conducted as often as monthly or even weekly to maintain the proficiency of fire brigade members.

There are many excellent sources of training and education that the employer may want to use in developing a training program for the workplace fire brigade. These sources include publications, seminars, and courses offered by universities.

There are also excellent fire school courses by such facilities as Texas A and M University, Delaware State Fire School, Lamar University, and Reno Fire School, that deal with those unique hazards which may be encountered by fire brigades in the oil and chemical industry. These schools, and others, also offer excellent training courses which would be beneficial to fire brigades in other types of industries. These courses should be a continuing part of the training program, and employers are strongly encouraged to take advantage of these excellent resources.

It is also important that fire brigade members be informed about special hazards to which they may be exposed during fire and other emergencies. Such hazards as storage and use areas of flammable liquids and gases, toxic chemicals, water-reactive substances, etc., can pose difficult problems. There must be written procedures developed that describe the actions to be taken in situations involving special hazards. Fire brigade members must be trained in handling these special hazards as well as keeping abreast of any changes that occur in relation to these special hazards.

(6) Fire fighting equipment. It is important that fire fighting equipment that is in damaged or unserviceable condition be removed from service and replaced. This will prevent fire brigade members from using unsafe equipment by mistake.

Fire fighting equipment, except portable fire extinguishers and respirators, must be inspected at least annually. Portable fire extinguishers and respirators are required to be inspected at least monthly.

(7) Protective clothing.

(a) General. WAC 296-24-58513 does not require all fire brigade members to wear protective clothing. It is not the intention of these standards to require employers to provide a full ensemble of protective clothing for every fire brigade member without consideration given to the types of hazardous environments to which the fire brigade member might be exposed. It is the intention of these standards to require ade-

quate protection for those fire brigade members who might be exposed to fires in an advanced stage, smoke, toxic gases, and high temperatures. Therefore, the protective clothing requirements only apply to those fire brigade members who perform interior structural fire fighting operations.

Additionally, the protective clothing requirements do not apply to the protective clothing worn during outside fire fighting operations (brush and forest fires, crash crew operations) or other special fire fighting activities. It is important that the protective clothing to be worn during these types of fire fighting operations reflect the hazards which are expected to be encountered by fire brigade members.

(b) Foot and leg protection. WAC 296-24-58513 permits an option to achieve foot and leg protection,

The section recognizes the interdependence of protective clothing to cover one or more parts of the body. Therefore, an option is given so that fire brigade members may meet the foot and leg requirements by either wearing long fire-resistant coats in combination with fully extended boots, or by wearing shorter fire-resistant coats in combination with protective trousers and protective shoes or shorter boots.

(c) Body protection. WAC 296-24-58513(3) provides an option for fire brigade members to achieve body protection. Fire brigade members may wear a fire-resistant coat in combination with fully extended boots, or they may wear a fire-resistant coat in combination with protective trousers.

Fire-resistant coats and protective trousers meeting all of the requirements contained in NFPA 1971-1975, "Protective Clothing for Structural Fire Fighters," are acceptable as meeting the requirements of this standard.

The lining is required to be permanently attached to the outer shell. However, it is permissible to attach the lining to the outer shell material by stitching in one area such as at the neck. Fastener tape or snap fasteners may be used to secure the rest of the lining to the outer shell to facilitate cleaning. Reference to permanent lining does not refer to a winter liner which is a detachable extra lining used to give added protection to the wearer against the effects of cold weather and wind.

(d) Hand protection. The requirements of WAC 296-24-58513(4) on hand protection may be met by protective gloves or a glove system. A glove system consists of a combination of different gloves. The usual components of a glove system consist of a pair of gloves, which provide thermal insulation to the hand, worn in combination with a second pair of gloves which provide protection against flame, cut and puncture.

It is suggested that protective gloves provide dexterity and a sense of feel for objects. Criteria and test methods for dexterity are contained in the NIOSH publications, "The Development of Criteria for Firefighters' Gloves; Vol. I: Glove Requirements," and "Vol. II: Glove Criteria and Test Methods." These NIOSH publications also contain a permissible modified version of Federal Test Method 191, Method 5903, (WAC 296-24-63599(3) Appendix E) for flame resistance when gloves, rather than glove material, are tested for flame resistance.

(e) Head, eye and face protection. Head protective devices which meet the requirements contained in NFPA No. 1972 are acceptable as meeting the requirements of this standard for head protection.

Head protective devices are required to be provided with ear flaps so that the ear flaps will be available if needed. It is recommended that ear protection always be used while fighting interior structural fires.

Many head protective devices are equipped with face shields to protect the eyes and face. These face shields are permissible as meeting the eye and face protection requirements of this section as long as such face shields meet the requirements of WAC 296-24-078 of the general safety and health standards.

Additionally, full facepieces, helmets or hoods of approved breathing apparatus which meet the requirements of WAC 296-62-071 and 296-24-58515 are also acceptable as meeting the eye and face protection requirements.

It is recommended that a flame resistant protective head covering such as a hood or snood, which will not adversely affect the seal of a respirator facepiece, be worn during interior structural fire fighting operations to protect the sides of the face and hair.

(8) Respiratory protective devices. Respiratory protection is required to be worn by fire brigade members while working inside buildings or confined spaces where toxic products of combustion or an oxygen deficiency is likely to be present; respirators are also to be worn during emergency situations involving toxic substances. When fire brigade members respond to emergency situations, they may be exposed to unknown contaminants in unknown concentrations. Therefore, it is imperative that fire brigade members wear proper respiratory protective devices during these situations. Additionally, there are many instances where toxic products of combustion are still present during mop-up and overhaul operations. Therefore, fire brigade members should continue to wear respirators during these types of operations.

Self-contained breathing apparatus are not required to be equipped with either buddy-breathing device or a quick disconnect valve. However, these accessories may be very useful and are acceptable as long as such accessories do not cause damage to the apparatus, restrict the air flow of the apparatus, or obstruct the normal operation of the apparatus.

Buddy-breathing devices are useful for emergency situations where a victim or another fire brigade member can share the same air supply with the wearer of the apparatus for emergency escape purposes.

The employer is encouraged to provide fire brigade members with an alternative means of respiratory protection to be used only for emergency escape purposes if the self-contained breathing apparatus becomes inoperative. Such alternative means of respiratory protection may be either a buddy-breathing device or an escape self-contained breathing apparatus (ESCBA). The ESCBA is a short-duration respiratory protective device which is approved for only emergency escape purposes. It is suggested that if ESCBA units are used, that they be of at least five minutes service life.

Quick disconnect valves are devices which start the flow of air by insertion of the hose (which leads to the facepiece) into the regulator of self-contained breathing apparatus, and stop the flow of air by disconnecting the hose from the regulator. These devices are particularly useful for those positive-pressure self-contained breathing apparatus which do not

have the capability of being switched from the demand to the positive-pressure mode.

The use of a self-contained breathing apparatus where the apparatus can be switched from a demand to a positive-pressure mode is acceptable as long as the apparatus is in the positive-pressure mode when performing interior structural fire fighting operations. Also acceptable are approved respiratory protective devices which have been converted to the positive-pressure type when such modification is accomplished by trained and experienced persons using kits or parts approved by NIOSH and provided by the manufacturer and by following the manufacturer's instructions.

There are situations which require the use of respirators which have a duration of two hours or more. Presently, there are no approved positive-pressure apparatus with a rated service life of more than two hours. Consequently, negative-pressure self-contained breathing apparatus with a rated service life of more than two hours and which have a minimum protection factor of 5,000 as determined by an acceptable quantitative fit test performed on each individual, will be acceptable for use during situations which require long duration apparatus. Long duration apparatus may be needed in such instances as working in tunnels, subway systems, etc. Such negative-pressure breathing apparatus will continue to be acceptable for a maximum of eighteen months after a positive-pressure apparatus with the same or longer rated service life of more than two hours is certified by NIOSH/MSHA. After this eighteen-month phase-in period, all self-contained breathing apparatus used for these long duration situations will have to be of the positive-pressure type.

~~(Protection factor (sometimes called fit factor) is defined as the ratio of the contaminant concentrations outside of the respirator to the contaminant concentrations inside the facepiece of the respirator.~~

$$PF = \frac{\text{Concentration outside respirator}}{\text{Concentration inside facepiece}}$$

~~Protection factors are determined by quantitative fit tests. An acceptable quantitative fit test should include the following elements:~~

~~(a) A fire brigade member who is physically and medically capable of wearing respirators, and who is trained in the use of respirators, dons a self-contained breathing apparatus equipped with a device that will monitor the concentration of a contaminant inside the facepiece.~~

~~(b) The fire brigade member then performs a qualitative fit test to assure the best face-to-facepiece seal as possible. A qualitative fit test can consist of a negative pressure test, positive pressure test, isoamyl acetate vapor (banana oil) test, or an irritant smoke test. For more details on respirator fitting see the NIOSH booklet entitled, "A Guide to Industrial Respiratory Protection," June 1976, and HHS publication No. (NIOSH) 76-189.~~

~~(c) The wearer should then perform physical activity which reflects the level of work activity which would be expected during fire fighting activities. The physical activity should include simulated fire ground work activity or physical exercise such as running in place, a step test, etc.~~

~~(d) Without readjusting the apparatus, the wearer is placed in a test atmosphere containing a nontoxic contaminant with a known, constant concentration.~~

~~The protection factor is then determined by dividing the known concentration of the contaminant in the test atmosphere by the concentration of the contaminant inside the facepiece when the following exercises are performed:~~

~~(i) Normal breathing with head motionless for one minute;~~

~~(ii) Deep breathing with head motionless for thirty seconds;~~

~~(iii) Turning head slowly from side to side while breathing normally, pausing for at least two breaths before changing direction. Continue for at least one minute;~~

~~(iv) Moving head slowly up and down while breathing normally, pausing for at least two breaths before changing direction. Continue for at least two minutes;~~

~~(v) Reading from a prepared text, slowly and clearly, and loudly enough to be heard and understood. Continue for one minute; and~~

~~(vi) Normal breathing with head motionless for at least one minute.~~

~~The protection factor which is determined must be at least 5,000. The quantitative fit test should be conducted at least three times. It is acceptable to conduct all three tests on the same day. However, there should be at least one hour between tests to reflect the protection afforded by the apparatus during different times of the day.~~

~~The above elements are not meant to be a comprehensive, technical description of a quantitative fit test protocol. However, quantitative fit test procedures which include these elements are acceptable for determining protection factors. Procedures for a quantitative fit test are required to be available for inspection by the director or authorized representative.~~

~~Organizations such as Los Alamos National Laboratory, Lawrence Livermore Laboratory, NIOSH, and American National Standards Institute (ANSI) are excellent sources for additional information concerning qualitative and quantitative fit testing.)~~

AMENDATORY SECTION (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

WAC 296-24-67507 Definitions. (1) Abrasive. A solid granular substance used in an abrasive blasting operation.

(2) Abrasive blasting. The forcible application of an abrasive to a surface by pneumatic pressure, hydraulic pressure, or centrifugal force.

(3) Abrasive-blasting respirator. A ~~((continuous flow airline respirator or pressure demand supplied air))~~ respirator ~~((made))~~ constructed so that it ~~((will))~~ covers the wearer's head, neck, and shoulders ~~((and provide protection))~~ to protect the wearer from rebounding abrasive.

(4) Air-line respirator. A device consisting of a facepiece, helmet, or hood to which clean air is supplied to the wearer through a small-diameter hose from a compressed air source.

(5) Blast cleaning barrel. A complete enclosure which rotates on an axis, or which has an internal moving tread to

PERMANENT

tumble the parts, in order to expose various surfaces of the parts to the action of an automatic blast spray.

(6) Blast cleaning room. A complete enclosure in which blasting operations are performed and where the operator works inside of the room to operate the blasting nozzle and direct the flow of the abrasive material.

(7) Blasting cabinet. An enclosure where the operator stands outside and operates the blasting nozzle through an opening or openings in the enclosure.

(8) Clean air. Air of such purity that it will not cause harm or discomfort to an individual if it is inhaled for extended periods of time.

(9) Dust collector. A device or combination of devices for separating dust from the air handled by an exhaust ventilation system.

(10) Exhaust ventilation system. A system for removing contaminated air from a space, comprising two or more of the following elements; (a) enclosure or hood, (b) duct work, (c) dust collecting equipment, (d) exhaust, and (e) discharge stack.

(11) Particulate-filter respirator. An air purifying respirator, commonly referred to as a dust ~~((or a fume))~~ respirator, which removes most of the dust or fume from the air passing through the device.

(12) Respirable dust. Airborne dust in sizes capable of passing through the upper respiratory system to reach the lower lung passages.

(13) Rotary blast cleaning table. An enclosure where the pieces to be cleaned are positioned on a rotating table and are passed automatically through a series of blast sprays.

AMENDATORY SECTION (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

WAC 296-24-67515 Personal protective equipment.

(1) ~~((Respiratory protective equipment approved by the National Institute for Occupational Safety and Health (NIOSH) must be used for protection of personnel against dusts produced during abrasive blasting operations.))~~ Employers must use only respirators certified by NIOSH under 42 CFR part 84 for protecting employees from dusts produced during abrasive-blasting operations.

(2) Abrasive-blasting respirators. Abrasive-blasting respirators must be worn by all abrasive-blasting operators in the following situations: (a) When working inside of blast cleaning rooms, or (b) when using silica sand in manual blasting operations except where the nozzle and blast are physically separated from the operator in an exhaust ventilated enclosure, or (c) where concentrations of toxic dusts dispersed by the abrasive blasting may exceed the limits set in ~~((WAC 296-62-075 through 296-62-07515))~~ chapter 296-62 WAC, Part E except where the nozzle and blast are physically separated from the operator in an exhaust-ventilated enclosure.

(3) Particulate-filter respirators.

(a) Properly fitted particulate ~~((or dust))~~-filter respirators, commonly referred to as dust-filter respirators, may be used for short, intermittent, or occasional dust exposures such as clean-up, dumping of dust collectors, or unloading shipments of sand at a receiving point~~((;))~~ when it is not feasible

to control the dust by enclosure, exhaust ventilation, or other means.

(b) Dust-filter respirators may also be used to protect the operator of outside (outdoor) abrasive-blasting operations where nonsilica abrasives are used on materials having low toxicity.

Note: The selection of a dust-filter respirator depends on the amount of dust in the breathing zone of the user. See WAC 296-62-07113 - Table 5.

(c) Dust-filter respirators used must be certified by NIOSH~~((approved))~~ under 42 CFR part 84 for protection against the specific type of dust encountered.

(d) Dust-filter respirators must be properly fitted as required in ~~((WAC 296-62-074))~~ chapter 296-62 WAC, Part E.

(e) Dust-filter respirators must not be used for continuous protection where silica sand is used as the blasting abrasive, or when toxic materials are blasted.

(4) A respiratory protection program as required in ~~((WAC 296-62-074))~~ chapter 296-62 WAC, Part E must be established wherever it is necessary to use respirators.

(5) Personal protective clothing.

(a) Operators must be equipped with heavy canvas or leather gloves and aprons or equivalent protection to protect them from the impact of abrasives.

(b) Safety shoes must be worn where there is a hazard of foot injury.

(c) Equipment for protection of the eyes and face must be supplied to the operator and to other personnel working near abrasive blasting operations when the respirator design does not provide such protection.

(6) Personal protective clothing, equipment and their use must comply with WAC 296-24-075 (Part A2).

AMENDATORY SECTION (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

WAC 296-24-67517 Air supply and air compressors.

~~((+))~~ Clean air supply. The air for abrasive-blasting respirators must be free of harmful quantities of dusts, mists, or noxious gases, and ~~((shall))~~ must meet the requirements for ~~((air purity set forth in American National Standard Z 86.1-1973))~~ supplied-air quality and use as specified in chapter 296-62 WAC, Part E.

~~((Note: It is preferable to provide air for an abrasive-blasting respirator with low pressure blowers or compressors which need no internal organic lubricants and are used solely for that purpose, as long as they provide sufficient air flow to each user as specified in Table 3 of the respirator standard, WAC 296-62-074.~~

~~((2))~~ When air from the regular compressed air line of the plant is used for the abrasive-blasting respirator the following are required:

~~((a))~~ A trap and carbon filter must be installed and regularly maintained, to remove oil, water, scale, and odor;

~~((b))~~ A pressure-reducing diaphragm or valve must be installed to reduce the pressure down to requirements of the particular type of abrasive-blasting respirator;

~~(e) An automatic control must be provided to either sound an alarm or shut down the compressor in case of over-heating:~~

Note: See also WAC 296-62-07111-1.)

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-71507 Ventilation in confined spaces.

(1) Air replacement. All welding and cutting operations carried on in confined spaces shall be adequately ventilated to prevent the accumulation of toxic materials or possible oxygen deficiency. This applies not only to the welder but also to helpers and other personnel in the immediate vicinity. All air replacing that withdrawn shall be clean and respirable.

(2) Airline respirators. In such circumstances where it is impossible to provide such ventilation, airline respirators or hose masks approved ~~((by the Mine Safety and Health Administration (MSHA) and))~~ for this purpose by the National Institute for Occupational Safety and Health (NIOSH) ((for this purpose shall)) under 42 CFR part 84 must be used.

(3) Self-contained units. In areas immediately hazardous to life, ~~((hose masks with blowers or self-contained breathing equipment shall be used. The breathing equipment shall be approved by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH)))~~ a full-facepiece, pressure-demand, self-contained breathing apparatus or a combination full-facepiece, pressure-demand supplied-air respirator with an auxiliary, self-contained air supply certified by NIOSH under 42 CFR part 84 must be used.

(4) Outside helper. Where welding operations are carried on in confined spaces and where welders and helpers are provided with hose masks, hose masks with blowers or self-contained breathing equipment approved by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH), a worker shall be stationed on the outside of such confined spaces to insure the safety of those working within.

(5) Oxygen for ventilation. Oxygen shall not be used for ventilation.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-71513 Lead. (1) Confined spaces. In confined spaces, welding involving lead-base metals (erroneously called lead-burning) shall be done in accordance with WAC 296-24-71507 (1) through (5).

(2) Indoors. Indoors, welding involving lead-base metals shall be done in accordance with WAC 296-24-71505 (1) and (2).

(3) Local ventilation. In confined spaces or indoors, welding or cutting operations involving metals containing lead, other than as an impurity, or involving metals coated with lead-bearing materials, including paint ~~((shall))~~ must be done using local exhaust ventilation or airline respirators. ~~((Outdoors such operations shall))~~ Such operations, when done outdoors, must be done using ~~((respiratory protective~~

~~equipment approved by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) for such purposes))~~ respirators, certified for this purpose by NIOSH under 42 CFR part 84. In all cases, workers in the immediate vicinity of the cutting operation ~~((shall))~~ must be protected as necessary by local exhaust ventilation or airline respirators.

Note: See chapter 296-62 WAC for additional requirements on lead.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-71517 Cadmium. (1) General. In confined spaces or indoors, welding or cutting ~~((indoors or in a confined space))~~ operations involving cadmium-bearing or cadmium-coated base metals ~~((shall))~~ must be done using local exhaust ventilation or airline respirators unless atmospheric tests under the most adverse conditions ~~((have established that the workers'))~~ show that employee exposure is within the acceptable concentrations ~~((defined))~~ specified by chapter 296-62 WAC. ~~((Outdoors))~~ Such operations ((shall)), when done outdoors, must be done using ~~((respiratory protective equipment))~~ respirators, such as fume respirators ((approved by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) for such purposes)), certified for this purpose by NIOSH under 42 CFR part 84.

(2) Confined space. Welding (brazing) involving cadmium-bearing filler metals shall be done using ventilation as prescribed in WAC 296-24-71505 or 296-24-71507 if the work is to be done in a confined space.

Note: See chapter 296-62 WAC for additional requirements on cadmium.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-24-71519 Mercury. In confined spaces or indoors, welding or cutting ~~((indoors or in a confined space))~~ operations involving metals coated with mercury-bearing materials, including paint, ~~((shall))~~ must be done using local exhaust ventilation or airline respirators unless atmospheric tests under the most adverse conditions ~~((have established that the workers'))~~ show that employee exposure is within the acceptable concentrations ~~((defined))~~ specified by chapter 296-62 WAC. ~~((Outdoors))~~ Such operations ((shall)), when done outdoors, must be done using ~~((respiratory protective equipment approved by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) for such purposes))~~ respirators certified for this purpose by NIOSH under 24 CFR part 84.

AMENDATORY SECTION (Amending Order 92-06, filed 10/30/92, effective 12/8/92)

WAC 296-56-60053 Hazardous atmospheres and substances. (1) Purpose and scope. This section covers areas where a hazardous atmosphere or substance may exist, except

where one or more of the following sections apply: WAC 296-56-60049 Hazardous cargo; WAC 296-56-60051 Handling explosives or hazardous materials; WAC 296-56-60055 Carbon monoxide; WAC 296-56-60057 Fumigants, pesticides, insecticides and hazardous preservatives; WAC 296-56-60107 Terminal facilities handling menhaden and similar species of fish; WAC 296-56-60235 Welding, cutting and heating (hot work); and WAC 296-56-60237 Spray painting.

(2) Determination of hazard.

(a) Whenever a room, building, vehicle, railcar or other space contains or has contained a hazardous atmosphere, a designated and appropriately equipped person shall test the atmosphere before entry to determine whether a hazardous atmosphere exists.

(b) Records of results of any tests required by this section shall be maintained for at least thirty days.

(3) Testing during ventilation. When mechanical ventilation is used to maintain a safe atmosphere, tests shall be made by a designated person to ensure that the atmosphere is not hazardous.

(4) Entry into hazardous atmospheres. Only designated persons shall enter hazardous atmospheres. The following provisions shall apply:

(a) Persons entering a space containing a hazardous atmosphere shall be protected by respiratory and emergency protective equipment meeting the requirements of ((WAC 296-62-071 through 296-62-07121)) chapter 296-62 WAC, Part E;

(b) Persons entering a space containing a hazardous atmosphere shall be instructed in the nature of the hazard, precautions to be taken, and the use of protective and emergency equipment. Standby observers, similarly equipped and instructed, shall continuously monitor the activity of employees within such space; and

(c) Except for emergency or rescue operations, employees shall not enter into any atmosphere which has been identified as flammable or oxygen deficient (less than nineteen and one-half percent oxygen). Persons who may be required to enter flammable or oxygen deficient atmospheres in emergency operations shall be instructed in the dangers attendant to those atmospheres and instructed in the use of self-contained breathing apparatus, which shall be utilized.

(d) To prevent inadvertent employee entry into spaces that have been identified as having hazardous, flammable or oxygen deficient atmospheres, appropriate warning signs or equivalent means shall be posted at all means of access to those spaces.

(5) When the packaging of asbestos cargo leaks, spillage shall be cleaned up by designated employees protected from the harmful effects of asbestos as required by WAC 296-62-07517 and chapter 296-65 WAC.

AMENDATORY SECTION (Amending WSR 95-04-007, filed 1/18/95, effective 3/1/95)

WAC 296-56-60235 Welding, cutting and heating (hot work). (1) Definition. "Hot work" means riveting, welding, flame cutting or other fire or spark-producing operation.

(2) Hot work in confined spaces. Hot work shall not be performed in a confined space until all requirements of chapter 296-62 WAC, Part M, are met.

(3) Fire protection.

(a) To the extent possible, hot work shall be performed in designated locations that are free of fire hazards.

(b) When hot work must be performed in a location that is not free of fire hazards, all necessary precautions shall be taken to confine heat, sparks, and slag so that they cannot contact flammable or combustible material.

(c) Fire extinguishing equipment suitable for the location shall be immediately available and shall be maintained in readiness for use at all times.

(d) When the hot work operation is such that normal fire prevention precautions are not sufficient, additional personnel shall be assigned to guard against fire during hot work and for a sufficient time after completion of the work to ensure that no fire hazard remains. The employer shall instruct all employees involved in hot work operations as to potential fire hazards and the use of fire fighting equipment.

(e) Drums and containers which contain or have contained flammable or combustible liquids shall be kept closed. Empty containers shall be removed from the hot work area.

(f) When openings or cracks in flooring cannot be closed, precautions shall be taken to ensure that no employees or flammable or combustible materials are exposed to sparks dropping through the floor. Similar precautions shall be taken regarding cracks or holes in walls, open doorways and open or broken windows.

(g) Hot work shall not be performed:

(i) In flammable or potentially flammable atmospheres;

(ii) On or in equipment or tanks that have contained flammable gas or liquid or combustible liquid or dust-producing material, until a designated person has tested the atmosphere inside the equipment or tanks and determined that it is not hazardous; or

(iii) Near any area in which exposed readily ignitable materials such as bulk sulphur, baled paper or cotton are stored. Bulk sulphur is excluded from this prohibition if suitable precautions are followed, the person in charge is knowledgeable and the person performing the work has been instructed in preventing and extinguishing sulphur fires.

(h)(i) Drums, containers or hollow structures that have contained flammable or combustible substances shall either be filled with water or cleaned, and shall then be ventilated. A designated person shall test the atmosphere and determine that it is not hazardous before hot work is performed on or in such structures.

(ii) Before heat is applied to a drum, container or hollow structure, an opening to release built-up pressure during heat application shall be provided.

(4) Gas welding and cutting.

(a) Compressed gas cylinders:

(i) Shall have valve protection caps in place except when in use, hooked up or secured for movement. Oil shall not be used to lubricate caps;

(ii) Shall be hoisted only while secured, as on a cradle or pallet, and shall not be hoisted by magnet, choker sling or cylinder caps;

- (iii) Shall be moved only by tilting or rolling on their bottom edges;
 - (iv) Shall be secured when moved by vehicle;
 - (v) Shall be secured while in use;
 - (vi) Shall have valves closed when cylinders are empty, being moved or stored;
 - (vii) Shall be secured upright except when hoisted or carried;
 - (viii) Shall not be freed when frozen by prying the valves or caps with bars or by hitting the valve with a tool;
 - (ix) Shall not be thawed by boiling water;
 - (x) Shall not be exposed to sparks, hot slag, or flame;
 - (xi) Shall not be permitted to become part of electrical circuits or have electrodes struck against them to strike arcs;
 - (xii) Shall not be used as rollers or supports;
 - (xiii) Shall not have contents used for purposes not authorized by the supplier;
 - (xiv) Shall not be used if damaged or defective;
 - (xv) Shall not have gases mixed within, except by gas suppliers;
 - (xvi) Shall be stored so that oxygen cylinders are separated from fuel gas cylinders and combustible materials by either a minimum distance of twenty feet (6 m) or a barrier having a fire-resistance rating of thirty minutes; and
 - (xvii) Shall not have objects that might either damage the safety device or obstruct the valve placed on top of the cylinder when in use.
- (b) Use of fuel gas. Fuel gas shall be used only as follows:
- (i) Before regulators are connected to cylinder valves, the valves shall be opened slightly (cracked) and closed immediately to clear away dust or dirt. Valves shall not be cracked if gas could reach possible sources of ignition;
 - (ii) Cylinder valves shall be opened slowly to prevent regulator damage and shall not be opened more than one and one-half turns. Any special wrench required for emergency closing shall be positioned on the valve stem during cylinder use. For manifolded or coupled cylinders, at least one wrench shall be immediately available. Nothing shall be placed on top of a cylinder or associated parts when the cylinder is in use;
 - (iii) Pressure-reducing regulators shall be attached to cylinder valves when cylinders are supplying torches or devices equipped with shut-off valves;
 - (iv) Cylinder valves shall be closed and gas released from the regulator or manifold before regulators are removed;
 - (v) Leaking fuel gas cylinder valves shall be closed and the gland nut tightened. If the leak continues, the cylinder shall be tagged, removed from service, and moved to a location where the leak will not be hazardous. If a regulator attached to a valve stops a leak, the cylinder need not be removed from the workplace but shall be tagged and may not be used again before it is repaired; and
 - (vi) If a plug or safety device leaks, the cylinder shall be tagged, removed from service, and moved to a location where the leak will not be hazardous.
- (c) Hose.
- (i) Fuel gas and oxygen hoses shall be easily distinguishable from each other by color or sense of touch. Oxygen and

fuel hoses shall not be interchangeable. Hoses having more than one gas passage shall not be used.

(ii) When oxygen and fuel gas hoses are taped together, not more than four of each twelve inches (10.2 cm of each 30.5 cm) shall be taped.

(iii) Hose shall be inspected before use. Hose subjected to flashback or showing evidence of severe wear or damage shall be tested to twice the normal working pressure but not less than two hundred p.s.i. (1378.96 kPa) before re-use. Defective hose shall not be used.

(iv) Hose couplings shall not unlock or disconnect without rotary motion.

(v) Hose connections shall be clamped or securely fastened to withstand twice the normal working pressure but not less than three hundred p.s.i. (2068.44 kPa) without leaking.

(vi) Gas hose storage boxes shall be ventilated.

(d) Torches.

(i) Torch tip openings shall only be cleaned with devices designed for that purpose.

(ii) Torches shall be inspected before each use for leaking shut-off valves, hose couplings and tip connections. Torches shall be inspected before each use for leaking shut-off valves, hose couplings and tip connections. Torches with such defects shall not be used.

(iii) Torches shall not be lighted from matches, cigarette lighters, other flames or hot work.

(e) Pressure regulators. Pressure regulators, including associated gauges, shall be maintained in safe working order.

(f) Operational precaution. Gas welding equipment shall be maintained free of oil and grease.

(5) Arc welding and cutting.

(a) Manual electrode holders.

(i) The employer shall ensure that only manual electrode holders intended for arc welding and cutting and capable of handling the maximum current required for such welding or cutting shall be used.

(ii) Current-carrying parts passing through those portions of the holder gripped by the user and through the outer surfaces of the jaws of the holder shall be insulated against the maximum voltage to ground.

(b) Welding cables and connectors.

(i) Arc welding and cutting cables shall be insulated, flexible and capable of handling the maximum current required by the operation, taking into account the duty cycles.

(ii) Only cable free from repair or splice for ten feet (3 m) from the electrode holder shall be used unless insulated connectors or splices with insulating quality equal to that of the cable are provided.

(iii) When a cable other than the lead mentioned in (b)(ii) of this subsection wears and exposes bare conductors, the portion exposed shall not be used until it is protected by insulation equivalent in performance capacity to the original.

(iv) Insulated connectors of equivalent capacity shall be used for connecting or splicing cable. Cable lugs, where used as connectors, shall provide electrical contact. Exposed metal parts shall be insulated.

(c) Ground returns and machine grounding.

(i) Ground return cables shall have current-carrying capacity equal to or exceeding the total maximum output capacities of the welding or cutting units served.

(ii) Structures or pipelines, other than those containing gases or flammable liquids or conduits containing electrical circuits, may be used in the ground return circuit if their current-carrying capacity equals or exceeds the total maximum output capacities of the welding or cutting units served.

(iii) Structures or pipelines forming a temporary ground return circuit shall have electrical contact at all joints. Arcs, sparks or heat at any point in the circuit shall cause rejection as a ground circuit.

(iv) Structures or pipelines acting continuously as ground return circuits shall have joints bonded and maintained to ensure that no electrolysis or fire hazard exists.

(v) Arc welding and cutting machine frames shall be grounded, either through a third wire in the cable containing the circuit conductor or through a separate wire at the source of the current. Grounding circuits shall have resistance low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(vi) Ground connections shall be mechanically and electrically adequate to carry the current.

(d) When electrode holders are left unattended, electrodes shall be removed and holders placed to prevent employee injury.

(e) Hot electrode holders shall not be dipped in water.

(f) The employer shall ensure that when arc welders or cutters leave or stop work or when machines are moved, the power supply switch is kept in the off position.

(g) Arc welding or cutting equipment having a functional defect shall not be used.

(h)(i) Arc welding and cutting operations shall be separated from other operations by shields, screens, or curtains to protect employees in the vicinity from the direct rays and sparks of the arc.

(ii) Employees in areas not protected from the arc by screening shall be protected by appropriate filter lenses in accordance with subsection (8) of this section. When welders are exposed to their own arc or to each other's arc, they shall wear filter lenses complying with the requirements of subsection (8) of this section.

(i) The control apparatus of arc welding machines shall be enclosed, except for operating wheels, levers, and handles.

(j) Input power terminals, top change devices and live metal parts connected to input circuits shall be enclosed and accessible only by means of insulated tools.

(k) When arc welding is performed in wet or high-humidity conditions, employees shall use additional protection, such as rubber pads or boots, against electric shock.

(6) Ventilation and employee protection in welding, cutting and heating.

(a) Mechanical ventilation requirements. The employer shall ensure that general mechanical ventilation or local exhaust systems shall meet the following requirements:

(i) General mechanical ventilation shall maintain vapors, fumes and smoke below a hazardous level;

(ii) Local exhaust ventilation shall consist of movable hoods positioned close to the work and shall be of such capacity and arrangement as to keep breathing zone concentrations below hazardous levels;

(iii) Exhausts from working spaces shall be discharged into the open air, clear of intake air sources;

(iv) Replacement air shall be clean and respirable; and

(v) Oxygen shall not be used for ventilation, cooling or cleaning clothing or work areas.

(b) Hot work in confined spaces. Except as specified in (c)(ii) and (iii) of this subsection, when hot work is performed in a confined space the employer shall, in addition to the requirements of chapter 296-62 WAC, Part M, ensure that:

(i) General mechanical or local exhaust ventilations shall be provided; or

(ii) Employees in the space shall wear ~~((supplied air))~~ respirators in accordance with ~~((WAC 296-62-071 et seq. and a standby observer on the outside shall maintain communication with employees inside the space and shall be equipped and prepared to provide emergency aid))~~ chapter 296-62 WAC, Part E.

(c) Welding, cutting or heating of toxic metals.

(i) In confined or enclosed spaces, hot work involving the following metals shall only be performed with general mechanical or local exhaust ventilation that ensures that employees are not exposed to hazardous levels of fumes:

(A) Lead base metals;

(B) Cadmium-bearing filler materials; and

(C) Chromium-bearing metals or metals coated with chromium-bearing materials.

(ii) In confined or enclosed spaces, hot work involving the following metals shall only be performed with local exhaust ventilation meeting the requirements of this subsection or by employees wearing supplied air respirators in accordance with chapter 296-62 WAC, Part E;

(A) Zinc-bearing base or filler metals or metals coated with zinc-bearing materials;

(B) Metals containing lead other than as an impurity, or coated with lead-bearing materials;

(C) Cadmium-bearing or cadmium-coated base metals; and

(D) Metals coated with mercury-bearing materials.

(iii) Employees performing hot work in confined or enclosed spaces involving beryllium-containing base or filler metals shall be protected by local exhaust ventilation and wear supplied air respirators or self-contained breathing apparatus, in accordance with the requirements of chapter 296-62 WAC, Part E.

(iv) The employer shall ensure that employees performing hot work in the open air that involves any of the metals listed in (c)(i) and (ii) of this subsection shall be protected by respirators in accordance with the requirements of chapter 296-62 WAC, Part E and those working on beryllium-containing base or filler metals shall be protected by supplied air respirators, in accordance with the requirements of chapter 296-62 WAC, Part E.

(v) Any employee exposed to the same atmosphere as the welder or burner shall be protected by the same type of respiratory and other protective equipment as that worn by the welder or burner.

(d) Inert-gas metal-arc welding. Employees shall not engage in and shall not be exposed to the inert-gas metal-arc welding process unless the following precautions are taken:

(i) Chlorinated solvents shall not be used within two hundred feet (61 m) of the exposed arc. Surfaces prepared

with chlorinated solvents shall be thoroughly dry before welding is performed on them.

(ii) Employees in areas not protected from the arc by screening shall be protected by appropriate filter lenses in accordance with the requirements of subsection (8) of this section. When welders are exposed to their own arc or to each other's arc, filter lenses complying with the requirements of subsection (8) of this section shall be worn to protect against flashes and radiant energy.

(iii) Employees exposed to radiation shall have their skin covered completely to prevent ultraviolet burns and damage. Helmets and hand shields shall not have leaks, openings or highly reflective surfaces.

(iv) Inert-gas metal-arc welding on stainless steel shall not be performed unless exposed employees are protected either by local exhaust ventilation or by wearing supplied air respirators in accordance with the requirements of chapter 296-62 WAC, Part E.

(7) Welding, cutting and heating on preservative coatings.

(a) Before hot work is commenced on surfaces covered by a preservative coating of unknown flammability, a test shall be made by a designated person to determine the coating's flammability. Preservative coatings shall be considered highly flammable when scrapings burn with extreme rapidity.

(b) Appropriate precaution shall be taken to prevent ignition of highly flammable hardened preservative coatings. Highly flammable coatings shall be stripped from the area to be heated. An uncoiled fire hose with fog nozzle, under pressure, shall be immediately available in the hot work area.

(c) Surfaces covered with preservative coatings shall be stripped for at least four inches (10.2 cm) from the area of heat application or employees shall be protected by supplied air respirators in accordance with the requirements of chapter 296-62 WAC.

(8) Protection against radiant energy.

(a) Employees shall be protected from radiant energy eye hazards by spectacles, cup goggles, helmets, hand shields or face shields with filter lenses complying with the requirements of this subsection.

(b) Filter lenses shall have an appropriate shade number, as indicated in Table G-1, for the work performed. Variations of one or two shade numbers are permissible to suit individual preferences.

(c) If filter lenses are used in goggles worn under the helmet, the shade numbers of both lenses equals the value shown in Table G-1 for the operation.

Table G-1.—Filter Lenses for Protection
Against Radiant Energy

Operation	Shade No.
Soldering	2
Torch Brazing	3 or 4
Light cutting, up to 1 inch	3 or 4
Medium cutting, 1-6 inches	4 or 5
Heavy cutting, over 6 inches	5 or 6

Light gas welding, up to 1/8 inch	4 or 5
Medium gas welding, 1/8-1/2 inch	5 or 6
Heavy gas welding, over 1/2 inch	6 or 8
Shielded Metal-Arc Welding 1/16 to 5/32-inch electrodes	10
Inert gas Metal-Arc Welding (non-ferrous) 1/16 to 5/32-inch electrodes	11
Shielded Metal-Arc Welding: 3/16 to 1/4-inch electrodes	12
5/16 and 3/8-inch electrodes	14

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-78-665 Sanding machines. (1) Each belt sanding machine shall have both pulleys enclosed in such a manner as to guard the points where the belt runs onto the pulleys. The edges of the unused run of belt shall be enclosed or otherwise guarded from contact by employees.

(2) Each drum sanding machine shall be provided with a guard so arranged as to completely enclose the revolving drum except such portion required for the application of the material to be finished. Guards with hinges to facilitate the insertion of sandpaper may be installed. The exhaust hood may form part or all of this guard. When so used, the hood shall conform to the specifications as given under exhaust systems in WAC 296-78-710.

(3) All standard stationary sanding machines shall be provided with exhaust systems in conformity with the section of this code dealing with exhaust systems.

(4) All portable sanding machines shall be provided with means of removing excessive dust, or employees using equipment shall be provided with such necessary respiratory protective equipment as will conform to the requirements of the general occupational health standards, chapter 296-62 WAC, Part E.

(5) The requirements of WAC 296-24-16533, general safety and health standards, shall be applicable to sanding machines.

AMENDATORY SECTION (Amending Order 81-21, filed 8/27/81)

WAC 296-78-71019 Exhaust systems. (1) Air requirements in buildings, where persons are habitually employed, shall meet the requirements of the general occupational health standard, WAC 296-62-100 through 296-62-11013.

(2) Where the natural ventilation is not sufficient to remove dust, fumes or vapors that create or constitute a hazard, additional means of removal shall be provided.

(3) All mills containing one or more machines whose operations create dust, shavings, chips or slivers during a period of time equal to or greater than one-fourth of the working day or shift, shall be equipped with a collecting system either continuous or automatic in action and of sufficient strength and capacity to thoroughly remove such refuse from the points of operation of the machines and the work areas.

PERMANENT

(4) Each woodworking machine that creates dust, shavings, chips, or slivers shall be equipped with an exhaust or conveyor system located and adjusted to remove the maximum amount of refuse from the point of operation and immediate vicinity.

(5) Blower, collecting and exhaust systems shall be designed, constructed and maintained in accordance with American National Standards Z33.1 - 1961 (for the installation of blower and exhaust systems for dust, stock and vapor removal or conveying) and Z12.2 - 1962 (R1969) (code for the prevention of dust explosions in woodworking and wood flour manufacturing plants).

(6) Fans used for ventilating shall be of ample capacity, as evidenced by the performance schedules of the manufacturers, and shall be guarded when exposed to contact. Hoods, dust conveyors, dust collectors and other accessory equipment shall be large enough to insure free intake and discharge.

(7) The outlet or discharge of all ventilating equipment shall be so arranged that at no time will the dust, vapors, gases or other air borne impurities discharged, create or constitute a hazard.

(8) Where a hood is used to form a part or all of the guard required on a given machine, it shall be constructed of not less than ten U.S. gauge sheet metal, or if of cast iron it shall be not less than three-sixteenths inches in thickness.

(9) All exhaust pipes shall be of such construction and internal dimensions as to minimize the possibility of clogging. They shall be readily accessible for cleaning.

(10) All exhaust pipes shall empty into settling or dust chambers which shall effectively prevent the dust or refuse from entering any work area. Such settling or dust chambers shall be so designed and operated as to reduce to a minimum the danger of fire or dust explosions.

(11) In lieu of a general ventilating system, exhaust or blower units may be installed on the dust or fume producing machine, provided the required protection is secured thereby.

(12) When proper ventilation is not provided, and temporary hazardous conditions are therefore encountered, the employer shall furnish approved respiratory and visual equipment: *Provided, however,* That the exposure to such hazard shall not be for more than two hours duration. Protective measures and equipment shall meet the requirements of the general occupational health standard, ~~((WAC 296-62-070 through 296-62-09001))~~ chapter 296-62 WAC, Part E and the requirements of the general safety and health standard, WAC 296-24-081 through 296-24-08113.

(13) Provisions for the daily removal of refuse shall be made in all operations not required to have an exhaust system, or having refuse too heavy, or bulky, or otherwise unsuitable to be handled by an exhaust system.

AMENDATORY SECTION (Amending WSR 96-09-030, filed 4/10/96, effective 6/1/96)

WAC 296-62-07306 Requirements for areas containing carcinogens listed in WAC 296-62-07302. (1) A regulated area shall be established by an employer where listed carcinogens are manufactured, processed, used, repackaged, released, handled or stored.

(2) All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved:

(a) Isolated systems. Employees working with carcinogens within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas where carcinogens are stored in sealed containers, or contained in a closed system including piping systems with any sample ports or openings closed while carcinogens are contained within:

(i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations as defined in WAC 296-62-07304(12) are prohibited.

(d) Transfer from a closed system. Charging or discharging point operations, or otherwise opening a closed system. In operations involving "laboratory-type hoods," or in locations where a carcinogen is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this section shall apply.

(i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in ~~((operations))~~ handling operations involving the following carcinogens ~~((shall))~~ must be provided with and required to wear and use a full-face, supplied-air respirator, of the continuous flow or pressure-demand type ~~((in accordance with WAC 296-62-071))~~ as required in chapter 296-62 WAC, Part E:

- Methyl Chloromethyl Ether;
- bis-Chloromethyl Ether;
- Ethylenimine;
- beta-Propiolactone;
- 4-Amino Diphenyl.

(v) Employees engaged in ~~((operations))~~ handling ~~((the following carcinogens shall be provided with and required to wear and use (not less than) a half face, filter type respirator~~

for dusts, mists, and fumes in accordance with WAC 296-62-071)) operations involving:

(~~4-Nitrobiphenyl; Alpha-Naphthylamine; 4,4'-Methylene-bis(2-Chloroaniline); 3,3'-Dichlorobenzidine (and its salts); Beta-Naphthylamine; Benzidine; 2-Acetylaminofluorene; 4-Dimethylaminoazobenzene; N-Nitrosodimethylamine;~~)

- 4-nitrobiphenyl;
- alpha-naphthylamine;
- 4-4'methylene bis(2-chloroaniline);
- 3-3'dichlorobenzidine (and its salts);
- beta-naphthylamine;
- benzidine;
- 2-acetylaminofluorene;
- 4-dimethylaminobenzene;
- n-nitrosodimethylamine

must be provided with, and required to wear and use, a half-face, filter-type respirator certified for solid or liquid particulates with minimum efficiency rating of 95% as required in chapter 296-62 WAC, Part E. A respirator affording higher levels of protection than this respirator may be substituted.

(vi) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under WAC 296-62-07310 (2), (3) and (4).

(vii) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(viii) Employees shall be required to shower after the last exit of the day.

(ix) Drinking fountains are prohibited in the regulated area.

(e) Maintenance and decontamination activities. In clean up of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with carcinogens could result, each authorized employee entering the area shall:

(i) Be provided with and required to wear, clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with chapter 296-24 WAC, the general safety and health standards, and respiratory protective equipment required by this chapter 296-62 WAC;

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this subdivision shall apply to research and quality control activities involving the use of carcinogens listed in WAC 296-62-07302.

(i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which carcinogens are handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of listed carcinogens shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be:

(A) Provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(B) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under WAC 296-62-07310 (2), (3) and (4).

(C) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(D) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be:

(A) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(B) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under WAC 296-62-07310 (2), (3) and (4).

(C) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where carcinogens are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of the carcinogens shall be maintained.

(xii) Ventilated apparatus such as laboratory-type hoods, shall be tested at least semi-annually or immediately after

ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

AMENDATORY SECTION (Amending Order 83-34, filed 11/30/83)

WAC 296-62-07308 General regulated area requirements. (1) Respirator program. The employer must implement a respiratory protection program as required in chapter 296-62 WAC, Part E (except WAC 296-62-07130 (1) and (5) and 296-62-07131).

(2) Emergencies. In an emergency, immediate measures including, but not limited to, the requirements of (a), (b), (c), (d) and (e) of this subsection shall be implemented.

(a) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(b) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(c) Special medical surveillance by a physician shall be instituted within twenty-four hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with WAC 296-62-07312(2).

(d) Where an employee has a known contact with a listed carcinogen, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(e) An incident report on the emergency shall be reported as provided in WAC 296-62-07312(2).

~~((2))~~ (3) Hygiene facilities and practices.

(a) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products, are prohibited in regulated areas.

(b) Where employees are required by this section to wash, washing facilities shall be provided in accordance with WAC 296-24-12009, of the general safety and health standards.

(c) Where employees are required by this section to shower, shower facilities shall be provided.

(i) One shower shall be provided for each ten employees of each sex, or numerical fraction thereof, who are required to shower during the same shift.

(ii) Body soap or other appropriate cleansing agents convenient to the showers shall be provided as specified in WAC 296-24-12009, of the general safety and health standards.

(iii) Showers shall be provided with hot and cold water feeding a common discharge line.

(iv) Employees who use showers shall be provided with individual clean towels.

(d) Where employees wear protective clothing and equipment, clean change rooms shall be provided and shall be equipped with storage facilities for street clothes and separate storage facilities for the protective clothing for the number of such employees required to change clothes.

(e) Where toilets are in regulated areas, such toilets shall be in a separate room.

~~((3))~~ (4) Contamination control.

(a) Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(b) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(c) Decontamination procedures shall be established and implemented to remove carcinogens from the surfaces of materials, equipment and the decontamination facility.

(d) Dry sweeping and dry mopping are prohibited.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-62-07329 Vinyl chloride. (1) Scope and application.

(a) This section includes requirements for the control of employee exposure to vinyl chloride (chloroethene), Chemical Abstracts Service Registry No. 75014.

(b) This section applies to the manufacture, reaction, packaging, repackaging, storage, handling or use of vinyl chloride or polyvinyl chloride, but does not apply to the handling or use of fabricated products made of polyvinyl chloride.

(c) This section applies to the transportation of vinyl chloride or polyvinyl chloride except to the extent that the department of transportation may regulate the hazards covered by this section.

(2) Definitions.

(a) "Action level" means a concentration of vinyl chloride of 0.5 ppm averaged over an 8-hour work day.

(b) "Authorized person" means any person specifically authorized by the employer whose duties require him/her to enter a regulated area or any person entering such an area as a designated representative of employees for the purpose of exercising an opportunity to observe monitoring and measuring procedures.

(c) "Director" means the director of department of labor and industries or his/her designated representative.

(d) "Emergency" means any occurrence such as, but not limited to, equipment failure, or operation of a relief device which is likely to, or does, result in massive release of vinyl chloride.

(e) "Fabricated product" means a product made wholly or partly from polyvinyl chloride, and which does not require further processing at temperatures, and for times, sufficient to cause mass melting of the polyvinyl chloride resulting in the release of vinyl chloride.

(f) "Hazardous operation" means any operation, procedure, or activity where a release of either vinyl chloride liquid or gas might be expected as a consequence of the operation or because of an accident in the operation, which would result in an employee exposure in excess of the permissible exposure limit.

(g) "Polyvinyl chloride" means polyvinyl chloride homopolymer or copolymer before such is converted to a fabricated product.

(h) "Vinyl chloride" means vinyl chloride monomer.

(3) Permissible exposure limit.

(a) No employee may be exposed to vinyl chloride at concentrations greater than 1 ppm averaged over any 8-hour period, and

(b) No employee may be exposed to vinyl chloride at concentrations greater than 5 ppm averaged over any period not exceeding 15 minutes.

(c) No employee may be exposed to vinyl chloride by direct contact with liquid vinyl chloride.

(4) Monitoring.

(a) A program of initial monitoring and measurement shall be undertaken in each establishment to determine if there is any employee exposed, without regard to the use of respirators, in excess of the action level.

(b) Where a determination conducted under subdivision (a) of this subsection shows any employee exposures without regard to the use of respirators, in excess of the action level, a program for determining exposures for each such employee shall be established. Such a program:

(i) Shall be repeated at least monthly where any employee is exposed, without regard to the use of respirators, in excess of the permissible exposure limit.

(ii) Shall be repeated not less than quarterly where any employee is exposed, without regard to the use of respirators, in excess of the action level.

(iii) May be discontinued for any employee only when at least two consecutive monitoring determinations, made not less than 5 working days apart, show exposures for that employee at or below the action level.

(c) Whenever there has been a production, process or control change which may result in an increase in the release of vinyl chloride, or the employer has any other reason to suspect that any employee may be exposed in excess of the action level, a determination of employee exposure under subdivision (a) of this subsection shall be performed.

(d) The method of monitoring and measurement shall have an accuracy (with a confidence level of 95 percent) of not less than plus or minus 50 percent from 0.25 through 0.5 ppm, plus or minus 35 percent from over 0.5 ppm through 1.0 ppm, plus or minus 25 percent over 1.0 ppm, (methods meeting these accuracy requirements are available from the director).

(e) Employees or their designated representatives shall be afforded reasonable opportunity to observe the monitoring and measuring required by this subsection.

(5) Regulated area.

(a) A regulated area shall be established where:

(i) Vinyl chloride or polyvinyl chloride is manufactured, reacted, repackaged, stored, handled or used; and

(ii) Vinyl chloride concentrations are in excess of the permissible exposure limit.

(b) Access to regulated areas shall be limited to authorized persons.

(6) Methods of compliance. Employee exposures to vinyl chloride shall be controlled to at or below the permissible exposure limit provided in subsection (3) of this section

by engineering, work practice, and personal protective controls as follows:

(a) Feasible engineering and work practice controls shall immediately be used to reduce exposures to at or below the permissible exposure limit.

(b) Wherever feasible engineering and work practice controls which can be instituted immediately are not sufficient to reduce exposures to at or below the permissible exposure limit, they shall nonetheless be used to reduce exposures to the lowest practicable level, and shall be supplemented by respiratory protection in accordance with subsection (7) of this section. A program shall be established and implemented to reduce exposures to at or below the permissible exposure limit, or to the greatest extent feasible, solely by means of engineering and work practice controls, as soon as feasible.

(c) Written plans for such a program shall be developed and furnished upon request for examination and copying to the director. Such plans shall be updated at least every six months.

(7) Respiratory protection. (~~Where respiratory protection is required under this section:~~)

(a) General. For employees who use respirators required by this section, the employer ((shall)) must provide ((a)) respirators ((which meets)) that comply with the requirements of this ((subdivision and shall assure that the employee uses such respirator)) section.

(b) (~~Respirators shall be selected from among those jointly approved by the Mine Safety and Health Administration, and the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.~~)

Note: The Department of Interior published an article in Federal Register in April 1976 which extended time requirement for respirators used for protection against vinyl chloride to have a cartridge or canister with an end-of-service-life indicator. The indicator is an additional safety feature but does not adversely affect the effectiveness of currently approved respirator cartridges or canisters. Until approved end-of-service-life indicators are available, the respirators, cartridges, or canisters presently approved are considered to meet requirements for vinyl chloride when used per manufacturer's instructions.)

Respirator program. The employer must establish, implement, and maintain a respiratory protection program as required in chapter 296-62 WAC, Part E (except WAC 296-62-07130(1), 296-62-07131 (4)(b)(i) and (ii), and 296-62-07150 through 296-62-17156).

(c) (~~A respiratory protection program meeting the requirements of chapter 296-62 WAC shall be established and maintained.~~)

(d) Selection of respirators for vinyl chloride shall be as follows:

	Atmospheric concentration of Vinyl Chloride	Required Apparatus
(i)	Unknown, or above 3,600 ppm	Open circuit, self-contained breathing apparatus, pressure-demand type, with full facepiece.

PERMANENT

	<u>Atmospheric concentration of Vinyl Chloride</u>	<u>Required Apparatus</u>
(ii)	Not over 3,600 ppm	Combination Type C supplied air respirator, pressure demand type, with full or half facepiece, and auxiliary self-contained air supply.
(iii)	Not over 250 ppm	Type C, supplied air respirator, continuous flow type, with full or half facepiece, helmet or hood.
(iv)	Not over 100 ppm	Supplied air respirator demand type, with full facepiece.
(v)	Not over 25 ppm	(A) A powered air-purifying respirator with hood, helmet, full or half facepiece, and a canister which provides a service life of at least 4 hours for concentrations of vinyl chloride up to 25 ppm, or (B) Gas mask, front or back-mounted canister which provides a service life of at least 4 hours for concentrations of vinyl chloride up to 25 ppm.
(vi)	Not over 10 ppm	Any chemical cartridge respirator with a vinyl chloride cartridge which provides a service life of at least 1 hour for concentrations of vinyl chloride up to 10 ppm.

	<u>Atmospheric concentration of Vinyl Chloride</u>	<u>Apparatus</u>
(iii)	Not over 100 ppm	(B) Gas mask, front or back-mounted canister which provides a service life of at least 4 hours for concentrations of vinyl chloride up to 25 ppm. Supplied air respirator demand type, with full facepiece.
(iv)	Not over 250 ppm	Type C, supplied air respirator, continuous flow type, with full or half facepiece, helmet or hood.
(v)	Not over 3,600 ppm	Combination Type C supplied air respirator, pressure demand type, with full or half facepiece and auxiliary self-contained air supply.
(vi)	Unknown, or above 3,600 ppm	Open-circuit, self-contained breathing apparatus, pressure demand type, with full facepiece.

(e)(i) Entry into unknown concentrations or concentrations greater than 36,000 ppm (lower explosive limit) may be made only for purposes of life rescue; and

(ii) Entry into concentrations of less than 36,000 ppm, but greater than 3,600 ppm may be made only for purposes of life rescue, fire fighting, or securing equipment so as to prevent a greater hazard from release of vinyl chloride.

(f)) Respirator selection. Respirators must be selected from the following table.

	<u>Atmospheric concentration of Vinyl Chloride</u>	<u>Apparatus</u>
(i)	Not over 10 ppm	Any chemical cartridge respirator with a vinyl chloride cartridge which provides a service life of at least 1 hour for concentrations of vinyl chloride up to 10 ppm.
(ii)	Not over 25 ppm	(A) A powered air-purifying respirator with hood, helmet, full or half facepiece, and a canister which provides a service life of at least 4 hours for concentrations of vinyl chloride up to 25 ppm, or

(d) Where air-purifying respirators are used:
 (i) Air-purifying canisters or cartridges (~~shall~~) must be replaced prior to the expiration of their service life or the end of the shift in which they are first used, whichever occurs first, and

(ii) A continuous monitoring and alarm system (~~shall~~) must be provided (~~where~~) when concentrations of vinyl chloride could reasonably exceed the allowable concentrations for the devices in use. Such system shall be used to alert employees when vinyl chloride concentrations exceed the allowable concentrations for the devices in use(~~;-)~~, and

(~~g~~) ~~Apparatus prescribed~~) (iii) Respirators specified for higher concentrations may be used for (~~any~~) lower concentration.

(8) Hazardous operations.

(a) Employees engaged in hazardous operations, including entry of vessels to clean polyvinyl chloride residue from vessel walls, shall be provided and required to wear and use;

(i) Respiratory protection in accordance with subsections (3) and (7) of this section; and

(ii) Protective garments to prevent skin contact with liquid vinyl chloride or with polyvinyl chloride residue from vessel walls. The protective garments shall be selected for the operation and its possible exposure conditions.

(b) Protective garments shall be provided clean and dry for each use.

(c) Emergency situations. A written operational plan for emergency situations shall be developed for each facility storing, handling, or otherwise using vinyl chloride as a liquid or compressed gas. Appropriate portions of the plan shall

PERMANENT

be implemented in the event of an emergency. The plan shall specifically provide that:

(i) Employees engaged in hazardous operations or correcting situations of existing hazardous releases shall be equipped as required in subdivisions (a) and (b) of this subsection;

(ii) Other employees not so equipped shall evacuate the area and not return until conditions are controlled by the methods required in subsection (6) of this section and the emergency is abated.

(9) Training. Each employee engaged in vinyl chloride or polyvinyl chloride operations shall be provided training in a program relating to the hazards of vinyl chloride and precautions for its safe use.

(a) The program shall include:

(i) The nature of the health hazard from chronic exposure to vinyl chloride including specifically the carcinogenic hazard;

(ii) The specific nature of operations which could result in exposure to vinyl chloride in excess of the permissible limit and necessary protective steps;

(iii) The purpose for, proper use, and limitations of respiratory protective devices;

(iv) The fire hazard and acute toxicity of vinyl chloride, and the necessary protective steps;

(v) The purpose for and a description of the monitoring program;

(vi) The purpose for and a description of, the medical surveillance program;

(vii) Emergency procedures:

(A) Specific information to aid the employee in recognition of conditions which may result in the release of vinyl chloride; and

(B) A review of this standard at the employee's first training and indoctrination program, and annually thereafter.

(b) All materials relating to the program shall be provided upon request to the director.

(10) Medical surveillance. A program of medical surveillance shall be instituted for each employee exposed, without regard to the use of respirators, to vinyl chloride in excess of the action level. The program shall provide each such employee with an opportunity for examinations and tests in accordance with this subsection. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician and shall be provided without cost to the employee.

(a) At the time of initial assignment, or upon institution of medical surveillance;

(i) A general physical examination shall be performed with specific attention to detecting enlargement of liver, spleen or kidneys, or dysfunction in these organs, and for abnormalities in skin, connective tissues and the pulmonary system (see Appendix A).

(ii) A medical history shall be taken, including the following topics:

(A) Alcohol intake,

(B) Past history of hepatitis,

(C) Work history and past exposure to potential hepatotoxic agents, including drugs and chemicals,

(D) Past history of blood transfusions, and

(E) Past history of hospitalizations.

(iii) A serum specimen shall be obtained and determinations made of:

(A) Total bilirubin,

(B) Alkaline phosphatase,

(C) Serum glutamic oxalacetic transaminase (SGOT),

(D) Serum glutamic pyruvic transaminase (SGPT), and

(E) Gamma glutamyl transpeptidase.

(b) Examinations provided in accordance with this subsection shall be performed at least:

(i) Every 6 months for each employee who has been employed in vinyl chloride or polyvinyl chloride manufacturing for 10 years or longer; and

(ii) Annually for all other employees.

(c) Each employee exposed to an emergency shall be afforded appropriate medical surveillance.

(d) A statement of each employee's suitability for continued exposure to vinyl chloride including use of protective equipment and respirators, shall be obtained from the examining physician promptly after any examination. A copy of the physician's statement shall be provided each employee.

(e) If any employee's health would be materially impaired by continued exposure, such employee shall be withdrawn from possible contact with vinyl chloride.

(f) Laboratory analyses for all biological specimens included in medical examinations shall be performed in laboratories licensed under 42 CFR Part 74.

(g) If the examining physician determines that alternative medical examinations to those required by subdivision (a) of this subsection will provide at least equal assurance of detecting medical conditions pertinent to the exposure to vinyl chloride, the employer may accept such alternative examinations as meeting the requirements of subdivision (a) of this subsection, if the employer obtains a statement from the examining physician setting forth the alternative examinations and the rationale for substitution. This statement shall be available upon request for examination and copying to authorized representatives of the director.

(11) Signs and labels.

(a) Entrances to regulated areas shall be posted with legible signs bearing the legend:

CANCER-SUSPECT AGENT AREA AUTHORIZED PERSONNEL
ONLY

(b) Areas containing hazardous operations or where an emergency currently exists shall be posted with legible signs bearing the legend:

CANCER-SUSPECT AGENT IN THIS AREA PROTECTIVE EQUIP-
MENT REQUIRED AUTHORIZED PERSONNEL ONLY

(c) Containers of polyvinyl chloride resin waste from reactors or other waste contaminated with vinyl chloride shall be legibly labeled:

CONTAMINATED WITH VINYL CHLORIDE CANCER-SUSPECT
AGENT

(d) Containers of polyvinyl chloride shall be legibly labeled:

PERMANENT

POLYVINYL CHLORIDE (OR TRADE NAME) CONTAINS VINYL CHLORIDE VINYL CHLORIDE IS A CANCER-SUSPECT AGENT

(e) Containers of vinyl chloride shall be legibly labeled either:

VINYL CHLORIDE EXTREMELY FLAMMABLE GAS UNDER PRESSURE CANCER-SUSPECT AGENT

(or)

(f) In accordance with 49 CFR Part 173, Subpart H, with the additional legends:

CANCER-SUSPECT AGENT

Applied near the label or placard.

(g) No statement shall appear on or near any required sign, label or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(12) Records.

(a) All records maintained in accordance with this section shall include the name and social security number of each employee where relevant.

(b) Records of required monitoring and measuring and medical records shall be provided upon request to employees, designated representatives, and the director in accordance with WAC 296-62-05201 through 296-62-05209; and 296-62-05213 through 296-62-05217. These records shall be provided upon request to the director. Authorized personnel rosters shall also be provided upon request to the director.

(i) Monitoring and measuring records shall:

(A) State the date of such monitoring and measuring and the concentrations determined and identify the instruments and methods used;

(B) Include any additional information necessary to determine individual employee exposures where such exposures are determined by means other than individual monitoring of employees; and

(C) Be maintained for not less than 30 years.

(ii) Medical records shall be maintained for the duration of the employment of each employee plus 20 years, or 30 years, whichever is longer.

(c) In the event that the employer ceases to do business and there is no successor to receive and retain his/her records for the prescribed period, these records shall be transmitted by registered mail to the director, and each employee individually notified in writing of this transfer. The employer shall also comply with any additional requirements set forth in WAC 296-62-05215.

(d) Employees or their designated representatives shall be provided access to examine and copy records of required monitoring and measuring.

(e) Former employees shall be provided access to examine and copy required monitoring and measuring records reflecting their own exposures.

(f) Upon written request of any employee, a copy of the medical record of that employee shall be furnished to any physician designated by the employee.

(13) Reports.

(a) Not later than 1 month after the establishment of a regulated area, the following information shall be reported to the director. Any changes to such information shall be reported within 15 days.

(i) The address and location of each establishment which has one or more regulated areas; and

(ii) The number of employees in each regulated area during normal operations, including maintenance.

(b) Emergencies and the facts obtainable at that time, shall be reported within 24 hours to the director. Upon request of the director, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of similar nature.

(c) Within 10 working days following any monitoring and measuring which discloses that any employee has been exposed, without regard to the use of respirators, in excess of the permissible exposure limit, each such employee shall be notified in writing of the results of the exposure measurement and the steps being taken to reduce the exposure to within the permissible exposure limit.

(14) (~~Effective January 1, 1975, the provisions set forth in WAC 296-62-07329 shall apply.~~) Appendix A supplementary medical information.

When required tests under subsection (10)(a) of this section show abnormalities, the tests should be repeated as soon as practicable, preferably within 3 to 4 weeks. If tests remain abnormal, consideration should be given to withdrawal of the employee from contact with vinyl chloride, while a more comprehensive examination is made.

Additional tests which may be useful:

(A) For kidney dysfunction: Urine examination for albumin, red blood cells, and exfoliative abnormal cells.

(B) Pulmonary system: Forced vital capacity, forced expiratory volume at 1 second, and chest roentgenogram (posterior-anterior, 14 x 17 inches).

(C) Additional serum tests: Lactic acid dehydrogenase, lactic acid dehydrogenase isoenzyme, protein determination, and protein electrophoresis.

(D) For a more comprehensive examination on repeated abnormal serum tests: Hepatitis B antigen, and liver scanning.

AMENDATORY SECTION (Amending Order 88-04, filed 5/11/88)

WAC 296-62-07336 Acrylonitrile. (1) Scope and application.

(a) This section applies to all occupational exposure to acrylonitrile (AN), Chemical Abstracts Service Registry No. 000107131, except as provided in (b) and (c) of this subsection.

(b) This section does not apply to exposures which result solely from the processing, use, and handling of the following materials:

(i) ABS resins, SAN resins, nitrile barrier resins, solid nitrile elastomers, and acrylic and modacrylic fibers, when these listed materials are in the form of finished polymers, and products fabricated from such finished polymers;

(ii) Materials made from and/or containing AN for which objective data is reasonably relied upon to demonstrate that the material is not capable of releasing AN in airborne concentrations in excess of 1 ppm as an eight-hour time-weighted average, under the expected conditions of processing, use, and handling which will cause the greatest possible release; and

(iii) Solid materials made from and/or containing AN which will not be heated above 170°F during handling, use, or processing.

(c) An employer relying upon exemption under (1)(b)(ii) shall maintain records of the objective data supporting that exemption, and of the basis of the employer's reliance on the data as provided in subsection (17) of this section.

(2) Definitions, as applicable to this section:

(a) "Acrylonitrile" or "AN" - acrylonitrile monomer, chemical formula $\text{CH}_2=\text{CHCN}$.

(b) "Action level" - a concentration of AN of 1 ppm as an eight-hour time-weighted average.

(c) "Authorized person" - any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under subsection (18) of this section.

(d) "Decontamination" means treatment of materials and surfaces by water washdown, ventilation, or other means, to assure that the materials will not expose employees to airborne concentrations of AN above 1 ppm as an eight-hour time-weighted average.

(e) "Director" - the director of labor and industries, or his authorized representative.

(f) "Emergency" - any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment, which is likely to, or does, result in unexpected exposure to AN in excess of the ceiling limit.

(g) "Liquid AN" means AN monomer in liquid form, and liquid or semiliquid polymer intermediates, including slurries, suspensions, emulsions, and solutions, produced during the polymerization of AN.

(h) "Polyacrylonitrile" or "PAN" - polyacrylonitrile homopolymers or copolymers, except for materials as exempted under subsection (1)(b) of this section.

(3) Permissible exposure limits.

(a) Inhalation.

(i) Time-weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of two parts acrylonitrile per million parts of air (2 ppm), as an eight-hour time-weighted average.

(ii) Ceiling limit. The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of 10 ppm as averaged over any fifteen-minute period during the working day.

(b) Dermal and eye exposure. The employer shall assure that no employee is exposed to skin contact or eye contact with liquid AN or PAN.

(4) Notification of use and emergencies.

(a) Use. Within ten days of the effective date of this standard, or within fifteen days following the introduction of AN into the workplace, every employer shall report, unless he has done so pursuant to the emergency temporary standard, the following information to the director for each such workplace:

(i) The address and location of each workplace in which AN is present;

(ii) A brief description of each process of operation which may result in employee exposure to AN;

(iii) The number of employees engaged in each process or operation who may be exposed to AN and an estimate of the frequency and degree of exposure that occurs; and

(iv) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to AN. Whenever there has been a significant change in the information required by this subsection, the employer shall promptly amend such information previously provided to the director.

(b) Emergencies and remedial action. Emergencies, and the facts obtainable at that time, shall be reported within 24 hours of the initial occurrence to the director. Upon request of the director, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

(5) Exposure monitoring.

(a) General.

(i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to AN over an eight-hour period.

(ii) For the purposes of this section, employee exposure is that which would occur if the employee were not using a respirator.

(b) Initial monitoring. Each employer who has a place of employment in which AN is present shall monitor each such workplace and work operation to accurately determine the airborne concentrations of AN to which employees may be exposed. Such monitoring may be done on a representative basis, provided that the employer can demonstrate that the determinations are representative of employee exposures.

(c) Frequency.

(i) If the monitoring required by this section reveals employee exposure to be below the action level, the employer may discontinue monitoring for that employee. The employer shall continue these quarterly measurements until at least two consecutive measurements taken at least seven days apart, are below the action level, and thereafter the employer may discontinue monitoring for that employee.

(ii) If the monitoring required by this section reveals employee exposure to be at or above the action level but below the permissible exposure limits, the employer shall repeat such monitoring for each such employee at least quarterly.

(iii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven days apart, are

below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(d) Additional monitoring. Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to AN, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to AN, additional monitoring which complies with this subsection shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) Accuracy of measurement. The method of measurement of employee exposures shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of AN at or above the permissible exposure limits, and plus or minus 35 percent for concentrations of AN between the action level and the permissible exposure limits.

(g) Weekly survey of operations involving liquid AN. In addition to monitoring of employee exposures to AN as otherwise required by this subsection, the employer shall survey areas of operations involving liquid AN at least weekly to detect points where AN liquid or vapor are being released into the workplace. The survey shall employ an infra-red gas analyzer calibrated for AN, a multipoint gas chromatographic monitor, or comparable system for detection of AN. A listing of levels detected and areas of AN release, as determined from the survey, shall be posted prominently in the workplace, and shall remain posted until the next survey is completed.

(6) Regulated areas.

(a) The employer shall establish regulated areas where AN concentrations are in excess of the permissible exposure limits.

(b) Regulated areas shall be demarcated and segregated from the rest of the workplace, in any manner that minimizes the number of persons who will be exposed to AN.

(c) Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the act or regulations issued pursuant thereto.

(d) The employer shall assure that in the regulated area, food or beverages are not present or consumed, smoking products are not present or used, and cosmetics are not applied. (except that these activities may be conducted in the lunchrooms, change rooms and showers required under subsections (13)(a)-(13)(c) of this section.

(7) Methods of compliance.

(a) Engineering and work practice controls.

(i) The employer shall institute engineering or work practice controls to reduce and maintain employee exposures to AN, to or below the permissible exposure limits, except to

the extent that the employer establishes that such controls are not feasible.

(ii) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection which complies with the requirements of subsection (8) of this section.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce employee exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by subsection (7)(a) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to AN above the permissible exposure limits;

(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) A detailed schedule for the implementation of engineering or work practice controls; and

(E) Other relevant information.

(iii) The employer shall complete the steps set forth in the compliance program by the dates in the schedule.

(iv) Written plans for such a program shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, or any affected employee or representative.

(v) The plans required by this subsection shall be revised and updated at least every six months to reflect the current status of the program.

(8) Respiratory protection.

(a) General. ~~((The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposure to within the permissible exposure limits and in emergencies. Compliance with the permissible exposure limits may not be achieved by the use of respirators except))~~ For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) ~~((During the time period))~~ Periods necessary to install or implement feasible engineering and work-practice controls; ~~((or))~~

(ii) ~~((In))~~ Work operations, such as maintenance and repair activities ~~((or))~~ or reactor cleaning, for which the employer establishes that engineering and work-practice controls are not feasible; ~~((or))~~

(iii) ~~((In work situations where))~~ Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the permissible exposure limits; ~~((or))~~

(iv) In emergencies.

(b) Respirator ~~((selection))~~ program.

~~((i) Where respiratory protection is required under this section, the employer shall select and provide at no cost to the employee, the appropriate type of respirator from Table I and shall assure that the employee wears the respirator provided.))~~

The employer must implement a respiratory protection program in accordance with chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(c) Respirator selection. The employer must select the appropriate respirator from Table I of this subsection.

TABLE I
RESPIRATORY PROTECTION FOR ACRYLONITRILE (AN)

Concentration of AN or Condition of Use	Respirator Type
(a) Less than or equal to 25 x permissible exposure limits.	(i) Any Type C supplied air respirator.
(b) Less than or equal to 100 x permissible exposure limits.	(i) Any supplied air respirator with full facepiece; or
	(ii) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 250 x permissible exposure limits	(i) Supplied air respirator in positive pressure mode with full facepiece, helmet, hood, or suit.
(d) Greater than 250 x permissible exposure limits.	(i) Supplied air respirator with full facepiece and an auxiliary self-contained air supply, operated in pressure demand mode; or
	(ii) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(e) Emergency entry into unknown concentration or firefighting	(i) Any self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape.	(i) Any organic vapor gas mask; or
	(ii) Any self-contained breathing.

~~((ii) The employer shall select respirators from those approved for use with AN by the National Institute for Occupational Safety and Health under the provisions of WAC 296-62-071.~~

~~(e) Respirator program.~~

~~(i) The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.~~

~~(ii) Testing. Fit testing of respirators shall be performed to assure that the respirator selected provides the protection required by Table I.~~

~~(A) Qualitative fit. The employer shall perform qualitative fit tests at the time of initial fitting and at least semiannually thereafter for each employee wearing respirators.~~

~~(B) Quantitative fit. Each employer with more than ten employees wearing negative pressure respirators shall perform quantitative fit testing at the time of initial fitting and at least semiannually thereafter for each such employee.~~

~~((iii) Employees who wear respirators shall be allowed to wash their faces and respirator facepieces to prevent potential skin irritation associated with respirator use.))~~

(9) Emergency situations.

(a) Written plans.

(i) A written plan for emergency situations shall be developed for each workplace where AN is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in subsection (8) of this section until the emergency is abated.

(b) Alerting employees.

(i) Where there is the possibility of employee exposure to AN in excess of the ceiling limit due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(ii) Employees not engaged in correcting the emergency shall be evacuated from the area and shall not be permitted to return until the emergency is abated.

(10) Protective clothing and equipment.

(a) Provision and use. Where eye or skin contact with liquid AN or PAN may occur, the employer shall provide at no cost to the employee, and assure that employees wear, appropriate protective clothing or other equipment in accordance with WAC 296-24-07501 and 296-24-07801 to protect any area of the body which may come in contact with liquid AN or PAN.

(b) Cleaning and replacement.

(i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this subsection, as needed to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(ii) The employer shall assure that impermeable protective clothing which contacts or is likely to have contacted liquid AN shall be decontaminated before being removed by the employee.

(iii) The employer shall assure that AN- or PAN-contaminated protective clothing and equipment is placed and stored in closable containers which prevent dispersion of the AN or PAN outside the container.

(iv) The employer shall assure that an employee whose nonimpermeable clothing becomes wetted with liquid AN shall immediately remove that clothing and proceed to shower. The clothing shall be decontaminated before it is removed from the regulated area.

(v) The employer shall assure that no employee removes AN-or PAN-contaminated protective equipment or clothing from the change room, except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

PERMANENT

(vi) The employer shall inform any person who launders or cleans AN-or PAN-contaminated protective clothing or equipment of the potentially harmful effects of exposure to AN.

(vii) The employer shall assure that containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with subsection (16)(c)(ii) of this section, and that such labels remain affixed when such containers leave the employer's workplace.

(11) Housekeeping.

(a) All surfaces shall be maintained free of accumulations of liquid AN and of PAN.

(b) For operations involving liquid AN, the employer shall institute a program for detecting leaks and spills of liquid AN, including regular visual inspections.

(c) Where spills of liquid AN are detected, the employer shall assure that surfaces contacted by the liquid AN are decontaminated. Employees not engaged in decontamination activities shall leave the area of the spill, and shall not be permitted in the area until decontamination is completed.

(d) Liquids. Where AN is present in a liquid form, or as a resultant vapor, all containers or vessels containing AN shall be enclosed to the maximum extent feasible and tightly covered when not in use, with adequate provision made to avoid any resulting potential explosion hazard.

(e) Surfaces.

(i) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where AN and PAN are found is prohibited.

(ii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that AN is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect AN may not be used for other cleaning purposes and shall be labeled as prescribed by subsection (16)(c)(ii) of this section.

(iii) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(12) Waste disposal. AN and PAN waste, scrap, debris, bags, containers or equipment, shall be disposed of in sealed bags or other closed containers which prevent dispersion of AN outside the container, and labeled as prescribed in subsection (16)(c)(ii) of this section.

(13) Hygiene facilities and practices. Where employees are exposed to airborne concentrations of AN above the permissible exposure limits, or where employees are required to wear protective clothing or equipment pursuant to subsection (11) of this section, or where otherwise found to be appropriate, the facilities required by WAC 296-24-12009 shall be provided by the employer for the use of those employees, and the employer shall assure that the employees use the facilities provided. In addition, the following facilities or requirements are mandated.

(a) Change rooms. The employer shall provide clean change rooms in accordance with WAC 296-24-12011.

(b) Showers.

(i) The employer shall provide shower facilities in accordance with WAC 296-24-12009(3).

(ii) In addition, the employer shall also assure that employees exposed to liquid AN and PAN shower at the end of the work shift.

(iii) The employer shall assure that, in the event of skin or eye exposure to liquid AN, the affected employee shall shower immediately to minimize the danger of skin absorption.

(c) Lunchrooms.

(i) Whenever food or beverages are consumed in the workplace, the employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees exposed to AN above the permissible exposure limits.

(ii) In addition, the employer shall also assure that employees exposed to AN above the permissible exposure limits wash their hands and face prior to eating.

(14) Medical surveillance.

(a) General.

(i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to AN above the action level. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this subsection.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(b) Initial examinations. At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and medical history with special attention to skin, respiratory, and gastrointestinal systems, and those non-specific symptoms, such as headache, nausea, vomiting, dizziness, weakness, or other central nervous system dysfunctions that may be associated with acute or chronic exposure to AN.

(ii) A physical examination giving particular attention to central nervous system, gastrointestinal system, respiratory system, skin and thyroid.

(iii) A 14" x 17" posteroanterior chest x-ray.

(iv) Further tests of the intestinal tract, including fecal occult blood screening, and proctosigmoidoscopy, for all workers 40 years of age or older, and for any other affected employees for whom, in the opinion of the physician, such testing is appropriate.

(c) Periodic examinations.

(i) The employer shall provide examinations specified in this subsection at least annually for all employees specified in subsection (14)(a) of this section.

(ii) If an employee has not had the examinations prescribed in subsection (14)(b) of this section within six months of termination of employment, the employer shall make such

examination available to the employee upon such termination.

(d) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to AN, the employer shall provide appropriate examination and emergency medical treatment.

(e) Information provided to the physician. The employer shall provide the following information to the examining physician:

- (i) A copy of this standard and its appendices;
- (ii) A description of the affected employee's duties as they relate to the employee's exposure;
- (iii) The employee's representative exposure level;
- (iv) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);
- (v) A description of any personal protective equipment used or to be used; and
- (vi) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

(f) Physician's written opinion.

(i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical examination and test performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to AN;

(C) Any recommended limitations upon the employee's exposure to AN or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to AN.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(15) Employee information and training.

(a) Training program.

(i) The employer shall institute a training program for all employees where there is occupational exposure to AN and shall assure their participation in the training program.

(ii) The training program shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of AN and the specific nature of operations which could result in exposure to AN, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators and protective clothing;

(D) The purpose and a description of the medical surveillance program required by subsection (14) of this section;

(E) The emergency procedures developed, as required by subsection (9) of this section; and

(F) The engineering and work practice controls, their function and the employee's relationship thereto; and

(G) A review of this standard.

(b) Access to training materials.

(i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this subsection, which contradicts or detracts from such effects of the required sign or label.

(b) Signs.

(i) The employer shall post signs to clearly indicate all workplaces where AN concentrations exceed the permissible exposure limits. The signs shall bear the following legend:

DANGER
ACRYLONITRILE (AN)
CANCER HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS REQUIRED

(ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.

(c) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of AN, and to containers of PAN and products fabricated from PAN, except for those materials for which objective data is provided as to the conditions specified in subsection (1)(b) of this section. The employer shall assure that the labels remain affixed when the AN or PAN are sold, distributed or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this subsection are readily visible and legible. The labels shall bear the following legend:

DANGER
CONTAINS ACRYLONITRILE (AN)
CANCER HAZARD

(17) Recordkeeping.

(a) Objective data for exempted operations.

(i) Where the processing, use, and handling of products fabricated from PAN are exempted pursuant to subsection (1)(b) of this section, the employer shall establish and main-

tain an accurate record of objective data reasonably relied upon in support of the exemption.

(ii) This record shall include the following information:

(A) The relevant condition in subsection (1)(b) upon which exemption is based;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and/or analysis of the material for the release of AN;

(D) A description of the operation exempted and how the data supports the exemption; and

(E) Other data relevant to the operations, materials, and processing covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(b) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (5) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used and the data relied upon to establish that the methods used meet the accuracy and precision requirements of subsection (5)(f) of this section;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.

(c) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (14) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) Any employee medical complaints related to exposure to AN;

(C) A copy of the information provided to the physician as required by subsection (14)(f) of this section; and

(D) A copy of the employee's medical and work history.

(iii) The employer shall assure that this record be maintained for at least forty years or for the duration of employment plus twenty years, whichever is longer.

(d) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the director for examination and copying.

(ii) Records required by subdivisions (a) through (c) of this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217. Records required by subdivision (a) of this section shall be provided in the same manner as exposure monitoring records.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying, to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(e) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall transmit these records to the director.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to AN conducted pursuant to subsection (5) of this section.

(b) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to AN requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled:

(A) To receive an explanation of the measurement procedures;

(B) To observe all steps related to the measurement of airborne concentrations of AN performed at the place of exposure; and

(C) To record the results obtained.

(19) ~~(Effective date. This standard will become effective July 28, 1978.~~

~~(20))~~ Appendices. The information contained in the appendices is not intended, by itself, to create any additional obligation not otherwise imposed, or to detract from any obligation.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-62-07337 Appendix A—Substance safety data sheet for acrylonitrile. (1) Substance identification.

(a) Substance: Acrylonitrile (CH₂ CHCN).

(b) Synonyms: Propenenitrile; vinyl cyanide; cyanoethylene; AN; VCN; acylon; carbacryl; fumigriant; ventox.

(c) Acrylonitrile can be found as a liquid or vapor, and can also be found in polymer resins, rubbers, plastics, poly-

ols, and other polymers having acrylonitrile as a raw or intermediate material.

(d) AN is used in the manufacture of acrylic and modacrylic fibers, acrylic plastics and resins, speciality polymers, nitrile rubbers, and other organic chemicals. It has also been used as a fumigant.

(e) Appearance and odor: Colorless to pale yellow liquid with a pungent odor which can only be detected at concentrations above the permissible exposure level, in a range of 13-19 parts AN per million parts of air (13-19 ppm).

(f) Permissible exposure: Exposure may not exceed either:

(i) Two parts AN per million parts of air (2 ppm) averaged over the eight-hour workday; or

(ii) Ten parts AN per million parts of air (10 ppm) averaged over any fifteen-minute period in the workday.

(iii) In addition, skin and eye contact with liquid AN is prohibited.

(2) Health hazard data.

(a) Acrylonitrile can affect your body if you inhale the vapor (breathing), if it comes in contact with your eyes or skin, or if you swallow it. It may enter your body through your skin.

(b) Effects of overexposure:

(i) Short-term exposure: Acrylonitrile can cause eye irritation, nausea, vomiting, headache, sneezing, weakness, and light-headedness. At high concentrations, the effects of exposure may go on to loss of consciousness and death. When acrylonitrile is held in contact with the skin after being absorbed into shoe leather or clothing, it may produce blisters following several hours of no apparent effect. Unless the shoes or clothing are removed immediately and the area washed, blistering will occur. Usually there is no pain or inflammation associated with blister formation.

(ii) Long-term exposure: Acrylonitrile has been shown to cause cancer in laboratory animals and has been associated with higher incidences of cancer in humans. Repeated or prolonged exposure of the skin to acrylonitrile may produce irritation and dermatitis.

(iii) Reporting signs and symptoms: You should inform your employer if you develop any signs or symptoms and suspect they are caused by exposure to acrylonitrile.

(3) Emergency first aid procedures.

(a) Eye exposure: If acrylonitrile gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with this chemical.

(b) Skin exposure: If acrylonitrile gets on your skin, immediately wash the contaminated skin with water. If acrylonitrile soaks through your clothing, especially your shoes, remove the clothing immediately and wash the skin with water. If symptoms occur after washing, get medical attention immediately. Thoroughly wash the clothing before reusing. Contaminated leather shoes or other leather articles should be discarded.

(c) Inhalation: If you or any other person breathes in large amounts of acrylonitrile, move the exposed person to fresh air at once. If breathing has stopped, perform artificial

respiration. Keep the affected person warm and at rest. Get medical attention as soon as possible.

(d) Swallowing: When acrylonitrile has been swallowed, give the person large quantities of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

(e) Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, notify someone else and put into effect the established emergency procedures. Do not become a casualty yourself. Understand your emergency rescue procedures and know the location of the emergency equipment before the need arises.

(f) Special first aid procedures: First aid kits containing an adequate supply (at least two dozen) of amyl nitrite pearls, each containing 0.3 ml, should be maintained at each site where acrylonitrile is used. When a person is suspected of receiving an overexposure to acrylonitrile, immediately remove that person from the contaminated area using established rescue procedures. Contaminated clothing must be removed and the acrylonitrile washed from the skin immediately. Artificial respiration should be started at once if breathing has stopped. If the person is unconscious, amyl nitrite may be used as an antidote by a properly trained individual in accordance with established emergency procedures. Medical aid should be obtained immediately.

(4) Respirators and protective clothing.

(a) Respirators: ((~~†~~)) You may be required to wear a respirator for nonroutine activities, in emergencies, while your employer is in the process of reducing acrylonitrile exposures through engineering controls, and in areas where engineering controls are not feasible. If respirators are worn, they must have a ~~((Mine Safety and Health Administration (MSHA) or MESA))~~ National Institute for Occupational Safety and Health (NIOSH) label of approval label issued by the National Institute for Occupational Safety and Health under the provisions of 42 CFR part 84 stating that the respirators have been certified for use with organic vapors. ~~((Older respirators may have a Bureau of Mines approval label.))~~ For effective protection, respirators must fit your face and head snugly. Respirators should not be loosened or removed in work situations where their use is required.

~~((ii) Acrylonitrile does not have a detectable odor except at levels above the permissible exposure limits. Do not depend on odor to warn you when a respirator cartridge or canister is exhausted. Cartridges or canisters must be changed daily or before the end of service life, whichever comes first. Reuse of these may allow acrylonitrile to gradually filter through the cartridge and cause exposures which you cannot detect by odor. If you can smell acrylonitrile while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.))~~

(b) Supplied-air suits: In some work situations, the wearing of supplied-air suits may be necessary. Your employer must instruct you in their proper use and operation.

(c) Protective clothing:

(i) You must wear impervious clothing, gloves, face shield, or other appropriate protective clothing to prevent

skin contact with liquid acrylonitrile. Where protective clothing is required, your employer is required to provide clean garments to you as necessary to assume that the clothing protects you adequately.

(ii) Replace or repair impervious clothing that has developed leaks.

(iii) Acrylonitrile should never be allowed to remain on the skin. Clothing and shoes which are not impervious to acrylonitrile should not be allowed to become contaminated with acrylonitrile, and if they do the clothing and shoes should be promptly removed and decontaminated. The clothing should be laundered or discarded after the AN is removed. Once acrylonitrile penetrates shoes or other leather articles, they should not be worn again.

(d) Eye protection: You must wear splashproof safety goggles in areas where liquid acrylonitrile may contact your eyes. In addition, contact lenses should not be worn in areas where eye contact with acrylonitrile can occur.

(5) Precautions for safe use, handling, and storage.

(a) Acrylonitrile is a flammable liquid, and its vapors can easily form explosive mixtures in air.

(b) Acrylonitrile must be stored in tightly closed containers in a cool, well-ventilated area, away from heat, sparks, flames, strong oxidizers (especially bromine), strong bases, copper, copper alloys, ammonia, and amines.

(c) Sources of ignition such as smoking and open flames are prohibited wherever acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard.

(d) You should use nonsparking tools when opening or closing metal containers of acrylonitrile, and containers must be bonded and grounded when pouring or transferring liquid acrylonitrile.

(e) You must immediately remove any nonimpervious clothing that becomes wetted with acrylonitrile, and this clothing must not be reworn until the acrylonitrile is removed from the clothing.

(f) Impervious clothing wet with liquid acrylonitrile can be easily ignited. This clothing must be washed down with water before you remove it.

(g) If your skin becomes wet with liquid acrylonitrile, you must promptly and thoroughly wash or shower with soap or mild detergent to remove any acrylonitrile from your skin.

(h) You must not keep food, beverages, or smoking materials, nor are you permitted to eat or smoke in regulated areas where acrylonitrile concentrations are above the permissible exposure limits.

(i) If you contact liquid acrylonitrile, you must wash your hands thoroughly with soap or mild detergent and water before eating, smoking, or using toilet facilities.

(j) Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

(k) Ask your supervisor where acrylonitrile is used in your work area and for any additional plant safety and health rules.

(6) Access to information.

(a) Each year, your employer is required to inform you of the information contained in this Substance Safety Data Sheet for acrylonitrile. In addition, your employer must

instruct you in the proper work practices for using acrylonitrile, emergency procedures, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to acrylonitrile. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits.

(c) Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least forty years or for the period of your employment plus twenty years, whichever is longer.

(d) Your employer is required to release your exposure and medical records to you or your representative upon your request.

AMENDATORY SECTION (Amending WSR 96-09-030, filed 4/10/96, effective 6/1/96)

WAC 296-62-07342 1,2-Dibromo-3-chloropropane.

(1) Scope and application.

(a) This section applies to occupational exposure to 1,2-dibromo-3-chloropropane (DBCP).

(b) This section does not apply to:

(i) Exposure to DBCP which results solely from the application and use of DBCP as a pesticide; or

(ii) The storage, transportation, distribution or sale of DBCP in intact containers sealed in such a manner as to prevent exposure to DBCP vapors or liquids, except for the requirements of subsections (11), (16) and (17) of this section.

(2) Definitions applicable to this section:

(a) "Authorized person" - any person specifically authorized by the employer and whose duties require the person to be present in areas where DBCP is present; and any person entering this area as a designated representative of employees exercising an opportunity to observe employee exposure monitoring.

(b) "DBCP" - 1,2-dibromo-3-chloropropane, Chemical Abstracts Service Registry Number 96-12-8, and includes all forms of DBCP.

(c) "Director" - the director of labor and industries, or his authorized representative.

(d) "Emergency" - any occurrence such as, but not limited to equipment failure, rupture of containers, or failure of control equipment which may, or does, result in unexpected release of DBCP.

(3) Permissible exposure limits.

(a) Inhalation.

(i) Time-weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration in excess of 1 part DBCP per billion part of air (ppb) as an eight-hour time-weighted average.

(ii) Ceiling limit. The employer shall assure that no employee is exposed to an airborne concentration in excess of 5 parts DBCP per billion parts of air (ppb) as averaged over any 15 minutes during the working day.

(b) Dermal and eye exposure. The employer shall assure that no employee is exposed to eye or skin contact with DBCP.

(4) Notification of use. Within ten days of the effective date of this section or within ten days following the introduction of DBCP into the workplace, every employer who has a workplace where DBCP is present shall report the following information to the director for each such workplace:

(a) The address and location of each workplace in which DBCP is present;

(b) A brief description of each process or operation which may result in employee exposure to DBCP;

(c) The number of employees engaged in each process or operation who may be exposed to DBCP and an estimate of the frequency and degree of exposure that occurs;

(d) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to DBCP.

(5) Regulated areas. The employer shall establish, within each place of employment, regulated areas wherever DBCP concentrations are in excess of the permissible exposure limit.

(a) The employer shall limit access to regulated areas to authorized persons.

(b) All employees entering or working in a regulated area shall wear respiratory protection in accordance with Table I.

(6) Exposure monitoring.

(a) General. Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to DBCP over an eight-hour period. (For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.)

(b) Initial. Each employer who has a place of employment in which DBCP is present shall monitor each workplace and work operation to accurately determine the airborne concentrations of DBCP to which employees may be exposed.

(c) Frequency.

(i) If the monitoring required by this section reveals employee exposures to be below the permissible exposure limits, the employer shall repeat these determinations at least quarterly.

(ii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly determinations until at least two consecutive measurements, taken at least seven days apart, are below the permissible exposure limit, thereafter the employer shall monitor at least quarterly.

(d) Additional. Whenever there has been a production process, control or personnel change which may result in any new or additional exposure to DBCP, or whenever the employer has any other reason to suspect a change which may result in new or additional exposure to DBCP, additional monitoring which complies with subsection (6) shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of results which represent the employee's exposure.

(ii) Whenever the results indicate that employee exposure exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) Accuracy of measurement. The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of DBCP at or above the permissible exposure limits.

(7) Methods of compliance.

(a) Priority of compliance methods. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to DBCP at or below the permissible exposure limit, except to the extent that the employer establishes that such controls are not feasible. Where feasible engineering and work practice controls are not sufficient to reduce employee exposures to within the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest level achievable by these controls, and shall supplement them by use of respiratory protection.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce employee exposure to DBCP to or below the permissible exposure limit solely by means of engineering and work practice controls as required by this section.

(ii) The written program shall include a detailed schedule for development and implementation of the engineering and work practice controls. These plans shall be revised at least every six months to reflect the current status of the program.

(iii) Written plans for these compliance programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, and any affected employee or designated representative of employees.

(iv) The employer shall institute and maintain at least the controls described in his most recent written compliance program.

(8) ~~((Respirators))~~ Respiratory protection.

(a) General. ~~((Where respiratory protection is required under this section, the employer shall select, provide and assure the proper use of respirators.~~

~~((Respirators shall be used in the following circumstances))~~ For employees who are required to use respirators under this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) ~~((During the))~~ Period necessary to install or implement feasible engineering and work-practice controls; ~~((or))~~

(ii) ~~((During))~~ Maintenance and repair activities ~~((in))~~ for which engineering and work-practice controls are not feasible; ~~((or))~~

(iii) ~~((In work situations where))~~ Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the permissible exposure limit; ~~((or))~~

(iv) ~~((In))~~ Emergencies.

~~(((9) Respirator selection.~~

~~(a) Where respirators are required under this section, the employer shall select and provide, at no cost to the employee, the appropriate respirator from Table I of this section and shall assure that the employee uses the respirator provided.~~

~~(b) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.)) (b) The employer must establish, implement, and maintain a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).~~

(c) Respirator selection. The employer must select the appropriate respirator from Table I of this subsection.

~~(((e) Respirator program.~~

~~(i) The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.~~

~~(ii) Employees who wear respirators shall be allowed to wash their face and respirator facepiece to prevent potential skin irritation associated with respirator use.)) (9) Reserved.~~

(10) Emergency situations.

(a) Written plans.

(i) A written plan for emergency situations shall be developed for each workplace in which DBCP is present.

(ii) Appropriate portions of the plan shall be implemented in the event of an emergency.

(b) Employees engaged in correcting conditions shall be equipped as required in subsection (11) of this section until the emergency is abated.

(c) Evacuation. Employees not engaged in correcting the emergency shall be removed and restricted from the area and normal operations in the affected area shall not be resumed until the emergency is abated.

(d) Alerting employees. Where there is a possibility of employee exposure to DBCP due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(e) Medical surveillance. For any employee exposed to DBCP in an emergency situation, the employer shall provide medical surveillance in accordance with subsection (14) of this section.

(f) Exposure monitoring.

(i) Following an emergency, the employer shall conduct monitoring which complies with subsection (6) of this section.

(ii) In workplaces not normally subject to periodic monitoring, the employer may terminate monitoring when two consecutive measurements indicate exposures below the permissible exposure limit.

(11) Protective clothing and equipment.

(a) Provision and use. Where eye or skin contact with liquid or solid DBCP may occur, employers shall provide at no cost to the employee, and assure that employees wear impermeable protective clothing and equipment in accordance with WAC 296-24-07501 and 296-24-07801 to protect the area of the body which may come in contact with DBCP.

(b) Cleaning and replacement.

(i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this subsection to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least daily to each affected employee.

(ii) Removal and storage.

(A) The employer shall assure that employees remove DBCP contaminated work clothing only in change rooms provided in accordance with subsection (13) of this section.

(B) The employer shall assure that employees promptly remove any protective clothing and equipment which becomes contaminated with DBCP-containing liquids and solids. This clothing shall not be reworn until the DBCP has been removed from the clothing or equipment.

(C) The employer shall assure that no employee takes DBCP contaminated protective devices and work clothing

TABLE I
RESPIRATORY PROTECTION FOR DBCP

Concentration Not Greater Than	Respirator Type
(a) 10 ppb:	(i) Any supplied-air respirator. (ii) Any self-contained breathing apparatus.
(b) 50 ppb:	(i) Any supplied-air respirator with full facepiece, helmet or hood. (ii) Any self-contained breathing apparatus with full facepiece.
(c) 250 ppb:	(i) A Type C supplied-air respirator operated in pressure-demand or other positive pressure or continuous flow mode.
(d) 500 ppb:	(i) A Type C supplied-air respirator with full facepiece operated in pressure-demand mode with full facepiece.
(e) Greater than 500 ppb or entry into unknown concentrations:	(i) A combination respirator which includes a Type C supplied-air respirator with full facepiece operated in pressure-demand mode and an auxiliary self-contained breathing apparatus. (ii) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.
(f) Firefighting:	(i) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.

PERMANENT

out of the change room, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(iii) The employer shall assure that DBCP-contaminated protective work clothing and equipment is placed and stored in closed containers which prevent dispersion of DBCP outside the container.

(iv) The employer shall inform any person who launders or cleans DBCP-contaminated protective clothing or equipment of the potentially harmful effects of exposure to DBCP.

(v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with subsection (16)(c) of this section.

(vi) The employer shall prohibit the removal of DBCP from protective clothing and equipment by blowing or shaking.

(12) Housekeeping.

(a) Surfaces.

(i) All surfaces shall be maintained free of accumulations of DBCP.

(ii) Dry sweeping and the use of air for the cleaning of floors and other surfaces where DBCP dust or liquids are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that DBCP is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect DBCP may not be used for other cleaning purposes and shall be labeled as prescribed by subsection (16)(c) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(b) Liquids. Where DBCP is present in a liquid form, or as a resultant vapor, all containers or vessels containing DBCP shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(c) Waste disposal. DBCP waste, scrap, debris, bags, containers or equipment, shall be disposed in sealed bags or other closed containers which prevent dispersion of DBCP outside the container.

(13) Hygiene facilities and practices.

(a) Change rooms. The employer shall provide clean change rooms equipped with storage facilities for street clothes and separate storage facilities for protective clothing and equipment whenever employees are required to wear protective clothing and equipment in accordance with subsections (8), (9) and (11) of this section.

(b) Showers.

(i) The employer shall assure that employees working in the regulated area shower at the end of the work shift.

(ii) The employer shall assure that employees whose skin becomes contaminated with DBCP-containing liquids or solids immediately wash or shower to remove any DBCP from the skin.

(iii) The employer shall provide shower facilities in accordance with WAC 296-24-12009 (3)(c).

(c) Lunchrooms. The employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees working in regulated areas.

(d) Lavatories.

(i) The employer shall assure that employees working in the regulated area remove protective clothing and wash their hands and face prior to eating.

(ii) The employer shall provide a sufficient number of lavatory facilities which comply with WAC 296-24-12009 (1) and (2).

(e) Prohibition of activities in regulated areas. The employer shall assure that, in regulated areas, food or beverages are not present or consumed, smoking products and implements are not present or used, and cosmetics are not present or applied.

(14) Medical surveillance.

(a) General. The employer shall institute a program of medical surveillance for each employee who is or will be exposed, without regard to the use of respirators, to DBCP. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this subsection. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(b) Frequency and content. At the time of initial assignment, annually thereafter, and whenever exposure to DBCP occurs, the employer shall provide a medical examination for employees who work in regulated areas, which includes at least the following:

(i) A complete medical and occupational history with emphasis on reproductive history.

(ii) A complete physical examination with emphasis on the genito-urinary tract, testicle size, and body habitus including the following tests:

(A) Sperm count;

(B) Complete urinalysis (U/A);

(C) Complete blood count; and

(D) Thyroid profile.

(iii) A serum specimen shall be obtained and the following determinations made by radioimmunoassay techniques utilizing National Institutes of Health (NIH) specific antigen or one of equivalent sensitivity:

(A) Serum multiphasic analysis (SMA 12);

(B) Serum follicle stimulating hormone (FSH);

(C) Serum luteinizing hormone (LH); and

(D) Serum estrogen (females).

(iv) Any other tests deemed appropriate by the examining physician.

(c) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to DBCP, the employer shall provide the employee with a medical examination which shall include those elements considered appropriate by the examining physician.

(d) Information provided to the physician. The employer shall provide the following information to the examining physician:

- (i) A copy of this standard and its appendices;
- (ii) A description of the affected employee's duties as they relate to the employee's exposure;
- (iii) The level of DBCP to which the employee is exposed; and
- (iv) A description of any personal protective equipment used or to be used.
- (e) Physician's written opinion.
 - (i) For each examination under this section, the employer shall obtain and provide the employee with a written opinion from the examining physician which shall include:
 - (A) The results of the medical tests performed;
 - (B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of health from exposure to DBCP;
 - (C) Any recommended limitations upon the employee's exposure to DBCP or upon the use of protective clothing and equipment such as respirators; and
 - (D) A statement that the employee was informed by the physician of the results of the medical examination, and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to DBCP.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(f) Emergency situations. If the employee is exposed to DBCP in an emergency situation, the employer shall provide the employee with a sperm count test as soon as practicable, or, if the employee is unable to produce a semen specimen, the hormone tests contained in subsection (14)(b) of this section. The employer shall provide these same tests three months later.

(15) Employee information and training.

(a) Training program.

(i) Within thirty days of the effective date of this standard, the employer shall institute a training program for all employees who may be exposed to DBCP and shall assure their participation in such training program.

(ii) The employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of DBCP and the specific nature of operations which could result in exposure to DBCP as well as any necessary protective steps;

(C) The purpose, proper use, ~~((and))~~ limitations ~~((of respirators))~~, and other training requirements covering respiratory protection as required in chapter 296-62 WAC, Part E;

(D) The purpose and description of the medical surveillance program required by subsection (14) of this section; and

(E) A review of this standard.

(b) Access to training materials.

(i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label required by this subsection which contradicts or detracts from the required sign or label.

(b) Signs.

(i) The employer shall post signs to clearly indicate all work areas where DBCP may be present. These signs shall bear the legend:

DANGER
1,2-Dibromo-3-chloropropane

(Insert appropriate trade or common names)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

(ii) Where airborne concentrations of DBCP exceed the permissible exposure limits, the signs shall bear the additional legend:

RESPIRATOR REQUIRED

(c) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of DBCP and of products containing DBCP, and that the labels remain affixed when the DBCP or products containing DBCP are sold, distributed, or otherwise leave the employer's workplace. Where DBCP or products containing DBCP are sold, distributed or otherwise leave the employer's workplace bearing appropriate labels required by EPA under the regulations in 40 CFR Part 162, the labels required by this subsection need not be affixed.

(ii) The employer shall assure that the precautionary labels required by this subsection are readily visible and legible. The labels shall bear the following legend:

DANGER
1,2-Dibromo-3-chloropropane
CANCER HAZARD

(17) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (6) of this section.

(ii) This record shall include:

(A) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory worn, if any; and

PERMANENT

(D) Name, Social Security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance required by subsection (14) of this section.

(ii) This record shall include:

(A) The name and Social Security number of the employee;

(B) A copy of the physician's written opinion;

(C) Any employee medical complaints related to exposure to DBCP;

(D) A copy of the information provided the physician as required by subsection (14)(c) of this section; and

(E) A copy of the employee's medical and work history.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(c) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the director for examination and copying.

(ii) Employee exposure monitoring records and employee medical records required by this subsection shall be provided upon request to employees' designated representatives and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209; and 296-62-05213 through 296-62-05217.

(d) Transfer of records.

(i) If the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section for the prescribed period.

(ii) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall transmit these records by mail to the director.

(iii) At the expiration of the retention period for the records required to be maintained under this section, the employer shall transmit these records by mail to the director.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to DBCP conducted under subsection (6) of this section.

(b) Observation procedures.

(i) Whenever observation of the measuring or monitoring of employee exposure to DBCP requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring or measurement, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the measurement of airborne concentrations of DBCP performed at the place of exposure; and

(C) Record the results obtained.

(19) ~~(Effective date. This standard will become effective July 28, 1978.~~

(20)) Appendices. The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-62-07343 Appendix A—Substance safety data sheet for DBCP. (1) Substance identification.

(a) Synonyms and trades names: DBCP; Dibromochloropropane; Fumazone (Dow Chemical Company TM); Nemafume; Nemagon (Shell Chemical Co. TM); Nemaset; BBC 12; and OS 1879.

(b) Permissible exposure:

(i) Airborne. 1 part DBCP vapor per billion parts of air (1 ppb); time-weighted average (TWA) for an eight-hour work-day.

(ii) Dermal. Eye contact and skin contact with DBCP are prohibited.

(c) Appearance and odor: Technical grade DBCP is a dense yellow or amber liquid with a pungent odor. It may also appear in granular form, or blended in varying concentrations with other liquids.

(d) Uses: DBCP is used to control nematodes, very small worm-like plant parasites, on crops including cotton, soybeans, fruits, nuts, vegetables and ornamentals.

(2) Health hazard data.

(a) Routes of entry: Employees may be exposed:

(i) Through inhalation (breathing);

(ii) Through ingestion (swallowing);

(iii) Skin contact; and

(iv) Eye contact.

(b) Effects of exposure:

(i) Acute exposure. DBCP may cause drowsiness, irritation of the eyes, nose, throat and skin, nausea and vomiting. In addition, overexposure may cause damage to the lungs, liver or kidneys.

(ii) Chronic exposure. Prolonged or repeated exposure to DBCP has been shown to cause sterility in humans. It also has been shown to produce cancer and sterility in laboratory animals and has been determined to constitute an increased risk of cancer in people.

(iii) Reporting signs and symptoms. If you develop any of the above signs or symptoms that you think are caused by exposure to DBCP, you should inform your employer.

(3) Emergency first-aid procedures.

(a) Eye exposure. If DBCP liquid or dust containing DBCP gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occa-

sionally. Get medical attention immediately. Contact lenses should not be worn when working with DBCP.

(b) Skin exposure. If DBCP liquids or dusts containing DBCP get on your skin, immediately wash using soap or mild detergent and water. If DBCP liquids or dusts containing DBCP penetrate through your clothing, remove the clothing immediately and wash. If irritation is present after washing get medical attention.

(c) Breathing. If you or any person breathe in large amounts of DBCP, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Do not use mouth-to-mouth. Keep the affected person warm and at rest. Get medical attention as soon as possible.

(d) Swallowing. When DBCP has been swallowed and the person is conscious, give the person large amounts of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

(e) Rescue. Notify someone. Put into effect the established emergency rescue procedures. Know the locations of the emergency rescue equipment before the need arises.

(4) Respirators and protective clothing.

(a) Respirators. You may be required to wear a respirator in emergencies and while your employer is in the process of reducing DBCP exposures through engineering controls. If respirators are worn, they must have a label issued by the National Institute for Occupational Safety and Health (NIOSH) ((approval label (older respirators may have a Bureau of Mines Approval label))) under the provisions of 42 CFR part 84 stating that the respirators have been certified for use with organic vapors. For effective protection, a respirator must fit your face and head snugly. The respirator should not be loosened or removed in work situations where its use is required. ~~((DBC P does not have a detectable odor except at 1,000 times or more above the permissible exposure limit. If you can smell DBCP while wearing a respirator, the respirator is not working correctly; go immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.))~~ Respirators must not be loosened or removed in work situations where their use is required.

(b) Protective clothing. When working with DBCP you must wear for your protection impermeable work clothing provided by your employer. (Standard rubber and neoprene protective clothing do not offer adequate protection). DBCP must never be allowed to remain on the skin. Clothing and shoes must not be allowed to become contaminated with DBCP, and if they do, they must be promptly removed and not worn again until completely free of DBCP. Turn in impermeable clothing that has developed leaks for repair or replacement.

(c) Eye protection. You must wear splashproof safety goggles where there is any possibility of DBCP liquid or dust contacting your eyes.

(5) Precautions for safe use, handling, and storage.

(a) DBCP must be stored in tightly closed containers in a cool, well-ventilated area.

(b) If your work clothing may have become contaminated with DBCP, or liquids or dusts containing DBCP, you

must change into uncontaminated clothing before leaving the work premises.

(c) You must promptly remove any protective clothing that becomes contaminated with DBCP. This clothing must not be reworn until the DBCP is removed from the clothing.

(d) If your skin becomes contaminated with DBCP, you must immediately and thoroughly wash or shower with soap or mild detergent and water to remove any DBCP from your skin.

(e) You must not keep food, beverages, cosmetics, or smoking materials, nor eat or smoke, in regulated areas.

(f) If you work in a regulated area, you must wash your hands thoroughly with soap or mild detergent and water, before eating, smoking or using toilet facilities.

(g) If you work in a regulated area, you must remove any protective equipment or clothing before leaving the regulated area.

(h) Ask your supervisor where DBCP is used in your work area and for any additional safety and health rules.

(6) Access to information.

(a) Each year, your employer is required to inform you of the information contained in this substance safety data sheet for DBCP. In addition, your employer must instruct you in the safe use of DBCP, emergency procedures, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to DBCP. You or your representative have the right to observe employee exposure measurements and to record the result obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, they are required to inform you of the actions which are being taken to reduce your exposure.

(c) Your employer is required to keep records of your exposure and medical examinations. Your employer is required to keep exposure and medical data for at least forty years or the duration of your employment plus twenty years, whichever is longer.

(d) Your employer is required to release exposure and medical records to you, your physician, or other individual designated by you upon your written request.

AMENDATORY SECTION (Amending WSR 98-02-030, filed 12/31/97, effective 1/31/98)

WAC 296-62-07347 Inorganic arsenic. (1) Scope and application. This section applies to all occupational exposures to inorganic arsenic except that this section does not apply to employee exposures in agriculture or resulting from pesticide application, the treatment of wood with preservatives or the utilization of arsenically preserved wood.

(2) Definitions.

(a) "Action level" - a concentration of inorganic arsenic of 5 micrograms per cubic meter of air (5 $\mu\text{g}/\text{m}^3$) averaged over any eight-hour period.

(b) "Authorized person" - any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of

exercising the right to observe monitoring and measuring procedures under subsection (5) of this section.

(c) "Director" - the director of the department of labor and industries, or his/her designated representative.

(d) "Inorganic arsenic" - copper aceto-arsenite and all inorganic compounds containing arsenic except arsine, measured as arsenic (As).

(3) Permissible exposure limit. The employer shall assure that no employee is exposed to inorganic arsenic at concentrations greater than 10 micrograms per cubic meter of air ($10 \mu\text{g}/\text{m}^3$), averaged over any eight-hour period.

(4) Notification of use.

(a) ~~((By October 1, 1978, or))~~ Within sixty days after the introduction of inorganic arsenic into the workplace, every employer who is required to establish a regulated area in his/her workplaces shall report in writing to the department of labor and industries for each such workplace:

(i) The address of each such workplace;

(ii) The approximate number of employees who will be working in regulated areas; and

(iii) A brief summary of the operations creating the exposure and the actions which the employer intends to take to reduce exposures.

(b) Whenever there has been a significant change in the information required by subsection (4)(a) of this section, the employer shall report the changes in writing within sixty days to the department of labor and industries.

(5) Exposure monitoring.

(a) General.

(i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to inorganic arsenic over an eight-hour period.

(ii) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(iii) The employer shall collect full shift (for at least seven continuous hours) personal samples including at least one sample for each shift for each job classification in each work area.

(b) Initial monitoring. Each employer who has a workplace or work operation covered by this standard shall monitor each such workplace and work operation to accurately determine the airborne concentration of inorganic arsenic to which employees may be exposed.

(c) Frequency.

(i) If the initial monitoring reveals employee exposure to be below the action level the measurements need not be repeated except as otherwise provided in subsection (5)(d) of this section.

(ii) If the initial monitoring, required by this section, or subsequent monitoring reveals employee exposure to be above the permissible exposure limit, the employer shall repeat monitoring at least quarterly.

(iii) If the initial monitoring, required by this section, or subsequent monitoring reveals employee exposure to be above the action level and below the permissible exposure limit the employee shall repeat monitoring at least every six months.

(iv) The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the action level at which time the employer may discontinue monitoring for that employee until such time as any of the events in subsection (5)(d) of this section occur.

(d) Additional monitoring. Whenever there has been a production, process, control or personal change which may result in new or additional exposure to inorganic arsenic, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to inorganic arsenic, additional monitoring which complies with subsection (5) of this section shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposures.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken to reduce exposure to or below the permissible exposure limit.

(f) Accuracy of measurement.

(i) The employer shall use a method of monitoring and measurement which has an accuracy (with a confidence level of 95 percent) of not less than plus or minus 25 percent for concentrations of inorganic arsenic greater than or equal to $10 \mu\text{g}/\text{m}^3$.

(ii) The employer shall use a method of monitoring and measurement which has an accuracy (with confidence level of 95 percent) of not less than plus or minus 35 percent for concentrations of inorganic arsenic greater than $5 \mu\text{g}/\text{m}^3$ but less than $10 \mu\text{g}/\text{m}^3$.

(6) Regulated area.

(a) Establishment. The employer shall establish regulated areas where worker exposures to inorganic arsenic, without regard to the use of respirators, are in excess of the permissible limit.

(b) Demarcation. Regulated areas shall be demarcated and segregated from the rest of the workplace in any manner that minimizes the number of persons who will be exposed to inorganic arsenic.

(c) Access. Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the Act or regulations issued pursuant thereto to enter such areas.

(d) Provision of respirators. All persons entering a regulated area shall be supplied with a respirator, selected in accordance with subsection (8)~~((b))~~ (c) of this section.

(e) Prohibited activities. The employer shall assure that in regulated areas, food or beverages are not consumed, smoking products, chewing tobacco and gum are not used and cosmetics are not applied, except that these activities may be conducted in the lunchrooms, change rooms and showers required under subsection (12) of this section. Drinking water may be consumed in the regulated area.

(7) Methods of compliance.

(a) Controls.

(i) The employer shall institute ~~((at the earliest possible time but not later than December 31, 1979,))~~ engineering and work practice controls to reduce exposures to or below the permissible exposure limit, except to the extent that the employer can establish that such controls are not feasible.

(ii) Where engineering and work practice controls are not sufficient to reduce exposures to or below the permissible exposure limit, they shall nonetheless be used to reduce exposures to the lowest levels achievable by these controls and shall be supplemented by the use of respirators in accordance with subsection (8) of this section and other necessary personal protective equipment. Employee rotation is not required as a control strategy before respiratory protection is instituted.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limit by means of engineering and work practice controls.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation in which inorganic arsenic is emitted; e.g., machinery used, material processed, controls in place, crew size, operating procedures and maintenance practices;

(B) Engineering plans and studies used to determine methods selected for controlling exposure to inorganic arsenic;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Monitoring data;

(E) A detailed schedule for implementation of the engineering controls and work practices that cannot be implemented immediately and for the adaption and implementation of any additional engineering and work practices necessary to meet the permissible exposure limit;

(F) Whenever the employer will not achieve the permissible exposure limit with engineering controls and work practices ~~((by December 31, 1979,))~~, the employer shall include in the compliance plan an analysis of the effectiveness of the various controls, shall install engineering controls and institute work practices on the quickest schedule feasible, and shall include in the compliance plan and implement a program to minimize the discomfort and maximize the effectiveness of respirator use; and

(G) Other relevant information.

(iii) Written plans for such a program shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, any affected employee or authorized employee representatives.

(iv) The plans required by this subsection shall be revised and updated at least every six months to reflect the current status of the program.

(8) Respiratory protection.

(a) General. ~~((The employer shall assure that respirators are used where required under this section to reduce employee exposures to below the permissible exposure limit and in emergencies. Respirators shall be used in the following circumstances))~~ For employees who use respirators required by this section, the employer must provide respira-

tors that comply with the requirements of this subsection. Respirators must be used during:

(i) ~~((During the time))~~ Period necessary to install or implement feasible engineering or work-practice controls;

(ii) ~~((In))~~ Work operations, such as maintenance and repair activities, in which the employer establishes that engineering and work-practice controls are not feasible;

(iii) ~~((In work situations in))~~ Work operations for which engineering ~~((controls and supplemental))~~ work-practice controls are not yet sufficient to reduce employee exposures to or below the permissible exposure limit; ~~((or))~~

(iv) ~~((In))~~ Emergencies.

(b) Respirator ~~((selection))~~ program.

(i) ~~((Where respirators are required under this section the employer shall select, provide at no cost to the employee and assure the use of the appropriate respirator or combination of respirators from Table I for inorganic arsenic compounds without significant vapor pressure, or Table II for inorganic arsenic compounds which have significant vapor pressure))~~ The employer must establish, implement, and maintain a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(ii) If an employee exhibits breathing difficulty during fit testing or respirator use, they must be examined by a physician trained in pulmonary medicine to determine whether they can use a respirator while performing the required duty.

(c) Respirator selection.

(i) The employer must use Table I of this section to select the appropriate respirator or combination of respirators for inorganic arsenic compounds without significant vapor pressure, and Table II of this section to select the appropriate respirator or combination of respirators for inorganic arsenic compounds that have significant vapor pressure.

(ii) Where employee exposures exceed the permissible exposure limit for inorganic arsenic and also exceed the relevant limit for ~~((particular gasses such as))~~ other gases (for example, sulfur dioxide), any air-purifying respirator ~~((supplied))~~ provided to the employee as ~~((permitted))~~ specified by this ~~((standard))~~ section must have a combination high-efficiency filter with an appropriate gas sorbent. (See footnote in Table I)

(iii) Employees required to use respirators may choose, and the employer must provide, a powered air-purifying respirator if it will provide proper protection. In addition, the employer must provide a combination dust and acid-gas respirator to employees who are exposed to gases over the relevant exposure limits.

TABLE I

RESPIRATORY PROTECTION FOR INORGANIC ARSENIC PARTICULATE EXCEPT FOR THOSE WITH SIGNIFICANT VAPOR PRESSURE

Concentration of Inorganic Arsenic (as As) or Condition of Use	Required Respirator
(i) Unknown or greater or lesser than 20,000 $\mu\text{g}/\text{m}^3$ (20 mg/m^3) firefighting.	(A) Any full facepiece self-contained or breathing apparatus operated in positive pressure mode.
(ii) Not greater than 20,000 $\mu\text{g}/\text{m}^3$ (20 mg/m^3)	(A) Supplied air respirator with full facepiece, hood, or helmet or suit and operated in positive pressure mode.
(iii) Not greater than 10,000 $\mu\text{g}/\text{m}^3$ (10 mg/m^3)	(A) Powered air-purifying respirators in all inlet face coverings with high-efficiency filters. ¹ (B) Half-mask supplied air respirators operated in positive pressure mode.
(iv) Not greater than 500 $\mu\text{g}/\text{m}^3$	(A) Full facepiece air-purifying respirator equipped with high-efficiency filter. ¹ (B) Any full facepiece supplied air respirator. (C) Any full facepiece self-contained breathing apparatus.
(v) Not greater than 100 $\mu\text{g}/\text{m}^3$	(A) Half-mask air-purifying respirator equipped with high-efficiency filter. ¹ (B) Any half-mask supplied air respirator.

¹High-efficiency filter-99.97 pct efficiency against 0.3 micrometer monodisperse diethyl-hexyl phthalate (DOP) particles.

TABLE II

RESPIRATORY PROTECTION FOR INORGANIC ARSENICALS (SUCH AS ARSENIC TRICHLORIDE² AND ARSENIC PHOSPHIDE) WITH SIGNIFICANT VAPOR PRESSURE

Concentration of Inorganic Arsenic (as As) or Condition of Use	Required Respirator
(i) Unknown or greater or lesser than 20,000 $\mu\text{g}/\text{m}^3$ (20 mg/m^3) or firefighting.	(A) Any full facepiece contained breathing apparatus operated in positive pressure mode.
(ii) Not greater than 20,000 $\mu\text{g}/\text{m}^3$ (20 mg/m^3)	(A) Supplied air respirator with full facepiece hood, or helmet or suit and operated in positive pressure mode.
(iii) Not greater than 10,000 $\mu\text{g}/\text{m}^3$ (10 mg/m^3)	(A) Half-mask ² supplied air respirator operated in positive pressure mode.
(iv) Not greater than 500 $\mu\text{g}/\text{m}^3$	(A) Front or back mounted gas mask equipped with high-efficiency filter ¹ and acid gas canister. (B) Any full facepiece supplied air respirator. (C) Any full facepiece self-contained breathing apparatus.
(v) Not greater than 100 $\mu\text{g}/\text{m}^3$	(A) Half-mask ² air-purifying respirator equipped with high-efficiency filter ¹ and acid gas cartridge. (B) Any half-mask supplied air respirator.

¹High efficiency filter-99.97 pct efficiency against 0.3 micrometer monodisperse diethyl-hexyl phthalate (DOP) particles.

²Half-mask respirators shall not be used for protection against arsenic trichloride, as it is rapidly absorbed through the skin.

~~((iii) The employer shall select respirators from among those approved for protection against dust, fume, and mist by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.~~

(e) Respirator usage.

PERMANENT

~~(i) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is fitted properly.~~

~~(ii) The employer shall perform qualitative fit tests at the time of initial fitting and at least semi-annually thereafter for each employee wearing respirators, where quantitative fit tests are not required.~~

~~(iii) Employers with more than twenty employees wearing respirators shall perform a quantitative face fit test at the time of initial fitting and at least semi-annually thereafter for each employee wearing negative pressure respirators. The test shall be used to select facepieces that provide the required protection as prescribed in Table I or II.~~

~~(iv) If an employee has demonstrated difficulty in breathing during the fitting test or during use, he or she shall be examined by a physician trained in pulmonary medicine to determine whether the employee can wear a respirator while performing the required duty.~~

~~(d) Respirator program.~~

~~(i) The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.~~

~~(ii) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.~~

~~(iii) Employees who wear respirators shall be permitted to leave work areas to wash their face and respirator facepiece to prevent skin irritation associated with respirator use.~~

~~(e) Commencement of respirator use.~~

~~(i) The employer's obligation to provide respirators commences on August 1, 1978, for employees exposed over 500 µg/m³ of inorganic arsenic, as soon as possible but not later than October 1, 1978, for employees exposed to over 50 µg/m³ of inorganic arsenic, and as soon as possible but not later than December 1, 1978, for employees exposed between 10 and 50 µg/m³ of inorganic arsenic.~~

~~(ii) Employees with exposures below 50 µg/m³ of inorganic arsenic may choose not to wear respirators until December 31, 1979.~~

~~(iii) After December 1, 1978, any employee required to wear air purifying respirators may choose, and if so chosen the employer must provide, if it will give proper protection, a powered air purifying respirator and in addition if necessary a combination dust and acid gas respirator for times where exposures to gases are over the relevant exposure limits.)~~

~~(9) Reserved.~~

~~(10) Protective work clothing and equipment.~~

~~(a) Provision and use. Where the possibility of skin or eye irritation from inorganic arsenic exists, and for all workers working in regulated areas, the employer shall provide at no cost to the employee and assure that employees use appropriate and clean protective work clothing and equipment such as, but not limited to:~~

~~(i) Coveralls or similar full-body work clothing;~~

~~(ii) Gloves, and shoes or coverlets;~~

~~(iii) Face shields or vented goggles when necessary to prevent eye irritation, which comply with the requirements of WAC 296-24-07801 (1) - (6).~~

(iv) Impervious clothing for employees subject to exposure to arsenic trichloride.

(b) Cleaning and replacement.

(i) The employer shall provide the protective clothing required in subsection (10)(a) of this section in a freshly laundered and dry condition at least weekly, and daily if the employee works in areas where exposures are over 100 µg/m³ of inorganic arsenic or in areas where more frequent washing is needed to prevent skin irritation.

(ii) The employer shall clean, launder, or dispose of protective clothing required by subsection (10)(a) of this section.

(iii) The employer shall repair or replace the protective clothing and equipment as needed to maintain their effectiveness.

(iv) The employer shall assure that all protective clothing is removed at the completion of a work shift only in change rooms prescribed in subsection (13)(a) of this section.

(v) The employer shall assure that contaminated protective clothing which is to be cleaned, laundered, or disposed of, is placed in a closed container in the change-room which prevents dispersion of inorganic arsenic outside the container.

(vi) The employer shall inform in writing any person who cleans or launders clothing required by this section, of the potentially harmful affects including the carcinogenic effects of exposure to inorganic arsenic.

(vii) The employer shall assure that the containers of contaminated protective clothing and equipment in the workplace or which are to be removed from the workplace are labeled as follows:

Caution: Clothing contaminated with inorganic arsenic; do not remove dust by blowing or shaking. Dispose of inorganic arsenic contaminated wash water in accordance with applicable local, state, or federal regulations.

(viii) The employer shall prohibit the removal of inorganic arsenic from protective clothing or equipment by blowing or shaking.

(11) Housekeeping.

(a) Surfaces. All surfaces shall be maintained as free as practicable of accumulations of inorganic arsenic.

(b) Cleaning floors. Floors and other accessible surfaces contaminated with inorganic arsenic may not be cleaned by the use of compressed air, and shoveling and brushing may be used only where vacuuming or other relevant methods have been tried and found not to be effective.

(c) Vacuuming. Where vacuuming methods are selected, the vacuums shall be used and emptied in a manner to minimize the reentry of inorganic arsenic into the workplace.

(d) Housekeeping plan. A written housekeeping and maintenance plan shall be kept which shall list appropriate frequencies for carrying out housekeeping operations, and for cleaning and maintaining dust collection equipment. The plan shall be available for inspection by the director.

(e) Maintenance of equipment. Periodic cleaning of dust collection and ventilation equipment and checks of their effectiveness shall be carried out to maintain the effectiveness of the system and a notation kept of the last check of effectiveness and cleaning or maintenance.

(12) **Reserved.**(13) **Hygiene facilities and practices.**

(a) **Change rooms.** The employer shall provide for employees working in regulated areas or subject to the possibility of skin or eye irritation from inorganic arsenic, clean change rooms equipped with storage facilities for street clothes and separate storage facilities for protective clothing and equipment in accordance with WAC 296-24-12011.

(b) **Showers.**

(i) The employer shall assure that employees working in regulated areas or subject to the possibility of skin or eye irritation from inorganic arsenic shower at the end of the work shift.

(ii) The employer shall provide shower facilities in accordance with WAC 296-24-12009(3).

(c) **Lunchrooms.**

(i) The employer shall provide for employees working in regulated areas, lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees working in regulated areas.

(ii) The employer shall assure that employees working in the regulated area or subject to the possibility of skin or eye irritation from exposure to inorganic arsenic wash their hands and face prior to eating.

(d) **Lavatories.** The employer shall provide lavatory facilities which comply with WAC 296-24-12009 (1) and (2).

(e) **Vacuuming clothes.** The employer shall provide facilities for employees working in areas where exposure, without regard to the use of respirators, exceeds 100 µg/m³ to vacuum their protective clothing and clean or change shoes worn in such areas before entering change rooms, lunchrooms or shower rooms required by subsection (10) of this section and shall assure that such employees use such facilities.

(f) **Avoidance of skin irritation.** The employer shall assure that no employee is exposed to skin or eye contact with arsenic trichloride, or to skin or eye contact with liquid or particulate inorganic arsenic which is likely to cause skin or eye irritation.

(14) **Medical surveillance.**(a) **General.**

(i) **Employees covered.** The employer shall institute a medical surveillance program for the following employees:

(A) All employees who are or will be exposed above the action level, without regard to the use of respirators, at least thirty days per year; and

(B) All employees who have been exposed above the action level, without regard to respirator use, for thirty days or more per year for a total of ten years or more of combined employment with the employer or predecessor employers prior to or after the effective date of this standard. The determination of exposures prior to the effective date of this standard shall be based upon prior exposure records, comparison with the first measurements taken after the effective date of this standard, or comparison with records of exposures in areas with similar processes, extent of engineering controls utilized and materials used by that employer.

(ii) **Examination by physician.** The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee, without loss of pay and at a reasonable time and place.

(b) **Initial examinations.** ((By December 1, 1978,)) For employees initially covered by the medical provisions of this section, or thereafter at the time of initial assignment to an area where the employee is likely to be exposed over the action level at least thirty days per year, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and a medical history which shall include a smoking history and the presence and degree of respiratory symptoms such as breathlessness, cough, sputum production and wheezing.

(ii) A medical examination which shall include at least the following:

(A) A 14" by 17" posterior-anterior chest x-ray and International Labor Office UICC/Cincinnati (ILO U/C) rating;

(B) A nasal and skin examination; and

(C) Other examinations which the physician believes appropriate because of the employees exposure to inorganic arsenic or because of required respirator use.

(c) **Periodic examinations.**

(i) The employer shall provide the examinations specified in subsections (14)(b)(i) and (14)(b)(ii)(A), (B) and (C) of this section at least annually for covered employees who are under forty-five years of age with fewer than ten years of exposure over the action level without regard to respirator use.

(ii) The employer shall provide the examinations specified in subsections (14)(b)(i) and (ii)(B) and (C) of this section at least semi-annually for other covered employees.

(iii) Whenever a covered employee has not taken the examinations specified in subsection (14)(b)(i) and (ii)(B) and (C) of this section within six months preceding the termination of employment, the employer shall provide such examinations to the employee upon termination of employment.

(d) **Additional examinations.** If the employee for any reason develops signs or symptoms commonly associated with exposure to inorganic arsenic the employer shall provide an appropriate examination and emergency medical treatment.

(e) **Information provided to the physician.** The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level or anticipated exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(f) **Physician's written opinion.**

(i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical examination and tests performed;

(B) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to inorganic arsenic;

(C) Any recommended limitations upon the employee's exposure to inorganic arsenic or upon the use of protective clothing or equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(15) Employee information and training.

(a) Training program.

(i) The employer shall institute a training program for all employees who are subject to exposure to inorganic arsenic above the action level without regard to respirator use, or for whom there is the possibility of skin or eye irritation from inorganic arsenic. The employer shall assure that those employees participate in the training program.

(ii) The training program shall be provided ~~((by October 1, 1978))~~ for employees covered by this provision, at the time of initial assignment for those subsequently covered by this provision, and shall be repeated at least quarterly for employees who have optional use of respirators and at least annually for other covered employees thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in Appendix A;

(B) The quantity, location, manner of use, storage, sources of exposure, and the specific nature of operations which could result in exposure to inorganic arsenic as well as any necessary protective steps;

(C) The purpose, proper use, and limitation of respirators;

(D) The purpose and a description of medical surveillance program as required by subsection (14) of this section;

(E) The engineering controls and work practices associated with the employee's job assignment; and

(F) A review of this standard.

(b) Access to training materials.

(i) The employer shall make readily available to all affected employees a copy of this standard and its appendices.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label required by this subsection which contradicts or detracts from the meaning of the required sign or label.

(b) Signs.

(i) The employer shall post signs demarcating regulated areas bearing the legend:

DANGER

INORGANIC ARSENIC

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

NO SMOKING OR EATING

RESPIRATOR REQUIRED

(ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.

(c) Labels. The employer shall apply precautionary labels to all shipping and storage containers of inorganic arsenic, and to all products containing inorganic arsenic except when the inorganic arsenic in the product is bound in such a manner so as to make unlikely the possibility of airborne exposure to inorganic arsenic. (Possible examples of products not requiring labels are semiconductors, light emitting diodes and glass.) The label shall bear the following legend:

DANGER

CONTAINS INORGANIC ARSENIC

CANCER HAZARD

HARMFUL IF INHALED OR SWALLOWED

USE ONLY WITH ADEQUATE VENTILATION

OR RESPIRATORY PROTECTION

(17) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (5) of this section.

(ii) This record shall include:

(A) The date(s), number, duration location, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure where applicable;

(B) A description of the sampling and analytical methods used and evidence of their accuracy;

(C) ~~The ((type of respiratory protective devices worn, if any))~~ purpose, proper use, limitations, and other training requirements covering respiratory protection as required in chapter 296-62 WAC, Part E;

PERMANENT

(D) Name, Social Security number, and job classification of the employees monitored and of all other employees whose exposure the measurement is intended to represent; and

(E) The environmental variables that could affect the measurement of the employee's exposure.

(iii) The employer shall maintain these monitoring records for at least forty years or for the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (14) of this section.

(ii) This record shall include:

(A) The name, Social Security number, and description of duties of the employee;

(B) A copy of the physician's written opinions;

(C) Results of any exposure monitoring done for that employee and the representative exposure levels supplied to the physician; and

(D) Any employee medical complaints related to exposure to inorganic arsenic.

(iii) The employer shall in addition keep, or assure that the examining physician keeps, the following medical records:

(A) A copy of the medical examination results including medical and work history required under subsection (14) of this section;

(B) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to that information;

(C) The initial x-ray;

(D) The x-rays for the most recent five years;

(E) Any x-rays with a demonstrated abnormality and all subsequent x-rays; and

(F) Any cytologic examination slides with demonstrated atypia, if such atypia persists for three years, and all subsequent slides and written descriptions.

(iv) The employer shall maintain or assure that the physician maintains those medical records for at least forty years, or for the duration of employment, plus twenty years, whichever is longer.

(c) Availability.

(i) The employer shall make available upon request all records required to be maintained by subsection (17) of this section to the director for examination and copying.

(ii) Records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(iii) The employer shall make available upon request an employee's medical records and exposure records representative of that employee's exposure required to be maintained by subsection (17) of this section to the affected employee or former employee or to a physician designated by the affected employee or former employee.

(d) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records required to be maintained by this section for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior to the disposal of such records and shall transmit those records to the director if he requests them within that period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to inorganic arsenic conducted pursuant to subsection (5) of this section.

(b) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to inorganic arsenic requires entry into an area where the use of respirators, protective clothing, or equipment is required, the employer shall provide the observer with and assure the use of such respirators, clothing, and such equipment, and shall require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled to;

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the monitoring of inorganic arsenic performed at the place of exposure; and

(C) Record the results obtained or receive copies of the results when returned by the laboratory.

~~(19) ((Effective date. This standard shall become effective thirty days after filing with the code reviser.~~

~~(20)) Appendices. The information contained in the appendices to this section is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation.~~

~~((21) Startup dates.~~

~~(a) General. The startup dates of requirements of this standard shall be the effective date of this standard unless another startup date is provided for, either in other subsections of this section or in this subsection.~~

~~(b) Monitoring. Initial monitoring shall be commenced by August 1, 1978, and shall be completed by September 15, 1978.~~

~~(c) Regulated areas. Regulated areas required to be established as a result of initial monitoring shall be set up as soon as possible after the results of that monitoring is known and no later than October 1, 1978.~~

~~(d) Compliance program. The written program required by subsection (7)(b) as a result of initial monitoring shall be made available for inspection and copying as soon as possible and no later than December 1, 1978.~~

(e) Hygiene and lunchroom facilities. Construction plans for change rooms, showers, lavatories, and lunchroom facilities shall be completed no later than December 1, 1978, and these facilities shall be constructed and in use no later than July 1, 1979. However, if as part of the compliance plan it is predicted by an independent engineering firm that engineering controls and work practices will reduce exposures below the permissible exposure limit by December 31, 1979, for affected employees, then such facilities need not be completed until one year after the engineering controls are completed or December 31, 1980, whichever is earlier, if such controls have not in fact succeeded in reducing exposure to below the permissible exposure limit.

(f) Summary of startup dates set forth elsewhere in this standard:

STARTUP DATES

August 1, 1978—Respirator use over 500 µg/m³.

AS SOON AS POSSIBLE BUT NO LATER THAN

September 15, 1978—Completion of initial monitoring.

October 1, 1978—Complete establishment of regulated areas.

Respirator use for employees exposed above 50 µg/m³.

Completion of initial training. Notification of use.

December 1, 1978—Respirator use over 10 µg/m³. Completion of initial medical. Completion of compliance plan.

Optional use of powered air-purifying respirators.

July 1, 1979—Completion of lunch rooms and hygiene facilities.

December 31, 1979—Completion of engineering controls.

All other requirements of the standard have as their startup date August 1, 1978.)

All other requirements of the standard have as their startup date August 1, 1978.)

AMENDATORY SECTION (Amending Order 94-16, filed 9/30/94, effective 11/20/94)

WAC 296-62-07367 Respiratory protection and personal protective equipment. (1) General. ((The employer shall provide respirators, and ensure that they are used, where required by WAC 296-62-07355 through 296-62-07389. Respirators shall be used in the following circumstances:)) For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of WAC 296-62-07355 through 296-62-07389. Respirators must be used during:

- (a) ((During the interval)) Periods necessary to install or implement feasible engineering and work-practice controls;
 - (b) ((In)) Work operations, such as maintenance and repair activities, vessel cleaning, or other activities, for which engineering and work-practice controls are not feasible;
 - (c) ((In work situations where)) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the TWA or excursion limit; ((and))
 - (d) ((In)) Emergencies.
- (2) Respirator ((selection:

(a) Where respirators are required under WAC 296-62-07355 through 296-62-07389, the employer shall select and

provide, at no cost to the employee, the appropriate respirator as specified in Table 1, and shall ensure that the employee uses the respirator provided.

(b) The employer shall select respirators from among those jointly approved as being acceptable for protection against EtO by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11)) program. The employer must establish, implement, and maintain a respiratory protection program as required in chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(3) Respirator ((program. Where respiratory protection is required by WAC 296-62-07355 through 296-62-07389, the employer shall institute a respirator program in accordance with WAC 296-62-074)) selection. The employer must select the appropriate respirator from Table 1 of this section.

Table 1.—Minimum Requirements for Respiratory Protection for Airborne EtO

<u>Condition of use or concentration of airborne EtO (ppm)</u>	<u>Minimum required respirator</u>
<u>Equal to or less than 50</u>	(a) <u>Full facepiece respirator with EtO approved canister, front-or back-mounted.</u>
<u>Equal to or less than 2,000</u>	(a) <u>Positive-pressure supplied air respirator, equipped with full facepiece, hood or helmet, or</u> (b) <u>Continuous-flow supplied air respirator (positive pressure) equipped with hood, helmet or suit.</u>
<u>Concentration above 2,000 or unknown concentration (such as in emergencies)</u>	(a) <u>Positive-pressure self-contained breathing apparatus (SCBA), equipped with full facepiece, or</u> (b) <u>Positive-pressure full facepiece supplied air respirator equipped with an auxiliary positive-pressure self-contained breathing apparatus.</u>
<u>Firefighting</u>	(a) <u>Positive pressure self-contained breathing apparatus equipped with full facepiece.</u>
<u>Escape</u>	(a) <u>Any respirator described above.</u>

Note: Respirators approved for use in higher concentrations are permitted to be used in lower concentrations.

PERMANENT

(4) Protective clothing and equipment. Where employees could have eye or skin contact with ((liquid)) EtO or EtO solutions ((may occur)), the employer ((shall)) must select and provide, at no cost to the employee, appropriate protective clothing or other equipment in accordance with chapter 296-24 WAC, Part A-2, and to protect any area of the body that may come in contact with liquid EtO or EtO in solution, and ((shall)) must ensure that the employee wears the protective clothing and equipment provided.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-62-07369 Emergency situations. (1) Written plan.

(a) A written plan for emergency situations shall be developed for each workplace where there is a possibility of an emergency. Appropriate portions of the plan shall be implemented in the event of an emergency.

(b) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped with respiratory protection as required by WAC 296-62-07367 until the emergency is abated.

(c) The plan shall include the elements prescribed in WAC 296-24-567, "Employee emergency plans and fire prevention plans."

(2) Alerting employees. Where there is the possibility of employee exposure to EtO due to an emergency, means shall be developed to alert potentially affected employees of such occurrences promptly. Affected employees shall be immediately evacuated from the area in the event that an emergency occurs.

~~((Table 1.— Minimum Requirements for Respiratory Protection for Airborne EtO~~

Condition of use or concentration of airborne EtO (ppm)	Minimum required respirator
Equal to or less than 50.	(a) Full facepiece respirator with EtO approved canister, front or back mounted.
Equal to or less than 2,000.	(a) Positive pressure supplied air respirator, equipped with full facepiece, hood, or helmet, or
	(b) Continuous flow supplied air respirator (positive pressure) equipped with hood, helmet or suit.

Condition of use or concentration of airborne EtO (ppm)	Minimum required respirator
Concentration above 2,000 or unknown concentration (such as in emergencies).	(a) Positive pressure self contained breathing apparatus (SCBA), equipped with full facepiece, or
	(b) Positive pressure full facepiece supplied air respirator equipped with an auxiliary positive pressure self contained breathing apparatus.
Firefighting	(a) Positive pressure self contained breathing apparatus equipped with full facepiece.
Escape	(a) Any respirator described above.

Note: ~~Respirators approved for use in higher concentrations are permitted to be used in lower concentrations.)~~

AMENDATORY SECTION (Amending Order 88-11, filed 7/6/88)

WAC 296-62-07383 Appendix A—Substance safety data sheet for ethylene oxide (nonmandatory). (1) **Substance identification**

(a) Substance: Ethylene oxide (C₂H₄O).

(b) Synonyms: Dihydrooxirene, dimethylene oxide, EO, 1,2-epoxyethane, EtO, ETO, oxacyclopropane, oxane, oxidoethane, alpha/beta-oxidoethane, oxiran, oxirane.

(c) Ethylene oxide can be found as a liquid or vapor.

(d) EtO is used in the manufacture of ethylene glycol, surfactants, ethanolamines, glycol ethers, and other organic chemicals. EtO is also used as a sterilant and fumigant.

(e) Appearance and odor: Colorless liquid below 10.7°C (51.3°F) or colorless gas with ether-like odor detected at approximately 700 parts EtO per million parts of air (700 ppm).

(f) Permissible exposure: Exposure may not exceed 1 part EtO per million parts of air averaged over the 8-hour work day.

(2) **Health hazard data**

(a) Ethylene oxide can cause bodily harm if you inhale the vapor, if it comes into contact with your eyes or skin, or if you swallow it.

(b) Effects of overexposure:

(i) Ethylene oxide in liquid form can cause eye irritation and injury to the cornea, frostbite, and severe irritation and blistering of the skin upon prolonged or confined contact. Ingestion of EtO can cause gastric irritation and liver injury. Acute effects from inhalation of EtO vapors include respiratory irritation and lung injury, headache, nausea, vomiting, diarrhea, shortness of breath, and cyanosis (blue or purple coloring of skin). Exposure has also been associated with the

PERMANENT

occurrence of cancer, reproductive effects, mutagenic changes, neurotoxicity, and sensitization.

(ii) EtO has been shown to cause cancer in laboratory animals and has been associated with higher incidences of cancer in humans. Adverse reproductive effects and chromosome damage may also occur from EtO exposure.

(c) Reporting signs and symptoms: You should inform your employer if you develop any signs or symptoms and suspect that they are caused by exposure to EtO.

(3) Emergency first aid procedures

(a) Eye exposure: If EtO gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper eyelids. Get medical attention immediately. Contact lenses should not be worn when working with this chemical.

(b) Skin exposure: If EtO gets on your skin, immediately wash the contaminated skin with water. If EtO soaks through your clothing, especially your shoes, remove the clothing immediately and wash the skin with water using an emergency deluge shower. Get medical attention immediately. Thoroughly wash contaminated clothing before reusing. Contaminated leather shoes or other leather articles should not be reused and should be discarded.

(c) Inhalation: If large amounts of EtO are inhaled, the exposed person must be moved to fresh air at once. If breathing has stopped, perform cardiopulmonary resuscitation. Keep the affected person warm and at rest. Get medical attention immediately.

(d) Swallowing: When EtO has been swallowed, give the person large quantities of water immediately. After the water has been swallowed, try to get the person to vomit by having him or her touch the back of the throat with his or her finger. Do not make an unconscious person vomit. Get medical attention immediately.

(e) Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, attempt rescue only after notifying at least one other person of the emergency and putting into effect established emergency procedures. Do not become a casualty yourself. Understand your emergency rescue procedures and know the location of the emergency equipment before the need arises.

(4) Respirators and protective clothing

(a) Respirators:

(i) You may be required to wear a respirator for nonroutine activities, in emergencies, while your employer is in the process of reducing EtO exposure through engineering controls, and in areas where engineering controls are not feasible. ~~((As of the effective date of the standard,))~~ Only air supplied positive-pressure, full-facepiece respirators are approved for protection against EtO. If air-purifying respirators are worn in the future, they must have a ~~((joint Mine Safety and Health Administration (MSHA) and))~~ label issued by the National Institute for Occupational Safety and Health (NIOSH) ((label of approval)) under the provisions of 42 CFR part 84 stating that the respirators have been certified for use with ethylene oxide. For effective protection, respirators must fit your face and head snugly. Respirators ((should)) must not be loosened or removed in work situations where their use is required.

(ii) EtO does not have a detectable odor except at levels well above the permissible exposure limits. If you can smell

EtO while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

(b) Protective clothing:

(i) You may be required to wear impermeable clothing, gloves, a face shield, or other appropriate protective clothing to prevent skin contact with liquid EtO or EtO-containing solutions. Where protective clothing is required, your employer must provide clean garments to you as necessary to assure that the clothing protects you adequately.

(ii) Replace or repair protective clothing that has become torn or otherwise damaged.

(iii) EtO must never be allowed to remain on the skin. Clothing and shoes which are not impermeable to EtO should not be allowed to become contaminated with EtO, and if they do, the clothing should be promptly removed and decontaminated. Contaminated leather shoes should be discarded. Once EtO penetrates shoes or other leather articles, they should not be worn again.

(c) Eye protection: You must wear splashproof safety goggles in areas where liquid EtO or EtO-containing solutions may contact your eyes. In addition, contact lenses should not be worn in areas where eye contact with EtO can occur.

(5) Precautions for safe use, handling, and storage

(a) EtO is a flammable liquid, and its vapors can easily form explosive mixtures in air.

(b) EtO must be stored in tightly closed containers in a cool, well-ventilated area, away from heat, sparks, flames, strong oxidizers, alkalines, and acids, strong bases, acetylide forming metals such as copper, silver, mercury and their alloys.

(c) Sources of ignition such as smoking material, open flames and some electrical devices are prohibited wherever EtO is handled, used, or stored in a manner that could create a potential fire or explosion hazard.

(d) You should use nonsparking tools when opening or closing metal containers of EtO, and containers must be bonded and grounded in the rare instances in which liquid EtO is poured or transferred.

(e) Impermeable clothing wet with liquid EtO or EtO-containing solutions may be easily ignited. If you are wearing impermeable clothing and are splashed with liquid EtO or EtO-containing solution, you should immediately remove the clothing while under an emergency deluge shower.

(f) If your skin comes into contact with liquid EtO or EtO-containing solutions, you should immediately remove the EtO using an emergency deluge shower.

(g) You should not keep food, beverages, or smoking materials in regulated areas where employee exposures are above the permissible exposure limits.

(h) Fire extinguishers and emergency deluge showers for quick drenching should be readily available, and you should know where they are and how to operate them.

(i) Ask your supervisor where EtO is used in your work area and for any additional plant safety and health rules.

(6) Access to information

(a) Each year, your employer is required to inform you of the information contained in this standard and appendices for EtO. In addition, your employer must instruct you in the

proper work practices for using EtO emergency procedures, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to EtO. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits.

(c) Your employer is required to keep records of your exposures and medical examinations. These exposure records must be kept by the employer for at least thirty years. Medical records must be kept for the period of your employment plus thirty years.

(d) Your employer is required to release your exposure and medical records to your physician or designated representative upon your written request.

(7) Sterilant use of EtO in hospitals and health care facilities.

(a) This section of Appendix A, for informational purposes, sets forth EPA's recommendations for modifications in workplace design and practice in hospitals and health care facilities for which the Environmental Protection Agency has registered EtO for uses as a sterilant or fumigant under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.* These new recommendations, published in the **Federal Register** by EPA at 49 FR 15268, as modified in today's **Register**, are intended to help reduce the exposure of hospital and health care workers to EtO to 1 ppm. EPA's recommended workplace design and workplace practice are as follows:

(i) Workplace design

(A) Installation of gas line hand valves. Hand valves must be installed on the gas supply line at the connection to the supply cylinders to minimize leakage during cylinder change.

(B) Installation of capture boxes. Sterilizer operations result in a gas/water discharge at the completion of the process. This discharge is routinely piped to a floor drain which is generally located in an equipment or an adjacent room. When the floor drain is not in the same room as the sterilizer and workers are not normally present, all that is necessary is that the room be well ventilated.

(C) The installation of a "capture box" will be required for those work place layouts where the floor drain is located in the same room as the sterilizer or in a room where workers are normally present. A "capture box" is a piece of equipment that totally encloses the floor drain where the discharge from the sterilizer is pumped. The "capture box" is to be vented directly to a nonrecirculating or dedicated ventilation system. Sufficient air intake should be allowed at the bottom of the box to handle the volume of air that is ventilated from the top of the box. The "capture box" can be made of metal, plastic, wood or other equivalent material. The box is intended to reduce levels of EtO discharged into the work room atmosphere. The use of a "capture box" is not required if: (I) The vacuum pump discharge floor drain is located in a well ventilated equipment or other room where workers are not nor-

mally present or (II) the water sealed vacuum pump discharges directly to a closed sealed sewer line (check local plumbing codes).

(D) If it is impractical to install a vented "capture box" and a well ventilated equipment or other room is not feasible, a box that can be sealed over the floor drain may be used if: (I) The floor drain is located in a room where workers are not normally present and EtO cannot leak into an occupied area, and (II) the sterilizer in use is less than 12 cubic feet in capacity (check local plumbing codes).

(ii) Ventilation of aeration units.

(A) Existing aeration units. Existing units must be vented to a nonrecirculating or dedicated system or vented to an equipment or other room where workers are not normally present and which is well ventilated. Aerator units must be positioned as close as possible to the sterilizer to minimize the exposure from the off-gassing of sterilized items.

(B) Installation of new aerator units (where none exist). New aerator units must be vented as described above for existing aerators. Aerators must be in place by July 1, 1986.

(iii) Ventilation during cylinder change. Workers may be exposed to short but relatively high levels of EtO during the change of gas cylinders. To reduce exposure from this route, users must select one of three alternatives designed to draw off gas that may be released when the line from the sterilizer to the cylinder is disconnected:

(A) Location of cylinders in a well ventilated equipment room or other room where workers are not normally present.

(B) Installation of a flexible hose (at least four inches in diameter) to a nonrecirculating or dedicated ventilation system and located in the area of cylinder change in such a way that the hose can be positioned at the point where the sterilizer gas line is disconnected from the cylinder.

(C) Installation of a hood that is part of a nonrecirculating or dedicated system and positioned no more than one foot above the point where the change of cylinders takes place.

(iv) Ventilation of sterilizer door area. One of the major sources of exposure to EtO occurs when the sterilizer door is opened following the completion of the sterilization process. In order to reduce this avenue of exposure, a hood or metal canopy closed on each end must be installed over the sterilizer door. The hood or metal canopy must be connected to a nonrecirculating or dedicated ventilation system or one that exhausts gases to a well ventilated equipment or other room where workers are not normally present. A hood or canopy over the sterilizer door is required for use even with those sterilizers that have a purge cycle and must be in place by July 1, 1986.

(v) Ventilation of sterilizer relief valve. Sterilizers are typically equipped with a safety relief device to release gas in case of increased pressure in the sterilizer. Generally, such relief devices are used on pressure vessels. Although these pressure relief devices are rarely opened for hospital and health care sterilizers, it is suggested that they be designed to exhaust vapor from the sterilizer by one of the following methods:

(A) Through a pipe connected to the outlet of the relief valve ventilated directly outdoors at a point high enough to be

away from passers by, and not near any windows that open, or near any air conditioning or ventilation air intakes.

(B) Through a connection to an existing or new nonrecirculating or dedicated ventilation system.

(C) Through a connection to a well ventilated equipment or other room where workers are not normally present.

(vi) Ventilation systems. Each hospital and health care facility affected by this notice that uses EtO for the sterilization of equipment and supplies must have a ventilation system which enables compliance with the requirements of (a)(i)(B) through (v) of this subsection in the manner described in these sections and within the timeframes allowed. Thus, each affected hospital and health care facility must have or install a nonrecirculating or dedicated ventilation equipment or other room where workers are not normally present in which to vent EtO.

(vii) Installation of alarm systems. An audible and visual indicator alarm system must be installed to alert personnel of ventilation system failures, i.e., when the ventilation fan motor is not working.

(b) Workplace practices

(i) All the workplace practices discussed in this unit must be permanently posted near the door of each sterilizer prior to use by any operator.

(ii) Changing of supply line filters.

Filters in the sterilizer liquid line must be changed when necessary, by the following procedure:

(A) Close the cylinder valve and the hose valve.

(B) Disconnect the cylinder hose (piping) from the cylinder.

(C) Open the hose valve and bleed slowly into a proper ventilating system at or near the in-use supply cylinders.

(D) Vacate the area until the line is empty.

(E) Change the filter.

(F) Reconnect the lines and reverse the valve position.

(G) Check hoses, filters, and valves for leaks with a fluorocarbon leak detector (for those sterilizers using the eighty-eight percent chlorofluorocarbon, twelve percent ethylene oxide mixture (12/88)).

(iii) Restricted access area.

(A) Areas involving use of EtO must be designated as restricted access areas. They must be identified with signs or floor marks near the sterilizer door, aerator, vacuum pump floor drain discharge, and in-use cylinder storage.

(B) All personnel must be excluded from the restricted area when certain operations are in progress, such as discharging a vacuum pump, emptying a sterilizer liquid line, or venting a nonpurge sterilizer with the door ajar or other operations where EtO might be released directly into the face of workers.

(iv) Door opening procedures.

(A) Sterilizers with purge cycles. A load treated in a sterilizer equipped with a purge cycle should be removed immediately upon completion of the cycle (provided no time is lost opening the door after cycle is completed). If this is not done, the purge cycle should be repeated before opening door.

(B) Sterilizers without purge cycles. For a load treated in a sterilizer not equipped with a purge cycle, the sterilizer door must be ajar six inches for fifteen minutes, and then fully opened for at least another fifteen minutes before removing

the treated load. The length of time of the second period should be established by peak monitoring for one hour after the two fifteen-minute periods suggested. If the level is above 10 ppm time-weighted average for eight hours, more time should be added to the second waiting period (door wide open). However, in no case may the second period be shortened to less than fifteen minutes.

(v) Chamber unloading procedures.

(A) Procedures for unloading the chamber must include the use of baskets or rolling carts, or baskets and rolling tables to transfer treated loads quickly, thus avoiding excessive contact with treated articles, and reducing the duration of exposures.

(B) If rolling carts are used, they should be pulled not pushed by the sterilizer operators to avoid offgassing exposure.

(vi) Maintenance. A written log should be instituted and maintained documenting the date of each leak detection and any maintenance procedures undertaken. This is a suggested use practice and is not required.

(vii) Leak detection. Sterilizer door gaskets, cylinder and vacuum piping, hoses, filters, and valves must be checked for leaks under full pressure with a Fluorocarbon leak detector (for 12/88 systems only) every two weeks by maintenance personnel. Also, the cylinder piping connections must be checked after changing cylinders. Particular attention in leak detection should be given to the automatic solenoid valves that control the flow of EtO to the sterilizer. Specifically, a check should be made at the EtO gasline entrance port to the sterilizer, while the sterilizer door is open and the solenoid valves are in a closed position.

(viii) Maintenance procedures. Sterilizer/aerator door gaskets, valves, and fittings must be replaced when necessary as determined by maintenance personnel in their biweekly checks; in addition, visual inspection of the door gaskets for cracks, debris, and other foreign substances should be conducted daily by the operator.

AMENDATORY SECTION (Amending Order 93-06, filed 10/20/93, effective 12/1/93)

WAC 296-62-07413 Respirator protection. (1) General. (~~Where respirators are required by this section, the employer shall provide them at no cost to the employee and shall assure that they are used in compliance with the requirements of this section. Respirators shall be used in the following circumstances~~) For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(a) (~~Where exposure levels exceed the PEL, during the time period~~) Periods necessary to install or implement feasible engineering and work-practice controls when employee exposure levels exceed the PEL;

(b) (~~In those~~) Maintenance and repair activities, and (~~during those~~) brief or intermittent operations, where employee exposures exceed the PEL and engineering and work-practice controls are not feasible or are not required;

(c) Activities in regulated areas(;;) as (~~prescribed~~) specified in WAC 296-62-07409;

(d) ~~((Where))~~ Work operations for which the employer has implemented all feasible engineering and work-practice controls and such controls are not sufficient to reduce employee exposures to or below the PEL;

(e) ~~((In emergencies;~~

~~(f) Wherever))~~ Work operations for which an employee who is exposed to cadmium at or above the action level, and the employee requests a respirator;

~~((g) Wherever))~~ (f) Work operations for which an employee is exposed above the PEL ((in an industry to which a SECAL is applicable;)) and engineering controls are not required by WAC 296-62-07411 (1)(b); and

~~((h) Wherever an employee is exposed to cadmium above the PEL and engineering controls are not required under WAC 296-62-07411 (1)(e;))~~ (g) Emergencies.

(2) ~~Respirator ((selection;~~

~~(a) Where respirators are required under this section, the employer shall select and provide the appropriate respirator as specified in Table 2. The employer shall select respirators from among those jointly approved as acceptable protection against cadmium dust, fume, and mist by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR part 11;))~~ program.

(a) The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(b) No employees must use a respirator if, based on their recent medical examination, the examining physician determines that they will be unable to continue to function normally while using a respirator. If the physician determines that the employee must be limited in, or removed from, their current job because of their inability to use a respirator, the limitation or removal must be in accordance with WAC 296-62-07423 (11) and (12).

(c) If an employee has breathing difficulty during fit testing or respirator use, the employer must provide the employee with a medical examination as required by WAC 296-62-07423 (6)(b) to determine if the employee can use a respirator while performing the required duties.

(3) Respirator selection.

(a) The employer must select the appropriate respirator from Table 2 of this section.

Table 2.—Respiratory Protection for Cadmium

25 x or less	A powered air-purifying respirator ("PAPR") with a loose-fitting hood or helmet equipped with a HEPA filter, or a supplied-air respirator with a loose-fitting hood or helmet facepiece operated in the continuous flow mode.
50 x or less	A full facepiece air-purifying respirator equipped with a HEPA filter, or a powered air-purifying respirator with a tight-fitting half mask equipped with a HEPA filter, or a supplied air respirator with a tight-fitting half mask operated in the continuous flow mode.
250 x or less	A powered air-purifying respirator with a tight-fitting full facepiece equipped with a HEPA filter, or a supplied-air respirator with a tight-fitting full facepiece operated in the continuous flow mode.
1000 x or less	A supplied-air respirator with half mask or full facepiece operated in the pressure demand or other positive pressure mode.
>1000 x or unknown concentrations	A self-contained breathing apparatus with a full facepiece operated in the pressure demand or other positive pressure mode, or a supplied-air respirator with a full facepiece operated in the pressure demand or other positive pressure mode and equipped with an auxiliary escape type self-contained breathing apparatus operated in the pressure demand mode.
Fire fighting	A self-contained breathing apparatus with full facepiece operated in the pressure demand or other positive pressure mode.

Table 2.—Respiratory Protection for Cadmium

Airborne concentration or condition of use ^a	Required respirator type ^b
10 x or less	A half mask, air-purifying respirator equipped with a HEPA ^c filter ^d .

^a Concentrations expressed as multiple of the PEL.

PERMANENT

^b Respirators assigned for higher environmental concentrations may be used at lower exposure levels. Quantitative fit testing is required for all tight-fitting air purifying respirators where airborne concentration of cadmium exceeds 10 times the TWA PEL ($10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$). A full facepiece respirator is required when eye irritation is experienced.

^c HEPA means High Efficiency Particulate Air.

^d Fit testing, qualitative or quantitative, is required.

SOURCE: Respiratory Decision Logic, NIOSH, 1987

(b) The employer ((shall)) must provide an employee with a powered, air-purifying respirator (PAPR) ((in lieu)) instead of a negative-pressure respirator ((wherever:

((i) An)) when an employee who is entitled to a respirator chooses to use this type of respirator((;)) and

((ii) This)) such a respirator ((will)) provides adequate protection to the employee.

((3) Respirator program.

~~(a) Where respiratory protection is required, the employer shall institute a respirator protection program in accordance with chapter 296-62 WAC, Part E.~~

~~(b) The employer shall permit each employee who is required to use an air-purifying respirator to leave the regulated area to change the filter elements or replace the respirator whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.~~

~~(c) The employer shall also permit each employee who is required to wear a respirator to leave the regulated area to wash his or her face and the respirator facepiece whenever necessary to prevent skin irritation associated with respirator use.~~

~~(d) If an employee exhibits difficulty in breathing while wearing a respirator during a fit test or during use, the employer shall make available to the employee a medical examination in accordance with WAC 296-62-07423 (6)(b) to determine if the employee can wear a respirator while performing the required duties.~~

~~(e) No employee shall be assigned a task requiring the use of a respirator if, based upon his or her most recent examination, an examining physician determines that the employee will be unable to continue to function normally while wearing a respirator. If the physician determines the employee must be limited in, or removed from his or her current job because of the employee's inability to wear a respirator, the limitation or removal shall be in accordance with WAC 296-62-07423 (11) and (12).~~

~~(4) Respirator fit testing:~~

~~(a) The employer shall assure that the respirator issued to the employee is fitted properly and exhibits the least possible facepiece leakage.~~

~~(b) For each employee wearing a tight-fitting, air-purifying respirator (either negative or positive pressure) who is exposed to airborne concentrations of cadmium that do not exceed 10 times the PEL ($10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$), the employer shall perform either quantitative or qualitative fit testing at the time of initial fitting and at least annually thereafter. If quantitative fit testing is used for a negative pressure respirator, a fit factor that is at least 10 times the protection factor for that class of respirators (Table 2 in subsection (2)(a) of this section) shall be achieved at testing.~~

~~(c) For each employee wearing a tight-fitting air-purifying respirator (either negative or positive pressure) who is exposed to airborne concentrations of cadmium that exceed 10 times the PEL ($10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$), the employer shall perform quantitative fit testing at the time of initial fitting and at least annually thereafter. For negative pressure respirators, a fit factor that is at least 10 times the protection factor for that class of respirators (Table 2 in subsection (2)(a) of this section) shall be achieved during quantitative fit testing.~~

~~(d) For each employee wearing a tight-fitting, supplied-air respirator or self-contained breathing apparatus, the employer shall perform quantitative fit testing at the time of initial fitting and at least annually thereafter. This shall be accomplished by fit testing an air-purifying respirator of identical type facepiece, make, model, and size as the supplied-air respirator or self-contained breathing apparatus that is equipped with HEPA filters and tested as a surrogate (substitute) in the negative pressure mode. A fit factor that is at least 10 times the protection factor for that class of respirators (Table 2 in subsection (2)(a) of this section) shall be achieved during quantitative fit testing. A supplied-air respirator or self-contained breathing apparatus with the same type facepiece, make, model, and size as the air-purifying respirator with which the employee passed the quantitative fit test may then be used by that employee up to the protection factor listed in Table 2 for that class of respirators.~~

~~(e) Fit testing shall be conducted in accordance with WAC 296-62-07445, Appendix C.)~~

AMENDATORY SECTION (Amending Order 93-06, filed 10/20/93, effective 12/1/93)

WAC 296-62-07425 Communication of cadmium hazards to employees. (1) General. In communications concerning cadmium hazards, employers shall comply with the requirements of WISHA's Hazard Communication Standard, chapter 296-62 WAC, Part C, including but not limited to the requirements concerning warning signs and labels, material safety data sheets (MSDS), and employee information and training. In addition, employers shall comply with the following requirements:

(2) Warning signs.

(a) Warning signs shall be provided and displayed in regulated areas. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take necessary protective steps before entering the area.

(b) Warning signs required by (a) of this subsection shall bear the following information:

DANGER CADMIUM CANCER HAZARD CAN CAUSE LUNG
AND KIDNEY DISEASE AUTHORIZED PERSONNEL ONLY
RESPIRATORS REQUIRED IN THIS AREA

(c) The employer shall assure that signs required by this subsection are illuminated, cleaned, and maintained as necessary so that the legend is readily visible.

(3) Warning labels.

(a) Shipping and storage containers containing cadmium, cadmium compounds, or cadmium contaminated clothing, equipment, waste, scrap, or debris shall bear appropriate warning labels, as specified in (b) of this subsection.

(b) The warning labels shall include at least the following information:

DANGER CONTAINS CADMIUM CANCER HAZARD AVOID
CREATING DUST CAN CAUSE LUNG AND KIDNEY DISEASE

(c) Where feasible, installed cadmium products shall have a visible label or other indication that cadmium is present.

(4) Employee information and training.

(a) The employer shall institute a training program for all employees who are potentially exposed to cadmium, assure employee participation in the program, and maintain a record of the contents of such program.

(b) Training shall be provided prior to or at the time of initial assignment to a job involving potential exposure to cadmium and at least annually thereafter.

(c) The employer shall make the training program understandable to the employee and shall assure that each employee is informed of the following:

(i) The health hazards associated with cadmium exposure, with special attention to the information incorporated in WAC 296-62-07441, Appendix A;

(ii) The quantity, location, manner of use, release, and storage of cadmium in the workplace and the specific nature of operations that could result in exposure to cadmium, especially exposures above the PEL;

(iii) The engineering controls and work practices associated with the employee's job assignment;

(iv) The measures employees can take to protect themselves from exposure to cadmium, including modification of such habits as smoking and personal hygiene, and specific procedures the employer has implemented to protect employees from exposure to cadmium such as appropriate work practices, emergency procedures, and the provision of personal protective equipment;

(v) The purpose, proper selection, fitting, proper use, and limitations of (~~respirators and~~) protective clothing;

(vi) The purpose and a description of the medical surveillance program required by WAC 296-62-07423;

(vii) The contents of this section and its appendices; (~~and~~)

(viii) The employee's rights of access to records under WAC 296-62-05213; and

(ix) The purpose, proper use, limitations, and other training requirements for respiratory protection as required in chapter 296-62 WAC, Part E.

(d) Additional access to information and training program and materials.

(i) The employer shall make a copy of this section and its appendices readily available without cost to all affected employees and shall provide a copy if requested.

(ii) The employer shall provide to the director, upon request, all materials relating to the employee information and the training program.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-62-07441 Appendix A, substance safety data sheet—Cadmium. (1) Substance identification.

(a) Substance: Cadmium.

(b) 8-Hour, time-weighted-average, permissible exposure limit (TWA PEL):

(c) TWA PEL: Five micrograms of cadmium per cubic meter of air 5 $\mu\text{g}/\text{m}^3$, time-weighted average (TWA) for an 8-hour workday.

(d) Appearance: Cadmium metal—soft, blue-white, malleable, lustrous metal or grayish-white powder. Some cadmium compounds may also appear as a brown, yellow, or red powdery substance.

(2) Health hazard data.

(a) Routes of exposure. Cadmium can cause local skin or eye irritation. Cadmium can affect your health if you inhale it or if you swallow it.

(b) Effects of overexposure.

(i) Short-term (acute) exposure: Cadmium is much more dangerous by inhalation than by ingestion. High exposures to cadmium that may be immediately dangerous to life or health occur in jobs where workers handle large quantities of cadmium dust or fume; heat cadmium-containing compounds or cadmium-coated surfaces; weld with cadmium solders or cut cadmium-containing materials such as bolts.

(ii) Severe exposure may occur before symptoms appear. Early symptoms may include mild irritation of the upper respiratory tract, a sensation of constriction of the throat, a metallic taste and/or a cough. A period of one to ten hours may precede the onset of rapidly progressing shortness of breath, chest pain, and flu-like symptoms with weakness, fever, headache, chills, sweating, and muscular pain. Acute pulmonary edema usually develops within twenty-four hours and reaches a maximum by three days. If death from asphyxia does not occur, symptoms may resolve within a week.

(iii) Long-term (chronic) exposure. Repeated or long-term exposure to cadmium, even at relatively low concentrations, may result in kidney damage and an increased risk of cancer of the lung and of the prostate.

(c) Emergency first aid procedures.

(i) Eye exposure: Direct contact may cause redness or pain. Wash eyes immediately with large amounts of water, lifting the upper and lower eyelids. Get medical attention immediately.

(ii) Skin exposure: Direct contact may result in irritation. Remove contaminated clothing and shoes immediately. Wash affected area with soap or mild detergent and large amounts of water. Get medical attention immediately.

(iii) Ingestion: Ingestion may result in vomiting, abdominal pain, nausea, diarrhea, headache, and sore throat. Treatment for symptoms must be administered by medical personnel. Under no circumstances should the employer allow any person whom he/she retains, employs, supervises, or controls to engage in therapeutic chelation. Such treatment is likely to translocate cadmium from pulmonary or other tissue to renal tissue. Get medical attention immediately.

(iv) Inhalation: If large amounts of cadmium are inhaled, the exposed person must be moved to fresh air at once. If breathing has stopped, perform cardiopulmonary resuscitation. Administer oxygen if available. Keep the affected person warm and at rest. Get medical attention immediately.

(v) Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, attempt rescue only after notifying at least one other person of the emergency and putting into effect established emergency procedures. Do not become a casualty yourself. Understand your emergency rescue procedures and know the location of the emergency equipment before the need arises.

(3) Employee information.

(a) Protective clothing and equipment.

(i) Respirators: You may be required to wear a respirator for nonroutine activities; in emergencies; while your employer is in the process of reducing cadmium exposures through engineering controls; and where engineering controls are not feasible. If air-purifying respirators are worn (~~in the future~~), they must have a (~~joint Mine Safety and Health Administration (MSHA) and~~) label issued by the National Institute for Occupational Safety and Health (NIOSH) (label of approval) under the provisions of 42 CFR part 84 stating that the respirators have been certified for use with cadmium. Cadmium does not have a detectable odor except at levels well above the permissible exposure limits. If you can smell cadmium while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

(ii) Protective clothing: You may be required to wear impermeable clothing, gloves, foot gear, a face shield, or other appropriate protective clothing to prevent skin contact with cadmium. Where protective clothing is required, your employer must provide clean garments to you as necessary to assure that the clothing protects you adequately. The employer must replace or repair protective clothing that has become torn or otherwise damaged.

(iii) Eye protection: You may be required to wear splash-proof or dust resistant goggles to prevent eye contact with cadmium.

(b) Employer requirements.

(i) Medical: If you are exposed to cadmium at or above the action level, your employer is required to provide a medical examination, laboratory tests and a medical history according to the medical surveillance provisions under WAC 296-62-07423. (See summary chart and tables in this section, appendix A.) These tests shall be provided without cost to you. In addition, if you are accidentally exposed to cadmium under conditions known or suspected to constitute toxic exposure to cadmium, your employer is required to make special tests available to you.

(ii) Access to records: All medical records are kept strictly confidential. You or your representative are entitled to see the records of measurements of your exposure to cadmium. Your medical examination records can be furnished to your personal physician or designated representative upon request by you to your employer.

(iii) Observation of monitoring: Your employer is required to perform measurements that are representative of

your exposure to cadmium and you or your designated representative are entitled to observe the monitoring procedure. You are entitled to observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you or your representative must also be provided with, and must wear the protective clothing and equipment.

(c) Employee requirements. You will not be able to smoke, eat, drink, chew gum or tobacco, or apply cosmetics while working with cadmium in regulated areas. You will also not be able to carry or store tobacco products, gum, food, drinks, or cosmetics in regulated areas because these products easily become contaminated with cadmium from the workplace and can therefore create another source of unnecessary cadmium exposure. Some workers will have to change out of work clothes and shower at the end of the day, as part of their workday, in order to wash cadmium from skin and hair. Handwashing and cadmium-free eating facilities shall be provided by the employer and proper hygiene should always be performed before eating. It is also recommended that you do not smoke or use tobacco products, because among other things, they naturally contain cadmium. For further information, read the labeling on such products.

(4) Physician information.

(a) Introduction. The medical surveillance provisions of WAC 296-62-07423 generally are aimed at accomplishing three main interrelated purposes: First, identifying employees at higher risk of adverse health effects from excess, chronic exposure to cadmium; second, preventing cadmium-induced disease; and third, detecting and minimizing existing cadmium-induced disease. The core of medical surveillance in this standard is the early and periodic monitoring of the employee's biological indicators of:

(i) Recent exposure to cadmium;

(ii) Cadmium body burden; and

(iii) Potential and actual kidney damage associated with exposure to cadmium. The main adverse health effects associated with cadmium overexposure are lung cancer and kidney dysfunction. It is not yet known how to adequately biologically monitor human beings to specifically prevent cadmium-induced lung cancer. By contrast, the kidney can be monitored to provide prevention and early detection of cadmium-induced kidney damage. Since, for noncarcinogenic effects, the kidney is considered the primary target organ of chronic exposure to cadmium, the medical surveillance provisions of this standard effectively focus on cadmium-induced kidney disease. Within that focus, the aim, where possible, is to prevent the onset of such disease and, where necessary, to minimize such disease as may already exist. The by-products of successful prevention of kidney disease are anticipated to be the reduction and prevention of other cadmium-induced diseases.

(b) Health effects. The major health effects associated with cadmium overexposure are described below.

(i) Kidney: The most prevalent nonmalignant disease observed among workers chronically exposed to cadmium is kidney dysfunction. Initially, such dysfunction is manifested as proteinuria. The proteinuria associated with cadmium

exposure is most commonly characterized by excretion of low-molecular weight proteins (15,000 to 40,000 MW) accompanied by loss of electrolytes, uric acid, calcium, amino acids, and phosphate. The compounds commonly excreted include: beta-2-microglobulin (β_2 -M), retinol binding protein (RBP), immunoglobulin light chains, and lysozyme. Excretion of low molecular weight proteins are characteristic of damage to the proximal tubules of the kidney (Iwao et al., 1980). It has also been observed that exposure to cadmium may lead to urinary excretion of high-molecular weight proteins such as albumin, immunoglobulin G, and glycoproteins (Ex. 29). Excretion of high-molecular weight proteins is typically indicative of damage to the glomeruli of the kidney. Bernard et al., (1979) suggest that damage to the glomeruli and damage to the proximal tubules of the kidney may both be linked to cadmium exposure but they may occur independently of each other. Several studies indicate that the onset of low-molecular weight proteinuria is a sign of irreversible kidney damage (Friberg et al., 1974; Roels et al., 1982; Piscator 1984; Elinder et al., 1985; Smith et al., 1986). Above specific levels of β_2 -M associated with cadmium exposure it is unlikely that β_2 -M levels return to normal even when cadmium exposure is eliminated by removal of the individual from the cadmium work environment (Friberg, Ex. 29, 1990). Some studies indicate that such proteinuria may be progressive; levels of β_2 -M observed in the urine increase with time even after cadmium exposure has ceased. See, for example, Elinder et al., 1985. Such observations, however, are not universal, and it has been suggested that studies in which proteinuria has not been observed to progress may not have tracked patients for a sufficiently long time interval (Jarup, Ex. 8-661). When cadmium exposure continues after the onset of proteinuria, chronic nephrotoxicity may occur (Friberg, Ex. 29). Uremia results from the inability of the glomerulus to adequately filter blood. This leads to severe disturbance of electrolyte concentrations and may lead to various clinical complications including kidney stones (L-140-50). After prolonged exposure to cadmium, glomerular proteinuria, glucosuria, aminoaciduria, phosphaturia, and hypercalciuria may develop (Exs. 8-86, 4-28, 14-18). Phosphate, calcium, glucose, and amino acids are essential to life, and under normal conditions, their excretion should be regulated by the kidney. Once low molecular weight proteinuria has developed, these elements dissipate from the human body. Loss of glomerular function may also occur, manifested by decreased glomerular filtration rate and increased serum creatinine. Severe cadmium-induced renal damage may eventually develop into chronic renal failure and uremia (Ex. 55). Studies in which animals are chronically exposed to cadmium confirm the renal effects observed in humans (Friberg et al., 1986). Animal studies also confirm problems with calcium metabolism and related skeletal effects which have been observed among humans exposed to cadmium in addition to the renal effects. Other effects commonly reported in chronic animal studies include anemia, changes in liver morphology, immunosuppression and hypertension. Some of these effects may be associated with co-factors. Hypertension, for example, appears to be associated with diet as well as cadmium exposure. Animals injected

with cadmium have also shown testicular necrosis (Ex. 8-86B).

(ii) Biological markers. It is universally recognized that the best measures of cadmium exposures and its effects are measurements of cadmium in biological fluids, especially urine and blood. Of the two, CdU is conventionally used to determine body burden of cadmium in workers without kidney disease. CdB is conventionally used to monitor for recent exposure to cadmium. In addition, levels of CdU and CdB historically have been used to predict the percent of the population likely to develop kidney disease (Thun et al., Ex. L-140-50; WHO, Ex. 8-674; ACGIH, Exs. 8-667, 140-50). The third biological parameter upon which WISHA relies for medical surveillance is beta-2-microglobulin in urine (β_2 -M), a low molecular weight protein. Excess β_2 -M has been widely accepted by physicians and scientists as a reliable indicator of functional damage to the proximal tubule of the kidney (Exs. 8-447, 144-3-C, 4-47, L-140-45, 19-43-A). Excess β_2 -M is found when the proximal tubules can no longer reabsorb this protein in a normal manner. This failure of the proximal tubules is an early stage of a kind of kidney disease that commonly occurs among workers with excessive cadmium exposure. Used in conjunction with biological test results indicating abnormal levels of CdU and CdB, the finding of excess β_2 -M can establish for an examining physician that any existing kidney disease is probably cadmium-related (Trs. 6/6/90, pp. 82-86, 122, 134). The upper limits of normal levels for cadmium in urine and cadmium in blood are 3 μ g Cd/gram creatinine in urine and 5 μ gCd/liter whole blood, respectively. These levels were derived from broad-based population studies. Three issues confront the physicians in the use of β_2 -M as a marker of kidney dysfunction and material impairment. First, there are a few other causes of elevated levels of β_2 -M not related to cadmium exposures, some of which may be rather common diseases and some of which are serious diseases (e.g., myeloma or transient flu, Exs. 29 and 8-086). These can be medically evaluated as alternative causes (Friberg, Ex. 29). Also, there are other factors that can cause β_2 -M to degrade so that low levels would result in workers with tubular dysfunction. For example, regarding the degradation of β_2 -M, workers with acidic urine (pH<6) might have β_2 -M levels that are within the "normal" range when in fact kidney dysfunction has occurred (Ex. L-140-1) and the low molecular weight proteins are degraded in acid urine. Thus, it is very important that the pH of urine be measured, that urine samples be buffered as necessary (See WAC 296-62-07451, appendix F.), and that urine samples be handled correctly, i.e., measure the pH of freshly voided urine samples, then if necessary, buffer to Ph>6 (or above for shipping purposes), measure Ph again and then, perhaps, freeze the sample for storage and shipping. (See also WAC 296-62-07451, appendix F.) Second, there is debate over the pathological significance of proteinuria, however, most world experts believe that β_2 -M levels greater than 300 μ g/g Cr are abnormal (Elinder, Ex. 55, Friberg, Ex. 29). Such levels signify kidney dysfunction that constitutes material impairment of health. Finally, detection of β_2 -M at low levels has often been considered difficult, however, many laboratories have the capa-

bility of detecting excess β_2 -M using simple kits, such as the Phadebas Delphia test, that are accurate to levels of 100 μg β_2 -M/g Cr U (Ex. L-140-1). Specific recommendations for ways to measure β_2 -M and proper handling of urine samples to prevent degradation of β_2 -M have been addressed by WISHA in WAC 296-62-07451, appendix F, in the section on laboratory standardization. All biological samples must be analyzed in a laboratory that is proficient in the analysis of that particular analyte, under WAC 296-62-07423 (1)(d). (See WAC 296-62-07451, appendix F). Specifically, under WAC 296-62-07423 (1)(d), the employer is to assure that the collecting and handling of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (β_2 -M) taken from employees is collected in a manner that assures reliability. The employer must also assure that analysis of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (β_2 -M) taken from employees is performed in laboratories with demonstrated proficiency for that particular analyte. (See WAC 296-62-07451, appendix F).

(iii) Lung and prostate cancer. The primary sites for cadmium-associated cancer appear to be the lung and the prostate (L-140-50). Evidence for an association between cancer and cadmium exposure derives from both epidemiological studies and animal experiments. Mortality from prostate cancer associated with cadmium is slightly elevated in several industrial cohorts, but the number of cases is small and there is not clear dose-response relationship. More substantive evidence exists for lung cancer. The major epidemiological study of lung cancer was conducted by Thun et al., (Ex. 4-68). Adequate data on cadmium exposures were available to allow evaluation of dose-response relationships between cadmium exposure and lung cancer. A statistically significant excess of lung cancer attributed to cadmium exposure was observed in this study even when confounding variables such as co-exposure to arsenic and smoking habits were taken into consideration (Ex. L-140-50). The primary evidence for quantifying a link between lung cancer and cadmium exposure from animal studies derives from two rat bioassay studies; one by Takenaka et al., (1983), which is a study of cadmium chloride and a second study by Oldiges and Glaser (1990) of four cadmium compounds. Based on the above cited studies, the U.S. Environmental Protection Agency (EPA) classified cadmium as "B1", a probable human carcinogen, in 1985 (Ex. 4-4). The International Agency for Research on Cancer (IARC) in 1987 also recommended that cadmium be listed as "2A", a probable human carcinogen (Ex. 4-15). The American Conference of Governmental Industrial Hygienists (ACGIH) has recently recommended that cadmium be labeled as a carcinogen. Since 1984, NIOSH has concluded that cadmium is possibly a human carcinogen and has recommended that exposures be controlled to the lowest level feasible.

(iv) Noncarcinogenic effects. Acute pneumonitis occurs 10 to 24 hours after initial acute inhalation of high levels of cadmium fumes with symptoms such as fever and chest pain (Exs. 30, 8-86B). In extreme exposure cases pulmonary edema may develop and cause death several days after expo-

sure. Little actual exposure measurement data is available on the level of airborne cadmium exposure that causes such immediate adverse lung effects, nonetheless, it is reasonable to believe a cadmium concentration of approximately 1 mg/m^3 over an eight hour period is "immediately dangerous" (55 FR 4052, ANSI; Ex. 8-86B). In addition to acute lung effects and chronic renal effects, long term exposure to cadmium may cause other severe effects on the respiratory system. Reduced pulmonary function and chronic lung disease indicative of emphysema have been observed in workers who have had prolonged exposure to cadmium dust or fumes (Exs. 4-29, 4-22, 4-42, 4-50, 4-63). In a study of workers conducted by Kazantzis et al., a statistically significant excess of worker deaths due to chronic bronchitis was found, which in his opinion was directly related to high cadmium exposures of 1 mg/m^3 or more (Tr. 6/8/90, pp. 156-157). Cadmium need not be respirable to constitute a hazard. Inspirable cadmium particles that are too large to be respirable but small enough to enter the tracheobronchial region of the lung can lead to bronchoconstriction, chronic pulmonary disease, and cancer of that portion of the lung. All of these diseases have been associated with occupational exposure to cadmium (Ex. 8-86B). Particles that are constrained by their size to the extra-thoracic regions of the respiratory system such as the nose and maxillary sinuses can be swallowed through mucociliary clearance and be absorbed into the body (ACGIH, Ex. 8-692). The impaction of these particles in the upper airways can lead to anosmia, or loss of sense of smell, which is an early indication of overexposure among workers exposed to heavy metals. This condition is commonly reported among cadmium-exposed workers (Ex. 8-86-B).

(c) Medical surveillance. In general, the main provisions of the medical surveillance section of the standard, under WAC 296-62-07423 (1) through (16), are as follows:

- (i) Workers exposed above the action level are covered;
- (ii) Workers with intermittent exposures are not covered;
- (iii) Past workers who are covered receive biological monitoring for at least one year;
- (iv) Initial examinations include a medical questionnaire and biological monitoring of cadmium in blood (CdB), cadmium in urine (CdU), and Beta-2-microglobulin in urine (β_2 -M);
- (v) Biological monitoring of these three analytes is performed at least annually; full medical examinations are performed biennially;
- (vi) Until five years from the effective date of the standard, medical removal is required when CdU is greater than 15 $\mu\text{g}/\text{gram}$ creatinine (g Cr), or CdB is greater than 15 $\mu\text{g}/\text{liter}$ whole blood (lwb), or β_2 -M is greater than 1500 $\mu\text{g}/\text{g}$ Cr, and CdB is greater than 5 $\mu\text{g}/\text{lwb}$ or CdU is greater than 3 $\mu\text{g}/\text{g}$ Cr;
- (vii) Beginning five years after the standard is in effect, medical removal triggers will be reduced;
- (viii) Medical removal protection benefits are to be provided for up to eighteen months;
- (ix) Limited initial medical examinations are required for respirator usage;
- (x) Major provisions are fully described under WAC 296-62-07423; they are outlined here as follows:

- (A) Eligibility.
- (B) Biological monitoring.
- (C) Actions triggered by levels of CdU, CdB, and β_2 -M (See Summary Charts and Tables in WAC 296-62-07441(5).)
- (D) Periodic medical surveillance.
- (E) Actions triggered by periodic medical surveillance (See appendix A Summary Chart and Tables in WAC 296-62-07441(5).)
- (F) Respirator usage.
- (G) Emergency medical examinations.
- (H) Termination examination.
- (I) Information to physician.
- (J) Physician's medical opinion.
- (K) Medical removal protection.
- (L) Medical removal protection benefits.
- (M) Multiple physician review.
- (N) Alternate physician review.
- (O) Information employer gives to employee.
- (P) Recordkeeping.
- (Q) Reporting on OSHA form 200.

(xi) The above mentioned summary of the medical surveillance provisions, the summary chart, and tables for the actions triggered at different levels of CdU, CdB and β_2 -M (in subsection (5) of this section, Attachment 1) are included only for the purpose of facilitating understanding of the provisions of WAC 296-62-07423(3) of the final cadmium standard. The summary of the provisions, the summary chart, and the tables do not add to or reduce the requirements in WAC 296-62-07423(3).

(d) Recommendations to physicians.

(i) It is strongly recommended that patients with tubular proteinuria are counseled on: The hazards of smoking; avoidance of nephrotoxins and certain prescriptions and over-the-counter medications that may exacerbate kidney symptoms; how to control diabetes and/or blood pressure; proper hydration, diet, and exercise (Ex. 19-2). A list of prominent or common nephrotoxins is attached. (See subsection (6) of this section, Attachment 2.)

(ii) DO NOT CHELATE; KNOW WHICH DRUGS ARE NEPHROTOXINS OR ARE ASSOCIATED WITH NEPHRITIS.

(iii) The gravity of cadmium-induced renal damage is compounded by the fact there is no medical treatment to prevent or reduce the accumulation of cadmium in the kidney (Ex. 8-619). Dr. Friberg, a leading world expert on cadmium toxicity, indicated in 1992, that there is no form of chelating agent that could be used without substantial risk. He stated that tubular proteinuria has to be treated in the same way as other kidney disorders (Ex. 29).

(iv) After the results of a workers' biological monitoring or medical examination are received the employer is required to provide an information sheet to the patient, briefly explaining the significance of the results. (See subsection (7) of this section.)

(v) For additional information the physician is referred to the following additional resources:

(A) The physician can always obtain a copy of the OSHA final rule preamble, with its full discussion of the health effects, from OSHA's Computerized Information System (OCIS).

(B) The OSHA Docket Officer maintains a record of the OSHA rulemaking. The Cadmium Docket (H-057A), is located at 200 Constitution Ave. NW., Room N-2625, Washington, DC 20210; telephone: (202) 219-7894.

(C) The following articles and exhibits in particular from that docket (H- 057A):

Exhibit number	Author and paper title
8-447	Lauwerys et. al., Guide for physicians, "Health Maintenance of Workers Exposed to Cadmium," published by the Cadmium Council.
4-67	Takenaka, S., H. Oldiges, H. Konig, D. Hochrainer, G. Oberdorster. "Carcinogenicity of Cadmium Chloride Aerosols in Wistar Rats". JNCI 70:367-373, 1983. (32)
4-68	Thun, M.J., T.M. Schnoor, A.B. Smith, W.E. Halperin, R.A. Lemen. "Mortality Among a Cohort of U.S. Cadmium Production Workers—An Update." JNCI 74(2):325-33, 1985. (8)
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8-86A	Friberg, L., C.G. Elinder, et al., "Cadmium and Health a Toxicological and Epidemiological Appraisal, Volume I, Exposure, Dose, and Metabolism." CRC Press, Inc., Boca Raton, FL, 1986. (Available from the OSHA Technical Data Center)

PERMANENT

Exhibit number	Author and paper title
8-86B	Friberg, L., C.G. Elinder, et al., "Cadmium and Health: A Toxicological and Epidemiological Appraisal, Volume II, Effects and Response." CRC Press, Inc., Boca Raton, FL, 1986. (Available from the OSHA Technical Data Center)
L-140-45	Elinder, C.G., "Cancer Mortality of Cadmium Workers", Brit. J. Ind. Med., 42, 651-655, 1985.
L-140-50	Thun, M., Elinder, C.G., Friberg, L., "Scientific Basis for an Occupational Standard for Cadmium, Am. J. Ind. Med., 20; 629-642, 1991.

Table A
Categorization of Biological Monitoring Results

Applicable Through 1998 Only

Biological marker	Monitoring result categories		
	A	B	C
Cadmium in urine (CdU) (µg/g creatinine)	≤3	>3 and ≤15	>15
β ₂ -microglobulin (β ₂ -M) (µg/g creatinine)	≤300	>300 and ≤1500	>1500*
Cadmium in blood (CdB) (µg/liter whole blood)	≤5	>5 and ≤15	>15

* If an employee's β₂-M levels are above 1,500 µg/g creatinine, in order for mandatory medical removal to be required (See WAC 296-62-07441, Appendix A Table B.), either the employee's CdU level must also be >3 µg/g creatinine or CdB level must also be >5 µg/liter whole blood.

Applicable Beginning January 1, 1999

Biological marker	Monitoring result categories		
	A	B	C
Cadmium in urine (CdU) (µg/g creatinine)	≤3	>3 and ≤7	>7
β ₂ -microglobulin (β ₂ -M) (µg/g creatinine)	≤300	>300 and ≤750	>750*
Cadmium in blood (CdB) (µg/liter whole blood)	≤5	>5 and ≤10	>10

* If an employee's β₂-M levels are above 750 µg/g creatinine, in order for mandatory medical removal to be required (See WAC 296-62-07441, Appendix A Table B.), either the employee's CdU level must also be >3 µg/g creatinine or CdB level must also be >5 µg/liter whole blood.

(5) Information sheet. The information sheet (subsection (8) of this section, Attachment 3) or an equally explanatory one should be provided to you after any biological monitoring results are reviewed by the physician, or where applicable, after any medical examination.

(6) Attachment 1—Appendix A, summary chart and Tables A and B of actions triggered by biological monitoring.

(a) Summary chart: WAC 296-62-07423(3) Medical surveillance—Categorizing biological monitoring results.

(i) Biological monitoring results categories are set forth in Table A for the periods ending December 31, 1998, and for the period beginning January 1, 1999.

(ii) The results of the biological monitoring for the initial medical exam and the subsequent exams shall determine an employee's biological monitoring result category.

(b) Actions triggered by biological monitoring.

(i) The actions triggered by biological monitoring for an employee are set forth in Table B.

(ii) The biological monitoring results for each employee under WAC 296-62-07423(3) shall determine the actions required for that employee. That is, for any employee in biological monitoring category C, the employer will perform all of the actions for which there is an X in column C of Table B.

(iii) An employee is assigned the alphabetical category ("A" being the lowest) depending upon the test results of the three biological markers.

(iv) An employee is assigned category A if monitoring results for all three biological markers fall at or below the levels indicated in the table listed for category A.

(v) An employee is assigned category B if any monitoring result for any of the three biological markers fall within the range of levels indicated in the table listed for category B, providing no result exceeds the levels listed for category B.

(vi) An employee is assigned category C if any monitoring result for any of the three biological markers are above the levels listed for category C.

(c) The user of Tables A and B should know that these tables are provided only to facilitate understanding of the relevant provisions of WAC 296-62-07423. Tables A and B are not meant to add to or subtract from the requirements of those provisions.

Table B—Actions determined by biological monitoring.

This table presents the actions required based on the monitoring result in Table A. Each item is a separate requirement in citing noncompliance. For example, a medical examination within ninety days for an employee in category B is separate from the requirement to administer a periodic medical examination for category B employees on an annual basis.

Table B
Monitoring result category

Required actions	A ¹	B ¹	C ¹
(1) Biological monitoring:			
(a) Annual.	X		
(b) Semiannual		X	
(c) Quarterly			X
(2) Medical examination:			
(a) Biennial	X		
(b) Annual.		X	
(c) Semiannual.			X
(d) Within 90 days		X	X

PERMANENT

Table B
Monitoring result category

	A ¹	B ¹	C ¹
(3) Assess within two weeks:			
(a) Excess cadmium exposure		X	X
(b) Work practices		X	X
(c) Personal hygiene		X	X
(d) Respirator usage		X	X
(e) Smoking history		X	X
(f) Hygiene facilities		X	X
(g) Engineering controls		X	X
(h) Correct within 30 days		X	X
(i) Periodically assess exposures			X
(4) Discretionary medical removal		X	X
(5) Mandatory medical removal			X ²

¹ For all employees covered by medical surveillance exclusively because of exposures prior to the effective date of this standard, if they are in Category A, the employer shall follow the requirements of WAC 296-62-07423 (3)(a)(ii) and (4)(e)(i). If they are in Category B or C, the employer shall follow the requirements of WAC 296-62-07423 (4)(e)(ii) and (iii).

² See footnote in Table A.

(7) Attachment 2, list of medications.

(a) A list of the more common medications that a physician, and the employee, may wish to review is likely to include some of the following:

- (i) Anticonvulsants: Paramethadione, phenytoin, trimethadone;
- (ii) Antihypertensive drugs: Captopril, methyldopa;
- (iii) Antimicrobials: Aminoglycosides, amphotericin B, cephalosporins, ethambutol;
- (iv) Antineoplastic agents: Cisplatin, methotrexate, mitomycin-C, nitrosoureas, radiation;
- (v) Sulfonamide diuretics: Acetazolamide, chlorthalidone, furosemide, thiazides;
- (vi) Halogenated alkanes, hydrocarbons, and solvents that may occur in some settings: Carbon tetrachloride, ethylene glycol, toluene; iodinated radiographic contrast media; nonsteroidal anti-inflammatory drugs; and
- (vii) Other miscellaneous compounds: Acetaminophen, allopurinol, amphetamines, azathioprine, cimetidine, cyclosporine, lithium, methoxyflurane, methysergide, D-penicillamine, phenacetin, phenendione.

(b) A list of drugs associated with acute interstitial nephritis includes:

- (i) Antimicrobial drugs: Cephalosporins, chloramphenicol, colistin, erythromycin, ethambutol, isoniazid, para-aminosalicylic acid, penicillins, polymyxin B, rifampin, sulfonamides, tetracyclines, and vancomycin;
- (ii) Other miscellaneous drugs: Allopurinol, antipyrine, azathioprine, captopril, cimetidine, clofibrate, methyldopa, phenindione, phenylpropanolamine, phenytoin, probenecid, sulfipyrazone, sulfonamide diuretics, triamterene; and

(iii) Metals: Bismuth, gold. This list has been derived from commonly available medical textbooks (e.g., Ex. 14-18). The list has been included merely to facilitate the physician's, employer's, and employee's understanding. The list does not represent an official OSHA opinion or policy regarding the use of these medications for particular employees. The use of such medications should be under physician discretion.

(8) Attachment 3—Biological monitoring and medical examination results.

Employee _____
Testing _____
Date _____

Cadmium in Urine ___ µg/g Cr—Normal Levels:
≤3 µg/g Cr.

Cadmium in Blood ___ µg/lwb—Normal Levels:
≤5 µg/lwb.

Beta-2-microglobulin in Urine ___ µg/g Cr—Normal Levels: ≤300 µg/g Cr.

Physical Examination Results: N/A ___
Satisfactory ___

Unsatisfactory ___ (see physician again).

Physician's Review of Pulmonary Function Test:
N/A ___ Normal ___

Abnormal ___.

Next biological monitoring or medical examination scheduled for _____

(a) The biological monitoring program has been designed for three main purposes:

- (i) To identify employees at risk of adverse health effects from excess, chronic exposure to cadmium;
- (ii) To prevent cadmium-induced disease(s); and
- (iii) To detect and minimize existing cadmium-induced disease(s).

(b) The levels of cadmium in the urine and blood provide an estimate of the total amount of cadmium in the body. The amount of a specific protein in the urine (beta-2-microglobulin) indicates changes in kidney function. All three tests must be evaluated together. A single mildly elevated result may not be important if testing at a later time indicates that the results are normal and the workplace has been evaluated to decrease possible sources of cadmium exposure. The levels of cadmium or beta-2-microglobulin may change over a period of days to months and the time needed for those changes to occur is different for each worker.

(c) If the results for biological monitoring are above specific "high levels" (cadmium urine greater than 10 micrograms per gram of creatinine µg/g Cr), cadmium blood greater than 10 micrograms per liter of whole blood (µg/lwb), or beta-2-microglobulin greater than 1000 micrograms per gram of creatinine (µg/g Cr)), the worker has a much greater chance of developing other kidney diseases.

(d) One way to measure for kidney function is by measuring beta-2-microglobulin in the urine. Beta-2-microglobulin is a protein which is normally found in the blood as it is being filtered in the kidney, and the kidney reabsorbs or returns almost all of the beta-2-microglobulin to the blood. A

PERMANENT

very small amount (less than 300 µg/g Cr in the urine) of beta-2-microglobulin is not reabsorbed into the blood, but is released in the urine. If cadmium damages the kidney, the amount of beta-2-microglobulin in the urine increases because the kidney cells are unable to reabsorb the beta-2-microglobulin normally. An increase in the amount of beta-2-microglobulin in the urine is a very early sign of kidney dysfunction. A small increase in beta-2-microglobulin in the urine will serve as an early warning sign that the worker may be absorbing cadmium from the air, cigarettes contaminated in the workplace, or eating in areas that are cadmium contaminated.

(e) Even if cadmium causes permanent changes in the kidney's ability to reabsorb beta-2-microglobulin, and the beta-2-microglobulin is above the "high levels," the loss of kidney function may not lead to any serious health problems. Also, renal function naturally declines as people age. The risk for changes in kidney function for workers who have biological monitoring results between the "normal values" and the "high levels" is not well known. Some people are more cadmium-tolerant, while others are more cadmium-susceptible.

(f) For anyone with even a slight increase of beta-2-microglobulin, cadmium in the urine, or cadmium in the blood, it is very important to protect the kidney from further damage. Kidney damage can come from other sources than excess cadmium-exposure so it is also recommended that if a worker's levels are "high" he/she should receive counseling about drinking more water; avoiding cadmium-tainted tobacco and certain medications (nephrotoxins, acetaminophen); controlling diet, vitamin intake, blood pressure and diabetes; etc.

AMENDATORY SECTION (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

WAC 296-62-07460 Butadiene. (1) Scope and application.

(a) This section applies to all occupational exposures to 1,3-Butadiene (BD), Chemical Abstracts Service Registry No. 106-99-0, except as provided in (b) of this subsection.

(b)(i) Except for the recordkeeping provisions in subsection (13)(a) of this section, this section does not apply to the processing, use, or handling of products containing BD or to other work operations and streams in which BD is present where objective data are reasonably relied upon that demonstrate the work operation or the product or the group of products or operations to which it belongs may not reasonably be foreseen to release BD in airborne concentrations at or above the action level or in excess of the STEL under the expected conditions of processing, use, or handling that will cause the greatest possible release or in any plausible accident.

(ii) This section also does not apply to work operations, products or streams where the only exposure to BD is from liquid mixtures containing 0.1% or less of BD by volume or the vapors released from such liquids, unless objective data become available that show that airborne concentrations generated by such mixtures can exceed the action level or STEL under reasonably predictable conditions of processing, use or handling that will cause the greatest possible release.

(iii) Except for labeling requirements and requirements for emergency response, this section does not apply to the storage, transportation, distribution or sale of BD or liquid mixtures in intact containers or in transportation pipelines sealed in such a manner as to fully contain BD vapors or liquids.

(c) Where products or processes containing BD are exempted under (b) of this subsection, the employer shall maintain records of the objective data supporting that exemption and the basis for the employer's reliance on the data, as provided in subsection (13)(a) of this section.

(2) Definitions: For the purpose of this section, the following definitions shall apply:

"Action level" means a concentration of airborne BD of 0.5 ppm calculated as an 8-hour time-weighted average.

"Director" means the director of the department of labor and industries, or authorized representatives.

"Authorized person" means any person specifically designated by the employer, whose duties require entrance into a regulated area, or a person entering such an area as a designated representative of employees to exercise the right to observe monitoring and measuring procedures under subsection (4)(h) of this section, or a person designated under the WISH Act or regulations issued under the WISH Act to enter a regulated area.

"1,3-Butadiene" means an organic compound with chemical formula $\text{CH}_2=\text{CH}-\text{CH}=\text{CH}_2$ that has a molecular weight of approximately 54.15 gm/mole.

"Business day" means any Monday through Friday, except those days designated as federal, state, local or company specific holidays.

"Complete blood count (CBC)" means laboratory tests performed on whole blood specimens and includes the following: White blood cell count (WBC), hematocrit (Hct), red blood cell count (RBC), hemoglobin (Hgb), differential count of white blood cells, red blood cell morphology, red blood cell indices, and platelet count.

"Day" means any part of a calendar day.

"Emergency situation" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment that may or does result in an uncontrolled significant release of BD.

"Employee exposure" means exposure of a worker to airborne concentrations of BD which would occur if the employee were not using respiratory protective equipment.

"Objective data" means monitoring data, or mathematical modelling or calculations based on composition, chemical and physical properties of a material, stream or product.

"Permissible exposure limits (PELs)" means either the 8-hour time-weighted average (8-hr TWA) exposure or the short-term exposure limit (STEL).

"Physician or other licensed health care professional" is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide one or more of the specific health care services required by (k) of this subsection.

"Regulated area" means any area where airborne concentrations of BD exceed or can reasonably be expected to exceed the 8-hour time-weighted average (8-hr TWA) expo-

sure of 1 ppm or the short-term exposure limit (STEL) of 5 ppm for 15 minutes.

"This section" means this 1,3-butadiene standard.

(3) Permissible exposure limits (PELs).

(a) Time-weighted average (TWA) limit. The employer shall ensure that no employee is exposed to an airborne concentration of BD in excess of one part BD per million parts of air (ppm) measured as an eight (8)-hour time-weighted average.

(b) Short-term exposure limit (STEL). The employer shall ensure that no employee is exposed to an airborne concentration of BD in excess of five parts of BD per million parts of air (5 ppm) as determined over a sampling period of fifteen minutes.

(4) Exposure monitoring.

(a) General.

(i) Determinations of employee exposure shall be made from breathing zone air samples that are representative of the 8-hour TWA and 15-minute short-term exposures of each employee.

(ii) Representative 8-hour TWA employee exposure shall be determined on the basis of one or more samples representing full-shift exposure for each shift and for each job classification in each work area.

(iii) Representative 15-minute short-term employee exposures shall be determined on the basis of one or more samples representing 15-minute exposures associated with operations that are most likely to produce exposures above the STEL for each shift and for each job classification in each work area.

(iv) Except for the initial monitoring required under (b) of this subsection, where the employer can document that exposure levels are equivalent for similar operations on different work shifts, the employer need only determine representative employee exposure for that operation from the shift during which the highest exposure is expected.

(b) Initial monitoring.

(i) Each employer who has a workplace or work operation covered by this section, shall perform initial monitoring to determine accurately the airborne concentrations of BD to which employees may be exposed, or shall rely on objective data pursuant to subsection (1)(b)(i) of this section to fulfill this requirement.

(ii) Where the employer has monitored within two years prior to the effective date of this section and the monitoring satisfies all other requirements of this section, the employer may rely on such earlier monitoring results to satisfy the requirements of (b)(i) of this subsection, provided that the conditions under which the initial monitoring was conducted have not changed in a manner that may result in new or additional exposures.

(c) Periodic monitoring and its frequency.

(i) If the initial monitoring required by (b) of this subsection reveals employee exposure to be at or above the action level but at or below both the 8-hour TWA limit and the STEL, the employer shall repeat the representative monitoring required by (a) of this subsection every twelve months.

(ii) If the initial monitoring required by (b) of this subsection reveals employee exposure to be above the 8-hour TWA limit, the employer shall repeat the representative mon-

itoring required by (a)(ii) of this subsection at least every three months until the employer has collected two samples per quarter (each at least 7 days apart) within a two-year period, after which such monitoring must occur at least every six months.

(iii) If the initial monitoring required by (b) of this subsection reveals employee exposure to be above the STEL, the employer shall repeat the representative monitoring required by (a)(iii) of this subsection at least every three months until the employer has collected two samples per quarter (each at least 7 days apart) within a two-year period, after which such monitoring must occur at least every six months.

(iv) The employer may alter the monitoring schedule from every six months to annually for any required representative monitoring for which two consecutive measurements taken at least 7 days apart indicate that employee exposure has decreased to or below the 8-hour TWA, but is at or above the action level.

(d) Termination of monitoring.

(i) If the initial monitoring required by (b) of this subsection reveals employee exposure to be below the action level and at or below the STEL, the employer may discontinue the monitoring for employees whose exposures are represented by the initial monitoring.

(ii) If the periodic monitoring required by (c) of this subsection reveals that employee exposures, as indicated by at least two consecutive measurements taken at least 7 days apart, are below the action level and at or below the STEL, the employer may discontinue the monitoring for those employees who are represented by such monitoring.

(e) Additional monitoring.

(i) The employer shall institute the exposure monitoring required under subsection (4) of this section whenever there has been a change in the production, process, control equipment, personnel or work practices that may result in new or additional exposures to BD or when the employer has any reason to suspect that a change may result in new or additional exposures.

(ii) Whenever spills, leaks, ruptures or other breakdowns occur that may lead to employee exposure above the 8-hr TWA limit or above the STEL, the employer shall monitor (using leak source, such as direct reading instruments, area or personal monitoring), after the cleanup of the spill or repair of the leak, rupture or other breakdown, to ensure that exposures have returned to the level that existed prior to the incident.

(f) Accuracy of monitoring.

Monitoring shall be accurate, at a confidence level of 95 percent, to within plus or minus 25 percent for airborne concentrations of BD at or above the 1 ppm TWA limit and to within plus or minus 35 percent for airborne concentrations of BD at or above the action level of 0.5 ppm and below the 1 ppm TWA limit.

(g) Employee notification of monitoring results.

(i) The employer shall, within 5 business days after the receipt of the results of any monitoring performed under this section, notify the affected employees of these results in writing either individually or by posting of results in an appropriate location that is accessible to affected employees.

PERMANENT

(ii) The employer shall, within 15 business days after receipt of any monitoring performed under this section indicating the 8-hour TWA or STEL has been exceeded, provide the affected employees, in writing, with information on the corrective action being taken by the employer to reduce employee exposure to or below the 8-hour TWA or STEL and the schedule for completion of this action.

(h) Observation of monitoring.

(i) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to BD conducted in accordance with this section.

(ii) Observation procedures. When observation of the monitoring of employee exposure to BD requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer at no cost with protective clothing and equipment, and shall ensure that the observer uses this equipment and complies with all other applicable safety and health procedures.

(5) Regulated areas.

(a) The employer shall establish a regulated area whenever occupational exposures to airborne concentrations of BD exceed or can reasonably be expected to exceed the permissible exposure limits, either the 8-hr TWA or the STEL.

(b) Access to regulated areas shall be limited to authorized persons.

(c) Regulated areas shall be demarcated from the rest of the workplace in any manner that minimizes the number of employees exposed to BD within the regulated area.

(d) An employer at a multi-employer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to other employers with work operations at that worksite whose employees may have access to these areas.

(6) Methods of compliance.

(a) Engineering controls and work practices.

(i) The employer shall institute engineering controls and work practices to reduce and maintain employee exposure to or below the PELs, except to the extent that the employer can establish that these controls are not feasible or where subsection (8)(a)(i) of this section applies.

(ii) Wherever the feasible engineering controls and work practices which can be instituted are not sufficient to reduce employee exposure to or below the 8-hour TWA or STEL, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of subsection (8) of this section.

(b) Compliance plan.

(i) Where any exposures are over the PELs, the employer shall establish and implement a written plan to reduce employee exposure to or below the PELs primarily by means of engineering and work practice controls, as required by (a) of this subsection, and by the use of respiratory protection where required or permitted under this section. No compliance plan is required if all exposures are under the PELs.

(ii) The written compliance plan shall include a schedule for the development and implementation of the engineering controls and work practice controls including periodic leak detection surveys.

(iii) Copies of the compliance plan required in (b) of this subsection shall be furnished upon request for examination and copying to the director, affected employees and designated employee representatives. Such plans shall be reviewed at least every 12 months, and shall be updated as necessary to reflect significant changes in the status of the employer's compliance program.

(iv) The employer shall not implement a schedule of employee rotation as a means of compliance with the PELs.

(7) Exposure goal program.

(a) For those operations and job classifications where employee exposures are greater than the action level, in addition to compliance with the PELs, the employer shall have an exposure goal program that is intended to limit employee exposures to below the action level during normal operations.

(b) Written plans for the exposure goal program shall be furnished upon request for examination and copying to the director, affected employees and designated employee representatives.

(c) Such plans shall be updated as necessary to reflect significant changes in the status of the exposure goal program.

(d) Respirator use is not required in the exposure goal program.

(e) The exposure goal program shall include the following items unless the employer can demonstrate that the item is not feasible, will have no significant effect in reducing employee exposures, or is not necessary to achieve exposures below the action level:

(i) A leak prevention, detection, and repair program.

(ii) A program for maintaining the effectiveness of local exhaust ventilation systems.

(iii) The use of pump exposure control technology such as, but not limited to, mechanical double-sealed or seal-less pumps.

(iv) Gauging devices designed to limit employee exposure, such as magnetic gauges on rail cars.

(v) Unloading devices designed to limit employee exposure, such as a vapor return system.

(vi) A program to maintain BD concentration below the action level in control rooms by use of engineering controls.

(8) Respiratory protection.

(a) General. ~~((The employer shall provide respirators that comply with the requirements of this subsection, at no cost to each affected employee, and ensure that each affected employee uses such respirator where required by this section. Respirators shall be used in the following circumstances))~~ For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) ~~((During the time interval))~~ Periods necessary to install or implement feasible engineering and work-practice controls;

(ii) ~~((In))~~ Nonroutine work operations ((which)) that are performed infrequently and ((in)) for which exposures are limited in duration;

(iii) ~~((In work situations where))~~ Work operations for which feasible engineering controls and work-practice con-

controls are not yet sufficient to reduce employee exposures to or below the PELs; ((or))

(iv) ~~((H))~~ Emergencies.

(b) Respirator ~~((selection))~~ program.

(i) ~~((Where respirators are required, the employer shall select and provide the appropriate respirator as specified in Table 1 of this section, and ensure its use))~~ The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1), 296-62-07131 (4)(b)(i) and (ii), and 296-62-07150 through 296-62-07156).

(ii) ~~((The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 42 CFR Part 84, "Respiratory Protective Devices." Air purifying respirators shall have filter element(s) approved by NIOSH for organic vapors or BD))~~ If air-purifying respirators are used, the employer must replace the air-purifying filter elements according to the replacement schedule set for the class of respirators listed in Table 1 of this section, and at the beginning of each work shift.

(iii) ~~((If an employee whose job requires the use of a respirator cannot use a negative pressure respirator, the employer must be provided with a respirator having less breathing resistance, such as a powered air purifying respirator or supplied air respirator, if the employee is able to use it and if it will provide adequate protection))~~ Instead of using the replacement schedule listed in Table 1 of this section, the employer may replace cartridges or canisters at 90% of their expiration service life, provided the employer:

(A) Demonstrates that employees will be adequately protected by this procedure;

(B) Uses BD breakthrough data for this purpose that have been derived from tests conducted under worst-case conditions of humidity, temperature, and air-flow rate through the filter element, and the employer also describes the data supporting the cartridge- or canister-change schedule, as well as the basis for using the data in the employer's respirator program.

(iv) A label must be attached to each filter element to indicate the date and time it is first installed on the respirator.

(v) If NIOSH approves an end-of-service-life indicator (ESLI) for an air-purifying filter element, the element may be used until the ESLI shows no further useful service life or until the element is replaced at the beginning of the next work shift, whichever occurs first.

(vi) Regardless of the air-purifying element used, if an employee detects the odor of BD, the employer must replace the air-purifying element immediately.

(c) Respirator ~~((program. Where respiratory protection is required, the employer shall institute a respirator program in accordance with WAC 296-62-071.~~

(d) Respirator use.

~~((i) Where air purifying respirators are used, the employer shall replace the air purifying filter element(s) according to the replacement life interval set for the class of respirator listed in Table 1 in (e) of this subsection and at the beginning of each work shift.~~

~~((ii) In lieu of the replacement intervals listed in Table 1, the employer may replace cartridges or canisters at 90% of~~

~~the expiration of service life, provided the employer can demonstrate that employees will be adequately protected. BD breakthrough data relied upon by the employer must derive from tests conducted under worst case conditions of humidity, temperature, and air flow rate through the filter element. The employer shall describe the data supporting the cartridge/canister change schedule and the basis for reliance on the data in the employer's respirator program.~~

~~((iii) A label shall be attached to the filter element(s) to indicate the date and time it is first installed on the respirator. If an employee detects the odor of BD, the employer shall replace the air purifying element(s) immediately.~~

~~((iv) If a NIOSH approved end of service life indicator (ESLI) for BD becomes available for an air purifying filter element, the element may be used until such time as the indicator shows no further useful service life or until replaced at the beginning of the next work shift, whichever comes first. If an employee detects the odor of BD, the employer shall replace the air purifying element(s) immediately.~~

~~((v) The employer shall permit employees who wear respirators to leave the regulated area to wash their faces and respirator facepieces as necessary in order to prevent skin irritation associated with respirator use or to change the filter elements of air purifying respirators whenever they detect a change in breathing resistance or whenever the odor of BD is detected.~~

~~((e) Respirator fit testing.~~

~~((i) The employer shall perform either qualitative fit testing (QLFT) or quantitative fit testing (QNFT), as required in Appendix E to this section, at the time of initial fitting and at least annually thereafter for employees who wear tight fitting negative pressure respirators. Fit testing shall be used to select a respirator facepiece which exhibits minimum leakage and provides the required protection as prescribed in Table 1 of this section.~~

~~((ii) For each employee wearing a tight fitting full facepiece negative pressure respirator who is exposed to airborne concentrations of BD that exceed 10 times the TWA PEL (10 ppm), the employer shall perform quantitative fit testing as required in Appendix E to this section, at the time of initial fitting and at least annually thereafter))~~ selection.

(i) The employer must select appropriate respirators from Table 1 of this section.

Table 1. - Minimum Requirements for Respiratory Protection for Airborne BD

Concentration of Airborne BD (ppm) or condition of use	Minimum required respirator
Less than or equal to 5 ppm(5 times PEL)	(a) Air-purifying half mask or full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 4 hours.
Less than or equal to 10 ppm(10 times PEL)	(a) Air-purifying half mask or full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 3 hours.
Less than or equal to 25 ppm(25 times PEL)	(a) Air-purifying full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 2 hours. (b) Any powered air-purifying respirator equipped with approved BD or organic vapor cartridges. PAPR cartridges shall be replaced every 2 hours. (c) Continuous flow supplied air respirator equipped with a hood or helmet.
Less than or equal to 50 ppm(50 times PEL)	(a) Air-purifying full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 1 hour. (b) Powered air purifying respirator equipped with a tight-fitting facepiece and an approved BD or organic vapor cartridges. PAPR cartridges shall be replaced every 1 hour.
Less than or equal to 1,000 ppm (1,000 times PEL)	(a) Supplied air respirator equipped with a half mask or full facepiece and operated in a pressure demand or other positive pressure mode.
Greater than 1,000 ppm	(a) Self-contained breathing unknown concentration, or apparatus equipped with a fire fighting full facepiece and operated in a pressure demand or other positive pressure mode. (b) Any supplied air respirator equipped with a full facepiece and operated in a pressure demand or other positive pressure mode in combination with an auxiliary self-contained breathing apparatus operated in a pressure demand or other positive pressure mode.
Escape from IDLH Conditions	(a) Any positive pressure self-contained breathing apparatus with an appropriate service life. (b) Any air-purifying full facepiece respirator equipped with a front or back mounted BD or organic vapor canister.

PERMANENT

Notes: Respirators approved for use in higher concentrations are permitted to be used in lower concentrations. Full facepiece is required when eye irritation is anticipated.

~~((iii) The employer shall ensure that employees wearing tight-fitting respirators perform a facepiece seal fit check to ensure that a proper facepiece seal is obtained prior to entry into a BD atmosphere. The recommended positive or negative pressure fit check procedures listed in Appendix E to this section of the respirator manufacturer's recommended fit check procedure shall be used.))~~

(ii) Air-purifying respirators must have filter elements certified by NIOSH for organic vapor or BD.

(iii) When an employee whose job requires the use of a respirator cannot use a negative-pressure respirator, the employer must provide the employee with a respirator that has less breathing resistance than the negative-pressure respirator, such as a powered air-purifying respirator or supplied-air respirator, when the employee is able to use it and if it provides the employee adequate protection.

(9) Protective clothing and equipment. Where appropriate to prevent eye contact and limit dermal exposure to BD, the employer shall provide protective clothing and equipment at no cost to the employee and shall ensure its use. Eye and face protection shall meet the requirements of WAC 296-24-078.

(10) Emergency situations. Written plan. A written plan for emergency situations shall be developed, or an existing plan shall be modified, to contain the applicable elements specified in WAC 296-24-567, Employee emergency plans and fire prevention plans, and in WAC 296-62-3112, hazardous waste operations and emergency responses, for each workplace where there is a possibility of an emergency.

(11) Medical screening and surveillance.

(a) Employees covered. The employer shall institute a medical screening and surveillance program as specified in this subsection for:

(i) Each employee with exposure to BD at concentrations at or above the action level on 30 or more days or for employees who have or may have exposure to BD at or above the PELs on 10 or more days a year;

(ii) Employers (including successor owners) shall continue to provide medical screening and surveillance for employees, even after transfer to a non-BD exposed job and regardless of when the employee is transferred, whose work histories suggest exposure to BD:

(A) At or above the PELs on 30 or more days a year for 10 or more years;

(B) At or above the action level on 60 or more days a year for 10 or more years; or

(C) Above 10 ppm on 30 or more days in any past year; and

(iii) Each employee exposed to BD following an emergency situation.

(b) Program administration.

(i) The employer shall ensure that the health questionnaire, physical examination and medical procedures are provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(ii) Physical examinations, health questionnaires, and medical procedures shall be performed or administered by a physician or other licensed health care professional.

(iii) Laboratory tests shall be conducted by an accredited laboratory.

(c) Frequency of medical screening activities. The employer shall make medical screening available on the following schedule:

(i) For each employee covered under (a)(i) and (ii) of this subsection, a health questionnaire and complete blood count (CBC) with differential and platelet count every year, and a physical examination as specified below:

(A) An initial physical examination that meets the requirements of this rule, if twelve months or more have elapsed since the last physical examination conducted as part of a medical screening program for BD exposure;

(B) Before assumption of duties by the employee in a job with BD exposure;

(C) Every 3 years after the initial physical examination;

(D) At the discretion of the physician or other licensed health care professional reviewing the annual health questionnaire and CBC;

(E) At the time of employee reassignment to an area where exposure to BD is below the action level, if the employee's past exposure history does not meet the criteria of (a)(ii) of this subsection for continued coverage in the screening and surveillance program, and if twelve months or more have elapsed since the last physical examination; and

(F) At termination of employment if twelve months or more have elapsed since the last physical examination.

(ii) Following an emergency situation, medical screening shall be conducted as quickly as possible, but not later than 48 hours after the exposure.

(iii) For each employee who must wear a respirator, physical ability to perform the work and use the respirator must be determined as required by WAC 296-62-071.

(d) Content of medical screening.

(i) Medical screening for employees covered by (a)(i) and (ii) of this subsection shall include:

(A) A baseline health questionnaire that includes a comprehensive occupational and health history and is updated annually. Particular emphasis shall be placed on the hematopoietic and reticuloendothelial systems, including exposure to chemicals, in addition to BD, that may have an adverse effect on these systems, the presence of signs and symptoms that might be related to disorders of these systems, and any other information determined by the examining physician or other licensed health care professional to be necessary to evaluate whether the employee is at increased risk of material impairment of health from BD exposure. Health questionnaires shall consist of the sample forms in Appendix C to this section, or be equivalent to those samples;

(B) A complete physical examination, with special emphasis on the liver, spleen, lymph nodes, and skin;

(C) A CBC; and

(D) Any other test which the examining physician or other licensed health care professional deems necessary to evaluate whether the employee may be at increased risk from exposure to BD.

(ii) Medical screening for employees exposed to BD in an emergency situation shall focus on the acute effects of BD exposure and at a minimum include: A CBC within 48 hours of the exposure and then monthly for three months; and a physical examination if the employee reports irritation of the eyes, nose, throat, lungs, or skin, blurred vision, coughing, drowsiness, nausea, or headache. Continued employee participation in the medical screening and surveillance program, beyond these minimum requirements, shall be at the discretion of the physician or other licensed health care professional.

(e) Additional medical evaluations and referrals.

(i) Where the results of medical screening indicate abnormalities of the hematopoietic or reticuloendothelial systems, for which a nonoccupational cause is not readily apparent, the examining physician or other licensed health care professional shall refer the employee to an appropriate specialist for further evaluation and shall make available to the specialist the results of the medical screening.

(ii) The specialist to whom the employee is referred under this subsection shall determine the appropriate content for the medical evaluation, e.g., examinations, diagnostic tests and procedures, etc.

(f) Information provided to the physician or other licensed health care professional. The employer shall provide the following information to the examining physician or other licensed health care professional involved in the evaluation:

(i) A copy of this section including its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's BD exposure;

(iii) The employee's actual or representative BD exposure level during employment tenure, including exposure incurred in an emergency situation;

(iv) A description of pertinent personal protective equipment used or to be used; and

(v) Information, when available, from previous employment-related medical evaluations of the affected employee which is not otherwise available to the physician or other licensed health care professional or the specialist.

(g) The written medical opinion.

(i) For each medical evaluation required by this section, the employer shall ensure that the physician or other licensed health care professional produces a written opinion and provides a copy to the employer and the employee within 15 business days of the evaluation. The written opinion shall be limited to the following information:

(A) The occupationally pertinent results of the medical evaluation;

(B) A medical opinion concerning whether the employee has any detected medical conditions which would place the employee's health at increased risk of material impairment from exposure to BD;

(C) Any recommended limitations upon the employee's exposure to BD; and

(D) A statement that the employee has been informed of the results of the medical evaluation and any medical conditions resulting from BD exposure that require further explanation or treatment.

(ii) The written medical opinion provided to the employer shall not reveal specific records, findings, and diagnoses that have no bearing on the employee's ability to work with BD.

Note: This provision does not negate the ethical obligation of the physician or other licensed health care professional to transmit any other adverse findings directly to the employee.

(h) Medical surveillance.

(i) The employer shall ensure that information obtained from the medical screening program activities is aggregated (with all personal identifiers removed) and periodically reviewed, to ascertain whether the health of the employee population of that employer is adversely affected by exposure to BD.

(ii) Information learned from medical surveillance activities must be disseminated to covered employees, as defined in (a) of this subsection, in a manner that ensures the confidentiality of individual medical information.

(12) Communication of BD hazards to employees.

(a) Hazard communication. The employer shall communicate the hazards associated with BD exposure in accordance with the requirements of the hazard communication standard, WAC 296-62-054.

(b) Employee information and training.

(i) The employer shall provide all employees exposed to BD with information and training in accordance with the requirements of the hazard communication standard, WAC 296-62-054.

(ii) The employer shall institute a training program for all employees who are potentially exposed to BD at or above the action level or the STEL, ensure employee participation in the program and maintain a record of the contents of such program.

(iii) Training shall be provided prior to or at the time of initial assignment to a job potentially involving exposure to BD at or above the action level or STEL and at least annually thereafter.

(iv) The training program shall be conducted in a manner that the employee is able to understand. The employer shall ensure that each employee exposed to BD over the action level or STEL is informed of the following:

(A) The health hazards associated with BD exposure, and the purpose and a description of the medical screening and surveillance program required by this section;

(B) The quantity, location, manner of use, release, and storage of BD and the specific operations that could result in exposure to BD, especially exposures above the PEL or STEL;

(C) The engineering controls and work practices associated with the employee's job assignment, and emergency procedures and personal protective equipment;

(D) The measures employees can take to protect themselves from exposure to BD;

(E) The contents of this standard and its appendices; and

(F) The right of each employee exposed to BD at or above the action level or STEL to obtain:

(I) Medical examinations as required by subsection (10) of this section at no cost to the employee;

(II) The employee's medical records required to be maintained by subsection (13)~~((d))~~ (c) of this section; and

(III) All air monitoring results representing the employee's exposure to BD and required to be kept by subsection (13)(b) of this section.

(c) Access to information and training materials.

(i) The employer shall make a copy of this standard and its appendices readily available without cost to all affected employees and their designated representatives and shall provide a copy if requested.

(ii) The employer shall provide to the director, or the designated employee representatives, upon request, all materials relating to the employee information and the training program.

(13) Recordkeeping.

(a) Objective data for exemption from initial monitoring.

(i) Where the processing, use, or handling of products or streams made from or containing BD are exempted from other requirements of this section under subsection (1)(b) of this section, or where objective data have been relied on in lieu of initial monitoring under subsection (4)(b)(ii) of this section, the employer shall establish and maintain a record of the objective data reasonably relied upon in support of the exemption.

(ii) This record shall include at least the following information:

(A) The product or activity qualifying for exemption;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and analysis of the material for the release of BD;

(D) A description of the operation exempted and how the data support the exemption; and

(E) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(b) Exposure measurements.

(i) The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to BD as prescribed in subsection (4) of this section.

(ii) The record shall include at least the following information:

(A) The date of measurement;

(B) The operation involving exposure to BD which is being monitored;

(C) Sampling and analytical methods used and evidence of their accuracy;

(D) Number, duration, and results of samples taken;

(E) Type of protective devices worn, if any;

(F) Name, Social Security number and exposure of the employees whose exposures are represented; and

(G) The written corrective action and the schedule for completion of this action required by subsection (4)(g)(ii) of this section.

(iii) The employer shall maintain this record for at least 30 years in accordance with WAC 296-62-052.

(c) ~~((Respirator fit test~~

~~(i) The employer shall establish a record of the fit tests administered to an employee including:~~

~~(A) The name of the employee;~~

~~(B) Type of respirator;~~

~~(C) Brand and size of respirator;~~

~~(D) Date of test; and~~

~~(E) Where QNET is used, the fit factor, strip chart recording or other recording of the results of the test.~~

~~(ii) Fit test records shall be maintained for respirator users until the next fit test is administered.~~

~~((d)) Medical screening and surveillance.~~

(i) The employer shall establish and maintain an accurate record for each employee subject to medical screening and surveillance under this section.

(ii) The record shall include at least the following information:

(A) The name and Social Security number of the employee;

(B) Physician's or other licensed health care professional's written opinions as described in subsection (11)~~((f))~~ (e) of this section;

(C) A copy of the information provided to the physician or other licensed health care professional as required by subsection~~((s))~~ (11)~~((f))~~ (e) of this section.

(iii) Medical screening and surveillance records shall be maintained for each employee for the duration of employment plus 30 years, in accordance with WAC 296-62-052.

~~((e))~~ (d) Availability.

(i) The employer, upon written request, shall make all records required to be maintained by this section available for examination and copying to the director.

(ii) Access to records required to be maintained by (a) ~~((through (e)))~~ and (b) of this subsection shall be granted in accordance with WAC 296-62-05209.

~~((f))~~ (e) Transfer of records.

(i) Whenever the employer ceases to do business, the employer shall transfer records required by this section to the successor employer. The successor employer shall receive and maintain these records. If there is no successor employer, the employer shall notify the director, at least three months prior to disposal, and transmit them to the director if requested by the director within that period.

(ii) The employer shall transfer medical and exposure records as set forth in WAC 296-62-05215.

(14) Dates.

(a) Effective date. This section shall become effective (day, month), 1997.

(b) Start-up dates.

(i) The initial monitoring required under subsection (4)(b) of this section shall be completed immediately or within sixty days of the introduction of BD into the workplace.

(ii) The requirements of subsections (3) through (13) of this section, including feasible work practice controls but not including engineering controls specified in subsection (6)(a) of this section, shall be complied with immediately.

(iii) Engineering controls specified by subsection (6)(a) of this section shall be implemented by February 4, 1999, and the exposure goal program specified in subsection (7) of this section shall be implemented by February 4, 2000.

(15) Appendices.

~~((a) Appendix E to this section is mandatory.~~

(b)) Appendices A, B, C, D, and F to this section are informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

Appendix A. Substance Safety Data Sheet For 1,3-Butadiene (Non-Mandatory)

(1) Substance Identification.

(a) Substance: 1,3-Butadiene (CH₂=CH-CH=CH₂).

(b) Synonyms: 1,3-Butadiene (BD); butadiene; biethylene; bi-vinyl; divinyl; butadiene-1,3; buta-1,3-diene; erythrene; NCI-C50602; CAS-106-99-0.

(c) BD can be found as a gas or liquid.

(d) BD is used in production of styrene-butadiene rubber and polybutadiene rubber for the tire industry. Other uses include copolymer latexes for carpet backing and paper coating, as well as resins and polymers for pipes and automobile and appliance parts. It is also used as an intermediate in the production of such chemicals as fungicides.

(e) Appearance and odor: BD is a colorless, non-corrosive, flammable gas with a mild aromatic odor at standard ambient temperature and pressure.

(f) Permissible exposure: Exposure may not exceed 1 part BD per million parts of air averaged over the 8-hour workday, nor may short-term exposure exceed 5 parts of BD per million parts of air averaged over any 15-minute period in the 8-hour workday.

(2) Health Hazard Data.

(a) BD can affect the body if the gas is inhaled or if the liquid form, which is very cold (cryogenic), comes in contact with the eyes or skin.

(b) Effects of overexposure: Breathing very high levels of BD for a short time can cause central nervous system effects, blurred vision, nausea, fatigue, headache, decreased blood pressure and pulse rate, and unconsciousness. There are no recorded cases of accidental exposures at high levels that have caused death in humans, but this could occur. Breathing lower levels of BD may cause irritation of the eyes, nose, and throat. Skin contact with liquefied BD can cause irritation and frostbite.

(c) Long-term (chronic) exposure: BD has been found to be a potent carcinogen in rodents, inducing neoplastic lesions at multiple target sites in mice and rats. A recent study of BD-exposed workers showed that exposed workers have an increased risk of developing leukemia. The risk of leukemia increases with increased exposure to BD. OSHA has concluded that there is strong evidence that workplace exposure to BD poses an increased risk of death from cancers of the lymphohematopoietic system.

(d) Reporting signs and symptoms: You should inform your supervisor if you develop any of these signs or symptoms and suspect that they are caused by exposure to BD.

(3) Emergency First Aid Procedures.

In the event of an emergency, follow the emergency plan and procedures designated for your work area. If you have been trained in first aid procedures, provide the necessary first aid measures. If necessary, call for additional assistance from co-workers and emergency medical personnel.

(a) Eye and Skin Exposures: If there is a potential that liquefied BD can come in contact with eye or skin, face

shields and skin protective equipment must be provided and used. If liquefied BD comes in contact with the eye, immediately flush the eyes with large amounts of water, occasionally lifting the lower and the upper lids. Flush repeatedly. Get medical attention immediately. Contact lenses should not be worn when working with this chemical. In the event of skin contact, which can cause frostbite, remove any contaminated clothing and flush the affected area repeatedly with large amounts of tepid water.

(b) Breathing: If a person breathes in large amounts of BD, move the exposed person to fresh air at once. If breathing has stopped, begin cardiopulmonary resuscitation (CPR) if you have been trained in this procedure. Keep the affected person warm and at rest. Get medical attention immediately.

(c) Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, call for help and begin emergency rescue procedures. Use extreme caution so that you do not become a casualty. Understand the plant's emergency rescue procedures and know the locations of rescue equipment before the need arises.

(4) Respirators and Protective Clothing.

(a) Respirators: Good industrial hygiene practices recommend that engineering and work practice controls be used to reduce environmental concentrations to the permissible exposure level. However, there are some exceptions where respirators may be used to control exposure. Respirators may be used when engineering and work practice controls are not technically feasible, when such controls are in the process of being installed, or when these controls fail and need to be supplemented or during brief, non-routine, intermittent exposure. Respirators may also be used in situations involving non-routine work operations which are performed infrequently and in which exposures are limited in duration, and in emergency situations. In some instances cartridge respirator use is allowed, but only with strict time constraints. For example, at exposure below 5 ppm BD, a cartridge (or canister) respirator, either full or half face, may be used, but the cartridge must be replaced at least every 4 hours, and it must be replaced every 3 hours when the exposure is between 5 and 10 ppm.

If the use of respirators is necessary, the only respirators permitted are those that have been approved by the National Institute for Occupational Safety and Health (NIOSH). In addition to respirator selection, a complete respiratory protection program must be instituted which includes regular training, maintenance, fit testing, inspection, cleaning, and evaluation of respirators. If you can smell BD while wearing a respirator, proceed immediately to fresh air, and change cartridge (or canister) before re-entering an area where there is BD exposure. If you experience difficulty in breathing while wearing a respirator, tell your supervisor.

(b) Protective Clothing: Employees should be provided with and required to use impervious clothing, gloves, face shields (eight-inch minimum), and other appropriate protective clothing necessary to prevent the skin from becoming frozen by contact with liquefied BD (or a vessel containing liquid BD).

Employees should be provided with and required to use splash-proof safety goggles where liquefied BD may contact the eyes.

(5) Precautions for Safe Use, Handling, and Storage.

(a) **Fire and Explosion Hazards:** BD is a flammable gas and can easily form explosive mixtures in air. It has a lower explosive limit of 2%, and an upper explosive limit of 11.5%. It has an autoignition temperature of 420 deg. C (788 deg. F). Its vapor is heavier than air (vapor density, 1.9) and may travel a considerable distance to a source of ignition and flash back. Usually it contains inhibitors to prevent self-polymerization (which is accompanied by evolution of heat) and to prevent formation of explosive peroxides. At elevated temperatures, such as in fire conditions, polymerization may take place. If the polymerization takes place in a container, there is a possibility of violent rupture of the container.

(b) **Hazard:** Slightly toxic. Slight respiratory irritant. Direct contact of liquefied BD on skin may cause freeze burns and frostbite.

(c) **Storage:** Protect against physical damage to BD containers. Outside or detached storage of BD containers is preferred. Inside storage should be in a cool, dry, well-ventilated, noncombustible location, away from all possible sources of ignition. Store cylinders vertically and do not stack. Do not store with oxidizing material.

(d) **Usual Shipping Containers:** Liquefied BD is contained in steel pressure apparatus.

(e) **Electrical Equipment:** Electrical installations in Class I hazardous locations, as defined in Article 500 of the National Electrical Code, should be in accordance with Article 501 of the Code. If explosion-proof electrical equipment is necessary, it shall be suitable for use in Group B. Group D equipment may be used if such equipment is isolated in accordance with Section 501-5(a) by sealing all conduit 1/2-inch size or larger. See Venting of Deflagrations (NFPA No. 68, 1994), National Electrical Code (NFPA No. 70, 1996), Static Electricity (NFPA No. 77, 1993), Lightning Protection Systems (NFPA No. 780, 1995), and Fire Hazard Properties of Flammable Liquids, Gases and Volatile Solids (NFPA No. 325, 1994).

(f) **Fire Fighting:** Stop flow of gas. Use water to keep fire-exposed containers cool. Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

(g) **Spill and Leak:** Persons not wearing protective equipment and clothing should be restricted from areas of spills or leaks until clean-up has been completed. If BD is spilled or leaked, the following steps should be taken:

(i) Eliminate all ignition sources.

(ii) Ventilate area of spill or leak.

(iii) If in liquid form, for small quantities, allow to evaporate in a safe manner.

(iv) Stop or control the leak if this can be done without risk. If source of leak is a cylinder and the leak cannot be stopped in place, remove the leaking cylinder to a safe place and repair the leak or allow the cylinder to empty.

(h) **Disposal:** This substance, when discarded or disposed of, is a hazardous waste according to Federal regulations (40 CFR part 261). It is listed as hazardous waste number D001 due to its ignitability. The transportation, storage, treatment, and disposal of this waste material must be conducted in compliance with 40 CFR parts 262, 263, 264, 268 and 270. Disposal can occur only in properly permitted facil-

ities. Check state and local regulation of any additional requirements as these may be more restrictive than federal laws and regulation.

(i) You should not keep food, beverages, or smoking materials in areas where there is BD exposure, nor should you eat or drink in such areas.

(j) Ask your supervisor where BD is used in your work area and ask for any additional plant safety and health rules.

(6) Medical Requirements.

Your employer is required to offer you the opportunity to participate in a medical screening and surveillance program if you are exposed to BD at concentrations exceeding the action level (0.5 ppm BD as an 8-hour TWA) on 30 days or more a year, or at or above the 8-hr TWA (1 ppm) or STEL (5 ppm for 15 minutes) on 10 days or more a year. Exposure for any part of a day counts. If you have had exposure to BD in the past, but have been transferred to another job, you may still be eligible to participate in the medical screening and surveillance program.

The WISHA rule specifies the past exposures that would qualify you for participation in the program. These past exposure are work histories that suggest the following:

(a) That you have been exposed at or above the PELs on 30 days a year for 10 or more years;

(b) That you have been exposed at or above the action level on 60 days a year for 10 or more years; or

(c) That you have been exposed above 10 ppm on 30 days in any past year.

Additionally, if you are exposed to BD in an emergency situation, you are eligible for a medical examination within 48 hours. The basic medical screening program includes a health questionnaire, physical examination, and blood test. These medical evaluations must be offered to you at a reasonable time and place, and without cost or loss of pay.

(7) Observation of Monitoring.

Your employer is required to perform measurements that are representative of your exposure to BD and you or your designated representative are entitled to observe the monitoring procedure. You are entitled to observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you or your representative must also be provided with, and must wear, the protective clothing and equipment.

(8) Access to Information.

(a) Each year, your employer is required to inform you of the information contained in this appendix. In addition, your employer must instruct you in the proper work practices for using BD, emergency procedures, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to BD. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits and of the schedule to implement these actions.

(c) Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least thirty (30) years.

(d) Your employer is required to release your exposure and medical records to you or your representative upon your request.

Appendix B. Substance Technical Guidelines for 1,3-Butadiene (Non-Mandatory)

(1) Physical and Chemical Data.

(a) Substance identification:

(i) Synonyms: 1,3-Butadiene (BD); butadiene; biethylenic; bivinyl; divinyl; butadiene-1,3; buta-1,3-diene; erythrene; NCI-C50620; CAS-106-99-0.

(ii) Formula: $(CH_2=CH-CH=CH_2)$.

(iii) Molecular weight: 54.1.

(b) Physical data:

(i) Boiling point (760 mm Hg): -4.7 deg. C (23.5 deg. F).

(ii) Specific gravity (water=1): 0.62 at 20 deg. C (68 deg. F).

F).

(iii) Vapor density (air=1 at boiling point of BD): 1.87.

(iv) Vapor pressure at 20 deg. C (68 deg. F): 910 mm Hg.

(v) Solubility in water, g/100 g water at 20 deg. C (68 deg. F): 0.05.

(vi) Appearance and odor: Colorless, flammable gas with a mildly aromatic odor. Liquefied BD is a colorless liquid with a mildly aromatic odor.

(2) Fire, Explosion, and Reactivity Hazard Data.

(a) Fire:

(i) Flash point: -76 deg. C (-105 deg. F) for take out; liquefied BD; Not applicable to BD gas.

(ii) Stability: A stabilizer is added to the monomer to inhibit formation of polymer during storage. Forms explosive peroxides in air in absence of inhibitor.

(iii) Flammable limits in air, percent by volume: Lower: 2.0; Upper: 11.5.

(iv) Extinguishing media: Carbon dioxide for small fires, polymer or alcohol foams for large fires.

(v) Special fire fighting procedures: Fight fire from protected location or maximum possible distance. Stop flow of gas before extinguishing fire. Use water spray to keep fire-exposed cylinders cool.

(vi) Unusual fire and explosion hazards: BD vapors are heavier than air and may travel to a source of ignition and flash back. Closed containers may rupture violently when heated.

(vii) For purposes of compliance with the requirements of WAC 296-24-330, BD is classified as a flammable gas. For example, 7,500 ppm, approximately one-fourth of the lower flammable limit, would be considered to pose a potential fire and explosion hazard.

(viii) For purposes of compliance with WAC 296-24-585, BD is classified as a Class B fire hazard.

(ix) For purposes of compliance with WAC 296-24-956, locations classified as hazardous due to the presence of BD shall be Class I.

(b) Reactivity:

(i) Conditions contributing to instability: Heat. Peroxides are formed when inhibitor concentration is not main-

tained at proper level. At elevated temperatures, such as in fire conditions, polymerization may take place.

(ii) Incompatibilities: Contact with strong oxidizing agents may cause fires and explosions. The contacting of crude BD (not BD monomer) with copper and copper alloys may cause formations of explosive copper compounds.

(iii) Hazardous decomposition products: Toxic gases (such as carbon monoxide) may be released in a fire involving BD.

(iv) Special precautions: BD will attack some forms of plastics, rubber, and coatings. BD in storage should be checked for proper inhibitor content, for self-polymerization, and for formation of peroxides when in contact with air and iron. Piping carrying BD may become plugged by formation of rubbery polymer.

(c) Warning Properties:

(i) Odor Threshold: An odor threshold of 0.45 ppm has been reported in The American Industrial Hygiene Association (AIHA) Report, Odor Thresholds for Chemicals with Established Occupational Health Standards. (Ex. 32-28C).

(ii) Eye Irritation Level: Workers exposed to vapors of BD (concentration or purity unspecified) have complained of irritation of eyes, nasal passages, throat, and lungs. Dogs and rabbits exposed experimentally to as much as 6700 ppm for 7 1/2 hours a day for 8 months have developed no histologically demonstrable abnormality of the eyes.

(iii) Evaluation of Warning Properties: Since the mean odor threshold is about half of the 1 ppm PEL, and more than 10-fold below the 5 ppm STEL, most wearers of air purifying respirators should still be able to detect breakthrough before a significant overexposure to BD occurs.

(3) Spill, Leak, and Disposal Procedures.

(a) Persons not wearing protective equipment and clothing should be restricted from areas of spills or leaks until cleanup has been completed. If BD is spilled or leaked, the following steps should be taken:

(i) Eliminate all ignition sources.

(ii) Ventilate areas of spill or leak.

(iii) If in liquid form, for small quantities, allow to evaporate in a safe manner.

(iv) Stop or control the leak if this can be done without risk. If source of leak is a cylinder and the leak cannot be stopped in place, remove the leaking cylinder to a safe place and repair the leak or allow the cylinder to empty.

(b) Disposal: This substance, when discarded or disposed of, is a hazardous waste according to Federal regulations (40 CFR part 261). It is listed by the EPA as hazardous waste number D001 due to its ignitability. The transportation, storage, treatment, and disposal of this waste material must be conducted in compliance with 40 CFR parts 262, 263, 264, 268 and 270. Disposal can occur only in properly permitted facilities. Check state and local regulations for any additional requirements because these may be more restrictive than federal laws and regulations.

(4) Monitoring and Measurement Procedures.

(a) Exposure above the Permissible Exposure Limit (8-hr TWA) or Short-Term Exposure Limit (STEL):

(i) 8-hr TWA exposure evaluation: Measurements taken for the purpose of determining employee exposure under this standard are best taken with consecutive samples covering

the full shift. Air samples must be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

(ii) STEL exposure evaluation: Measurements must represent 15 minute exposures associated with operations most likely to exceed the STEL in each job and on each shift.

(iii) Monitoring frequencies: Table 1 gives various exposure scenarios and their required monitoring frequencies, as required by the final standard for occupational exposure to butadiene.

Table 1. — Five Exposure Scenarios and Their Associated Monitoring Frequencies

Action Level	8-hr TWA	STEL	Required Monitoring Activity
—*	—	—	No 8-hr TWA or STEL monitoring required.
+*	—	—	No STEL monitoring required. Monitor 8-hr TWA annually.
+	—	—	No STEL monitoring required. Periodic monitoring 8-hr TWA, in accordance with (4)(c)(iii).**
+	+	+	Periodic monitoring 8-hr TWA, in accordance with (4)(c)(iii)**. Periodic monitoring STEL in accordance with (4)(c)(iii).
+	—	+	Periodic monitoring STEL, in accordance with (4)(c)(iii). Monitor 8-hr TWA annually.

Footnote (*) Exposure Scenario, Limit Exceeded: += Yes, - = No.

Footnote (**) The employer may decrease the frequency of exposure monitoring to annually when at least 2 consecutive measurements taken at least 7 days apart show exposures to be below the 8-hr TWA, but at or above the action level.

(iv) Monitoring techniques: Appendix D describes the validated method of sampling and analysis which has been tested by OSHA for use with BD. The employer has the obligation of selecting a monitoring method which meets the accuracy and precision requirements of the standard under his or her unique field conditions. The standard requires that the method of monitoring must be accurate, to a 95 percent confidence level, to plus or minus 25 percent for concentrations of BD at or above 1 ppm, and to plus or minus 35 percent for concentrations below 1 ppm.

(5) Personal Protective Equipment.

(a) Employees should be provided with and required to use impervious clothing, gloves, face shields (eight-inch minimum), and other appropriate protective clothing necessary to prevent the skin from becoming frozen from contact with liquid BD.

(b) Any clothing which becomes wet with liquid BD should be removed immediately and not re-worn until the butadiene has evaporated.

(c) Employees should be provided with and required to use splash proof safety goggles where liquid BD may contact the eyes.

(6) Housekeeping and Hygiene Facilities.

For purposes of complying with WAC 296-24-120 (Part B-1 Sanitation), the following items should be emphasized:

(a) The workplace should be kept clean, orderly, and in a sanitary condition.

(b) Adequate washing facilities with hot and cold water are to be provided and maintained in a sanitary condition.

(7) Additional Precautions.

(a) Store BD in tightly closed containers in a cool, well-ventilated area and take all necessary precautions to avoid any explosion hazard.

(b) Non-sparking tools must be used to open and close metal containers. These containers must be effectively grounded.

(c) Do not incinerate BD cartridges, tanks or other containers.

(d) Employers must advise employees of all areas and operations where exposure to BD might occur.

Appendix C. Medical Screening and Surveillance for 1,3-Butadiene (Non-Mandatory)

(1) Basis for Medical Screening and Surveillance Requirements.

(a) Route of Entry Inhalation.

(b) Toxicology.

Inhalation of BD has been linked to an increased risk of cancer, damage to the reproductive organs, and fetotoxicity. Butadiene can be converted via oxidation to epoxybutene and diepoxybutane, two genotoxic metabolites that may play a role in the expression of BD's toxic effects. BD has been tested for carcinogenicity in mice and rats. Both species responded to BD exposure by developing cancer at multiple primary organ sites. Early deaths in mice were caused by malignant lymphomas, primarily lymphocytic type, originating in the thymus.

Mice exposed to BD have developed ovarian or testicular atrophy. Sperm head morphology tests also revealed abnormal sperm in mice exposed to BD; lethal mutations

PERMANENT

were found in a dominant lethal test. In light of these results in animals, the possibility that BD may adversely affect the reproductive systems of male and female workers must be considered.

Additionally, anemia has been observed in animals exposed to butadiene. In some cases, this anemia appeared to be a primary response to exposure; in other cases, it may have been secondary to a neoplastic response.

(c) Epidemiology.

Epidemiologic evidence demonstrates that BD exposure poses an increased risk of leukemia. Mild alterations of hematologic parameters have also been observed in synthetic rubber workers exposed to BD.

(2) Potential Adverse Health Effects.

(a) Acute.

Skin contact with liquid BD causes characteristic burns or frostbite. BD in gaseous form can irritate the eyes, nasal passages, throat, and lungs. Blurred vision, coughing, and drowsiness may also occur. Effects are mild at 2,000 ppm and pronounced at 8,000 ppm for exposures occurring over the full workshift.

At very high concentrations in air, BD is an anesthetic, causing narcosis, respiratory paralysis, unconsciousness, and death. Such concentrations are unlikely, however, except in an extreme emergency because BD poses an explosion hazard at these levels.

(b) Chronic.

The principal adverse health effects of concern are BD-induced lymphoma, leukemia and potential reproductive toxicity. Anemia and other changes in the peripheral blood cells may be indicators of excessive exposure to BD.

(c) Reproductive.

Workers may be concerned about the possibility that their BD exposure may be affecting their ability to procreate a healthy child. For workers with high exposures to BD, especially those who have experienced difficulties in conceiving, miscarriages, or stillbirths, appropriate medical and laboratory evaluation of fertility may be necessary to determine if BD is having any adverse effect on the reproductive system or on the health of the fetus.

(3) Medical Screening Components At-A-Glance.

(a) Health Questionnaire.

The most important goal of the health questionnaire is to elicit information from the worker regarding potential signs or symptoms generally related to leukemia or other blood abnormalities. Therefore, physicians or other licensed health care professionals should be aware of the presenting symptoms and signs of lymphohematopoietic disorders and cancers, as well as the procedures necessary to confirm or exclude such diagnoses. Additionally, the health questionnaire will assist with the identification of workers at greatest risk of developing leukemia or adverse reproductive effects from their exposures to BD.

Workers with a history of reproductive difficulties or a personal or family history of immune deficiency syndromes, blood dyscrasias, lymphoma, or leukemia, and those who are or have been exposed to medicinal drugs or chemicals known to affect the hematopoietic or lymphatic systems may be at higher risk from their exposure to BD. After the initial

administration, the health questionnaire must be updated annually.

(b) Complete Blood Count (CBC).

The medical screening and surveillance program requires an annual CBC, with differential and platelet count, to be provided for each employee with BD exposure. This test is to be performed on a blood sample obtained by phlebotomy of the venous system or, if technically feasible, from a fingerstick sample of capillary blood. The sample is to be analyzed by an accredited laboratory.

Abnormalities in a CBC may be due to a number of different etiologies. The concern for workers exposed to BD includes, but is not limited to, timely identification of lymphohematopoietic cancers, such as leukemia and non-Hodgkin's lymphoma. Abnormalities of portions of the CBC are identified by comparing an individual's results to those of an established range of normal values for males and females. A substantial change in any individual employee's CBC may also be viewed as "abnormal" for that individual even if all measurements fall within the population-based range of normal values. It is suggested that a flowsheet for laboratory values be included in each employee's medical record so that comparisons and trends in annual CBCs can be easily made.

A determination of the clinical significance of an abnormal CBC shall be the responsibility of the examining physician, other licensed health care professional, or medical specialist to whom the employee is referred. Ideally, an abnormal CBC should be compared to previous CBC measurements for the same employee, when available. Clinical common sense may dictate that a CBC value that is very slightly outside the normal range does not warrant medical concern. A CBC abnormality may also be the result of a temporary physical stressor, such as a transient viral illness, blood donation, or menorrhagia, or laboratory error. In these cases, the CBC should be repeated in a timely fashion, i.e., within 6 weeks, to verify that return to the normal range has occurred. A clinically significant abnormal CBC should result in removal of the employee from further exposure to BD. Transfer of the employee to other work duties in a BD-free environment would be the preferred recommendation.

(c) Physical Examination.

The medical screening and surveillance program requires an initial physical examination for workers exposed to BD; this examination is repeated once every three years. The initial physical examination should assess each worker's baseline general health and rule out clinical signs of medical conditions that may be caused by or aggravated by occupational BD exposure. The physical examination should be directed at identification of signs of lymphohematopoietic disorders, including lymph node enlargement, splenomegaly, and hepatomegaly.

Repeated physical examinations should update objective clinical findings that could be indicative of interim development of a lymphohematopoietic disorder, such as lymphoma, leukemia, or other blood abnormality. Physical examinations may also be provided on an as needed basis in order to follow up on a positive answer on the health questionnaire, or in response to an abnormal CBC. Physical examination of workers who will no longer be working in jobs with BD

exposure are intended to rule out lymphohematopoietic disorders.

The need for physical examinations for workers concerned about adverse reproductive effects from their exposure to BD should be identified by the physician or other licensed health care professional and provided accordingly. For these workers, such consultations and examinations may relate to developmental toxicity and reproductive capacity.

Physical examination of workers acutely exposed to significant levels of BD should be especially directed at the respiratory system, eyes, sinuses, skin, nervous system, and any region associated with particular complaints. If the worker has received a severe acute exposure, hospitalization may be required to assure proper medical management. Since this type of exposure may place workers at greater risk of blood abnormalities, a CBC must be obtained within 48 hours and repeated at one, two, and three months.

Appendix D: Sampling and Analytical Method for 1,3-Butadiene (Non-Mandatory)

OSHA Method No.: 56.

Matrix: Air.

Target concentration: 1 ppm (2.21 mg/m(3)).

Procedure: Air samples are collected by drawing known volumes of air through sampling tubes containing charcoal adsorbent which has been coated with 4-tert-butylcatechol. The samples are desorbed with carbon disulfide and then analyzed by gas chromatography using a flame ionization detector.

Recommended sampling rate and air volume: 0.05 L/min and 3 L.

Detection limit of the overall procedure: 90 ppb (200 ug/m(3)) (based on 3 L air volume).

Reliable quantitation limit: 155 ppb (343 ug/m(3)) (based on 3 L air volume).

Standard error of estimate at the target concentration: 6.5%.

Special requirements: The sampling tubes must be coated with 4-tert-butylcatechol. Collected samples should be stored in a freezer.

Status of method: A sampling and analytical method has been subjected to the established evaluation procedures of the Organic Methods Evaluation Branch, OSHA Analytical Laboratory, Salt Lake City, Utah 84165.

(1) Background.

This work was undertaken to develop a sampling and analytical procedure for BD at 1 ppm. The current method recommended by OSHA for collecting BD uses activated coconut shell charcoal as the sampling medium (Ref. 5.2). This method was found to be inadequate for use at low BD levels because of sample instability.

The stability of samples has been significantly improved through the use of a specially cleaned charcoal which is coated with 4-tert-butylcatechol (TBC). TBC is a polymerization inhibitor for BD (Ref. 5.3).

(a) Toxic effects.

Symptoms of human exposure to BD include irritation of the eyes, nose and throat. It can also cause coughing, drowsiness and fatigue. Dermatitis and frostbite can result from skin exposure to liquid BD. (Ref. 5.1)

NIOSH recommends that BD be handled in the workplace as a potential occupational carcinogen. This recommendation is based on two inhalation studies that resulted in cancers at multiple sites in rats and in mice. BD has also demonstrated mutagenic activity in the presence of a liver microsomal activating system. It has also been reported to have adverse reproductive effects. (Ref. 5.1)

(b) Potential workplace exposure.

About 90% of the annual production of BD is used to manufacture styrene-butadiene rubber and Polybutadiene rubber. Other uses include: Polychloroprene rubber, acrylonitrile butadiene-styrene resins, nylon intermediates, styrene-butadiene latexes, butadiene polymers, thermoplastic elastomers, nitrile resins, methyl methacrylate-butadiene styrene resins and chemical intermediates. (Ref. 5.1)

(c) Physical properties (Ref. 5.1).

CAS No.: 106-99-0

Molecular weight: 54.1

Appearance: Colorless gas

Boiling point: -4.41 deg. C (760 mm Hg)

Freezing point: -108.9 deg. C

Vapor pressure: 2 atm (a) 15.3 deg. C; 5 atm (a) 47 deg.

C

Explosive limits: 2 to 11.5% (by volume in air)

Odor threshold: 0.45 ppm

Structural formula: H(2)C:CHCH:CH(2)

Synonyms: BD; biethylene; bivinyl; butadiene; divinyl; buta-1,3-diene; alpha-gamma-butadiene; erythrene; NCI-C50602; pyrrolylene; vinyl ethylene.

(d) Limit defining parameters.

The analyte air concentrations listed throughout this method are based on an air volume of 3 L and a desorption volume of 1 mL. Air concentrations listed in ppm are referenced to 25 deg. C and 760 mm Hg.

(e) Detection limit of the analytical procedure.

The detection limit of the analytical procedure was 304 pg per injection. This was the amount of BD which gave a response relative to the interferences present in a standard.

(f) Detection limit of the overall procedure.

The detection limit of the overall procedure was 0.60 ug per sample (90 ppb or 200 ug/m(3)). This amount was determined graphically. It was the amount of analyte which, when spiked on the sampling device, would allow recovery approximately equal to the detection limit of the analytical procedure.

(g) Reliable quantitation limit.

The reliable quantitation limit was 1.03 ug per sample (155 ppb or 343 ug/m(3)). This was the smallest amount of analyte which could be quantitated within the limits of a recovery of at least 75% and a precision (+/- 1.96 SD) of +/- 25% or better.

(h) Sensitivity.(1)

Footnote (1)

The reliable quantitation limit and detection limits reported in the method are based upon optimization of the instrument for the smallest possible amount of analyte. When the target concentration of an analyte is exceptionally higher than these limits, they may not be attainable at the routine operation parameters.

The sensitivity of the analytical procedure over a concentration range representing 0.6 to 2 times the target concen-

tration, based on the recommended air volume, was 387 area units per ug/mL. This value was determined from the slope of the calibration curve. The sensitivity may vary with the particular instrument used in the analysis.

(i) Recovery.

The recovery of BD from samples used in storage tests remained above 77% when the samples were stored at ambient temperature and above 94% when the samples were stored at refrigerated temperature. These values were determined from regression lines which were calculated from the storage data. The recovery of the analyte from the collection device must be at least 75% following storage.

(j) Precision (analytical method only).

The pooled coefficient of variation obtained from replicate determinations of analytical standards over the range of 0.6 to 2 times the target concentration was 0.011.

(k) Precision (overall procedure).

The precision at the 95% confidence level for the refrigerated temperature storage test was $\pm 12.7\%$. This value includes an additional $\pm 5\%$ for sampling error. The overall procedure must provide results at the target concentrations that are $\pm 25\%$ at the 95% confidence level.

(l) Reproducibility.

Samples collected from a controlled test atmosphere and a draft copy of this procedure were given to a chemist unassociated with this evaluation. The average recovery was 97.2% and the standard deviation was 6.2%.

(2) Sampling procedure.

(a) Apparatus. Samples are collected by use of a personal sampling pump that can be calibrated to within $\pm 5\%$ of the recommended 0.05 L/min sampling rate with the sampling tube in line.

(b) Samples are collected with laboratory prepared sampling tubes. The sampling tube is constructed of silane-treated glass and is about 5-cm long. The ID is 4 mm and the OD is 6 mm. One end of the tube is tapered so that a glass wool end plug will hold the contents of the tube in place during sampling. The opening in the tapered end of the sampling tube is at least one-half the ID of the tube (2 mm). The other end of the sampling tube is open to its full 4-mm ID to facilitate packing of the tube. Both ends of the tube are fire-polished for safety. The tube is packed with 2 sections of pre-treated charcoal which has been coated with TBC. The tube is packed with a 50-mg backup section, located nearest the tapered end, and with a 100-mg sampling section of charcoal. The two sections of coated adsorbent are separated and retained with small plugs of silanized glass wool. Following packing, the sampling tubes are sealed with two 7/32 inch OD plastic end caps. Instructions for the pretreatment and coating of the charcoal are presented in Section 4.1 of this method.

(c) Reagents.

None required.

(d) Technique.

(i) Properly label the sampling tube before sampling and then remove the plastic end caps.

(ii) Attach the sampling tube to the pump using a section of flexible plastic tubing such that the larger front section of the sampling tube is exposed directly to the atmosphere. Do not place any tubing ahead of the sampling tube. The sam-

pling tube should be attached in the worker's breathing zone in a vertical manner such that it does not impede work performance.

(iii) After sampling for the appropriate time, remove the sampling tube from the pump and then seal the tube with plastic end caps. Wrap the tube lengthwise.

(iv) Include at least one blank for each sampling set. The blank should be handled in the same manner as the samples with the exception that air is not drawn through it.

(v) List any potential interferences on the sample data sheet.

(vi) The samples require no special shipping precautions under normal conditions. The samples should be refrigerated if they are to be exposed to higher than normal ambient temperatures. If the samples are to be stored before they are shipped to the laboratory, they should be kept in a freezer. The samples should be placed in a freezer upon receipt at the laboratory.

(e) Breakthrough.

(Breakthrough was defined as the relative amount of analyte found on the backup section of the tube in relation to the total amount of analyte collected on the sampling tube. Five-percent breakthrough occurred after sampling a test atmosphere containing 2.0 ppm BD for 90 min. at 0.05 L/min. At the end of this time 4.5 L of air had been sampled and 20.1 ug of the analyte was collected. The relative humidity of the sampled air was 80% at 23 deg. C.)

Breakthrough studies have shown that the recommended sampling procedure can be used at air concentrations higher than the target concentration. The sampling time, however, should be reduced to 45 min. if both the expected BD level and the relative humidity of the sampled air are high.

(f) Desorption efficiency.

The average desorption efficiency for BD from TBC coated charcoal over the range from 0.6 to 2 times the target concentration was 96.4%. The efficiency was essentially constant over the range studied.

(g) Recommended air volume and sampling rate.

(h) The recommended air volume is 3 L.

(i) The recommended sampling rate is 0.05 L/min. for 1 hour.

(j) Interferences.

There are no known interferences to the sampling method.

(k) Safety precautions.

(i) Attach the sampling equipment to the worker in such a manner that it will not interfere with work performance or safety.

(ii) Follow all safety practices that apply to the work area being sampled.

(3) Analytical procedure.

(a) Apparatus.

(i) A gas chromatograph (GC), equipped with a flame ionization detector (FID).(2)

Footnote (2) A Hewlett-Packard Model 5840A GC was used for this evaluation. Injections were performed using a Hewlett-Packard Model 7671A automatic sampler.

(ii) A GC column capable of resolving the analytes from any interference.(3)

Footnote (3)

A 20-ft x 1/8-inch OD stainless steel GC column containing 20% FFAP on 80/100 mesh Chromabsorb W-AW-DMCS was used for this evaluation.

(iii) Vials, glass 2-mL with Teflon-lined caps.

(iv) Disposable Pasteur-type pipets, volumetric flasks, pipets and syringes for preparing samples and standards, making dilutions and performing injections.

(b) Reagents.

(i) Carbon disulfide.(4)

Footnote (4)

Fisher Scientific Company A.C.S. Reagent Grade solvent was used in this evaluation.

The benzene contaminant that was present in the carbon disulfide was used as an internal standard (ISTD) in this evaluation.

(ii) Nitrogen, hydrogen and air, GC grade.

(iii) BD of known high purity.(5)

Footnote (5)

Matheson Gas Products, CP Grade 1,3-butadiene was used in this study.

(c) Standard preparation.

(i) Prepare standards by diluting known volumes of BD gas with carbon disulfide. This can be accomplished by injecting the appropriate volume of BD into the headspace above the 1-mL of carbon disulfide contained in sealed 2-mL vial. Shake the vial after the needle is removed from the septum.(6)

Footnote (6)

A standard containing 7.71 ug/mL (at ambient temperature and pressure) was prepared by diluting 4 uL of the gas with 1-mL of carbon disulfide.

(ii) The mass of BD gas used to prepare standards can be determined by use of the following equations:

$$MV=(760/BP)(273+t)/(273)(22.41)$$

Where:

MV= ambient molar volume BP= ambient barometric pressure T=ambient temperature ug/uL
 $=54.09/MV$ ug/standard= (ug/uL)(uL) BD used to prepare the standard

(d) Sample preparation.

(i) Transfer the 100-mg section of the sampling tube to a 2-mL vial. Place the 50-mg section in a separate vial. If the glass wool plugs contain a significant amount of charcoal, place them with the appropriate sampling tube section.

(ii) Add 1-mL of carbon disulfide to each vial.

(iii) Seal the vials with Teflon-lined caps and then allow them to desorb for one hour. Shake the vials by hand vigorously several times during the desorption period.

(iv) If it is not possible to analyze the samples within 4 hours, separate the carbon disulfide from the charcoal, using a disposable Pasteur-type pipet, following the one hour. This separation will improve the stability of desorbed samples.

(v) Save the used sampling tubes to be cleaned and repacked with fresh adsorbent.

(e) Analysis.

(i) GC Conditions.

Column temperature: 95 deg. C

Injector temperature: 180 deg. C

Detector temperature: 275 deg. C

Carrier gas flow rate: 30 mL/min.

Injection volume: 0.80 uL

GC column: 20-ft x 1/8-in OD stainless steel GC column containing 20%

FFAP on 80/100 Chromabsorb W-AW-DMCS.

(ii) Chromatogram. See Section 4.2.

(iii) Use a suitable method, such as electronic or peak heights, to measure detector response.

(iv) Prepare a calibration curve using several standard solutions of different concentrations. Prepare the calibration curve daily. Program the integrator to report the results in ug/mL.

(v) Bracket sample concentrations with standards.

(f) Interferences (analytical).

(i) Any compound with the same general retention time as the analyte and which also gives a detector response is a potential interference. Possible interferences should be reported by the industrial hygienist to the laboratory with submitted samples.

(ii) GC parameters (temperature, column, etc.) may be changed to circumvent interferences.

(iii) A useful means of structure designation is GC/MS. It is recommended that this procedure be used to confirm samples whenever possible.

(g) Calculations.

(i) Results are obtained by use of calibration curves. Calibration curves are prepared by plotting detector response against concentration for each standard. The best line through the data points is determined by curve fitting.

(ii) The concentration, in ug/mL, for a particular sample is determined by comparing its detector response to the calibration curve. If any analyte is found on the backup section, this amount is added to the amount found on the front section. Blank corrections should be performed before adding the results together.

(iii) The BD air concentration can be expressed using the following equation:

$$\text{mg/m}(3)=(A)(B)/(C)(D)$$

Where:

A= ug/mL from Section 3.7.2 B= volume C= L of air sampled D =efficiency

(iv) The following equation can be used to convert results in mg/m(3) to ppm:

$$\text{ppm}=(\text{mg/m}(3))(24.46)/54.09$$

Where:

mg/m(3)= result from Section 3.7.3. 24.46= molar volume of an ideal gas at 760 mm Hg and 25 deg. C.

(h) Safety precautions (analytical).

(i) Avoid skin contact and inhalation of all chemicals.

(ii) Restrict the use of all chemicals to a fume hood whenever possible.

(iii) Wear safety glasses and a lab coat in all laboratory areas.

(4) Additional Information.

(a) A procedure to prepare specially cleaned charcoal coated with TBC.

(i) Apparatus.

(A) Magnetic stirrer and stir bar.

(B) Tube furnace capable of maintaining a temperature of 700 deg. C and equipped with a quartz tube that can hold 30 g of charcoal.(8)

Footnote (8) A Lindberg Type 55035 Tube furnace was used in this evaluation.

(C) A means to purge nitrogen gas through the charcoal inside the quartz tube.

(D) Water bath capable of maintaining a temperature of 60 deg. C.

(E) Miscellaneous laboratory equipment: One-liter vacuum flask, 1-L Erlenmeyer flask, 350-Ml Buchner funnel with a coarse fitted disc, 4-oz brown bottle, rubber stopper, Teflon tape etc.

(ii) Reagents.

(A) Phosphoric acid, 10% by weight, in water.(9)

Footnote (9) Baker Analyzed Reagent grade was diluted with water for use in this evaluation.

(B) 4-tert-Butylcatechol (TBC).(10)

Footnote (10) The Aldrich Chemical Company 99% grade was used in this evaluation.

(C) Specially cleaned coconut shell charcoal, 20/40 mesh.(11)

Footnote (11) Specially cleaned charcoal was obtained from Supelco, Inc. for use in this evaluation. The cleaning process used by Supelco is proprietary.

(D) Nitrogen gas, GC grade.

(iii) Procedure.

Weigh 30g of charcoal into a 500-mL Erlenmeyer flask. Add about 250 mL of 10% phosphoric acid to the flask and then swirl the mixture. Stir the mixture for 1 hour using a magnetic stirrer. Filter the mixture using a fitted Buchner funnel. Wash the charcoal several times with 250-mL portions of deionized water to remove all traces of the acid. Transfer the washed charcoal to the tube furnace quartz tube. Place the quartz tube in the furnace and then connect the nitrogen gas purge to the tube. Fire the charcoal to 700 deg. C. Maintain that temperature for at least 1 hour. After the charcoal has cooled to room temperature, transfer it to a tared beaker. Determine the weight of the charcoal and then add an amount of TBC which is 10% of the charcoal, by weight.

CAUTION-TBC is toxic and should only be handled in a fume hood while wearing gloves.

Carefully mix the contents of the beaker and then transfer the mixture to a 4-oz bottle. Stopper the bottle with a clean rubber stopper which has been wrapped with Teflon tape. Clamp the bottle in a water bath so that the water level is above the charcoal level. Gently heat the bath to 60 deg. C and then maintain that temperature for 1 hour. Cool the charcoal to room temperature and then transfer the coated charcoal to a suitable container.

The coated charcoal is now ready to be packed into sampling tubes. The sampling tubes should be stored in a sealed container to prevent contamination. Sampling tubes should be stored in the dark at room temperature. The sampling tubes should be segregated by coated adsorbent lot number.

(b) Chromatograms.

The chromatograms were obtained using the recommended analytical method. The chart speed was set at 1 cm/min. for the first three min. and then at 0.2 cm/min. for the time remaining in the analysis.

The peak which elutes just before BD is a reaction product between an impurity on the charcoal and TBC. This peak is always present, but it is easily resolved from the analyte. The peak which elutes immediately before benzene is an oxidation product of TBC.

(5) References.

(a) "Current Intelligence Bulletin 41, 1,3-Butadiene", U.S. Dept. of Health and Human Services, Public Health Service, Center for Disease Control, NIOSH.

(b) "NIOSH Manual of Analytical Methods", 2nd ed.; U.S. Dept. of Health Education and Welfare, National Institute for Occupational Safety and Health: Cincinnati, OH, 1977, Vol. 2, Method No. S91 DHEW (NIOSH) Publ. (U.S.), No. 77-157-B.

(c) Hawley, G.C., Ed. "The Condensed Chemical Dictionary", 8th ed.; Van Nostrand Rienhold Company: New York, 1971; 139.5.4. Chem. Eng. News (June 10, 1985), (63), 22-66.

Appendix E: (~~Respirator Fit Testing Procedures (Mandatory)~~)

~~A. The Employer Shall Conduct Fit Testing Using the Following Procedures.~~

~~These provisions apply to both QLFT and QNFT.~~

~~1. The test subject shall be allowed to pick the most comfortable respirator from a selection of respirators of various sizes and models.~~

~~2. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a comfortable fit. A mirror shall be available to assist the subject in evaluating the fit and positioning the respirator. This instruction may not constitute the subject's formal training on respirator use, because it is only a review.~~

~~3. The test subject shall be informed that he/she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape, and if fitted and used properly, will provide adequate protection.~~

~~4. The test subject shall be instructed to hold each chosen facepiece up to the face and eliminate those which obviously do not give a comfortable fit.~~

~~5. The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in item 6 below. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.~~

~~6. Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:~~

~~(a) Position of the mask on the nose.~~

~~(b) Room for eye protection.~~

~~(c) Room to talk.~~

~~(d) Position of mask on face and cheeks.~~

~~7. The following criteria shall be used to help determine the adequacy of the respirator fit:~~

- (a) Chin properly placed;
- (b) Adequate strap tension, not overly tightened;
- (c) Fit across nose bridge;
- (d) Respirator of proper size to span distance from nose to chin;
- (e) Tendency of respirator to slip;
- (f) Self-observation in mirror to evaluate fit and respirator position.

8. The test subject shall conduct the negative and positive pressure fit checks using procedures in Appendix A or those recommended by the respirator manufacturer. Before conducting the negative or positive pressure fit checks, the subject shall be told to seat the mask on the face by moving the head from side to side and up and down slowly while taking in a few slow deep breaths. Another facepiece shall be selected and retested if the test subject fails the fit check tests.

9. The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, or sideburns which cross the respirator sealing surface. Any type of apparel which interferes with a satisfactory fit shall be altered or removed.

10. If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician to determine whether the test subject can wear a respirator while performing her or his duties.

11. If the employee finds the fit of the respirator unacceptable, the test subject shall be given the opportunity to select a different respirator and to be retested.

12. Exercise regimen. Prior to the commencement of the fit test, the test subject shall be given a description of the fit test and the test subject's responsibilities during the test procedure. The description of the process shall include a description of the test exercises that the subject will be performing. The respirator to be tested shall be worn for at least 5 minutes before the start of the fit test.

13. Test Exercises. The test subject shall perform exercises, in the test environment, while wearing any applicable safety equipment that may be worn during actual respirator use which could interfere with fit, in the manner described below:

(a) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally.

(b) Deep breathing. In a normal standing position, the subject shall breathe slowly and deeply, taking caution so as to not hyperventilate.

(c) Turning head side to side. Standing in place, the subject shall slowly turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(d) Moving head up and down. Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(e) Talking. The subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage, count backward from 100, or recite a memorized poem or song.

Rainbow Passage

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(f) Grimace. The test subject shall grimace by smiling or frowning. (Only for QNFT testing, not performed for QLFT)

(g) Bending over. The test subject shall bend at the waist as if he/she were to touch his/her toes. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(h) Normal breathing. Same as exercise (a). Each test exercise shall be performed for one minute except for the grimace exercise which shall be performed for 15 seconds.

The test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

B. Qualitative Fit Test (QLFT) Protocols

1. General

(a) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator qualitative fit test program.

(b) The employer shall ensure that persons administering QLFT are able to prepare test solutions, calibrate equipment and perform tests properly, recognize invalid tests, and assure that test equipment is in proper working order.

(c) The employer shall assure that QLFT equipment is kept clean and well maintained so as to operate within the parameters for which it was designed.

2. Isoamyl Acetate Protocol

(a) Odor threshold screening:

The odor threshold screening test, performed without wearing a respirator, is intended to determine if the individual tested can detect the odor of isoamyl acetate.

(1) Three 1 liter glass jars with metal lids are required.

(2) Odor free water (e.g. distilled or spring water) at approximately 25 degrees C shall be used for the solutions.

(3) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a 1 liter jar and shaking for 30 seconds. A new solution shall be prepared at least weekly.

(4) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated to prevent the odor of IAA from becoming evident in the general room air where testing takes place.

(5) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. The solution shall be shaken for 30 seconds and allowed to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution shall be used for only one day.

(6) A test blank shall be prepared in a third jar by adding 500 cc of odor free water.

(7) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. Labels shall be placed on the lids so they can be periodically peeled off and switched to maintain the integrity of the test.

(8) The following instruction shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(9) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(10) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test shall not be performed.

(11) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(b) Isoamyl acetate fit test

(1) The fit test chamber shall be similar to a clear 55-gallon drum liner suspended inverted over a 2-foot diameter frame so that the top of the chamber is about 6 inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(2) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors.

(3) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(4) A copy of the test exercises and any prepared text from which the subject is to read shall be taped to the inside of the test chamber.

(5) Upon entering the test chamber, the test subject shall be given a 6-inch by 5-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half and wetted with 0.75 cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(6) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of his/her cooperation, and the purpose for the test exercises; or to demonstrate some of the exercises.

(7) If at any time during the test, the subject detects the banana-like odor of IAA, the test is failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(8) If the test is failed, the subject shall return to the selection room and remove the respirator. The test subject

shall repeat the odor sensitivity test, select and put on another respirator, return to the test area and again begin the fit test procedure described in (1) through (7) above. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(9) When the subject wearing the respirator passes the test, its efficiency shall be demonstrated for the subject by having the subject break the face seal and take a breath before exiting the chamber.

(10) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test, so there is no significant IAA concentration buildup in the chamber during subsequent tests. The used towels shall be kept in a self-sealing bag to keep the test area from being contaminated.

3. Saccharin Solution Aerosol Protocol

The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(a) Taste threshold screening. The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the individual being tested can detect the taste of saccharin.

(1) During threshold screening as well as during fit testing, subjects shall wear an enclosure about the head and shoulders that is approximately 12 inches in diameter by 14 inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts # FT 14 and # FT 15 combined, is adequate.

(2) The test enclosure shall have a 3/4-inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(3) The test subject shall don the test enclosure. Throughout the threshold screening test, the test subject shall breathe through his/her slightly open mouth with tongue extended.

(4) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(5) The threshold check solution consists of 0.83 grams of sodium saccharin USP in 100 ml of warm water. It can be prepared by putting 1 ml of the fit test solution (see (b)(5) below) in 100 ml of distilled water.

(6) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(7) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(8) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(9) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(10) The test conductor will take note of the number of squeezes required to solicit a taste response.

(11) If the saccharin is not tasted after 30 squeezes (step 10), the test subject may not perform the saccharin fit test.

(12) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(13) Correct use of the nebulizer means that approximately 1 ml of liquid is used at a time in the nebulizer body.

(14) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(b) Saccharin solution aerosol fit test procedure

(1) The test subject may not eat, drink (except plain water), smoke, or chew gum for 15 minutes before the test.

(2) The fit test uses the same enclosure described in (a) above.

(3) The test subject shall don the enclosure while wearing the respirator selected in section (a) above. The respirator shall be properly adjusted and equipped with a particulate filter(s).

(4) A second DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(5) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 ml of warm water.

(6) As before, the test subject shall breathe through the slightly open mouth with tongue extended.

(7) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same number of squeezes required to elicit a taste response in the screening test. A minimum of 10 squeezes is required.

(8) After generating the aerosol the test subject shall be instructed to perform the exercises in section A. 13 above.

(9) Every 30 seconds the aerosol concentration shall be replenished using one half the number of squeezes as initially.

(10) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(11) If the taste of saccharin is detected, the fit is deemed unsatisfactory and a different respirator shall be tried.

4. Irritant Fume Protocol

(a) The respirator to be tested shall be equipped with high efficiency particulate air (HEPA) filters.

(b) No form of test enclosure or hood for the test subject shall be used.

(c) The test subject shall be allowed to smell a weak concentration of the irritant smoke before the respirator is donned to become familiar with its irritating properties.

(d) Break both ends of a ventilation smoke tube containing stannic chloride. Attach one end of the smoke tube to an aspirator squeeze bulb and cover the other end with a short piece of tubing to prevent potential injury from the jagged end of the smoke tube.

(d) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep his/her eyes closed while the test is performed.

(e) The test conductor shall direct the stream of irritant smoke from the smoke tube towards the face seal area of the test subject. He/She shall begin at least 12 inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(f) The exercises identified in section A. 13 above shall be performed by the test subject while the respirator seal is being challenged by the smoke.

(g) Each test subject passing the smoke test without evidence of a response (involuntary cough) shall be given a sensitivity check of the smoke from the same tube once the respirator has been removed to determine whether he/she reacts to the smoke. Failure to evoke a response shall void the fit test.

(h) The fit test shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agent.

C. Quantitative Fit Test (QNFT) Protocols

The following quantitative fit testing procedures have been demonstrated to be acceptable.

(1) Quantitative fit testing using a non-hazardous challenge aerosol (such as corn oil or sodium chloride) generated in a test chamber, and employing instrumentation to quantify the fit of the respirator.

(2) Quantitative fit testing using ambient aerosol as the challenge agent and appropriate instrumentation (condensation nuclei counter) to quantify the respirator fit.

(3) Quantitative fit testing using controlled negative pressure and appropriate instrumentation to measure the volumetric leak rate of a facepiece to quantify the respirator fit.

1. General

(a) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator quantitative fit test program.

(b) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and assure that test equipment is in proper working order.

(c) The employer shall assure that QNFT equipment is kept clean, maintained and calibrated according to the manufacturer's instructions so as to operate at the parameters for which it was designed.

2. Generated aerosol quantitative fit testing protocol
Apparatus

(a) Instrumentation. Aerosol generation, dilution, and measurement systems using particulates (corn oil or sodium chloride) or gases or vapors as test aerosols shall be used for quantitative fit testing.

(b) Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

(c) When testing air purifying respirators, the normal filter or cartridge element shall be replaced with a high efficiency particulate air (HEPA) filter supplied by the same manufacturer in the case of particulate QNFT aerosols or a sorbent offering contaminant penetration protection equivalent.

lent to high efficiency filters where the QNFT test agent is a gas or vapor.

(d) The sampling instrument shall be selected so that a computer record or strip chart record may be made of the test showing the rise and fall of the challenge agent concentration with each inspiration and expiration at fit factors of at least 2,000. Integrators or computers which integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

(e) The combination of substitute air purifying elements, challenge agent and challenge agent concentration shall be such that the test subject is not exposed in excess of an established exposure limit for the challenge agent at any time during the testing process based upon the length of the exposure and the exposure limit duration.

(f) The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g. where the respirator is probed), a free air flow is allowed into the sampling line at all times and so that there is no interference with the fit or performance of the respirator. The in-mask sampling device (probe) shall be designed and used so that the air sample is drawn from the breathing zone of the test subject, midway between the nose and mouth and with the probe extending into the facepiece cavity at least 1/4 inch.

(g) The test set up shall permit the person administering the test to observe the test subject inside the chamber during the test.

(h) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent constant to within a 10 percent variation for the duration of the test.

(i) The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event and its being recorded.

(j) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

(k) The exhaust flow from the test chamber shall pass through a high efficiency filter before release.

(l) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed 50 percent.

(m) The limitations of instrument detection shall be taken into account when determining the fit factor.

(n) Test respirators shall be maintained in proper working order and inspected for deficiencies such as cracks, missing valves and gaskets, etc.

3. Procedural Requirements

(a) When performing the initial positive or negative pressure fit check the sampling line shall be crimped closed in order to avoid air pressure leakage during either of these fit checks.

(b) The use of an abbreviated screening QLFT test is optional and may be utilized in order to quickly identify poor fitting respirators which passed the positive and/or negative pressure test and thus reduce the amount of QNFT time. The use of the CNC QNFT instrument in the count mode is

another optional method to use to obtain a quick estimate of fit and eliminate poor fitting respirators before going on to perform a full QNFT.

(c) A reasonably stable challenge agent concentration shall be measured in the test chamber prior to testing. For canopy or shower curtain type of test units the determination of the challenge agent stability may be established after the test subject has entered the test environment.

(d) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed 5 percent for a half mask or 1 percent for a full facepiece respirator.

(e) A stable challenge concentration shall be obtained prior to the actual start of testing.

(f) Respirator restraining straps shall not be over tightened for testing. The straps shall be adjusted by the wearer without assistance from other persons to give a reasonably comfortable fit typical of normal use.

(g) The test shall be terminated whenever any single peak penetration exceeds 5 percent for half masks and 1 percent for full facepiece respirators. The test subject shall be refitted and retested.

(h) Calculation of fit factors.

(1) The fit factor shall be determined for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration measured inside the respirator for each test exercise except the grimace exercise.

(2) The average test chamber concentration shall be calculated as the arithmetic average of the concentration measured before and after each test (i.e. 8 exercises) or the arithmetic average of the concentration measured before and after each exercise or the true average measured continuously during the respirator sample.

(3) The concentration of the challenge agent inside the respirator shall be determined by one of the following methods:

(i) Average peak penetration method means the method of determining test agent penetration into the respirator utilizing a strip chart recorder, integrator, or computer. The agent penetration is determined by an average of the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers which calculate the actual test agent penetration into the respirator for each exercise will also be considered to meet the requirements of the average peak penetration method.

(ii) Maximum peak penetration method means the method of determining test agent penetration in the respirator as determined by strip chart recordings of the test. The highest peak penetration for a given exercise is taken to be representative of average penetration into the respirator for that exercise.

(iii) Integration by calculation of the area under the individual peak for each exercise except the grimace exercise. This includes computerized integration.

(iv) The calculation of the overall fit factor using individual exercise fit factors involves first converting the exercise fit factors to penetration values, determining the average, and then converting that result back to a fit factor. This procedure is described in the following equation:

Overall	Number of exercises
Fit Factor: =	_____
	$1/ff(1) + 1/ff(2) + 1/ff(3) + 1/ff(4) + 1/ff(5) + 1/ff(7) + 1/ff(8)$

where ff(1), ff(2), ff(3), etc. are the fit factors for exercise 1, 2, 3, etc. (Results of the grimace exercise (7) are not used in this calculation.)

(j) The test subject shall not be permitted to wear a half mask or quarter facepiece respirator unless a minimum fit factor of 100 is obtained, or a full facepiece respirator unless a minimum fit factor of 500 is obtained.

(k) Filters used for quantitative fit testing shall be replaced whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced if there is any indication of breakthrough by a test agent.

4. Ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol

The ambient aerosol condensation nuclei counter (CNC) quantitative fit testing (Portacount(TM)) protocol quantitatively fit tests respirators with the use of a probe. The probed respirator is only used for quantitative fit tests. A probed respirator has a special sampling device, installed on the respirator, that allows the probe to sample the air from inside the mask. A probed respirator is required for each make, model, and size in which your company requires and can be obtained from the respirator manufacturer or distributor. The CNC instrument manufacturer Dynatech Nevada also provides probe attachments (TSI sampling adapters) that permits fit testing in an employee's own respirator. A fit factor pass level of 100 is necessary for a half-mask respirator and a fit factor of at least 10 times greater than the assigned protection factor for any other negative pressure respirator. The Agency does not recommend the use of homemade sampling adapters. The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(a) Portacount Fit Test Requirements:

(1) Check the respirator to make sure the respirator is fitted with a high efficiency filter and that the sampling probe and line are properly attached to the facepiece.

(2) Instruct the person to be tested to don the respirator several minutes before the fit test starts. This purges the particles inside the respirator and permits the wearer to make certain the respirator is comfortable. This individual should have already been trained on how to wear the respirator properly.

(3) Check the following conditions for the adequacy of the respirator fit: Chin properly placed; Adequate strap tension, not overly tightened; Fit across nose bridge; Respirator of proper size to span distance from nose to chin; Tendencies for the respirator to slip; Self-observation in a mirror to evaluate fit and respirator position.

(4) Have the person wearing the respirator do a fit check. If leakage is detected, determine the cause. If leakage is from a poorly fitting facepiece, try another size of the same type of respirator.

(5) Follow the instructions for operating the Portacount and proceed with the test.

(b) Portacount Test Exercises:

(1) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally for 1 minute.

(2) Deep breathing. In a normal standing position, the subject shall breathe slowly and deeply for 1 minute, taking caution so as not to hyperventilate.

(3) Turning head side to side. Standing in place, the subject shall slowly turn his or her head from side to side between the extreme positions on each side for 1 minute. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(4) Moving head up and down. Standing in place, the subject shall slowly move his or her head up and down for 1 minute. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(5) Talking. The subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage, count backward from 100, or recite a memorized poem or song for 1 minute.

(6) Grimace. The test subject shall grimace by smiling or frowning for 15 seconds.

(7) Bending Over. The test subject shall bend at the waist as if he or she were to touch his or her toes for 1 minute. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(8) Normal Breathing. Remove and re-don the respirator within a one minute period. Then, in a normal standing position, without talking, the subject shall breathe normally for 1 minute.

After the test exercises, the test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

(c) Portacount Test Instrument:

(1) The Portacount will automatically stop and calculate the overall fit factor for the entire set of exercises. The overall fit factor is what counts. The Pass or Fail message will indicate whether or not the test was successful. If the test was a Pass, the fit test is over.

(2) A record of the test needs to be kept on file assuming the fit test was successful. The record must contain the test subject's name; overall fit factor; make, model and size of respirator used, and date tested.)) Reserved.

APPENDIX F, MEDICAL QUESTIONNAIRES, (Non-mandatory)

1,3-Butadiene (BD) Initial Health Questionnaire

DIRECTIONS:

You have been asked to answer the questions on this form because you work with BD (butadiene). These questions are about your work, medical history, and health concerns. Please do your best to answer all of the questions. If you need help, please tell the doctor or health care professional who reviews this form.

This form is a confidential medical record. Only information directly related to your health and safety on the job may be given to your employer. Personal health information will not be given to anyone without your consent.

Date: _____

Name: _____ SSN ___/___/___

Last First MI

Job Title: _____

Company's Name: _____

Supervisor's Name: _____

Supervisor's Phone No.: () _____ - _____

Work History

1. Please list all jobs you have had in the past, starting with the job you have now and moving back in time to your first job. (For more space, write on the back of this page.)

Main Job Duty

Year

Company Name

City, State

Chemicals

- 1.
2.
3.
4.
5.
6.
7.
8.

2. Please describe what you do during a typical work day. Be sure to tell about your work with BD.

3. Please check any of these chemicals that you work with now or have worked with in the past:

- benzene
glues
toluene
inks, dyes
other solvents, grease cutters
insecticides (like DDT, lindane, etc.)
paints, varnishes, thinners, strippers
dusts

- carbon tetrachloride ("carbon tet")
arsine
carbon disulfide
lead
cement
petroleum products
nitrites

4. Please check the protective clothing or equipment you use at the job you have now:

- gloves
coveralls
respirator
dust mask
safety glasses, goggles

Please circle your answer.

5. Does your protective clothing or equipment fit you properly? yes no

6. Have you ever made changes in your protective clothing or equipment to make it fit better? yes no

7. Have you been exposed to BD when you were not wearing protective clothing or equipment? yes no

8. Where do you eat, drink and/or smoke when you are at work? (Please check all that apply.)

- Cafeteria/restaurant/snack bar
Break room/employee lounge
Smoking lounge
At my work station

Please circle your answer.

9. Have you been exposed to radiation (like x-rays or nuclear material) at the job you have now or at past jobs? yes no

10. Do you have any hobbies that expose you to dusts or chemicals (including paints, glues, etc.)? yes no

11. Do you have any second or side jobs? yes no
If yes, what are your duties there?

12. Were you in the military? yes no

If yes, what did you do in the military? _____

PERMANENT

Family Health History

1. In the FAMILY MEMBER column, across from the disease name, write which family member, if any, had the disease.

DISEASE FAMILY MEMBER

- Cancer
Lymphoma
Sickle Cell Disease or Trait
Immune Disease
Leukemia
Anemia

2. Please fill in the following information about family health

- Relative
Alive?
Age at Death?
Cause of Death?
Father
Mother
Brother/Sister
Brother/Sister
Brother/Sister

Personal Health History

Birth Date ___/___/___ Age ___ Sex ___ Height ___ Weight ___

Please circle your answer.

- 1. Do you smoke any tobacco products? yes no
2. Have you ever had any kind of surgery or operation? yes no

If yes, what type of surgery:

3. Have you ever been in the hospital for any other reasons? yes no

If yes, please describe the reason

4. Do you have any on-going or current medical problems or conditions? yes no

If yes, please describe:

5. Do you now have or have you ever had any of the following? Please check all that apply to you.

- unexplained fever
anemia ("low blood")
HIV/AIDS
weakness
sickle cell
miscarriage
skin rash
bloody stools
leukemia/lymphoma
neck mass/swelling
wheezing
yellowing of skin
bruising easily
lupus
weight loss
kidney problems
enlarged lymph nodes
liver disease
cancer
infertility
drinking problems
thyroid problems
night sweats
chest pain
still birth
eye redness
lumps you can feel
child with birth defect
autoimmune disease
overly tired
lung problems
rheumatoid arthritis
mononucleosis ("mono")
nagging cough

Please circle your answer.

6. Do you have any symptoms or health problems that you think may be related to your work with BD? yes no

If yes, please describe:

7. Have any of your co-workers had similar symptoms or problems? yes no don't know

If yes, please describe:

PERMANENT

8. Do you notice any irritation of your eyes, nose, throat, lungs, or skin when working with BD? yes no

9. Do you notice any blurred vision, coughing, drowsiness, nausea, or headache when working with BD? yes no

10. Do you take any medications (including birth control or over-the-counter)? yes no

If yes, please list: _____

11. Are you allergic to any medication, food, or chemicals? yes no

If yes, please list: _____

12. Do you have any health conditions not covered by this questionnaire that you think are affected by your work with BD? yes no

If yes, please explain: _____

13. Did you understand all the questions? yes no

Signature

1,3-Butadiene (BD) Health Update Questionnaire

DIRECTIONS:

You have been asked to answer the questions on this form because you work with BD (butadiene). These questions are about your work, medical history, and health concerns. Please do your best to answer all of the questions. If you need help, please tell the doctor or health care professional who reviews this form.

This form is a confidential medical record. Only information directly related to your health and safety on the job may be given to your employer. Personal health information will not be given to anyone without your consent.

Date: _____

Name: _____ SSN ___/___/___

Job Title: _____
Last First MI

Company's Name: _____

Supervisor's Name: _____

Supervisor's Phone No.: () _____ - _____

1. Please describe any NEW duties that you have at your job. _____

2. Please describe any additional job duties you have:

Please circle your answer.

3. Are you exposed to any other chemicals in your work since the last time you were evaluated for exposure to BD? yes no

If yes, please list what they are: _____

4. Does your personal protective equipment and clothing fit you properly? yes no

5. Have you made changes in this equipment or clothing to make it fit better? yes no

6. Have you been exposed to BD when you were not wearing protective clothing or equipment? yes no

7. Are you exposed to any NEW chemicals at home or while working on hobbies? yes no

If yes, please list what they are: _____

8. Since your last BD health evaluation, have you started working any new second or side jobs? yes no

If yes, what are your duties there? _____

Personal Health History

1. What is your current weight? _____ pounds

2. Have you been diagnosed with any new medical conditions or illness since your last evaluation? yes no

PERMANENT

If yes, please tell what they are: _____

If yes, please describe: _____

3. Since your last evaluation, have you been in the hospital for any illnesses, injuries, or surgery? yes no

6. Have any of your co-workers had similar symptoms or problems? yes no don't know

If yes, please describe: _____

If yes, please describe: _____

4. Do you have any of the following? Please place a check for all that apply to you.

7. Do you notice any irritation of your eyes, nose, throat, lungs, or skin when working with BD? yes no

- unexplained fever _____
- anemia ("low blood") _____
- HIV/AIDS _____
- weakness _____
- sickle cell _____
- miscarriage _____
- skin rash _____
- bloody stools _____
- leukemia/lymphoma _____
- neck mass/swelling _____
- wheezing _____
- yellowing of skin _____
- bruising easily _____
- lupus _____
- weight loss _____
- kidney problems _____
- enlarged lymph nodes _____
- liver disease _____
- cancer _____
- infertility _____
- drinking problems _____
- thyroid problems _____
- night sweats _____
- chest pain _____
- still birth _____
- eye redness _____
- lumps you can feel _____
- child with birth defect _____
- autoimmune disease _____
- overly tired _____
- lung problems _____
- rheumatoid arthritis _____
- mononucleosis ("mono") _____
- nagging cough _____

8. Do you notice any blurred vision, coughing, drowsiness, nausea, or headache when working with BD? yes no

9. Have you been taking any NEW medications (including birth control or over-the-counter)? yes no

If yes, please list:

10. Have you developed any new allergies to medications, foods, or chemicals? yes no

If yes, please list:

11. Do you have any health conditions not covered by this questionnaire that you think are affected by your work with BD? yes no

If yes, please explain: _____

12. Do you understand all the questions? yes no

Signature _____

AMENDATORY SECTION (Amending WSR 97-18-062, filed 9/2/97, effective 12/1/97)

WAC 296-62-07470 Methylene chloride. This occupational health standard establishes requirements for employers to control occupational exposure to methylene chloride (MC). Employees exposed to MC are at increased risk of developing cancer, adverse effects on the heart, central nervous system and liver, and skin or eye irritation. Exposure may occur through inhalation, by absorption through the skin, or through contact with the skin. MC is a solvent which is used in many different types of work activities, such as paint stripping, polyurethane foam manufacturing, and cleaning and degreasing. Under the requirements of subsection (4) of this section, each covered employer must make an initial determination of each employee's exposure to MC. If the

Please circle your answer.

5. Do you have any symptoms or health problems that you think may be related to your work with BD? yes no

PERMANENT

employer determines that employees are exposed below the action level, the only other provisions of this section that apply are that a record must be made of the determination, the employees must receive information and training under subsection (12) of this section and, where appropriate, employees must be protected from contact with liquid MC under subsection (8) of this section.

The provisions of the MC standard are as follows:

(1) Scope and application. This section applies to all occupational exposures to methylene chloride (MC), Chemical Abstracts Service Registry Number 75-09-2, in general industry, construction and shipyard employment.

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

"Action level" means a concentration of airborne MC of 12.5 parts per million (ppm) calculated as an eight (8)-hour time-weighted average (TWA).

"Authorized person" means any person specifically authorized by the employer and required by work duties to be present in regulated areas, or any person entering such an area as a designated representative of employees for the purpose of exercising the right to observe monitoring and measuring procedures under subsection (4) of this section, or any other person authorized by the WISH Act or regulations issued under the act.

"Director" means the director of the department of labor and industries, or designee.

"Emergency" means any occurrence, such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment, which results, or is likely to result in an uncontrolled release of MC. If an incidental release of MC can be controlled by employees such as maintenance personnel at the time of release and in accordance with the leak/spill provisions required by subsection (6) of this section, it is not considered an emergency as defined by this standard.

"Employee exposure" means exposure to airborne MC which occurs or would occur if the employee were not using respiratory protection.

"Methylene chloride (MC)" means an organic compound with chemical formula, CH₂Cl₂. Its Chemical Abstracts Service Registry Number is 75-09-2. Its molecular weight is 84.9 g/mole.

"Physician or other licensed health care professional" is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide some or all of the health care services required by subsection (10) of this section.

"Regulated area" means an area, demarcated by the employer, where an employee's exposure to airborne concentrations of MC exceeds or can reasonably be expected to exceed either the 8-hour TWA PEL or the STEL.

"Symptom" means central nervous system effects such as headaches, disorientation, dizziness, fatigue, and decreased attention span; skin effects such as chapping, erythema, cracked skin, or skin burns; and cardiac effects such as chest pain or shortness of breath.

"This section" means this methylene chloride standard.

(3) Permissible exposure limits (PELs).

(a) Eight-hour time-weighted average (TWA) PEL. The employer shall ensure that no employee is exposed to an airborne concentration of MC in excess of twenty-five parts of MC per million parts of air (25 ppm) as an 8-hour TWA.

(b) Short-term exposure limit (STEL). The employer shall ensure that no employee is exposed to an airborne concentration of MC in excess of one hundred and twenty-five parts of MC per million parts of air (125 ppm) as determined over a sampling period of fifteen minutes.

(4) Exposure monitoring.

(a) Characterization of employee exposure.

(i) Where MC is present in the workplace, the employer shall determine each employee's exposure by either:

(A) Taking a personal breathing zone air sample of each employee's exposure; or

(B) Taking personal breathing zone air samples that are representative of each employee's exposure.

(ii) Representative samples. The employer may consider personal breathing zone air samples to be representative of employee exposures when they are taken as follows:

(A) 8-hour TWA PEL. The employer has taken one or more personal breathing zone air samples for at least one employee in each job classification in a work area during every work shift, and the employee sampled is expected to have the highest MC exposure.

(B) Short-term exposure limits. The employer has taken one or more personal breathing zone air samples which indicate the highest likely 15-minute exposures during such operations for at least one employee in each job classification in the work area during every work shift, and the employee sampled is expected to have the highest MC exposure.

(C) Exception. Personal breathing zone air samples taken during one work shift may be used to represent employee exposures on other work shifts where the employer can document that the tasks performed and conditions in the workplace are similar across shifts.

(iii) Accuracy of monitoring. The employer shall ensure that the methods used to perform exposure monitoring produce results that are accurate to a confidence level of 95 percent, and are:

(A) Within plus or minus 25 percent for airborne concentrations of MC above the 8-hour TWA PEL or the STEL; or

(B) Within plus or minus 35 percent for airborne concentrations of MC at or above the action level but at or below the 8-hour TWA PEL.

(b) Initial determination. Each employer whose employees are exposed to MC shall perform initial exposure monitoring to determine each affected employee's exposure, except under the following conditions:

(i) Where objective data demonstrate that MC cannot be released in the workplace in airborne concentrations at or above the action level or above the STEL. The objective data shall represent the highest MC exposures likely to occur under reasonably foreseeable conditions of processing, use, or handling. The employer shall document the objective data exemption as specified in subsection (13) of this section;

(ii) Where the employer has performed exposure monitoring within 12 months prior to December 1, and that exposure monitoring meets all other requirements of this section,

and was conducted under conditions substantially equivalent to existing conditions; or

(iii) Where employees are exposed to MC on fewer than 30 days per year (e.g., on a construction site), and the employer has measurements by direct reading instruments which give immediate results (such as a detector tube) and which provide sufficient information regarding employee exposures to determine what control measures are necessary to reduce exposures to acceptable levels.

(c) Periodic monitoring. Where the initial determination shows employee exposures at or above the action level or above the STEL, the employer shall establish an exposure monitoring program for periodic monitoring of employee exposure to MC in accordance with Table 1:

Table 1

Six Initial Determination Exposure Scenarios and Their Associated Monitoring Frequencies

Exposure scenario	Required monitoring activity
Below the action level and at or below the STEL.	No 8-hour TWA or STEL monitoring required.
Below the action level and above the STEL.	No 8-hour TWA monitoring required; monitor STEL exposures every three months.
At or above the action level, at or below the TWA, and at or below the STEL.	Monitor 8-hour TWA exposures every six months.
At or above the action level, at or below the TWA, and above the STEL.	Monitor 8-hour TWA exposures every six months and monitor STEL exposures every three months.
Above the TWA and at or below the STEL.	Monitor 8-hour TWA exposures every three months. <u>In addition, without regard to the last sentence of the note to subsection (3) of this section, the following employers must monitor STEL exposures every three months until either the date by which they must achieve the 8-hour TWAs PEL under subsection (3) of this section or the date by which they in fact achieve the 8-hour TWA PEL, whichever comes first:</u> <ul style="list-style-type: none"> • <u>Employers engaged in polyurethane foam manufacturing;</u> • <u>Foam fabrication;</u> • <u>Furniture refinishing;</u>

Exposure scenario

Required monitoring activity

Above the TWA and above the STEL.	<ul style="list-style-type: none"> • <u>General aviation aircraft stripping;</u> • <u>Product formulation;</u> • <u>Use of MC-based adhesives for boat building and repair;</u> • <u>Recreational vehicle manufacture, van conversion, or upholstery; and use of MC in construction work for restoration and preservation of buildings, painting and paint removal, cabinet making, or floor refinishing and resurfacing.</u> <p>Monitor both 8-hour TWA exposures and STEL exposures every three months.</p>
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(Note to subsection (3)(c) of this section: The employer may decrease the frequency of exposure monitoring to every six months when at least 2 consecutive measurements taken at least 7 days apart show exposures to be at or below the 8-hour TWA PEL. The employer may discontinue the periodic 8-hour TWA monitoring for employees where at least two consecutive measurements taken at least 7 days apart are below the action level. The employer may discontinue the periodic STEL monitoring for employees where at least two consecutive measurements taken at least 7 days apart are at or below the STEL.)

(d) Additional monitoring.

(i) The employer shall perform exposure monitoring when a change in workplace conditions indicates that employee exposure may have increased. Examples of situations that may require additional monitoring include changes in production, process, control equipment, or work practices, or a leak, rupture, or other breakdown.

(ii) Where exposure monitoring is performed due to a spill, leak, rupture or equipment breakdown, the employer shall clean up the MC and perform the appropriate repairs before monitoring.

(e) Employee notification of monitoring results.

(i) The employer shall, within 15 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results in writing, either individually or by posting of results in an appropriate location that is accessible to affected employees.

(ii) Whenever monitoring results indicate that employee exposure is above the 8-hour TWA PEL or the STEL, the employer shall describe in the written notification the corrective action being taken to reduce employee exposure to or below the 8-hour TWA PEL or STEL and the schedule for completion of this action.

(f) Observation of monitoring.

(i) Employee observation. The employer shall provide affected employees or their designated representatives an

PERMANENT

opportunity to observe any monitoring of employee exposure to MC conducted in accordance with this section.

(ii) Observation procedures. When observation of the monitoring of employee exposure to MC requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide, at no cost to the observer(s), and the observer(s) shall be required to use such clothing and equipment and shall comply with all other applicable safety and health procedures.

(5) Regulated areas.

(a) The employer shall establish a regulated area wherever an employee's exposure to airborne concentrations of MC exceeds or can reasonably be expected to exceed either the 8-hour TWA PEL or the STEL.

(b) The employer shall limit access to regulated areas to authorized persons.

(c) The employer shall supply a respirator, selected in accordance with subsection (7)(c) of this section, to each person who enters a regulated area and shall require each affected employee to use that respirator whenever MC exposures are likely to exceed the 8-hour TWA PEL or STEL.

(Note to subsection (5)(c) of this section: An employer who has implemented all feasible engineering, work practice and administrative controls (as required in subsection (6) of this section), and who has established a regulated area (as required by subsection (5)(a) of this section) where MC exposure can be reliably predicted to exceed the 8-hour TWA PEL or the STEL only on certain days (for example, because of work or process schedule) would need to have affected employees use respirators in that regulated area only on those days.)

(d) The employer shall ensure that, within a regulated area, employees do not engage in nonwork activities which may increase dermal or oral MC exposure.

(e) The employer shall ensure that while employees are wearing respirators, they do not engage in activities (such as taking medication or chewing gum or tobacco) which interfere with respirator seal or performance.

(f) The employer shall demarcate regulated areas from the rest of the workplace in any manner that adequately establishes and alerts employees to the boundaries of the area and minimizes the number of authorized employees exposed to MC within the regulated area.

(g) An employer at a multi-employer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to all other employers with work operations at that worksite.

(6) Methods of compliance.

(a) Engineering and work practice controls. The employer shall institute and maintain the effectiveness of engineering controls and work practices to reduce employee exposure to or below the PELs except to the extent that the employer can demonstrate that such controls are not feasible.

(b) Wherever the feasible engineering controls and work practices which can be instituted are not sufficient to reduce employee exposure to or below the 8-TWA PEL or STEL, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of subsection (7) of this section.

(c) Prohibition of rotation. The employer shall not implement a schedule of employee rotation as a means of compliance with the PELs.

(d) Leak and spill detection.

(i) The employer shall implement procedures to detect leaks of MC in the workplace. In work areas where spills may occur, the employer shall make provisions to contain any spills and to safely dispose of any MC-contaminated waste materials.

(ii) The employer shall ensure that all incidental leaks are repaired and that incidental spills are cleaned promptly by employees who use the appropriate personal protective equipment and are trained in proper methods of cleanup.

(Note to subsection (6)(d)(ii) of this section: See Appendix A of this section for examples of procedures that satisfy this requirement. Employers covered by this standard may also be subject to the hazardous waste and emergency response provisions contained in WAC 296-62-3112.)

(7) Respiratory protection.

(a) General requirements. ~~((The employer shall provide a respirator which complies with the requirement of this subsection, at no cost to each affected employee, and ensure that each affected employee uses such respirator where appropriate. Respirators shall be used in the following circumstances))~~ For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) ~~((Whenever))~~ Periods when an employee's exposure to MC exceeds or can reasonably be expected to exceed the 8-hour TWA PEL or the STEL ~~((such as where))~~ for example, when an employee is using MC in a regulated area;

(ii) ~~((During the time interval))~~ Periods necessary to install or implement feasible engineering and work-practice controls;

(iii) In a few work operations, such as some maintenance operations and repair activities, for which the employer demonstrates that engineering and work practice controls are infeasible;

(iv) ~~((Where))~~ Work operations for which feasible engineering and work practice controls are not sufficient to reduce exposures to or below the PELs; ~~((or))~~

(v) ~~((In))~~ Emergencies.

(b) ~~((Medical evaluation. Before having any employee use a supplied-air respirator in the negative pressure mode, or a gas mask with organic vapor canister for emergency escape, the employer shall have a physician or other licensed health care professional ascertain each affected employee's ability to use such respiratory protection. The physician or other licensed health care professional shall provide his or her findings to the affected employee and the employer in a written opinion.~~

(Note to subsection (7)(b) of this section: See also WAC 296-62-07109(3) ~~Respiratory Protection for medical evaluation requirements for employees using respirators for purposes other than emergency escape.~~) Respirator program.

(i) The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07131 (4)(b)(i) and (ii)).

(ii) Employers who provide employees with gas masks with organic-vapor canisters for the purpose of emergency escape must replace the canisters after any emergency use and before the gas masks are returned to service.

~~(c) Respirator selection. ((The appropriate atmosphere-supplying respirators, as specified in Table 2, shall be selected from those approved by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 42 CFR Part 84, "Respiratory Protective Devices." When employers elect to provide gas masks with organic vapor canisters for use in emergency escape, the organic vapor canisters shall bear the approval of NIOSH.)) The employer must select appropriate atmosphere-supplying respirators from Table 2 of this section.~~

Table 2.—Minimum Requirements for Respiratory Protection for Airborne Methylene Chloride

Methylene chloride airborne concentration (ppm) or condition of use	Minimum respirator required ¹
Up to 625 ppm (25 X PEL)	(1) Continuous flow supplied-air respirator, hood or helmet.
Up to 1250 ppm (50 X 8 hr TWA PEL)	(1) Full facepiece supplied-air respirator operated in negative pressure (demand) mode. (2) Full facepiece self-contained breathing apparatus (SCBA) operated in negative pressure (demand) mode.
Up to 5000 ppm (200 X 8-TWA PEL)	(1) Continuous flow supplied-air respirator, full facepiece. (2) Pressure demand supplied-air respirator, full facepiece. (3) Positive pressure full facepiece SCBA.
Unknown concentration, or above 5000 ppm (Greater than 200 X 8-TWA PEL)	(1) Positive pressure full facepiece SCBA. (2) Full facepiece pressure demand supplied-air respirator with an auxiliary self-contained air supply.
Fire fighting	Positive pressure full facepiece SCBA.
Emergency escape	(1) Any continuous flow or pressure demand SCBA. (2) Gas mask with organic vapor canister.

¹ Respirators assigned for higher airborne concentrations may be used at lower concentrations.

~~(d) ((Respirator program. Where respiratory protection is required by this section, the employer shall institute a respirator program in accordance with WAC 296-62-071.~~

~~(e) Permission to leave area. The employer shall permit employees who wear respirators to leave the regulated area to readjust the facepieces to their faces to achieve a proper fit, and to wash their faces and respirator facepieces as necessary in order to prevent skin irritation associated with respirator use.~~

~~(f) Filter respirators. Employers who provide gas masks with organic vapor canisters for the purpose of emergency escape shall replace those canisters after any emergency use before those gas masks are returned to service.~~

~~(g) Respirator fit testing.~~

~~(i) The employer shall ensure that each respirator issued to the employee is properly fitted and exhibits the least possible facepiece leakage from among the facepieces tested.~~

~~(ii) The employer shall perform qualitative or quantitative fit tests at the time of initial fitting and at least annually thereafter for each employee wearing a negative pressure respirator, including those employees for whom emergency escape respirators are provided.~~

~~(Note to subsection (7)(g)(ii) of this section: The only supplied air respirators to which this provision would apply are SCBA in negative pressure mode and full facepiece supplied air respirators operated in negative pressure mode. The small business compliance guides will contain examples of protocols for qualitative and quantitative fit testing.)) Medical evaluation. Before having an employee use a supplied-air respirator in the negative-pressure mode, or a gas mask with an organic-vapor canister for emergency escape, the employer must:~~

~~(i) Have a physician or other licensed health care professional (PLHCP) evaluate the employee's ability to use such respiratory protection;~~

~~(ii) Ensure that the PLHCP provides their findings in a written opinion to the employee and the employer.~~

Note: See WAC 296-62-07150 through 296-62-07156 for medical evaluation requirements for employees using respirators.

(8) Protective work clothing and equipment.

(a) Where needed to prevent MC-induced skin or eye irritation, the employer shall provide clean protective clothing and equipment which is resistant to MC, at no cost to the employee, and shall ensure that each affected employee uses it. Eye and face protection shall meet the requirements of WAC 296-24-078, as applicable.

(b) The employer shall clean, launder, repair and replace all protective clothing and equipment required by this subsection as needed to maintain their effectiveness.

(c) The employer shall be responsible for the safe disposal of such clothing and equipment.

(Note to subsection (8)(c) of this section: See Appendix A for examples of disposal procedures that will satisfy this requirement.)

(9) Hygiene facilities.

(a) If it is reasonably foreseeable that employees' skin may contact solutions containing 0.1 percent or greater MC (for example, through splashes, spills or improper work prac-

PERMANENT

tices), the employer shall provide conveniently located washing facilities capable of removing the MC, and shall ensure that affected employees use these facilities as needed.

(b) If it is reasonably foreseeable that an employee's eyes may contact solutions containing 0.1 percent or greater MC (for example through splashes, spills or improper work practices), the employer shall provide appropriate eyewash facilities within the immediate work area for emergency use, and shall ensure that affected employees use those facilities when necessary.

(10) Medical surveillance.

(a) Affected employees. The employer shall make medical surveillance available for employees who are or may be exposed to MC as follows:

(i) At or above the action level on 30 or more days per year, or above the 8-hour TWA PEL or the STEL on 10 or more days per year;

(ii) Above the 8-TWA PEL or STEL for any time period where an employee has been identified by a physician or other licensed health care professional as being at risk from cardiac disease or from some other serious MC-related health condition and such employee requests inclusion in the medical surveillance program;

(iii) During an emergency.

(b) Costs. The employer shall provide all required medical surveillance at no cost to affected employees, without loss of pay and at a reasonable time and place.

(c) Medical personnel. The employer shall ensure that all medical surveillance procedures are performed by a physician or other licensed health care professional, as defined in subsection (2) of this section.

(d) Frequency of medical surveillance. The employer shall make medical surveillance available to each affected employee as follows:

(i) Initial surveillance. The employer shall provide initial medical surveillance under the schedule provided by subsection (14)(b)(iii) of this section, or before the time of initial assignment of the employee, whichever is later. The employer need not provide the initial surveillance if medical records show that an affected employee has been provided with medical surveillance that complies with this section within 12 months before December 1.

(ii) Periodic medical surveillance. The employer shall update the medical and work history for each affected employee annually. The employer shall provide periodic physical examinations, including appropriate laboratory surveillance, as follows:

(A) For employees 45 years of age or older, within 12 months of the initial surveillance or any subsequent medical surveillance; and

(B) For employees younger than 45 years of age, within 36 months of the initial surveillance or any subsequent medical surveillance.

(iii) Termination of employment or reassignment. When an employee leaves the employer's workplace, or is reassigned to an area where exposure to MC is consistently at or below the action level and STEL, medical surveillance shall be made available if six months or more have elapsed since the last medical surveillance.

(iv) Additional surveillance. The employer shall provide additional medical surveillance at frequencies other than those listed above when recommended in the written medical opinion. (For example, the physician or other licensed health care professional may determine an examination is warranted in less than 36 months for employees younger than 45 years of age based upon evaluation of the results of the annual medical and work history.)

(e) Content of medical surveillance.

(i) Medical and work history. The comprehensive medical and work history shall emphasize neurological symptoms, skin conditions, history of hematologic or liver disease, signs or symptoms suggestive of heart disease (angina, coronary artery disease), risk factors for cardiac disease, MC exposures, and work practices and personal protective equipment used during such exposures.

(Note to subsection (10)(e)(i) of this section: See Appendix B of this section for an example of a medical and work history format that would satisfy this requirement.)

(ii) Physical examination. Where physical examinations are provided as required above, the physician or other licensed health care professional shall accord particular attention to the lungs, cardiovascular system (including blood pressure and pulse), liver, nervous system, and skin. The physician or other licensed health care professional shall determine the extent and nature of the physical examination based on the health status of the employee and analysis of the medical and work history.

(iii) Laboratory surveillance. The physician or other licensed health care professional shall determine the extent of any required laboratory surveillance based on the employee's observed health status and the medical and work history.

(Note to subsection (10)(e)(iii) of this section: See Appendix B of this section for information regarding medical tests. Laboratory surveillance may include before-and after-shift carboxyhemoglobin determinations, resting ECG, hematocrit, liver function tests and cholesterol levels.)

(iv) Other information or reports. The medical surveillance shall also include any other information or reports the physician or other licensed health care professional determines are necessary to assess the employee's health in relation to MC exposure.

(f) Content of emergency medical surveillance. The employer shall ensure that medical surveillance made available when an employee has been exposed to MC in emergency situations includes, at a minimum:

(i) Appropriate emergency treatment and decontamination of the exposed employee;

(ii) Comprehensive physical examination with special emphasis on the nervous system, cardiovascular system, lungs, liver and skin, including blood pressure and pulse;

(iii) Updated medical and work history, as appropriate for the medical condition of the employee; and

(iv) Laboratory surveillance, as indicated by the employee's health status.

(Note to subsection (10)(f)(iv) of this section: See Appendix B for examples of tests which may be appropriate.)

(g) Additional examinations and referrals. Where the physician or other licensed health care professional determines it is necessary, the scope of the medical examination

shall be expanded and the appropriate additional medical surveillance, such as referrals for consultation or examination, shall be provided.

(h) Information provided to the physician or other licensed health care professional. The employer shall provide the following information to a physician or other licensed health care professional who is involved in the diagnosis of MC-induced health effects:

(i) A copy of this section including its applicable appendices;

(ii) A description of the affected employee's past, current and anticipated future duties as they relate to the employee's MC exposure;

(iii) The employee's former or current exposure levels or, for employees not yet occupationally exposed to MC, the employee's anticipated exposure levels and the frequency and exposure levels anticipated to be associated with emergencies;

(iv) A description of any personal protective equipment, such as respirators, used or to be used; and

(v) Information from previous employment-related medical surveillance of the affected employee which is not otherwise available to the physician or other licensed health care professional.

(i) Written medical opinions.

(i) For each physical examination required by this section, the employer shall ensure that the physician or other licensed health care professional provides to the employer and to the affected employee a written opinion regarding the results of that examination within 15 days of completion of the evaluation of medical and laboratory findings, but not more than 30 days after the examination. The written medical opinion shall be limited to the following information:

(A) The physician's or other licensed health care professional's opinion concerning whether ~~((the employee has any detected medical condition(s) which))~~ exposure to MC may contribute to or aggravate the employee's existing cardiac, hepatic, neurological (including stroke) or dermal disease or whether the employee has any other medical condition(s) that would place the employee's health at increased risk of material impairment from exposure to MC;

(B) Any recommended limitations upon the employee's exposure to MC, removal from MC exposure, or upon the employee's use of protective clothing or equipment and respirators;

(C) A statement that the employee has been informed by the physician or other licensed health care professional that MC is a potential occupational carcinogen, of risk factors for heart disease, and the potential for exacerbation of underlying heart disease by exposure to MC through its metabolism to carbon monoxide; and

(D) A statement that the employee has been informed by the physician or other licensed health care professional of the results of the medical examination and any medical conditions resulting from MC exposure which require further explanation or treatment.

(ii) The employer shall instruct the physician or other licensed health care professional not to reveal to the employer, orally or in the written opinion, any specific

records, findings, and diagnoses that have no bearing on occupational exposure to MC.

(Note to subsection (10)(h)(ii) of this section: The written medical opinion may also include information and opinions generated to comply with other OSHA health standards.)

(j) Medical presumption. For purposes of this subsection (10), the physician or other licensed health care professional shall presume, unless medical evidence indicates to the contrary, that a medical condition is unlikely to require medical removal from MC exposure if the employee is not exposed to MC above the 8-hour TWA PEL. If the physician or other licensed health care professional recommends removal for an employee exposed below the 8-hour TWA PEL, the physician or other licensed health care professional shall cite specific medical evidence, sufficient to rebut the presumption that exposure below the 8-hour TWA PEL is unlikely to require removal, to support the recommendation. If such evidence is cited by the physician or other licensed health care professional, the employer must remove the employee. If such evidence is not cited by the physician or other licensed health care professional, the employer is not required to remove the employee.

(k) Medical removal protection (MRP).

(i) Temporary medical removal and return of an employee.

(A) Except as provided in (j) of this subsection, when a medical determination recommends removal because the employee's exposure to MC may contribute to or aggravate the employee's existing cardiac, hepatic, neurological (including stroke), or skin disease, the employer must provide medical removal protection benefits to the employee and either:

(I) Transfer the employee to comparable work where methylene chloride exposure is below the action level; or

(II) Remove the employee from MC exposure.

(B) If comparable work is not available and the employer is able to demonstrate that removal and the costs of extending MRP benefits to an additional employee, considering feasibility in relation to the size of the employer's business and the other requirements of this standard, make further reliance on MRP an inappropriate remedy, the employer may retain the additional employee in the existing job until transfer or removal becomes appropriate, provided:

(I) The employer ensures that the employee receives additional medical surveillance, including a physical examination at least every 60 days until transfer or removal occurs; and

(II) The employer or PLHCP informs the employee of the risk to the employee's health from continued MC exposure.

(C) The employer shall maintain in effect any job-related protective measures or limitations, other than removal, for as long as a medical determination recommends them to be necessary.

(ii) End of MRP benefits and return of the employee to former job status.

(A) The employer may cease providing MRP benefits at the earliest of the following:

(I) Six months;

(II) Return of the employee to the employee's former job status following receipt of a medical determination concluding that the employee's exposure to MC no longer will aggravate any cardiac, hepatic, neurological (including stroke), or dermal disease;

(III) Receipt of a medical determination concluding that the employee can never return to MC exposure.

(B) For the purposes of this subsection (10), the requirement that an employer return an employee to the employee's former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

(I) Medical removal protection benefits.

(i) For purposes of this subsection (10), the term medical removal protection benefits means that, for each removal, an employer must maintain for up to six months the earnings, seniority, and other employment rights and benefits of the employee as though the employee had not been removed from MC exposure or transferred to a comparable job.

(ii) During the period of time that an employee is removed from exposure to MC, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to this section.

(iii) If a removed employee files a workers' compensation claim for a MC-related disability, the employer shall continue the MRP benefits required by this section until either the claim is resolved or the 6-month period for payment of MRP benefits has passed, whichever occurs first. To the extent the employee is entitled to indemnity payments for earnings lost during the period of removal, the employer's obligation to provide medical removal protection benefits to the employee shall be reduced by the amount of such indemnity payments.

(iv) The employer's obligation to provide medical removal protection benefits to a removed employee shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal from either a publicly or an employer-funded compensation program, or receives income from employment with another employer made possible by virtue of the employee's removal.

(m) Voluntary removal or restriction of an employee. Where an employer, although not required by this section to do so, removes an employee from exposure to MC or otherwise places any limitation on an employee due to the effects of MC exposure on the employee's medical condition, the employer shall provide medical removal protection benefits to the employee equal to those required by (l) of this subsection.

(n) Multiple health care professional review mechanism.

(i) If the employer selects the initial physician or licensed health care professional (PLHCP) to conduct any medical examination or consultation provided to an employee under (k) of this subsection, the employer shall notify the employee of the right to seek a second medical opinion each time the employer provides the employee with a copy of the written opinion of that PLHCP.

(ii) If the employee does not agree with the opinion of the employer-selected PLHCP, notifies the employer of that

fact, and takes steps to make an appointment with a second PLHCP within 15 days of receiving a copy of the written opinion of the initial PLHCP, the employer shall pay for the PLHCP chosen by the employee to perform at least the following:

(A) Review any findings, determinations or recommendations of the initial PLHCP; and

(B) Conduct such examinations, consultations, and laboratory tests as the PLHCP deems necessary to facilitate this review.

(iii) If the findings, determinations or recommendations of the second PLHCP differ from those of the initial PLHCP, then the employer and the employee shall instruct the two health care professionals to resolve the disagreement.

(iv) If the two health care professionals are unable to resolve their disagreement within 15 days, then those two health care professionals shall jointly designate a PLHCP who is a specialist in the field at issue. The employer shall pay for the specialist to perform at least the following:

(A) Review the findings, determinations, and recommendations of the first two PLHCPs; and

(B) Conduct such examinations, consultations, laboratory tests and discussions with the prior PLHCPs as the specialist deems necessary to resolve the disagreements of the prior health care professionals.

(v) The written opinion of the specialist shall be the definitive medical determination. The employer shall act consistent with the definitive medical determination, unless the employer and employee agree that the written opinion of one of the other two PLHCPs shall be the definitive medical determination.

(vi) The employer and the employee or authorized employee representative may agree upon the use of any expeditious alternate health care professional determination mechanism in lieu of the multiple health care professional review mechanism provided by this section so long as the alternate mechanism otherwise satisfies the requirements contained in this section.

(11) Hazard communication. The employer shall communicate the following hazards associated with MC on labels and in material safety data sheets in accordance with the requirements of the hazard communication standard, WAC 296-62-054: cancer, cardiac effects (including elevation of carboxyhemoglobin), central nervous system effects, liver effects, and skin and eye irritation.

(12) Employee information and training.

(a) The employer shall provide information and training for each affected employee prior to or at the time of initial assignment to a job involving potential exposure to MC.

(b) The employer shall ensure that information and training is presented in a manner that is understandable to the employees.

(c) In addition to the information required under the hazard communication standard at WAC 296-62-054:

(i) The employer shall inform each affected employee of the requirements of this section and information available in its appendices, as well as how to access or obtain a copy of it in the workplace;

(ii) Wherever an employee's exposure to airborne concentrations of MC exceeds or can reasonably be expected to

exceed the action level, the employer shall inform each affected employee of the quantity, location, manner of use, release, and storage of MC and the specific operations in the workplace that could result in exposure to MC, particularly noting where exposures may be above the 8-hour TWA PEL or STEL;

(d) The employer shall train each affected employee as required under the hazard communication standard at WAC 296-62-054, as appropriate.

(e) The employer shall re-train each affected employee as necessary to ensure that each employee exposed above the action level or the STEL maintains the requisite understanding of the principles of safe use and handling of MC in the workplace.

(f) Whenever there are workplace changes, such as modifications of tasks or procedures or the institution of new tasks or procedures, which increase employee exposure, and where those exposures exceed or can reasonably be expected to exceed the action level, the employer shall update the training as necessary to ensure that each affected employee has the requisite proficiency.

(g) An employer whose employees are exposed to MC at a multi-employer worksite shall notify the other employers with work operations at that site in accordance with the requirements of the hazard communication standard, WAC 296-62-054, as appropriate.

(h) The employer shall provide to the director, upon request, all available materials relating to employee information and training.

(13) Recordkeeping.

(a) Objective data.

(i) Where an employer seeks to demonstrate that initial monitoring is unnecessary through reasonable reliance on objective data showing that any materials in the workplace containing MC will not release MC at levels which exceed the action level or the STEL under foreseeable conditions of exposure, the employer shall establish and maintain an accurate record of the objective data relied upon in support of the exemption.

(ii) This record shall include at least the following information:

(A) The MC-containing material in question;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and/or analysis of the material for the release of MC;

(D) A description of the operation exempted under subsection (4)(b)(i) of this section and how the data support the exemption; and

(E) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(b) Exposure measurements.

(i) The employer shall establish and keep an accurate record of all measurements taken to monitor employee exposure to MC as prescribed in subsection (4) of this section.

(ii) Where the employer has 20 or more employees, this record shall include at least the following information:

(A) The date of measurement for each sample taken;

(B) The operation involving exposure to MC which is being monitored;

(C) Sampling and analytical methods used and evidence of their accuracy;

(D) Number, duration, and results of samples taken;

(E) Type of personal protective equipment, such as respiratory protective devices, worn, if any; and

(F) Name, Social Security number, job classification and exposure of all of the employees represented by monitoring, indicating which employees were actually monitored.

(iii) Where the employer has fewer than 20 employees, the record shall include at least the following information:

(A) The date of measurement for each sample taken;

(B) Number, duration, and results of samples taken; and

(C) Name, Social Security number, job classification and exposure of all of the employees represented by monitoring, indicating which employees were actually monitored.

(iv) The employer shall maintain this record for at least thirty (30) years, in accordance with WAC 296-62-052.

(c) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance under subsection (10) of this section.

(ii) The record shall include at least the following information:

(A) The name, Social Security number and description of the duties of the employee;

(B) Written medical opinions; and

(C) Any employee medical conditions related to exposure to MC.

(iii) The employer shall ensure that this record is maintained for the duration of employment plus thirty (30) years, in accordance with WAC 296-62-052.

(d) Availability.

(i) The employer, upon written request, shall make all records required to be maintained by this section available to the director for examination and copying in accordance with WAC 296-62-052.

(Note to subsection (13)(d)(i) of this section: All records required to be maintained by this section may be kept in the most administratively convenient form (for example, electronic or computer records would satisfy this requirement).)

(ii) The employer, upon request, shall make any employee exposure and objective data records required by this section available for examination and copying by affected employees, former employees, and designated representatives in accordance with WAC 296-62-052.

(iii) The employer, upon request, shall make employee medical records required to be kept by this section available for examination and copying by the subject employee and by anyone having the specific written consent of the subject employee in accordance with WAC 296-62-052.

(e) Transfer of records. The employer shall comply with the requirements concerning transfer of records set forth in WAC 296-62-052.15.

(14) Dates.

(a) ~~(Effective date. This section shall become effective December 1, 1997.~~

~~(b) Start-up dates.~~

~~(i) Initial monitoring required by subsection (4)(b) of this section shall be completed according to the following schedule:~~

~~(A) For employers with fewer than 20 employees, no later than February 4, 1998.~~

~~(B) Immediately for all other employers.~~

~~(ii) Engineering controls required under subsection (6)(a) of this section shall be implemented according to the following schedule:~~

~~(A) For employers with fewer than 20 employees, no later than April 10, 2000.~~

~~(B) For polyurethane foam manufacturers with 20 to 99 employees, no later than April 10, 1999.~~

~~(C) For all other employers, no later than April 10, 1998.~~

~~(iii) All other requirements of this section shall be complied with according to the following schedule:~~

~~(A) For employers with fewer than 20 employees, no later than April 10, 1998.~~

~~(B) For polyurethane foam manufacturers with 20 to 99 employees, no later than January 5, 1998.~~

~~(C) For all other employers, on the effective date.~~

(e)) Engineering controls required under subsection (6)(a) of this section shall be implemented according to the following schedule:

(i) For employers with fewer than 20 employees, no later than April 10, 2000.

(ii) For employers with fewer than 150 employees engaged in foam fabrication; for employers with fewer than 50 employees engaged in furniture refinishing, general aviation aircraft stripping, and product formulation; for employers with fewer than 50 employees using MC-based adhesives for boat building and repair, recreational vehicle manufacture, van conversion, and upholstery; for employers with fewer than 50 employees using MC in construction work for restoration and preservation of buildings, painting and paint removal, cabinet making and/or floor refinishing and resurfacing, no later than April 10, 2000.

(iii) For employers engaged in polyurethane foam manufacturing with 20 or more employees, no later than October 10, 1999.

(b) Use of respiratory protection whenever an employee's exposure to MC exceeds or can reasonably be expected to exceed the 8-hour TWA PEL, in accordance with subsection (3)(a), (5)(c), (6)(a) and (7)(a) of this section, shall be implemented according to the following schedule:

(i) For employers with fewer than 150 employees engaged in foam fabrication; for employers with fewer than 50 employees engaged in furniture refinishing, general aviation aircraft stripping, and product formulation; for employers with fewer than 50 employees using MC-based adhesives for boat building and repair, recreational vehicle manufacture, van conversion, and upholstery; for employers with fewer than 50 employees using MC in construction work for restoration and preservation of buildings, painting and paint removal, cabinet making and/or floor refinishing and resurfacing, no later than April 10, 2000.

(ii) For employers engaged in polyurethane foam manufacturing with 20 or more employees, no later than October 10, 1999.

(c) Notification of corrective action under subsection (4)(e)(ii) of this section, no later than 90 days before the compliance date applicable to such corrective action.

(d) Transitional dates. The exposure limits for MC specified in WAC 296-62-07515 Table 1, shall remain in effect until the start-up dates for the exposure limits specified in subsection (14) of this section, or if the exposure limits in this section are stayed or vacated.

(e) Unless otherwise specified in this subsection (14), all other requirements of this section shall be complied with immediately.

(15) Appendices. The information contained in the appendices does not, by itself, create any additional obligations not otherwise imposed or detract from any existing obligation.

AMENDATORY SECTION (Amending WSR 96-09-030, filed 4/10/96, effective 6/1/96)

WAC 296-62-07521 Lead. (1) Scope and application.

(a) This section applies to all occupational exposure to lead, except as provided in subdivision (1)(b).

(b) This section does not apply to the construction industry or to agricultural operations covered by chapter 296-306 WAC.

(2) Definitions as applicable to this part.

(a) "Action level" - employee exposure, without regard to the use of respirators, to an airborne concentration of lead of thirty micrograms per cubic meter of air (30 $\mu\text{g}/\text{m}^3$) averaged over an eight-hour period.

(b) "Director" - the director of the department of labor and industries.

(c) "Lead" - metallic lead, all inorganic lead compounds, and organic lead soaps. Excluded from this definition are all other organic lead compounds.

(3) General requirements.

(a) Employers will assess the hazards of lead in the work place and provide information to the employees about the hazards of the lead exposures to which they may be exposed.

(b) Information provided shall include:

(i) Exposure monitoring (including employee notification);

(ii) Written compliance programs;

(iii) Respiratory protection programs;

(iv) Personnel protective equipment and housekeeping;

(v) Medical surveillance and examinations;

(vi) Training requirements;

(vii) Recordkeeping requirements.

(4) Permissible exposure limit (PEL).

(a) The employer shall assure that no employee is exposed to lead at concentrations greater than fifty micrograms per cubic meter of air (50 $\mu\text{g}/\text{m}^3$) averaged over an eight-hour period.

(b) If an employee is exposed to lead for more than eight hours in any work day, the permissible exposure limit, as a time weighted average (TWA) for that day, shall be reduced according to the following formula:

Maximum permissible limit (in $\mu\text{g}/\text{m}^3$) = 400 + hours worked in the day.

(c) When respirators are used to supplement engineering and work practice controls to comply with the PEL and all the requirements of subsection (7) have been met, employee exposure, for the purpose of determining whether the employer has complied with the PEL, may be considered to be at the level provided by the protection factor of the respirator for those periods the respirator is worn. Those periods may be averaged with exposure levels during periods when respirators are not worn to determine the employee's daily TWA exposure.

(5) Exposure monitoring.

(a) General.

(i) For the purposes of subsection (5), employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) With the exception of monitoring under subdivision (5)(c), the employer shall collect full shift (for at least seven continuous hours) personal samples including at least one sample for each shift for each job classification in each work area.

(iii) Full shift personal samples shall be representative of the monitored employee's regular, daily exposure to lead.

(b) Initial determination. Each employer who has a workplace or work operation covered by this standard shall determine if any employee may be exposed to lead at or above the action level.

(c) Basis of initial determination.

(i) The employer shall monitor employee exposures and shall base initial determinations on the employee exposure monitoring results and any of the following, relevant considerations:

(A) Any information, observations, or calculations which would indicate employee exposure to lead;

(B) Any previous measurements of airborne lead; and

(C) Any employee complaints of symptoms which may be attributable to exposure to lead.

(ii) Monitoring for the initial determination may be limited to a representative sample of the exposed employees who the employer reasonably believes are exposed to the greatest airborne concentrations of lead in the workplace.

(iii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy the requirement to monitor under item (5)(c)(i) if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (5)(i) of this section.

(d) Positive initial determination and initial monitoring.

(i) Where a determination conducted under subdivision (5)(b) and (5)(c) of this section shows the possibility of any employee exposure at or above the action level, the employer shall conduct monitoring which is representative of the exposure for each employee in the workplace who is exposed to lead.

(ii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy this requirement if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (5)(i) of this section.

(e) Negative initial determination. Where a determination, conducted under subdivisions (5)(b) and (5)(c) of this section is made that no employee is exposed to airborne concentrations of lead at or above the action level, the employer

shall make a written record of such determination. The record shall include at least the information specified in subdivision (5)(c) of this section and shall also include the date of determination, location within the worksite, and the name and social security number of each employee monitored.

(f) Frequency.

(i) If the initial monitoring reveals employee exposure to be below the action level the measurements need not be repeated except as otherwise provided in subdivision (5)(g) of this section.

(ii) If the initial determination or subsequent monitoring reveals employee exposure to be at or above the action level but below the permissible exposure limit the employer shall repeat monitoring in accordance with this subsection at least every six months. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the action level at which time the employer may discontinue monitoring for that employee except as otherwise provided in subdivision (5)(g) of this section.

(iii) If the initial monitoring reveals that employee exposure is above the permissible exposure limit the employer shall repeat monitoring quarterly. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the PEL but at or above the action level at which time the employer shall repeat monitoring for that employee at the frequency specified in item (5)(f)(ii), except as otherwise provided in subdivision (5)(g) of this section.

(g) Additional monitoring. Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to lead, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to lead, additional monitoring in accordance with this subsection shall be conducted.

(h) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure, without regard to respirators, exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken or to be taken to reduce exposure to or below the permissible exposure limit.

(i) Accuracy of measurement. The employer shall use a method of monitoring and analysis which has an accuracy (to a confidence level of ninety-five percent) of not less than plus or minus twenty percent for airborne concentrations of lead equal to or greater than $30 \mu\text{g}/\text{m}^3$.

(6) Methods of compliance.

(a) Engineering and work practice controls.

(i) Where any employee is exposed to lead above the permissible exposure limit for more than thirty days per year, the employer shall implement engineering and work practice controls (including administrative controls) to reduce and maintain employee exposure to lead in accordance with the

implementation schedule in Table I below, except to the extent that the employer can demonstrate that such controls are not feasible. Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest feasible level and shall supplement them by the use of respiratory protection which complies with the requirements of subsection (7) of this section.

(ii) Where any employee is exposed to lead above the permissible exposure limit, but for thirty days or less per year, the employer shall implement engineering controls to reduce exposures to 200 µg/m³, but thereafter may implement any combination of engineering, work practice (including administrative controls), and respiratory controls to reduce and maintain employee exposure to lead to or below 50 µg/m³.

TABLE I

Industry	Compliance dates: ¹ (50 µg/m ³)
Lead chemicals, secondary copper smelting.	July 19, 1996
Nonferrous foundries	July 19, 1996. ²
Brass and bronze ingot manufacture.	6 years. ³

¹ Calculated by counting from the date the stay on implementation of subsection (6)(a) was lifted by the U.S. Court of Appeals for the District of Columbia, the number of years specified in the 1978 lead standard and subsequent amendments for compliance with the PEL of 50 µg/m³ for exposure to airborne concentrations of lead levels for the particular industry.

² Large nonferrous foundries (20 or more employees) are required to achieve the PEL of 50 µg/m³ by means of engineering and work practice controls. Small nonferrous foundries (fewer than 20 employees) are required to achieve an 8-hour TWA of 75 µg/m³ by such controls.

³ Expressed as the number of years from the date on which the Court lifts the stay on the implementation of subsection (6)(a) for this industry for employers to achieve a lead in air concentration of 75 µg/m³. Compliance with subsection (6) in this industry is determined by a compliance directive that incorporates elements from the settlement agreement between OSHA and representatives of the industry.

(b) Respiratory protection. Where engineering and work practice controls do not reduce employee exposure to or below the 50 µg/m³ permissible exposure limit, the employer shall supplement these controls with respirators in accordance with subsection (7).

(c) Compliance program.

(i) Each employer shall establish and implement a written compliance program to reduce exposures to or below the permissible exposure limit, and interim levels if applicable, solely by means of engineering and work practice controls in accordance with the implementation schedule in subdivision (6)(a).

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation in which lead is emitted; e.g., machinery used, material processed, controls in

place, crew size, employee job responsibilities, operating procedures and maintenance practices;

(B) A description of the specific means that will be employed to achieve compliance, including engineering plans and studies used to determine methods selected for controlling exposure to lead;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Air monitoring data which documents the source of lead emissions;

(E) A detailed schedule for implementation of the program, including documentation such as copies of purchase orders for equipment, construction contracts, etc.;

(F) A work practice program which includes items required under subsections (8), (9) and (10) of this regulation;

(G) An administrative control schedule required by subdivision (6)(f), if applicable; and

(H) Other relevant information.

(iii) Written programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, any affected employee or authorized employee representatives.

(iv) Written programs shall be revised and updated at least every six months to reflect the current status of the program.

(d) Mechanical ventilation.

(i) When ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system in controlling exposure, such as capture velocity, duct velocity, or static pressure shall be made at least every three months. Measurements of the system's effectiveness in controlling exposure shall be made within five days of any change in production, process, or control which might result in a change in employee exposure to lead.

(ii) Recirculation of air. If air from exhaust ventilation is recirculated into the workplace, the employer shall assure that (A) the system has a high efficiency filter with reliable back-up filter; and (B) controls to monitor the concentration of lead in the return air and to bypass the recirculation system automatically if it fails are installed, operating, and maintained.

(e) Administrative controls. If administrative controls are used as a means of reducing employees TWA exposure to lead, the employer shall establish and implement a job rotation schedule which includes:

(i) Name or identification number of each affected employee;

(ii) Duration and exposure levels at each job or work station where each affected employee is located; and

(iii) Any other information which may be useful in assessing the reliability of administrative controls to reduce exposure to lead.

(7) Respiratory protection.

(a) General. (~~Where the use of respirators is required under this section, the employer shall provide, at no cost to the employee, and assure the use of respirators which comply with the requirements of this subsection. Respirators shall be used in the following circumstances~~) For employees who use respirators required by this section, the employer must

PERMANENT

provide respirators that comply with the requirements of this subsection. Respirators must be used during:

- ~~(i) ((During the time))~~ Period necessary to install or implement engineering or work-practice controls; ((and))
- ~~(ii) ((In work situations in))~~ Work operations for which engineering and work-practice controls are not sufficient to reduce exposures to or below the permissible exposure limit; ((and))
- ~~(iii) ((Whenever))~~ Periods when an employee requests a respirator.

(b) Respirator ((selection)) program.

~~(i) ((Where respirators are required under this section the employer shall select the appropriate respirator or combination of respirators from Table II.))~~ The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(ii) If an employee has breathing difficulty during fit testing or respirator use, the employer must provide the employee with a medical examination as required by subsection (11)(c)(ii)(C) of this section to determine whether or not the employee can use a respirator while performing the required duty.

(c) Respirator selection.

(i) The employer must select the appropriate respirator or combination of respirators from Table II of this section.

(ii) The employer must provide a powered air-purifying respirator instead of the respirator specified in Table II of this section when an employee chooses to use this type of respirator and that such a respirator provides adequate protection to the employee.

TABLE II
RESPIRATORY PROTECTION FOR LEAD AEROSOLS

Airborne Concentration of Lead or Condition of Use	Required Respirator ¹
Not in excess of 0.5 mg/m ³ (10X PEL).	Half-mask, air-purifying respirator equipped with high efficiency filters. ^{2,3}
Not in excess of 2.5 mg/m ³ (50X PEL).	Full facepiece, air-purifying respirator with high efficiency filters. ³
Not in excess of 50 mg/m ³ (1000X PEL).	(1) Any powered, air-purifying respirator with high efficiency filters ³ ; or (2) Half-mask supplied-air respirator operated in positive-pressure mode. ²
Not in excess of 100 mg/m ³ (2000X PEL).	Supplied-air respirators with full facepiece, hood, helmet, or suit, operated in positive pressure mode.
Greater than 100 mg/m ³ , unknown concentration or fire fighting.	Full facepiece, self-contained breathing apparatus operated in positive-pressure mode.

- Note:
- ¹ Respirators specified for high concentrations can be used at lower concentrations of lead.
 - ² Full facepiece is required if the lead aerosols cause eye or skin irritation at the use concentrations.
 - ³ A high efficiency particulate filter means 99.97 percent efficient against 0.3 micron size particles.

~~((ii) The employer shall provide a powered, air-purifying respirator in lieu of the respirator specified, in Table II whenever:~~

~~(A) An employee chooses to use this type of respirator; and~~

~~(B) This respirator will provide adequate protection to the employee.~~

~~(iii) The employer shall select respirators from among those approved for protection against lead dust, fume, and mist by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.~~

~~(e) Respirator usage.~~

~~(i) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is fitted properly.~~

~~(ii) Employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter for each employee wearing negative pressure respirators. The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn, and shall be conducted in accordance with Appendix D. The tests shall be used to select facepieces that provide the required protection as prescribed in Table II.~~

~~(iii) If an employee exhibits difficulty in breathing during the fitting test or during use, the employer shall make available to the employee an examination in accordance with subitem (11)(c)(i)(C) of this section to determine whether the employee can wear a respirator while performing the required duty.~~

~~(d) Respirator program.~~

~~(i) The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.~~

~~(ii) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.~~

~~(iii) Employees who wear respirators shall be permitted to leave work areas to wash their face and respirator facepiece whenever necessary to prevent skin irritation associated with respirator use.))~~

~~(8) Protective work clothing and equipment.~~

~~(a) Provision and use. If an employee is exposed to lead above the PEL, without regard to the use of respirators or where the possibility of skin or eye irritation exists, the employer shall provide at no cost to the employee and assure that the employee uses appropriate protective work clothing and equipment such as, but not limited to:~~

~~(i) Coveralls or similar full-body work clothing;~~

~~(ii) Gloves, hats, and shoes or disposable shoe coverlets; and~~

~~(iii) Face shields, vented goggles, or other appropriate protective equipment which complies with WAC 296-24-078.~~

PERMANENT

(b) Cleaning and replacement.

(i) The employer shall provide the protective clothing required in subdivision (8)(a) of this section in a clean and dry condition at least weekly, and daily to employees whose exposure levels without regard to a respirator are over 200 $\mu\text{g}/\text{m}^3$ of lead as an eight-hour TWA.

(ii) The employer shall provide for the cleaning, laundering, or disposal of protective clothing and equipment required by subdivision (8)(a) of this section.

(iii) The employer shall repair or replace required protective clothing and equipment as needed to maintain their effectiveness.

(iv) The employer shall assure that all protective clothing is removed at the completion of a work shift only in change rooms provided for that purpose as prescribed in subdivision (10)(b) of this section.

(v) The employer shall assure that contaminated protective clothing which is to be cleaned, laundered, or disposed of, is placed in a closed container in the change-room which prevents dispersion of lead outside the container.

(vi) The employer shall inform in writing any person who cleans or launders protective clothing or equipment of the potentially harmful effects of exposure to lead.

(vii) The employer shall assure that the containers of contaminated protective clothing and equipment required by subdivision (8)(b)(v) are labeled as follows:

CAUTION: CLOTHING CONTAMINATED WITH LEAD.

DO NOT REMOVE DUST BY BLOWING OR SHAKING.

DISPOSE OF LEAD CONTAMINATED WASH WATER IN ACCORDANCE WITH APPLICABLE LOCAL, STATE, OR FEDERAL REGULATIONS.

(viii) The employer shall prohibit the removal of lead from protective clothing or equipment by blowing, shaking, or any other means which disperses lead into the air.

(9) Housekeeping.

(a) Surfaces. All surfaces shall be maintained as free as practicable of accumulations of lead.

(b) Cleaning floors.

(i) Floors and other surfaces where lead accumulates may not be cleaned by the use of compressed air.

(ii) Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other equally effective methods have been tried and found not to be effective.

(c) Vacuuming. Where vacuuming methods are selected, the vacuums shall be used and emptied in a manner which minimizes the reentry of lead into the workplace.

(10) Hygiene facilities and practices.

(a) The employer shall assure that in areas where employees are exposed to lead above the PEL, without regard to the use of respirators, food or beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in change rooms, lunchrooms, and showers required under subdivision (10)(b) through (10)(d) of this section.

(b) Change rooms.

(i) The employer shall provide clean change rooms for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that change rooms are equipped with separate storage facilities for protective work clothing and equipment and for street clothes which prevent cross-contamination.

(c) Showers.

(i) The employer shall assure that employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators, shower at the end of the work shift.

(ii) The employer shall provide shower facilities in accordance with WAC 296-24-12009.

(iii) The employer shall assure that employees who are required to shower pursuant to item (10)(c)(i) do not leave the workplace wearing any clothing or equipment worn during the work shift.

(d) Lunchrooms.

(i) The employer shall provide lunchroom facilities for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that lunchroom facilities have a temperature controlled, positive pressure, filtered air supply, and are readily accessible to employees.

(iii) The employer shall assure that employees who work in areas where their airborne exposure to lead is above the PEL without regard to the use of a respirator wash their hands and face prior to eating, drinking, smoking or applying cosmetics.

(iv) The employer shall assure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface lead dust has been removed by vacuuming, downdraft booth, or other cleaning method.

(e) Lavatories. The employer shall provide an adequate number of lavatory facilities which comply with WAC 296-24-12009 (1) and (2).

(11) Medical surveillance.

(a) General.

(i) The employer shall institute a medical surveillance program for all employees who are or may be exposed above the action level for more than thirty days per year.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician.

(iii) The employer shall provide the required medical surveillance including multiple physician review under item (11)(c)(iii) without cost to employees and at a reasonable time and place.

(b) Biological monitoring.

(i) Blood lead and ZPP level sampling and analysis. The employer shall make available biological monitoring in the form of blood sampling and analysis for lead and zinc protoporphyrin levels to each employee covered under item (11)(a)(i) of this section on the following schedule:

(A) At least every six months to each employee covered under item (11)(a)(i) of this section;

PERMANENT

(B) At least every two months for each employee whose last blood sampling and analysis indicated a blood lead level at or above 40 µg/100 g of whole blood. This frequency shall continue until two consecutive blood samples and analyses indicate a blood lead level below 40 µg/100 g of whole blood; and

(C) At least monthly during the removal period of each employee removed from exposure to lead due to an elevated blood lead level.

(ii) Follow-up blood sampling tests. Whenever the results of a blood lead level test indicate that an employee's blood lead level exceeds the numerical criterion for medical removal under item (12)(a)(i)(A), the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.

(iii) Accuracy of blood lead level sampling and analysis. Blood lead level sampling and analysis provided pursuant to this section shall have an accuracy (to a confidence level of ninety-five percent) within plus or minus fifteen percent or 6 µg/100 ml, whichever is greater, and shall be conducted by a laboratory licensed by the Center for Disease Control (CDC), United States Department of Health, Education and Welfare or which has received a satisfactory grade in blood lead proficiency testing from CDC in the prior twelve months.

(iv) Employee notification. Within five working days after the receipt of biological monitoring results, the employer shall notify in writing each employee whose blood lead level exceeds 40 µg/100 g: (A) of that employee's blood lead level and (B) that the standard requires temporary medical removal with medical removal protection benefits when an employee's blood lead level exceeds the numerical criterion for medical removal under item (12)(a)(i) of this section.

(c) Medical examinations and consultations.

(i) Frequency. The employer shall make available medical examinations and consultations to each employee covered under item (11)(a)(i) of this section on the following schedule:

(A) At least annually for each employee for whom a blood sampling test conducted at any time during the preceding twelve months indicated a blood lead level at or above 40 µg/100 g;

(B) Prior to assignment for each employee being assigned for the first time to an area in which airborne concentrations of lead are at or above the action level;

(C) As soon as possible, upon notification by an employee either that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice concerning the effects of current or past exposure to lead on the employee's ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during use; and

(D) As medically appropriate for each employee either removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited pursuant to a final medical determination.

(ii) Content. Medical examinations made available pursuant to subitems (11)(c)(i)(A) through (B) of this section shall include the following elements:

(A) A detailed work history and a medical history, with particular attention to past lead exposure (occupational and nonoccupational), personal habits (smoking, hygiene), and past gastrointestinal, hematologic, renal, cardiovascular, reproductive and neurological problems;

(B) A thorough physical examination, with particular attention to teeth, gums, hematologic, gastrointestinal, renal, cardiovascular, and neurological systems. Pulmonary status should be evaluated if respiratory protection will be used;

(C) A blood pressure measurement;

(D) A blood sample and analysis which determines:

(I) Blood lead level;

(II) Hemoglobin and hematocrit determinations, red cell indices, and examination of peripheral smear morphology;

(III) Zinc protoporphyrin;

(IV) Blood urea nitrogen; and

(V) Serum creatinine;

(E) A routine urinalysis with microscopic examination; and

(F) Any laboratory or other test which the examining physician deems necessary by sound medical practice.

The content of medical examinations made available pursuant to subitems (11)(c)(i)(C) through (D) of this section shall be determined by an examining physician and, if requested by an employee, shall include pregnancy testing or laboratory evaluation of male fertility.

(iii) Multiple physician review mechanism.

(A) If the employer selects the initial physician who conducts any medical examination or consultation provided to an employee under this section, the employee may designate a second physician:

(I) To review any findings, determinations or recommendations of the initial physician; and

(II) To conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(B) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen days after receipt of the foregoing notification, or receipt of the initial physician's written opinion, whichever is later:

(I) The employee informing the employer that he or she intends to seek a second medical opinion, and

(II) The employee initiating steps to make an appointment with a second physician.

(C) If the findings, determinations or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(D) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the

PERMANENT

employee through their respective physicians shall designate a third physician:

(I) To review any findings, determinations or recommendations of the prior physicians; and

(II) To conduct such examinations, consultations, laboratory tests and discussions with the prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(E) The employer shall act consistent with the findings, determinations and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

(iv) Information provided to examining and consulting physicians.

(A) The employer shall provide an initial physician conducting a medical examination or consultation under this section with the following information:

(I) A copy of this regulation for lead including all appendices;

(II) A description of the affected employee's duties as they relate to the employee's exposure;

(III) The employee's exposure level or anticipated exposure level to lead and to any other toxic substance (if applicable);

(IV) A description of any personal protective equipment used or to be used;

(V) Prior blood lead determinations; and

(VI) All prior written medical opinions concerning the employee in the employer's possession or control.

(B) The employer shall provide the foregoing information to a second or third physician conducting a medical examination or consultation under this section upon request either by the second or third physician, or by the employee.

(v) Written medical opinions.

(A) The employer shall obtain and furnish the employee with a copy of a written medical opinion from each examining or consulting physician which contains the following information:

(I) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to lead;

(II) Any recommended special protective measures to be provided to the employee, or limitations to be placed upon the employee's exposure to lead;

(III) Any recommended limitation upon the employee's use of respirators, including a determination of whether the employee can wear a powered air purifying respirator if a physician determines that the employee cannot wear a negative pressure respirator; and

(IV) The results of the blood lead determinations.

(B) The employer shall instruct each examining and consulting physician to:

(I) Not reveal either in the written opinion, or in any other means of communication with the employer, findings, including laboratory results, or diagnoses unrelated to an employee's occupational exposure to lead; and

(II) Advise the employee of any medical condition, occupational or nonoccupational, which dictates further medical examination or treatment.

(vi) Alternate physician determination mechanisms. The employer and an employee or authorized employee representative may agree upon the use of any expeditious alternate physician determination mechanism in lieu of the multiple physician review mechanism provided by this subsection so long as the alternate mechanism otherwise satisfies the requirements contained in this subsection.

(d) Chelation.

(i) The employer shall assure that any person whom he retains, employs, supervises or controls does not engage in prophylactic chelation of any employee at any time.

(ii) If therapeutic or diagnostic chelation is to be performed by any person in item (11)(d)(i), the employer shall assure that it be done under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring and that the employee is notified in writing prior to its occurrence.

(12) Medical removal protection.

(a) Temporary medical removal and return of an employee.

(i) Temporary removal due to elevated blood lead levels.

(A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above 60 $\mu\text{g}/100$ g of whole blood; and

(B) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests conducted pursuant to this section (or the average of all blood sampling tests conducted over the previous six months, whichever is longer) indicates that the employee's blood lead level is at or above 50 $\mu\text{g}/100$ g of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below 40 $\mu\text{g}/100$ g of whole blood.

(ii) Temporary removal due to a final medical determination.

(A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a final medical determination results in a medical finding, determination, or opinion that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the phrase "final medical determination" shall mean the outcome of the multiple physician review mechanism or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section.

(C) Where a final medical determination results in any recommended special protective measures for an employee, or limitations on an employee's exposure to lead, the employer shall implement and act consistent with the recommendation.

(iii) Return of the employee to former job status.

(A) The employer shall return an employee to his or her former job status:

(I) For an employee removed due to a blood lead level at or above 60 $\mu\text{g}/100\text{ g}$, or due to an average blood lead level at or above 50 $\mu\text{g}/100\text{ g}$, when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 40 $\mu\text{g}/100\text{ g}$ of whole blood;

(II) For an employee removed due to a final medical determination, when a subsequent final medical determination results in a medical finding, determination, or opinion that the employee no longer has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

(iv) Removal of other employee special protective measure or limitations. The employer shall remove any limitations placed on an employee or end any special protective measures provided to an employee pursuant to a final medical determination when a subsequent final medical determination indicates that the limitations or special protective measures are no longer necessary.

(v) Employer options pending a final medical determination. Where the multiple physician review mechanism, or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section, has not yet resulted in a final medical determination with respect to an employee, the employer shall act as follows:

(A) Removal. The employer may remove the employee from exposure to lead, provide special protective measures to the employee, or place limitations upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status.

(B) Return. The employer may return the employee to his or her former job status, end any special protective measures provided to the employee, and remove any limitations placed upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status, with two exceptions. If:

(I) The initial removal, special protection, or limitation of the employee resulted from a final medical determination which differed from the findings, determinations, or recommendations of the initial physician; or

(II) The employee has been on removal status for the preceding eighteen months due to an elevated blood lead level, then the employer shall await a final medical determination.

(b) Medical removal protection benefits.

(i) Provision of medical removal protection benefits. The employer shall provide to an employee up to eighteen months of medical removal protection benefits on each occasion that

an employee is removed from exposure to lead or otherwise limited pursuant to this section.

(ii) Definition of medical removal protection benefits. For the purposes of this section, the requirement that an employer provide medical removal protection benefits means that the employer shall maintain the earnings, seniority and other employment rights and benefits of an employee as though the employee had not been removed from normal exposure to lead or otherwise limited.

(iii) Follow-up medical surveillance during the period of employee removal or limitation. During the period of time that an employee is removed from normal exposure to lead or otherwise limited, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to this section.

(iv) Workers' compensation claims. If a removed employee files a claim for workers' compensation payments for a lead-related disability, then the employer shall continue to provide medical removal protection benefits pending disposition of the claim. To the extent that an award is made to the employee for earnings lost during the period of removal, the employer's medical removal protection obligation shall be reduced by such amount. The employer shall receive no credit for workers' compensation payments received by the employee for treatment related expenses.

(v) Other credits. The employer's obligation to provide medical removal protection benefits to a removed employee shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program, or receives income from employment with another employer made possible by virtue of the employee's removal.

(vi) Employees whose blood lead levels do not adequately decline within eighteen months of removal. The employer shall take the following measures with respect to any employee removed from exposure to lead due to an elevated blood lead level whose blood lead level has not declined within the past eighteen months of removal so that the employee has been returned to his or her former job status:

(A) The employer shall make available to the employee a medical examination pursuant to this section to obtain a final medical determination with respect to the employee;

(B) The employer shall assure that the final medical determination obtained indicates whether or not the employee may be returned to his or her former job status, and if not, what steps should be taken to protect the employee's health;

(C) Where the final medical determination has not yet been obtained, or once obtained indicates that the employee may not yet be returned to his or her former job status, the employer shall continue to provide medical removal protection benefits to the employee until either the employee is returned to former job status, or a final medical determination is made that the employee is incapable of ever safely returning to his or her former job status.

(D) Where the employer acts pursuant to a final medical determination which permits the return of the employee to his or her former job status despite what would otherwise be an

unacceptable blood lead level, later questions concerning removing the employee again shall be decided by a final medical determination. The employer need not automatically remove such an employee pursuant to the blood lead level removal criteria provided by this section.

(vii) Voluntary removal or restriction of an employee. Where an employer, although not required by this section to do so, removes an employee from exposure to lead or otherwise places limitations on an employee due to the effects of lead exposure on the employee's medical condition, the employer shall provide medical removal protection benefits to the employee equal to that required by item (12)(b)(i) of this section.

(13) Employee information and training.

(a) Training program.

(i) Each employer who has a workplace in which there is a potential exposure to airborne lead at any level shall inform employees of the content of Appendices A and B of this regulation.

(ii) The employer shall institute a training program for and assure the participation of all employees who are subject to exposure to lead at or above the action level or for whom the possibility of skin or eye irritation exists.

(iii) The employer shall provide initial training by one hundred eighty days from the effective date for those employees covered by item (13)(a)(ii) on the standard's effective date and prior to the time of initial job assignment for those employees subsequently covered by this subsection.

(iv) The training program shall be repeated at least annually for each employee.

(v) The employer shall assure that each employee is informed of the following:

(A) The content of this standard and its appendices;

(B) The specific nature of the operations which could result in exposure to lead above the action level;

(C) The purpose, proper ~~((selection, fitting,))~~ use, ~~((and))~~ limitations ~~((of respirators))~~, and other training requirements for respiratory protection as required by chapter 296-62 WAC, Part E;

(D) The purpose and a description of the medical surveillance program, and the medical removal protection program including information concerning the adverse health effects associated with excessive exposure to lead (with particular attention to the adverse reproductive effects on both males and females);

(E) The engineering controls and work practices associated with the employee's job assignment;

(F) The contents of any compliance plan in effect; and

(G) Instructions to employees that chelating agents should not routinely be used to remove lead from their bodies and should not be used at all except under the direction of a licensed physician.

(b) Access to information and training materials.

(i) The employer shall make readily available to all affected employees a copy of this standard and its appendices.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(iii) In addition to the information required by item (13)(a)(v), the employer shall include as part of the training program, and shall distribute to employees, any materials pertaining to the Occupational Safety and Health Act, the regulations issued pursuant to the act, and this lead standard, which are made available to the employer by the director.

(14) Signs.

(a) General.

(i) The employer may use signs required by other statutes, regulations or ordinances in addition to, or in combination with, signs required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign required by this subsection which contradicts or detracts from the meaning of the required sign.

(b) Signs.

(i) The employer shall post the following warning signs in each work area where the PEL is exceeded:

WARNING
LEAD WORK AREA
POISON
NO SMOKING OR EATING

(ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.

(15) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required in subsection (5) of this section.

(ii) This record shall include:

(A) The date(s), number, duration, location and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure where applicable;

(B) A description of the sampling and analytical methods used and evidence of their accuracy;

(C) The type of respiratory protective devices worn, if any;

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent; and

(E) The environmental variables that could affect the measurement of employee exposure.

(iii) The employer shall maintain these monitoring records for at least forty years or for the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (11) of this section.

(ii) This record shall include:

(A) The name, social security number, and description of the duties of the employee;

(B) A copy of the physician's written opinions;

(C) Results of any airborne exposure monitoring done for that employee and the representative exposure levels supplied to the physician; and

(D) Any employee medical complaints related to exposure to lead.

(iii) The employer shall keep, or assure that the examining physician keeps, the following medical records:

(A) A copy of the medical examination results including medical and work history required under subsection (11) of this section;

(B) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to that information; and

(C) A copy of the results of biological monitoring.

(iv) The employer shall maintain or assure that the physician maintains those medical records for at least forty years, or for the duration of employment plus twenty years, whichever is longer.

(c) Medical removals.

(i) The employer shall establish and maintain an accurate record for each employee removed from current exposure to lead pursuant to subsection (12) of this section.

(ii) Each record shall include:

(A) The name and social security number of the employee;

(B) The date on each occasion that the employee was removed from current exposure to lead as well as the corresponding date on which the employee was returned to his or her former job status;

(C) A brief explanation of how each removal was or is being accomplished; and

(D) A statement with respect to each removal indicating whether or not the reason for the removal was an elevated blood lead level.

(iii) The employer shall maintain each medical removal record for at least the duration of an employee's employment.

(d) Availability.

(i) The employer shall make available upon request all records required to be maintained by subsection (15) of this section to the director for examination and copying.

(ii) Environmental monitoring, medical removal, and medical records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217. Medical removal records shall be provided in the same manner as environmental monitoring records.

(iii) Upon request, the employer shall make an employee's medical records required to be maintained by this section available to the affected employee or former employee or to a physician or other individual designated by such affected employee or former employees for examination and copying.

(e) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by subsection (15) of this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records required to be maintained by this section for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior to the disposal of such records and shall transmit those records to the director if requested within the period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(16) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to lead conducted pursuant to subsection (5) of this section.

(b) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to lead requires entry into an area where the use of respirators, protective clothing or equipment is required, the employer shall provide the observer with and assure the use of such respirators, clothing and such equipment, and shall require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the monitoring of lead performed at the place of exposure; and

(C) Record the results obtained or receive copies of the results when returned by the laboratory.

(17) ~~(Effective date. The effective date of this standard is September 6, 1980.~~

~~(18) Startup dates. All obligations of this standard commence on the effective date except as follows:~~

~~(a) The initial determination under subdivision (5)(b) shall be made as soon as possible but no later than thirty days from the effective date.~~

~~(b) Initial monitoring under subdivision (5)(d) shall be completed as soon as possible but no later than ninety days from the effective date.~~

~~(c) Initial biological monitoring and medical examinations under subsection (11) shall be completed as soon as possible but no later than one hundred eighty days from the effective date. Priority for biological monitoring and medical examinations shall be given to employees whom the employer believes to be at greatest risk from continued exposure.~~

~~(d) Initial training and education shall be completed as soon as possible but no later than one hundred eighty days from the effective date.~~

~~(e) Hygiene and lunchroom facilities under subsection (10) shall be in operation as soon as possible but no later than one year from the effective year.~~

~~(f) Respiratory protection required by subsection (7) shall be provided as soon as possible but no later than the following schedule:~~

~~(i) Employees whose eight hour TWA exposure exceeds 200 $\mu\text{g}/\text{m}^3$ on the effective date.~~

~~(ii) Employees whose eight-hour TWA exposure exceeds the PEL but is less than $200 \mu\text{g}/\text{m}^3$ one hundred fifty days from the effective date.~~

~~(iii) Powered, air-purifying respirators provided under (7)(b)(ii) two hundred ten days from the effective date.~~

~~(iv) Quantitative fit testing required under item (7)(c)(ii) one year from effective date. Qualitative fit testing is required in the interim.~~

~~(g) Written compliance plans required by subdivision (6)(e) shall be completed and available for inspection and copying as soon as possible but no later than the following schedule:~~

~~(i) Employers for whom compliance with the PEL or interim level is required within one year from the effective date six months from the effective date.~~

~~(ii) Employers in secondary lead smelting and refining and in lead storage battery manufacturing one year from the effective date.~~

~~(iii) Employers in primary smelting and refining industry one year from the effective date from the interim level; five years from the effective date for PEL.~~

~~(iv) Plans for construction of hygiene facilities, if required six months from the effective date.~~

~~(v) All other industries one year from the date on which the court lifts the stay on the implementation of paragraph (6)(a) for the particular industry.~~

~~(h) The permissible exposure limit in subsection (4) shall become effective one hundred fifty days from the effective date.~~

~~(49)) Appendices. The information contained in the appendices to this section is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation.~~

~~(a) Appendix A. Substance Data Sheet for Occupational Exposure to Lead.~~

~~(i) Substance identification.~~

~~(A) Substance. Pure lead (Pb) is a heavy metal at room temperature and pressure and is a basic chemical element. It can combine with various other substances to form numerous lead compounds.~~

~~(B) Compounds covered by the standard. The word "lead" when used in this standard means elemental lead, all inorganic lead compounds (except those which are not biologically available due to either solubility or specific chemical interaction), and a class of organic lead compounds called lead soaps. This standard does not apply to other organic lead compounds.~~

~~(C) Uses. Exposure to lead occurs in at least 120 different occupations, including primary and secondary lead smelting, lead storage battery manufacturing, lead pigment manufacturing and use, solder manufacturing and use, shipbuilding and ship repairing, auto manufacturing, and printing.~~

~~(D) Permissible exposure. The Permissible Exposure Limit (PEL) set by the standard is 50 micrograms of lead per cubic meter of air ($50 \mu\text{g}/\text{m}^3$), averaged over an eight-hour work day.~~

~~(E) Action level. The standard establishes an action level of 30 micrograms per cubic meter of air ($30 \mu\text{g}/\text{m}^3$) time weighted average, based on an eight-hour work day. The~~

action level initiates several requirements of the standard, such as exposure monitoring, medical surveillance, and training and education.

~~(ii) Health hazard data.~~

~~(A) Ways in which lead enters your body.~~

~~(I) When absorbed into your body in certain doses lead is a toxic substance. The object of the lead standard is to prevent absorption of harmful quantities of lead. The standard is intended to protect you not only from the immediate toxic effects of lead, but also from the serious toxic effects that may not become apparent until years of exposure have passed.~~

~~(II) Lead can be absorbed into your body by inhalation (breathing) and ingestion (eating). Lead (except for certain organic lead compounds not covered by the standard, such as tetraethyl lead) is not absorbed through your skin. When lead is scattered in the air as a dust, fume or mist, it can be inhaled and absorbed through your lungs and upper respiratory tract. Inhalation of airborne lead is generally the most important source of occupational lead absorption. You can also absorb lead through your digestive system if lead gets into your mouth and is swallowed. If you handle food, cigarettes, chewing tobacco, or make-up which have lead on them or handle them with hands contaminated with lead, this will contribute to ingestion.~~

~~(III) A significant portion of the lead that you inhale or ingest gets into your blood stream. Once in your blood stream lead is circulated throughout your body and stored in various organs and body tissues. Some of this lead is quickly filtered out of your body and excreted, but some remains in your blood and other tissue. As exposure to lead continues, the amount stored in your body will increase if you are absorbing more lead than your body is excreting. Even though you may not be aware of any immediate symptoms of disease, this lead stored in your tissues can be slowly causing irreversible damage, first to individual cells, then to your organs and whole body systems.~~

~~(B) Effects of overexposure to lead.~~

~~(I) Short-term (acute) overexposure. Lead is a potent, systemic poison that serves no known useful function once absorbed by your body. Taken in large enough doses, lead can kill you in a matter of days. A condition affecting the brain called acute encephalopathy may arise which develops quickly to seizures, coma, and death from cardiorespiratory arrest. A short-term dose of lead can lead to acute encephalopathy. Short-term occupational exposures of this magnitude are highly unusual, but not impossible. Similar forms of encephalopathy may, however arise from extended, chronic exposure to lower doses of lead. There is no sharp dividing line between rapidly developing acute effects of lead, and chronic effects which take longer to acquire. Lead adversely affects numerous body systems, and causes forms of health impairment and disease which arise after periods of exposure as short as days or as long as several years.~~

~~(II) Long-term (chronic) overexposure.~~

~~a) Chronic overexposure to lead may result in severe damage to your blood-forming, nervous, urinary and reproductive systems. Some common symptoms of chronic overexposure include loss of appetite, metallic taste in the mouth, anxiety, constipation, nausea, pallor, excessive tiredness,~~

weakness, insomnia, headache, nervous irritability, muscle and joint pain or soreness, fine tremors, numbness, dizziness, hyperactivity and colic. In lead colic there may be severe abdominal pain.

b) Damage to the central nervous system in general and the brain (encephalopathy) in particular is one of the most severe forms of lead poisoning. The most severe, often fatal, form of encephalopathy may be preceded by vomiting, a feeling of dullness progressing to drowsiness and stupor, poor memory, restlessness, irritability, tremor, and convulsions. It may arise suddenly with the onset of seizures, followed by coma, and death. There is a tendency for muscular weakness to develop at the same time. This weakness may progress to paralysis often observed as a characteristic "wrist drop" or "foot drop" and is a manifestation of a disease to the nervous system called peripheral neuropathy.

c) Chronic overexposure to lead also results in kidney disease with few, if any, symptoms appearing until extensive and most likely permanent kidney damage has occurred. Routine laboratory tests reveal the presence of this kidney disease only after about two-thirds of kidney function is lost. When overt symptoms of urinary dysfunction arise, it is often too late to correct or prevent worsening conditions, and progression of kidney dialysis or death is possible.

d) Chronic overexposure to lead impairs the reproductive systems of both men and women. Overexposure to lead may result in decreased sex drive, impotence and sterility in men. Lead can alter the structure of sperm cells raising the risk of birth defects. There is evidence of miscarriage and stillbirth in women whose husbands were exposed to lead or who were exposed to lead themselves. Lead exposure also may result in decreased fertility, and abnormal menstrual cycles in women. The course of pregnancy may be adversely affected by exposure to lead since lead crosses the placental barrier and poses risks to developing fetuses. Children born of parents either one of whom were exposed to excess lead levels are more likely to have birth defects, mental retardation, behavioral disorders or die during the first year of childhood.

e) Overexposure to lead also disrupts the blood-forming system resulting in decreased hemoglobin (the substance in the blood that carries oxygen to the cells) and ultimately anemia. Anemia is characterized by weakness, pallor and fatigability as a result of decreased oxygen carrying capacity in the blood.

(III) Health protection goals of the standard.

a) Prevention of adverse health effects for most workers from exposure to lead throughout a working lifetime requires that worker blood lead (PbB) levels be maintained at or below forty micrograms per one hundred grams of whole blood (40 $\mu\text{g}/100\text{g}$). The blood lead levels of workers (both male and female workers) who intend to have children should be maintained below 30 $\mu\text{g}/100\text{g}$ to minimize adverse reproductive health effects to the parents and to the developing fetus.

b) The measurement of your blood lead level is the most useful indicator of the amount of lead absorbed by your body. Blood lead levels (PbB) are most often reported in units of milligrams (mg) or micrograms (μg) of lead (1 mg=1000 μg)

per 100 grams (100g), 100 milliliters (100 ml) or deciliter (dl) of blood. These three units are essentially the same. Sometimes PbB's are expressed in the form of mg% or $\mu\text{g}\%$. This is a shorthand notation for 100g, 100ml, or dl.

c) PbB measurements show the amount of lead circulating in your blood stream, but do not give any information about the amount of lead stored in your various tissues. PbB measurements merely show current absorption of lead, not the effect that lead is having on your body or the effects that past lead exposure may have already caused. Past research into lead-related diseases, however, has focused heavily on associations between PbBs and various diseases. As a result, your PbB is an important indicator of the likelihood that you will gradually acquire a lead-related health impairment or disease.

d) Once your blood lead level climbs above 40 $\mu\text{g}/100\text{g}$, your risk of disease increases. There is a wide variability of individual response to lead, thus it is difficult to say that a particular PbB in a given person will cause a particular effect. Studies have associated fatal encephalopathy with PbBs as low as 150 $\mu\text{g}/100\text{g}$. Other studies have shown other forms of disease in some workers with PbBs well below 80 $\mu\text{g}/100\text{g}$. Your PbB is a crucial indicator of the risks to your health, but one other factor is extremely important. This factor is the length of time you have had elevated PbBs. The longer you have an elevated PbB, the greater the risk that large quantities of lead are being gradually stored in your organs and tissues (body burden). The greater your overall body burden, the greater the chances of substantial permanent damage.

e) The best way to prevent all forms of lead-related impairments and diseases—both short-term and long-term—is to maintain your PbB below 40 $\mu\text{g}/100\text{g}$. The provisions of the standard are designed with this end in mind. Your employer has prime responsibility to assure that the provisions of the standard are complied with both by the company and by individual workers. You as a worker, however, also have a responsibility to assist your employer in complying with the standard. You can play a key role in protecting your own health by learning about the lead hazards and their control, learning what the standard requires, following the standard where it governs your own action, and seeing that your employer complies with the provisions governing his actions.

(IV) Reporting signs and symptoms of health problems. You should immediately notify your employer if you develop signs or symptoms associated with lead poisoning or if you desire medical advice concerning the effects of current or past exposure to lead on your ability to have a healthy child. You should also notify your employer if you have difficulty breathing during a respirator fit test or while wearing a respirator. In each of these cases your employer must make available to you appropriate medical examinations or consultations. These must be provided at no cost to you and at a reasonable time and place.

(b) Appendix B. Employee Standard Summary. This appendix summarizes key provisions of the standard that you as a worker should become familiar with. The appendix discusses the entire standard.

(i) Permissible exposure limit (PEL). The standard sets a permissible exposure limit (PEL) of fifty micrograms of lead

per cubic meter of air ($50 \mu\text{g}/\text{m}^3$), averaged over an eight-hour workday. This is the highest level of lead in air to which you may be permissibly exposed over an eight-hour workday. Since it is an eight-hour average it permits short exposures above the PEL so long as for each eight-hour workday your average exposure does not exceed the PEL.

(ii) Exposure monitoring.

(A) If lead is present in the work place where you work in any quantity, your employer is required to make an initial determination of whether the action level is exceeded for any employee. The initial determination must include instrument monitoring of the air for the presence of lead and must cover the exposure of a representative number of employees who are reasonably believed to have the highest exposure levels. If your employer has conducted appropriate air sampling for lead in the past year he may use these results. If there have been any employee complaints of symptoms which may be attributable to exposure to lead or if there is any other information or observations which would indicate employee exposure to lead, this must also be considered as part of the initial determination. If this initial determination shows that a reasonable possibility exists that any employee may be exposed, without regard to respirators, over the action level ($30 \mu\text{g}/\text{m}^3$) your employer must set up an air monitoring program to determine the exposure level of every employee exposed to lead at your work place.

(B) In carrying out this air monitoring program, your employer is not required to monitor the exposure of every employee, but he or she must monitor a representative number of employees and job types. Enough sampling must be done to enable each employee's exposure level to be reasonably represented by at least one full shift (at least seven hours) air sample. In addition, these air samples must be taken under conditions which represent each employee's regular, daily exposure to lead.

(C) If you are exposed to lead and air sampling is performed, your employer is required to quickly notify you in writing of air monitoring results which represent your exposure. If the results indicate your exposure exceeds the PEL (without regard to your use of respirators), then your employer must also notify you of this in writing, and provide you with a description of the corrective action that will be taken to reduce your exposure.

(D) Your exposure must be rechecked by monitoring every six months if your exposure is over the action level but below the PEL. Air monitoring must be repeated every three months if you are exposed over the PEL. Your employer may discontinue monitoring for you if two consecutive measurements, taken at least two weeks apart, are below the action level. However, whenever there is a production, process, control, or personnel change at your work place which may result in new or additional exposure to lead, or whenever there is any other reason to suspect a change which may result in new or additional exposure to lead, your employer must perform additional monitoring.

(iii) Methods of compliance. Your employer is required to assure that no employee is exposed to lead in excess of the PEL. The standard establishes a priority of methods to be used to meet the PEL.

(iv) Respiratory protection.

(A) Your employer is required to provide and assure your use of respirators when your exposure to lead is not controlled below the PEL by other means. The employer must pay the cost of the respirator. Whenever you request one, your employer is also required to provide you a respirator even if your air exposure level does not exceed the PEL. You might desire a respirator when, for example, you have received medical advice that your lead absorption should be decreased. Or, you may intend to have children in the near future, and want to reduce the level of lead in your body to minimize adverse reproductive effects. While respirators are the least satisfactory means of controlling your exposure, they are capable of providing significant protection if properly chosen, fitted, worn, cleaned, maintained, and replaced when they stop providing adequate protection.

(B) Your employer is required to select respirators from the seven types listed in Table II of the respiratory protection section of (~~chapter 296-62 WAC~~) this standard (see subsection (7)(c) of this section). Any respirator chosen must be (~~approved by the Mine Safety and Health Administration (MSHA) or~~) certified by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 42 CFR part 84. This respirator selection table will enable your employer to choose a type of respirator which will give you a proper amount of protection based on your airborne lead exposure. Your employer may select a type of respirator that provides greater protection than that required by the standard; that is, one recommended for a higher concentration of lead than is present in your work place. For example, a powered air purifying respirator (PAPR) is much more protective than a typical negative-pressure respirator, and may also be more comfortable to wear. A PAPR has a filter, cartridge or canister to clean the air, and a power source which continuously blows filtered air into your breathing zone. Your employer might make a PAPR available to you to ease the burden of having to wear a respirator for long periods of time. The standard provides that you can obtain a PAPR upon request.

(C) Your employer must also start a respiratory protection program. This program must include written procedures for the proper selection, use, cleaning, storage, and maintenance of respirators.

(D) Your employer must assure that your respirator facepiece fits properly. Proper fit of a respirator facepiece is critical to your protection against air borne lead. Obtaining a proper fit on each employee may require your employer to make available (~~two or three different mask~~) several different types of respirator masks. (~~Any respirator which has a filter, cartridge or canister which cleans the work room air before you breathe it and which requires the force of your inhalation to draw air through the filtering element is a negative pressure respirator. A positive pressure respirator supplies air to you directly. A quantitative fit test uses a sophisticated machine to measure the amount, if any, of test material that leaks into the facepiece of your respirator. Appendix D describes "qualitative" procedures which are acceptable under certain conditions.)) To ensure that your respirator fits properly and that facepiece leakage is minimal, your employer must give you either a qualitative or quantitative fit test as required in chapter 296-62 WAC, Part E.~~

(E) You must also receive from your employer proper training in the use of respirators. Your employer is required to teach you how to wear a respirator, to know why it is needed, and to understand its limitations.

(F) The standard provides that if your respirator uses filter elements, you must be given an opportunity to change the filter elements whenever an increase in breathing resistance is detected. You also must be permitted to periodically leave your work area to wash your face and respirator facepiece whenever necessary to prevent skin irritation. If you ever have difficulty breathing during a fit test or while using a respirator, your employer must make a medical examination available to you to determine whether you can safely wear a respirator. The result of this examination may be to give you a positive pressure respirator (which reduces breathing resistance) or to provide alternative means of protection.

(v) Protective work clothing and equipment. If you are exposed to lead above the PEL, or if you are exposed to lead compounds such as lead arsenate or lead azide which can cause skin and eye irritation, your employer must provide you with protective work clothing and equipment appropriate for the hazard. If work clothing is provided, it must be provided in a clean and dry condition at least weekly, and daily if your airborne exposure to lead is greater than $200 \mu\text{g}/\text{m}^3$. Appropriate protective work clothing and equipment can include coveralls or similar full-body work clothing, gloves, hats, shoes or disposable shoe coverlets, and face shields or vented goggles. Your employer is required to provide all such equipment at no cost to you. He or she is responsible for providing repairs and replacement as necessary and also is responsible for the cleaning, laundering or disposal of protective clothing and equipment. Contaminated work clothing or equipment must be removed in change rooms and not worn home or you will extend your exposure and expose your family since lead from your clothing can accumulate in your house, car, etc. Contaminated clothing which is to be cleaned, laundered or disposed of must be placed in closed containers in the change room. At no time may lead be removed from protective clothing or equipment by any means which disperses lead into the work room air.

(vi) Housekeeping. Your employer must establish a housekeeping program sufficient to maintain all surfaces as free as practicable of accumulations of lead dust. Vacuuming is the preferred method of meeting this requirement, and the use of compressed air to clean floors and other surfaces is absolutely prohibited. Dry or wet sweeping, shoveling, or brushing may not be used except where vacuuming or other equally effective methods have been tried and do not work. Vacuums must be used and emptied in a manner which minimizes the reentry of lead into the work place.

(vii) Hygiene facilities and practices.

(A) The standard requires that change rooms, showers and filtered air lunchrooms be constructed and made available to workers exposed to lead above the PEL. When the PEL is exceeded, the employer must assure that food and beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in these facilities. Change rooms, showers and lunchrooms, must be used by workers exposed in excess of the PEL. After

showering, no clothing or equipment worn during the shift may be worn home and this includes shoes and underwear. Your own clothing worn during the shift should be carried home and cleaned carefully so that it does not contaminate your home. Lunchrooms may not be entered with protective clothing or equipment unless surface dust has been removed by vacuuming, downdraft booth or other cleaning methods. Finally, workers exposed above the PEL must wash both their hands and faces prior to eating, drinking, smoking or applying cosmetics.

(B) All of the facilities and hygiene practices just discussed are essential to minimize additional sources of lead absorption from inhalation or ingestion of lead that may accumulate on you, your clothes or your possessions. Strict compliance with these provisions can virtually eliminate several sources of lead exposure which significantly contribute to excessive lead absorption.

(viii) Medical surveillance.

(A) The medical surveillance program is part of the standard's comprehensive approach to the prevention of lead-related disease. Its purpose is to supplement the main thrust of the standard which is aimed at minimizing airborne concentrations of lead and sources of ingestion. Only medical surveillance can determine if the other provisions of the standard have effectively protected you as an individual. Compliance with the standard's provision will protect most workers from the adverse effects of lead exposure, but may not be satisfactory to protect individual workers (I) who have high body burdens of lead acquired over past years, (II) who have additional uncontrolled sources of nonoccupational lead exposure, (III) who exhibit unusual variations in lead absorption rates, or (IV) who have specific nonwork related medical conditions which could be aggravated by lead exposure (e.g., renal disease, anemia). In addition, control systems may fail, or hygiene and respirator programs may be inadequate. Periodic medical surveillance of individual workers will help detect those failures. Medical surveillance will also be important to protect your reproductive ability - regardless of whether you are a man or a woman.

(B) All medical surveillance required by the standard must be performed by or under the supervision of a licensed physician. The employer must provide required medical surveillance without cost to employees and at a reasonable time and place. The standard's medical surveillance program has two parts - periodic biological monitoring, and medical examinations.

(C) Your employer's obligation to offer medical surveillance is triggered by the results of the air monitoring program. Medical surveillance must be made available to all employees who are exposed in excess of the action level for more than 30 days a year. The initial phase of the medical surveillance program, which included blood lead level tests and medical examinations, must be completed for all covered employees no later than 180 days from the effective date of this standard. Priority within this first round of medical surveillance must be given to employees whom the employer believes to be at greatest risk from continued exposure (for example, those with the longest prior exposure to lead, or those with the highest current exposure). Thereafter, the employer must periodically make medical surveillance - both

biological monitoring and medical examinations - available to all covered employees.

(D) Biological monitoring under the standard consists of blood lead level (PbB) and zinc protoporphyrin tests at least every six months after the initial PbB test. A zinc protoporphyrin (ZPP) test is a very useful blood test which measures an effect of lead on your body. If a worker's PbB exceeds 40 $\mu\text{g}/100\text{g}$, the monitoring frequency must be increased from every six months to at least every two months and not reduced until two consecutive PbBs indicate a blood lead level below 40 $\mu\text{g}/100\text{g}$. Each time your PbB is determined to be over 40 $\mu\text{g}/100\text{g}$, your employer must notify you of this in writing within five working days of the receipt of the test results. The employer must also inform you that the standard requires temporary medical removal with economic protection when your PbB exceeds certain criteria (see Discussion of Medical Removal Protection - subsection (12)). During the first year of the standard, this removal criterion is 80 $\mu\text{g}/100\text{g}$. Anytime your PbB exceeds 80 $\mu\text{g}/100\text{g}$ your employer must make available to you a prompt follow-up PbB test to ascertain your PbB. If the two tests both exceed 80 $\mu\text{g}/100\text{g}$ and you are temporarily removed, then your employer must make successive PbB tests available to you on a monthly basis during the period of your removal.

(E) Medical examinations beyond the initial one must be made available on an annual basis if your blood lead levels exceeds 40 $\mu\text{g}/100\text{g}$ at any time during the preceding year. The initial examination will provide information to establish a baseline to which subsequent data can be compared. An initial medical examination must also be made available (prior to assignment) for each employee being assigned for the first time to an area where the airborne concentration of lead equals or exceeds the action level. In addition, a medical examination or consultation must be made available as soon as possible if you notify your employer that you are experiencing signs or symptoms commonly associated with lead poisoning or that you have difficulty breathing while wearing a respirator or during a respirator fit test. You must also be provided a medical examination or consultation if you notify your employer that you desire medical advice concerning the effects of current or past exposure to lead on your ability to procreate a healthy child.

(F) Finally, appropriate follow-up medical examinations or consultations may also be provided for employees who have been temporarily removed from exposure under the medical removal protection provisions of the standard (see item (ix) below).

(G) The standard specifies the minimum content of pre-assignment and annual medical examinations. The content of other types of medical examinations and consultations is left up to the sound discretion of the examining physician. Pre-assignment and annual medical examinations must include (I) a detailed work history and medical history, (II) a thorough physical examination, and (III) a series of laboratory tests designed to check your blood chemistry and your kidney function. In addition, at any time upon your request, a laboratory evaluation of male fertility will be made (microscopic examination of a sperm sample), or a pregnancy test will be given.

(H) The standard does not require that you participate in any of the medical procedures, tests, etc., which your employer is required to make available to you. Medical surveillance can, however, play a very important role in protecting your health. You are strongly encouraged, therefore, to participate in a meaningful fashion. Generally, your employer will choose the physician who conducts medical surveillance under the lead standard - unless you and your employer can agree on the choice of a physician or physicians. Some companies and unions have agreed in advance, for example, to use certain independent medical laboratories or panels of physicians. Any of these arrangements are acceptable so long as required medical surveillance is made available to workers.

(I) The standard requires your employer to provide certain information to a physician to aid in his or her examination of you. This information includes (I) the standard and its appendices, (II) a description of your duties as they relate to lead exposure, (III) your exposure level, (IV) a description of personal protective equipment you wear, (V) prior blood level results, and (VI) prior written medical opinions concerning you that the employer has. After a medical examination or consultation the physician must prepare a written report which must contain (I) the physician's opinion as to whether you have any medical conditions which places you at increased risk of material impairment to health from exposure to lead, (II) any recommended special protective measures to be provided to you, (III) any blood lead level determinations, and (IV) any recommended limitation on your use of respirators. This last element must include a determination of whether you can wear a powered air purifying respirator (PAPR) if you are found unable to wear a negative pressure respirator.

(J) The medical surveillance program of the lead standard may at some point in time serve to notify certain workers that they have acquired a disease or other adverse medical condition as a result of occupational lead exposure. If this is true these workers might have legal rights to compensation from public agencies, their employers, firms that supply hazardous products to their employers, or other persons. Some states have laws, including worker compensation laws, that disallow a worker to learn of a job-related health impairment to sue, unless the worker sues within a short period of time after learning of the impairment. (This period of time may be a matter of months or years.) An attorney can be consulted about these possibilities. It should be stressed that WISHA is in no way trying to either encourage or discourage claims or lawsuits. However, since results of the standard's medical surveillance program can significantly affect the legal remedies of a worker who has acquired a job-related disease or impairment, it is proper for WISHA to make you aware of this.

(K) The medical surveillance section of the standard also contains provisions dealing with chelation. Chelation is the use of certain drugs (administered in pill form or injected into the body) to reduce the amount of lead absorbed in body tissues. Experience accumulated by the medical and scientific communities has largely confirmed the effectiveness of this type of therapy for the treatment of very severe lead poisoning. On the other hand it has also been established that there

can be a long list of extremely harmful side effects associated with the use of chelating agents. The medical community has balanced the advantages and disadvantages resulting from the use of chelating agents in various circumstances and has established when the use of these agents is acceptable. The standard includes these accepted limitations due to a history of abuse of chelation therapy by some lead companies. The most widely used chelating agents are calcium disodium EDTA, (Ca Na₂EDTA), Calcium Disodium Versenate (Versenate), and d-penicillamine (penicillamine or Cupramine).

(L) The standard prohibits "prophylactic chelation" of any employee by any person the employer retains, supervises or controls. "Prophylactic chelation" is the routine use of chelating or similarly acting drugs to prevent elevated blood levels in workers who are occupationally exposed to lead, or the use of these drugs to routinely lower blood lead levels to predesignated concentrations believed to be safe. It should be emphasized that where an employer takes a worker who has no symptoms of lead poisoning and has chelation carried out by a physician (either inside or outside of a hospital) solely to reduce the worker's blood lead level, that will generally be considered prophylactic chelation. The use of a hospital and a physician does not mean that prophylactic chelation is not being performed. Routine chelation to prevent increased or reduce current blood lead levels is unacceptable whatever the setting.

(M) The standard allows the use of "therapeutic" or "diagnostic" chelation if administered under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring. Therapeutic chelation responds to severe lead poisoning where there are marked symptoms. Diagnostic chelation, involves giving a patient a dose of the drug then collecting all urine excreted for some period of time as an aid to the diagnosis of lead poisoning.

(N) In cases where the examining physician determines that chelation is appropriate, you must be notified in writing of this fact before such treatment. This will inform you of a potentially harmful treatment, and allow you to obtain a second opinion.

(ix) Medical removal protection.

(A) Excessive lead absorption subjects you to increased risk of disease. Medical removal protection (MRP) is a means of protecting you when for whatever reasons, other methods, such as engineering controls, work practices, and respirators, have failed to provide the protection you need. MRP involves the temporary removal of a worker from his or her regular job to a place of significantly lower exposure without any loss of earnings, seniority, or other employment rights of benefits. The purpose of this program is to cease further lead absorption and allow your body to naturally excrete lead which has previously been absorbed. Temporary medical removal can result from an elevated blood lead level, or a medical opinion. Up to eighteen months of protection is provided as a result of either form of removal. The vast majority of removed workers, however, will return to their former jobs long before this eighteen month period expires. The standard contains special provisions to deal with the extraordinary but possible case where a long-term worker's blood lead level does not adequately decline during eighteen months of removal.

(B) During the first year of the standard, if your blood lead level is 80 µg/100g or above you must be removed from any exposure where your air lead level without a respirator would be 100 µg/m³ or above. If you are removed from your normal job you may not be returned until your blood lead level declines to at least 60 µg/100g. These criteria for removal and return will change according to the following schedule:

TABLE 1

Effective Date	Removal Blood Level (µg/100g)	Air Lead (µg/m ³)	Return Blood Lead (µg/100g)
9/6/81	At or above 70	50 or above	At or below 50
9/6/82	At or above 60	30 or above	At or below 40
9/6/84	At or above 50 averaged over six months	30 or above	At or below 40

(C) You may also be removed from exposure even if your blood lead levels are below these criteria if a final medical determination indicates that you temporarily need reduced lead exposure for medical reasons. If the physician who is implementing your employer's medical program makes a final written opinion recommending your removal or other special protective measures, your employer must implement the physician's recommendation. If you are removed in this manner, you may only be returned when the physician indicates it is safe for you to do so.

(D) The standard does not give specific instructions dealing with what an employer must do with a removed worker. Your job assignment upon removal is a matter for you, your employer and your union (if any) to work out consistent with existing procedures for job assignments. Each removal must be accomplished in a manner consistent with existing collective bargaining relationships. Your employer is given broad discretion to implement temporary removals so long as no attempt is made to override existing agreements. Similarly, a removed worker is provided no right to veto an employer's choice which satisfies the standard.

(E) In most cases, employers will likely transfer removed employees to other jobs with sufficiently low lead exposure. Alternatively, a worker's hours may be reduced so that the time weighted average exposure is reduced, or he or she may be temporarily laid off if no other alternative is feasible.

(F) In all of these situations, MRP benefits must be provided during the period of removal - i.e., you continue to receive the same earnings, seniority, and other rights and benefits you would have had if you had not been removed. Earnings include more than just your base wage; it includes overtime, shift differentials, incentives, and other compensation you would have earned if you had not been removed. During the period of removal you must also be provided with appropriate follow-up medical surveillance. If you were removed because your blood lead level was too high, you must be provided with a monthly blood test. If a medical opinion caused your removal, you must be provided medical

PERMANENT

tests or examinations that the physician believes to be appropriate. If you do not participate in this follow-up medical surveillance, you may lose your eligibility for MRP benefits.

(G) When you are medically eligible to return to your former job, your employer must return you to your "former job status." This means that you are entitled to the position, wages, benefits, etc., you would have had if you had not been removed. If you would still be in your old job if no removal had occurred, that is where you go back. If not, you are returned consistent with whatever job assignment discretion your employer would have had if no removal had occurred. MRP only seeks to maintain your rights, not expand them or diminish them.

(H) If you are removed under MRP and you are also eligible for worker compensation or other compensation for lost wages, your employer's MRP benefits obligation is reduced by the amount that you actually receive from these other sources. This is also true if you obtain other employment during the time you are laid off with MRP benefits.

(I) The standard also covers situations where an employer voluntarily removes a worker from exposure to lead due to the effects of lead on the employee's medical condition, even though the standard does not require removal. In these situations MRP benefits must still be provided as though the standard required removal. Finally, it is important to note that in all cases where removal is required, respirators cannot be used as a substitute. Respirators may be used before removal becomes necessary, but not as an alternative to a transfer to a low exposure job, or to a lay-off with MRP benefits.

(x) Employee information and training.

(A) Your employer is required to provide an information and training program for all employees exposed to lead above the action level or who may suffer skin or eye irritation from lead. This program must inform these employees of the specific hazards associated with their work environment, protective measures which can be taken, the danger of lead to their bodies (including their reproductive systems), and their rights under the standard. In addition, your employer must make readily available to all employees, including those exposed below the action level, a copy of the standard and its appendices and must distribute to all employees any materials provided to the employer under the Washington Industrial Safety and Health Act (WISHA).

(B) Your employer is required to complete this training for all employees by March 4, 1981. After this date, all new employees must be trained prior to initial assignment to areas where there is possibility of exposure over the action level. This training program must also be provided at least annually thereafter.

(xi) Signs. The standard requires that the following warning sign be posted in work areas where the exposure to lead exceeds the PEL:

WARNING
LEAD WORK AREA
NO SMOKING OR EATING

(xii) Recordkeeping.

(A) Your employer is required to keep all records of exposure monitoring for airborne lead. These records must include the name and job classification of employees measured, details of the sampling and analytic techniques, the results of this sampling and the type of respiratory protection being worn by the person sampled. Your employer is also required to keep all records of biological monitoring and medical examination results. These must include the names of the employees, the physician's written opinion and a copy of the results of the examination. All of the above kinds of records must be kept for 40 years, or for at least 20 years after your termination of employment, whichever is longer.

(B) Recordkeeping is also required if you are temporarily removed from your job under the MRP program. This record must include your name and social security number, the date of your removal and return, how the removal was or is being accomplished, and whether or not the reason for the removal was an elevated blood lead level. Your employer is required to keep each medical removal record only for as long as the duration of an employee's employment.

(C) The standard requires that if you request to see or copy environmental monitoring, blood lead level monitoring, or medical removal records, they must be made available to you or to a representative that you authorize. Your union also has access to these records. Medical records other than PbBs must also be provided to you upon request, to your physician or to any other person whom you may specifically designate. Your union does not have access to your personal medical records unless you authorize their access.

(xiii) Observations of monitoring. When air monitoring for lead is performed at your work place as required by this standard, your employer must allow you or someone you designate to act as an observer of the monitoring. Observers are entitled to an explanation of the measurement procedure, and to record the results obtained. Since results will not normally be available at the time of the monitoring, observers are entitled to record or receive the results of the monitoring when returned by the laboratory. Your employer is required to provide the observer with any personal protective devices required to be worn by employees working in the areas that is being monitored. The employer must require the observer to wear all such equipment and to comply with all other applicable safety and health procedures.

(xiv) Effective date. The standard's effective date is September 6, 1980, and the employer's obligation under the standard begin to come into effect as of that date. The standard was originally adopted as WAC 296-62-07349 and later recodified to WAC 296-62-07521.

(c) Appendix C. Medical Surveillance Guidelines.

(i) Introduction.

(A) The primary purpose of the Washington Industrial Safety and Health Act of 1973 is to assure, so far as possible, safe and healthful working conditions for every working man and woman. The occupational health standard for inorganic lead* was promulgated to protect workers exposed to inorganic lead including metallic lead, all inorganic lead compounds and organic lead soaps.

*The term inorganic lead used throughout the medical surveillance appendices is meant to be synonymous with the definition of lead set forth in the standard.

(B) Under this final standard in effect as of September 6, 1980, occupational exposure to inorganic lead is to be limited to 50 µg/m³ (micrograms per cubic meter) based on an eight-hour time-weighted average (TWA). This level of exposure eventually must be achieved through a combination of engineering, work practice and other administrative controls. Periods of time ranging from one to ten years are provided for different industries to implement these controls which are based on individual industry considerations. Until these controls are in place, respirators must be used to meet the 50 µg/m³ exposure limit.

(C) The standard also provides for a program of biological monitoring and medical surveillance for all employees exposed to levels of inorganic lead above the action level of 30 µg/m³ for more than thirty days per year.

(D) The purpose of this document is to outline the medical surveillance provisions of the standard for inorganic lead, and to provide further information to the physician regarding the examination and evaluation of workers exposed to inorganic lead.

(E) Item (ii) provides a detailed description of the monitoring procedure including the required frequency of blood testing for exposed workers, provisions for medical removal protection (MRP), the recommended right of the employee to a second medical opinion, and notification and recordkeeping requirements of the employer. A discussion of the requirements for respirator use and respirator monitoring and WISHA's position on prophylactic chelation therapy are also included in this section.

(F) Item (iii) discusses the toxic effects and clinical manifestations of lead poisoning and effects of lead intoxication on enzymatic pathways in heme synthesis. The adverse effects on both male and female reproductive capacity and on the fetus are also discussed.

(G) Item (iv) outlines the recommended medical evaluation of the worker exposed to inorganic lead including details of the medical history, physical examination, and recommended laboratory tests, which are based on the toxic effects of lead as discussed in item (ii).

(H) Item (v) provides detailed information concerning the laboratory tests available for the monitoring of exposed workers. Included also is a discussion of the relative value of each test and the limitations and precautions which are necessary in the interpretation of the laboratory results.

(I) Airborne levels to be achieved without reliance or respirator protection through a combination of engineering and work practice or other administrative controls are illustrated in the following table:

Industry	Permissible Lead Level/Compliance Date		
	200µg/m ³	100µg/m ³	50µg/m ³
Primary Lead Production	1973	06/29/84	06/29/91
Secondary Lead Production	1973	06/29/84	06/29/91
Lead Acid Battery Manufacturing	1973	06/29/83	06/29/91
Automobile Mfg./Solder, Grinding	1973	N/A	03/08/97

Industry	Permissible Lead Level/Compliance Date		
	200µg/m ³	100µg/m ³	50µg/m ³
Electronics, Gray Iron Foundries, Ink Mfg., Paints and Coatings Mfg., Can Mfg., Wallpaper Mfg., and Printing.	1973	N/A	06/29/91
Lead Chemical Mfg., Non-ferrous Foundries, Leaded Steel Mfg., Battery Breaking in the Collection and Processing of Scrap (when not a part of secondary lead smelter) Secondary Copper Smelter, Brass and Bronze Ingot Production.	1973	N/A	N/A [*]
All Other Industries	1973	N/A	09/08/92

* Feasibility of achieving the PEL by engineering and work practice controls for these industries has yet to be resolved in court, therefore no date has been scheduled.

(ii) Medical surveillance and monitoring requirements for workers exposed to inorganic lead.

(A) Under the occupational health standard for inorganic lead, a program of biological monitoring and medical surveillance is to be made available to all employees exposed to lead above the action level of 30 µg/m³ TWA for more than thirty days each year. This program consists of periodic blood sampling and medical evaluation to be performed on a schedule which is defined by previous laboratory results, worker complaints or concerns, and the clinical assessment of the examining physician.

(B) Under this program, the blood lead level of all employees who are exposed to lead above the action level of 30 µg/m³ is to be determined at least every six months. The frequency is increased to every two months for employees whose last blood lead level was between 40µg/100g whole blood and the level requiring employee medical removal to be discussed below. For employees who are removed from exposure to lead due to an elevated blood lead, a new blood lead level must be measured monthly. Zinc protoporphyrin (ZPP) measurement is required on each occasion that a blood lead level measurement is made.

(C) An annual medical examination and consultation performed under the guidelines discussed in item (iv) is to be made available to each employee for whom a blood test conducted at any time during the preceding twelve months indicated a blood lead level at or above 40µg/100g. Also, an examination is to be given to all employees prior to their assignment to an area in which airborne lead concentrations reach or exceed the action level. In addition, a medical examination must be provided as soon as possible after notification by an employee that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice regarding lead exposure and the ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during respirator use. An examination is also to be made available to each employee removed from exposure to lead due to a risk of sustaining material impair-

PERMANENT

ment to health, or otherwise limited or specially protected pursuant to medical recommendations.

(D) Results of biological monitoring or the recommendations of an examining physician may necessitate removal of an employee from further lead exposure pursuant to the standard's medical removal program (MRP). The object of the MRP program is to provide temporary medical removals

to workers either with substantially elevated blood lead levels or otherwise at risk of sustaining material health impairment from continued substantial exposure to lead. The following guidelines which are summarized in Table 10 were created under the standard for the temporary removal of an exposed employee and his or her subsequent return to work in an exposure area.

TABLE 10

		EFFECTIVE DATE				
		Sept. 6, 1980	Sept. 6, 1981	Sept. 6, 1982	Sept. 6, 1983	Sept. 6, 1984
A.	Blood lead level requiring employee medical removal (level must be confirmed with second follow-up blood lead level within two weeks of first report).	>80 µg/100g.	>70 µg/100g.	>60 µg/100g.	>60 µg/100g.	>60 µg/100g or average of last three blood samples or all blood samples over previous 6 months (whichever is over a longer time period) is 50 µg/100g. or greater unless last sample is 40 µg/100g or less.
B.	Frequency which employees exposed is action level of lead (30 µg/m ³ TWA) must have blood lead level checked. (ZPP is also required in each occasion that a blood test is obtained):					
	1. Last blood lead level less than 40 µg/100g	Every 6 months.	Every 6 months.	Every 6 months.	Every 6 months.	Every 6 months.
	2. Last blood lead level between 40 µg/100g and level requiring medical removal (see A above)	Every 2 months.	Every 2 months.	Every 2 months.	Every 2 months.	Every 2 months.
	3. Employees removed from exposure to lead because of an elevated blood lead level	Every 1 month.	Every 1 month.	Every 1 month.	Every 1 month.	Every 1 month.
C.	Permissible airborne exposure limit for workers removed from work due to an elevated blood lead level (without regard to respirator protection).	100 µg/m ³ 8 hr TWA	50 µg/m ³ 8 hr TWA	30 µg/m ³ 8 hr TWA	30 µg/m ³ 8 hr TWA	30 µg/m ³ 8 hr TWA
D.	Blood lead level confirmed with a second blood analysis, at which employee may return to work. Permissible exposure without regard to respirator protection is listed by industry in Table 1.	60 µg/100g	50 µg/100g	40 µg/100g	40 µg/100g	40 µg/100g

Note: Where medical opinion indicates that an employee is at risk of material impairment from exposure to lead, the physician can remove an employee from exposure exceeding the action level (or less) or recommend special protective measures as deemed appropriate and necessary. Medical monitoring during the medical removal period can be more stringent than noted in the table above if the physician so specifies. Return to work or removal of limitations and special protections is permitted when the physician indicates that the worker is no longer at risk of material impairment.

(E) Under the standard's ultimate worker removal criteria, a worker is to be removed from any work having any eight-hour TWA exposure to lead of 30 µg/m³ or more when-

ever either of the following circumstances apply. (I) a blood lead level of 60 µg/100g or greater is obtained and confirmed by a second follow-up blood lead level performed within two

PERMANENT

weeks after the employer receives the results of the first blood sample test, or (II) the average of the previous three blood lead determinations or the average of all blood lead determinations conducted during the previous six months, whichever encompasses the longest time period, equals or exceeds 50 $\mu\text{g}/100\text{g}$, unless the last blood sample indicates a blood lead level at or below 40 $\mu\text{g}/100\text{g}$, in which case the employee need not be removed. Medical removal is to continue until two consecutive blood lead levels are 40 $\mu\text{g}/100\text{g}$ or less.

(F) During the first two years that the ultimate removal criteria are being phased in, the return criteria have been set to assure that a worker's blood lead level has substantially declined during the period of removal. From March 1, 1979, to March 1, 1980, the blood lead level requiring employee medical removal is 80 $\mu\text{g}/100\text{g}$. Workers found to have a confirmed blood lead at this level or greater need only be removed from work having a daily eight hour TWA exposure to lead at or above 100 $\mu\text{g}/\text{m}^3$. Workers so removed are to be returned to work when their blood lead levels are at or below 60 $\mu\text{g}/100\text{g}$ of whole blood. From March 1, 1980, to March 1, 1981, the blood lead level requiring medical removal is 70 $\mu\text{g}/100\text{g}$. During this period workers need only be removed from jobs having a daily eight hour TWA exposure to lead at or above 50 $\mu\text{g}/\text{m}^3$ and are to be returned to work when a level of 50 $\mu\text{g}/100\text{g}$ is achieved. Beginning March 1, 1981, return depends on the worker's blood lead level declining to 40 $\mu\text{g}/100\text{g}$ of whole blood.

(G) As part of the standard, the employer is required to notify in writing each employee whose whole blood lead level exceeds 40 $\mu\text{g}/100\text{g}$. In addition, each such employee is to be informed that the standard requires medical removal with MRP benefits, discussed below, when an employee's blood lead level exceeds the above defined limits.

(H) In addition to the above blood lead level criteria, temporary worker removal may also take place as a result of medical determinations and recommendations. Written medical opinions must be prepared after each examination pursuant to the standard. If the examining physician includes medical finding, determination or opinion that the employee has a medical condition which places the employee at increased risk of material health impairment from exposure to lead, then the employee must be removed from exposure to lead at or above the action level. Alternatively, if the examining physician recommends special protective measures for an employee (e.g., use of a powered air purifying respirator) or recommends limitations on an employee's exposure to lead, then the employer must implement these recommendations. Recommendations may be more stringent than the specific provisions of the standard. The examining physician, therefore, is given broad flexibility to tailor special protective procedures to the needs of individual employees. This flexibility extends to the evaluation and management of pregnant workers and male and female workers who are planning to conceive children. Based on the history, physical examination, and laboratory studies, the physician might recommend special protective measures or medical removal for an employee who is pregnant or who is planning to conceive a child when,

in the physician's judgment, continued exposure to lead at the current job would pose a significant risk. The return of the employee to his or her former job status, or the removal of special protections or limitations, depends upon the examining physician determining that the employee is no longer at increased risk of material impairment or that the special measures are no longer needed.

(I) During the period of any form of special protection or removal, the employer must maintain the worker's earnings, seniority, and other employment rights and benefits (as though the worker has not been removed) for a period of up to eighteen months. This economic protection will maximize meaningful worker participation in the medical surveillance program, and is appropriate as part of the employer's overall obligation to provide a safe and healthful work place. The provisions of MRP benefits during the employee's removal period may, however, be conditioned upon participation in medical surveillance.

(J) On rare occasions, an employee's blood lead level may not acceptably decline within eighteen months of removal. This situation will arise only in unusual circumstances, thus the standard relies on an individual medical examination to determine how to protect such an employee. This medical determination is to be based on both laboratory values, including lead levels, zinc protoporphyrin levels, blood counts, and other tests felt to be warranted, as well as the physician's judgment that any symptoms or findings on physical examination are a result of lead toxicity. The medical determination may be that the employee is incapable of ever safely returning to his or her former job status. The medical determination may provide additional removal time past eighteen months for some employees or specify special protective measures to be implemented.

(K) The lead standard provides for a multiple physician review in cases where the employee wishes a second opinion concerning potential lead poisoning or toxicity. If an employee wishes a second opinion, he or she can make an appointment with a physician of his or her choice. This second physician will review the findings, recommendations or determinations of the first physician and conduct any examinations, consultations or tests deemed necessary in an attempt to make a final medical determination. If the first and second physicians do not agree in their assessment they must try to resolve their differences. If they cannot reach an agreement then they must designate a third physician to resolve the dispute.

(L) The employer must provide examining and consulting physicians with the following specific information: A copy of the lead regulations and all appendices, a description of the employee's duties as related to exposure, the exposure level to lead and any other toxic substances (if applicable), a description of personal protective equipment used, blood lead levels, and all prior written medical opinions regarding the employee in the employer's possession or control. The employer must also obtain from the physician and provide the employee with a written medical opinion containing blood lead levels, the physician's opinion as to whether the employee is at risk of material impairment to health, any recommended protective measures for the employee if further

exposure is permitted, as well as any recommended limitations upon an employee's use of respirators.

(M) Employers must instruct each physician not to reveal to the employer in writing or in any other way his or her findings, laboratory results, or diagnoses which are felt to be unrelated to occupational lead exposure. They must also instruct each physician to advise the employee of any occupationally or nonoccupationally related medical condition requiring further treatment or evaluation.

(N) The standard provides for the use of respirators when engineering and other primary controls have not been fully implemented. However, the use of respirator protection shall not be used in lieu of temporary medical removal due to elevated blood lead levels or findings that an employee is at risk of material health impairment. This is based on the numerous inadequacies of respirators including skin rash where the facepiece makes contact with the skin, unacceptable stress to breathing in some workers with underlying cardiopulmonary impairment, difficulty in providing adequate fit, the tendency for respirators to create additional hazards by interfering with vision, hearing, and mobility, and the difficulties of assuring the maximum effectiveness of a complicated work practice program involving respirators. Respirators do, however, serve a useful function where engineering and work practice are inadequate by providing interim or short-term protection, provided they are properly selected for the environment in which the employee will be working, properly fitted to the employee, maintained and cleaned periodically, and worn by the employee when required.

(O) In its final standard on occupational exposure to inorganic lead, WISHA has prohibited prophylactic chelation. Diagnostic and therapeutic chelation are permitted only under the supervision of a licensed physician with appropriate medical monitoring in an acceptable clinical setting. The decision to initiate chelation therapy must be made on an individual basis and take into account the severity of symptoms felt to be a result of lead toxicity along with blood lead levels, ZPP levels and other laboratory tests as appropriate. EDTA and penicillamine, which are the primary chelating agents used in the therapy of occupational lead poisoning, have significant potential side effects and their use must be justified on the basis of expected benefits to the worker.

(P) Unless frank and severe symptoms are present, therapeutic chelation is not recommended given the opportunity to remove a worker from exposure and allow the body to naturally excrete accumulated lead. As a diagnostic aid, the chelation mobilization test using CA-EDTA has limited applicability. According to some investigators, the tests can differentiate between lead-induced and other nephropathies. The test may also provide an estimation of the mobile fraction of the total body lead burden.

(Q) Employers are required to assure that accurate records are maintained on exposure monitoring, medical surveillance, and medical removal for each employee. Exposure monitoring and medical surveillance records must be kept for forty years or the duration of employment plus twenty years, whichever is longer, while medical removal records must be maintained for the duration of employment. All records required under the standard must be made available upon request to representatives of the director of the department of

labor and industries. Employers must also make environmental and biological monitoring and medical removal records available to affected employees and to former employees or their authorized employee representatives. Employees or their specifically designated representatives have access to their entire medical surveillance records.

(R) In addition, the standard requires that the employer inform all workers exposed to lead at or above the action level of the provisions of the standard and all its appendices, the purpose and description of medical surveillance and provisions for medical removal protection if temporary removal is required. An understanding of the potential health effects of lead exposure by all exposed employees along with full understanding of their rights under the lead standard is essential for an effective monitoring program.

(iii) Adverse health effects of inorganic lead.

(A) Although the toxicity of lead has been known for 2,000 years, the knowledge of the complex relationship between lead exposure and human response is still being refined. Significant research into the toxic properties of lead continues throughout the world, and it should be anticipated that our understanding of thresholds of effects and margins of safety will be improved in future years. The provisions of the lead standard are founded on two prime medical judgments; first, the prevention of adverse health effects from exposure to lead throughout a working lifetime requires that worker blood lead levels be maintained at or below 40 µg/100g, and second, the blood lead levels of workers, male or female, who intend to parent in the near future should be maintained below 30 µg/100g to minimize adverse reproduction health effects to the parent and developing fetus. The adverse effects of lead on reproduction are being actively researched and WISHA encourages the physician to remain abreast of recent developments in the area to best advise pregnant workers or workers planning to conceive children.

(B) The spectrum of health effects caused by lead exposure can be sub-divided into five developmental states; normal, physiological changes of uncertain significance, pathophysiological changes, overt symptoms (morbidity), and mortality. Within this process there are no sharp distinctions, but rather a continuum of effects. Boundaries between categories overlap due to the wide variation of individual ((~~responses~~ {~~responses~~}) responses) and exposures in the working population. WISHA's development of the lead standard focused on pathophysiological changes as well as later stages of disease.

(I) Heme synthesis inhibition.

a) The earliest demonstrated effect of lead involves its ability to inhibit at least two ((~~enzymes~~ {~~enzymes~~}) enzymes) of the heme synthesis pathway at very low blood levels. Inhibition of delta aminolevulinic acid dehydrase (ALA-D) which catalyzes the conversion of delta-aminolevulinic acid (ALA) to protoporphyrin is observed at a blood lead level below 20µg/100g whole blood. At a blood lead level of 40 µg/100g, more than twenty percent of the population would have seventy percent inhibition of ALA-D. There is an exponential increase in ALA excretion at blood lead levels greater than 40 µg/100g.

b) Another enzyme, ferrochelatase, is also inhibited at low blood lead levels. Inhibition of ferrochelatase leads to increased free erythrocyte protoporphyrin (FEP) in the blood which can then bind to zinc to yield zinc protoporphyrin. At a blood lead level of 50 µg/100g or greater, nearly 100 percent of the population will have an increase FEP. There is also an exponential relationship between blood lead levels greater than 40 µg/100g and the associated ZPP level, which has led to the development of the ZPP screening test for lead exposure.

c) While the significance of these effects is subject to debate, it is WISHA's position that these enzyme disturbances are early stages of a disease process which may eventually result in the clinical symptoms of lead poisoning. Whether or not the effects do progress to the later stages of clinical disease, disruption of these enzyme processes over a working lifetime is considered to be a material impairment of health.

d) One of the eventual results of lead-induced inhibition of enzymes in the heme synthesis pathway is anemia which can be asymptomatic if mild but associated with a wide array of symptoms including dizziness, fatigue, and tachycardia when more severe. Studies have indicated that lead levels as low as 50 µg/100g can be associated with a definite decreased hemoglobin, although most cases of lead-induced anemia, as well as shortened red-cell survival times, occur at lead levels exceeding 80 µg/100g. Inhibited hemoglobin synthesis is more common in chronic cases whereas shortened erythrocyte life span is more common in acute cases.

e) In lead-induced anemias, there is usually a reticulocytosis along with the presence of basophilic stippling, and ringed sideroblasts, although none of the above are pathognomonic for lead-induced anemia.

(II) Neurological effects.

a) Inorganic lead had been found to have toxic effects on both the central and peripheral nervous systems. The earliest stage of lead-induced central nervous system effects first manifest themselves in the form of behavioral disturbances and central nervous system symptoms including irritability, restlessness, insomnia and other sleep disturbances, fatigue, vertigo, headache, poor memory, tremor, depression, and apathy. With more severe exposure, symptoms can progress to drowsiness, stupor, hallucinations, delirium, convulsions and coma.

b) The most severe and acute form of lead poisoning which usually follows ingestion or inhalation of large amounts of lead is acute encephalopathy which may arise precipitously with the onset of intractable seizures, coma, cardiorespiratory arrest, and death within 48 hours.

c) While there is disagreement about what exposure levels are needed to produce the earliest symptoms, most experts agree that symptoms definitely can occur at blood lead levels of 60 µg/100g whole blood and therefore recommend a 40 µg/100g maximum. The central nervous system effects frequently are not reversible following discontinued exposure or chelation therapy and when improvement does occur, it is almost always only partial.

d) The peripheral neuropathy resulting from lead exposure characteristically involves only motor function with

minimal sensory damage and has a marked predilection for the extensor muscles of the most active extremity. The peripheral neuropathy can occur with varying degrees of severity. The earliest and mildest form which can be detected in workers with blood lead levels as low as 50 µg/100g is manifested by slowing or motor nerve conduction velocity often without clinical symptoms. With progression of the neuropathy there is development of painless extensor muscle weakness usually involving the extensor muscles of the fingers and hand in the most active upper extremity, followed in severe cases by wrist drop, much less commonly, foot drop.

e) In addition to slowing of nerve conduction, electromyographical studies in patients with blood lead levels greater than 50 µg/100g have demonstrated a decrease in the number of acting motor unit potentials, an increase in the duration of motor unit potentials, and spontaneous pathological activity including fibrillations and fasciculation. Whether these effects occur at levels of 40 µg/100g is undetermined.

f) While the peripheral neuropathies can occasionally be reversed with therapy, again such recovery is not assured particularly in the more severe neuropathies and often improvement is only partial. The lack of reversibility is felt to be due in part to segmental demyelination.

(III) Gastrointestinal. Lead may also effect the gastrointestinal system producing abdominal colic or diffuse abdominal pain, constipation, obstipation, diarrhea, anorexia, nausea and vomiting. Lead colic rarely develops at blood lead levels below 80 µg/100g.

(IV) Renal.

a) Renal toxicity represents one of the most serious health effects of lead poisoning. In the early stages of disease nuclear inclusion bodies can frequently be identified in proximal renal tubular cells. Renal functions remain normal and the changes in this stage are probably reversible. With more advanced disease there is progressive interstitial fibrosis and impaired renal function. Eventually extensive interstitial fibrosis ensues with sclerotic glomeruli and dilated and atrophied proximal tubules; all represent end stage kidney disease. Azotemia can be progressive, eventually resulting in frank uremia necessitating dialysis. There is occasionally associated hypertension and hyperuricemia with or without gout.

b) Early kidney disease is difficult to detect. The urinalysis is normal in early lead nephropathy and the blood urea nitrogen and serum creatinine increase only when two-thirds of kidney function is lost. Measurement of creatinine clearance can often detect earlier disease as can other methods of measurement of glomerular filtration rate. An abnormal Ca-EDTA mobilization test has been used to differentiate between lead-induced and other nephropathies, but this procedure is not widely accepted. A form of Fanconi syndrome with aminoaciduria, glycosuria, and hyperphosphaturia indicating severe injury to the proximal renal tubules is occasionally seen in children.

(V) Reproductive effects.

a) Exposure to lead can have serious effects on reproductive function in both males and females. In male workers exposed to lead there can be a decrease in sexual drive, impotence, decreased ability to produce healthy sperm, and steril-

ity. Malformed sperm (teratospermia), decreased number of sperm (hypospermia), and sperm with decreased motility (asthenospermia) can occur. Teratospermia has been noted at mean blood lead levels of 53 µg/100g and hypospermia and asthenospermia at 41 µg/100g. Furthermore, there appears to be a dose-response relationship for teratospermia in lead exposed workers.

b) Women exposed to lead may experience menstrual disturbances including dysmenorrhea, menorrhagia and amenorrhea. Following exposure to lead, women have a higher frequency of sterility, premature births, spontaneous miscarriages, and stillbirths.

c) Germ cells can be affected by lead and cause genetic damage in the egg or sperm cells before conception and result in failure to implant, miscarriage, stillbirth, or birth defects.

d) Infants of mothers with lead poisoning have a higher mortality during the first year and suffer from lowered birth weights, slower growth, and nervous system disorders.

e) Lead can pass through the placental barrier and lead levels in the mother's blood are comparable to concentrations of lead in the umbilical cord at birth. Transplacental passage becomes detectable at 12-14 weeks of gestation and increases until birth.

f) There is little direct data on damage to the fetus from exposure to lead but it is generally assumed that the fetus and newborn would be at least as susceptible to neurological damage as young children. Blood lead levels of 50-60 µg/100g in children can cause significant neurobehavioral impairments, and there is evidence of hyperactivity at blood levels as low as 25 µg/100g. Given the overall body of literature concerning the adverse health effects of lead in children, WISHA feels that the blood lead level in children should be maintained below 30 µg/100g with a population mean of 15 µg/100g. Blood lead levels in the fetus and newborn likewise should not exceed 30 µg/100g.

g) Because of lead's ability to pass through the placental barrier and also because of the demonstrated adverse effects of lead on reproductive function in both males and females as well as the risk of genetic damage of lead on both the ovum and sperm, WISHA recommends a 30 µg/100g maximum permissible blood lead level in both males and females who wish to bear children.

(IV) Other toxic effects.

a) Debate and research continue on the effects of lead on the human body. Hypertension has frequently been noted in occupationally exposed individuals although it is difficult to assess whether this is due to lead's adverse effects on the kidneys or if some other mechanism is involved.

b) Vascular and electrocardiographic changes have been detected but have not been well characterized. Lead is thought to impair thyroid function and interfere with the pituitary-adrenal axis, but again these effects have not been well defined.

(iv) Medical evaluation.

(A) The most important principle in evaluating a worker for any occupational disease including lead poisoning is a high index of suspicion on the part of the examining physician. As discussed in Section (ii), lead can affect numerous

organ systems and produce a wide array of signs and symptoms, most of which are nonspecific and subtle in nature at least in the early stages of disease. Unless serious concern for lead toxicity is present, many of the early clues to diagnosis may easily be overlooked.

(B) The crucial initial step in the medical evaluation is recognizing that a worker's employment can result in exposure to lead. The worker will frequently be able to define exposures to lead and lead-containing materials but often will not volunteer this information unless specifically asked. In other situations the worker may not know of any exposures to lead but the suspicion might be raised on the part of the physician because of the industry or occupation of the worker. Potential occupational exposure to lead and its compounds occur in at least 120 occupations, including lead smelting, the manufacture of lead storage batteries, the manufacture of lead pigments and products containing pigments, solder manufacture, shipbuilding and ship repair, auto manufacturing, construction, and painting.

(C) Once the possibility for lead exposure is raised, the focus can then be directed toward eliciting information from the medical history, physical exam, and finally from laboratory data to evaluate the worker for potential lead toxicity.

(D) A complete and detailed work history is important in the initial evaluation. A listing of all previous employment with information on work processes, exposure to fumes or dust, known exposures to lead or other toxic substances, respiratory protection used, and previous medical surveillance should all be included in the worker's record. Where exposure to lead is suspected, information concerning on-the-job personal hygiene, smoking or eating habits in work areas, laundry procedures, and use of any protective clothing or respiratory protection equipment should be noted. A complete work history is essential in the medical evaluation of a worker with suspected lead toxicity, especially when long-term effects such as neurotoxicity and nephrotoxicity are considered.

(E) The medical history is also of fundamental importance and should include a listing of all past and current medical conditions, current medications including proprietary drug intake, previous surgeries and hospitalizations, allergies, smoking history, alcohol consumption, and also nonoccupational lead exposures such as hobbies (hunting, riflery). Also known childhood exposures should be elicited. Any previous history of hematological, neurological, gastrointestinal, renal, psychological, gynecological, genetic, or reproductive problems should be specifically noted.

(F) A careful and complete review of systems must be performed to assess both recognized complaints and subtle or slowly acquired symptoms which the worker might not appreciate as being significant. The review of symptoms should include the following:

General	- weight loss, fatigue, decreased appetite.
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Head, Eyes, Ears, Nose, Throat (HEENT)	- headaches, visual disturbance or decreased visual acuity, hearing deficits or tinnitus, pigmentation of the oral mucosa, or metallic taste in mouth.
Cardio-pulmonary	- shortness of breath, cough, chest pains, palpitations, or orthopnea.
Gastrointestinal	- nausea, vomiting, heartburn, abdominal pain, constipation or diarrhea.
Neurologic	- irritability, insomnia, weakness (fatigue), dizziness, loss of memory, confusion, hallucinations, incoordination, ataxia, decreased strength in hands or feet, disturbance in gait, difficulty in climbing stairs, or seizures.
Hematologic	- pallor, easy fatigability, abnormal blood loss, melena.
Reproductive (male or female and spouse where relevant)	- history of infertility, impotence, loss of libido, abnormal menstrual periods, history of miscarriages, stillbirths, or children with birth defects.
Musculo-skeletal	- muscle and joint pains.

(G) The physical examination should emphasize the neurological, gastrointestinal, and cardiovascular systems. The worker's weight and blood pressure should be recorded and the oral mucosa checked for pigmentation characteristic of a possible Burtonian or lead line on the gingiva. It should be noted, however, that the lead line may not be present even in severe lead poisoning if good oral hygiene is practiced.

(H) The presence of pallor on skin examination may indicate an anemia, which if severe might also be associated with a tachycardia. If an anemia is suspected, an active search for blood loss should be undertaken including potential blood loss through the gastrointestinal tract.

(I) A complete neurological examination should include an adequate mental status evaluation including a search for behavioral and psychological disturbances, memory testing, evaluation for irritability, insomnia, hallucinations, and mental clouding. Gait and coordination should be examined along with close observation for tremor. A detailed evaluation of peripheral nerve function including careful sensory and motor function testing is warranted. Strength testing particularly of extensor muscle groups of all extremities is of fundamental importance.

(J) Cranial nerve evaluation should also be included in the routine examination.

(K) The abdominal examination should include auscultation for bowel sounds and abnormal bruits and palpation for organomegaly, masses, and diffuse abdominal tenderness.

(L) Cardiovascular examination should evaluate possible early signs of congestive heart failure. Pulmonary status should be addressed particularly if respirator protection is contemplated.

(M) As part of the medical evaluation, the lead standard requires the following laboratory studies.

(I) Blood lead level.

(II) Hemoglobin and hematocrit determinations, red cell indices, and examination of the peripheral blood smear to evaluate red blood cell morphology.

(III) Blood urea nitrogen.

(IV) Serum creatinine.

(V) Routine urinalysis with microscopic examination.

(VI) A zinc protoporphyrin level.

(N) In addition to the above, the physician is authorized to order any further laboratory or other tests which he or she deems necessary in accordance with sound medical practice. The evaluation must also include pregnancy testing or laboratory evaluation of male fertility if requested by the employee.

(O) Additional tests which are probably not warranted on a routine basis but may be appropriate when blood lead and ZPP levels are equivocal include delta aminolevulinic acid and coproporphyrin concentrations in the urine, and dark-field illumination for detection of basophilic stippling in red blood cells.

(P) If an anemia is detected further studies including a careful examination of the peripheral smear, reticulocyte count, stool for occult blood, serum iron, total iron binding capacity, bilirubin, and, if appropriate vitamin B12 and folate may be of value in attempting to identify the cause of the anemia.

(Q) If a peripheral neuropathy is suspected, nerve conduction studies are warranted both for diagnosis and as a basis to monitor any therapy.

(R) If renal disease is questioned, a 24-hour urine collection for creatinine clearance, protein, and electrolytes may be indicated. Elevated uric acid levels may result from lead-induced renal disease and a serum uric acid level might be performed.

(S) An electrocardiogram and chest x-ray may be obtained as deemed appropriate.

(T) Sophisticated and highly specialized testing should not be done routinely and where indicated should be under the direction of a specialist.

(v) Laboratory evaluation.

(A) The blood level at present remains the single most important test to monitor lead exposure and is the test used in the medical surveillance program under the lead standard to guide employee medical removal. The ZPP has several advantages over the blood lead level. Because of its relatively recent development and the lack of extensive data concerning its interpretation, the ZPP currently remains an ancillary test.

(B) This section will discuss the blood lead level and ZPP in detail and will outline their relative advantages and disadvantages. Other blood tests currently available to evaluate lead exposure will also be reviewed.

(C) The blood lead level is a good index of current or recent lead absorption when there is no anemia present and when the worker has not taken any chelating agents. However, blood lead levels along with urinary lead levels do not necessarily indicate the total body burden of lead and are not adequate measures of past exposure. One reason for this is that lead has a high affinity for bone and up to 90 percent of the body's total lead is deposited there. A very important component of the total lead body burden is lead in soft tissue (liver, kidneys, and brain). This fraction of the lead body burden, the biologically active lead, is not entirely reflected by blood lead levels since it is a function of the dynamics of lead absorption, distribution, deposition in bone and excretion. Following discontinuation of exposure to lead, the excess body burden is only slowly mobilized from bone and other relatively stable stores and excreted. Consequently, a high blood lead level may only represent recent heavy exposure to lead without a significant total body excess and likewise a low blood lead level does not exclude an elevated total body burden of lead.

(D) Also due to its correlation with recent exposures, the blood lead level may vary considerably over short time intervals.

(E) To minimize laboratory error and erroneous results due to contamination, blood specimens must be carefully collected after thorough cleaning of the skin with appropriate methods using lead-free containers and analyzed by a reliable laboratory. Under the standard, samples must be analyzed in laboratories which are approved by the Center for Disease Control (CDC) or which have received satisfactory grades in proficiency testing by the CDC in the previous year. Analysis is to be made using atomic absorption spectrophotometry anodic stripping; voltammetry or any method which meets the accuracy requirements set forth by the standard.

(F) The determination of lead in urine is generally considered a less reliable monitoring technique than analysis of whole blood primarily due to individual variability in urinary excretion capacity as well as the technical difficulty of obtaining accurate 24 hour urine collections. In addition, workers with renal insufficiency, whether due to lead or some other cause, may have decreased lead clearance and consequently urine lead levels may underestimate the true lead burden. Therefore, urine lead levels should not be used as a routine test.

(G) The zinc protoporphyrin test, unlike the blood lead determination, measures an adverse metabolic effect of lead and as such is a better indicator of lead toxicity than the level of blood lead itself. The level of ZPP reflects lead absorption over the preceding three to four months, and therefore is a better indicator of lead body burden. The ZPP requires more time than the blood lead to read significantly elevated levels; the return to normal after discontinuing lead exposure is also slower. Furthermore, the ZPP test is simpler, faster, and less expensive to perform and no contamination is possible. Many investigators believe it is the most reliable means of monitoring chronic lead absorption.

(H) Zinc protoporphyrin results from the inhibition of the enzyme ferrochelatase which catalyzes the insertion of an iron molecule into the protoporphyrin molecule, which then becomes heme. If iron is not inserted into the molecule then

zinc, having a greater affinity for protoporphyrin, takes place in the iron, forming ZPP.

(I) An elevation in the level of circulating ZPP may occur at blood lead levels as low as 20-30 $\mu\text{g}/100\text{g}$ in some workers. Once the blood lead level has reached 40 $\mu\text{g}/100\text{g}$ there is more marked rise in the ZPP value from its normal range of less than 100 $\mu\text{g}/100\text{ml}$. Increases in blood lead levels beyond 40 $\mu\text{g}/100\text{g}$ are associated with exponential increases in ZPP.

(J) Whereas blood lead levels fluctuate over short time spans, ZPP levels remain relatively stable. ZPP is measured directly in red blood cells and is present for the cell's entire 120 day lifespan. Therefore, the ZPP level in blood reflects the average ZPP production over the previous three to four months and consequently the average lead exposure during that time interval.

(K) It is recommended that a hematocrit be determined whenever a confirmed ZPP of 50 $\mu\text{g}/100\text{ml}$ whole blood is obtained to rule out a significant underlying anemia. If the ZPP is in excess of 100 $\mu\text{g}/100\text{ml}$ and not associated with abnormal elevations in blood lead levels, the laboratory should be checked to be sure the blood leads were determined using atomic absorption spectrophotometry, anodic stripping voltammetry or any method which meets the accuracy requirements set forth by the standard, by a CDC approved laboratory which is experienced in lead level determinations. Repeat periodic blood lead studies should be obtained in all individuals with elevated ZPP levels to be certain that an associated elevated blood lead level has not been missed due to transient fluctuations in blood leads.

(L) ZPP has characteristic fluorescence spectrum with a peak at 594nm which is detectable with a hematofluorimeter. The hematofluorimeter is accurate and portable and can provide on-site, instantaneous results for workers who can be frequently tested via a finger prick.

(M) However, careful attention must be given to calibration and quality control procedures. Limited data on blood lead - ZPP correlations and the ZPP levels which are associated with the adverse health effects discussed in item (ii) are the major limitations of the test. Also it is difficult to correlate ZPP levels with environmental exposure and there is some variation of response with age and sex. Nevertheless, the ZPP promises to be an important diagnostic test for the early detection of lead toxicity and its value will increase as more data is collected regarding its relationship to other manifestations of lead poisoning.

(N) Levels of delta-aminolevulinic acid (ALA) in the urine are also used as a measure of lead exposure. Increasing concentrations of ALA are believed to result from the inhibition of the enzyme delta-aminolevulinic acid dehydrase (ALA-D). Although the test is relatively easy to perform, inexpensive, and rapid, the disadvantages include variability in results, the necessity to collect a complete 24 hour urine sample which has a specific gravity greater than 1.010, and also the fact that ALA decomposes in the presence of light.

(O) The pattern of porphyrin excretion in the urine can also be helpful in identifying lead intoxication. With lead poisoning, the urine concentrations of coproporphyrins I and II, porphobilinogen and uroporphyrin I rise. The most important

increase, however, is that of coproporphyrin III; levels may exceed 5,000 $\mu\text{g}/\text{l}$ in the urine in lead poisoned individuals, but its correlation with blood lead levels and ZPP are not as good as those of ALA. Increases in urinary porphyrins are not diagnostic of lead toxicity and may be seen in porphyria, some liver diseases, and in patients with high reticulocyte counts.

(vi) Summary.

(A) The WISHA standard for inorganic lead places significant emphasis on the medical surveillance of all workers exposed to levels of inorganic lead above the action level of 30 $\mu\text{g}/\text{m}^3$ TWA. The physician has a fundamental role in this surveillance program, and in the operation of the medical removal protection program.

(B) Even with adequate worker education on the adverse health effects of lead and appropriate training in work practices, personal hygiene and other control measures, the physician has a primary responsibility for evaluating potential lead toxicity in the worker. It is only through a careful and detailed medical and work history, a complete physical examination and appropriate laboratory testing that an accurate assessment can be made. Many of the adverse health effects of lead toxicity are either irreversible or only partially reversible and therefore early detection of disease is very important.

(C) This document outlines the medical monitoring program as defined by the occupational safety and health standard for inorganic lead. It reviews the adverse health effects of lead poisoning and describes the important elements of the history and physical examinations as they relate to these adverse effects.

(D) It is hoped that this review and discussion will give the physician a better understanding of the WISHA standard with the ultimate goal of protecting the health and well-being of the worker exposed to lead under his or her care.

(d) Appendix D. (~~Qualitative Fit Test Protocols. This appendix specifies the only allowable qualitative fit test (QLFT) protocols permissible for compliance with WAC 296-62-07521 (7)(e)(ii).~~

(i) Isoamyl acetate protocol.

(A) Odor threshold screening.

(I) Three 1-liter glass jars with metal lids (e.g., Mason or Ball jars) are required.

(II) Odor-free water (e.g., distilled or spring water) at approximately 25°C shall be used for the solutions.

(III) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor-free water in a 1-liter jar and shaking for 30 seconds. This solution shall be prepared new at least weekly.

(IV) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated but may not be connected to the same recirculating ventilation system.

(V) The odor test solution is prepared in a second jar by placing .4 cc of the stock solution into 500 cc of odor-free water using a clean dropper or pipette. Shake for 30 seconds and allow to stand two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution may be used for only one day.

(VI) A test blank is prepared in a third jar by adding 500 cc of odor-free water.

(VII) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. If the labels are put on the lids they can be periodically dried off and switched to avoid people thinking the same jars always has the IAA.

(VIII) The following instructions shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2); "The purpose of this test is to determine if you can smell banana oil at low concentrations. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(IX) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(X) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA QLFT may not be used.

(XI) If the test subject correctly identifies the jar containing the odor test solution he or she may proceed to respirator selection and fit testing.

(B) Respirator selection.

(I) The test subject shall be allowed to select the most comfortable respirator from a large array of various sizes and manufacturers that includes at least three sizes of elastomeric half facepieces and units of at least two manufacturers.

(II) The selection process shall be conducted in a room separate from the fit test chamber to prevent odor fatigue. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to assess a "comfortable" respirator. A mirror shall be available to assist the subject in evaluating the fit and positioning of the respirator. This may not constitute formal training on respirator use, only a review.

(III) The test subject should understand that he or she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape and, if fit properly, will provide adequate protection.

(IV) The test subject holds each facepiece up to his or her face and eliminates those which are obviously not giving a comfortable fit. Normally, selection will begin with a half-mask and if a fit cannot be found here, the subject will be asked to go to the full facepiece respirators. (A small percentage of users will not be able to wear any half-masks.)

(V) The more comfortable facepieces are recorded; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in (VI) below. If the test subject is not familiar with using a particular respirator, he or she shall be directed to don the mask several times and to adjust the straps each time, so that he or she becomes adept at setting proper tension on the straps.

(VI) Assessment of comfort shall include reviewing the following points with the test subject:

• Chin properly placed:

- ▲ Positioning of mask on nose.
- ▲ Strap tension.
- ▲ Fit across nose bridge.
- ▲ Room for safety glasses.
- ▲ Distance from nose to chin.
- ▲ Room to talk.
- ▲ Tendency to slip.
- ▲ Checks filled out.
- ▲ Self-observation/in mirror.
- ▲ Adequate time for assessment.

(VII) The test subject shall conduct the conventional negative and positive pressure fit checks (e.g., see ANSI Z88.2-1980). Before conducting the negative or positive pressure checks, the subject shall be told to "seat" his or her mask by rapidly moving the head side to side and up and down, taking a few deep breaths.

(VIII) The test subject is now ready for fit testing.

(IX) After passing the fit test, the test subjects shall be questioned again regarding the comfort of the respirator. If it has become uncomfortable, another model of respirator shall be tried.

(X) The employee shall be given the opportunity to select a different facepiece and be retested if during the first two weeks of on the job wear, the chosen facepiece becomes unacceptably uncomfortable.

(C) Fit test.

(I) The fit test chamber shall be substantially similar to a clear 55-gallon drum liner suspended inverted over a two foot diameter frame, so that the top of the chamber is about six inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(II) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors. The cartridges or masks shall be changed at least weekly.

(III) After selecting, donning, and properly adjusting a respirator himself or herself, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(IV) A copy of the following test exercises and rainbow (or equally effective) passage shall be taped to the inside of the test chamber:

- a) Normal breathing.
- b) Deep breathing. Be certain breaths are deep and regular.
- c) Turning head from side to side. Be certain movement is complete. Alert the test subject not to bump the respirator on the shoulders. Have the test subject inhale when his or her head is at either side.
- d) Nodding head up and down. Be sure certain motions are complete and made about every second. Alert the test subject not to bump the respirator on the chest. Have the test subject inhale when his or her head is in the fully up position.
- e) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage. When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

f) Normal breathing.

(V) Each test subject shall wear his or her respirator for at least ten minutes before starting the fit test.

(VI) Upon entering the test chamber, the test subject shall be given a six inch by five inch piece of paper towel or other porous absorbent single ply material, folded in half and wetted with three quarters of one cc of pure IAA. The test subject will hang the wet towel on the hook at the top of the chamber.

(VII) Allow two minutes for the IAA test concentration to be reached before starting the fit test exercises. This would be an appropriate time to talk with the test subject, to explain the fit test, the importance of his or her cooperation, the purpose of the head exercises, or to demonstrate some of the exercises.

(VIII) Each exercise described in segment (IV) above shall be performed for at least one minute.

(IX) If at any time during the test, the subject detects the banana-like odor of IAA, he or she shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(X) Upon returning to the selection room, the subject shall remove the respirator, repeat the odor sensitivity test, select and put on another respirator, return to the test chamber, etc. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(XI) If a person cannot be fitted with the selection of half-mask respirators, include full facepiece models in the selection process. When a respirator is found that passes the test, its efficiency shall be demonstrated for the subject by having him break the face seal and take a breath before exiting the chamber.

(XII) When the test subject leaves the chamber he or she shall remove the saturated towel, returning it to the test conductor. To keep the area from becoming contaminated, the used towels shall be kept in a self-sealing bag. There is no significant IAA concentration buildup in the test chamber from subsequent tests.

(XIII) Persons who have successfully passed this fit test may be assigned the use of the tested respirator in atmospheres with up to ten times the PEL of airborne lead. In other words this IAA protocol may be used to assign a protection factor no higher than ten.

(ii) Saccharin solution aerosol protocol.

(A) Taste threshold screening.

(I) Threshold screening as well as fit testing employees shall use an enclosure about the head and shoulders that is approximately twelve inches in diameter by fourteen inches tall with at least the front portion clear and that allows free movement of the head when a respirator is worn. An enlo-

sure substantially similar to the 3M hood assembly of part #FT 14 and FT 15 combined is adequate.

(II) The test enclosure shall have a three-quarter inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(III) The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(IV) The test subject shall don the test enclosure. For the threshold screening test, he or she shall breathe through his or her open mouth with tongue extended.

(V) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent, the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(VI) The threshold check solution consists of 0.83 grams of sodium saccharin USP in 100 cc of warm water. It can be prepared by putting 1 cc of the test solution (see (C)(VI) below) in 100 cc of water.

(VII) To produce the aerosol the nebulizer bulb is firmly squeezed so that it collapses completely, then is released and allowed to fully expand.

(VIII) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(IX) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(X) If the second response is negative ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(XI) The test conductor will take note of the number of squeezes required to elicit a taste response.

(XII) If the saccharin is not tasted after thirty squeezes (Step (A)(IX)) the test subject may not perform the saccharin fit test.

(XIII) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(XIV) Correct use of the nebulizer means that approximately 1 cc of liquid is used at a time in the nebulizer body.

(XV) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(B) Respirator selection. Respirators shall be selected as described in Section (i)(B) above, except that each respirator shall be equipped with a particulate filter cartridge.

(C) Fit test.

(I) The fit test uses the same enclosure described in (i)(B)(I) and (II) above.

(II) Each test subject shall wear his or her respirator for at least ten minutes before starting the fit test.

(III) The test subject shall don the enclosure while wearing the respirator selected on Section (A) above. The respirator shall be properly adjusted and equipped with a particulate filter cartridge.

(IV) The test subject may not eat, drink (except plain water), or chew gum for fifteen minutes before the test.

(V) A second DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent is used to spray the fit test solution

into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(VI) The first test solution is prepared by adding 83 grams of sodium saccharin to 100 cc of warm water.

(VII) As before, the test subject shall breathe through the open mouth with tongue extended.

(VIII) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same technique as for the taste threshold screening and the same number of squeezes required to elicit a taste response in the screening. (See (A)(X) above.)

(IX) After generation of the aerosol the test subject shall be instructed to perform the following exercises for one minute each:

a) Normal breathing.

b) Deep breathing. Be certain breaths are deep and regular.

c) Turning head from side to side. Be certain movement is complete. Alert the test subject not to bump the respirator on the shoulders. Have the test subject inhale when his or her head is at either side.

d) Nodding head up and down. Be certain motions are complete. Alert the test subject not to bump the respirator on the chest. Have the test subject inhale when his or her head is in the fully up position.

e) Talking. Talk aloud and slowly for several minutes. The following paragraph is called the Rainbow Passage. Reading it will result in a wide range of facial movements, and thus be useful to satisfy this requirement. Alternative passages which serve the same purpose may also be used.

Rainbow Passage. When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(X) Every thirty seconds, the aerosol concentration shall be replenished using one-half the number of squeezes as initially (C)(VIII).

(XI) The test subject shall so indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(XII) If the saccharin is detected the fit is deemed unsatisfactory and a different respirator shall be tried.

(XIII) Successful completion of the test protocol shall allow the use of the tested respirator in contaminated atmospheres up to ten times the PEL. In other words this protocol may be used to assign protection factors no higher than ten.

(iii) Irritant fume protocol.

(A) Respirator Selection. Respirators shall be selected as described in Section (i)(B) above, except that each respirator shall be equipped with high efficiency cartridges.

(B) Fit Test.

(I) The test subject shall be allowed to smell a weak concentration of the irritant smoke to familiarize him or her with its characteristic odor.

(II) The test subject shall properly don the respirator selected as above, and wear it for at least ten [ten] minutes before starting the fit test.

(III) The test conductor shall review this protocol with the test subject before testing.

(IV) The test subject shall perform the conventional positive pressure and negative pressure fit checks. Failure of either check shall be cause to select an alternate respirator.

(V) Break both ends of a ventilation smoke tube containing stannic oxychloride, such as the MSA part No. 5645, or equivalent. Attach a short length of tubing to one end of the smoke tube. Attach the other end of the smoke tube to a low pressure air pump set to deliver 200 milliliters per minute.

(VI) Advise the subject that the smoke can be irritating to the eyes and instruct him or her to keep his or her eyes closed while the test is performed.

(VII) The test conductor shall direct the stream of irritant smoke from the tube toward the face seal area of the test subject. The conductor shall begin at least twelve inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(VIII) The following exercises shall be performed while the respirator seal is being challenged by the smoke. Each shall be performed for one minute.

a) Normal breathing.

b) Deep breathing. Be certain breaths are deep and regular.

c) Turning head from side to side. Be certain movement is complete. Alert the test subject not to bump the respirator on the shoulders. Have the test subject inhale when his or her head is at either side.

d) Nodding head up and down. Be certain motions are complete. Alert the test subject not to bump the respirator on the chest. Have the test subject inhale when his or her head is in the fully up position.

e) Talking slowly and distinctly, count backwards from 100.

f) Normal breathing.

(IX) If the irritant smoke produces an involuntary reaction (cough) by the test subject, the test conductor shall stop the test. In this case the tested respirator is rejected and another respirator shall be selected.

(X) Each test subject passing the smoke test without evidence of a response shall be given a sensitivity check of the smoke from the same tube to determine whether he or she reacts to the smoke. Failure to evoke a response shall void the test.

(XI) Steps (B)(IV), (VII), and (VIII) of this protocol shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the irritant smoke.

(XII) Respirators successfully tested by the protocol may be used in contaminated atmospheres up to ten times the PEL. In other words this protocol may be used to assign protection factors not exceeding ten.

(e) Appendix E:)) Recommendations to employers concerning high-risk tasks (nonmandatory).

The department advises employers that the following tasks have a high risk for lead overexposure (this list is not complete; other tasks also can result in lead over-exposure):

- Any open flame operation involving lead-containing solder in a manner producing molten solder, including the manufacture or repair of motor vehicle radiators;
- Sanding, cutting or grinding of lead-containing solder;
- Breaking, recycling or manufacture of lead-containing batteries;
- Casting objects using lead, brass, or lead-containing alloys;
- Where lead-containing coatings or paints are present:
 - abrasive blasting
 - welding
 - cutting
 - torch burning
 - manual demolition of structures
 - manual scraping
 - manual sanding
 - heat gun applications
 - power tool cleaning
 - rivet busting
 - clean-up activities where dry expendable abrasives are used
 - abrasive blasting enclosure movement and removal;
- Spray-painting with lead-containing paint;
- Using lead-containing mortar;
- Lead burning;
- Operation or cleaning of shooting facilities where lead bullets are used;
- Formulation or processing of lead-containing pigments or paints;
- Cutting, burning, or melting of lead-containing materials.

The department recommends that annual blood lead testing be offered to all employees potentially overexposed to lead, including those performing the tasks listed above, regardless of air lead levels. Research has shown that air lead levels often do not accurately predict workers' lead overexposure. The blood lead testing will provide the most information if performed during a period of peak lead exposure.

Employers should be aware that the United States Public Health Service has set a goal of eliminating occupational exposures which result in whole blood lead levels of 25 µg/dl or greater. This goal should guide whether employees' blood lead levels indicate lead overexposure.

If blood lead levels are elevated in an employee performing a task associated with lead overexposure, employers should assess the maintenance and effectiveness of exposure controls, hygiene facilities, respiratory protection program, the employee's work practices and personal hygiene, and the employee's respirator use, if any. If a deficiency exists in any of these areas, the employer should correct the problem.

AMENDATORY SECTION (Amending Order 88-23, filed 10/6/88, effective 11/7/88)

WAC 296-62-07523 Benzene. (1) Scope and application.

(a) This section applies to all occupational exposures to benzene. Chemical Abstracts Service Registry No. 71-43-2, except as provided in (b) and (c) of this subsection.

(b) This section does not apply to:

(i) The storage, transportation, distribution, dispensing, sale or use of gasoline, motor fuels, or other fuels containing benzene subsequent to its final discharge from bulk wholesale storage facilities, except that operations where gasoline or motor fuels are dispensed for more than four hours per day in an indoor location are covered by this section.

(ii) Loading and unloading operations at bulk wholesale storage facilities which use vapor control systems for all loading and unloading operations, except for the provisions of WAC 296-62-054 as incorporated into this section and the emergency provisions of subsections (7) and (9)(d) of this section.

(iii) The storage, transportation, distribution, or sale of benzene or liquid mixtures containing more than 0.1 percent benzene in intact containers or in transportation pipelines while sealed in such a manner as to contain benzene vapors or liquid, except for the provisions of WAC 296-62-054 as incorporated into this section and the emergency provisions of subsections (7) and (9)(d) of this section.

(iv) Containers and pipelines carrying mixtures with less than 0.1 percent benzene and natural gas processing plants processing gas with less than 0.1 percent benzene.

(v) Work operations where the only exposure to benzene is from liquid mixtures containing 0.5 percent or less of benzene by volume, or the vapors released from such liquids until September 12, 1988; work operations where the only exposure to benzene is from liquid mixtures containing 0.3 percent or less of benzene by volume or the vapors released from such liquids from September 12, 1988, to September 12, 1989; and work operations where the only exposure to benzene is from liquid mixtures containing 0.1 percent or less of benzene by volume or the vapors released from such liquids after September 12, 1989; except that tire building machine operators using solvents with more than 0.1 percent benzene are covered by subsection (9) of this section.

(vi) Oil and gas drilling, production, and servicing operations.

(vii) Coke oven batteries.

(c) The cleaning and repair of barges and tankers which have contained benzene are excluded from subsection (6) of this section (Methods of compliance), subsection (5)(a) of this section (General), and subsection (5)(f) of this section (Accuracy of monitoring). Engineering and work practice controls shall be used to keep exposures below 10 ppm unless it is proven to be not feasible.

(2) Definitions.

(a) "Action level" means an airborne concentration of benzene of 0.5 ppm calculated as an 8-hour time-weighted average.

(b) "Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of exercising the right to observe monitoring and measuring procedures under subsection (5) of this section, or any other person authorized by the Washington Industrial Safety and Health Act (WISHA) or regulations issued under WISHA.

(c) "Benzene" (C₆H₆) (CAS Registry No. 71-43-2) means liquefied or gaseous benzene. It includes benzene contained in liquid mixtures and the benzene vapors released by

these liquids. It does not include trace amounts of unreacted benzene contained in solid materials.

(d) "Bulk wholesale storage facility" means a bulk terminal or bulk plant where fuel is stored prior to its delivery to wholesale customers.

(e) "Container" means any barrel, bottle, can, cylinder, drum, reaction vessel, storage tank, or the like, but does not include piping systems.

(f) "Day" means any part of a calendar day.

(g) "Director" means the director of the department of labor and industries, or his/her designated representative.

(h) "Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which may or does result in an unexpected significant release of benzene.

(i) "Employee exposure" means exposure to airborne benzene which would occur if the employee were not using respiratory protective equipment.

(j) "Regulated area" means any area where airborne concentrations of benzene exceed or can reasonably be expected to exceed, the permissible exposure limits, either the 8-hour time-weighted average exposure of 1 ppm or the short-term exposure limit of 5 ppm for fifteen minutes.

(k) "Vapor control system" means any equipment used for containing the total vapors displaced during the loading of gasoline, motor fuel, or other fuel tank trucks and the displacing of these vapors through a vapor processing system or balancing the vapor with the storage tank. This equipment also includes systems containing the vapors displaced from the storage tank during the unloading of the tank truck which balance the vapors back to the tank truck.

(3) Permissible exposure limits (PELs).

(a) Time-weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of one part of benzene per million parts of air (1 ppm) as an 8-hour time-weighted average.

(b) Short-term exposure limit (STEL). The employer shall assure that no employee is exposed to an airborne concentration of benzene in excess of 5 ppm as averaged over any fifteen minute period.

(4) Regulated areas.

(a) The employer shall establish a regulated area whenever the airborne concentration of benzene exceeds or can reasonably be expected to exceed the permissible exposure limits, either the 8-hour time-weighted average exposure of 1 ppm or the short-term exposure limit of 5 ppm for fifteen minutes.

(b) Access to regulated areas shall be limited to authorized persons.

(c) Regulated areas shall be determined from the rest of the workplace in any manner that minimizes the number of employees exposed to benzene within the regulated area.

(5) Exposure monitoring.

(a) General.

(i) Determinations of employee exposure shall be made from breathing zone air samples that are representative of each employee's average exposure to airborne benzene.

(ii) Representative 8-hour TWA employee exposures shall be determined on the basis of one sample or samples

representing the full shift exposure for each job classification in each work area.

(iii) Determinations of compliance with the STEL shall be made from fifteen minute employee breathing zone samples measured at operations where there is reason to believe exposures are high, such as where tanks are opened, filled, unloaded, or gauged; where containers or process equipment are opened and where benzene is used for cleaning or as a solvent in an uncontrolled situation. The employer may use objective data, such as measurements from brief period measuring devices, to determine where STEL monitoring is needed.

(iv) Except for initial monitoring as required under (b) of this subsection, where the employer can document that one shift will consistently have higher employee exposures for an operation, the employer shall only be required to determine representative employee exposure for that operation during the shift on which the highest exposure is expected.

(b) Initial monitoring.

(i) Each employer who has a place of employment covered under subsection (1)(a) of this section shall monitor each of these workplaces and work operations to determine accurately the airborne concentrations of benzene to which employees may be exposed.

(ii) The initial monitoring required under (b)(i) of this subsection shall be completed by sixty days after the effective date of this standard or within thirty days of the introduction of benzene into the workplace. Where the employer has monitored within one year prior to the effective date of this standard and the monitoring satisfies all other requirements of this section, the employer may rely on such earlier monitoring results to satisfy the requirements of (b)(i) of this subsection.

(c) Periodic monitoring and monitoring frequency.

(i) If the monitoring required by (b)(i) of this subsection reveals employee exposure at or above the action level but at or below the TWA, the employer shall repeat such monitoring for each such employee at least every year.

(ii) If the monitoring required by (b)(i) of this subsection reveals employee exposure above the TWA, the employer shall repeat such monitoring for each such employee at least every six months.

(iii) The employer may alter the monitoring schedule from every six months to annually for any employee for whom two consecutive measurements taken at least seven days apart indicate that the employee exposure has decreased to the TWA or below, but is at or above the action level.

(iv) Monitoring for the STEL shall be repeated as necessary to evaluate exposures of employees subject to short term exposures.

(d) Termination of monitoring.

(i) If the initial monitoring required by (b)(i) of this subsection reveals employee exposure to be below the action level the employer may discontinue the monitoring for that employee, except as otherwise required by (e) of this subsection.

(ii) If the periodic monitoring required by (c) of this subsection reveals that employee exposures, as indicated by at least two consecutive measurements taken at least seven days apart, are below the action level the employer may discon-

tinue the monitoring for that employee, except as otherwise required by (e) of this subsection.

(e) Additional monitoring.

(i) The employer shall institute the exposure monitoring required under (b) and (c) of this subsection when there has been a change in the production, process, control equipment, personnel, or work practices which may result in new or additional exposures to benzene, or when the employer has any reason to suspect a change which may result in new or additional exposures.

(ii) Whenever spills, leaks, ruptures, or other breakdowns occur that may lead to employee exposure, the employer shall monitor (using area or personal sampling) after the cleanup of the spill or repair of the leak, rupture or other breakdown to ensure that exposures have returned to the level that existed prior to the incident.

(f) Accuracy of monitoring. Monitoring shall be accurate, to a confidence level of ninety-five percent, to within plus or minus twenty-five percent for airborne concentrations of benzene.

(g) Employee notification of monitoring results.

(i) The employer shall, within fifteen working days after the receipt of the results of any monitoring performed under this standard, notify each employee of these results in writing either individually or by posting of results in an appropriate location that is accessible to affected employees.

(ii) Whenever the PELs are exceeded, the written notification required by (g)(i) of this subsection shall contain the corrective action being taken by the employer to reduce the employee exposure to or below the PEL, or shall refer to a document available to the employee which states the corrective actions to be taken.

(6) Methods of compliance.

(a) Engineering controls and work practices.

(i) The employer shall institute engineering controls and work practices to reduce and maintain employee exposure to benzene at or below the permissible exposure limits, except to the extent that the employer can establish that these controls are not feasible or where the provisions of (a)(iii) of this subsection or subsection (7)(a) of this section apply.

(ii) Wherever the feasible engineering controls and work practices which can be instituted are not sufficient to reduce employee exposure to or below the PELs, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection which complies with the requirements of subsection (7) of this section.

(iii) Where the employer can document that benzene is used in a workplace less than a total of thirty days per year, the employer shall use engineering controls, work practice controls or respiratory protection or any combination of these controls to reduce employee exposure to benzene to or below the PELs, except that employers shall use engineering and work practice controls, if feasible, to reduce exposure to or below 10 ppm as an 8-hour TWA.

(b) Compliance program.

(i) When any exposures are over the PEL, the employer shall establish and implement a written program to reduce employee exposure to or below the PEL primarily by means

of engineering and work practice controls, as required by (a) of this subsection.

(ii) The written program shall include a schedule for development and implementation of the engineering and work practice controls. These plans shall be reviewed and revised as appropriate based on the most recent exposure monitoring data, to reflect the current status of the program.

(iii) Written compliance programs shall be furnished upon request for examination and copying to the director, affected employees, and designated employee representatives.

(7) Respiratory protection.

(a) General. ~~((The employer shall provide respirators, and assure that they are used, where required by this section. Respirators shall be used in the following circumstances))~~ For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) ~~((During the time period))~~ Periods necessary to install or implement feasible engineering and work-practice controls;

(ii) ~~((In))~~ Work operations for which the employer establishes that compliance with either the TWA or STEL through the use of engineering and work-practice controls is not feasible((, such as)); for example some maintenance and repair activities, vessel cleaning, or other operations where engineering and work-practice controls are infeasible because exposures are intermittent ((in nature)) and limited in duration;

(iii) ~~((In work situations where))~~ Work operations for which feasible engineering and work-practice controls are not yet sufficient, or are not required under subsection (6)(a)(iii) of this section, to reduce exposure to or below the PELs; ((and))

(iv) ~~((In))~~ Emergencies.

(b) Respirator ~~((selection))~~ program.

(i) ~~((Where respirators are required or allowed under this section, the employer shall select and provide, at no cost to the employee, the appropriate respirator as specified in Table 1 of this section, and shall assure that the employee uses the respirator provided))~~ The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1), 296-62-07131(4)(b)(i) and (ii), and 296-62-07150 through 296-62-07156).

(ii) ~~((The employer shall select respirators from among those jointly approved by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11. Negative pressure respirators shall have filter elements approved by MSHA/NIOSH for organic vapors or benzene))~~ For air-purifying respirators, the employer must replace the air-purifying element at the expiration of its service life or at the beginning of each shift in which such elements are used, whichever comes first.

(iii) ~~((Any employee who cannot wear a negative pressure respirator shall be given the option of wearing a respirator with less breathing resistance such as a powered air-purifying respirator or supplied air respirator.~~

~~(e) Respirator program. The employer shall institute a respiratory protection program in accordance with Part E, Respiratory protection, WAC 296-62-071 through 296-62-07121.~~

~~(d) Respirator use.~~

~~(i) Where air-purifying respirators are used, the employer shall replace the air-purifying element at the expiration of service life or at the beginning of each shift in which they will be used, whichever comes first.~~

~~(ii) If an air-purifying element becomes available with an end-of-useful-life indicator for benzene approved by MSHA/NIOSH, the element may be used until such time as the indicator shows no further useful life.~~

~~(iii) The employer shall permit employees who wear respirators to leave the regulated area to wash their faces and respirator facepieces as necessary in order to prevent skin irritation associated with respirator use or to change the filter elements of air-purifying respirators whenever they detect a change in breathing resistance or chemical vapor breakthrough.~~

~~(e) Respirator fit testing.~~

~~(i) The employer shall perform, and certify the results of, either quantitative or qualitative fit tests at the time of initial fitting and at least annually thereafter for each employee wearing a negative pressure respirator. The test shall be used to select a respirator facepiece which exhibits minimum leakage and provides the required protection as prescribed in Table 1 of this section. The employer shall provide and assure that the employee wears a respirator demonstrated by the fit test to provide the required protection.~~

~~(ii) The employer shall follow the test protocols outlined in Appendix E of this standard for whichever type of fit testing the employer chooses))~~ If NIOSH certifies an air-purifying element with an end-of-service-life indicator for benzene, such an element may be used until the indicator shows no further useful life.

(c) Respirator selection.

(i) The employer must select the appropriate respirator from Table 1 of this section.

(ii) Any employee who cannot use a negative-pressure respirator must be allowed to use a respirator with less breathing resistance, such as a powered air-purifying respirator or supplied-air respirator.

TABLE 1. - RESPIRATORY PROTECTION FOR BENZENE

Airborne concentration of benzene or condition of use	Respirator type
(a) Less than or equal to 10 ppm.	(1) Half-mask air-purifying respirator with organic vapor cartridge.
(b) Less than or equal to 50 ppm.	(1) Full facepiece respirator with organic vapor cartridges. (1) Full facepiece gas mask with chin style canister. ¹
(c) Less than or equal to 100 ppm.	(1) Full facepiece powered air-purifying respirator with organic vapor canister. ¹

PERMANENT

TABLE 1. - RESPIRATORY PROTECTION FOR BENZENE

Airborne concentration of benzene or condition of use	Respirator type
(d) Less than or equal to 1,000 ppm.	(1) Supplied air respirator with full facepiece in positive-pressure mode.
(e) Greater than 1,000 ppm or unknown concentration.	(1) Self-contained breathing apparatus with full facepiece in positive-pressure mode.
	(2) Full facepiece positive-pressure supplied-air respirator with auxiliary self-contained air supply.
(f) Escape	(1) Any organic vapor gas mask; or
	(2) Any self-contained breathing apparatus with full facepiece.
(g) Firefighting	(1) Full facepiece self-contained breathing apparatus in positive pressure mode.

¹Canisters must have a minimum service life of four (4) hours when tested at 150 ppm benzene, at a flow rate of 64 LPM, 25° C, and 85% relative humidity for non-powered air purifying respirators. The flow rate shall be 115 LPM and 170 LPM respectively for tight fitting and loose fitting powered air-purifying respirators.

(8) Protective clothing and equipment. Personal protective clothing and equipment shall be worn where appropriate to prevent eye contact and limit dermal exposure to liquid benzene. Protective clothing and equipment shall be provided by the employer at no cost to the employee and the employer shall assure its use where appropriate. Eye and face protection shall meet the requirements of WAC 296-24-07801.

(9) Medical surveillance.

(a) General.

(i) The employer shall make available a medical surveillance program for employees who are or may be exposed to benzene at or above the action level thirty or more days per year; for employees who are or may be exposed to benzene at or above the PELs ten or more days per year; for employees who have been exposed to more than 10 ppm of benzene for thirty or more days in a year prior to the effective date of the standard when employed by their current employer; and for employees involved in the tire building operations called tire building machine operators, who use solvents containing greater than 0.1 percent benzene.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician and that all laboratory tests are conducted by an accredited laboratory.

(iii) The employer shall assure that persons other than licensed physicians who administer the pulmonary function testing required by this section shall complete a training course in spirometry sponsored by an appropriate governmental, academic, or professional institution.

(iv) The employer shall assure that all examinations and procedures are provided without cost to the employee and at a reasonable time and place.

(b) Initial examination.

(i) Within sixty days of the effective date of this standard, or before the time of initial assignment, the employer shall provide each employee covered by (a)(i) of this subsection with a medical examination including the following elements:

(A) A detailed occupational history which includes:

(I) Past work exposure to benzene or any other hematological toxins;

(II) A family history of blood dyscrasias including hematological neoplasms;

(III) A history of blood dyscrasias including genetic hemoglobin abnormalities, bleeding abnormalities, abnormal function of formed blood elements;

(IV) A history of renal or liver dysfunction;

(V) A history of medicinal drugs routinely taken;

(VI) A history of previous exposure to ionizing radiation; and

(VII) Exposure to marrow toxins outside of the current work situation.

(B) A complete physical examination.

(C) Laboratory tests. A complete blood count including a leukocyte count with differential, a quantitative thrombocyte count, hematocrit, hemoglobin, erythrocyte count and erythrocyte indices (MCV, MCH, MCHC). The results of these tests shall be reviewed by the examining physician.

(D) Additional tests as necessary in the opinion of the examining physician, based on alterations to the components of the blood or other signs which may be related to benzene exposure.

(E) For all workers required to wear respirators for at least thirty days a year, the physical examination shall pay special attention to the cardiopulmonary system and shall include a pulmonary function test.

(ii) No initial medical examination is required to satisfy the requirements of (b)(i) of this subsection if adequate records show that the employee has been examined in accordance with the procedures of (b)(i) of this subsection within the twelve months prior to the effective date of this standard.

(c) Periodic examinations.

(i) The employer shall provide each employee covered under (a)(i) of this subsection with a medical examination annually following the previous examination. These periodic examinations shall include at least the following elements:

(A) A brief history regarding any new exposure to potential marrow toxins, changes in medicinal drug use, and the appearance of physical signs relating to blood disorders;

(B) A complete blood count including a leukocyte count with differential, quantitative thrombocyte count, hemoglobin, hematocrit, erythrocyte count and erythrocyte indices (MCV, MCH, MCHC); and

(C) Appropriate additional tests as necessary, in the opinion of the examining physician, in consequence of alterations in the components of the blood or other signs which may be related to benzene exposure.

(ii) Where the employee develops signs and symptoms commonly associated with toxic exposure to benzene, the

PERMANENT

employer shall provide the employee with an additional medical examination which shall include those elements considered appropriate by the examining physician.

(iii) For persons required to use respirators for at least thirty days a year, a pulmonary function test shall be performed every three years. A specific evaluation of the cardiopulmonary system shall be made at the time of the pulmonary function test.

(d) Emergency examinations.

(i) In addition to the surveillance required by (a)(i) of this subsection, if an employee is exposed to benzene in an emergency situation, the employer shall have the employee provide a urine sample at the end of the employee's shift and have a urinary phenol test performed on the sample within seventy-two hours. The urine specific gravity shall be corrected to 1.024.

(ii) If the result of the urinary phenol test is below 75 mg phenol/L of urine, no further testing is required.

(iii) If the result of the urinary phenol test is equal to or greater than 75 mg phenol/L of urine, the employer shall provide the employee with a complete blood count including an erythrocyte count, leukocyte count with differential and thrombocyte count at monthly intervals for a duration of three months following the emergency exposure.

(iv) If any of the conditions specified in (e)(i) of this subsection exists, then the further requirements of (e) of this subsection shall be met and the employer shall, in addition, provide the employees with periodic examinations if directed by the physician.

(e) Additional examinations and referrals.

(i) Where the results of the complete blood count required for the initial and periodic examinations indicate any of the following abnormal conditions exist, then the blood count shall be repeated within two weeks.

(A) The hemoglobin level or the hematocrit falls below the normal limit (outside the ninety-five percent confidence interval (C.I.)) as determined by the laboratory for the particular geographic area and/or these indices show a persistent downward trend from the individual's preexposure norms; provided these findings cannot be explained by other medical reasons.

(B) The thrombocyte (platelet) count varies more than twenty percent below the employee's most recent values or falls outside the normal limit (ninety-five percent C.I.) as determined by the laboratory.

(C) The leukocyte count is below 4,000 per mm³ or there is an abnormal differential count.

(ii) If the abnormality persists, the examining physician shall refer the employee to a hematologist or an internist for further evaluation unless the physician has good reason to believe such referral is unnecessary. (See Appendix C for examples of conditions where a referral may be unnecessary.)

(iii) The employer shall provide the hematologist or internist with the information required to be provided to the physician under this subsection and the medical record required to be maintained by subsection (11)(b)(ii) of this section.

(iv) The hematologist's or internist's evaluation shall include a determination as to the need for additional tests, and the employer shall assure that these tests are provided.

(f) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's actual or representative exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous employment-related medical examinations of the affected employee which is not otherwise available to the examining physician.

(g) Physician's written opinions.

(i) For each examination under this section, the employer shall obtain and provide the employee with a copy of the examining physician's written opinion within fifteen days of the examination. The written opinion shall be limited to the following information:

(A) The occupationally pertinent results of the medical examination and tests;

(B) The physician's opinion concerning whether the employee has any detected medical conditions which would place the employee's health at greater than normal risk of material impairment from exposure to benzene;

(C) The physician's recommended limitations upon the employee's exposure to benzene or upon the employee's use of protective clothing or equipment and respirators.

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions resulting from benzene exposure which require further explanation or treatment.

(ii) The written opinion obtained by the employer shall not reveal specific records, findings, and diagnoses that have no bearing on the employee's ability to work in a benzene-exposed workplace.

(h) Medical removal plan.

(i) When a physician makes a referral to a hematologist/internist as required under (e)(ii) of this subsection, the employee shall be removed from areas where exposures may exceed the action level until such time as the physician makes a determination under (h)(ii) of this subsection.

(ii) Following the examination and evaluation by the hematologist/internist, a decision to remove an employee from areas where benzene exposure is above the action level or to allow the employee to return to areas where benzene exposure is above the action level shall be made by the physician in consultation with the hematologist/internist. This decision shall be communicated in writing to the employer and employee. In the case of removal, the physician shall state the required probable duration of removal from occupational exposure to benzene above the action level and the requirements for future medical examinations to review the decision.

(iii) For any employee who is removed pursuant to (h)(ii) of this subsection, the employer shall provide a follow-up examination. The physician, in consultation with the hematologist/internist, shall make a decision within six months of the date the employee was removed as to whether

the employee shall be returned to the usual job or whether the employee should be removed permanently.

(iv) Whenever an employee is temporarily removed from benzene exposure pursuant to (h)(i) or (ii) of this subsection, the employer shall transfer the employee to a comparable job for which the employee is qualified (or can be trained for in a short period) and where benzene exposures are as low as possible, but in no event higher than the action level. The employer shall maintain the employee's current wage rate, seniority, and other benefits. If there is no such job available, the employer shall provide medical removal protection benefits until such a job becomes available or for six months, whichever comes first.

(v) Whenever an employee is removed permanently from benzene exposure based on a physician's recommendation pursuant to (h)(iii) of this subsection, the employee shall be given the opportunity to transfer to another position which is available or later becomes available for which the employee is qualified (or can be trained for in a short period) and where benzene exposures are as low as possible but in no event higher than the action level. The employer shall assure that such employee suffers no reduction in current wage rate, seniority, or other benefits as a result of the transfer.

(i) Medical removal protection benefits.

(i) The employer shall provide to an employee six months of medical removal protection benefits immediately following each occasion an employee is removed from exposure to benzene because of hematological findings pursuant to (h)(i) and (ii) of this subsection, unless the employee has been transferred to a comparable job where benzene exposures are below the action level.

(ii) For the purposes of this section, the requirement that an employer provide medical removal protection benefits means that the employer shall maintain the current wage rate, seniority, and other benefits of an employee as though the employee had not been removed.

(iii) The employer's obligation to provide medical removal protection benefits to a removed employee shall be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program, or from employment with another employer made possible by virtue of the employee's removal.

(10) Communication of benzene hazards to employees.

(a) Signs and labels.

(i) The employer shall post signs at entrances to regulated areas. The signs shall bear the following legend:

DANGER
BENZENE
CANCER HAZARD
FLAMMABLE-NO SMOKING
AUTHORIZED PERSONNEL ONLY
RESPIRATOR REQUIRED

(ii) The employer shall ensure that labels or other appropriate forms of warning are provided for containers of benzene within the workplace. There is no requirement to label pipes. The labels shall comply with the requirements of WAC

296-62-05411 and in addition shall include the following legend:

DANGER
CONTAINS BENZENE
CANCER HAZARD

(b) Material safety data sheets.

(i) Employers shall obtain or develop, and shall provide access to their employees, to a material safety data sheet (MSDS) which addresses benzene and complies with WAC 296-62-054.

(ii) Employers who are manufacturers or importers shall:

(A) Comply with subsection (1) of this section; and

(B) Comply with the requirement in WISHA's hazard communication standard, WAC 296-62-054 (Hazard communication purpose), that they deliver to downstream employers an MSDS which addresses benzene.

(c) Information and training.

(i) The employer shall provide employees with information and training at the time of their initial assignment to a work area where benzene is present. If exposures are above the action level, employees shall be provided with information and training at least annually thereafter.

(ii) The training program shall be in accordance with the requirements of WAC 296-62-05415 (1) and (2), and shall include specific information on benzene for each category of information included in that section.

(iii) In addition to the information required under WAC 296-62-054, the employer shall:

(A) Provide employees with an explanation of the contents of this section, including Appendices A and B, and indicate to them where the standard is available; and

(B) Describe the medical surveillance program required under subsection (9) of this section, and explain the information contained in Appendix C.

(11) Recordkeeping.

(a) Exposure measurements.

(i) The employer shall establish and maintain an accurate record of all measurements required by subsection (5) of this section, in accordance with WAC 296-62-052.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the procedure used to determine representative employee exposures;

(B) A description of the sampling and analytical methods used;

(C) A description of the type of respiratory protective devices worn, if any; and

(D) The name, Social Security number, job classification, and exposure levels of the employee monitored and all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least the duration of employment plus thirty years, in accordance with Part B, Access to records, WAC 296-62-052 through 296-62-05223.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance

PERMANENT

required by subsection (9) of this section, in accordance with WAC 296-62-052.

(ii) This record shall include:

(A) The name and Social Security number of the employee;

(B) The employer's copy of the physician's written opinion on the initial, periodic, and special examinations, including results of medical examinations and all tests, opinions, and recommendations;

(C) Any employee medical complaints related to exposure to benzene;

(D) A copy of the information provided to the physician as required by subsection (9)(f)(ii) through (v) of this section; and

(E) A copy of the employee's medical and work history related to exposure to benzene or any other hematologic toxins.

(iii) The employer shall maintain this record for at least the duration of employment plus thirty years, in accordance with Part B, Access to records, WAC 296-62-052 through 296-62-05223.

(c) Availability.

(i) The employer shall assure that all records required to be maintained by this section shall be made available upon request to the director for examination and copying.

(ii) Employee exposure monitoring records required by this subsection shall be provided upon request for examination and copying to employees, employee representatives, and the director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(iii) Employee medical records required by this subsection shall be provided upon request for examination and copying, to the subject employee, to anyone having the specific written consent of the subject employee, and to the director in accordance with WAC 296-62-052.

(d) Transfer of records.

(i) The employer shall comply with the requirements involving transfer of records set forth in WAC 296-62-05205.

(ii) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the director, at least three months prior to disposal, and transmit them to the director if required by the director within that period.

(12) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe the measuring or monitoring of employee exposure to benzene conducted pursuant to subsection (5) of this section.

(b) Observation procedures. When observation of the measuring or monitoring of employee exposure to benzene requires entry into areas where the use of protective clothing and equipment or respirators is required, the employer shall provide the observer with personal protective clothing and equipment or respirators required to be worn by employees working in the area, assure the use of such clothing and equipment or respirators, and require the observer to comply with all other applicable safety and health procedures.

(13) ~~(Dates:~~

~~(a) Engineering and work practice controls required by subsection (6)(a) of this section shall be implemented no later than December 10, 1989.~~

~~(b) Coke and coal chemical operations may comply with (b)(ii) of this subsection or alternately include within the compliance program required by subsection (6)(b) of this section, a requirement to phase in engineering controls as equipment is repaired and replaced. For coke and coal chemical operations choosing the latter alternative, compliance with the engineering controls requirements of subsection (6)(a) of this section shall be achieved no later than December 10, 1992. Substantial compliance with the engineering control requirements shall be achieved no later than December 10, 1990.~~

(14)) Appendices. The information contained in WAC 296-62-07525, Appendices A, B, C, and D is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligations. ~~((The protocols on respiratory fit testing in Appendix E are mandatory))~~

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-62-07540 Formaldehyde. (1) Scope and application. This standard applies to all occupational exposures to formaldehyde, i.e., from formaldehyde gas, its solutions, and materials that release formaldehyde.

(2) Definitions. For purposes of this standard, the following definitions shall apply:

(a) "Action level" means a concentration of 0.5 part formaldehyde per million parts of air (0.5 ppm) calculated as an 8-hour time-weighted average (TWA) concentration.

(b) "Approved" 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 Mine Safety and Health Administration and the National Institute for Occupational Safety and Health, the provision of WAC 296-24-006 shall apply.

(c) "Authorized person" means any person required by work duties to be present in regulated work areas, or authorized to do so by the employer, by this section of the standard, or by the WISHA Act.

(d) "Director" means the director of the department of labor and industries, or his/her designated representative.

(e) "Emergency" is any occurrence, such as but not limited to equipment failure, rupture of containers, or failure of control equipment that results in an uncontrolled release of a significant amount of formaldehyde.

(f) "Employee exposure" means the exposure to airborne formaldehyde which would occur without corrections for protection provided by any respirator that is in use.

(g) "Formaldehyde" means the chemical substance, HCHO, Chemical Abstracts Service Registry No. 50-00-0.

(3) Permissible exposure limit (PEL).

(a) TWA: The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which

exceeds 0.75 part formaldehyde per million parts of air as an 8-hour TWA.

(b) Short term exposure limit (STEL): The employer shall assure that no employee is exposed to an airborne concentration of formaldehyde which exceeds two parts formaldehyde per million parts of air (2 ppm) as a fifteen-minute STEL.

(4) Exposure monitoring.

(a) General.

(i) Each employer who has a workplace covered by this standard shall monitor employees to determine their exposure to formaldehyde.

(ii) Exception. Where the employer documents, using objective data, that the presence of formaldehyde or formaldehyde-releasing products in the workplace cannot result in airborne concentrations of formaldehyde that would cause any employee to be exposed at or above the action level or the STEL under foreseeable conditions of use, the employer will not be required to measure employee exposure to formaldehyde.

(iii) When an employee's exposure is determined from representative sampling, the measurements used shall be representative of the employee's full shift or short-term exposure to formaldehyde, as appropriate.

(iv) Representative samples for each job classification in each work area shall be taken for each shift unless the employer can document with objective data that exposure levels for a given job classification are equivalent for different workshifts.

(b) Initial monitoring. The employer shall identify all employees who may be exposed at or above the action level or at or above the STEL and accurately determine the exposure of each employee so identified.

(i) Unless the employer chooses to measure the exposure of each employee potentially exposed to formaldehyde, the employer shall develop a representative sampling strategy and measure sufficient exposures within each job classification for each workshift to correctly characterize and not underestimate the exposure of any employee within each exposure group.

(ii) The initial monitoring process shall be repeated each time there is a change in production, equipment, process, personnel, or control measures which may result in new or additional exposure to formaldehyde.

(iii) If the employer receives reports or signs or symptoms of respiratory or dermal conditions associated with formaldehyde exposure, the employer shall promptly monitor the affected employee's exposure.

(c) Periodic monitoring.

(i) The employer shall periodically measure and accurately determine exposure to formaldehyde for employees shown by the initial monitoring to be exposed at or above the action level or at or above the STEL.

(ii) If the last monitoring results reveal employee exposure at or above the action level, the employer shall repeat monitoring of the employees at least every six months.

(iii) If the last monitoring results reveal employee exposure at or above the STEL, the employer shall repeat monitoring of the employees at least once a year under worst conditions.

(d) Termination of monitoring. The employer may discontinue periodic monitoring for employees if results from two consecutive sampling periods taken at least seven days apart show that employee exposure is below the action level and the STEL. The results must be statistically representative and consistent with the employer's knowledge of the job and work operation.

(e) Accuracy of monitoring. Monitoring shall be accurate, at the ninety-five percent confidence level, to within plus or minus twenty-five percent for airborne concentrations of formaldehyde at the TWA and the STEL and to within plus or minus thirty-five percent for airborne concentrations of formaldehyde at the action level.

(f) Employee notification of monitoring results. Within fifteen days of receiving the results of exposure monitoring conducted under this standard, the employer shall notify the affected employees of these results. Notification shall be in writing, either by distributing copies of the results to the employees or by posting the results. If the employee exposure is over either PEL, the employer shall develop and implement a written plan to reduce employee exposure to or below both PELs, and give written notice to employees. The written notice shall contain a description of the corrective action being taken by the employer to decrease exposure.

(g) Observation of monitoring.

(i) The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to formaldehyde required by this standard.

(ii) When observation of the monitoring of employee exposure to formaldehyde requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the clothing and equipment to the observer, require the observer to use such clothing and equipment, and assure that the observer complies with all other applicable safety and health procedures.

(5) Regulated areas.

(a) The employer shall establish regulated areas where the concentration of airborne formaldehyde exceeds either the TWA or the STEL and post all entrances and accessways with signs bearing the following information:

DANGER
FORMALDEHYDE
IRRITANT AND POTENTIAL CANCER HAZARD
AUTHORIZED PERSONNEL ONLY

(b) The employer shall limit access to regulated areas to authorized persons who have been trained to recognize the hazards of formaldehyde.

(c) An employer at a multi-employer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to other employers with work operations at that worksite.

(6) Methods of compliance.

(a) Engineering controls and work practices. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to formaldehyde at or below the TWA and the STEL.

(b) Exception. Whenever the employer has established that feasible engineering and work practice controls cannot reduce employee exposure to or below either of the PELs, the employer shall apply these controls to reduce employee exposures to the extent feasible and shall supplement them with respirators which satisfy this standard.

(7) Respiratory protection.

(a) General. ~~((Where respiratory protection is required, the employer shall provide the respirators at no cost to the employee and shall assure that they are properly used. The respirators shall comply with the requirements of this standard and shall reduce the concentration of formaldehyde inhaled by the employee to at or below both the TWA and the STEL. Respirators shall be used in the following circumstances))~~ For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

- (i) ~~((During the interval))~~ Periods necessary to install or implement feasible engineering and work-practice controls;
- (ii) ~~((In))~~ Work operations, such as maintenance and repair activities or vessel cleaning, for which the employer establishes that engineering and work-practice controls are not feasible;
- (iii) ~~((In work situations where))~~ Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce exposure to or below the PELs; (and)

(iv) ~~((In))~~ Emergencies.

(b) Respirator ~~((selection))~~ program.

(i) ~~((The appropriate respirators as specified in Table 1 shall be selected from those approved by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11))~~ The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1), 296-62-07131 (4)(b)(i) and (ii), and 296-62-07150 through 296-62-07156).

(ii) ~~((The employer shall make available a powered air-purifying respirator adequate to protect against formaldehyde exposure to any employee who experiences difficulty wearing a negative pressure respirator to reduce exposure to formaldehyde))~~ If air-purifying chemical-cartridge respirators are used, the employer must:

(A) Replace the cartridge after three hours of use or at the end of the workshift, whichever occurs first, unless the cartridge contains a NIOSH-certified end-of-service-life indicator (ESLI) to show when breakthrough occurs.

(B) Unless the canister contains a NIOSH-certified ESLI to show when breakthrough occurs, replace canisters used in atmospheres up to 7.5 ppm (10 x PEL) every four hours and industrial-sized canisters used in atmospheres up to 75 ppm (100 x PEL) every two hours, or at the end of the workshift, whichever occurs first.

(c) Respirator ~~((usage))~~ selection.

(i) ~~((Whenever respirator use is required by this standard, the employer shall institute a respiratory protection program in accordance with WAC 296-62-07109, 296-62-07111, 296-62-07115, and 296-62-07117.~~

~~((ii) The employer shall perform either quantitative or qualitative face fit tests in accordance with the procedures outlined in Appendix E at the time of initial fitting and at least annually thereafter for all employees required by this standard to wear negative pressure respirators.~~

~~((A) Respirators selected shall be from those exhibiting the best facepiece fit.~~

~~((B) No respirator shall be chosen that would potentially permit the employee to inhale formaldehyde at concentrations in excess of either the TWA or the STEL))~~ The employer must select appropriate respirators from Table 1 of this section.

TABLE 1
MINIMUM REQUIREMENTS FOR RESPIRATORY PROTECTION
AGAINST FORMALDEHYDE

Condition of use or formaldehyde concentration (ppm)	Minimum respirator required ¹
Up to 7.5 ppm (10 x PEL)	Full facepiece with cartridges or canisters specifically approved for protection against formaldehyde ² .
Up to 75 ppm (100 x PEL)	Full-face mask with chin style or chest or back mounted type industrial size canister specifically approved for protection against formaldehyde. Type C supplied-air respirator pressure demand or continuous flow type, with full facepiece, hood, or helmet.
Above 75 ppm or unknown (emergencies) (100 x PEL)	Self-contained breathing apparatus (SCBA) with positive-pressure full facepiece. Combination supplied-air, full facepiece positive-pressure respirator with auxiliary self-contained air supply.
Fire fighting	SCBA with positive-pressure in full facepiece.
Escape	SCBA in demand or pressure demand mode. Full-face mask with chin style or front or back mounted type industrial size canister specifically approved for protection against formaldehyde.

¹ Respirators specified for use at higher concentrations may be used at lower concentrations.

² A half-mask respirator with cartridges specifically approved for protection against formaldehyde can be substituted for the full facepiece respirator providing that effective gas-proof goggles are provided and used in combination with the half-mask respirator.

~~((iii) Where air-purifying chemical cartridge respirators are used, the cartridges shall be replaced after three hours of use or at the end of the workshift, whichever is sooner unless the cartridge contains a NIOSH approved end-of service indicator to show when breakthrough occurs.~~

PERMANENT

~~(iv) Unless the canister contains a NIOSH approved end-of-service life indicator to show when breakthrough occurs, canisters used in atmospheres up to 7.5 ppm (10 x PEL) shall be replaced every four hours and industrial sized canisters used in atmospheres up to 75 ppm (100 x PEL) shall be replaced every two hours or at the end of the workshift, whichever is sooner.~~

~~(v) Employers shall permit employees to leave the work area to wash their faces and respirator facepieces as needed to prevent skin irritation from respirator use.)~~ (ii) The employer must provide a powered air-purifying respirator adequate to protect against formaldehyde exposure to any employee who has difficulty using a negative-pressure respirator.

(8) Protective equipment and clothing. Employers shall comply with the provisions of WAC 296-24-07501 and 296-24-07801. When protective equipment or clothing is provided under these provisions, the employer shall provide these protective devices at no cost to the employee and assure that the employee wears them.

(a) Selection. The employer shall select protective clothing and equipment based upon the form of formaldehyde to be encountered, the conditions of use, and the hazard to be prevented.

(i) All contact of the eyes and skin with liquids containing one percent or more formaldehyde shall be prevented by the use of chemical protective clothing made of material impervious to formaldehyde and the use of other personal protective equipment, such as goggles and face shields, as appropriate to the operation.

(ii) Contact with irritating or sensitizing materials shall be prevented to the extent necessary to eliminate the hazard.

(iii) Where a face shield is worn, chemical safety goggles are also required if there is a danger of formaldehyde reaching the area of the eye.

(iv) Full body protection shall be worn for entry into areas where concentrations exceed 100 ppm and for emergency reentry into areas of unknown concentration.

(b) Maintenance of protective equipment and clothing.

(i) The employer shall assure that protective equipment and clothing that has become contaminated with formaldehyde is cleaned or laundered before its reuse.

(ii) When ventilating formaldehyde-contaminated clothing and equipment, the employer shall establish a storage area so that employee exposure is minimized. Containers for contaminated clothing and equipment and storage areas shall have labels and signs containing the following information:

DANGER

**FORMALDEHYDE-CONTAMINATED (CLOTHING) EQUIPMENT
AVOID INHALATION AND SKIN CONTACT**

(iii) The employer shall assure that only persons trained to recognize the hazards of formaldehyde remove the contaminated material from the storage area for purposes of cleaning, laundering, or disposal.

(iv) The employer shall assure that no employee takes home equipment or clothing that is contaminated with formaldehyde.

(v) The employer shall repair or replace all required protective clothing and equipment for each affected employee as necessary to assure its effectiveness.

(vi) The employer shall inform any person who launders, cleans, or repairs such clothing or equipment of formaldehyde's potentially harmful effects and of procedures to safely handle the clothing and equipment.

(9) Hygiene protection.

(a) The employer shall provide change rooms, as described in WAC 296-24-120 for employees who are required to change from work clothing into protective clothing to prevent skin contact with formaldehyde.

(b) If employees' skin may become splashed with solutions containing one percent or greater formaldehyde, for example because of equipment failure or improper work practices, the employer shall provide conveniently located quick drench showers and assure that affected employees use these facilities immediately.

(c) If there is any possibility that an employee's eyes may be splashed with solutions containing 0.1 percent or greater formaldehyde, the employer shall provide acceptable eye-wash facilities within the immediate work area for emergency use.

(10) Housekeeping. For operations involving formaldehyde liquids or gas, the employer shall conduct a program to detect leaks and spills, including regular visual inspections.

(a) Preventative maintenance of equipment, including surveys for leaks, shall be undertaken at regular intervals.

(b) In work areas where spillage may occur, the employer shall make provisions to contain the spill, to decontaminate the work area, and to dispose of the waste.

(c) The employer shall assure that all leaks are repaired and spills are cleaned promptly by employees wearing suitable protective equipment and trained in proper methods for cleanup and decontamination.

(d) Formaldehyde-contaminated waste and debris resulting from leaks or spills shall be placed for disposal in sealed containers bearing a label warning of formaldehyde's presence and of the hazards associated with formaldehyde.

(11) Emergencies. For each workplace where there is the possibility of an emergency involving formaldehyde, the employer shall assure appropriate procedures are adopted to minimize injury and loss of life. Appropriate procedures shall be implemented in the event of an emergency.

(12) Medical surveillance.

(a) Employees covered.

(i) The employer shall institute medical surveillance programs for all employees exposed to formaldehyde at concentrations at or exceeding the action level or exceeding the STEL.

(ii) The employer shall make medical surveillance available for employees who develop signs and symptoms of overexposure to formaldehyde and for all employees exposed to formaldehyde in emergencies. When determining whether an employee may be experiencing signs and symptoms of possible overexposure to formaldehyde, the employer may rely on the evidence that signs and symptoms associated with formaldehyde exposure will occur only in exceptional circumstances when airborne exposure is less than 0.1 ppm and

when formaldehyde is present in materials in concentrations less than 0.1 percent.

(b) Examination by a physician. All medical procedures, including administration of medical disease questionnaires, shall be performed by or under the supervision of a licensed physician and shall be provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(c) Medical disease questionnaire. The employer shall make the following medical surveillance available to employees prior to assignment to a job where formaldehyde exposure is at or above the action level or above the STEL and annually thereafter. The employer shall also make the following medical surveillance available promptly upon determining that an employee is experiencing signs and symptoms indicative of possible overexposure to formaldehyde.

(i) Administration of a medical disease questionnaire, such as in Appendix D, which is designed to elicit information on work history, smoking history, any evidence of eye, nose, or throat irritation; chronic airway problems or hyperreactive airway disease; allergic skin conditions or dermatitis; and upper or lower respiratory problems.

(ii) A determination by the physician, based on evaluation of the medical disease questionnaire, of whether a medical examination is necessary for employees not required to wear respirators to reduce exposure to formaldehyde.

(d) Medical examinations. Medical examinations shall be given to any employee who the physician feels, based on information in the medical disease questionnaire, may be at increased risk from exposure to formaldehyde and at the time of initial assignment and at least annually thereafter to all employees required to wear a respirator to reduce exposure to formaldehyde. The medical examination shall include:

(i) A physical examination with emphasis on evidence of irritation or sensitization of the skin and respiratory system, shortness of breath, or irritation of the eyes.

(ii) Laboratory examinations for respirator wearers consisting of baseline and annual pulmonary function tests. As a minimum, these tests shall consist of forced vital capacity (FVC), forced expiratory volume in one second (FEV1), and forced expiratory flow (FEF).

(iii) Any other test which the examining physician deems necessary to complete the written opinion.

(iv) Counseling of employees having medical conditions that would be directly or indirectly aggravated by exposure to formaldehyde on the increased risk of impairment of their health.

(e) Examinations for employees exposed in an emergency. The employer shall make medical examinations available as soon as possible to all employees who have been exposed to formaldehyde in an emergency.

(i) The examination shall include a medical and work history with emphasis on any evidence of upper or lower respiratory problems, allergic conditions, skin reaction or hypersensitivity, and any evidence of eye, nose, or throat irritation.

(ii) Other examinations shall consist of those elements considered appropriate by the examining physician.

(f) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and Appendices A, C, D, and E;

(ii) A description of the affected employee's job duties as they relate to the employee's exposure to formaldehyde;

(iii) The representative exposure level for the employee's job assignment;

(iv) Information concerning any personal protective equipment and respiratory protection used or to be used by the employee; and

(v) Information from previous medical examinations of the affected employee within the control of the employer.

(vi) In the event of a nonroutine examination because of an emergency, the employer shall provide to the physician as soon as possible: A description of how the emergency occurred and the exposure the victim may have received.

(g) Physician's written opinion.

(i) For each examination required under this standard, the employer shall obtain a written opinion from the examining physician. This written opinion shall contain the results of the medical examination except that it shall not reveal specific findings or diagnoses unrelated to occupational exposure to formaldehyde. The written opinion shall include:

(A) The physician's opinion as to whether the employee has any medical condition that would place the employee at an increased risk of material impairment of health from exposure to formaldehyde;

(B) Any recommended limitations on the employee's exposure or changes in the use of personal protective equipment, including respirators;

(C) A statement that the employee has been informed by the physician of any medical conditions which would be aggravated by exposure to formaldehyde, whether these conditions may have resulted from past formaldehyde exposure or from exposure in an emergency, and whether there is a need for further examination or treatment.

(ii) The employer shall provide for retention of the results of the medical examination and tests conducted by the physician.

(iii) The employer shall provide a copy of the physician's written opinion to the affected employee within fifteen days of its receipt.

(h) Medical removal.

(i) The provisions of this subdivision apply when an employee reports significant irritation of the mucosa of the eyes or of the upper airways, respiratory sensitization, dermal irritation, or dermal sensitization attributed to workplace formaldehyde exposure. Medical removal provisions do not apply in case of dermal irritation or dermal sensitization when the product suspected of causing the dermal condition contains less than 0.05% formaldehyde.

(ii) An employee's report of signs or symptoms of possible overexposure to formaldehyde shall be evaluated by a physician selected by the employer pursuant to (c) of this subsection. If the physician determines that a medical examination is not necessary under (c)(ii) of this subsection, there shall be a two-week evaluation and remediation period to permit the employer to ascertain whether the signs or symptoms subside untreated or with the use of creams, gloves, first aid treatment, or personal protective equipment. Industrial hygiene measures that limit the employee's exposure to form-

aldehyde may also be implemented during this period. The employee shall be referred immediately to a physician prior to expiration of the two-week period if the signs or symptoms worsen. Earnings, seniority, and benefits may not be altered during the two-week period by virtue of the report.

(iii) If the signs or symptoms have not subsided or been remedied by the end of the two-week period, or earlier if signs or symptoms warrant, the employee shall be examined by a physician selected by the employer. The physician shall presume, absent contrary evidence, that observed dermal irritation or dermal sensitization are not attributable to formaldehyde when products to which the affected employee is exposed contain less than 0.1% formaldehyde.

(iv) Medical examinations shall be conducted in compliance with the requirements of (e)(i) and (ii) of this subsection. Additional guidelines for conducting medical exams are contained in WAC 296-62-07546, Appendix C.

(v) If the physician finds that significant irritation of the mucosa of the eyes or the upper airways, respiratory sensitization, dermal irritation, or dermal sensitization result from workplace formaldehyde exposure and recommends restrictions or removal. The employer shall promptly comply with the restrictions or recommendations of removal. In the event of a recommendation of removal, the employer shall remove the affected employee from the current formaldehyde exposure and if possible, transfer the employee to work having no or significantly less exposure to formaldehyde.

(vi) When an employee is removed pursuant to item (v) of this subdivision, the employer shall transfer the employee to comparable work for which the employee is qualified or can be trained in a short period (up to six months), where the formaldehyde exposures are as low as possible, but not higher than the action level. The employer shall maintain the employee's current earnings, seniority, and other benefits. If there is no such work available, the employer shall maintain the employee's current earnings, seniority, and other benefits until such work becomes available, until the employee is determined to be unable to return to workplace formaldehyde exposure, until the employee is determined to be able to return to the original job status, or for six months, whichever comes first.

(vii) The employer shall arrange for a follow-up medical examination to take place within six months after the employee is removed pursuant to this subsection. This examination shall determine if the employee can return to the original job status, or if the removal is to be permanent. The physician shall make a decision within six months of the date the employee was removed as to whether the employee can be returned to the original job status, or if the removal is to be permanent.

(viii) An employer's obligation to provide earnings, seniority, and other benefits to a removed employee may be reduced to the extent that the employee receives compensation for earnings lost during the period of removal either from a publicly or employer-funded compensation program or from employment with another employer made possible by virtue of the employee's removal.

(ix) In making determinations of the formaldehyde content of materials under this subsection the employer may rely on objective data.

(i) Multiple physician review.

(i) After the employer selects the initial physician who conducts any medical examination or consultation to determine whether medical removal or restriction is appropriate, the employee may designate a second physician to review any findings, determinations, or recommendations of the initial physician and to conduct such examinations, consultations, and laboratory tests as the second physician deems necessary and appropriate to evaluate the effects of formaldehyde exposure and to facilitate this review.

(ii) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation for the purpose of medical removal or restriction.

(iii) The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the employee doing the following within fifteen days after receipt of the notification of the right to seek a second medical opinion, or receipt of the initial physician's written opinion, whichever is later:

(A) The employee informs the employer of the intention to seek a second medical opinion; and

(B) The employee initiates steps to make an appointment with a second physician.

(iv) If the findings, determinations, or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve the disagreement. If the two physicians are unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician who shall be a specialist in the field at issue:

(A) To review the findings, determinations, or recommendations of the prior physicians; and

(B) To conduct such examinations, consultations, laboratory tests, and discussions with prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(v) In the alternative, the employer and the employee or authorized employee representative may jointly designate such third physician.

(vi) The employer shall act consistent with the findings, determinations, and recommendations of the third physician, unless the employer and the employee reach an agreement which is otherwise consistent with the recommendations of at least one of the three physicians.

(13) Hazard communication.

(a) General. Notwithstanding any exemption granted in WAC 296-62-05403 (6)(c) for wood products, each employer who has a workplace covered by this standard shall comply with the requirements of WAC 296-62-05409 through 296-62-05419. The definitions of the hazard communication standard shall apply under this standard.

(i) The following shall be subject to the hazard communication requirements of this section: Formaldehyde gas, all mixtures or solutions composed of greater than 0.1 percent formaldehyde, and materials capable of releasing formaldehyde into the air under reasonably foreseeable concentrations reaching or exceeding 0.1 ppm.

(ii) As a minimum, specific health hazards that the employer shall address are: Cancer, irritation and sensitization of the skin and respiratory system, eye and throat irritation, and acute toxicity.

(b) Manufacturers and importers who produce or import formaldehyde or formaldehyde-containing products shall provide downstream employers using or handling these products with an objective determination through the required labels and MSDSs if these items may constitute a health hazard within the meaning of WAC 296-62-05407 under normal conditions of use.

(c) Labels.

(i) The employer shall assure that hazard warning labels complying with the requirements of WAC 296-62-05411 are affixed to all containers of materials listed in (a)(i) of this subsection, except to the extent that (a)(i) of this subsection is inconsistent with this item.

(ii) Information on labels. As a minimum, for all materials listed in (a)(i) of this subsection, capable of releasing formaldehyde at levels of 0.1 ppm to 0.5 ppm, labels shall identify that the product contains formaldehyde: List the name and address of the responsible party; and state that physical and health hazard information is readily available from the employer and from material safety data sheets.

(iii) For materials listed in (a)(i) of this subsection, capable of releasing formaldehyde at levels above 0.5 ppm, labels shall appropriately address all the hazards as defined in Part C, WAC 296-62-054 through 296-62-05425, and Appendices A and B, including respiratory sensitization, and shall contain the words "Potential Cancer Hazard."

(iv) In making the determinations of anticipated levels of formaldehyde release, the employer may rely on objective data indicating the extent of potential formaldehyde release under reasonably foreseeable conditions of use.

(v) Substitute warning labels. The employer may use warning labels required by other statutes, regulations, or ordinances which impart the same information as the warning statements required by this subitem.

(d) Material safety data sheets.

(i) Any employer who uses formaldehyde-containing materials listed in (a)(i) of this subsection shall comply with the requirements of WAC 296-62-05413 with regard to the development and updating of material safety data sheets.

(ii) Manufacturers, importers, and distributors of formaldehyde containing materials listed in (a)(i) of this subsection shall assure that material safety data sheets and updated information are provided to all employers purchasing such materials at the time of the initial shipment and at the time of the first shipment after a material safety data sheet is updated.

(e) Written hazard communication program. The employer shall develop, implement, and maintain at the workplace, a written hazard communication program for formaldehyde exposures in the workplace, which at a minimum describes how the requirements specified in this section for labels and other forms of warning and material safety data sheets, and subsection (14) of this section for employee information and training, will be met. Employees in multi-employer workplaces shall comply with the requirements of WAC 296-62-05409 (2)(b).

(14) Employee information and training.

(a) Participation. The employer shall assure that all employees who are assigned to workplaces where there is a health hazard from formaldehyde participate in a training program, except that where the employer can show, using objective data, that employees are not exposed to formaldehyde at or above 0.1 ppm, the employer is not required to provide training.

(b) Frequency. Employers shall provide such information and training to employees at the time of their initial assignment and whenever a new exposure to formaldehyde is introduced into their work area. The training shall be repeated at least annually.

(c) Training program. The training program shall be conducted in a manner which the employee is able to understand and shall include:

(i) A discussion of the contents of this regulation and the contents of the material safety data sheet;

(ii) The purpose for and a description of the medical surveillance program required by this standard, including:

(A) A description of the potential health hazards associated with exposure to formaldehyde and a description of the signs and symptoms of exposure to formaldehyde.

(B) Instructions to immediately report to the employer the development of any adverse signs or symptoms that the employee suspects is attributable to formaldehyde exposure.

(iii) Description of operations in the work area where formaldehyde is present and an explanation of the safe work practices appropriate for limiting exposure to formaldehyde in each job;

(iv) The purpose for, proper use of, and limitations of personal protective clothing (~~and equipment~~);

(v) Instructions for the handling of spills, emergencies, and clean-up procedures;

(vi) An explanation of the importance of engineering and work practice controls for employee protection and any necessary instruction in the use of these controls; (~~and~~)

(vii) A review of emergency procedures including the specific duties or assignments of each employee in the event of an emergency; and

(viii) The purpose, proper use, limitations, and other training requirements for respiratory protection as required by chapter 296-62 WAC, Part E.

(d) Access to training materials.

(i) The employer shall inform all affected employees of the location of written training materials and shall make these materials readily available, without cost, to the affected employees.

(ii) The employer shall provide, upon request, all training materials relating to the employee training program to the director of labor and industries, or his/her designated representative.

(15) Recordkeeping.

(a) Exposure measurements. The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to formaldehyde. This record shall include:

(i) The date of measurement;

(ii) The operation being monitored;

(iii) The methods of sampling and analysis and evidence of their accuracy and precision;

(iv) The number, durations, time, and results of samples taken;

(v) The types of protective devices worn; and

(vi) The names, job classifications, Social Security numbers, and exposure estimates of the employees whose exposures are represented by the actual monitoring results.

(b) Exposure determinations. Where the employer has determined that no monitoring is required under this standard, the employer shall maintain a record of the objective data relied upon to support the determination that no employee is exposed to formaldehyde at or above the action level.

(c) Medical surveillance. The employer shall establish and maintain an accurate record for each employee subject to medical surveillance under this standard. This record shall include:

(i) The name and Social Security number of the employee;

(ii) The physician's written opinion;

(iii) A list of any employee health complaints that may be related to exposure to formaldehyde; and

(iv) A copy of the medical examination results, including medical disease questionnaires and results of any medical tests required by the standard or mandated by the examining physician.

(d) ~~((Respirator fit testing.~~

~~(i) The employer shall establish and maintain accurate records for employees subject to negative pressure respirator fit testing required by this standard.~~

~~(ii) This record shall include:~~

~~(A) A copy of the protocol selected for respirator fit testing;~~

~~(B) A copy of the results of any fit testing performed;~~

~~(C) The size and manufacturer of the types of respirators available for selection; and~~

~~(D) The date of the most recent fit testing, the name and Social Security number of each tested employee, and the respirator type and facepiece selected.~~

~~(e)) Record retention. The employer shall retain records required by this standard for at least the following periods:~~

~~(i) Exposure records and determinations shall be kept for at least thirty years; and~~

~~(ii) Medical records shall be kept for the duration of employment plus thirty years(~~and~~~~

~~(iii) Respirator fit testing records shall be kept until replaced by a more recent record)).~~

~~((f)) (e) Availability of records.~~

(i) Upon request, the employer shall make all records maintained as a requirement of this standard available for examination and copying to the director of labor and industries, or his/her designated representative.

(ii) The employer shall make employee exposure records, including estimates made from representative monitoring and available upon request for examination and copying, to the subject employee, or former employee, and employee representatives in accordance with WAC 296-62-052 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(iii) Employee medical records required by this standard shall be provided upon request for examination and copying,

to the subject employee, or former employee, or to anyone having the specific written consent of the subject employee or former employee in accordance with WAC 296-62-05201 through 296-62-05209, and 296-62-05213 through 296-62-05217.

AMENDATORY SECTION (Amending Order 92-15, filed 2/3/93, effective 3/15/93)

WAC 296-62-07615 Respiratory protection. (1) General. ~~((The employer shall provide respirators, and ensure that they are used, where required by this section. Respirators shall be used in the following circumstances))~~ For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(a) ~~((During the time period))~~ Periods necessary to install or implement feasible engineering and work-practice controls;

(b) ~~((In))~~ Work operations for which the employer establishes that engineering and work-practice controls are not feasible;

(c) ~~((In work situations where))~~ Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce exposure to or below the PEL; ~~((and))~~

(d) ~~((In))~~ Emergencies.

(2) Respirator ~~((selection.~~

~~(a) Where respirators are required or allowed under WAC 296-62-076, the employer shall select and provide, at no cost to the employee, the appropriate respirator as specified in Table 1, and shall assure that the employee uses the respirator provided.~~

~~(b) The employer shall select respirators from among those approved by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health under the provisions of 30 C.F.R. Part 11 and Part E of this chapter.~~

~~(c) Any employee who cannot wear a negative pressure respirator shall be given the option of wearing a positive pressure respirator or any supplied air respirator operated in the continuous flow or pressure demand mode.))~~ program. The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(3) Respirator ~~((program. The employer shall institute a respiratory protection program in accordance with Part E of this chapter.~~

~~(4) Respirator use.~~

~~(a) Where air purifying respirators (cartridge or canister) are used, the employer shall replace the air purifying element as needed to maintain the effectiveness of the respirator. The employer shall ensure that each cartridge is dated at the beginning of use.~~

~~(b) Employees who wear respirators shall be allowed to leave the regulated area to readjust the facepiece or to wash their faces and to wipe clean the facepieces on their respirators in order to minimize potential skin irritation associated with respirator use))~~ selection.

(a) The employer must select, and ensure that employees use, the appropriate respirator from Table 1 of this section.

Table 1.—Respiratory Protection for MDA

Airborne concentration of MDA or condition of use	Respirator type
a. Less than or equal to 10xPEL	(1) Half-mask respirator with HEPA ¹ cartridge ² .
b. Less than or equal to 50xPEL	(1) Full facepiece respirator with HEPA ¹ cartridge or canister ² .
c. Less than or equal to 1000xPEL	(1) Full facepiece powered air-purifying respirator with HEPA ¹ cartridges ² .
d. Greater than 1000xPEL or	(1) Self-contained breathing unknown concentrations apparatus with full facepiece in positive pressure mode; (2) Full facepiece positive pressure demand supplied-air respirator with auxiliary self-contained air supply.
e. Escape	(1) Any full facepiece air-purifying respirator with HEPA ¹ cartridges ² ; (2) Any positive pressure or continuous flow self-contained breathing apparatus with full facepiece or hood.
f. Fire fighting	(1) Full facepiece self-contained breathing apparatus in positive pressure demand mode.

Note: Respirators assigned for higher environmental concentrations may be used at lower concentrations.

¹ High efficiency particulate in air filter (HEPA) means a filter that is at least 99.97 percent efficient against mono-dispersed particles of 0.3 micrometers or larger.

² Combination HEPA/organic vapor cartridges shall be used whenever MDA in liquid form or a process requiring heat is used.

~~((5) Respirator fit testing-~~

~~(a) The employer shall perform and record the results of either quantitative or qualitative fit tests at the time of initial fitting and at least annually thereafter for each employee wearing a negative pressure respirator. The test shall be used to select a respirator facepiece which provides the required protection as prescribed in Table 1.~~

~~(b) The employer shall follow the test protocols outlined in Appendix E of this standard for whichever type of fit testing the employer chooses.)~~ (b) Any employee who cannot use a negative-pressure respirator must be given the option of using a positive-pressure respirator, or a supplied-air respirator operated in the continuous-flow or pressure-demand mode.

AMENDATORY SECTION (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

WAC 296-62-07715 Respiratory protection. (1) General. ~~((The employer shall provide respirators, and ensure that they are used, where required by WAC 296-62-077 through~~

~~296-62-07753. Respirators shall be used in the following circumstances))~~ For employees who use respirators required by WAC 296-62-077 through 296-62-07747, the employer must provide respirators that comply with the requirements of this section. Respirators must be used during:

- ~~(a) ((During the interval))~~ Periods necessary to install or implement feasible engineering and work-practice controls;
- ~~(b) ((In))~~ Work operations, such as maintenance and repair activities, ((or other activities)) for which engineering and work-practice controls are not feasible;
- ~~(c) ((In work situations where))~~ Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the permissible exposure limits;
- ~~(d) ((In))~~ Emergencies;
- ~~(e) ((In))~~ Work operations in all regulated areas, except for construction activities which follow requirements set forth in WAC 296-62-07715 (1)(g);
- ~~(f)~~ Work operations whenever employee exposure exceeds the permissible exposure limits;
- ~~(g) ((During))~~ The following construction activities:
 - ~~(i) ((During all))~~ Class I asbestos ((jobs) work;
 - ~~(ii) ((During all))~~ Class II work where the ACM is not removed in a substantially intact state;
 - ~~(iii) ((During all))~~ Class II and Class III work which is not performed using wet methods, ((provided, however, that respirators need not be worn during)) except for removal of ACM from sloped roofs when a negative-exposure assessment has been made and the ACM is removed in an intact state;
 - ~~(iv) ((During all))~~ Class II and Class III asbestos ((jobs where the employer does not produce a ") work for which a negative-exposure assessment((") has not been conducted;
 - ~~(v) ((During all))~~ Class III ((jobs where)) work when TSI or surfacing ACM or PACM is being disturbed; ((and))
 - ~~(vi) ((During all))~~ Class IV work performed within regulated areas where employees who are performing other work are required to wear respirators.

~~(2) Respirator ((selection)) program.~~

~~(a) ((Where respirators are used, the employer shall select and provide, at no cost to the employee, the appropriate respirator as specified in Table 1 of this section or in WAC 296-62-07715(2), and shall ensure that the employee uses the respirator provided))~~ The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

~~(b) ((The employer shall select respirators from among those jointly approved as being acceptable for protection by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11))~~ The employer must provide a tight-fitting, powered, air-purifying respirator instead of any negative-pressure respirators specified in Table 1 of this section when an employee chooses to use this type of respirator and the respirator provides adequate protection to the employee.

~~(c) ((The employer shall provide a tight fitting powered, air purifying respirator in lieu of any negative pressure respirator specified in Table 1 of this section whenever:~~

PERMANENT

~~(i) An employee chooses to use this type of respirator; and~~

~~(ii) This respirator will provide adequate protection to the employee)) The employer must inform any employee required to wear a respirator under this section that the employee may require the employer to provide a tight-fitting, powered, air-purifying respirator instead of any negative-pressure respirator specified in Table 1 of this section.~~

~~(d) ((The employer shall inform any employee required to wear a respirator under this subsection that the employee may require the employer to provide a powered air purifying respirator in lieu of a negative pressure respirator.~~

~~(e) In addition to the selection criterion below, the employer shall provide a half mask air purifying respirator, other than a disposable respirator, equipped with high efficiency filters whenever the employee performs the following activities: Class II and III asbestos jobs where the employer does not produce a negative exposure assessment; and Class III jobs where TSI or surfacing ACM or PACM is being disturbed)) No employee must be assigned to tasks requiring the use of respirators if, based on their most recent medical examination, the examining physician determines that the~~

employee will be unable to function normally using a respirator, or that the safety or health of the employee or other employees will be impaired by the use of a respirator. Such employees must be assigned to another job or given the opportunity to transfer to a different position, the duties of which they can perform. If such a transfer position is available, the position must be with the same employer, in the same geographical area, and with the same seniority, status, and rate of pay the employee had just prior to such transfer.

(3) Respirator selection.

(a) The employer must select and provide the appropriate respirator from Table 1 of this section, and ensure that the employee uses the respirator provided.

(b) The employer must provide a half-mask, air-purifying respirator, other than a disposable respirator, that is equipped with a high-efficiency filter when the employee performs:

(i) Class II and III asbestos work and the employer has not conducted a negative-exposure assessment;

(ii) Class III asbestos work when TSI or surfacing ACM or PACM is being disturbed.

TABLE 1—RESPIRATORY PROTECTION FOR ASBESTOS FIBERS

Airborne concentration of asbestos or conditions of use

Required respirator.
(See Note a.)

Not in excess of 1 f/cc (10 X PEL), or otherwise as required independent of exposure

Half-mask air-purifying respirator other than a disposable respirator, equipped with high efficiency filters. (See Note b.)

Not in excess of 5 f/cc (50 X PEL)

Full facepiece air-purifying respirator equipped with high efficiency filters.

Not in excess of 10 f/cc (100 X PEL)

Any powered air-purifying respirator equipped with high efficiency filters or any supplied-air respirator operated in continuous flow mode.

Not in excess of 100 f/cc (1,000 X PEL)

Full facepiece supplied-air respirator operated in pressure demand mode.

Greater than 100 f/cc (1,000 X PEL) or unknown concentration

Full facepiece supplied-air respirator operated in pressure demand mode, equipped with an auxiliary positive pressure self-contained breathing apparatus or HEPA filter egress cartridges. ((See Note e.))

Note:

- a. Respirators assigned for higher environmental concentrations may be used at lower concentrations.
- b. A high-efficiency filter means a filter that is capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.

~~((e) See subsection (5)(e) of this section for fit testing requirements.~~

~~(3)) (4) Special respiratory protection requirements.~~

~~(a) Unless specifically identified in this subsection, respirator selection for asbestos removal, demolition, and renovation operations shall be in accordance with Table 1 of subsection ((2)) (3) of this section. The employer shall provide and require to be worn, at no cost to the employee, a full facepiece supplied-air respirator operated in the pressure demand mode equipped with either an auxiliary positive pressure self-~~

~~contained breathing apparatus or a HEPA filter egress cartridge, to employees engaged in the following asbestos operations:~~

~~(i) Inside negative pressure enclosures used for removal, demolition, and renovation of friable asbestos from walls, ceilings, vessels, ventilation ducts, elevator shafts, and other structural members, but does not include pipes or piping systems; or~~

PERMANENT

(ii) Any dry removal of asbestos.

(b) For all Class I work excluded or not specified in (a)(i) and (ii) of this subsection, ~~((the employer shall provide a tight-fitting powered air-purifying respirator equipped with high-efficiency filters or a full facepiece supplied-air respirator operated in the pressure demand mode equipped with HEPA filter egress cartridges or an auxiliary positive pressure self-contained breathing apparatus for all employees within the regulated area where asbestos work is being performed for which a negative exposure assessment has not been produced and, the exposure assessment indicates the exposure level will not exceed 1 f/cc as an 8-hour time weighted average. A full facepiece supplied-air respirator operated in the pressure demand mode equipped with an auxiliary positive pressure self-contained breathing apparatus, or a HEPA filter egress cartridge, shall be provided under such conditions, if the exposure assessment indicates exposure levels above 1 f/cc as an 8-hour time weighted average)) when a negative-exposure assessment of the area has not been produced, and the exposure assessment of the area indicates the exposure level will not exceed 1 f/cc as an 8-hour time weighted average, employers must provide the employees with one of the following respirators:~~

(i) A tight-fitting, powered, air-purifying respirator equipped with high-efficiency filters;

(ii) A full facepiece supplied-air respirator operated in the pressure-demand mode equipped with HEPA egress cartridges; or

(iii) A full facepiece supplied-air respirator operated in the pressure-demand mode equipped with an auxiliary positive-pressure self-contained breathing apparatus. A full facepiece supplied-air respirator operated in the pressure-demand mode equipped with an auxiliary positive-pressure self-contained breathing apparatus must be provided under such conditions when the exposure assessment indicates exposure levels above 1 f/cc as an 8-hour time weighted average.

EXCEPTION: In lieu of the supplied-air respirator required by subsection ~~((3))~~ (4) of this section, an employer may provide and require to be worn, at no cost to the employee, a full facepiece supplied-air respirator operated in the continuous flow mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a back-up HEPA filter egress cartridge where daily and historical personal monitoring data indicates the concentration of asbestos fibers is not reasonably expected to exceed 10 f/cc. The continuous flow respirator shall be operated at a minimum air flow rate of six cubic feet per minute at the facepiece using respirable air supplied ~~((in accordance with WAC 296-62-0711))~~ as required by chapter 296-62 WAC, Part E.

~~((4) Respirator program:~~

~~(a) Where respiratory protection is used, the employer shall institute a respirator program in accordance with WAC 296-62-071.~~

~~(b) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.~~

~~(c) Employees who wear respirators shall be permitted to leave work areas to wash their faces and respirator facepieces~~

~~whenever necessary to prevent skin irritation associated with respirator use.~~

~~(d) No employee shall be assigned to tasks requiring the use of respirators if, based upon his or her most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employees will be impaired by the use of a respirator. Such employee shall be assigned to another job or given the opportunity to transfer to a different position whose duties he or she is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay the employee had just prior to such transfer, if such a different position is available.)~~

(5) Respirator fit testing.

~~(a) ((The employer shall ensure that the respirator issued to the employee exhibits the least possible facepiece leakage and that the respirator is fitted properly.~~

~~(b)) For each employee wearing negative pressure respirators, employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least ~~((every six months))~~ annually thereafter. The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn ~~((and shall be conducted in accordance with WAC 296-62-07739, Appendix C. The tests shall be used to select facepieces that provide the required protection as prescribed in Table 1 of this section)).~~~~

~~((e)) (b) Any supplied-air respirator facepiece equipped with a back-up HEPA filter egress cartridge shall be quantitatively fit tested ~~((with the air supply disconnected at the time of initial fitting and at least every six months thereafter. The quantitative fit tests shall be conducted using the procedures described in WAC 296-62-07739(2), Appendix C, for negative pressure respirators))~~ (see WAC 296-62-07160 through 296-62-07162 and 296-62-07201 through 296-62-07248).~~

AMENDATORY SECTION (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

WAC 296-62-07722 Employee information and training. (1) Certification.

(a) All individuals working or supervising asbestos projects, as defined in WAC 296-65-003 shall be certified as required by WAC 296-65-010, 296-65-012, and 296-65-030.

(b) In cases where certification requirements of chapter 296-65 WAC do not apply, all employees shall be trained according to provisions of this section regardless of their exposure levels.

(2) Training shall be provided prior to or at the time of initial assignment, unless the employee has received equivalent training within the previous twelve months, and at least annually thereafter.

(3) Training for employees performing Class I and Class II operations.

(a) Training for Class I and Class II operations shall be the certified asbestos worker training specified in WAC 296-65-003, 296-65-010, and 296-65-030.

(b) Exceptions. For employees whose Class II work with intact asbestos-containing materials involves only the

removal and/or disturbance of one generic category of intact building/vessel material, such as intact roofing material, bituminous or asphaltic pipeline coating, intact flooring/decking material, siding materials and ceiling tiles, or transite panels, such employers are required to train employees who perform such work by providing a training course which includes as a minimum all elements of subsection (5) of this section and in addition the specific work practices and engineering controls set forth in WAC 296-62-07712 and 296-62-07713 which specifically relate to that material category. Such course shall include "hands-on" training, and shall take at least 8 hours.

(i) For Class II operations involving intact materials not specified in (b) of this subsection, training shall include the requirements of (b) of this subsection and specific work practices and engineering controls specified in WAC 296-62-07712 which specifically relates to the category of material being removed, and shall include hands-on training in the work practices applicable to each category of material the employee removes and each removal method that the employee uses.

(ii) Employees performing Class II operations that require the use of critical barriers (or equivalent isolation methods) and/or negative pressure enclosures, shall be certified as required by WAC 296-65-010, 296-65-012, and 296-65-030.

(4) Training for Class III and IV operations.

(a) Training for employees performing Class III and IV operations shall be the certified asbestos worker training specified in WAC 296-65-003, 296-65-001, and 296-65-030.

(b) Training for Class III asbestos work exempted from certification requirements in chapter 296-65 WAC, safety standards for asbestos removal and encapsulation shall be the equivalent in curriculum and training method to the 16-hour operations and maintenance course developed by EPA for maintenance and custodial workers who conduct activities that will result in the disturbance of ACM. (See 40 CFR 763.92(a)(2).) Such course shall include "hands-on" training in the use of respiratory protection and work practices and shall take at least 16 hours.

(c) Training for Class IV asbestos work exempted from certification requirements in chapter 296-65 WAC, safety standards for asbestos removal and encapsulation shall be the equivalent in curriculum and training method to the awareness training course developed by EPA for maintenance and custodial workers who work in buildings containing asbestos-containing material. (See 40 CFR 763.92(a)(1).) Such course shall include available information concerning the locations of PACM an ACM, and asbestos-containing flooring material, or flooring material where the absence of asbestos has not been certified; and instruction in recognition of damage, deterioration, and delamination of asbestos-containing building materials. Such a course shall take at least 2 hours.

(5) The training program shall be conducted in a manner which the employee is able to understand. The employer shall ensure that each employee is informed of the following:

(a) The health effects associated with asbestos exposure;

(b) The relationship between smoking and exposure to asbestos producing lung cancer;

(c) Methods of recognizing asbestos and quantity, location, manner of use, release (including the requirements of WAC 296-62-07721 (1)(c) and (2)(b) to presume certain building materials contain asbestos), and storage of asbestos and the specific nature of operations which could result in exposure to asbestos;

(d) The engineering controls and work practices associated with the employee's job assignment;

(e) The specific procedures implemented to protect employees from exposure to asbestos, such as appropriate work practices, housekeeping procedures, hygiene facilities, decontamination procedures, emergency and clean-up procedures (including where Class III and IV work is performed, the contents "Managing Asbestos In Place" (EPA 20T-2003, July 1990) or its equivalent in content), personal protective equipment to be used, waste disposal procedures, and any necessary instructions in the use of these controls and procedures;

(f) The purpose, proper use, and limitations of (~~respirators and~~) protective clothing;

(g) The purpose and a description of the medical surveillance program required by WAC 296-62-07725;

(h) The content of this standard, including appendices;

(i) The names, addresses and phone numbers of public health organizations which provide information, materials, and/or conduct programs concerning smoking cessation. The employer may distribute the list of such organizations contained in Appendix I, to comply with this requirement; (~~and~~)

(j) The requirements for posting signs and affixing labels and the meaning of the required legends for such signs and labels; and

(k) The purpose, proper use, limitations, and other training requirements for respiratory protection as required by chapter 296-62 WAC, Part E (see WAC 296-62-07117, 296-62-07172, and 296-62-07186 through 296-62-07190).

(6) The employer shall also provide, at no cost to employees who perform housekeeping operations in a facility which contains ACM or PACM, an asbestos awareness training course, which shall at a minimum contain the following elements: Health effects of asbestos, locations of ACM and PACM in the building/facility, recognition of ACM and PACM damage and deterioration, requirements in this standard relating to housekeeping, and proper response to fiber release episodes, to all employees who are or will work in areas where ACM and/or PACM is present. Each such employee shall be so trained at least once a year.

(7) Access to information and training materials.

(a) The employer shall make a copy of this standard and its appendices readily available without cost to all affected employees.

(b) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(c) The employer shall inform all employees concerning the availability of self-help smoking cessation program material. Upon employee request, the employer shall distribute such material, consisting of NIH Publication No. 89-1647, or equivalent self-help material, which is approved or published

by a public health organization listed in Appendix I, WAC 296-62-07751.

AMENDATORY SECTION (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

WAC 296-62-07733 Appendices. (1) Appendices A, ((C,)) D, E, and F to this part are incorporated as part of this section and the contents of these appendices are mandatory.

(2) Appendices B, G, H, I, J and K to this part are informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

AMENDATORY SECTION (Amending Order 81-20, filed 7/27/81)

WAC 296-62-11019 Spray-finishing operations. (1) Definitions.

(a) "Spray-finishing operations" means employment of methods wherein organic or inorganic materials are utilized in dispersed form from deposit on surfaces to be coated, treated or cleaned. Such methods of deposit may involve either automatic, manual, or electrostatic deposition but do not include metal spraying or metallizing, dipping, flow coating, roller coating, tumbling, centrifuging, or spray washing and degreasing as conducted in self-contained washing and degreasing machines or systems.

(b) "Spray booth" spray booths are defined and described in WAC 296-24-370 through 296-24-37007. (See sections 103, 104, and 105 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33-1969.)

(c) "Spray room" means a room in which spray-finishing operations not conducted in a spray booth are performed separately from other areas.

(d) "Minimum maintained velocity" means the velocity of air movement which must be maintained in order to meet minimum specified requirements for health and safety.

(2) Location and application. Spray booths or spray rooms are to be used to enclose or confine all operations. Spray-finishing operations shall be located as provided in sections 201 through 206 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33-1969.

(3) Design and construction of spray booths.

(a) Spray booths shall be designed and constructed in accordance with WAC 296-24-370 through 296-24-37007 (see sections 301-304 and 306-310 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33-1969), for general construction specifications.

Note: For a more detailed discussion of fundamentals relating to this subject, see ANSI Z9.2-1960.

(i) Lights, motors, electrical equipment and other sources of ignition shall conform to the requirements of WAC 296-24-370. (See section 310 and chapter 4 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33-1969.)

(ii) In no case shall combustible material be used in the construction of a spray booth and supply or exhaust duct connected to it.

(b) Unobstructed walkways shall not be less than 6 1/2 feet high and shall be maintained clear of obstruction from any work location in the booth to a booth exit or open booth front. In booths where the open front is the only exit, such exits shall be not less than 3 feet wide. In booths having multiple exits, such exits shall not be less than 2 feet wide, provided that the maximum distance from the work location to the exit is 25 feet or less. Where booth exits are provided with doors, such doors shall open outward from the booth.

(c) Baffles, distribution plates, and dry-type overspray collectors shall conform to the requirements of WAC 296-24-370. (See sections 304 and 305 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33-1969.)

(i) Overspray filters shall be installed and maintained in accordance with the requirements of WAC 296-24-370, (See section 305 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33-1969), and shall only be in a location easily accessible for inspection, cleaning, or replacement.

(ii) Where effective means, independent of the overspray filters are installed which will result in design air distribution across the booth cross section, it is permissible to operate the booth without the filters in place.

(d)(i) For wet or water-wash spray booths, the water-chamber enclosure, within which intimate contact of contaminated air and cleaning water or other cleaning medium is maintained, if made of steel, shall be 18 gauge or heavier and adequately protected against corrosion.

(ii) Chambers may include scrubber spray nozzles, headers, troughs, or other devices. Chambers shall be provided with adequate means for creating and maintaining scrubbing action for removal of particulate matter from the exhaust air stream.

(e) Collecting tanks shall be of welded steel construction or other suitable noncombustible material. If pits are used as collecting tanks, they shall be concrete, masonry, or other material having similar properties.

(i) Tanks shall be provided with weirs, skimmer plates, or screens to prevent sludge and floating paint from entering the pump suction box. Means for automatically maintaining the proper water level shall also be provided. Fresh water inlets shall not be submerged. They shall terminate at least one pipe diameter above the safety overflow level of the tank.

(ii) Tanks shall be so constructed as to discourage accumulation of hazardous deposits.

(f) Pump manifolds, risers, and headers shall be adequately sized to insure sufficient water flow to provide efficient operation of the water chamber.

(4) Design and construction of spray rooms.

(a) Spray rooms, including floors, shall be constructed of masonry, concrete, or other noncombustible material.

(b) Spray rooms shall have noncombustible fire doors and shutters.

(c) Spray rooms shall be adequately ventilated so that the atmosphere in the breathing zone of the operator shall be

maintained in accordance with the requirements of (6)(b) of this section.

(d) Spray rooms used for production spray-finishing operations shall conform to the requirements of spray booths.

(5) Ventilation.

(a) Ventilation shall be provided in accordance with provisions of WAC 296-24-370, (See chapter 5 of the Standard for Spray Finishing Using Flammable or Combustible Materials, NFPA No. 33-1969), and in accordance with the following:

(i) Where a fan plenum is used to equalize or control the distribution of exhaust air movement through the booth, it shall be of sufficient strength or rigidity to withstand the differential air pressure or other superficially imposed loads for which the equipment is designed and also to facilitate cleaning. Construction specifications shall be at least equivalent to those of (5)(c) of this section.

(ii) All fan ratings shall be in accordance with Air Moving and Conditioning Association Standard Test Code for Testing Air Moving Devices, Bulletin 210, April 1962.

(b) Inlet or supply ductwork used to transport makeup air to spray booths or surrounding areas shall be constructed of noncombustible materials.

(i) If negative pressure exists within inlet ductwork, all seams and joints shall be sealed if there is a possibility of infiltration of harmful quantities of noxious gases, fumes, or mists from areas through which ductwork passes.

(ii) Inlet ductwork shall be sized in accordance with volume flow requirements and provide design air requirements at the spray booth.

(iii) Inlet ductwork shall be so supported throughout its length to sustain at least its own weight plus any negative pressure which is exerted upon it under normal operating conditions.

(c) Ducts shall be so constructed as to provide structural strength and stability at least equivalent to sheet steel of not less than the following thickness:

DIAMETER OR GREATER DIMENSION

	(U.S. gauge)
Up to 8 inches inclusive	No. 24
Over 8 inches to 18 inches inclusive	No. 22
Over 18 inches to 30 inches inclusive	No. 20
Over 30 inches	No. 18

(i) Exhaust ductwork shall be adequately supported throughout its length to sustain its weight plus any normal accumulation in interior during normal operating conditions and any negative pressure exerted upon it.

(ii) Exhaust ductwork shall be sized in accordance with good design practice which shall include consideration of fan capacity, length of duct, number of turns and elbows, variation in size, volume, and character of materials being exhausted. See American National Standard Z9.2-1960 for further details and explanation concerning elements of design.

(iii) Longitudinal joints in sheet steel ductwork shall be either lock-seamed, riveted, or welded. For other than steel construction, equivalent securing of joints shall be provided.

(iv) Circumferential joints in ductwork shall be substantially fastened together and lapped in the direction of airflow. At least every fourth joint shall be provided with connecting flanges, bolted together or of equivalent fastening security.

(v) Inspection or clean-out doors shall be provided for every 9 to 12 feet of running length for ducts up to 12 inches in diameter, but the distance between clean-out doors may be greater for larger pipes. (See 8.3.21 of American National Standard Z9.1-1960.) A clean-out door or doors shall be provided for servicing the fan, and where necessary, a drain shall be provided.

(vi) Where ductwork passes through a combustible roof or wall, the roof or wall shall be protected at the point of penetration by open space or fire-resistive material between the duct and the roof or wall. When ducts pass through fire-walls, they shall be provided with automatic fire dampers on both sides of the wall, except that three-eighth-inch steel plates may be used in lieu of automatic fire dampers for ducts not exceeding 18 inches in diameter.

(vii) Ductwork used for ventilating any process covered in this standard shall not be connected to ducts ventilating any other process or any chimney or flue used for conveying any products of combustion.

(6) Velocity and air flow requirements.

(a) Except where a spray booth has an adequate air replacement system, the velocity of air into all openings of a spray booth shall be not less than that specified in Table 14 for the operating conditions specified. An adequate air replacement system is one which introduces replacement air upstream or above the object being sprayed and is so designed that the velocity of air in the booth cross section is not less than that specified in Table 14 when measured upstream or above the object being sprayed.

TABLE 14
MINIMUM MAINTAINED VELOCITIES
INTO SPRAY BOOTHS

Operating Airflow conditions for object completely inside booth	Crossdraft f.p.m.	Velocities, f.p.m.	
		Design	Range
Electrostatic and automatic airless operation contained in booth without operator.	Negligible	50 large booth	50-75
		100 small booth	75-125
Air-operated guns, manual or automatic	Up to 50.	100 large booth	75-125
		150 small booth	125-175
Air-operated guns, manual or automatic	Up to 100.	150 large booth	125-175
		200 small booth	150-250

Notes:

(1) Attention is invited to the fact that the effectiveness of the spray booth is dependent upon the relationship of the depth of the booth to its height and width.

PERMANENT

(2) Crossdrafts can be eliminated through proper design and such design should be sought. Crossdrafts in excess of 100 fpm (feet per minute) should not be permitted.

(3) Excessive air pressures result in loss of both efficiency and material waste in addition to creating a backlash that may carry overspray and fumes into adjacent work areas.

(4) Booths should be designed with velocity shown in the column headed "Design." However, booths operating with velocities shown in the column headed "Range" are in compliance with this standard.

(b) In addition to the requirements in (6)(a) of this section the total air volume exhausted through a spray booth shall be such as to dilute solvent vapor to at least 25 percent of the lower explosive limit of the solvent being sprayed. An example of the method of calculating this volume is given below.

Example: To determine the lower explosive limits of the most common solvents used in spray finishing, see Table 15. Column 1 gives the number of cubic feet of vapor per gallon of solvent and column 2 gives the lower explosive limit (LEL) in percentage by volume of air. Note that the quantity of solvent will be diminished by the quantity of solids and nonflammable contained in the finish.

To determine the volume of air in cubic feet necessary to dilute the vapor from 1 gallon of solvent to 25 percent of the lower explosive limit, apply the following formula:

$$\text{Dilution volume required per gallon of solvent} = \frac{4 (100\text{-LEL}) (\text{cubic feet of vapor per gallon})}{\text{LEL}}$$

Using toluene as the solvent.

(1) LEL of toluene from Table 15, column 2, is 1.4 percent.

(2) Cubic feet of vapor per gallon from Table 15, column 1, is 30.4 cubic feet per gallon.

(3) Dilution volume required=

$$\frac{4 (100\text{-}1.4) 30.4}{1.4} = 8,564 \text{ cubic feet.}$$

(4) To convert to cubic feet per minute of required ventilation, multiply the dilution volume required per gallon of solvent by the number of gallons of solvent evaporated per minute.

TABLE 15
LOWER EXPLOSIVE LIMIT OF SOME
COMMONLY USED SOLVENTS

Solvent	Cubic feet of vapor per gallon of liquid at 70°F.	Lower explosive limit in percent by volume of air at 70°F.
	Column 1	Column 2
Acetone	44.0	2.6
Amyl Acetate (iso)	21.6	1.0 ¹
Amyl Alcohol (n)	29.6	1.2
Amyl Alcohol (iso)	29.6	1.2
Benzene	36.8	1.4 ¹
Butyl Acetate (n)	24.8	1.7
Butyl Alcohol (n)	35.2	1.4
Butyl Cellosolve	24.8	1.1

Cellosolve	33.6	1.8
Cellosolve Acetate	23.2	1.7
Cyclohexanone	31.2	1.1 ¹
1,1 Dichloroethylene	42.4	5.6
1,2 Dichloroethylene	42.4	9.7
Ethyl Acetate	32.8	2.5
Ethyl Alcohol	55.2	4.3
Ethyl Lactate	28.0	1.5 ¹
Methyl Acetate	40.0	3.1
Methyl Alcohol	80.8	7.3
Methyl Cellosolve	40.8	2.5
Methyl Ethyl Ketone	36.0	1.8
Methyl n-Propyl Ketone	30.4	1.5
Naphtha (VM&P) (76° Naphtha)	22.4	0.9
Naphtha (100° Flash) Safety Solvent-Stoddard Solvent	23.2	1.1
Propyl Acetate (n)	27.2	2.0
Propyl Acetate (iso)	28.0	1.8
Propyl Alcohol (n)	44.8	2.1
Propyl Alcohol (iso)	44.0	2.0
Toluene	30.4	1.4
Turpentine	20.8	0.8
Xylene (o)	26.4	1.0

¹At 212°F.

(c)(i) When an operator (~~must position himself~~) is in a booth downstream of the object being sprayed, an air-supplied respirator or other type of respirator (~~listed in the applicable provisions of chapter 296-62 WAC~~) certified by NIOSH under 42 CFR part 84 for the material being sprayed should be used by the operator.

(ii) Where downdraft booths are provided with doors, such doors shall be closed when spray painting.

(7) Make-up air.

(a) Clean fresh air, free of contamination from adjacent industrial exhaust systems, chimneys, stacks, or vents, shall be supplied to a spray booth or room in quantities equal to the volume of air exhausted through the spray booth.

(b) Where a spray booth or room receives make-up air through self-closing doors, dampers, or louvers, they shall be fully open at all times when the booth or room is in use for spraying. The velocity of air through such doors, dampers, or louvers shall not exceed 200 feet per minute. If the fan characteristics are such that the required air flow through the booth will be provided, higher velocities through the doors, dampers, or louvers may be used.

(c)(i) Where the air supply to a spray booth or room is filtered, the fan static pressure shall be calculated on the assumption that the filters are dirty to the extent that they require cleaning or replacement.

PERMANENT

(ii) The rating of filters shall be governed by test data supplied by the manufacturer of the filter. A pressure gauge shall be installed to show the pressure drop across the filters. This gauge shall be marked to show the pressure drop at which the filters require cleaning or replacement. Filters shall be replaced or cleaned whenever the pressure drop across them becomes excessive or whenever the air flow through the face of the booth falls below that specified in Table 14.

(d)(i) Means of heating make-up air to any spray booth or room, before or at the time spraying is normally performed, shall be provided in all places where the outdoor temperature may be expected to remain below 55° F. for appreciable periods of time during the operation of the booth except where adequate and safe means of radiant heating for all operating personnel affected is provided. The replacement air during the heating seasons shall be maintained at not less than 65° F. at the point of entry into the spray booth or spray room. When otherwise unheated make-up air would be at a temperature of more than 10° F. below room temperature, its temperature shall be regulated as provided in section 3.6 of ANSI Z9.2-1960.

(ii) As an alternative to an air replacement system complying with the preceding section, general heating of the building in which the spray room or booth is located may be employed provided that all occupied parts of the building are maintained at not less than 65° F. when the exhaust system is in operation or the general heating system supplemented by other sources of heat may be employed to meet this requirement.

(iii) No means of heating make-up air shall be located in a spray booth.

(iv) Where make-up air is heated by coal or oil, the products of combustion shall not be allowed to mix with the make-up air, and the products of combustion shall be conducted outside the building through a flue terminating at a point remote from all points where make-up air enters the building.

(v) Where make-up air is heated by gas, and the products of combustion are not mixed with the make-up air but are conducted through an independent flue to a point outside the building remote from all points where make-up air enters the building, it is not necessary to comply with (7)(d)(vi) of this section.

(vi) Where make-up air to any manually operated spray booth or room is heated by gas and the products of combustion are allowed to mix with the supply air, the following precautions must be taken:

(A) The gas must have a distinctive and strong enough odor to warn workmen in a spray booth or room of its presence if in an unburned state in the make-up air.

(B) The maximum rate of gas supply to the make-up air heater burners must not exceed that which would yield in excess of 200 p.p.m. (parts per million) of carbon monoxide or 2,000 p.p.m. of total combustible gases in the mixture if the unburned gas upon the occurrence of flame failure were mixed with all of the make-up air supplied.

(C) A fan must be provided to deliver the mixture of heated air and products of combustion from the plenum chamber housing the gas burners to the spray booth or room.

(8) Scope. Spray booths or spray rooms are to be used to enclose or confine all spray finishing operations covered by this paragraph. This paragraph does not apply to the spraying of the exteriors of buildings, fixed tanks, or similar structures, nor to small portable spraying apparatus not used repeatedly in the same location.

AMENDATORY SECTION (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

WAC 296-62-11021 Open surface tanks. (1) General.

(a) This section applies to all operations involving the immersion of materials in liquids, or in the vapors of such liquids, for the purpose of cleaning or altering the surface or adding to or imparting a finish thereto or changing the character of the materials, and their subsequent removal from the liquid or vapor, draining, and drying. These operations include washing, electroplating, anodizing, pickling, quenching, dyeing, dipping, tanning, dressing, bleaching, degreasing, alkaline cleaning, stripping, rinsing, digesting, and other similar operations.

(b) Except where specific construction specifications are prescribed in this section, hoods, ducts, elbows, fans, blowers, and all other exhaust system parts, components, and supports thereof shall be so constructed as to meet conditions of service and to facilitate maintenance and shall conform in construction to the specifications contained in American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2-1960.

(2) Classification of open-surface tank operations.

(a) Open-surface tank operations shall be classified into 16 classes, numbered A-1 to D-4, inclusive.

(b) Determination of class. Class is determined by two factors, hazard potential designated by a letter from A to D, inclusive, and rate of gas, vapor, or mist evolution designated by a number from 1 to 4, inclusive (for example, B.3).

(c) Hazard potential is an index, on a scale of from A to D, inclusive, of the severity of the hazard associated with the substance contained in the tank because of the toxic, flammable, or explosive nature of the vapor, gas, or mist produced therefrom. The toxic hazard is determined from the concentration, measured in parts by volume of a gas or vapor, per million parts by volume of contaminated air (ppm), or in milligrams of mist per cubic meter of air (mg/m³), below which ill effects are unlikely to occur to the exposed worker. The concentrations shall be those in WAC 296-62-075 through 296-62-07515.

(d) The relative fire or explosion hazard is measured in degrees Fahrenheit in terms of the closed-cup flash point of the substance in the tank. Detailed information on the prevention of fire hazards in dip tanks may be found in Dip Tanks Containing Flammable or Combustible Liquids, NFPA No. 34-1966, National Fire Protection Association. Where the tank contains a mixture of liquids, other than organic solvents, whose effects are additive, the hygienic standard of the most toxic component (for example, the one having the lowest ppm or mg/m³) shall be used, except where such substance constitutes an insignificantly small fraction of the mixture. For mixtures of organic solvents, their combined effect, rather than that of either individually, shall determine the

hazard potential. In the absence of information to the contrary, the effects shall be considered as additive. If the sum of the ratios of the airborne concentration of that contaminant exceeds unity, the toxic concentration shall be considered to have been exceeded. (See Note A of (2)(e) of this section.)

(e) Hazard potential shall be determined from Table 16, with the value indicating greater hazard being used. When the hazardous material may be either a vapor with a permissible exposure limit in ppm or a mist with a TLV in mg/m³, the TLV indicating the greater hazard shall be used (for example, A takes precedence over B or C; B over C; C over D).

Note A:

$$\frac{c_1}{PEL} + \frac{c_2}{PEL} + \frac{c_3}{PEL} + \dots + \frac{c_N}{PEL} > 1$$

where:

c = Concentration measured at the operation in ppm.

TABLE 16
DETERMINATION OF HAZARD POTENTIAL

Hazard potential	Toxicity Group		
	Gas or vapor (ppm)	Mist (mg/m ³)	Flash point (in degrees F.)
A	0 - 10	0 - 0.1
B	11 - 100	0.11 - 1.0	Under 100
C	101 - 500	1.1 - 10	100-200
D	Over 500	Over 10	Over 200

(f) Rate of gas, vapor, or mist evolution is a numerical index, on a scale of from 1 to 4, inclusive, both of the relative capacity of the tank to produce gas, vapor, or mist and of the relative energy with which it is projected or carried upwards from the tank. Rate is evaluated in terms of;

(i) The temperature of the liquid in the tank in degrees Fahrenheit;

(ii) The number of degrees Fahrenheit that this temperature is below the boiling point of the liquid in degrees Fahrenheit;

(iii) The relative evaporation of the liquid in still air at room temperature in an arbitrary scale—fast, medium, slow, or nil; and

(iv) The extent that the tank gases or produces mist in an arbitrary scale—high, medium, low, and nil. (See Table 17, Note 2.) Gassing depends upon electrochemical or mechanical processes, the effects of which have to be individually evaluated for each installation (see Table 17, Note 3).

(g) Rate of evolution shall be determined from Table 17. When evaporation and gassing yield different rates, the lowest numerical value shall be used.

TABLE 17
DETERMINATION OF RATE OF GAS, VAPOR, OR MIST EVOLUTION¹

Rate	Liquid temperature, °F	Degrees below boiling point	Evaporation ²	Relative Gassing ³
1	Over 200	0-20	Fast	High
2	150-200	21-50	Medium	Medium
3	94-149	51-100	Slow	Low
4	Under 94	Over 100	Nil	Nil

Note 1. In certain classes of equipment, specifically vapor degreasers, an internal condenser or vapor level thermostat is used to prevent the vapor from leaving the tank during normal operations. In such cases, rate of vapor evolution from the tank into the workroom is not dependent upon the factors listed in the table, but rather upon abnormalities of operating procedure, such as carry out of vapors from excessively fast action, dragout of liquid by entrainment in parts, contamination of solvent by water and other materials, or improper heat balance. When operating procedure is excellent, effective rate of evolution may be taken as 4. When operating procedures are average, the effective rate of evolution may be taken as 3. When operation is poor, a rate of 2 or 1 is indicated, depending upon observed conditions.

Note 2. Relative evaporation rate is determined according to the methods described by A. K. Doolittle in *Industrial and Engineering Chemistry*, vol. 27, p. 1169, (3) where time for 100— percent evaporation is as follows: Fast: 0-3 hours; Medium: 3-12 hours; Slow: 12-50 hours; Nil: more than 50 hours.

Note 3. Gassing means the formation by chemical or electrochemical action of minute bubbles of gas under the surface of the liquid in the tank and is generally limited to aqueous solutions.

(3) Ventilation. Where ventilation is used to control potential exposures to workers as defined in (2)(c) of this section, it shall be adequate to reduce the concentration of the air contaminant to the degree that a hazard to the worker does not exist. Methods of ventilation are discussed in American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2-1960.

(4) Control requirements.

(a) Control velocities shall conform to Table 18 in all cases where the flow of air past the breathing or working zone of the operator and into the hoods is undisturbed by local environmental conditions, such as open windows, wall fans, unit heaters, or moving machinery.

(b) All tanks exhausted by means of hoods which;

(i) Project over the entire tank;

(ii) Are fixed in position in such a location that the head of the workman, in all his normal operating positions while working at the tank, is in front of all hood openings; and

(iii) Are completely enclosed on at least two sides, shall be considered to be exhausted through an enclosing hood.

(iv) The quantity of air in cubic feet per minute necessary to be exhausted through an enclosing hood shall be not less than the product of the control velocity times the net area of all openings in the enclosure through which air can flow into the hood.

PERMANENT

TABLE 18
CONTROL VELOCITIES IN FEET PER MINUTE (F.P.M.) FOR UNDISTURBED LOCATIONS

Class (See Sub-paragraph (2) and Tables 16 and 17)	Enclosing hood (See Subparagraph (4)(ii))		Lateral exhaust ¹ (See Subparagraph (4)(iii))	Canopy hood ² (See Subparagraph (4)(iv))	
	One open side	Two open sides		Three open sides	Four open sides
A-1 and A-2	100	150	150	Do not use	Do not use
A-3 (Note ²), B-1, B-2, and C-1	75	100	100	125	175
B-3, C-2, and D-1 (Note ³)	65	90	75	100	150
A-4 (Note ²), C-3, and D-2 (Note ³)	50	75	50	75	125
B-4, C-4, D-3 (Note ³), and D-4	General room ventilation required.				

¹ See Table 19 for computation of ventilation rate.

² Do not use canopy hood for Hazard Potential A processes.

³ Where complete control of hot water is desired, design as next highest class.

(c) All tanks exhausted by means of hoods which do not project over the entire tank, and in which the direction of air movement into the hood or hoods is substantially horizontal, shall be considered to be laterally exhausted. The quantity of air in cubic feet per minute necessary to be laterally exhausted per square foot of tank area in order to maintain the required control velocity shall be determined from Table 19 for all variations in ratio of tank width (W) to tank length (L). The total quantity of air in cubic feet per minute required to be exhausted per tank shall be not less than the product of the area of tank surface times the cubic feet per minute per square foot of tank area, determined from Table 19.

(i) For lateral exhaust hoods over 42 inches wide, or where it is desirable to reduce the amount of air removed from the workroom, air supply slots or orifices shall be provided along the side or the center of the tank opposite from the exhaust slots. The design of such systems shall meet the following criteria:

(A) The supply air volume plus the entrained air shall not exceed 50 percent of the exhaust volume.

(B) The velocity of the supply airstream as it reaches the effective control area of the exhaust slot shall be less than the effective velocity over the exhaust slot area.

(C) The vertical height of the receiving exhaust hood, including any baffle, shall not be less than one-quarter the width of the tank.

(D) The supply airstream shall not be allowed to impinge on obstructions between it and the exhaust slot in such a manner as to significantly interfere with the performance of the exhaust hood.

TABLE 19
MINIMUM VENTILATION RATE IN CUBIC FEET OF AIR PER MINUTE PER SQUARE FOOT OF TANK AREA FOR LATERAL EXHAUST

Required minimum control velocity, f.p.m. (from Table)	C.f.m. per sq. ft. to maintain required minimum velocities at following ratios (tank width (W)/tank length (L)). ^{1 3}				
	0.0-0.09	0.1-0.24	0.25-0.49	0.5-0.99	1.0-2.0
Hood along one side or two parallel sides of tank when one hood is against a wall or baffle.²					
Also for a manifold along tank centerline.³					
50	50	60	75	90	100
75	75	90	110	130	150
100	100	125	150	175	200
150	150	190	225	260	300
Hood along one side or two parallel sides of free standing tank not against wall or baffle.					
50	75	90	100	110	125
75	110	130	150	170	190
100	150	175	200	225	250
150	225	260	300	340	375

¹ It is not practicable to ventilate across the long dimension of a tank whose ratio W/L exceeds 2.0.

It is understandable to do so when W/L exceeds 1.0. For circular tanks with lateral exhaust along up the circumference use W/L= 1.0 for over one-half the circumference use W/L= 0.5.

² Baffle is a vertical plate the same length as the tank, and with the top of the plate as high as the tank is wide. If the exhaust hood is on the side of a tank against a building wall or close to it, it is perfectly baffled.

³ Use W/L as tank width in computing when manifold is along centerline, or when hoods are used on two parallel sides of a tank.

Tank Width (W) means the effective width over which the hood must pull air to operate (for example, where the hood face is not back from the edge of the tank, this set back must be added in measuring tank width). The surface area of tanks can frequently be reduced and better control obtained (particularly on conveyerized systems) by using covers extending from the upper edges of the slots toward the center of the tank.

(E) Since most failure of push-pull systems result from excessive supply air volumes and pressures, methods of measuring and adjusting the supply air shall be provided. When satisfactory control has been achieved, the adjustable features of the hood shall be fixed so that they will not be altered.

PERMANENT

(d) All tanks exhausted by means of hoods which project over the entire tank, and which do not conform to the definition of enclosing hoods, shall be considered to be overhead canopy hoods. The quantity of air in cubic feet per minute necessary to be exhausted through a canopy hood shall be not less than the product of the control velocity times the net area of all openings between the bottom edges of the hood and the top edges of the tank.

(e) The rate of vapor evolution (including steam or products of combustion) from the process shall be estimated. If the rate of vapor evolution is equal to or greater than 10 percent of the calculated exhaust volume required, the exhaust volume shall be increased in equal amount.

(5) Spray cleaning and degreasing. Wherever spraying or other mechanical means are used to disperse a liquid above an open-surface tank, control must be provided for the airborne spray. Such operations shall be enclosed as completely as possible. The inward air velocity into the enclosure shall be sufficient to prevent the discharge of spray into the workroom. Mechanical baffles may be used to help prevent the discharge of spray. Spray painting operations are covered in WAC 296-62-11019.

(6) Control means other than ventilation. Tank covers, foams, beads, chips, or other materials floating on the tank surface so as to confine gases, mists, or vapors to the area under the cover or to the foam, bead, or chip layer; or surface tension depressive agents added to the liquid in the tank to minimize mist formation, or any combination thereof, may all be used as gas, mist, or vapor control means for open-surface tank operations, provided that they effectively reduce the concentrations of hazardous materials in the vicinity of the worker below the limits set in accordance with (2) of this section.

(7) System design.

(a) The equipment for exhausting air shall have sufficient capacity to produce the flow of air required in each of the hoods and openings of the system.

(b) The capacity required in (7)(a) of this section shall be obtained when the airflow producing equipment is operating against the following pressure losses, the sum of which is the static pressure:

(i) Entrance losses into the hood.

(ii) Resistance to airflow in branch pipe including bends and transformations.

(iii) Entrance loss into the main pipe.

(iv) Resistance to airflow in main pipe including bends and transformations.

(v) Resistance of mechanical equipment; that is, filters, washers, condensers, absorbers, etc., plus their entrance and exit losses.

(vi) Resistance in outlet duct and discharge stack.

(c) Two or more operations shall not be connected to the same exhaust system where either one or the combination of the substances removed may constitute a fire, explosion, or chemical reaction hazard in the duct system. Traps or other devices shall be provided to insure that condensate in ducts does not drain back into any tank.

(d) The exhaust system, consisting of hoods, ducts, air mover, and discharge outlet shall be designed in accordance with American National Standard Fundamentals Governing

the Design and Operation of Local Exhaust Systems, Z9.2-1960, or the manual, Industrial Ventilation, published by the American Conference of Governmental Industrial Hygienists. Airflow and pressure loss data provided by the manufacturer of any air cleaning device shall be included in the design calculations.

(8) Operation.

(a) The required airflow shall be maintained at all times during which gas, mist, or vapor is emitted from the tank, and at all times the tank, the draining, or the drying area is in operation or use. When the system is first installed, the airflow from each hood shall be measured by means of a pitot traverse in the exhaust duct and corrective action taken if the flow is less than that required. When the proper flow is obtained, the hood static pressure shall be measured and recorded. At intervals of not more than 3 months operation, or after a prolonged shutdown period, the hoods and duct system shall be inspected for evidence of corrosion or damage. In any case where the airflow is found to be less than required, it shall be increased to the required value. (Information on airflow and static pressure measurement and calculations may be found in American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2-1960, or in the manual, Industrial Ventilation, published by the American Conference of Governmental Industrial Hygienists.)

(b) The exhaust system shall discharge to the outer air in such a manner that the possibility of its effluent entering any building is at a minimum. Recirculation shall only be through a device for contaminant removal which will prevent the creation of a health hazard in the room or area to which the air is recirculated.

(c) A volume of outside air in the range of 90 percent to 110 percent of the exhaust volume shall be provided to each room having exhaust hoods. The outside air supply shall enter the workroom in such a manner as not to be detrimental to any exhaust hood. The airflow of the makeup air system shall be measured on installation. Periodically, thereafter, the airflow should be remeasured, and corrective action shall be taken when the airflow is below that required. The makeup air shall be uncontaminated.

(9) Personal protection.

(a) All employees working in and around open surface tank operations must be instructed as to the hazards of their respective jobs, and in the personal protection and first aid procedures applicable to these hazards.

(b) All persons required to work in such a manner that their feet may become wet shall be provided with rubber or other impervious boots or shoes, rubbers, or wooden-soled shoes sufficient to keep feet dry.

(c) All persons required to handle work wet with a liquid other than water shall be provided with gloves impervious to such a liquid and of a length sufficient to prevent entrance of liquid into the tops of the gloves. The interior of gloves shall be kept free from corrosive or irritating contaminants.

(d) All persons required to work in such a manner that their clothing may become wet shall be provided with such aprons, coats, jackets, sleeves, or other garments made of rubber, or of other materials impervious to liquids other than water, as are required to keep their clothing dry. Aprons shall

extend well below the top of boots to prevent liquid splashing into the boots. Provision of dry, clean, cotton clothing along with rubber shoes or short boots and an apron impervious to liquids other than water shall be considered a satisfactory substitute where small parts are cleaned, plated, or acid dipped in open tanks and rapid work is required.

(e) Whenever there is a danger of splashing, for example, when additions are made manually to the tanks, or when acids and chemicals are removed from the tanks, the employees so engaged shall be required to wear either tight-fitting chemical goggles or an effective face shield. (See WAC 296-24-078.)

(f) When, during emergencies as described in (11)(e) of this section, ~~((workers))~~ employees must be in areas where concentrations of air contaminants are greater than the limit set by (2)(c) of this section ~~((;))~~ or oxygen concentrations are less than 19.5%, they ~~((shall))~~ must be required to wear respirators adequate to reduce their exposure to a level below these limits ~~((;))~~ or ~~((to))~~ that provide adequate oxygen. Such respirators ~~((shall))~~ must also be provided in marked, quickly accessible storage compartments built for the purpose, when there exists the possibility of accidental release of hazardous concentrations of air contaminants. ~~((Respirators shall meet the applicable provisions of chapter 296-62 WAC and shall be selected by a competent industrial hygienist or other technically qualified source.))~~ Respirators ~~((shall))~~ must be certified by NIOSH under 42 CFR part 84 and used in accordance with the applicable provisions of chapter 296-62 WAC ~~((and persons who may require them shall be trained in their use))~~ Part E.

(g) Near each tank containing a liquid which may burn, irritate, or otherwise be harmful to the skin if splashed upon the worker's body, there shall be a supply of clean cold water. The water pipe (carrying a pressure not exceeding 25 pounds) shall be provided with a quick opening valve and at least 48 inches of hose not smaller than three-fourths inch, so that no time may be lost in washing off liquids from the skin or clothing. Alternatively, deluge showers and eye flushes shall be provided in cases where harmful chemicals may be splashed on parts of the body.

(h) Operators with sores, burns, or other skin lesions requiring medical treatment shall not be allowed to work at their regular operations until so authorized by a physician. Any small skin abrasions, cuts, rash, or open sores which are found or reported shall be treated by a properly designated person so that chance of exposures to the chemicals are removed. Workers exposed to chromic acids shall have a periodic examination made of the nostrils and other parts of the body, to detect incipient ulceration.

(i) Sufficient washing facilities, including soap, individual towels, and hot water, shall be provided for all persons required to use or handle any liquids which may burn, irritate, or otherwise be harmful to the skin, on the basis of at least one basin (or its equivalent) with a hot water faucet for every 10 employees. (See WAC 296-24-12009.)

(j) Locker space or equivalent clothing storage facilities shall be provided to prevent contamination of street clothing.

(k) First aid facilities specific to the hazards of the operations conducted shall be readily available.

(10) Special precautions for cyanide. Dikes or other arrangements shall be provided to prevent the possibility of intermixing of cyanide and acid in the event of tank rupture.

(11) Inspection, maintenance, and installation.

(a) Floors and platforms around tanks shall be prevented from becoming slippery both by original type of construction and by frequent flushing. They shall be firm, sound, and of the design and construction to minimize the possibility of tripping.

(b) Before cleaning the interior of any tank, the contents shall be drained off, and the cleanout doors shall be opened where provided. All pockets in tanks or pits, where it is possible for hazardous vapors to collect, shall be ventilated and cleared of such vapors.

(c) Tanks which have been drained to permit employees to enter for the purposes of cleaning, inspection, or maintenance may contain atmospheres which are hazardous to life or health, through the presence of flammable or toxic air contaminants, or through the absence of sufficient oxygen. Before employees shall be permitted to enter any such tank, appropriate tests of the atmosphere shall be made to determine if the limits set by (2)(c) of this section are exceeded, or if the oxygen concentration is less than 19.5%.

(d) If the tests made in accordance with (11)(c) of this section indicate that the atmosphere in the tank is unsafe, before any employee is permitted to enter the tank, the tank shall be ventilated until the hazardous atmosphere is removed, and ventilation shall be continued so as to prevent the occurrence of a hazardous atmosphere as long as an employee is in the tank.

(e) If, in emergencies, such as rescue work, it is necessary to enter a tank which may contain a hazardous atmosphere, suitable respirators, such as self-contained breathing apparatus; hose mask with blower, if there is a possibility of oxygen deficiency; or a gas mask, selected and operated in accordance with (9)(f) of this section, shall be used. If a contaminant in the tank can cause dermatitis, or be absorbed through the skin, the employee entering the tank shall also wear protective clothing. At least one trained standby employee, with suitable respirator, shall be present in the nearest uncontaminated area. The standby employee must be able to communicate with the employee in the tank and be well able to haul him out of the tank with a lifeline if necessary.

(f) Maintenance work requiring welding or open flame, where toxic metal fumes such as cadmium, chromium, or lead may be evolved, shall be done only with sufficient local exhaust ventilation to prevent the creation of a health hazard, or be done with respirators selected and used in accordance with (9)(f) of this section. Welding, or the use of open flames near any solvent cleaning equipment shall be permitted only after such equipment has first been thoroughly cleared of solvents and vapors.

(12) Vapor degreasing tanks.

(a) In any vapor degreasing tank equipped with a condenser and vapor level thermostat, the condenser or thermostat shall keep the level of vapors below the top edge of the tank by a distance at least equal to one-half the tank width, or at least 36 inches, whichever is shorter.

(b) Where gas is used as a fuel for heating vapor degreasing tanks, the combustion chamber shall be of tight construction, except for such openings as the exhaust flue, and those that are necessary for supplying air for combustion. Flues shall be of corrosion-resistant construction and shall extend to the outer air. If mechanical exhaust is used on this flue, a draft diverter shall be used. Special precautions must be taken to prevent solvent fumes from entering the combustion air of this or any other heater when chlorinated or fluorinated hydrocarbon solvents (for example, trichloroethylene; Freon) are used.

(c) Heating elements shall be so designed and maintained that their surface temperature will not cause the solvent or mixture to decompose, break down, or be converted into an excessive quantity of vapor.

(d) Tanks or machines of more than 4 square feet of vapor area, used for solvent cleaning or vapor degreasing, shall be equipped with suitable cleanout or sludge doors located near the bottom of each tank or still. These doors shall be so designed and gasketed that there will be no leakage of solvent when they are closed.

(13) Scope.

(a) This paragraph applies to all operations involving the immersion of materials in liquids, or in the vapors of such liquids, for the purpose of cleaning or altering their surfaces, or adding or imparting a finish thereto, or changing the character of the materials, and their subsequent removal from the liquids or vapors, draining, and drying. Such operations include washing, electroplating, anodizing, pickling, quenching, dyeing, dipping, tanning, dressing, bleaching, degreasing, alkaline cleaning, stripping, rinsing, digesting, and other similar operations, but do not include molten materials handling operations, or surface coating operations.

(b) "Molten materials handling operations" means all operations, other than welding, burning, and soldering operations, involving the use, melting, smelting, or pouring of metals, alloys, salts, or other similar substances in the molten state. Such operations also include heat treating baths, descaling baths, die casting stereotyping, galvanizing, tinning, and similar operations.

(c) "Surface coating operations" means all operations involving the application of protective, decorative, adhesive, or strengthening coating or impregnation to one or more surfaces, or into the interstices of any object or material, by means of spraying, spreading, flowing, brushing, roll coating, pouring, cementing, or similar means; and any subsequent draining or drying operations, excluding open-tank operations.

AMENDATORY SECTION (Amending Order 87-24, filed 11/30/87)

WAC 296-62-14533 Cotton dust. (1) Scope and application.

(a) This section, in its entirety, applies to the control of employee exposure to cotton dust in all workplaces where employees engage in yarn manufacturing, engage in slashing and weaving operations, or work in waste houses for textile operations.

(b) This section does not apply to the handling or processing of woven or knitted materials; to maritime operations covered by chapters 296-56 and 296-304 WAC; to harvesting or ginning of cotton; or to the construction industry.

(c) Only subsection (8) Medical surveillance, subsection (11) (b) Medical surveillance, subsection (11)(c) Availability, subsection (11)(d) Transfer of records, and Appendices B, C, and D of this section apply in all work places where employees exposed to cotton dust engage in cottonseed processing or waste processing operations.

(d) This section applies to yarn manufacturing and slashing and weaving operations exclusively using washed cotton (as defined by subsection (14) of this section) only to the extent specified by subsection (14) of this section.

(e) This section, in its entirety, applies to the control of all employees exposure to the cotton dust generated in the preparation of washed cotton from opening until the cotton is thoroughly wetted.

(f) This section does not apply to knitting, classing or warehousing operations except that employers with these operations, if requested by WISHA, shall grant WISHA access to their employees and workplaces for exposure monitoring and medical examinations for purposes of a health study to be performed by WISHA on a sampling basis.

(2) Definitions applicable to this section:

(a) "Blow down" - the cleaning of equipment and surfaces with compressed air.

(b) "Blow off" - the use of compressed air for cleaning of short duration and usually for a specific machine or any portion of a machine.

(c) "Cotton dust" - dust present in the air during the handling or processing of cotton, which may contain a mixture of many substances including ground-up plant matter, fiber, bacteria, fungi, soil, pesticides, noncotton plant matter and other contaminants which may have accumulated with the cotton during the growing, harvesting and subsequent processing or storage periods. Any dust present during the handling and processing of cotton through the weaving or knitting of fabrics, and dust present in other operations or manufacturing processes using raw or waste cotton fibers or cotton fiber byproducts from textile mills are considered cotton dust within this definition. Lubricating oil mist associated with weaving operations is not considered cotton dust.

(d) "Director" - the director of labor and industries or his authorized representative.

(e) "Equivalent instrument" - a cotton dust sampling device that meets the vertical elutriator equivalency requirements as described in subsection (4)(a)(iii) of this section.

(f) "Lint-free respirable cotton dust" - particles of cotton dust of approximately 15 microns or less aerodynamic equivalent diameter.

(g) "Vertical elutriator cotton dust sampler" or "vertical elutriator" - a dust sampler which has a particle size cut-off at approximately 15 microns aerodynamic equivalent diameter when operating at the flow rate of 7.4 ± 0.2 liters per minute.

(h) "Waste processing" - waste recycling (sorting, blending, cleaning and willowing) and garnetting.

(i) "Yarn manufacturing" - all textile mill operations from opening to, but not including, slashing and weaving.

(3) Permissible exposure limits and action levels.

(a) Permissible exposure limits (PEL).

(i) The employer shall assure that no employee who is exposed to cotton dust in yarn manufacturing and cotton washing operations is exposed to airborne concentrations of lint-free respirable cotton dust greater than 200 $\mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(ii) The employer shall assure that no employee who is exposed to cotton dust in textile mill waste house operations or is exposed in yarn manufacturing to dust from "lower grade washed cotton" as defined in subsection (14)(e) of this section is exposed to airborne concentrations of lint-free respirable cotton dust greater than 500 $\mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(iii) The employer shall assure that no employee who is exposed to cotton dust in the textile processes known as slashing and weaving is exposed to airborne concentrations of lint-free respirable cotton dust greater than 750 $\mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(b) Action levels.

(i) The action level for yarn manufacturing and cotton washing operations is an airborne concentration of lint-free respirable cotton dust of 100 $\mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(ii) The action level for waste houses for textile operations is an airborne concentration of lint-free respirable cotton dust of 250 $\mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(iii) The action level for the textile processes known as slashing and weaving is an airborne concentration of lint-free respirable cotton dust of 375 $\mu\text{g}/\text{m}^3$ mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(4) Exposure monitoring and measurement.

(a) General.

(i) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) The sampling device to be used shall be either the vertical elutriator cotton dust sampler or an equivalent instrument.

(iii) If an alternative to the vertical elutriator cotton dust sampler is used, the employer shall establish equivalency by demonstrating that the alternative sampling devices:

(A) It collects respirable particulates in the same range as the vertical elutriator (approximately 15 microns);

(B) Replicate exposure data used to establish equivalency are collected in side-by-side field and laboratory comparisons; and

(C) A minimum of 100 samples over the range of 0.5 to 2 times the permissible exposure limit are collected, and ninety percent of these samples have an accuracy range of plus or minus twenty-five percent of the vertical elutriator reading with a ninety-five percent confidence level as dem-

onstrated by a statistically valid protocol. (An acceptable protocol for demonstrating equivalency is described in Appendix E of this section.)

(iv) WISHA will issue a written opinion stating that an instrument is equivalent to a vertical elutriator cotton dust sampler if:

(A) A manufacturer or employer requests an opinion in writing and supplies the following information:

(I) Sufficient test data to demonstrate that the instrument meets the requirements specified in this paragraph and the protocol specified in Appendix E of this section;

(II) Any other relevant information about the instrument and its testing requested by WISHA; and

(III) A certification by the manufacturer or employer that the information supplied is accurate, and

(B) If WISHA finds, based on information submitted about the instrument, that the instrument meets the requirements for equivalency specified by this subsection.

(b) Initial monitoring. Each employer who has a place of employment within the scope of subsections (1)(a), (d) or (e) of this section shall conduct monitoring by obtaining measurements which are representative of the exposure of all employees to airborne concentrations of lint-free respirable cotton dust over an eight-hour period. The sampling program shall include at least one determination during each shift for each work area.

(c) Periodic monitoring.

(i) If the initial monitoring required by (4)(b) of this section or any subsequent monitoring reveals employee exposure to be at or below the permissible exposure limit, the employer shall repeat the monitoring for those employees at least annually.

(ii) If the initial monitoring required by (4)(b) of this section or any subsequent monitoring reveals employee exposure to be above the PEL, the employer shall repeat the monitoring for those employees at least every six months.

(iii) Whenever there has been a production, process, or control change which may result in new or additional exposure to cotton dust, or whenever the employer has any other reason to suspect an increase in employee exposure, the employer shall repeat the monitoring and measurements for those employees affected by the change or increase.

(d) Employee notification.

(i) Within twenty working days after the receipt of monitoring results, the employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure.

(ii) Whenever the results indicate that the employee's exposure exceeds the applicable permissible exposure limit specified in subsection (3) of this section, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken to reduce exposure below the permissible exposure limit.

(5) Methods of compliance.

(a) Engineering and work practice controls. The employer shall institute engineering and work practice controls to reduce and maintain employee exposure to cotton dust at or below the permissible exposure limit specified in

subsection (3) of this section, except to the extent that the employer can establish that such controls are not feasible.

(b) Whenever feasible engineering and work practice controls are not sufficient to reduce employee exposure to or below the permissible exposure limit, the employer shall nonetheless institute these controls to immediately reduce exposure to the lowest feasible level, and shall supplement these controls with the use of respirators which shall comply with the provisions of subsection (6) of this section.

(c) Compliance program.

(i) Where the most recent exposure monitoring data indicates that any employee is exposed to cotton dust levels greater than the permissible exposure limit, the employer shall establish and implement a written program sufficient to reduce exposures to or below the permissible exposure limit solely by means of engineering controls and work practices as required by (a) of this subsection.

(ii) The written program shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to cotton dust;

(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Monitoring data obtained in accordance with subsection (4) of this section;

(E) A detailed schedule for development and implementation of engineering and work practice controls, including exposure levels projected to be achieved by such controls;

(F) Work practice program; and

(G) Other relevant information.

(iii) The employer's schedule as set forth in the compliance program, shall project completion of the implementation of the compliance program no later than March 27, 1984 or as soon as possible if monitoring after March 27, 1984 reveals exposures over the PEL, except as provided in (13)(b)(ii)(B) of this section.

(iv) The employer shall complete the steps set forth in his program by the dates in the schedule.

(v) Written programs shall be submitted, upon request, to the director, and shall be available at the worksite for examination and copying by the director, and any affected employee or their designated representatives.

(vi) The written programs required under subsection (5)(c) of this section shall be revised and updated at least every six months to reflect the current status of the program and current exposure levels.

(d) Mechanical ventilation. When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system to control exposure, such as capture velocity, duct velocity, or static pressure shall be made at reasonable intervals.

(6) Use of respirators.

(a) General. (~~Where the use of respirators is required under this section, the employer shall provide, at no cost to the employee, and assure the use of respirators which comply with the requirements of this subsection (6). Respirators shall be used in the following circumstances~~) For employees who are required to use respirators by this section, the employer

must provide respirators that comply with the requirements of this section. Respirators must be used during:

(i) (~~During the time~~) Periods necessary to install or implement feasible engineering controls and work-practice controls;

(ii) (~~During~~) Maintenance and repair activities (~~in~~) for which engineering and work-practice controls are not feasible;

(iii) (~~In work situations where~~) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the permissible exposure limits;

(iv) (~~In~~) Work operations specified under subsection (7)(a) of this section; (~~and~~)

(v) (~~Whenever~~) Periods for which an employee requests a respirator.

(b) Respirator (~~selection~~) program.

(i) (~~Where respirators are required under this section, the employer shall select the appropriate respirator from Table I and shall assure that the employee uses the respirator provided~~) The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(ii) Whenever a physician determines that an employee who works in an area in which the cotton-dust concentration exceeds the PEL is unable to use a respirator, including a powered air-purifying respirator, the employee must be given the opportunity to transfer to an available position, or to a position that becomes available later, that has a cotton-dust concentration at or below the PEL. The employer must ensure that such employees retain their current wage rate or other benefits as a result of the transfer.

(c) Respirator selection.

(i) The employer must select the appropriate respirator from Table I of this section.

TABLE - ((4)) 1

Cotton dust concentration	Required respirator
Not greater than—	
(a) 5 x the applicable permissible exposure limit (PEL).	A disposable respirator with a particulate filter.
(b) 10 x the applicable PEL.	A quarter or half-mask respirator, other than a disposable respirator, equipped with particulate filters.
(c) 100 x the applicable PEL.	A full facepiece respirator equipped with high-efficiency particulate filters.
(d) Greater than 100 x the applicable PEL.	A powered air-purifying respirator equipped with high-efficiency particulate filters.

Notes

1. A disposable respirator means the filter element is an inseparable part of the respirator.
2. Any respirators permitted at higher environmental concentrations can be used at lower concentrations.
3. Self-contained breathing apparatus are not required respirators but are permitted respirators.

PERMANENT

4. Supplied air respirators are not required but are permitted under the following conditions: Cotton dust concentration not greater than 10X the PEL—Any supplied air respirator; not greater than 100X the PEL—Any supplied air respirator with full facepiece, helmet or hood; greater than 100X the PEL—A supplied air respirator operated in positive pressure mode.

~~(ii) ((The employer shall select respirators from those tested and approved for protection against dust by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.~~

~~(iii) Whenever respirators are required by this section for concentrations not greater than 100 x the applicable permissible exposure limit, the employer shall, upon the request of the employee, provide a powered air purifying respirator with a high efficiency particulate filter in lieu of the respirator specified in paragraphs (a), (b), or (c) of Table I.~~

~~(iv) Whenever a physician determines that an employee who works in an area in which the dust level exceeds the PEL is unable to wear any form of respirator, including a powered air purifying respirator, the employer shall be given the opportunity to transfer to another position which is available or which later becomes available having a dust level at or below the PEL. The employer shall assure that an employee who is transferred from an area in which the dust level exceeds the PEL due to an inability to wear a respirator suffers no reduction in current wage rate or other benefits as a result of the transfer.~~

~~(e) Respirator program. The employer shall institute a respirator program in accordance with WAC 296-62-071.~~

~~(d) Respirator usage:~~

~~(i) The employer shall assure that the respirator used by each employee exhibits minimum face piece leakage and that the respirator is fitted properly.~~

~~(ii) The employer shall allow each employee who uses a filter respirator, to change the filter elements whenever an increase in breathing resistance is detected by the employee. The employer shall maintain an adequate supply of filter elements for this purpose.~~

~~(iii) The employer shall allow employees who wear respirators to wash their faces and respirator face pieces to prevent skin irritation associated with respirator use)) Whenever respirators are required by this section for cotton dust concentrations that do not exceed the applicable permissible exposure limit by a multiple of 100 (100 x), the employer must, when requested by an employee, provide a powered air-purifying respirator with a high-efficiency particulate filter instead of the respirator specified in (a), (b), or (c) of Table I of this section.~~

(7) Work practices. Each employer shall, regardless of the level of employee exposure, immediately establish and implement a written program of work practices which shall minimize cotton dust exposure. The following shall be included where applicable:

(a) Compressed air "blow down" cleaning shall be prohibited, where alternative means are feasible. Where compressed air is used for cleaning, the employees performing the "blow down" or "blow off" shall wear suitable respirators. Employees whose presence is not required to perform "blow down" or "blow off" shall be required to leave the area

affected by the "blow down" or "blow off" during this cleaning operation.

(b) Cleaning of clothing or floors with compressed air shall be prohibited.

(c) Floor sweeping shall be performed with a vacuum or with methods designed to minimize dispersal of dust.

(d) In areas where employees are exposed to concentrations of cotton dust greater than the permissible exposure limit, cotton and cotton waste shall be stacked, sorted, baled, dumped, removed or otherwise handled by mechanical means, except where the employer can show that it is infeasible to do so. Where infeasible, the method used for handling cotton and cotton waste shall be the method which reduces exposure to the lowest level feasible.

(8) Medical surveillance.

(a) General.

(i) Each employer covered by the standard shall institute a program of medical surveillance for all employees exposed to cotton dust.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician and are provided without cost to the employee.

(iii) Persons other than licensed physicians, who administer the pulmonary function testing required by this section shall have completed a NIOSH approved training course in spirometry.

(b) Initial examinations. The employer shall provide medical surveillance to each employee who is or may be exposed to cotton dust. For new employees' this examination shall be provided prior to initial assignment. The medical surveillance shall include at least the following:

(i) A medical history;

(ii) The standardized questionnaire contained in WAC 296-62-14537; and

(iii) A pulmonary function measurement, including a determination of forced vital capacity (FVC) and forced expiratory volume in one second (FEV_1), the FEV_1/FVC ratio, and the percentage that the measured values of FEV_1 and FVC differ from the predicted values, using the standard tables in WAC 296-62-14539. These determinations shall be made for each employee before the employee enters the workplace on the first day of the work week, preceded by at least thirty-five hours of no exposure to cotton dust. The tests shall be repeated during the shift, no less than four hours and no more than ten hours after the beginning of the work shift; and, in any event, no more than one hour after cessation of exposure. Such exposure shall be typical of the employee's usual workplace exposure. The predicted FEV_1 and FVC for blacks shall be multiplied by 0.85 to adjust for ethnic differences.

(iv) Based upon the questionnaire results, each employee shall be graded according to Schilling's byssinosis classification system.

(c) Periodic examinations.

(i) The employer shall provide at least annual medical surveillance for all employees exposed to cotton dust above the action level in yarn manufacturing, slashing and weaving, cotton washing and waste house operations. The employer

shall provide medical surveillance at least every two years for all employees exposed to cotton dust at or below the action level, for all employees exposed to cotton dust from washed cotton (except from washed cotton defined in subsection (9)(c) of this section), and for all employees exposed to cotton dust in cottonseed processing and waste processing operations. Periodic medical surveillance shall include at least an update of the medical history, standardized questionnaire (Appendix B-111), Schilling byssinosis grade, and the pulmonary function measurements in (b)(iii) of this subsection.

(ii) Medical surveillance as required in (c)(i) of this subsection shall be provided every six months for all employees in the following categories:

(A) An FEV₁ of greater than eighty percent of the predicted value, but with an FEV₁ decrement of five percent or 200 ml. on a first working day;

(B) An FEV₁ of less than eighty percent of the predicted value; or

(C) Where, in the opinion of the physician, any significant change in questionnaire findings, pulmonary function results, or other diagnostic tests have occurred.

(iii) An employee whose FEV₁ is less than sixty percent of the predicted value shall be referred to a physician for a detailed pulmonary examination.

(iv) A comparison shall be made between the current examination results and those of previous examinations and a determination made by the physician as to whether there has been a significant change.

(d) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's exposure level or anticipated exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(e) Physician's written opinion.

(i) The employer shall obtain and furnish the employee with a copy of a written opinion from the examining physician containing the following:

(A) The results of the medical examination and tests including the FEV₁, FVC, and FEV₁/FVC ratio;

(B) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to cotton dust;

(C) The physician's recommended limitations upon the employee's exposure to cotton dust or upon the employee's use of respirators including a determination of whether an employee can wear a negative pressure respirator, and where the employee cannot, a determination of the employee's ability to wear a powered air purifying respirator; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and

any medical conditions which require further examination or treatment.

(ii) The written opinion obtained by the employer shall not reveal specific findings or diagnoses unrelated to occupational exposure.

(9) Employee education and training.

(a) Training program.

(i) The employer shall provide a training program for all employees exposed to cotton dust and shall assure that each employee is informed of the following:

(A) The acute and long term health hazards associated with exposure to cotton dust;

(B) The names and descriptions of jobs and processes which could result in exposure to cotton dust at or above the PEL.

(C) The measures, including work practices required by subsection (7) of this section, necessary to protect the employee from exposures in excess of the permissible exposure limit;

(D) The purpose, proper use (~~and~~), limitations (~~of respirators~~), and other training requirements for respiratory protection as required by subsection (6) of this section and chapter 296-62 WAC, Part E (see WAC 296-62-07117, 296-62-07172, and 296-62-01786 through 296-62-07190);

(E) The purpose for and a description of the medical surveillance program required by subsection (8) of this section and other information which will aid exposed employees in understanding the hazards of cotton dust exposure; and

(F) The contents of this standard and its appendices.

(ii) The training program shall be provided prior to initial assignment and shall be repeated annually for each employee exposed to cotton dust, when job assignments or work processes change and when employee performance indicates a need for retraining.

(b) Access to training materials.

(i) Each employer shall post a copy of this section with its appendices in a public location at the workplace, and shall, upon request, make copies available to employees.

(ii) The employer shall provide all materials relating to the employee training and information program to the director upon request.

(10) Signs. The employer shall post the following warning sign in each work area where the permissible exposure limit for cotton dust is exceeded:

WARNING
COTTON DUST WORK AREA
MAY CAUSE ACUTE OR DELAYED LUNG INJURY
(BYSSINOSIS)
RESPIRATORS REQUIRED IN THIS AREA

(11) Recordkeeping.

(a) Exposure measurements.

(i) The employer shall establish and maintain an accurate record of all measurements required by subsection (4) of this section.

(ii) The record shall include:

(A) A log containing the items listed in WAC 296-62-14535 (4)(a), and the dates, number, duration, and results of

each of the samples taken, including a description of the procedure used to determine representative employee exposures;

(B) The type of protective devices worn, if any, and length of time worn; and

(C) The names, social security number, job classifications, and exposure levels of employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least twenty years.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate medical record for each employee subject to medical surveillance required by subsection (8) of this section.

(ii) The record shall include:

(A) The name and social security number and description of the duties of the employee;

(B) A copy of the medical examination results including the medical history, questionnaire response, results of all tests, and the physician's recommendation;

(C) A copy of the physician's written opinion;

(D) Any employee medical complaints related to exposure to cotton dust;

(E) A copy of this standard and its appendices, except that the employer may keep one copy of the standard and the appendices for all employees, provided that he references the standard and appendices in the medical surveillance record of each employee; and

(F) A copy of the information provided to the physician as required by subsection (8)(d) of this section.

(iii) The employer shall maintain this record for at least twenty years.

(c) Availability.

(i) The employer shall make all records required to be maintained by subsection (11) of this section available to the director for examination and copying.

(ii) Employee exposure measurement records and employee medical records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(d) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by subsection (11) of this section.

(ii) Whenever the employer ceases to do business, and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior to the disposal of such records and shall transmit those records to the director if he requests them within that period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(12) Observation of monitoring.

(a) The employer shall provide affected employees or their designated representatives an opportunity to observe

any measuring or monitoring of employee exposure to cotton dust conducted pursuant to subsection (4) of this section.

(b) Whenever observation of the measuring or monitoring of employee exposure to cotton dust requires entry into an area where the use of personal protective equipment is required, the employer shall provide the observer with and assure the use of such equipment and shall require the observer to comply with all other applicable safety and health procedures.

(c) Without interfering with the measurement, observers shall be entitled to:

(i) An explanation of the measurement procedures;

(ii) An opportunity to observe all steps related to the measurement of airborne concentrations of cotton dust performed at the place of exposure; and

(iii) An opportunity to record the results obtained.

(13) ~~(Effective date:~~

~~(a) General. This emergency rule is effective upon filing with the code reviser, except as otherwise provided below.~~

~~(b) Startup dates:~~

~~(i) Initial monitoring. The initial monitoring required by subsection (4)(b) of this section shall be completed as soon as possible but no later than September 27, 1980.~~

~~(ii) Methods of compliance;~~

~~(A) The engineering and work practice controls required by subsection (5) of this section shall be implemented no later than March 27, 1984 except as set forth in (13)(b)(ii)(B) of this section.~~

~~(B) The engineering and work practice controls required by subsection (5) of this section shall be implemented no later than March 27, 1986, for ring spinning operations (including only ring spinning and winding, twisting, spooling, beaming and warping following ring spinning) where the operations meet the following criteria:~~

~~(I) The weight of the yarn being run is one hundred percent cotton and the average yarn count by weight is eighteen or below;~~

~~(II) The average weight of the yarn run is eighty percent or more cotton and the average yarn count by weight is sixteen or below; or~~

~~(III) The average weight of the yarn being run is fifty percent or more cotton and the average yarn count by weight is fourteen or below.~~

~~(C) When the provisions of (b)(ii)(B) of this subsection are being relied upon, the following definitions shall apply:~~

~~(I) The average cotton content shall be determined by dividing the total weight of cotton in the yarns being run by the total weight of all the yarns being run in the relevant work area.~~

~~(II) The average yarn count shall be determined by multiplying the yarn count times the pounds of each particular yarn being run to get the "total hank" for each of the yarns being run in the relevant area. The "total hank" values for all of the yarns being run should then be summed and divided by the total pounds of yarn being run, to produce the average yarn count number for all the yarns being run in the relevant work area.~~

~~(D) Where the provisions of (b)(ii)(B) of this subsection are being relied upon, the employer shall update the employer's compliance plan no later than February 13, 1986,~~

to indicate the steps being taken to reduce cotton dust levels to 200 $\mu\text{g}/\text{m}^3$ through the use of engineering and work practice controls by March 27, 1986.

~~(E) Where the provisions of (b)(ii)(B) of this subsection are being relied upon, the employer shall maintain airborne concentrations of cotton dust below 1000 $\mu\text{g}/\text{m}^3$ mean concentration averaged over an eight-hour period measured by a vertical elutriator or an equivalent instrument with engineering and work practice controls and shall maintain the permissible exposure limit specified by subsection (3)(a)(i) of this section with any combination of engineering controls, work practice controls and respirators.~~

~~(iii) Compliance program. The compliance program required by subsection (5)(c) of this section shall be established no later than March 27, 1981.~~

~~(iv) Respirators. The respirators required by subsection (6) of this section shall be provided no later than April 27, 1980.~~

~~(v) Work practices. The work practices required by subsection (7) of this section shall be implemented no later than June 27, 1980.~~

~~(vi) Medical surveillance. The medical surveillance required by subsection (8) of this section shall be completed no later than March 27, 1981 for the textile industry and no later than June 13, 1986 for the cotton seed processing and waste processing industry.~~

~~(vii) Employee education and training. The initial education and training required by subsection (9) of this section shall be completed as soon as possible but no later than June 27, 1980.~~

(14)) Washed cotton.

(a) Exemptions. Cotton, after it has been washed by the processes described in this section is exempt from all or parts of this section as specified if the requirements of this section are met.

(b) Initial requirements.

(i) In order for an employer to qualify as exempt or partially exempt from this standard for operations using washed cotton, the employer must demonstrate that the cotton was washed in a facility which is open to inspection by the director and the employer must provide sufficient accurate documentary evidence to demonstrate that the washing methods utilized meet the requirements of this section.

(ii) An employer who handles or processes cotton which has been washed in a facility not under the employer's control and claims an exemption or partial exemption under this paragraph, must obtain from the cotton washer and make available at the worksite, to the director, or his designated representative, to any affected employee, or to their designated representative the following:

(A) A certification by the washer of the cotton of the grade of cotton, the type of washing process, and that the batch meets the requirements of this section:

(B) Sufficient accurate documentation by the washer of the cotton grades and washing process; and

(C) An authorization by the washer that the director may inspect the washer's washing facilities and documentation of the process.

(c) Medical and dyed cotton. Medical grade (USP) cotton, cotton that has been scoured, bleached and dyed, and mercerized yarn shall be exempt from all provisions of this standard.

(d) Higher grade washed cotton. The handling or processing of cotton classed as "low middling light spotted or better" which has been washed:

(i) On a continuous batt system or a rayon rinse system.

(ii) With water,

(iii) At a temperature of no less than 60°C,

(iv) With a water-to-fiber ratio of no less than 40:1, and

(v) With bacterial levels in the wash water controlled to limit bacterial contamination of the cotton, shall be exempt from all provisions of the standard except the requirements of subsection (8) Medical surveillance, subsection (11)(b) Medical surveillance, subsection (11)(c) Availability, subsection (11)(d) Transfer of records, and Appendices B, C, and D of this section.

(e) Lower grade washed cotton. The handling and processing of cotton of grades lower than "low middling light spotted," that has been washed as specified in (d) of this subsection and has also been bleached, shall be exempt from all provisions of the standard except the requirements of subsection (3)(a) Permissible exposure limits, subsection (4) Exposure monitoring and measurement, subsection (8) Medical surveillance, subsection (11) Recordkeeping, and Appendices B, C and D of this section.

(f) Mixed grades of washed cotton. If more than one grade of washed cotton is being handled or processed together, the requirements of the grade with the most stringent exposure limit, medical and monitoring requirements shall be followed.

~~((15)) (14) Appendices.~~

(a) Appendix B (B-I, B-II and B-III), WAC 296-62-14537, Appendix C, WAC 296-62-14539 and Appendix D, WAC 296-62-14541 are incorporated as part of this chapter and the contents of these appendices are mandatory.

(b) Appendix A of this chapter, WAC 296-62-14535 contains information which is not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

(c) Appendix E of this chapter is a protocol which may be followed in the validation of alternative measuring devices as equivalent to the vertical elutriator cotton dust sampler. Other protocols may be used if it is demonstrated that they are statistically valid, meet the requirements in subsection (4)(a)(iii) of this section, and are appropriate for demonstrating equivalency.

AMENDATORY SECTION (Amending Order 86-28, filed 7/25/86)

WAC 296-62-20011 Respiratory protection. (1) General.

~~((a) Where respiratory protection is required under this section, the employer shall provide and assure the use of respirators which comply with the requirements of this section. Compliance with the permissible limit exposure may not be achieved by the use of respirators except))~~ For employees who use respirators required by this section, the employer

PERMANENT

must provide respirators that comply with the requirements of this section. Compliance with the permissible exposure limit may not be achieved by the use of respirators except during:

~~((i) During the time period)) (a) Periods necessary to install or implement feasible engineering and work-practice controls; ~~(or~~~~

~~(ii) In)) (b) Work operations, such as maintenance and repair activity ~~(in))~~, for which engineering and work-practice controls are technologically not feasible; ~~(or~~~~

~~(iii) In work situations where)) (c) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the permissible exposure limit; ~~(or~~~~

~~(iv) In)) (d) Emergencies.~~

~~((b) Notwithstanding any other requirement of this section, until January 20, 1978, the wearing of respirators shall be at the discretion of each employee where the employee is not in the vicinity of visible emissions.))~~

~~(2) ((Selection-~~

~~(a) Where respirators are required under this section, the employer shall select, provide and assure the use of the appropriate respirator or combination of respirators from Table I below)) Respirator program. The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).~~

(3) Respirator selection. The employer must select appropriate respirators or combination of respirators from Table I of this section.

TABLE I
RESPIRATORY PROTECTION FOR COKE
OVEN EMISSIONS

Airborne concentration of coke oven emissions	Required respirator
(i) Any concentration.	(A) A Type C supplied air respirator operated in pressure demand or other positive pressure or continuous flow mode; or (B) A powered air-purifying particulate filter respirator for dust, mist, and fume; or (C) A powered air-purifying particulate filter respirator combination chemical cartridge and particulate filter respirator for coke oven emissions.

TABLE I
RESPIRATORY PROTECTION FOR COKE
OVEN EMISSIONS

Airborne concentration of coke oven emissions	Required respirator
(ii) Concentrations not greater than 1500 µg/m³.	(A) Any particulate filter respirator for dust, mist and fume, except single-use respirator; or (B) Any particulate filter respirator or combination chemical cartridge and particulate filter respirator for coke oven emissions; or (C) Any respirator listed in subsection (2)(a)(i) of this section.

~~((b) Not later than January 20, 1978, whenever respirators are required by this section for concentrations not greater than 1500 µg/m³, the employer shall provide, at the option of each affected employee, either a particulate filter respirator as provided in subsection (2)(a)(ii) of this section, or a powered air purifying respirator as provided in subsection (2)(a)(i) of this section.~~

~~(e) The employer shall select respirators from among those approved for protection against dust, fume, and mist by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11, except that not later than January 20, 1979, the employer shall select respirators from among those approved by NIOSH for protection against coke oven emissions.~~

~~(3) Respirator program. The employer shall institute a respiratory protection program in accordance with WAC 296-62-071.~~

~~(4) Respirator usage.~~

~~(a) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is fitted properly.~~

~~(b) The employer shall allow each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.~~

~~(e) The employer shall allow employees who wear respirators to wash their face and respirator facepiece to prevent skin irritation associated with respirator use.))~~

AMENDATORY SECTION (Amending Order 77-14, filed 7/25/77)

WAC 296-62-20019 Employee information and training. (1) Training program.

(a) The employer shall institute a training program for employees who are employed in the regulated area and shall assure their participation.

(b) The training program shall be provided as of January 20, 1977, for employees who are employed in the regulated area at that time or at the time of initial assignment to a regulated area.

PERMANENT

(c) The training program shall be provided at least annually for all employees who are employed in the regulated area, except that training regarding the occupational safety and health hazards associated with exposure to coke oven emissions and the purpose, proper use, and limitations of respiratory protective devices shall be provided at least quarterly until January 20, 1978.

(d) The training program shall include informing each employee of:

(i) The information contained in the substance information sheet for coke oven emissions (Appendix A);

(ii) The purpose, proper use, and limitations of respiratory protective devices in addition to other information as required ((in accordance with WAC 296-62-20011) by chapter 296-62 WAC, Part E (see WAC 296-62-07117, 296-62-07172, and 296-62-07186 through 296-62-07190).

(iii) The purpose for and a description of the medical surveillance program required by WAC 296-62-20017 including information on the occupational safety and health hazards associated with exposure to coke oven emissions;

(iv) A review of all written procedures and schedules required under WAC 296-62-20009; and

(v) A review of this standard.

(2) Access to training materials.

(a) The employer shall make a copy of this standard and its appendixes readily available to all employees who are employed in the regulated area.

(b) The employer shall provide all materials relating to the employee information and training program to the director.

AMENDATORY SECTION (Amending WSR 98-02-030, filed 12/31/97, effective 1/31/98)

WAC 296-62-20027 Appendix A—Coke oven emissions substance information sheet.

APPENDIX A

COKE OVEN EMISSIONS

SUBSTANCE INFORMATION SHEET

I. SUBSTANCE IDENTIFICATION

- (1) Substance: Coke oven emissions
- (2) Definition: The benzene-soluble fraction of total particulate matter present during the destructive distillation or carbonization of coal for the production of coke.
- (3) Permissible exposure limit: 150 micrograms per cubic meter of air determined as an average over an 8-hour period.
- (4) Regulated areas: Only employees authorized by your employer should enter a regulated area. The employer is required to designate the following areas as regulated areas: the coke oven battery, including topside and its machinery, pushside and its machinery, and the screening station; and the wharf, the beehive ovens and machinery.

II. HEALTH HAZARD DATA

Exposure to coke oven emissions is a cause of lung cancer, and possibly kidney cancer, in humans. Although it does not have an excess number of skin cancer cases in humans, repeated skin contact with coke oven emissions should be avoided.

III. PROTECTIVE CLOTHING AND EQUIPMENT

- (1) Respirators: Respirators will be provided by your employer for routine use if your employer is in the process of implementing engineering and work practice controls or where engineering and work practice controls are not feasible or insufficient. You must wear respirators for nonroutine activities or in emergency situations where you are likely to be exposed to levels of coke oven emissions in excess of the permissible exposure limit. ~~((Until January 20, 1978, the routine wearing of respirators is voluntary. Until that date, if you choose not to wear a respirator you do not have to do so. You must still have your respirator with you and you must still wear it if you are near visible emissions.))~~ Since how well your respirator fits your face is very important, your employer is required to conduct fit tests to make sure the respirator seals properly when you wear it. These tests are simple and rapid and will be explained to you during your training sessions.
- (2) Protective clothing: Your employer is required to provide, and you must wear, appropriate, clean, protective clothing and equipment to protect your body from repeated skin contact with coke oven emissions and from the heat generated during the coking process. This clothing should include such items as jacket and pants and flame resistant gloves. Protective equipment should include face shield or vented goggles, protective helmets and safety shoes, insulated from hot surfaces where appropriate.

IV. HYGIENE FACILITIES AND PRACTICES

You must not eat, drink, smoke, chew gum or tobacco, or apply cosmetics in the regulated area, except that drinking water is permitted. Your employer is required to provide lunchrooms and other areas for these purposes.

Your employer is required to provide showers, washing facilities, and change rooms. If you work in a regulated area, you must wash your face, and hands before eating. You must shower at the end of the work shift. Do not take used protective clothing out of the change rooms without your employer's permission. Your employer is required to provide for laundering or cleaning of your protective clothing.

V. SIGNS AND LABELS

Your employer is required to post warning signs and labels for your protection. Signs must be posted in regulated areas. The signs must warn that a cancer hazard is present, that only authorized employees may enter the area, and that no smoking or eating is allowed. In regulated areas where coke oven

PERMANENT

emissions are above the permissible exposure limit, the signs should also warn that respirators must be worn.

VI. MEDICAL EXAMINATIONS

If you work in a regulated area at least 30 days per year, your employer is required to provide you with a medical examination every year. The medical examination must include a medical history, a chest x-ray; pulmonary function test; weight comparison; skin examination; a urinalysis and a urine cytology exam for the early detection of urinary or lung cancer. When you are either 45 years or older or have 5 or more years employment in the regulated areas, medical examinations are required every 6 months and include an updated work history; an updated medical history; pulmonary function test; weight comparison; skin examination; a urinalysis; and a urine cytology exam. The examining physician will provide a written opinion to your employer containing the results of the medical exams. You should also receive a copy of this opinion.

VII. OBSERVATION OF MONITORING

Your employer is required to monitor your exposure to coke oven emissions and you are entitled to observe the monitoring procedure. You are entitled to receive an explanation of the measurement procedure, observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you must also be provided with and must wear the protective clothing and equipment.

VIII. ACCESS TO RECORDS

You or your representative are entitled to records of your exposure to coke oven emissions upon request to your employer. Your medical examination records can be furnished to your physician upon request to your employer.

IX. TRAINING AND EDUCATION

Additional information on all of these items plus training as to hazards of coke oven emissions and the engineering and work practice controls associated with your job will also be provided by your employer.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-62-07379 Dates.
- WAC 296-62-07431 Dates.
- WAC 296-62-07445 Appendix C—Qualitative and quantitative fit testing procedures—(Fit test protocols).

- WAC 296-62-07533 Appendix E qualitative and quantitative fit testing procedures.
- WAC 296-62-07550 Appendix E—Qualitative and quantitative fit testing procedures.
- WAC 296-62-07635 Effective date.
- WAC 296-62-07639 Startup dates.
- WAC 296-62-07662 Appendix E to WAC 296-62-076—Qualitative and quantitative fit testing procedures.
- WAC 296-62-07664 Appendix E-1—Qualitative fit test protocols.
- WAC 296-62-07666 Appendix E-1-a—Isoamyl acetate (banana oil) protocol.
- WAC 296-62-07668 Appendix E-1-b—Saccharin solution aerosol protocol.
- WAC 296-62-07670 Appendix E-1-c—Irritant fume protocol.
- WAC 296-62-07672 Appendix E-2—Quantitative fit test procedures.
- WAC 296-62-07739 Appendix C—Qualitative and quantitative fit testing procedures—Mandatory.

AMENDATORY SECTION (Amending Order 92-15, filed 2/3/93, effective 3/15/93)

WAC 296-155-17317 Respiratory protection. (1) General. ~~((The employer shall provide respirators, and ensure that they are used, where required by this section. Respirators shall be used in the following circumstances:))~~ For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this section. Respirators must be used during:

- (a) ~~((During the time))~~ Periods necessary to install or implement feasible engineering and work-practice controls(;;).
- (b) ~~((In))~~ Work operations, such as maintenance and repair activities and spray application processes, for which engineering and work-practice controls are not feasible(;;).
- (c) ~~((In work situations where))~~ Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the PELs(;;and).
- (d) ~~((In))~~ Emergencies.
- (2) Respirator ~~((selection:~~
 - ~~(a) Where respirators are required or allowed under this section, the employer shall select and provide, at no cost to the employee, the appropriate respirator as specified in Table 1, and shall assure that the employee uses the respirator provided.~~
 - ~~(b) The employer shall select respirators from among those jointly approved by the Mine Safety and Health Administration and the National Institute for Occupational~~

PERMANENT

Safety and Health under the provisions of 30 CFR part 11 and chapter 296-62 WAC, Part E:

(e) Any employee who cannot wear a negative-pressure respirator shall be given the option of wearing a positive-pressure respirator or any supplied-air respirator operated in the continuous-flow or pressure-demand mode.

(3) Respirator)) program. The employer ((shall institute)) must implement a respiratory protection program ((in accordance with)) as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through WAC 296-62-07156).

((4) Respirator use:

(a) Where air-purifying respirators (cartridge or canister) are used, the employer shall replace the air-purifying element as needed to maintain the effectiveness of the respirator. The employer shall ensure that each cartridge is dated at the beginning of use.

(b) Employees who wear respirators shall be allowed to leave the regulated area to readjust the face piece or to wash their faces and to wipe clean the face pieces on their respirators in order to minimize potential skin irritation associated with respirator use.

(e)) (3) Respirator selection.

(a) The employer must select the appropriate respirator from Table 1 of this section.

Table 1.—Respiratory Protection for MDA

Airborne concentration of MDA or condition of use	Respirator type
a. Less than or equal to 10xPEL	(1) Half-mask respirator with HEPA ¹ cartridge. ²
b. Less than or equal to 50xPEL	(1) Full facepiece respirator with HEPA ¹ cartridge or canister. ²
c. Less than or equal to 1000xPEL	(1) Full facepiece powered air-purifying respirator with HEPA ¹ cartridges. ²
d. Greater than 1000xPEL or unknown	(1) Self-contained breathing concentration apparatus with full facepiece in positive pressure mode; (2) Full facepiece positive-pressure demand supplied-air respirator with auxiliary self-contained air supply.
e. Escape	(1) Any full facepiece air-purifying respirator with HEPA ¹ cartridges; ² (2) Any positive pressure or continuous flow self-contained breathing apparatus with full facepiece or hood.
f. Fire fighting	(1) Full facepiece self-contained breathing apparatus in positive pressure mode.

Note: Respirators assigned for higher environmental concentration may be used at lower concentrations.

¹High efficiency particulate in air filter (HEPA) means a filter that is at least 99.97 percent efficient against mono-dispersed particles of 0.3 micrometers or larger.

²Combination HEPA/organic vapor cartridges shall be used whenever MDA in liquid form or a process requiring heat is used.

((5) Respirator fit testing-

(a) The employer shall perform and record the results of either quantitative or qualitative fit tests at the time of initial fitting and at least annually thereafter for each employee wearing a negative-pressure respirator. The test shall be used to select a respirator facepiece which provides the required protection as prescribed in subsection (4)(c) of this section, Table 1.

(b) The employer shall follow the test protocols outlined in Appendix E of this standard for whichever type of fit testing the employer chooses.) (b) An employee who cannot use a negative-pressure respirator must be given the option of using a positive-pressure respirator, or a supplied-air respirator operated in the continuous-flow or pressure-demand mode.

AMENDATORY SECTION (Amending Order 92-15, filed 2/3/93, effective 3/15/93)

WAC 296-155-17337 Appendices. The information contained in Appendices A, B, C, and D of this standard is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation. ((The protocols for respiratory fit testing in Appendix E of this standard are mandatory.))

AMENDATORY SECTION (Amending Order 92-15, filed 2/3/93, effective 3/15/93)

WAC 296-155-17341 Appendix A to WAC 296-155-173—Substance data sheet, for 4-4'-methylenedianiline.
(1) Substance identification.

(a) Substance: Methylenedianiline (MDA).

(b) Permissible exposure:

(i) Airborne: Ten parts per billion parts of air (10 ppb), time-weighted average (TWA) for an 8-hour workday and an action level of five parts per billion parts of air (5 ppb).

(ii) Dermal: Eye contact and skin contact with MDA are not permitted.

(c) Appearance and odor: White to tan solid; amine odor.

(2) Health hazard data.

(a) Ways in which MDA affects your health. MDA can affect your health if you inhale it or if it comes in contact with your skin or eyes. MDA is also harmful if you happen to swallow it. Do not get MDA in eyes, on skin, or on clothing.

(b) Effects of overexposure.

(i) Short-term (acute) overexposure: Overexposure to MDA may produce fever, chills, loss of appetite, vomiting, jaundice. Contact may irritate skin, eyes, and mucous membranes. Sensitization may occur.

(ii) Long-term (chronic) exposure. Repeated or prolonged exposure to MDA, even at relatively low concentrations, may cause cancer. In addition, damage to the liver, kidneys, blood, and spleen may occur with long-term exposure.

(iii) Reporting signs and symptoms: You should inform your employer if you develop any signs or symptoms which you suspect are caused by exposure to MDA including yellow staining of the skin.

(3) Protective clothing and equipment.

PERMANENT

(a) Respirators. Respirators are required for those operations in which engineering controls or work practice controls are not adequate or feasible to reduce exposure to the permissible limit. If respirators are worn, they must ~~((have the joint Mine Safety and Health Administration and))~~ be certified by the National Institute for Occupational Safety and Health (NIOSH) ((seal of approval)) under 42 CFR part 84, and cartridges or canisters must be replaced as necessary to maintain the effectiveness of the respirator. If you experience difficulty breathing while wearing a respirator, you may request a positive-pressure respirator from your employer. You must be thoroughly trained to use the assigned respirator, and the training will be provided by your employer. MDA does not have a detectable odor except at levels well above the permissible exposure limits. Do not depend on odor to warn you when a respirator canister is exhausted. If you can smell MDA while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

(b) Protective clothing. You may be required to wear coveralls, aprons, gloves, face shields, or other appropriate protective clothing to prevent skin contact with MDA. Where protective clothing is required, your employer is required to provide clean garments to you, as necessary, to assure that the clothing protects you adequately. Replace or repair impervious clothing that has developed leaks. MDA should never be allowed to remain on the skin. Clothing and shoes which are not impervious to MDA should not be allowed to become contaminated with MDA, and if they do, the clothing and shoes should be promptly removed and decontaminated. The clothing should be laundered to remove MDA or discarded. Once MDA penetrates shoes or other leather articles, they should not be worn again.

(c) Eye protection. You must wear splashproof safety goggles in areas where liquid MDA may contact your eyes. Contact lenses should not be worn in areas where eye contact with MDA can occur. In addition, you must wear a face shield if your face could be splashed with MDA liquid.

(4) Emergency and first aid procedures.

(a) Eye and face exposure. If MDA is splashed into the eyes, wash the eyes for at least 15 minutes. See a doctor as soon as possible.

(b) Skin exposure. If MDA is spilled on your clothing or skin, remove the contaminated clothing and wash the exposed skin with large amounts of soap and water immediately. Wash contaminated clothing before you wear it again.

(c) Breathing. If you or any other person breathes in large amounts of MDA, get the exposed person to fresh air at once. Apply artificial respiration if breathing has stopped. Call for medical assistance or a doctor as soon as possible. Never enter any vessel or confined space where the MDA concentration might be high without proper safety equipment and at least one other person present who will stay outside. A life line should be used.

(d) Swallowing. If MDA has been swallowed and the patient is conscious, do not induce vomiting. Call for medical assistance or a doctor immediately.

(5) Medical requirements. If you are exposed to MDA at a concentration at or above the action level for more than 30 days per year, or exposed to liquid mixtures more than 15

days per year, your employer is required to provide a medical examination, including a medical history and laboratory tests, within 60 days of the effective date of this standard and annually thereafter. These tests shall be provided without cost to you. In addition, if you are accidentally exposed to MDA (either by ingestion, inhalation, or skin/eye contact) under conditions known or suspected to constitute toxic exposure to MDA, your employer is required to make special examinations and tests available to you.

(6) Observation of monitoring. Your employer is required to perform measurements that are representative of your exposure to MDA and you or your designated representative are entitled to observe the monitoring procedure. You are entitled to observe the steps taken in the measurement procedure and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn; you and your representative must also be provided with, and must wear, the protective clothing and equipment.

(7) Access to records. You or your representative are entitled to see the records of measurements of your exposure to MDA upon written request to your employer. Your medical examination records can be furnished to your physician or designated representative upon request by you to your employer.

(8) Precautions for safe use, handling, and storage.

(a) Material is combustible. Avoid strong acids and their anhydrides. Avoid strong oxidants. Consult supervisor for disposal requirements.

(b) Emergency clean-up. Wear self-contained breathing apparatus and fully clothe the body in the appropriate personal protective clothing and equipment.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

WAC 296-155-174 Cadmium. (1) Scope. This standard applies to all occupational exposures to cadmium and cadmium compounds, in all forms, in all construction work where an employee may potentially be exposed to cadmium. Construction work is defined as work involving construction, alteration, and/or repair, including but not limited to the following:

(a) Wrecking, demolition, or salvage of structures where cadmium or materials containing cadmium are present;

(b) Use of cadmium containing-paints and cutting, brazing, burning, grinding, or welding on surfaces that were painted with cadmium-containing paints;

(c) Construction, alteration, repair, maintenance, or renovation of structures, substrates, or portions thereof, that contain cadmium, or materials containing cadmium;

(d) Cadmium welding; cutting and welding cadmium-plated steel; brazing or welding with cadmium alloys;

(e) Installation of products containing cadmium;

(f) Electrical grounding with cadmium-welding, or electrical work using cadmium-coated conduit;

(g) Maintaining or retrofitting cadmium-coated equipment;

(h) Cadmium contamination/emergency cleanup; and

(i) Transportation, disposal, storage, or containment of cadmium or materials containing cadmium on the site or location at which construction activities are performed.

(2) Definitions.

(a) Action level (AL) is defined as an airborne concentration of cadmium of 2.5 micrograms per cubic meter of air ($2.5 \mu\text{g}/\text{m}^3$), calculated as an 8-hour time-weighted average (TWA).

(b) Authorized person means any person authorized by the employer and required by work duties to be present in regulated areas or any person authorized by WISHA or regulations issued under it to be in regulated areas.

(c) Competent person, in accordance with WAC 296-155-012(4), means a person designated by the employer to act on the employer's behalf who is capable of identifying existing and potential cadmium hazards in the workplace and the proper methods to control them in order to protect workers, and has the authority necessary to take prompt corrective measures to eliminate or control such hazards. The duties of a competent person include at least the following: Determining prior to the performance of work whether cadmium is present in the workplace; establishing, where necessary, regulated areas and assuring that access to and from those areas is limited to authorized employees; assuring the adequacy of any employee exposure monitoring required by this standard; assuring that all employees exposed to air cadmium levels above the PEL wear appropriate personal protective equipment and are trained in the use of appropriate methods of exposure control; assuring that proper hygiene facilities are provided and that workers are trained to use those facilities; and assuring that the engineering controls required by this standard are implemented, maintained in proper operating condition, and functioning properly.

(d) Director means the director of the department of labor and industries or authorized representative.

(e) Employee exposure and similar language referring to the air cadmium level to which an employee is exposed means the exposure to airborne cadmium that would occur if the employee were not using respiratory protective equipment.

(f) Final medical determination is the written medical opinion of the employee's health status by the examining physician under subsection (12)(c) through (l) of this section or, if multiple physician review under subsection (12)(m) of this section or the alternative physician determination under subsection (12)(n) of this section is invoked, it is the final, written medical finding, recommendation or determination that emerges from that process.

(g) High-efficiency particulate air (HEPA) filter means a filter capable of trapping and retaining at least 99.97 percent of mono-dispersed particles of 0.3 micrometers in diameter.

(h) Regulated area means an area demarcated by the employer where an employee's exposure to airborne concentrations of cadmium exceeds, or can reasonably be expected to exceed the permissible exposure limit (PEL).

(i) This section means this cadmium standard.

(3) Permissible exposure limit (PEL). The employer shall assure that no employee is exposed to an airborne concentration of cadmium in excess of five micrograms per

cubic meter of air ($5 \mu\text{g}/\text{m}^3$), calculated as an 8-hour time-weighted average exposure (TWA).

(4) Exposure monitoring

(a) General.

(i) Prior to the performance of any construction work where employees may be potentially exposed to cadmium, the employer shall establish the applicability of this standard by determining whether cadmium is present in the workplace and whether there is the possibility that employee exposures will be at or above the action level. The employer shall designate a competent person who shall make this determination. Investigation and material testing techniques shall be used, as appropriate, in the determination. Investigation shall include a review of relevant plans, past reports, material safety data sheets, and other available records, and consultations with the property owner and discussions with appropriate individuals and agencies.

(ii) Where cadmium has been determined to be present in the workplace, and it has been determined that there is a possibility the employee's exposure will be at or above the action level, the competent person shall identify employees potentially exposed to cadmium at or above the action level.

(iii) Determinations of employee exposure shall be made from breathing-zone air samples that reflect the monitored employee's regular, daily 8-hour TWA exposure to cadmium.

(iv) Eight-hour TWA exposures shall be determined for each employee on the basis of one or more personal breathing-zone air samples reflecting full shift exposure on each shift, for each job classification, in each work area. Where several employees perform the same job tasks, in the same job classification, on the same shift, in the same work area, and the length, duration, and level of cadmium exposures are similar, an employer may sample a representative fraction of the employees instead of all employees in order to meet this requirement. In representative sampling, the employer shall sample the employee(s) expected to have the highest cadmium exposures.

(b) Specific.

(i) Initial monitoring. Except as provided for in (b)(iii) of this subsection, where a determination conducted under (a)(i) of this subsection shows the possibility of employee exposure to cadmium at or above the action level, the employer shall conduct exposure monitoring as soon as practicable that is representative of the exposure for each employee in the workplace who is or may be exposed to cadmium at or above the action level.

(ii) In addition, if the employee periodically performs tasks that may expose the employee to a higher concentration of airborne cadmium, the employee shall be monitored while performing those tasks.

(iii) Where the employer has objective data, as defined in subsection (14)(b) of this section, demonstrating that employee exposure to cadmium will not exceed airborne concentrations at or above the action level under the expected conditions of processing, use, or handling, the employer may rely upon such data instead of implementing initial monitoring.

(iv) Where a determination conducted under (a) or (b) of this subsection is made that a potentially exposed employee

is not exposed to airborne concentrations of cadmium at or above the action level, the employer shall make a written record of such determination. The record shall include at least the monitoring data developed under (b)(i) through (iii) of this subsection, where applicable, and shall also include the date of determination, and the name and Social Security number of each employee.

(c) Monitoring frequency (periodic monitoring).

(i) If the initial monitoring or periodic monitoring reveals employee exposures to be at or above the action level, the employer shall monitor at a frequency and pattern needed to assure that the monitoring results reflect with reasonable accuracy the employee's typical exposure levels, given the variability in the tasks performed, work practices, and environmental conditions on the job site, and to assure the adequacy of respiratory selection and the effectiveness of engineering and work practice controls.

(ii) If the initial monitoring or the periodic monitoring indicates that employee exposures are below the action level and that result is confirmed by the results of another monitoring taken at least seven days later, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.

(d) Additional monitoring. The employer also shall institute the exposure monitoring required under (b)(i) and (c) of this subsection whenever there has been a change in the raw materials, equipment, personnel, work practices, or finished products that may result in additional employees being exposed to cadmium at or above the action level or in employees already exposed to cadmium at or above the action level being exposed above the PEL, or whenever the employer or competent person has any reason to suspect that any other change might result in such further exposure.

(e) Employee notification of monitoring results.

(i) No later than five working days after the receipt of the results of any monitoring performed under this section, the employer shall notify each affected employee individually in writing of the results. In addition, within the same time period, the employer shall post the results of the exposure monitoring in an appropriate location that is accessible to all affected employees.

(ii) Wherever monitoring results indicate that employee exposure exceeds the PEL, the employer shall include in the written notice a statement that the PEL has been exceeded and a description of the corrective action being taken by the employer to reduce employee exposure to or below the PEL.

(f) Accuracy of measurement. The employer shall use a method of monitoring and analysis that has an accuracy of not less than plus or minus 25 percent ($\pm 25\%$), with a confidence level of 95 percent, for airborne concentrations of cadmium at or above the action level and the permissible exposure limit.

(5) Regulated areas.

(a) Establishment. The employer shall establish a regulated area wherever an employee's exposure to airborne concentrations of cadmium is, or can reasonably be expected to be in excess of the permissible exposure limit (PEL).

(b) Demarcation. Regulated areas shall be demarcated from the rest of the workplace in any manner that adequately

establishes and alerts employees of the boundaries of the regulated area, including employees who are or may be incidentally in the regulated areas, and that protects persons outside the area from exposure to airborne concentrations of cadmium in excess of the PEL.

(c) Access. Access to regulated areas shall be limited to authorized persons.

(d) Provision of respirators. Each person entering a regulated area shall be supplied with and required to use a respirator, selected in accordance with subsection (7)(b) of this section.

(e) Prohibited activities. The employer shall assure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in regulated areas, or carry the products associated with any of these activities into regulated areas or store such products in those areas.

(6) Methods of compliance.

(a) Compliance hierarchy.

(i) Except as specified in (a)(ii) of this subsection, the employer shall implement engineering and work practice controls to reduce and maintain employee exposure to cadmium at or below the PEL, except to the extent that the employer can demonstrate that such controls are not feasible.

(ii) The requirement to implement engineering controls to achieve the PEL does not apply where the employer demonstrates the following:

(A) The employee is only intermittently exposed; and

(B) The employee is not exposed above the PEL on 30 or more days per year (12 consecutive months).

(iii) Wherever engineering and work practice controls are not sufficient to reduce employee exposure to or below the PEL, the employer nonetheless shall implement such controls to reduce exposures to the lowest levels achievable. The employer shall supplement such controls with respiratory protection that complies with the requirements of subsection (7) of this section and the PEL.

(iv) The employer shall not use employee rotation as a method of compliance.

(b) Specific operations.

(i) Abrasive blasting. Abrasive blasting on cadmium or cadmium-containing materials shall be conducted in a manner that will provide adequate protection.

(ii) Heating cadmium and cadmium-containing materials. Welding, cutting, and other forms of heating of cadmium or cadmium-containing materials shall be conducted in accordance with the requirements of WAC 296-155-415 and 296-155-420, where applicable.

(c) Prohibitions.

(i) High speed abrasive disc saws and similar abrasive power equipment shall not be used for work on cadmium or cadmium-containing materials unless they are equipped with appropriate engineering controls to minimize emissions, if the exposure levels are above the PEL.

(ii) Materials containing cadmium shall not be applied by spray methods, if exposures are above the PEL, unless employees are protected with supplied-air respirators with full facepiece, hood, helmet, suit, operated in positive pressure mode and measures are instituted to limit overspray and prevent contamination of adjacent areas.

(d) Mechanical ventilation.

(i) When ventilation is used to control exposure, measurements that demonstrate the effectiveness of the system in controlling exposure, such as capture velocity, duct velocity, or static pressure shall be made as necessary to maintain its effectiveness.

(ii) Measurements of the system's effectiveness in controlling exposure shall be made as necessary within five working days of any change in production, process, or control that might result in a significant increase in employee exposure to cadmium.

(iii) Recirculation of air. If air from exhaust ventilation is recirculated into the workplace, the system shall have a high efficiency filter and be monitored to assure effectiveness.

(iv) Procedures shall be developed and implemented to minimize employee exposure to cadmium when maintenance of ventilation systems and changing of filters is being conducted.

(e) Compliance program.

(i) Where employee exposure to cadmium exceeds the PEL and the employer is required under (a) of this subsection to implement controls to comply with the PEL, prior to the commencement of the job the employer shall establish and implement a written compliance program to reduce employee exposure to or below the PEL. To the extent that engineering and work practice controls cannot reduce exposures to or below the PEL, the employer shall include in the written compliance program the use of appropriate respiratory protection to achieve compliance with the PEL.

(ii) Written compliance programs shall be reviewed and updated as often and as promptly as necessary to reflect significant changes in the employer's compliance status or significant changes in the lowest air cadmium level that is technologically feasible.

(iii) A competent person shall review the comprehensive compliance program initially and after each change.

(iv) Written compliance programs shall be provided upon request for examination and copying to the director, or authorized representatives, affected employees, and designated employee representatives.

(7) Respirator protection.

(a) General. ~~(Where respirators are required by this section, the employer shall provide them at no cost to the employee and shall assure that they are used in compliance with the requirements of this section. Respirators shall be used in the following circumstances:)~~ For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this section. Respirators must be used during:

(i) ~~(Where exposure levels exceed the PEL, during the time)~~ Periods necessary to install or implement feasible engineering and work-practice controls(;) when employee exposures exceed the PEL.

(ii) ~~(In those)~~ Maintenance and repair activities, and ~~(during those)~~ brief or intermittent operations ((where)), for which employee exposures exceed the PEL and engineering and work-practice controls are not feasible(;) or are not required(;).

(iii) Work operations in regulated areas((,as prescribed)) specified in subsection (5) of this section(;).

(iv) ~~(Where)~~ Work operations for which the employer has implemented all feasible engineering and work-practice controls, and such controls are not sufficient to reduce exposures to or below the PEL(;).

(v) ~~(In)~~ Emergencies(;).

(vi) ~~(Wherever)~~ Work operations for which an employee, who is exposed to cadmium at or above the action level, requests a respirator((,and)).

(vii) ~~(Wherever an employee is exposed to cadmium above the PEL and)~~ Work operations for which engineering controls are not required under (a)(ii) of this subsection to reduce employee exposures that exceed the PEL.

(b) Respirator ~~(selection)~~ program.

(i) ~~(Where respirators are required under this section, the employer shall select and provide the appropriate respirator as specified in Table 1. The employer shall select respirators from among those jointly approved as acceptable protection against cadmium dust, fume, and mist by the Mine Safety and Health Administration (MSHA) and by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.)~~ The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and WAC 296-62-07150 through WAC 296-62-07156).

(ii) If an employee has breathing difficulty during fit testing or respirator use, the employer must provide the employee with a medical examination as required by subsection (12)(f)(ii) of this section to determine if the employee can use a respirator while performing the required duties.

(iii) No employees must use a respirator when, based on their recent medical examination, the examining physician determines that the employee will be unable to continue to function normally while using a respirator. If the physician determines the employee must be limited in, or removed from, their current job because of the employee's inability to use a respirator, the job limitation or removal must be conducted as required by (k) and (l) of this subsection.

(c) Respirator selection.

(i) The employer must select the appropriate respirator from Table 1 of this section.

Table 1

Respiratory Protection for Cadmium	
Airborne concentration or condition of use ^a	Required respirator type ^b
10 x or less	A half-mask, air-purifying respirator equipped with a HEPA ^c filter. ^d
25 x or less	A powered air-purifying respirator ("PAPR") with a loose-fitting hood or helmet equipped with a HEPA filter, or a supplied-air respirator with a loose-fitting hood or helmet facepiece operated in the continuous flow mode.

PERMANENT

Table 1

Respiratory Protection for Cadmium

Airborne concentration or condition of use ^a	Required respirator type ^b
50 x or less	A full facepiece air-purifying respirator equipped with a HEPA filter, or a powered air-purifying respirator with a tight-fitting half-mask equipped with a HEPA filter, or a supplied air respirator with a tight-fitting half-mask operated in the continuous flow mode.
250 x or less	A powered air-purifying respirator with a tight-fitting full facepiece equipped with a HEPA filter, or a supplied-air respirator with a tight-fitting full facepiece operated in the continuous flow mode.
1000 x or less	A supplied-air respirator with half-mask or full facepiece operated in the pressure demand or other positive pressure mode.
>1000 x or unknown concentrations	A self-contained breathing apparatus with a full facepiece operated in the pressure demand or other positive pressure mode, or a supplied-air respirator with a full facepiece operated in the pressure demand or other positive pressure mode and equipped with an auxiliary escape type self-contained breathing apparatus operated in the pressure demand mode.
Fire fighting	A self-contained breathing apparatus with full facepiece operated in the pressure demand or other positive pressure mode.

(ii) The employer shall provide a powered, air-purifying respirator (PAPR) ~~((in lieu))~~ instead of a negative-pressure respirator ~~((wherever:~~

~~(A) An employee entitled to a respirator chooses to use this type of respirator; and~~

~~(B) This respirator will provide adequate protection to the employee.~~

~~(c) Respirator program.~~

~~(i) Where respiratory protection is required, the employer shall institute a respirator protection program in accordance with chapter 296-62 WAC, Part E.~~

~~(ii) The employer shall permit each employee who is required to use an air purifying respirator to leave the regulated area to change the filter elements or replace the respirator whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.~~

~~(iii) The employer shall also permit each employee who is required to wear a respirator to leave the regulated area to wash his or her face and the respirator facepiece whenever necessary to prevent skin irritation associated with respirator use.~~

~~(iv) If an employee exhibits difficulty in breathing while wearing a respirator during a fit test or during use, the employer shall make available to the employee a medical examination in accordance with subsection (12)(f)(ii) of this section to determine if the employee can wear a respirator while performing the required duties.~~

~~(v) No employee shall be assigned a task requiring the use of a respirator if, based upon his or her most recent examination, an examining physician determines that the employee will be unable to continue to function normally while wearing a respirator. If the physician determines the employee must be limited in, or removed from his or her current job because of the employee's inability to wear a respirator, the limitation or removal shall be in accordance with subsection (12)(k) and (l) of this section.~~

~~(d) Respirator fit testing.~~

~~(i) The employer shall assure that the respirator issued to the employee is fitted properly and exhibits the least possible facepiece leakage.~~

~~(ii) For each employee wearing a tight-fitting, air-purifying respirator (either negative or positive pressure) who is exposed to airborne concentrations of cadmium that do not exceed 10 times the PEL (10 x 5 µg/m³ = 50 µg/m³), the employer shall perform either quantitative or qualitative fit testing at the time of initial fitting and at least annually thereafter. If quantitative fit testing is used for a negative pressure respirator, a fit factor that is at least 10 times the protection factor for that class of respirators (Table 1 in (b)(i) of this subsection) shall be achieved at testing.~~

~~(iii) For each employee wearing a tight-fitting air-purifying respirator (either negative or positive pressure) who is exposed to airborne concentrations of cadmium that exceed 10 times the PEL (10 x 5 µg/m³ = 50 µg/m³), the employer shall perform quantitative fit testing at the time of initial fitting and at least annually thereafter. For negative pressure respirators, a fit factor that is at least ten times the protection~~

Note: ^a Concentrations expressed as multiple of the PEL.
^b Respirators assigned for higher environmental concentrations may be used at lower exposure levels. Quantitative fit testing is required for all tight-fitting air purifying respirators where airborne concentration of cadmium exceeds 10 times the TWA PEL (10 x 5 µg/m³ = 50 µg/m³). A full facepiece respirator is required when eye irritation is experienced.
^c HEPA means High Efficiency Particulate Air.
^d Fit testing, qualitative or quantitative, is required.
 Source: Respiratory Decision Logic, NIOSH, 1987.

PERMANENT

factor for that class of respirators (Table 1 in (b)(i) of this subsection) shall be achieved during quantitative fit testing.

(iv) For each employee wearing a tight fitting, supplied air respirator or self-contained breathing apparatus, the employer shall perform quantitative fit testing at the time of initial fitting and at least annually thereafter. This shall be accomplished by fit testing an air-purifying respirator of identical type facepiece, make, model, and size as the supplied air respirator or self-contained breathing apparatus that is equipped with HEPA filters and tested as a surrogate (substitute) in the negative pressure mode. A fit factor that is at least 10 times the protection factor for that class of respirators (Table 1 in (b)(i) of this subsection) shall be achieved during quantitative fit testing. A supplied air respirator or self-contained breathing apparatus with the same type facepiece, make, model, and size as the air purifying respirator with which the employee passed the quantitative fit test may then be used by that employee up to the protection factor listed in Table 1 in (b)(i) of this subsection for that class of respirators.

(v) Fit testing shall be conducted in accordance with WAC 296-62-07445, Appendix C) when an employee entitled to a respirator chooses to use this type of respirator and such a respirator will provide adequate protection to the employee.

(8) Emergency situations. The employer shall develop and implement a written plan for dealing with emergency situations involving substantial releases of airborne cadmium. The plan shall include provisions for the use of appropriate respirators and personal protective equipment. In addition, employees not essential to correcting the emergency situation shall be restricted from the area and normal operations halted in that area until the emergency is abated.

(9) Protective work clothing and equipment

(a) Provision and use. If an employee is exposed to airborne cadmium above the PEL or where skin or eye irritation is associated with cadmium exposure at any level, the employer shall provide at no cost to the employee, and assure that the employee uses, appropriate protective work clothing and equipment that prevents contamination of the employee and the employee's garments. Protective work clothing and equipment includes, but is not limited to:

- (i) Coveralls or similar full-body work clothing;
 - (ii) Gloves, head coverings, and boots or foot coverings;
- and

(iii) Face shields, vented goggles, or other appropriate protective equipment that complies with WAC 296-155-215.

(b) Removal and storage.

(i) The employer shall assure that employees remove all protective clothing and equipment contaminated with cadmium at the completion of the work shift and do so only in change rooms provided in accordance with subsection (10)(a) of this section.

(ii) The employer shall assure that no employee takes cadmium-contaminated protective clothing or equipment from the workplace, except for employees authorized to do so for purposes of laundering, cleaning, maintaining, or disposing of cadmium-contaminated protective clothing and equipment at an appropriate location or facility away from the workplace.

(iii) The employer shall assure that contaminated protective clothing and equipment, when removed for laundering, cleaning, maintenance, or disposal, is placed and stored in sealed, impermeable bags or other closed, impermeable containers that are designed to prevent dispersion of cadmium dust.

(iv) The employer shall assure that containers of contaminated protective clothing and equipment that are to be taken out of the change rooms or the workplace for laundering, cleaning, maintenance or disposal shall bear labels in accordance with subsection (13)(c) of this section.

(c) Cleaning, replacement, and disposal.

(i) The employer shall provide the protective clothing and equipment required by (a) of this subsection in a clean and dry condition as often as necessary to maintain its effectiveness, but in any event at least weekly. The employer is responsible for cleaning and laundering the protective clothing and equipment required by this subsection to maintain its effectiveness and is also responsible for disposing of such clothing and equipment.

(ii) The employer also is responsible for repairing or replacing required protective clothing and equipment as needed to maintain its effectiveness. When rips or tears are detected while an employee is working they shall be immediately mended, or the worksuit shall be immediately replaced.

(iii) The employer shall prohibit the removal of cadmium from protective clothing and equipment by blowing, shaking, or any other means that disperses cadmium into the air.

(iv) The employer shall assure that any laundering of contaminated clothing or cleaning of contaminated equipment in the workplace is done in a manner that prevents the release of airborne cadmium in excess of the permissible exposure limit prescribed in subsection (3) of this section.

(v) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with cadmium of the potentially harmful effects of exposure to cadmium, and that the clothing and equipment should be laundered or cleaned in a manner to effectively prevent the release of airborne cadmium in excess of the PEL.

(10) Hygiene areas and practices.

(a) General. For employees whose airborne exposure to cadmium is above the PEL, the employer shall provide clean change rooms, handwashing facilities, showers, and lunchroom facilities that comply with WAC 296-155-140.

(b) Change rooms. The employer shall assure that change rooms are equipped with separate storage facilities for street clothes and for protective clothing and equipment, which are designed to prevent dispersion of cadmium and contamination of the employee's street clothes.

(c) Showers and handwashing facilities.

(i) The employer shall assure that employees whose airborne exposure to cadmium is above the PEL shower during the end of the work shift.

(ii) The employer shall assure that employees who are exposed to cadmium above the PEL wash their hands and faces prior to eating, drinking, smoking, chewing tobacco or gum, or applying cosmetics.

(d) Lunchroom facilities.

(i) The employer shall assure that the lunchroom facilities are readily accessible to employees, that tables for eating

are maintained free of cadmium, and that no employee in a lunchroom facility is exposed at any time to cadmium at or above a concentration of 2.5 $\mu\text{g}/\text{m}^3$.

(ii) The employer shall assure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface cadmium has been removed from the clothing and equipment by HEPA vacuuming or some other method that removes cadmium dust without dispersing it.

(11) Housekeeping.

(a) All surfaces shall be maintained as free as practicable of accumulations of cadmium.

(b) All spills and sudden releases of material containing cadmium shall be cleaned up as soon as possible.

(c) Surfaces contaminated with cadmium shall, wherever possible, be cleaned by vacuuming or other methods that minimize the likelihood of cadmium becoming airborne.

(d) HEPA-filtered vacuuming equipment or equally effective filtration methods shall be used for vacuuming. The equipment shall be used and emptied in a manner that minimizes the reentry of cadmium into the workplace.

(e) Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other methods that minimize the likelihood of cadmium becoming airborne have been tried and found not to be effective.

(f) Compressed air shall not be used to remove cadmium from any surface unless the compressed air is used in conjunction with a ventilation system designed to capture the dust cloud created by the compressed air.

(g) Waste, scrap, debris, bags, containers, personal protective equipment, and clothing contaminated with cadmium and consigned for disposal shall be collected and disposed of in sealed impermeable bags or other closed, impermeable containers. These bags and containers shall be labeled in accordance with subsection (13)(b) of this section.

(12) Medical surveillance.

(a) General.

(i) Scope.

(A) Currently exposed—The employer shall institute a medical surveillance program for all employees who are or may be exposed at or above the action level and all employees who perform the following tasks, operations, or jobs: Electrical grounding with cadmium-welding; cutting, brazing, burning, grinding, or welding on surfaces that were painted with cadmium-containing paints; electrical work using cadmium-coated conduit; use of cadmium containing paints; cutting and welding cadmium-plated steel; brazing or welding with cadmium alloys; fusing of reinforced steel by cadmium welding; maintaining or retrofitting cadmium-coated equipment; and, wrecking and demolition where cadmium is present. A medical surveillance program will not be required if the employer demonstrates that the employee:

(I) Is not currently exposed by the employer to airborne concentrations of cadmium at or above the action level on 30 or more days per year (twelve consecutive months); and

(II) Is not currently exposed by the employer in those tasks on 30 or more days per year (twelve consecutive months).

(B) Previously exposed—The employer shall also institute a medical surveillance program for all employees who might previously have been exposed to cadmium by the employer prior to the effective date of this section in tasks specified under (a)(i)(A) of this subsection, unless the employer demonstrates that the employee did not in the years prior to the effective date of this section work in those tasks for the employer with exposure to cadmium for an aggregated total of more than 12 months.

(ii) To determine an employee's fitness for using a respirator, the employer shall provide the limited medical examination specified in (f) of this subsection.

(iii) The employer shall assure that all medical examinations and procedures required by this section are performed by or under the supervision of a licensed physician, who has read and is familiar with the health effects WAC 296-62-07441, Appendix A, the regulatory text of this section, the protocol for sample handling and lab selection in WAC 296-62-07451, Appendix F, and the questionnaire of WAC 296-62-07447, Appendix D.

(iv) The employer shall provide the medical surveillance required by this section, including multiple physician review under (m) of this subsection without cost to employees, and at a time and place that is reasonable and convenient to employees.

(v) The employer shall assure that the collecting and handling of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (B₂-M) taken from employees under this section is done in a manner that assures their reliability and that analysis of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (B₂-M) taken from employees under this section is performed in laboratories with demonstrated proficiency to perform the particular analysis. (See WAC 296-62-07451, Appendix F.)

(b) Initial examination.

(i) For employees covered by medical surveillance under (a)(i) of this subsection, the employer shall provide an initial medical examination. The examination shall be provided to those employees within 30 days after initial assignment to a job with exposure to cadmium or no later than 90 days after the effective date of this section, whichever date is later.

(ii) The initial medical examination shall include:

(A) A detailed medical and work history, with emphasis on: Past, present, and anticipated future exposure to cadmium; any history of renal, cardiovascular, respiratory, hematopoietic, reproductive, and/or musculo-skeletal system dysfunction; current usage of medication with potential nephrotoxic side-effects; and smoking history and current status; and

(B) Biological monitoring that includes the following tests:

(I) Cadmium in urine (CdU), standardized to grams of creatinine (g/Cr);

(II) Beta-2 microglobulin in urine (B₂-M), standardized to grams of creatinine (g/Cr), with pH specified, as described in WAC 296-62-07451, Appendix F; and

(III) Cadmium in blood (CdB), standardized to liters of whole blood (lwb).

(iii) Recent examination: An initial examination is not required to be provided if adequate records show that the employee has been examined in accordance with the requirements of (b)(ii) of this subsection within the past 12 months. In that case, such records shall be maintained as part of the employee's medical record and the prior exam shall be treated as if it were an initial examination for the purposes of (c) and (d) of this subsection.

(c) Actions triggered by initial biological monitoring.

(i) If the results of the biological monitoring tests in the initial examination show the employee's CdU level to be at or below 3 µg/g Cr, B₂-M level to be at or below 300 µg/g Cr and CdB level to be at or below 5 µg/lwb, then:

(A) For employees who are subject to medical surveillance under (a)(i)(A) of this subsection because of current or anticipated exposure to cadmium, the employer shall provide the minimum level of periodic medical surveillance in accordance with the requirements in (d)(i) of this subsection; and

(B) For employees who are subject to medical surveillance under (a)(i)(B) of this subsection because of prior but not current exposure, the employer shall provide biological monitoring for CdU, B₂-M, and CdB one year after the initial biological monitoring and then the employer shall comply with the requirements of (d)(vi) of this subsection.

(ii) For all employees who are subject to medical surveillance under (a)(i) of this subsection, if the results of the initial biological monitoring tests show the level of CdU to exceed 3 µg/g Cr, the level of B₂-M to be in excess of 300 µg/g Cr, or the level of CdB to be in excess of 5 µg/lwb, the employer shall:

(A) Within two weeks after receipt of biological monitoring results, reassess the employee's occupational exposure to cadmium as follows:

(I) Reassess the employee's work practices and personal hygiene;

(II) Reevaluate the employee's respirator use, if any, and the respirator program;

(III) Review the hygiene facilities;

(IV) Reevaluate the maintenance and effectiveness of the relevant engineering controls;

(V) Assess the employee's smoking history and status;

(B) Within 30 days after the exposure reassessment, specified in (c)(ii)(A) of this subsection, take reasonable steps to correct any deficiencies found in the reassessment that may be responsible for the employee's excess exposure to cadmium; and

(C) Within 90 days after receipt of biological monitoring results, provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. If the physician determines that medical removal is not necessary, then until the employee's CdU level falls to or below 3 µg/g Cr, B₂-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(I) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a semiannual basis; and

(II) Provide annual medical examinations in accordance with (d)(ii) of this subsection.

(iii) For all employees who are subject to medical surveillance under (a)(i) of this subsection, if the results of the initial biological monitoring tests show the level of CdU to be in excess of 15 µg/g Cr, or the level of CdB to be in excess of 15 µg/lwb, or the level of B₂-M to be in excess of 1,500 µg/g Cr, the employer shall comply with the requirements of (c)(ii)(A) and (B) of this subsection. Within 90 days after receipt of biological monitoring results, the employer shall provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. However, if the initial biological monitoring results and the biological monitoring results obtained during the medical examination both show that: CdU exceeds 15 µg/g Cr; or CdB exceeds 15 µg/lwb; or B₂-M exceeds 1500 µg/g Cr, and in addition CdU exceeds 3 µg/g Cr or CdB exceeds 5 µg/liter of whole blood, then the physician shall medically remove the employee from exposure to cadmium at or above the action level. If the second set of biological monitoring results obtained during the medical examination does not show that a mandatory removal trigger level has been exceeded, then the employee is not required to be removed by the mandatory provisions of this section. If the employee is not required to be removed by the mandatory provisions of this section or by the physician's determination, then until the employee's CdU level falls to or below 3 µg/g Cr, B₂-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(A) Periodically reassess the employee's occupational exposure to cadmium;

(B) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a quarterly basis; and

(C) Provide semiannual medical examinations in accordance with (d)(ii) of this subsection.

(iv) For all employees to whom medical surveillance is provided, beginning on January 1, 1999, and in lieu of (c)(iii) of this subsection, whenever the results of initial biological monitoring tests show the employee's CdU level to be in excess of 7 µg/g Cr, or B₂-M level to be in excess of 750 µg/g Cr, or CdB level to be in excess of 10 µg/lwb, the employer shall comply with the requirements of (c)(ii)(A) and (B) of this subsection. Within 90 days after receipt of biological monitoring results, the employer shall provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. However, if the initial biological monitoring results and the biological monitoring results obtained during the medical examination both show that: CdU exceeds 7 µg/g Cr; or CdB exceeds 10 µg/lwb; or B₂-M exceeds 750 µg/g Cr, and in addition CdU exceeds 3 µg/g Cr or CdB exceeds 5 µg/liter of whole blood, then the physician shall medically remove the employee from exposure to cadmium at or above the action level. If the second set of biological

PERMANENT

monitoring results obtained during the medical examination does not show that a mandatory removal trigger level has been exceeded, then the employee is not required to be removed by the mandatory provisions of this section. If the employee is not required to be removed by the mandatory provisions of this section or by the physician's determination, then until the employee's CdU level falls to or below 3 µg/g Cr, B₂-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(A) Periodically reassess the employee's occupational exposure to cadmium;

(B) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a quarterly basis; and

(C) Provide semiannual medical examinations in accordance with (d)(ii) of this subsection.

(d) Periodic medical surveillance.

(i) For each employee who is covered by medical surveillance under (a)(i)(A) of this subsection because of current or anticipated exposure to cadmium, the employer shall provide at least the minimum level of periodic medical surveillance, which consists of periodic medical examinations and periodic biological monitoring. A periodic medical examination shall be provided within one year after the initial examination required by (b) of this subsection and thereafter at least biennially. Biological sampling shall be provided at least annually either as part of a periodic medical examination or separately as periodic biological monitoring.

(ii) The periodic medical examination shall include:

(A) A detailed medical and work history, or update thereof, with emphasis on: Past, present, and anticipated future exposure to cadmium; smoking history and current status; reproductive history; current use of medications with potential nephrotoxic side-effects; any history of renal, cardiovascular, respiratory, hematopoietic, and/or musculoskeletal system dysfunction; and as part of the medical and work history, for employees who wear respirators, questions 3 through 11 and 25 through 32 in WAC 296-62-07447, Appendix D;

(B) A complete physical examination with emphasis on: Blood pressure, the respiratory system, and the urinary system;

(C) A 14 inch by 17 inch, or a reasonably standard sized posterior-anterior chest x-ray (after the initial x-ray, the frequency of chest x-rays is to be determined by the examining physician);

(D) Pulmonary function tests, including forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV1);

(E) Biological monitoring, as required in (b)(ii)(B) of this subsection;

(F) Blood analysis, in addition to the analysis required under (b)(ii)(B) of this subsection, including blood urea nitrogen, complete blood count, and serum creatinine;

(G) Urinalysis, in addition to the analysis required under (b)(ii)(B) of this subsection, including the determination of albumin, glucose, and total and low molecular weight proteins;

(H) For males over 40 years old, prostate palpation, or other at least as effective diagnostic test(s); and

(I) Any additional tests or procedures deemed appropriate by the examining physician.

(iii) Periodic biological monitoring shall be provided in accordance with (b)(ii)(B) of this subsection.

(iv) If the results of periodic biological monitoring or the results of biological monitoring performed as part of the periodic medical examination show the level of the employee's CdU, B₂-M, or CdB to be in excess of the levels specified in (c)(ii) and (iii) of this subsection; or, beginning on January 1, 1999, in excess of the levels specified in (c)(ii) or (iv) of this subsection, the employer shall take the appropriate actions specified in (c)(ii) through (iv) of this subsection, respectively.

(v) For previously exposed employees under (a)(i)(B) of this subsection:

(A) If the employee's levels of CdU did not exceed 3 µg/g Cr, CdB did not exceed 5 µg/lwb, and B₂-M did not exceed 300 µg/g Cr in the initial biological monitoring tests, and if the results of the follow-up biological monitoring required by (c)(i)(B) of this subsection one year after the initial examination confirm the previous results, the employer may discontinue all periodic medical surveillance for that employee.

(B) If the initial biological monitoring results for CdU, CdB, or B₂-M were in excess of the levels specified in (c)(i) of this subsection, but subsequent biological monitoring results required by (c)(ii) through (iv) of this subsection show that the employee's CdU levels no longer exceed 3 µg/g Cr, CdB levels no longer exceed 5 µg/lwb, and B₂-M levels no longer exceed 300 µg/g Cr, the employer shall provide biological monitoring for CdU, CdB, and B₂-M one year after these most recent biological monitoring results. If the results of the follow-up biological monitoring specified in this section, confirm the previous results, the employer may discontinue all periodic medical surveillance for that employee.

(C) However, if the results of the follow-up tests specified in (d)(v)(A) or (B) of this subsection indicate that the level of the employee's CdU, B₂-M, or CdB exceeds these same levels, the employer is required to provide annual medical examinations in accordance with the provisions of (d)(ii) of this subsection until the results of biological monitoring are consistently below these levels or the examining physician determines in a written medical opinion that further medical surveillance is not required to protect the employee's health.

(vi) A routine, biennial medical examination is not required to be provided in accordance with (c)(i) and (d) of this subsection if adequate medical records show that the employee has been examined in accordance with the requirements of (d)(ii) of this subsection within the past 12 months. In that case, such records shall be maintained by the employer as part of the employee's medical record, and the next routine, periodic medical examination shall be made available to the employee within two years of the previous examination.

(e) Actions triggered by medical examinations. If the results of a medical examination carried out in accordance with this section indicate any laboratory or clinical finding consistent with cadmium toxicity that does not require

employer action under (b), (c), or (d) of this subsection, the employer shall take the following steps and continue to take them until the physician determines that they are no longer necessary.

(i) Periodically reassess: The employee's work practices and personal hygiene; the employee's respirator use, if any; the employee's smoking history and status; the respiratory protection program; the hygiene facilities; the maintenance and effectiveness of the relevant engineering controls; and take all reasonable steps to correct the deficiencies found in the reassessment that may be responsible for the employee's excess exposure to cadmium.

(ii) Provide semiannual medical reexaminations to evaluate the abnormal clinical sign(s) of cadmium toxicity until the results are normal or the employee is medically removed; and

(iii) Where the results of tests for total proteins in urine are abnormal, provide a more detailed medical evaluation of the toxic effects of cadmium on the employee's renal system.

(f) Examination for respirator use.

(i) To determine an employee's fitness for respirator use, the employer shall provide a medical examination that includes the elements specified in (f)(i)(A) through (D) of this subsection. This examination shall be provided prior to the employee's being assigned to a job that requires the use of a respirator or no later than 90 days after this section goes into effect, whichever date is later, to any employee without a medical examination within the preceding 12 months that satisfies the requirements of this section.

(A) A detailed medical and work history, or update thereof, with emphasis on: Past exposure to cadmium; smoking history and current status; any history of renal, cardiovascular, respiratory, hematopoietic, and/or musculo-skeletal system dysfunction; a description of the job for which the respirator is required; and questions 3 through 11 and 25 through 32 in WAC 296-62-07447, Appendix D;

(B) A blood pressure test;

(C) Biological monitoring of the employee's levels of CdU, CdB and B₂-M in accordance with the requirements of (b)(ii)(B) of this subsection, unless such results already have been obtained within the twelve months; and

(D) Any other test or procedure that the examining physician deems appropriate.

(ii) After reviewing all the information obtained from the medical examination required in (f)(i) of this subsection, the physician shall determine whether the employee is fit to wear a respirator.

(iii) Whenever an employee has exhibited difficulty in breathing during a respirator fit test or during use of a respirator, the employer, as soon as possible, shall provide the employee with a periodic medical examination in accordance with (d)(ii) of this subsection to determine the employee's fitness to wear a respirator.

(iv) Where the results of the examination required under (f)(i), (ii), or (iii) of this subsection are abnormal, medical limitation or prohibition of respirator use shall be considered. If the employee is allowed to wear a respirator, the employee's ability to continue to do so shall be periodically evaluated by a physician.

(g) Emergency examinations.

(i) In addition to the medical surveillance required in (b) through (f) of this subsection, the employer shall provide a medical examination as soon as possible to any employee who may have been acutely exposed to cadmium because of an emergency.

(ii) The examination shall include the requirements of (d)(ii), of this subsection, with emphasis on the respiratory system, other organ systems considered appropriate by the examining physician, and symptoms of acute overexposure, as identified in Appendix A, WAC 296-62-07441 (2)(b)(i) and (ii) and (4).

(h) Termination of employment examination.

(i) At termination of employment, the employer shall provide a medical examination in accordance with (d)(ii) of this subsection, including a chest x-ray where necessary, to any employee to whom at any prior time the employer was required to provide medical surveillance under (a)(i) or (g) of this subsection. However, if the last examination satisfied the requirements of (d)(ii) of this subsection and was less than six months prior to the date of termination, no further examination is required unless otherwise specified in (c) or (e) of this subsection;

(ii) In addition, if the employer has discontinued all periodic medical surveillance under (d)(v) of this subsection, no termination of employment medical examination is required.

(i) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and appendices;

(ii) A description of the affected employee's former, current, and anticipated duties as they relate to the employee's occupational exposure to cadmium;

(iii) The employee's former, current, and anticipated future levels of occupational exposure to cadmium;

(iv) A description of any personal protective equipment, including respirators, used or to be used by the employee, including when and for how long the employee has used that equipment; and

(v) Relevant results of previous biological monitoring and medical examinations.

(j) Physician's written medical opinion.

(i) The employer shall promptly obtain a written, signed, medical opinion from the examining physician for each medical examination performed on each employee. This written opinion shall contain:

(A) The physician's diagnosis for the employee;

(B) The physician's opinion as to whether the employee has any detected medical condition(s) that would place the employee at increased risk of material impairment to health from further exposure to cadmium, including any indications of potential cadmium toxicity;

(C) The results of any biological or other testing or related evaluations that directly assess the employee's absorption of cadmium;

(D) Any recommended removal from, or limitation on the activities or duties of the employee or on the employee's use of personal protective equipment, such as respirators;

(E) A statement that the physician has clearly and carefully explained to the employee the results of the medical examination, including all biological monitoring results and

any medical conditions related to cadmium exposure that require further evaluation or treatment, and any limitation on the employee's diet or use of medications.

(ii) The employer shall promptly obtain a copy of the results of any biological monitoring provided by an employer to an employee independently of a medical examination under (b) and (d) of this subsection, and, in lieu of a written medical opinion, an explanation sheet explaining those results.

(iii) The employer shall instruct the physician not to reveal orally or in the written medical opinion given to the employer specific findings or diagnoses unrelated to occupational exposure to cadmium.

(k) Medical removal protection (MRP).

(i) General.

(A) The employer shall temporarily remove an employee from work where there is excess exposure to cadmium on each occasion that medical removal is required under (c), (d), or (f) of this subsection and on each occasion that a physician determines in a written medical opinion that the employee should be removed from such exposure. The physician's determination may be based on biological monitoring results, inability to wear a respirator, evidence of illness, other signs or symptoms of cadmium-related dysfunction or disease, or any other reason deemed medically sufficient by the physician.

(B) The employer shall medically remove an employee in accordance with (k) of this subsection regardless of whether at the time of removal a job is available into which the removed employee may be transferred.

(C) Whenever an employee is medically removed under (k) of this subsection, the employer shall transfer the removed employee to a job where the exposure to cadmium is within the permissible levels specified in subsection (12) of this section as soon as one becomes available.

(D) For any employee who is medically removed under the provisions of (k)(i) of this subsection, the employer shall provide follow-up medical examinations semiannually until, in a written medical opinion, the examining physician determines that either the employee may be returned to his/her former job status or the employee must be permanently removed from excess cadmium exposure.

(E) The employer may not return an employee who has been medically removed for any reason to his/her former job status until a physician determines in a written medical opinion that continued medical removal is no longer necessary to protect the employee's health.

(ii) Where an employee is found unfit to wear a respirator under (f)(ii) of this subsection, the employer shall remove the employee from work where exposure to cadmium is above the PEL.

(iii) Where removal is based upon any reason other than the employee's inability to wear a respirator, the employer shall remove the employee from work where exposure to cadmium is at or above the action level.

(iv) Except as specified in (k)(v) of this subsection, no employee who was removed because his/her level of CdU, CdB and/or B₂-M exceeded the trigger levels in (c) or (d) of this subsection may be returned to work with exposure to cadmium at or above the action level until the employee's lev-

els of CdU fall to or below 3 µg/g Cr, CdB fall to or below 5 µg/lwb, and B₂-M fall to or below 300 µg/g Cr.

(v) However, when in the examining physician's opinion continued exposure to cadmium will not pose an increased risk to the employee's health and there are special circumstances that make continued medical removal an inappropriate remedy, the physician shall fully discuss these matters with the employee, and then in a written determination may return a worker to his/her former job status despite what would otherwise be unacceptably high biological monitoring results. Thereafter and until such time as the employee's biological monitoring results have decreased to levels where he/she could have been returned to his/her former job status, the returned employee shall continue medical surveillance as if he/she were still on medical removal. Until such time, the employee is no longer subject to mandatory medical removal. Subsequent questions regarding the employee's medical removal shall be decided solely by a final medical determination.

(vi) Where an employer, although not required by this section to do so, removes an employee from exposure to cadmium or otherwise places limitations on an employee due to the effects of cadmium exposure on the employee's medical condition, the employer shall provide the same medical removal protection benefits to that employee under (l) of this subsection as would have been provided had the removal been required under (k) of this subsection.

(l) Medical removal protection benefits.

(i) The employer shall provide medical removal protection benefits to an employee for up to a maximum of 18 months each time, and while the employee is temporarily medically removed under (k) of this subsection.

(ii) For purposes of this section, the requirement that the employer provide medical removal protection benefits means that the employer shall maintain the total normal earnings, seniority, and all other employee rights and benefits of the removed employee, including the employee's right to his/her former job status, as if the employee had not been removed from the employee's job or otherwise medically limited.

(iii) Where, after 18 months on medical removal because of elevated biological monitoring results, the employee's monitoring results have not declined to a low enough level to permit the employee to be returned to his/her former job status:

(A) The employer shall make available to the employee a medical examination pursuant to this section in order to obtain a final medical determination as to whether the employee may be returned to his/her former job status or must be permanently removed from excess cadmium exposure; and

(B) The employer shall assure that the final medical determination indicates whether the employee may be returned to his/her former job status and what steps, if any, should be taken to protect the employee's health.

(iv) The employer may condition the provision of medical removal protection benefits upon the employee's participation in medical surveillance provided in accordance with this section.

(m) Multiple physician review.

(i) If the employer selects the initial physician to conduct any medical examination or consultation provided to an employee under this section, the employee may designate a second physician to:

(A) Review any findings, determinations, or recommendations of the initial physician; and

(B) Conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(ii) The employer shall promptly notify an employee of the right to seek a second medical opinion after each occasion that an initial physician provided by the employer conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, multiple physician review upon the employee doing the following within fifteen (15) days after receipt of this notice, or receipt of the initial physician's written opinion, whichever is later:

(A) Informing the employer that he or she intends to seek a medical opinion; and

(B) Initiating steps to make an appointment with a second physician.

(iii) If the findings, determinations, or recommendations of the second physician differ from those of the initial physician, then the employer and the employee shall assure that efforts are made for the two physicians to resolve any disagreement.

(iv) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee, through their respective physicians, shall designate a third physician to:

(A) Review any findings, determinations, or recommendations of the other two physicians; and

(B) Conduct such examinations, consultations, laboratory tests, and discussions with the other two physicians as the third physician deems necessary to resolve the disagreement among them.

(v) The employer shall act consistently with the findings, determinations, and recommendations of the third physician, unless the employer and the employee reach an agreement that is consistent with the recommendations of at least one of the other two physicians.

(n) Alternate physician determination. The employer and an employee or designated employee representative may agree upon the use of any alternate form of physician determination in lieu of the multiple physician review provided by (m) of this subsection, so long as the alternative is expeditious and at least as protective of the employee.

(o) Information the employer must provide the employee.

(i) The employer shall provide a copy of the physician's written medical opinion to the examined employee within five working days after receipt thereof.

(ii) The employer shall provide the employee with a copy of the employee's biological monitoring results and an explanation sheet explaining the results within five working days after receipt thereof.

(iii) Within 30 days after a request by an employee, the employer shall provide the employee with the information

the employer is required to provide the examining physician under (i) of this subsection.

(p) Reporting. In addition to other medical events that are required to be reported on the OSHA Form No. 200, the employer shall report any abnormal condition or disorder caused by occupational exposure to cadmium associated with employment as specified in Chapter (V)(E) of the Bureau of Labor Statistics Recordkeeping Guidelines for Occupational Injuries and Illnesses.

(13) Communication of cadmium hazards to employees

(a) General. In communications concerning cadmium hazards, employers shall comply with the requirements of WISHA's Hazard Communication Standard, chapter 296-62 WAC, Part C, including but not limited to the requirements concerning warning signs and labels, material safety data sheets (MSDS), and employee information and training. In addition, employers shall comply with the following requirements:

(b) Warning signs.

(i) Warning signs shall be provided and displayed in regulated areas. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take necessary protective steps before entering the area.

(ii) Warning signs required by (b)(i) of this subsection shall bear the following information:

Danger, Cadmium, Cancer Hazard, Can Cause Lung and
Kidney Disease, Authorized Personnel Only, Respirators
Required in This Area

(iii) The employer shall assure that signs required by this section are illuminated, cleaned, and maintained as necessary so that the legend is readily visible.

(c) Warning labels.

(i) Shipping and storage containers containing cadmium, cadmium compounds, or cadmium contaminated clothing, equipment, waste, scrap, or debris shall bear appropriate warning labels, as specified in (c)(ii) of this subsection.

(ii) The warning labels shall include at least the following information:

Danger, Contains Cadmium, Cancer Hazard, Avoid Creating
Dust, Can Cause Lung and Kidney Disease

(iii) Where feasible, installed cadmium products shall have a visible label or other indication that cadmium is present.

(d) Employee information and training.

(i) The employer shall institute a training program for all employees who are potentially exposed to cadmium, assure employee participation in the program, and maintain a record of the contents of such program.

(ii) Training shall be provided prior to or at the time of initial assignment to a job involving potential exposure to cadmium and at least annually thereafter.

(iii) The employer shall make the training program understandable to the employee and shall assure that each employee is informed of the following:

(A) The health hazards associated with cadmium exposure, with special attention to the information incorporated in WAC 296-62-07441, Appendix A;

(B) The quantity, location, manner of use, release, and storage of cadmium in the workplace and the specific nature of operations that could result in exposure to cadmium, especially exposures above the PEL;

(C) The engineering controls and work practices associated with the employee's job assignment;

(D) The measures employees can take to protect themselves from exposure to cadmium, including modification of such habits as smoking and personal hygiene, and specific procedures the employer has implemented to protect employees from exposure to cadmium such as appropriate work practices, emergency procedures, and the provision of personal protective equipment;

(E) The purpose, proper selection, fitting, proper use, and limitations of respirators and protective clothing;

(F) The purpose and a description of the medical surveillance program required by subsection (12) of this section;

(G) The contents of this section and its appendices; and

(H) The employee's rights of access to records under chapter 296-62 WAC, Part B.

(iv) Additional access to information and training program and materials.

(A) The employer shall make a copy of this section and its appendices readily available to all affected employees and shall provide a copy without cost if requested.

(B) Upon request, the employer shall provide to the director or authorized representative, all materials relating to the employee information and the training program.

(e) Multi-employer workplace. In a multi-employer workplace, an employer who produces, uses, or stores cadmium in a manner that may expose employees of other employers to cadmium shall notify those employers of the potential hazard in accordance with WAC 296-62-05409 of the hazard communication standard.

(14) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and keep an accurate record of all air monitoring for cadmium in the workplace.

(ii) This record shall include at least the following information:

(A) The monitoring date, shift, duration, air volume, and results in terms of an 8-hour TWA of each sample taken, and if cadmium is not detected, the detection level;

(B) The name, Social Security number, and job classification of all employees monitored and of all other employees whose exposures the monitoring result is intended to represent, including, where applicable, a description of how it was determined that the employee's monitoring result could be taken to represent other employee's exposures;

(C) A description of the sampling and analytical methods used and evidence of their accuracy;

(D) The type of respiratory protective device, if any, worn by the monitored employee and by any other employee whose exposure the monitoring result is intended to represent;

(E) A notation of any other conditions that might have affected the monitoring results;

(F) Any exposure monitoring or objective data that were used and the levels.

(iii) The employer shall maintain this record for at least thirty (30) years, in accordance with WAC 296-62-05207.

(iv) The employer shall also provide a copy of the results of an employee's air monitoring prescribed in subsection (4) of this section to an industry trade association and to the employee's union, if any, or, if either of such associations or unions do not exist, to another comparable organization that is competent to maintain such records and is reasonably accessible to employers and employees in the industry.

(b) Objective data for exemption from requirement for initial monitoring.

(i) For purposes of this section, objective data are information demonstrating that a particular product or material containing cadmium or a specific process, operation, or activity involving cadmium cannot release dust or fumes in concentrations at or above the action level even under the worst-case release conditions. Objective data can be obtained from an industry-wide study or from laboratory product test results from manufacturers of cadmium-containing products or materials. The data the employer uses from an industry-wide survey must be obtained under workplace conditions closely resembling the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

(ii) The employer shall maintain the record for at least 30 years of the objective data relied upon.

(c) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee covered by medical surveillance under (a)(i) of this subsection.

(ii) The record shall include at least the following information about the employee:

(A) Name, Social Security number, and description of duties;

(B) A copy of the physician's written opinions and of the explanation sheets for biological monitoring results;

(C) A copy of the medical history, and the results of any physical examination and all test results that are required to be provided by this section, including biological tests, x-rays, pulmonary function tests, etc., or that have been obtained to further evaluate any condition that might be related to cadmium exposure;

(D) The employee's medical symptoms that might be related to exposure to cadmium; and

(E) A copy of the information provided to the physician as required by subsection (12)(i) of this section.

(iii) The employer shall assure that this record is maintained for the duration of employment plus thirty (30) years, in accordance with WAC 296-62-05207.

(iv) At the employee's request, the employer shall promptly provide a copy of the employee's medical record, or update as appropriate, to a medical doctor or a union specified by the employee.

(d) Training. The employer shall certify that employees have been trained by preparing a certification record which includes the identity of the person trained, the signature of the employer or the person who conducted the training, and the date the training was completed. The certification records

shall be prepared at the completion of training and shall be maintained on file for one (1) year beyond the date of training of that employee.

(e) Availability.

(i) Except as otherwise provided for in this section, access to all records required to be maintained by (a) through (d) of this subsection shall be in accordance with the provisions of WAC 296-62-052.

(ii) Within 15 days after a request, the employer shall make an employee's medical records required to be kept by (c) of this subsection available for examination and copying to the subject employee, to designated representatives, to anyone having the specific written consent of the subject employee, and after the employee's death or incapacitation, to the employee's family members.

(f) Transfer of records. Whenever an employer ceases to do business and there is no successor employer or designated organization to receive and retain records for the prescribed period, the employer shall comply with the requirements concerning transfer of records set forth in WAC 296-62-05215.

(15) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to cadmium.

(b) Observation procedures. When observation of monitoring requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with that clothing and equipment and shall assure that the observer uses such clothing and equipment and complies with all other applicable safety and health procedures.

(16) (Dates.

(a) Effective date. This section shall become effective on June 14, 1993.

(b) Start-up dates. All obligations of this section commence on the effective date except as follows:

(i) Exposure monitoring. Except for small businesses (fifty or fewer employees), initial monitoring required by subsection (4)(b) of this section shall be completed as soon as possible and in any event no later than 60 days after the effective date of this section. For small businesses, initial monitoring required by subsection (4)(b) of this section shall be completed as soon as possible and in any event no later than 120 days after the effective date of this section.

(ii) The permissible exposure limit (PEL). Except for small businesses, as defined under (b)(i) of this subsection, the employer shall comply with the PEL established by subsection (3) of this section as soon as possible and in any event no later than 90 days after the effective date of this section. For small businesses, the employer shall comply with the PEL established by subsection (3) of this section as soon as possible and in any event no later than 150 days after the effective date of this section.

(iii) Regulated areas. Except for small businesses, as defined under (b)(i) of this subsection, regulated areas required to be established by subsection (5) of this section shall be set up as soon as possible after the results of exposure monitoring are known and in any event no later than 90 days after the effective date of this section. For small businesses,

regulated areas required to be established by subsection (5) of this section shall be set up as soon as possible after the results of exposure monitoring are known and in any event no later than 150 days after the effective date of this section.

(iv) Respiratory protection. Except for small businesses, as defined under (b)(i) of this subsection, respiratory protection required by subsection (7) of this section shall be provided as soon as possible and in any event no later than 90 days after the effective date of this section. For small businesses, respiratory protection required by subsection (7) of this section shall be provided as soon as possible and in any event no later than 150 days after the effective date of this section.

(v) Compliance program. Except for small businesses, as defined under (b)(i) of this subsection, written compliance programs required by subsection (6)(b) of this section shall be completed and available as soon as possible and in any event no later than 90 days after the effective date of this section. For small businesses, written compliance programs required by subsection (6)(b) of this section shall be completed and available as soon as possible and in any event no later than 180 days after the effective date of this section.

(vi) Methods of compliance. Except for small businesses, as defined under (b)(i) of this subsection, the engineering controls required by subsection (6)(a) of this section shall be implemented as soon as possible and in any event no later than 120 days after the effective date of this section. For small businesses, the engineering controls required by subsection (6)(a) of this section shall be implemented as soon as possible and in any event no later than 240 days after the effective date of this section. Work practice controls shall be implemented as soon as possible. Work practice controls that are directly related to engineering controls to be implemented shall be implemented as soon as possible after such engineering controls are implemented.

(vii) Hygiene and lunchroom facilities. Except for small businesses, as defined under (b)(i) of this subsection, handwashing facilities, showers, change rooms and eating facilities required by subsection (10) of this section, whether permanent or temporary, shall be provided as soon as possible and in any event no later than 60 days after the effective date of this section. For small businesses, handwashing facilities, showers, change rooms and eating facilities required by subsection (10) of this section, whether permanent or temporary, shall be provided as soon as possible and in any event no later than 120 days after the effective date of this section.

(viii) Employee information and training. Except for small businesses, as defined under (b)(i) of this subsection, employee information and training required by subsection (13)(d) of this section shall be provided as soon as possible and in any event no later than 90 days after the effective date of this section. For small businesses, employee information and training required by subsection (13)(d) of this section shall be provided as soon as possible and in any event no later than 180 days after the effective date of this section.

(ix) Medical surveillance. Except for small businesses, as defined under (b)(i) of this subsection, initial medical examinations required by subsection (12) of this section shall be provided as soon as possible and in any event no later than 90 days after the effective date of this section. For small busi-

nesses, initial medical examinations required by subsection (12) of this section shall be provided as soon as possible and in any event no later than 180 days after the effective date of this section.

(17)) Appendices.

(a) ~~((WAC 296-62-07445, Appendix C, is a part of this standard, and compliance with its contents is mandatory.)) Compliance with the fit testing requirements in WAC 296-62-07201 through 296-62-07248, Appendices A-1, A-2 and A-3 of chapter 296-62 WAC, Part E, are mandatory.~~

(b) Except where portions of WAC 296-62-07441, 296-62-07443, 296-62-07447, 296-62-07449, and 296-62-07451, Appendices A, B, D, E, and F, respectively, to this section are expressly incorporated in requirements of this section, these appendices are purely informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

AMENDATORY SECTION (Amending Order 93-07, filed 10/29/93, effective 12/10/93)

WAC 296-155-17613 Respiratory protection. (1)

~~General. ((Where the)) For employees who use ((ef)) respirators ((is)) required by WAC 296-155-176, the employer ((shall provide, at no cost to the employee, and assure the use of respirators which comply with the requirements of this section. Respirators shall be used in the following circumstances)) must provide respirators that comply with the requirements of this section. Respirators must be used during:~~

~~(a) ((Whenever)) Periods when an employee's exposure to lead exceeds the PEL((;)).~~

~~(b) ((In work situations in)) Work operations for which engineering controls and work-practices are not sufficient to reduce employee exposures to or below the PEL((;)).~~

~~(c) ((Whenever)) Periods when an employee requests a respirator((; and)).~~

~~(d) ((Protection for employees performing tasks)) Periods when respirators are required to provide interim protection of employees while they perform the operations as specified in WAC 296-155-17609(2).~~

(2) Respirator ((selection)) program.

~~(a) ((Where respirators are used by WAC 296-155-176 the employer shall select the appropriate respirator or combination of respirators from Table I below.)) The employer must implement a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through WAC 296-62-07156).~~

~~(b) ((The employer shall provide a powered, air purifying respirator in lieu of the respirator specified in Table I whenever:~~

~~(i) An employee chooses to use this type of respirator; and~~

~~(ii) This respirator will provide adequate protection to the employee.~~

~~(c) The employer shall select respirators from among those approved for protection against lead dust, fume, and mist by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.)) If an~~

employee has breathing difficulty during fit testing or respirator use, the employer must provide the employee with a medical examination as required by WAC 296-155-17621 (3)(a)(ii) to determine whether or not the employee can use a respirator while performing the required duty.

(3) Respirator selection.

(a) The employer must select the appropriate respirator or combination of respirators from Table I of this section.

(b) The employer must provide a powered air-purifying respirator when an employee chooses to use such a respirator and it will provide adequate protection to the employee.

Table I.— Respiratory Protection for Lead Aerosols

Airborne concentration of lead or condition of use	Required respirator ^a
Not in excess of 500 µg/m ³	1/2 mask air purifying respirator with high efficiency filters. ^{b, c} 1/2 mask supplied air respirator operated in demand (negative pressure) mode.
Not in excess of 1,250 µg/m ³	Loose fitting hood or helmet powered air purifying respirator with high efficiency filters. ^c Hood or helmet supplied air respirator operated in a continuous-flow mode— e.g., type CE abrasive blasting respirators operated in a continuous-flow mode.
Not in excess of 2,500 µg/m ³	Full facepiece air purifying respirator with high efficiency filters. ^c Tight fitting powered air purifying respirator with high efficiency filters. ^c Full facepiece supplied air respirator operated in demand mode. 1/2 mask or full facepiece supplied air respirator operated in a continuous-flow mode. Full facepiece self-contained breathing apparatus (SCBA) operated in demand mode.
Not in excess of 50,000 µg/m ³	1/2 mask supplied air respirator operated in pressure demand or other positive-pressure mode.
Not in excess of 100,000 µg/m	Full facepiece supplied air respirator operated in pressure demand or other positive-pressure mode—e.g., type CE abrasive blasting respirators operated in a positive-pressure mode.
Greater than 100,000 µg/m ³ unknown concentration, or fire fighting	Full facepiece SCBA operated in pressure demand or other positive pressure mode.

^a Respirators specified for higher concentrations can be used at lower concentrations of lead.

^b Full facepiece is required if the lead aerosols cause eye or skin irritation at the use concentrations.

^c A high efficiency particulate filter (HEPA) means a filter that is 99.97 percent efficient against particles of 0.3 micron size or larger.

~~(((3) Respirator usage.~~

~~(a) The employer shall assure that the respirator issued to the employee exhibits minimum facepiece leakage and that the respirator is fitted properly.~~

PERMANENT

~~(b) Employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter for each employee wearing negative pressure respirators. The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn, and shall be conducted in accordance with appendix D, WAC 296-155-17656. The tests shall be used to select facepieces that provide the required protection as prescribed in Table I.~~

~~(c) If an employee exhibits difficulty in breathing during the fitting test or during use, the employer shall make available to the employee an examination in accordance with WAC 296-155-17621 (3)(a)(ii) to determine whether the employee can wear a respirator while performing the required duty.~~

~~(4) Respirator program.~~

~~(a) The employer shall institute a respiratory protection program in accordance with part E, chapter 296-62 WAC.~~

~~(b) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.~~

~~(c) Employees who wear respirators shall be permitted to leave work areas to wash their face and respirator facepiece whenever necessary to prevent skin irritation associated with respirator use.)~~

AMENDATORY SECTION (Amending Order 93-07, filed 10/29/93, effective 12/10/93)

WAC 296-155-17625 Employee information and training. (1) General.

(a) The employer shall communicate information concerning lead hazards according to the requirements of WISHA's Hazard Communication Standard for the construction industry, part C of chapter 296-62 WAC, including but not limited to the requirements concerning warning signs and labels, material safety data sheets (MSDS), and employee information and training. In addition, employers shall comply with the following requirements:

(b) For all employees who are subject to exposure to lead at or above the action level on any day or who are subject to exposure to lead compounds which may cause skin or eye irritation (e.g., lead arsenate, lead azide), the employer shall provide a training program in accordance with subsection (2) of this section and assure employee participation.

(c) The employer shall provide the training program as initial training prior to the time of job assignment or prior to the start up date for this requirement, whichever comes last.

(d) The employer shall also provide the training program at least annually for each employee who is subject to lead exposure at or above the action level on any day.

(2) Training program. The employer shall assure that each employee is trained in the following:

(a) The content of this standard and its appendices;

(b) The specific nature of the operations which could result in exposure to lead above the action level;

(c) The ~~((purpose, proper selection, fitting, use, and limitations of respirators))~~ training requirements for respiratory protection as required by chapter 296-62 WAC, Part E (see

WAC 296-62-07117, 296-62-07172, and WAC 296-62-07186 through 296-62-07190);

(d) The purpose and a description of the medical surveillance program, and the medical removal protection program including information concerning the adverse health effects associated with excessive exposure to lead (with particular attention to the adverse reproductive effects on both males and females and hazards to the fetus and additional precautions for employees who are pregnant);

(e) The engineering controls and work practices associated with the employee's job assignment including training of employees to follow relevant good work practices described in Appendix B, WAC 296-155-17652;

(f) The contents of any compliance plan in effect;

(g) Instructions to employees that chelating agents should not routinely be used to remove lead from their bodies and should not be used at all except under the direction of a licensed physician; and

(h) The employee's right of access to records under Part B, chapter 296-62 WAC.

(3) Access to information and training materials.

(a) The employer shall make readily available to all affected employees a copy of this standard and its appendices.

(b) The employer shall provide, upon request, all materials relating to the employee information and training program to affected employees and their designated representatives, and the director.

AMENDATORY SECTION (Amending Order 93-07, filed 10/29/93, effective 12/10/93)

WAC 296-155-17652 Appendix B to WAC 296-155-176—Employee standard summary. This appendix summarizes key provisions of the standard for lead in construction that you as a worker should become familiar with.

(1) Permissible exposure limit (PEL)—WAC 296-62-17607.

The standard sets a permissible exposure limit (PEL) of 50 micrograms of lead per cubic meter of air (50 $\mu\text{g}/\text{m}^3$), averaged over an 8-hour workday which is referred to as a time-weighted average (TWA). This is the highest level of lead in air to which you may be permissibly exposed over an 8-hour workday. However, since this is an 8-hour average, short exposures above the PEL are permitted so long as for each 8-hour work day your average exposure does not exceed this level. This standard, however, takes into account the fact that your daily exposure to lead can extend beyond a typical 8-hour workday as the result of overtime or other alterations in your work schedule. To deal with this situation, the standard contains a formula which reduces your permissible exposure when you are exposed more than 8 hours. For example, if you are exposed to lead for 10 hours a day, the maximum permitted average exposure would be 40 $\mu\text{g}/\text{m}^3$.

(2) Exposure assessment—WAC 296-155-17609.

If lead is present in your workplace in any quantity, your employer is required to make an initial determination of whether any employee's exposure to lead exceeds the action level (30 $\mu\text{g}/\text{m}^3$ averaged over an 8-hour day). Employee

exposure is that exposure which would occur if the employee were not using a respirator. This initial determination requires your employer to monitor workers' exposures unless the employee has objective data which can demonstrate conclusively that no employee will be exposed to lead in excess of the action level. Where objective data is used in lieu of actual monitoring the employer must establish and maintain an accurate record, documenting its relevancy in assessing exposure levels for current job conditions. If such objective data is available, the employer need proceed no further on employee exposure assessment until such time that conditions have changed and the determination is no longer valid.

Objective data may be compiled from various sources, e.g., insurance companies and trade associations and information from suppliers or exposure data collected from similar operations. Objective data may also comprise previously-collected sampling data including area monitoring. If it cannot be determined through using objective data that worker exposure is less than the action level, your employer must conduct monitoring or must rely on relevant previous personal sampling, if available. Where monitoring is required for the initial determination, it may be limited to a representative number of employees who are reasonably expected to have the highest exposure levels. If your employer has conducted appropriate air sampling for lead in the past 12 months, they may use these results, provided they are applicable to the same employee tasks and exposure conditions and meet the requirements for accuracy as specified in the standard. As with objective data, if such results are relied upon for the initial determination, your employer must establish and maintain a record as to the relevancy of such data to current job conditions.

If there have been any employee complaints of symptoms which may be attributable to exposure to lead or if there is any other information or observations which would indicate employee exposure to lead, this must also be considered as part of the initial determination. If this initial determination shows that a reasonable possibility exists that any employee may be exposed, without regard to respirator, over the action level, your employer must set up an air monitoring program to determine the exposure level representative of each employee exposed to lead at your workplace. In carrying out this air monitoring program, your employer is not required to monitor the exposure of every employee, but they must monitor a representative number of employees and job types. Enough sampling must be done to enable each employee's exposure level to be reasonably represent full shift exposure. In addition, these air samples must be taken under conditions which represent each employee's regular, daily exposure to lead. Sampling performed in the past 12 months may be used to determine exposures above the action level if such sampling was conducted during work activities essentially similar to present work conditions.

The standard lists certain tasks which may likely result in exposures to lead in excess of the PEL and, in some cases, exposures in excess of 50 times the PEL. If you are performing any of these tasks, your employer must provide you with appropriate respiratory protection, protective clothing and equipment, change areas, hand washing facilities, biological monitoring, and training until such time that an exposure

assessment is conducted which demonstrates that your exposure level is below the PEL.

If you are exposed to lead and air sampling is performed, your employer is required to notify you in writing within 5 working days of the air monitoring results which represent your exposure. If the results indicate that your exposure exceeds the PEL (without regard to your use of a respirator), then your employer must also notify you of this in writing, and provide you with a description of the corrective action that has been taken or will be taken to reduce your exposure.

Your exposure must be rechecked by monitoring, at least every six months if your exposure is at or over the action level but below the PEL. Your employer may discontinue monitoring for you if 2 consecutive measurements, taken at least 7 days apart, are at or below the action level. Air monitoring must be repeated every 3 months if you are exposed over the PEL. Your employer must continue monitoring for you at this frequency until 2 consecutive measurements, taken at least 7 days apart, are below the PEL but above the action level, at which time your employer must repeat monitoring of your exposure every six months and may discontinue monitoring only after your exposure drops to or below the action level. However, whenever there is a change of equipment, process, control, or personnel or a new type of job is added at your workplace which may result in new or additional exposure to lead, your employer must perform additional monitoring.

(3) Methods of compliance—WAC 296-155-17611.

Your employer is required to assure that no employee is exposed to lead in excess of the PEL as an 8-hour TWA. The standard for lead in construction requires employers to institute engineering and work practice controls including administrative controls to the extent feasible to reduce employee exposure to lead. Where such controls are feasible but not adequate to reduce exposures below the PEL they must be used nonetheless to reduce exposures to the lowest level that can be accomplished by these means and then supplemented with appropriate respiratory protection.

Your employer is required to develop and implement a written compliance program prior to the commencement of any job where employee exposures may reach the PEL as an 8-hour TWA. The standard identifies the various elements that must be included in the plan. For example, employers are required to include a description of operations in which lead is emitted, detailing other relevant information about the operation such as the type of equipment used, the type of material involved, employee job responsibilities, operating procedures and maintenance practices. In addition, your employer's compliance plan must specify the means that will be used to achieve compliance and, where engineering controls are required, include any engineering plans or studies that have been used to select the control methods. If administrative controls involving job rotation are used to reduce employee exposure to lead, the job rotation schedule must be included in the compliance plan. The plan must also detail the type of protective clothing and equipment, including respirator, housekeeping and hygiene practices that will be used to protect you from the adverse effects of exposure to lead.

The written compliance program must be made available, upon request, to affected employees and their designated representatives, and the director.

Finally, the plan must be reviewed and updated at least every 6 months to assure it reflects the current status in exposure control.

(4) Respiratory protection—WAC 296-155-17613.

~~(Your employer is required to provide and assure your use of respirator when your exposure to lead is not controlled below the PEL by other means. The employer must pay the cost of the respirator. Whenever you request one, your employer is also required to provide you a respirator even if your air exposure level is not above the PEL. You might desire a respirator when, for example, you have received medical advice that your lead absorption should be decreased. Or, you may intend to have children in the near future, and want to reduce the level of lead in your body to minimize adverse reproductive effects. While respirator are the least satisfactory means of controlling your exposure, they are capable of providing significant protection if properly chosen, fitted, worn, cleaned, maintained, and replaced when they stop providing adequate protection.)~~

Your employer is required to select respirator from the types listed in Table I of the Respiratory Protection section of the standard (see WAC 296-155-17613). Any respirator chosen must be ~~((approved by the Mine Safety and Health Administration (MSHA) or))~~ certified by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 42 CFR part 84. This respirator selection table will enable your employer to choose a type of respirator ~~((which))~~ that will give you a proper amount of protection based on your airborne lead exposure. Your employer may select a type of respirator that provides greater protection than that required by the standard; that is, one recommended for a higher concentration of lead than is present in your workplace. For example, a powered air-purifying respirator (PAPR) is much more protective than a typical negative pressure respirator, and may also be more comfortable to wear. A PAPR has a filter, cartridge, or canister to clean the air, and a power source which continuously blows filtered air into your breathing zone. Your employer might make a PAPR available to you to ease the burden of having to wear a respirator for long periods of time. The standard provides that you can obtain a PAPR upon request.

Your employer must also start a Respiratory Protection Program. This program must include written procedures for the proper selection, use, cleaning, storage, and maintenance of respirator.

Your employer must ~~((assure))~~ ensure that your respirator facepiece fits properly. Proper fit of a respirator facepiece is critical to your protection from airborne lead. Obtaining a proper fit on each employee may require your employer to make available ~~((two or three))~~ several different ~~((mask))~~ types of respirator masks. ~~((In order to assure))~~ To ensure that your respirator fits properly and that facepiece leakage is ~~((minimized))~~ minimal, your employer must give you either a qualitative ~~((fit test))~~ or ~~((a))~~ quantitative fit test ~~((if you use a negative pressure respirator))~~ in accordance with appendix D. Any respirator which has a filter, cartridge or canister which cleans the work room air before you breathe it and

~~which requires the force of your inhalation to draw air through the filtering element is a negative pressure respirator. A positive pressure respirator supplies air to you directly. A quantitative fit test uses a sophisticated machine to measure the amount, if any, of test material that leaks into the facepiece of your respirator.~~

~~You must also receive from your employer proper training in the use of respirator. Your employer is required to teach you how to wear a respirator, to know why it is needed, and to understand its limitations.~~

~~Your employer must test the effectiveness of your negative pressure respirator initially and at least every six months thereafter with a "qualitative fit test." In this test, the fit of the facepiece is checked by seeing if you can smell a substance placed outside the respirator. If you can, there is appreciable leakage where the facepiece meets your face.~~

~~The standard provides that if your respirator uses filter elements, you must be given an opportunity to change the filter elements whenever an increase in breathing resistance is detected. You also must be permitted to periodically leave your work area to wash your face and respirator facepiece whenever necessary to prevent skin irritation. If you ever have difficulty in breathing during a fit test or while using a respirator, your employer must make a medical examination available to you to determine whether you can safely wear a respirator. The result of this examination may be to give you a positive pressure respirator (which reduces breathing resistance) or to provide alternative means of protection)) as specified in WAC 296-62-07201 through 296-62-07248, Appendices A-1, A-2 and A-3 of chapter 296-62 WAC, Part E.~~

(5) Protective work clothing and equipment—WAC 296-155-17615.

If you are exposed to lead above the PEL as an 8-hour TWA, without regard to your use of a respirator, or if you are exposed to lead compounds such as lead arsenate or lead azide which can cause skin and eye irritation, your employer must provide you with protective work clothing and equipment appropriate for the hazard. If work clothing is provided, it must be provided in a clean and dry condition at least weekly, and daily if your airborne exposure to lead is greater than 200 µg/m³. Appropriate protective work clothing and equipment can include coveralls or similar full-body work clothing, gloves, hats, shoes or disposable shoe coverlets, and face shields or vented goggles. Your employer is required to provide all such equipment at no cost to you. In addition, your employer is responsible for providing repairs and replacement as necessary, and also is responsible for the cleaning, laundering or disposal of protective clothing and equipment.

The standard requires that your employer assure that you follow good work practices when you are working in areas where your exposure to lead may exceed the PEL. With respect to protective clothing and equipment, where appropriate, the following procedures should be observed prior to beginning work:

- ◆ Change into work clothing and shoe covers in the clean section of the designated changing areas;
- ◆ Use work garments of appropriate protective gear, including respirator before entering the work area; and

- ◆ Store any clothing not worn under protective clothing in the designated changing area.

Workers should follow these procedures upon leaving the work area:

- ◆ HEPA vacuum heavily contaminated protective work clothing while it is still being worn. At no time may lead be removed from protective clothing by any means which result in uncontrolled dispersal of lead into the air;
- ◆ Remove shoe covers and leave them in the work area;
- ◆ Remove protective clothing and gear in the dirty area of the designated changing area. Remove protective coveralls by carefully rolling down the garment to reduce exposure to dust.
- ◆ Remove respirator last; and
- ◆ Wash hands and face.

Workers should follow these procedures upon finishing work for the day (in addition to procedures described above):

- ◆ Where applicable, place disposal coveralls and shoe covers with the abatement waste;
- ◆ Contaminated clothing which is to be cleaned, laundered or disposed of must be placed in closed containers in the change room.
- ◆ Clean protective gear, including respirator, according to standard procedures;
- ◆ Wash hands and face again.

If showers are available, take a shower and wash hair. If shower facilities are not available at the work site, shower immediately at home and wash hair.

(6) Housekeeping—WAC 296-155-17617.

Your employer must establish a housekeeping program sufficient to maintain all surfaces as free as practicable of accumulations of lead dust. Vacuuming is the preferred method of meeting this requirement, and the use of compressed air to clean floors and other surfaces is generally prohibited unless removal with compressed air is done in conjunction with ventilation systems designed to contain dispersal of the lead dust. Dry or wet sweeping, shoveling, or brushing may not be used except where vacuuming or other equally effective methods have been tried and do not work. Vacuums must be used equipped with a special filter called a high-efficiency particulate air (HEPA) filter and emptied in a manner which minimizes the reentry of lead into the workplace.

(7) Hygiene facilities and practices—WAC 296-155-17619.

The standard requires that hand washing facilities be provided where occupational exposure to lead occurs. In addition, change areas, showers (where feasible), and lunchrooms or eating areas are to be made available to workers exposed to lead above the PEL. Your employer must assure that except in these facilities, food and beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, where airborne exposures are above the PEL. Change rooms provided by your employer must be equipped with separate storage facilities for your protective clothing and equipment and street clothes to avoid cross-contamination. After showering, no required protective clothing or equipment worn during the shift may

be worn home. It is important that contaminated clothing or equipment be removed in change areas and not be worn home or you will extend your exposure and expose your family since lead from your clothing can accumulate in your house, car, etc.

Lunchrooms or eating areas may not be entered with protective clothing or equipment unless surface dust has been removed by vacuuming, downdraft booth, or other cleaning method. Finally, workers exposed above the PEL must wash both their hands and faces prior to eating, drinking, smoking or applying cosmetics.

All of the facilities and hygiene practices just discussed are essential to minimize additional sources of lead absorption from inhalation or ingestion of lead that may accumulate on you, your clothes, or your possessions. Strict compliance with these provisions can virtually eliminate several sources of lead exposure which significantly contribute to excessive lead absorption.

(8) Medical surveillance—WAC 296-155-17621.

The medical surveillance program is part of the standard's comprehensive approach to the prevention of lead-related disease. Its purpose is to supplement the main thrust of the standard which is aimed at minimizing airborne concentrations of lead and sources of ingestion. Only medical surveillance can determine if the other provisions of the standard have affectively protected you as an individual. Compliance with the standard's provision will protect most workers from the adverse effects of lead exposure, but may not be satisfactory to protect individual workers:

- ◆ Who have high body burdens of lead acquired over past years,
- ◆ Who have additional uncontrolled sources of ((~~non-occupational~~)) nonoccupational lead exposure,
- ◆ Who exhibit unusual variations in lead absorption rates, or
- ◆ Who have specific ((~~non-work~~)) nonwork related medical conditions which could be aggravated by lead exposure (e.g., renal disease, anemia).

In addition, control systems may fail, or hygiene and respirator programs may be inadequate. Periodic medical surveillance of individual workers will help detect those failures. Medical surveillance will also be important to protect your reproductive ability—regardless of whether you are a man or woman.

All medical surveillance required by the standard must be performed by or under the supervision of a licensed physician. The employer must provide required medical surveillance without cost to employees and at a reasonable time and place. The standard's medical surveillance program has two parts—periodic biological monitoring and medical examinations. Your employer's obligation to offer you medical surveillance is triggered by the results of the air monitoring program. Full medical surveillance must be made available to all employees who are or may be exposed to lead in excess of the action level for more than 30 days a year and whose blood lead level exceeds 40 µg/dl. Initial medical surveillance consisting of blood sampling and analysis for lead and zinc protoporphyrin must be provided to all employees exposed at any time (1 day) above the action level.

Biological monitoring under the standard must be provided at least every 2 months for the first 6 months and every 6 months thereafter until your blood lead level is below 40 µg/dl. A zinc protoporphyrin (ZPP) test is a very useful blood test which measures an adverse metabolic effect of lead on your body and is therefore an indicator of lead toxicity.

If your BLL exceeds 40 µg/dl the monitoring frequency must be increased from every 6 months to at least every 2 months and not reduced until two consecutive BLLs indicate a blood lead level below 40 µg/dl. Each time your BLL is determined to be over 40 µg/dl, your employer must notify you of this in writing within five working days of their receipt of the test results. The employer must also inform you that the standard requires temporary medical removal with economic protection when your BLL exceeds 50 µg/dl. (See Discussion of medical removal protection—WAC 296-155-17623.) Anytime your BLL exceeds 50 µg/dl your employer must make available to you within two weeks of receipt of these test results a second follow-up BLL test to confirm your BLL. If the two tests both exceed 50 µg/dl, and you are temporarily removed, then your employer must make successive BLL tests available to you on a monthly basis during the period of your removal.

Medical examinations beyond the initial one must be made available on an annual basis if your blood lead level exceeds 40 µg/dl at any time during the preceding year and you are being exposed above the airborne action level of 30 µg/m³ for 30 or more days per year. The initial examination will provide information to establish a baseline to which subsequent data can be compared.

An initial medical examination to consist of blood sampling and analysis for lead and zinc protoporphyrin must also be made available (prior to assignment) for each employee being assigned for the first time to an area where the airborne concentration of lead equals or exceeds the action level at any time. In addition, a medical examination or consultation must be made available as soon as possible if you notify your employer that you are experiencing signs or symptoms commonly associated with lead poisoning or that you have difficulty breathing while wearing a respirator or during a respirator fit test. You must also be provided a medical examination or consultation if you notify your employer that you desire medical advice concerning the effects of current or past exposure to lead on your ability to procreate a healthy child.

Finally, appropriate follow-up medical examinations or consultations may also be provided for employees who have been temporarily removed from exposure under the medical removal protection provisions of the standard. (See subsection (9), below.)

The standard specifies the minimum content of pre-assignment and annual medical examinations. The content of other types of medical examinations and consultations is left up to the sound discretion of the examining physician. Pre-assignment and annual medical examinations must include:

- ◆ A detailed work history and medical history;
- ◆ A thorough physical examination, including an evaluation of your pulmonary status if you will be required to use a respirator;

- ◆ A blood pressure measurement; and
- ◆ A series of laboratory tests designed to check your blood chemistry and your kidney function.

In addition, at any time upon your request, a laboratory evaluation of male fertility will be made (microscopic examination of a sperm sample), or a pregnancy test will be given.

The standard does not require that you participate in any of the medical procedures, tests, etc. which your employer is required to make available to you. Medical surveillance can, however, play a very important role in protecting your health. You are strongly encouraged, therefore, to participate in a meaningful fashion. The standard contains a multiple physician review mechanism which will give you a chance to have a physician of your choice directly participate in the medical surveillance program. If you are dissatisfied with an examination by a physician chosen by your employer, you can select a second physician to conduct an independent analysis. The two doctors would attempt to resolve any differences of opinion, and select a third physician to resolve any firm dispute. Generally your employer will choose the physician who conducts medical surveillance under the lead standard—unless you and your employer can agree on the choice of a physician or physicians. Some companies and unions have agreed in advance, for example, to use certain independent medical laboratories or panels of physicians. Any of these arrangements are acceptable so long as required medical surveillance is made available to workers.

The standard requires your employer to provide certain information to a physician to aid in their examination of you. This information includes:

- ◆ The standard and its appendices,
- ◆ A description of your duties as they relate to occupational lead exposure,
- ◆ Your exposure level or anticipated exposure level,
- ◆ A description of any personal protective equipment you wear,
- ◆ Prior blood lead level results, and
- ◆ Prior written medical opinions concerning you that the employer has.

After a medical examination or consultation the physician must prepare a written report which must contain:

- ◆ The physician's opinion as to whether you have any medical condition which places you at increased risk of material impairment to health from exposure to lead,
- ◆ Any recommended special protective measures to be provided to you,
- ◆ Any blood lead level determinations, and
- ◆ Any recommended limitation on your use of respirator.

This last element must include a determination of whether you can wear a powered air purifying respirator (PAPR) if you are found unable to wear a negative pressure respirator.

The medical surveillance program of the lead standard may at some point in time serve to notify certain workers that they have acquired a disease or other adverse medical condition as a result of occupational lead exposure. If this is true, these workers might have legal rights to compensation from public agencies, their employers, firms that supply hazardous

products to their employers, or other persons. Some states have laws, including worker compensation laws, that disallow a worker who learns of a job-related health impairment to sue, unless the worker sues within a short period of time after learning of the impairment. (This period of time may be a matter of months or years.) An attorney can be consulted about these possibilities. It should be stressed that WISHA is in no way trying to either encourage or discourage claims or lawsuits. However, since results of the standard's medical surveillance program can significantly affect the legal remedies of a worker who has acquired a job-related disease or impairment, it is proper for WISHA to make you aware of this.

The medical surveillance section of the standard also contains provisions dealing with chelation. Chelation is the use of certain drugs (administered in pill form or injected into the body) to reduce the amount of lead absorbed in body tissues. Experience accumulated by the medical and scientific communities has largely confirmed the effectiveness of this type of therapy for the treatment of very severe lead poisoning. On the other hand, it has also been established that there can be a long list of extremely harmful side effects associated with the use of chelating agents. The medical community has balanced the advantages and disadvantages resulting from the use of chelating agents in various circumstances and has established when the use of these agents is acceptable. The standard includes these accepted limitations due to a history of abuse of chelation therapy by some lead companies. The most widely used chelating agents are calcium disodium EDTA, (Ca Na₂ EDTA), Calcium Disodium Versenate (Versenate), and d-penicillamine (penicillamine or Cupramine).

The standard prohibits "prophylactic chelation" of any employee by any person the employer retains, supervises or controls. "Prophylactic chelation" is the routine use of chelating or similarly acting drugs to prevent elevated blood levels in workers who are occupationally exposed to lead, or the use of these drugs to routinely lower blood lead levels to pre-designated concentrations believed to be "safe". It should be emphasized that where an employer takes a worker who has no symptoms of lead poisoning and has chelation carried out by a physician (either inside or outside of a hospital) solely to reduce the worker's blood lead level, that will generally be considered prophylactic chelation. The use of a hospital and a physician does not mean that prophylactic chelation is not being performed. Routine chelation to prevent increased or reduce current blood lead levels is unacceptable whatever the setting.

The standard allows the use of "therapeutic" or "diagnostic" chelation if administered under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring. Therapeutic chelation responds to severe lead poisoning where there are marked symptoms. Diagnostic chelation involved giving a patient a dose of the drug then collecting all urine excreted for some period of time as an aid to the diagnosis of lead poisoning.

In cases where the examining physician determines that chelation is appropriate, you must be notified in writing of this fact before such treatment. This will inform you of a

potentially harmful treatment, and allow you to obtain a second opinion.

(9) Medical removal protection—WAC 296-155-17623.

Excessive lead absorption subjects you to increased risk of disease. Medical removal protection (MRP) is a means of protecting you when, for whatever reasons, other methods, such as engineering controls, work practices, and respirator, have failed to provide the protection you need. MRP involves the temporary removal of a worker from their regular job to a place of significantly lower exposure without any loss of earnings, seniority, or other employment rights or benefits. The purpose of this program is to cease further lead absorption and allow your body to naturally excrete lead which has previously been absorbed. Temporary medical removal can result from an elevated blood lead level, or a medical opinion. For up to 18 months, or for as long as the job the employee was removed from lasts, protection is provided as a result of either form of removal. The vast majority of removed workers, however, will return to their former jobs long before this eighteen month period expires.

You may also be removed from exposure even if your blood lead level is below 50 µ/dl if a final medical determination indicates that you temporarily need reduced lead exposure for medical reasons. If the physician who is implementing your employers medical program makes a final written opinion recommending your removal or other special protective measures, your employer must implement the physician's recommendation. If you are removed in this manner, you may only be returned when the doctor indicates that it is safe for you to do so.

The standard does not give specific instructions dealing with what an employer must do with a removed worker. Your job assignment upon removal is a matter for you, your employer and your union (if any) to work out consistent with existing procedures for job assignments. Each removal must be accomplished in a manner consistent with existing collective bargaining relationships. Your employer is given broad discretion to implement temporary removals so long as no attempt is made to override existing agreements. Similarly, a removed worker is provided no right to veto an employer's choice which satisfies the standard.

In most cases, employers will likely transfer removed employees to other jobs with sufficiently low lead exposure. Alternatively, a worker's hours may be reduced so that the time weighted average exposure is reduced, or they may be temporarily laid off if no other alternative is feasible.

In all of these situation, MRP benefits must be provided during the period of removal—i.e., you continue to receive the same earnings, seniority, and other rights and benefits you would have had if you had not been removed. Earnings includes more than just your base wage; it includes overtime, shift differentials, incentives, and other compensation you would have earned if you had not been removed. During the period of removal you must also be provided with appropriate follow-up medical surveillance. If you were removed because your blood lead level was too high, you must be provided with a monthly blood test. If a medical opinion caused your removal, you must be provided medical tests or examinations that the doctor believes to be appropriate. If you do

not participate in this follow up medical surveillance, you may lose your eligibility for MRP benefits.

When you are medically eligible to return to your former job, your employer must return you to your "former job status." This means that you are entitled to the position, wages, benefits, etc., you would have had if you had not been removed. If you would still be in your old job if no removal had occurred that is where you go back. If not, you are returned consistent with whatever job assignment discretion your employer would have had if no removal had occurred. MRP only seeks to maintain your rights, not expand them or diminish them.

If you are removed under MRP and you are also eligible for worker compensation or other compensation for lost wages, your employer's MRP benefits obligation is reduced by the amount that you actually receive from these other sources. This is also true if you obtain other employment during the time you are laid off with MRP benefits.

The standard also covers situations where an employer voluntarily removes a worker from exposure to lead due to the effects of lead on the employee's medical condition, even though the standard does not require removal. In these situations MRP benefits must still be provided as though the standard required removal. Finally, it is important to note that in all cases where removal is required, respirator cannot be used as a substitute. Respirator may be used before removal becomes necessary, but not as an alternative to a transfer to a low exposure job, or to a lay-off with MRP benefits.

(10) Employee information and training—WAC 296-155-17625.

Your employer is required to provide an information and training program for all employees exposed to lead above the action level or who may suffer skin or eye irritation from lead compounds such as lead arsenate or lead azide. The program must train these employees regarding the specific hazards associated with their work environment, protective measures which can be taken, including the contents of any compliance plan in effect, the danger of lead to their bodies (including their reproductive systems), and their rights under the standard. All employees must be trained prior to initial assignment to areas where there is a possibility of exposure over the action level.

This training program must also be provided at least annually thereafter unless further exposure above the action level will not occur.

(11) Signs—WAC 296-155-17627.

The standard requires that the following warning sign be posted in work areas where the exposure to lead exceeds the PEL:

WARNING
LEAD WORK AREA
POISON
NO SMOKING OR EATING

These signs are to be posted and maintained in a manner which assures that the legend is readily visible.

(12) Recordkeeping—WAC 296-155-17629.

Your employer is required to keep all records of exposure monitoring for airborne lead. These records must include

the name and job classification of employees measured, details of the sampling and analytical techniques, the results of this sampling, and the type of respiratory protection being worn by the person sampled. Such records are to be retained for at least 30 years. Your employer is also required to keep all records of biological monitoring and medical examination results. These records must include the names of the employees, the physician's written opinion, and a copy of the results of the examination. Medical records must be preserved and maintained for the duration of employment plus 30 years. However, if the employee's duration of employment is less than one year, the employer need not retain that employee's medical records beyond the period of employment if they are provided to the employee upon termination of employment.

Recordkeeping is also required if you are temporarily removed from your job under the medical removal protection program. This record must include your name and Social Security number, the date of your removal and return, how the removal was or is being accomplished, and whether or not the reason for the removal was an elevated blood lead level. Your employer is required to keep each medical removal record only for as long as the duration of an employee's employment.

The standard requires that if you request to see or copy environmental monitoring, blood lead level monitoring, or medical removal records, they must be made available to you or to a representative that you authorize. Your union also has access to these records. Medical records other than BLL's must also be provided upon request to you, to your physician or to any other person whom you may specifically designate. Your union does not have access to your personal medical records unless you authorize their access.

(13) Observation of monitoring—WAC 296-155-17631.

When air monitoring for lead is performed at your workplace as required by this standard, your employer must allow you or someone you designate to act as an observer of the monitoring. Observers are entitled to an explanation of the measurement procedure, and to record the results obtained. Since results will not normally be available at the time of the monitoring, observers are entitled to record or receive the results of the monitoring when returned by the laboratory. Your employer is required to provide the observer with any personal protective devices required to be worn by employees working in the area that is being monitored. The employer must require the observer to wear all such equipment and to comply with all other applicable safety and health procedures.

(14) Startup date—WAC 296-155-17635.

Employer obligations under the standard begin as of that date with full implementation of engineering controls as soon as possible but no later than within 4 months, and all other provisions completed as soon as possible, but no later than within 2 months from the effective date.

(15) For additional information.

(a) A copy of the standard for lead in construction can be obtained free of charge by calling or writing to the department of labor and industries, Post Office Box 44620, Mailstop 44620, Olympia, Washington 98504-4620: Telephone (360) 956-5527.

(b) Additional information about the standard, its enforcement, and your employer's compliance can be obtained from the nearest office listed in your telephone directory under the state of Washington, department of labor and industries.

AMENDATORY SECTION (Amending Order 83-19, filed 7/13/83, effective 9/12/83)

WAC 296-155-220 Respiratory protection. (~~General. In emergencies, or when controls required by Part B of this chapter either fail or are inadequate to prevent harmful exposure to employees, appropriate respiratory protective devices shall be provided by the employer and shall be used in accordance with WAC 296-62-071.~~) The respiratory protection requirements applicable to construction work under this section are identical to those set forth in chapter 296-62 WAC, Part E.

AMENDATORY SECTION (Amending Order 90-10, filed 8/13/90, effective 9/24/90)

WAC 296-155-367 Masonry saws. (1) Guarding.

(a) Masonry saws shall be guarded by semicircular enclosures over the blade.

(b) A method for retaining blade fragments shall be incorporated into the design of the semicircular enclosure.

(2) Safety latch. A safety latch shall be installed on notched saws to prevent the motor and cutting head assembly from lifting out of the notches.

(3) Blade speed. Blade speed shall be maintained in accordance with the manufacturer's specifications.

(4) Exhaust and eye protection.

(a) All table mounted masonry saws shall be equipped with a mechanical means of exhausting dust into a covered receptacle or be provided with water on the saw blade for dust control. The operator and any nearby worker shall wear appropriate eye protection in accordance with WAC 296-155-215.

(b) All portable hand-held masonry saw operators shall wear appropriate eye and respiratory protection in accordance with WAC 296-155-215 and chapter 296-62 WAC, Part E.

(5) Grounding. The motor frames of all stationary saws shall be grounded through conduit, water pipe, or a driven ground. Portable saws shall be grounded through three-pole cords attached to grounded electrical systems.

(6) Inspection. Masonry saws shall be inspected at regular intervals and maintained in safe operating condition.

AMENDATORY SECTION (Amending WSR 96-24-051, filed 11/27/96, effective 2/1/97)

WAC 296-155-655 General protection requirements.

(1) Surface encumbrances. All surface encumbrances that are located so as to create a hazard to employees shall be removed or supported, as necessary, to safeguard employees.

(2) Underground installations.

(a) The location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other under-

ground installations that reasonably may be expected to be encountered during excavation work, shall be located prior to opening an excavation.

(b) Utility companies or owners shall be contacted within established or customary local response times, advised of the proposed work, and asked to locate the underground utility installation prior to the start of actual excavation.

(c) When excavation operations approach the location of underground installations, the exact location of the installations shall be determined by safe and acceptable means.

(d) While the excavation is open, underground installations shall be protected, supported, or removed as necessary to safeguard employees.

(3) Access and egress.

(a) Structural ramps.

(i) Structural ramps that are used solely by employees as a means of access or egress from excavations shall be designed by a competent person. Structural ramps used for access or egress of equipment shall be designed by a competent person qualified in structural design, and shall be constructed in accordance with the design.

(ii) Ramps and runways constructed of two or more structural members shall have the structural members connected together to prevent displacement.

(iii) Structural members used for ramps and runways shall be of uniform thickness.

(iv) Cleats or other appropriate means used to connect runway structural members shall be attached to the bottom of the runway or shall be attached in a manner to prevent tripping.

(v) Structural ramps used in lieu of steps shall be provided with cleats or other surface treatments on the top surface to prevent slipping.

(b) Means of egress from trench excavations. A stairway, ladder, ramp or other safe means of egress shall be located in trench excavations that are 4 feet (1.22 m) or more in depth so as to require no more than 25 feet (7.62 m) of lateral travel for employees.

(4) Exposure to vehicular traffic. Employees exposed to public vehicular traffic shall be provided with, and shall wear, warning vests or other suitable garments marked with or made of reflectorized or high-visibility material.

(5) Exposure to falling loads. No employee shall be permitted underneath loads handled by lifting or digging equipment. Employees shall be required to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling materials. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles are equipped, in accordance with WAC 296-155-610 (2)(g), to provide adequate protection for the operator during loading and unloading operations.

(6) Warning system for mobile equipment. When mobile equipment is operated adjacent to an excavation, or when such equipment is required to approach the edge of an excavation, and the operator does not have a clear and direct view of the edge of the excavation, a warning system shall be utilized such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation.

(7) Hazardous atmospheres.

(a) Testing and controls. In addition to the requirements set forth in parts B-1, C, and C-1 of this chapter (296-155 WAC) to prevent exposure to harmful levels of atmospheric contaminants and to assure acceptable atmospheric conditions, the following requirements shall apply:

(i) Where oxygen deficiency (atmospheres containing less than 19.5 percent oxygen) or a hazardous atmosphere exists or could reasonably be expected to exist, such as in excavations in landfill areas or excavations in areas where hazardous substances are stored nearby, the atmospheres in the excavation shall be tested before employees enter excavations greater than 4 feet (1.22 m) in depth.

(ii) Adequate precautions shall be taken to prevent employee exposure to atmospheres containing less than 19.5 percent oxygen and other hazardous atmospheres. These precautions include providing proper respiratory protection or ventilation ~~((in accordance with parts))~~ as required by chapter 296-62 WAC, Part E and by Part B-1 ((and C)) of this chapter ~~((respectively))~~.

(iii) Adequate precaution shall be taken such as providing ventilation, to prevent employee exposure to an atmosphere containing a concentration of a flammable gas in excess of 20 percent of the lower flammable limit of the gas.

(iv) When controls are used that are intended to reduce the level of atmospheric contaminants to acceptable levels, testing shall be conducted as often as necessary to ensure that the atmosphere remains safe.

(b) Emergency rescue equipment.

(i) Emergency rescue equipment, such as breathing apparatus, a safety harness and line, or a basket stretcher, shall be readily available where hazardous atmospheric conditions exist or may reasonably be expected to develop during work in an excavation. This equipment shall be attended when in use.

(ii) Employees entering bell-bottom pier holes, or other similar deep and confined footing excavations, shall wear a harness with a lifeline securely attached to it. The lifeline shall be separate from any line used to handle materials, and shall be individually attended at all times while the employee wearing the lifeline is in the excavation.

Note: See chapter 296-62 WAC, Part M for additional requirements applicable to confined space operations.

(8) Protection from hazards associated with water accumulation.

(a) Employees shall not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline.

(b) If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operations shall be monitored by a competent person to ensure proper operation.

(c) If excavation work interrupts the natural drainage of surface water (such as streams), diversion ditches, dikes, or

other suitable means shall be used to prevent surface water from entering the excavation and to provide adequate drainage of the area adjacent to the excavation. Excavations subject to runoff from heavy rains will require an inspection by a competent person and compliance with subdivisions (a) and (b) of this subsection.

(9) Stability of adjacent structures.

(a) Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of such structures for the protection of employees.

(b) Excavation below the level of the base or footing of any foundation or retaining wall that could be reasonably expected to pose a hazard to employees shall not be permitted except when:

(i) A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure; or

(ii) The excavation is in stable rock; or

(iii) A registered professional engineer has approved the determination that the structure is sufficiently removed from the excavation so as to be unaffected by the excavation activity; or

(iv) A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.

(c) Sidewalks, pavements, and appurtenant structure shall not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures.

(10) Protection of employees from loose rock or soil.

(a) Adequate protection shall be provided to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face. Such protection shall consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection.

(b) Employees shall be protected from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection shall be provided by placing and keeping such materials or equipment at least 2 feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary.

(11) Inspections.

(a) Daily inspections of excavations, the adjacent areas, and protective systems shall be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

(b) Where the competent person finds evidence of a situation that could result in a possible cave-in, indications of

failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees shall be removed from the hazardous area until the necessary precautions have been taken to ensure their safety.

(12) Fall protection.

(a) Walkways shall be provided where employees or equipment are required or permitted to cross over excavations. Guardrails which comply with chapter 296-155 WAC, Part K shall be provided where walkways are 4 feet or more above lower levels.

(b) Adequate barrier physical protection shall be provided at all remotely located excavations. All wells, pits, shafts, etc., shall be barricaded or covered. Upon completion of exploration and similar operations, temporary wells, pits, shafts, etc., shall be backfilled.

AMENDATORY SECTION (Amending WSR 98-05-046, filed 2/13/98, effective 4/15/98)

WAC 296-155-730 Tunnels and shafts. (1) Scope and application.

(a) This section applies to the construction of underground tunnels, shafts, chambers, and passageways. This section also applies to cut-and-cover excavations which are both physically connected to ongoing underground construction operations within the scope of this section, and covered in such a manner as to create conditions characteristic of underground construction.

(b) This section does not apply to excavation and trenching operations covered by Part N of this chapter, such as foundation operations for above-ground structures that are not physically connected to underground construction operations, and surface excavation.

(c) The employer shall comply with the requirements of this part and chapter in addition to applicable requirements of chapter 296-36 WAC, Safety standards—Compressed air work.

(2) Access and egress.

(a) Each operation shall have a check-in/check-out system that will provide positive identification of every employee underground. An accurate record of identification and location of the employees shall be kept on the surface. This procedure is not required when the construction of underground facilities designed for human occupancy has been sufficiently completed so that the permanent environmental controls are effective, and when the remaining construction activity will not cause any environmental hazard, or structural failure within the facilities.

(b) The employer shall provide and maintain safe means of access and egress to all work stations.

(c) The employer shall provide access and egress in such a manner that employees are protected from being struck by excavators, haulage machines, trains, and other mobile equipment.

(d) The employer shall control access to all openings to prevent unauthorized entry underground. Unused chutes, manways, or other openings shall be tightly covered, bulk-headed, or fenced off, and shall be posted with warning signs indicating "keep out" or similar language. Completed or

unused sections of the underground facility shall be barricaded.

(3) Safety instruction. All employees shall be instructed in the recognition and avoidance of hazards associated with underground construction activities including, where appropriate, the following subjects:

- (a) Air monitoring;
- (b) Ventilation;
- (c) Confined space entry procedures;
- (d) Permit-required confined space entry procedures;
- (e) Illumination;
- (f) Communications;
- (g) Flood control;
- (h) Mechanical equipment;
- (i) Personal protective equipment;
- (j) Explosives;
- (k) Fire prevention and protection; and
- (l) Emergency procedures, including evacuation plans and check-in/check-out systems.

(4) Notification.

(a) Oncoming shifts shall be informed of any hazardous occurrences or conditions that have affected, or might affect employee safety, including liberation of gas, equipment failures, earth or rock slides, cave-ins, floodings, fire(s), or explosions.

(b) Information specified in (a) of this subsection shall be recorded in a shift journal which shall be current prior to the end of each shift, and shall be located aboveground.

(c) Oncoming supervisory personnel shall read the notification prior to going underground, and shall signify their understanding of the contents by affixing their respective initials to the log.

(d) The hazard notification log shall be retained on the site until the completion of the project.

(e) The employer shall establish and maintain direct communications for coordination of activities with other employers whose operations at the jobsite affect or may affect the safety of employees underground.

(5) Communications.

(a) When natural unassisted voice communication is ineffective, a power-assisted means of voice communication shall be used to provide communication between the work face, the bottom of the shaft, and the surface.

(b) Two effective means of communication, at least one of which shall be voice communication, shall be provided in all shafts which are being developed or used either for personnel access or for hoisting. Additional requirements for hoist operator communication are contained in subsection (22)(c)(xv) of this section.

(c) Powered communication systems shall operate on an independent power supply, and shall be installed so that the use of or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

(d) Communication systems shall be tested upon initial entry of each shift to the underground, and as often as necessary at later times, to ensure that they are in working order.

(e) Any employee working alone underground in a hazardous location, who is both out of the range of natural unassisted voice communication and not under observation by

other persons, shall be provided with an effective means of obtaining assistance in an emergency.

(6) Emergency provisions. Hoisting capability. When a shaft is used as a means of egress, the employer shall make advance arrangements for power-assisted hoisting capability to be readily available in an emergency, unless the regular hoisting means can continue to function in the event of an electrical power failure at the jobsite. Such hoisting means shall be designed so that the load hoist drum is powered in both directions of rotation and so that the brake is automatically applied upon power release or failure.

(7) Self-rescuers. The employer (~~(shall)~~) must provide self-rescuers (~~(having current approval from)~~) certified by the National Institute for Occupational Safety and Health (and the Mine Safety and Health Administration to) under 42 CFR part 84. The respirators must be immediately available to all employees at work stations in underground areas where employees might be trapped by smoke or gas. The selection, issuance, use, and care of respirators (~~(shall)~~) must be in accordance with the requirements of chapter 296-62 WAC, Part E.

(8) Designated person. At least one designated person shall be on duty aboveground whenever any employee is working underground. This designated person shall be responsible for securing immediate aid and keeping an accurate record of the number, identification, and location of employees who are underground in case of emergency. The designated person must not be so busy with other responsibilities that the personnel counting and identification function is encumbered.

(9) Emergency lighting. Each employee underground shall have an acceptable portable hand lamp or cap lamp in his or her work area for emergency use, unless natural light or an emergency lighting system provides adequate illumination for escape.

(10) Rescue teams.

(a) On jobsites where 25 or more employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least two 5-person rescue teams, one on the jobsite or within one-half hour travel time from the entry point, and the other within 2 hours travel time.

(b) On jobsites where less than 25 employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least one 5-person rescue team to be either on the jobsite or within one-half hour travel time from the entry point.

(c) Rescue team members shall be qualified in rescue procedures, the use and limitations of breathing apparatus, and the use of fire fighting equipment. Qualifications shall be reviewed not less than annually.

(d) On jobsites where flammable or noxious gases are encountered or anticipated in hazardous quantities, rescue team members shall practice donning and using pressure demand mode, self-contained breathing apparatuses monthly.

(e) The employer shall ensure that rescue teams are familiar with conditions at the jobsite.

(11) Hazardous classifications.

(a) Potentially gassy operations. Underground construction operations shall be classified as potentially gassy if either:

(i) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8 mm) +/- 0.25 inch (6.35 mm) from the roof, face, floor, or walls in any underground work area for more than a 24-hour period; or

(ii) The history of the geographical area or geological formation indicates that 10 percent or more of the lower explosive limit for methane or other flammable gases is likely to be encountered in such underground operations.

(b) Gassy operations. Underground construction operations shall be classified as gassy if:

(i) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8 mm) +/- 0.25 inch (6.35 mm) from the roof, face, floor, or walls in any underground work area for three consecutive days; or

(ii) There has been an ignition of methane or of other flammable gases emanating from the strata that indicates the presence of such gases; or

(iii) The underground construction operation is both connected to an underground work area which is currently classified as gassy and is also subject to a continuous course of air containing the flammable gas concentration.

(c) Declassification to potentially gassy operations. Underground construction gassy operations may be declassified to potentially gassy when air monitoring results remain under 10 percent of the lower explosive limit for methane or other flammable gases for three consecutive days.

(12) Gassy operations—Additional requirements. Only acceptable equipment, maintained in suitable condition, shall be used in gassy operations.

(a) Mobile diesel-powered equipment used in gassy operations shall be either approved in accordance with the requirements of 30 CFR Part 36 (formerly Schedule 31) by MSHA, or shall be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and shall be operated in accordance with that part.

(b) Each entrance to a gassy operation shall be prominently posted with signs notifying all entrants of the gassy classification.

(c) Smoking shall be prohibited in all gassy operations and the employer shall be responsible for collecting all personal sources of ignition, such as matches and lighters, from all persons entering a gassy operation.

(d) A fire watch as described in chapter 296-155 WAC, Part H, shall be maintained when hot work is performed.

(e) Once an operation has met the criteria in subsection (11)(a)(i) of this section, warranting classification as gassy, all operations in the affected area, except the following, shall be discontinued until the operation either is in compliance with all of the gassy operation requirements or has been declassified in accordance with (c) of this subsection:

(i) Operations related to the control of the gas concentration;

(ii) Installation of new equipment, or conversion of existing equipment, to comply with this subsection; and

(iii) Installation of above-ground controls for reversing the air flow.

(13) Air quality and monitoring.

(a) General. Air quality limits and control requirements specified in chapter 296-62 WAC, Part H, shall apply except as modified by this subsection.

(b) The employer shall assign a competent person who shall perform all air monitoring required by this section.

(c) Where this section requires monitoring of airborne contaminants "as often as necessary," the competent person shall make a reasonable determination as to which substances to monitor and how frequently to monitor, considering at least the following factors:

(i) Location of jobsite: Proximity to fuel tanks, sewers, gas lines, old landfills, coal deposits, and swamps;

(ii) Geology: Geological studies of the jobsite, particularly involving the soil type and its permeability;

(iii) History: Presence of air contaminants in nearby jobsites, changes in levels of substances monitored on the prior shift; and

(iv) Work practices and jobsite conditions: The use of diesel engines, use of explosives, use of fuel gas, volume and flow of ventilation, visible atmospheric conditions, decompression of the atmosphere, welding, cutting and hot work, and employees' physical reactions to working underground.

(d) The employer shall provide testing and monitoring instruments which are capable of achieving compliance with the provisions of this subsection, and:

(i) Shall maintain the testing and monitoring instruments in good condition;

(ii) Shall calibrate the instruments on a frequency not to exceed 6 months.

(e) Exposure to airborne contaminants shall not exceed the levels established by chapter 296-62 WAC, Part H.

(f) Respirators shall not be substituted for environmental control measures. However, where environmental controls have not yet been developed, or when necessary by the nature of the work involved (for example, welding, sand blasting, lead burning), an employee may work for short periods of time in concentrations of airborne contaminants which exceed the limit of permissible exposure referred to in (d) of this subsection, if the employee wears a respiratory protective device (~~(approved)~~) certified by MSHA-NIOSH (~~(as)~~) for protection against the particular hazards involved, and the selection and use of respirators complies with the provisions of chapter 296-62 WAC, Part E.

(g) Employees shall be withdrawn from areas in which there is a concentration of an airborne contaminant which exceeds the permissible exposure limit listed for that contaminant, except as modified in (t)(i) and (ii) of this subsection.

(h) The atmosphere in all underground work areas shall be tested as often as necessary to assure that the atmosphere at normal atmospheric pressure contains at least 19.5 percent oxygen and no more than 22 percent oxygen.

(i) Tests for oxygen content shall be made before tests for air contaminants.

(j) Field-type oxygen analyzers, or other suitable devices, shall be used to test for oxygen deficiency.

(k) The atmosphere in all underground work areas shall be tested quantitatively for carbon monoxide, nitrogen diox-

ide, hydrogen sulfide, and other toxic gases, dust, vapors, mists, and fumes as often as necessary to ensure that the permissible exposure limits prescribed in chapter 296-62 WAC, Part H, are not exceeded.

(l) The atmosphere in all underground work areas shall be tested quantitatively for methane and other flammable gases as often as necessary to determine:

(i) Whether action is to be taken under (q), (r), and (s) of this subsection; and

(ii) Whether an operation is to be classified potentially gassy or gassy under subsection (11) of this section.

(m) If diesel-engine or gasoline-engine driven ventilating fans or compressors are used, an initial test shall be made of the inlet air of the fan or compressor, with the engines operating, to ensure that the air supply is not contaminated by engine exhaust.

(n) Testing shall be performed as often as necessary to ensure that the ventilation requirements of subsection (15) of this section are met.

(o) When rapid excavation machines are used, a continuous flammable gas monitor shall be operated at the face with the sensor(s) placed as high and close to the front of the machine's cutter head as practicable.

(p) Whenever air monitoring indicates the presence of 5 ppm or more of hydrogen sulfide, a test shall be conducted in the affected underground work area(s), at least at the beginning and midpoint of each shift, until the concentration of hydrogen sulfide has been less than 5 ppm for 3 consecutive days.

(i) Whenever hydrogen sulfide is detected in an amount exceeding 10 ppm, a continuous sampling and indicating hydrogen sulfide monitor shall be used to monitor the affected work area.

(ii) Employees shall be informed when a concentration of 10 ppm hydrogen sulfide is exceeded.

(iii) The continuous sampling and indicating hydrogen sulfide monitor shall be designed, installed, and maintained to provide a visual and aural alarm when the hydrogen sulfide concentration reaches 15 ppm to signal that additional measures, such as respirator use, increased ventilation, or evacuation, might be necessary to maintain hydrogen sulfide exposure below the permissible exposure limit.

(q) When the competent person determines, on the basis of air monitoring results or other information, that air contaminants may be present in sufficient quantity to be dangerous to life, the employer shall:

(i) Prominently post a notice at all entrances to the underground jobsite to inform all entrants of the hazardous condition; and

(ii) Immediately increase sampling frequency levels to insure workers are not exposed to identified contaminants in excess of the permissible exposure limit(s); and

(iii) Ensure that all necessary precautions are taken to comply with pertinent requirements of this section, and chapter 296-62 WAC.

(r) Whenever five percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return, steps shall be taken to increase ventilation air volume or otherwise control the gas concentration, unless the employer is operating in

accordance with the potentially gassy or gassy operation requirements. Such additional ventilation controls may be discontinued when gas concentrations are reduced below five percent of the lower explosive limit, but shall be reinstated whenever the five percent level is exceeded.

(s) Whenever 10 percent or more of the lower explosive limit for methane or other flammable gases is detected in the vicinity of welding, cutting, or other hot work, such work shall be suspended until the concentration of such flammable gas is reduced to less than 10 percent of the lower explosive limit.

(t) Whenever 20 percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return:

(i) All employees, except those necessary to eliminate the hazard, shall be immediately withdrawn to a safe location above ground; and

(ii) Employees who remain underground to correct or eliminate the hazard described in (t) above shall be equipped with approved, pressure demand mode, self-contained breathing apparatus, and shall have received adequate training in the proper use of that equipment.

(iii) Electrical power, except for acceptable pumping and ventilation equipment, shall be cut off to the area endangered by the flammable gas until the concentration of such gas is reduced to less than 20 percent of the lower explosive limit.

(14) Additional monitoring for potentially gassy and gassy operations. Operations which meet the criteria for potentially gassy and gassy operations set forth in subsection (13) of this section shall be subject to the additional monitoring requirements of this subsection.

(a) A test for oxygen content shall be conducted in the affected underground work areas and work areas immediately adjacent to such areas at least at the beginning and midpoint of each shift.

(b) When using rapid excavation machines, continuous automatic flammable gas monitoring equipment shall be used to monitor the air at the heading, on the rib, and in the return air duct. The continuous monitor shall signal the heading, and shut down electric power in the affected underground work area, except for acceptable pumping and ventilation equipment, when 20 percent or more of the lower explosive limit for methane or other flammable gases is encountered.

(i) A manual flammable gas monitor shall be used as needed, but at least at the beginning and midpoint of each shift, to ensure that the limits prescribed in subsections (11) and (13) of this section are not exceeded. In addition, a manual electrical shut down control shall be provided near the heading.

(ii) Local gas tests shall be made prior to and continuously during any welding, cutting, or other hot work.

(iii) In underground operations driven by drill-and-blast methods, the air in the affected area shall be tested for flammable gas prior to re-entry after blasting, and continuously when employees are working underground.

(c) Recordkeeping. A record of all air quality tests shall be maintained above ground at the worksite and be made available to the director or his/her representatives upon request. The record shall include the location, date, time, substance and amount monitored. Records of exposures to toxic

substances shall be retained in accordance with Part B, chapter 296-62 WAC. All other air quality test records shall be retained until completion of the project.

(15) Ventilation.

(a)(i) Fresh air shall be supplied to all underground work areas in sufficient quantities to prevent dangerous or harmful accumulation of dust, fumes, mists, vapors, or gases.

(ii) Mechanical ventilation shall be provided in all underground work areas except when the employer can demonstrate that natural ventilation provides the necessary air quality through sufficient air volume and air flow.

(b) A minimum of 200 cubic feet (5.7 m³) of fresh air per minute shall be supplied for each employee underground.

(c) The linear velocity of air flow in the tunnel bore, in shafts, and in all other underground work areas shall be at least 30 feet (9.15 m) per minute where blasting or rock drilling is conducted, or where other conditions likely to produce dust, fumes, mists, vapors, or gases in harmful or explosive quantities are present.

(d) The direction of mechanical air flow shall be reversible.

(e) Air that has passed through underground oil or fuel-storage areas shall not be used to ventilate working areas.

(f) Following blasting, ventilation systems shall exhaust smoke and fumes to the outside atmosphere before work is resumed in affected areas.

(g) Ventilation doors shall be designed and installed so that they remain closed when in use, regardless of the direction of the air flow.

(h) When ventilation has been reduced to the extent that hazardous levels of methane or flammable gas may have accumulated, a competent person shall test all affected areas after ventilation has been restored and shall determine whether the atmosphere is within flammable limits before any power, other than for acceptable equipment, is restored or work is resumed.

(i) Whenever the ventilation system has been shut down with all employees out of the underground area, only competent persons authorized to test for air contaminants shall be allowed underground until the ventilation has been restored and all affected areas have been tested for air contaminants and declared safe.

(j) When drilling rock or concrete, appropriate dust control measures shall be taken to maintain dust levels within limits set in chapter 296-155 WAC, Part B-1. Such measures may include, but are not limited to, wet drilling, the use of vacuum collectors, and water mix spray systems.

(k)(i) Internal combustion engines, except diesel-powered engines on mobile equipment, are prohibited underground.

(ii) Mobile diesel-powered equipment used underground in atmospheres other than gassy operations shall be either approved by MSHA in accordance with the provisions of 30 CFR Part 32 (formerly Schedule 24), or shall be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and shall be operated in accordance with that Part. (Each brake horsepower of a diesel engine requires at least 100 cubic feet (28.32 m³) of air per minute for suitable operation in addition to the air requirements for personnel. Some engines may require a greater amount of air

to ensure that the allowable levels of carbon monoxide, nitric oxide, and nitrogen dioxide are not exceeded.)

(iii) Application shall be made to the mining/explosives section, department of labor and industries, for permission to use specified diesel equipment in a specified underground area and shall include the following:

(A) The type of construction and complete identification data and specifications including analysis of the undiluted exhaust gases of the diesel equipment.

(B) The location where the diesel equipment is to be used.

(C) Before the diesel equipment is taken underground, written permission shall be obtained from the department of labor and industries or its duly authorized representative. A satisfactory test on surface, to show that the exhaust gases do not exceed the maximum percentage of carbon monoxide permitted, shall be required.

(D) Diesel equipment shall only be used underground where the ventilation is controlled by mechanical means and shall not be operated if the ventilating current is less than 100 CFM per horsepower based on the maximum brake horsepower of the engines.

(E) Air measurements shall be made at least once daily in the diesel engine working area and the measurements entered in the Underground Diesel Engine Record Book. Permissible maximum amounts of noxious gases are as follows:

At engine exhaust ports	Carbon Monoxide	.10%	1,000 ppm ³
Next to equipment	Carbon Monoxide	.0035%	35 ppm
General atmosphere	Carbon Monoxide	.0035%	35 ppm
General atmosphere	Nitrogen Dioxide	.0001%	1 ppm
General atmosphere	Aldehydes	.0002%	2 ppm

³Parts of vapor or gas per million parts of contaminated air by volume at 25°C and 760 mm Hg. pressure.

(l) Potentially gassy or gassy operations shall have ventilation systems installed which shall:

- (i) Be constructed of fire-resistant materials; and
- (ii) Have acceptable electrical systems, including fan motors.

(m) Gassy operations shall be provided with controls located aboveground for reversing the air flow of ventilation systems.

(n) In potentially gassy or gassy operations, wherever mine-type ventilation systems using an offset main fan installed on the surface are used, they shall be equipped with explosion-doors or a weak-wall having an area at least equivalent to the cross-sectional area of the airway.

(16) Illumination.

(a) Sufficient lighting shall be provided, in accordance with the requirements of chapter 296-155 WAC, Part B-1, to permit safe operations at the face as well as in the general tunnel or shaft area and at the employees' workplace.

(b) Only acceptable portable lighting shall be used within 50 feet (15.24 m) of any underground heading during explosive handling.

(17) Fire prevention and control. Fire prevention and protection requirements applicable to underground construc-

tion operations are found in Part D of this chapter except as modified by the following additional standards.

(a) Open flames and fires are prohibited in all underground construction operations except as permitted for welding, cutting, and other hot work operations.

(i) Smoking may be allowed only in areas free of fire and explosion hazards.

(ii) Readily visible signs prohibiting smoking and open flames shall be posted in areas having fire or explosion hazards.

(iii) The carrying of matches, lighters, or other flame-producing smoking materials shall be prohibited in all underground operations where fire or explosion hazards exist.

(b) The employer may store underground no more than a 24-hour supply of diesel fuel for the underground equipment used at the worksite.

(c) The piping of diesel fuel from the surface to an underground location is permitted only if:

(i) Diesel fuel is contained at the surface in a tank whose maximum capacity is no more than the amount of fuel required to supply for a 24-hour period the equipment serviced by the underground fueling station; and

(ii) The surface tank is connected to the underground fueling station by an acceptable pipe or hose system that is controlled at the surface by a valve, and at the shaft bottom by a hose nozzle; and

(iii) The pipe is empty at all times except when transferring diesel fuel from the surface tank to a piece of equipment in use underground; and

(iv) Hoisting operations in the shaft are suspended during refueling operations if the supply piping in the shaft is not protected from damage.

(d)(i) Gasoline shall not be carried, stored, or used underground.

(ii) Acetylene, liquefied petroleum gas, and methylacetylene propadiene stabilized gas may be used underground only for welding, cutting and other hot work, and only in accordance with Part H of this chapter and subsections (13), (15), (17), and (18) of this section.

(e) Oil, grease, and diesel fuel stored underground shall be kept in tightly sealed containers in fire-resistant areas at least 300 feet (91.44 m) from underground explosive magazines, and at least 100 feet (30.48 m) from shaft stations and steeply inclined passageways. Storage areas shall be positioned or diked so that the contents of ruptured or overturned containers will not flow from the storage area.

(f) Flammable or combustible materials shall not be stored above ground within 100 feet (30.48 m) of any access opening to any underground operation. Where this is not feasible because of space limitations at the jobsite, such materials may be located within the 100-foot limit, provided that:

(i) They are located as far as practicable from the opening; and

(ii) Either a fire-resistant barrier of not less than one-hour rating is placed between the stored material and the opening, or additional precautions are taken which will protect the materials from ignition sources.

(g) Fire-resistant hydraulic fluids shall be used in hydraulically-actuated underground machinery and equipment unless such equipment is protected by a fire suppression

PERMANENT

system or by multipurpose fire extinguisher(s) rated at a sufficient capacity for the type and size of hydraulic equipment involved, but rated at least 4A:4OB:C.

(h)(i) Electrical installations in underground areas where oil, grease, or diesel fuel are stored shall be used only for lighting fixtures.

(ii) Lighting fixtures in storage areas, or within 25 feet (7.62 m) of underground areas where oil, grease, or diesel fuel are stored, shall be approved for Class I, Division 2 locations, in accordance with Part I of this chapter.

(i) Leaks and spills of flammable or combustible fluids shall be cleaned up immediately.

(j) A fire extinguisher of at least 4A:4OB:C rating or other equivalent extinguishing means shall be provided at the head pulley and at the tail pulley of underground belt conveyors, and at 300-foot intervals along the belt.

(k) Any structure located underground or within 100 feet (30.48 m) of an opening to the underground shall be constructed of material having a fire-resistance rating of at least one hour.

(18) Welding, cutting, and other hot work. In addition to the requirements of Part H of this chapter, the following requirements shall apply to underground welding, cutting, and other hot work.

(a) No more than the amount of fuel gas and oxygen cylinders necessary to perform welding, cutting, or other hot work during the next 24-hour period shall be permitted underground.

(b) Noncombustible barriers shall be installed below welding, cutting, or other hot work being done in or over a shaft or raise.

(19) Ground support.

(a) In tunnels (other than hard rock) timber sets, steel rings, steel frames, concrete liners, or other engineered tunnel support systems shall be used. Every tunnel support system shall be designed by a licensed professional engineer. Design specifications shall be available at the worksite.

(b) Portal areas. Portal openings and access areas shall be guarded by shoring, fencing, head walls, shotcreting, or other equivalent protection to ensure safe access of employees and equipment. Adjacent areas shall be scaled or otherwise secured to prevent loose soil, rock, or fractured materials from endangering the portal and access area.

(c) Subsidence areas. The employer shall ensure ground stability in hazardous subsidence areas by shoring, by filling in, or by erecting barricades and posting warning signs to prevent entry.

(d) Underground areas.

(i)(A) A competent person shall inspect the roof, face, and walls of the work area at the start of each shift and as often as necessary to determine ground stability.

(B) Competent persons conducting such inspections shall be protected from loose ground by location, ground support, or equivalent means.

(ii) Ground conditions along haulageways and travelways shall be inspected as frequently as necessary to ensure safe passage.

(iii) Loose ground that might be hazardous to employees shall be taken down, scaled, or supported.

(iv) Torque wrenches shall be used wherever bolts that depend on torsionally applied force are used for ground support.

(v) A competent person shall determine whether rock bolts meet the necessary torque, and shall determine the testing frequency in light of the bolt system, ground conditions, and the distance from vibration sources.

(vi) Suitable protection shall be provided for employees exposed to the hazard of loose ground while installing ground support systems.

(vii) Support sets shall be installed so that the bottoms have sufficient anchorage to prevent ground pressures from dislodging the support base of the sets. Lateral bracing (collar bracing, tie rods, or spreaders) shall be provided between immediately adjacent sets to ensure added stability.

(viii) Damaged or dislodged ground supports that create a hazardous condition shall be promptly repaired or replaced. When replacing supports, the new supports shall be installed before the damaged supports are removed.

(ix) A shield or other type of support shall be used to maintain a safe travelway for employees working in dead-end areas ahead of any support replacement operation.

(e) Shafts.

(i) Shafts and wells over 4 feet (1.219 m) in depth that employees must enter shall be supported by a steel casing, concrete pipe, timber, solid rock, or other suitable material.

(ii)(A) The full depth of the shaft shall be supported by casing or bracing except where the shaft penetrates into solid rock having characteristics that will not change as a result of exposure. Where the shaft passes through earth into solid rock, or through solid rock into earth, and where there is potential for shear, the casing or bracing shall extend at least 5 feet (1.53 m) into the solid rock. When the shaft terminates in solid rock, the casing or bracing shall extend to the end of the shaft or 5 feet (1.53 m) into the solid rock, whichever is less.

(B) The casing or bracing shall extend 42 inches (1.07 m) plus or minus 3 inches (8 cm) above ground level, except that the minimum casing height may be reduced to 12 inches (0.3 m), provided that a standard railing is installed; that the ground adjacent to the top of the shaft is sloped away from the shaft collar to prevent entry of liquids; and that effective barriers are used to prevent mobile equipment operating near the shaft from jumping over the 12-inch (0.3 m) barrier.

(iii) After blasting operations in shafts, a competent person shall determine if the walls, ladders, timbers, blocking, or wedges have loosened. If so, necessary repairs shall be made before employees other than those assigned to make the repairs are allowed in or below the affected areas.

(f) Blasting. This subsection applies in addition to the requirements for blasting and explosives operations, including handling of misfires, which are found in chapter 296-52 WAC.

(i) Blasting wires shall be kept clear of electrical lines, pipes, rails, and other conductive material, excluding earth, to prevent explosives initiation or employee exposure to electric current.

(ii) Following blasting, an employee shall not enter a work area until the air quality meets the requirements of subsection (13) of this section.

(g) Drilling.

(i) A competent person shall inspect all drilling and associated equipment prior to each use. Equipment defects affecting safety shall be corrected before the equipment is used.

(ii) The drilling area shall be inspected for hazards before the drilling operation is started.

(iii) Employees shall not be allowed on a drill mast while the drill bit is in operation or the drill machine is being moved.

(iv) When a drill machine is being moved from one drilling area to another, drill steel, tools, and other equipment shall be secured and the mast shall be placed in a safe position.

(v) Receptacles or racks shall be provided for storing drill steel located on jumbos.

(vi) Employees working below jumbo decks shall be warned whenever drilling is about to begin.

(vii) Drills on columns shall be anchored firmly before starting drilling, and shall be retightened as necessary thereafter.

(viii) The employer shall provide mechanical means on the top deck of a jumbo for lifting unwieldy or heavy material.

(ix) When jumbo decks are over 10 feet (3.05 m) in height, the employer shall install stairs wide enough for two persons.

(x) Jumbo decks more than 10 feet (3.05 m) in height shall be equipped with guardrails on all open sides, excluding access openings of platforms, unless an adjacent surface provides equivalent fall protection.

(xi) Only employees assisting the operator shall be allowed to ride on jumbos, unless the jumbo meets the requirements of subsection (20)(e) of this section.

(xii) Jumbos shall be chocked to prevent movement while employees are working on them.

(xiii) Walking and working surfaces of jumbos shall be maintained to prevent the hazards of slipping, tripping, and falling.

(xiv) Jumbo decks and stair treads shall be designed to be slip-resistant and secured to prevent accidental displacement.

(xv) Scaling bars shall be available at scaling operations and shall be maintained in good condition at all times. Blunted or severely worn bars shall not be used.

(xvi) Before commencing the drill cycle, the face and lifters shall be examined for misfires (residual explosives) and, if found, they shall be removed before drilling commences at the face. Blasting holes shall not be drilled through blasted rock (muck) or water.

(xvii) Employees in a shaft shall be protected either by location or by suitable barrier(s) if powered mechanical loading equipment is used to remove muck containing unfired explosives.

(xviii) A caution sign reading "buried line," or similar wording shall be posted where air lines are buried or otherwise hidden by water or debris.

(20) Haulage.

(a) A competent person shall inspect haulage equipment before each shift.

(i) Equipment defects affecting safety and health shall be corrected before the equipment is used.

(ii) Powered mobile haulage equipment shall be provided with adequate brakes.

(iii) Power mobile haulage equipment, including trains, shall have audible warning devices to warn employees to stay clear. The operator shall sound the warning device before moving the equipment and whenever necessary during travel.

(iv) The operator shall assure that lights which are visible to employees at both ends of any mobile equipment, including a train, are turned on whenever the equipment is operating.

(v) In those cabs where glazing is used, the glass shall be safety glass, or its equivalent, and shall be maintained and cleaned so that vision is not obstructed.

(b) Antirollback devices or brakes shall be installed on inclined conveyor drive units to prevent conveyors from inadvertently running in reverse. Employees shall not be permitted to ride a power-driven chain, belt, or bucket conveyor unless the conveyor is specifically designed for the transportation of persons.

(c) Endless belt-type manlifts are prohibited in underground construction.

(d) General requirements also applicable to underground construction for use of conveyors in construction are found in chapter 296-155 WAC, Part L.

(e) No employee shall ride haulage equipment unless it is equipped with seating for each passenger and protects passengers from being struck, crushed, or caught between other equipment or surfaces. Members of train crews may ride on a locomotive if it is equipped with handholds and nonslip steps or footboards. Requirements applicable to underground construction for motor vehicle transportation of employees are found in chapter 296-155 WAC, Part M.

(f) Conveyor lockout.

(i) Conveyors shall be de-energized and locked out with a padlock, and tagged out with a "Do Not Operate" tag at any time repair, maintenance, or clean-up work is being performed on the conveyor.

(ii) Tags or push button stops are not acceptable.

(iii) Persons shall not be allowed to walk on conveyors except for emergency purposes and then only after the conveyor has been deenergized and locked out in accordance with (f) above, and persons can do so safely.

(g) Powered mobile haulage equipment, including trains, shall not be left unattended unless the master switch or motor is turned off; operating controls are in neutral or park position; and the brakes are set, or equivalent precautions are taken to prevent rolling.

(h) Whenever rails serve as a return for a trolley circuit, both rails shall be bonded at every joint and crossbonded every 200 feet (60.96 m).

(i) When dumping cars by hand, the car dumps shall have tiedown chains, bumper blocks, or other locking or holding devices to prevent the cars from overturning.

(j) Rocker-bottom or bottom-dump cars shall be equipped with positive locking devices to prevent unintended dumping.

(k) Equipment to be hauled shall be loaded and secured to prevent sliding or dislodgement.

(1)(i) Mobile equipment, including rail-mounted equipment, shall be stopped for manual connecting or service work, and;

(ii) Employees shall not reach between moving cars during coupling operations.

(iii) Couplings shall not be aligned, shifted, or cleaned on moving cars or locomotives.

(iv) Safety chains or other connections shall be used in addition to couplers to connect person cars or powder cars whenever the locomotive is uphill of the cars.

(v) When the grade exceeds one percent and there is a potential for runaway cars, safety chains or other connections shall be used in addition to couplers to connect haulage cars or, as an alternative, the locomotive must be downhill of the train.

(vi) Such safety chains or other connections shall be capable of maintaining connection between cars in the event of either coupler disconnect, failure or breakage.

(m) Parked rail equipment shall be chocked, blocked, or have brakes set to prevent inadvertent movement.

(n) Berms, bumper blocks, safety hooks, or equivalent means shall be provided to prevent overtravel and overturning of haulage equipment at dumping locations.

(o) Bumper blocks or equivalent stopping devices shall be provided at all track dead ends.

(p)(i) Only small handtools, lunch pails, or similar small items may be transported with employees in person cars, or on top of a locomotive.

(ii) When small hand tools or other small items are carried on top of a locomotive, the top shall be designed or modified to retain them while traveling.

(q)(i) Where switching facilities are available, occupied personnel cars shall be pulled, not pushed. If personnel cars must be pushed and visibility of the track ahead is hampered, then a qualified person shall be stationed in the lead car to give signals to the locomotive operator.

(ii) Crew trips shall consist of personnel loads only.

(21) Electrical safety. This subsection applies in addition to the general requirements for electrical safety which are found in Part I of this chapter.

(a) Electric power lines shall be insulated or located away from water lines, telephone lines, air lines, or other conductive materials so that a damaged circuit will not energize the other systems.

(b) Lighting circuits shall be located so that movement of personnel or equipment will not damage the circuits or disrupt service.

(c) Oil-filled transformers shall not be used underground unless they are located in a fire-resistant enclosure suitably vented to the outside and surrounded by a dike to retain the contents of the transformers in the event of rupture.

(22) Hoisting unique to underground construction except as modified by this section, the following provisions of chapter 296-155 WAC, Part L apply: Requirements for cranes are found in WAC 296-155-525. WAC 296-155-528 contains rules applicable to crane hoisting of personnel, except, that the limitations imposed by WAC 296-155-528(2) do not apply to the routine access of employees to the underground via a shaft. Requirements for personnel hoists, material

hoists, and elevators are found in WAC 296-155-530 and in this subsection.

(a) General requirements for cranes and hoists.

(i) Materials, tools, and supplies being raised or lowered, whether within a cage or otherwise, shall be secured or stacked in a manner to prevent the load from shifting, snagging, or falling into the shaft.

(ii) A warning light suitably located to warn employees at the shaft bottom and subsurface shaft entrances shall flash whenever a load is above the shaft bottom or subsurface entrances, or the load is being moved in the shaft. This subsection does not apply to fully enclosed hoistways.

(iii) Whenever a hoistway is not fully enclosed and employees are at the shaft bottom, conveyances or equipment shall be stopped at least 15 feet (4.57 m) above the bottom of the shaft and held there until the signalperson at the bottom of the shaft directs the operator to continue lowering the load, except that the load may be lowered without stopping if the load or conveyance is within full view of a bottom signalperson who is in constant voice communication with the operator.

(iv)(A) Before maintenance, repairs, or other work is commenced in the shaft served by a cage, skip, or bucket, the operator and other employees in the area shall be informed and given suitable instructions.

(B) A sign warning that work is being done in the shaft shall be installed at the shaft collar, at the operator's station, and at each underground landing.

(v) Any connection between the hoisting rope and the cage or skip shall be compatible with the type of wire rope used for hoisting.

(vi) Spin-type connections, where used, shall be maintained in a clean condition and protected from foreign matter that could affect their operation.

(vii) Cage, skip, and load connections to the hoist rope shall be made so that the force of the hoist pull, vibration, misalignment, release of lift force, or impact will not disengage the connection. Only closed shackles shall be used for cage and skip rigging.

(viii) When using wire rope wedge sockets, means shall be provided to prevent wedge escapement and to ensure that the wedge is properly seated.

(b) Additional requirements for cranes. Cranes shall be equipped with a limit switch to prevent overtravel at the boom tip. Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(c) Additional requirements for hoists.

(i) Hoists shall be designed so that the load hoist drum is powered in both directions of rotation, and so that brakes are automatically applied upon power release or failure.

(ii) Control levers shall be of the "deadman type" which return automatically to their center (neutral) position upon release.

(iii) When a hoist is used for both personnel hoisting and material hoisting, load and speed ratings for personnel and for materials shall be assigned to the equipment.

(iv) Hoist machines with cast metal parts shall not be used.

(v) Material hoisting may be performed at speeds higher than the rated speed for personnel hoisting if the hoist and components have been designed for such higher speeds and if shaft conditions permit.

(vi) Employees shall not ride on top of any cage, skip, or bucket except when necessary to perform inspection or maintenance of the hoisting system, in which case they shall be protected by a body belt/harness system to prevent falling.

(vii) Personnel and materials (other than small tools and supplies secured in a manner that will not create a hazard to employees) shall not be hoisted together in the same conveyance. However, if the operator is protected from the shifting of materials, then the operator may ride with materials in cages or skips which are designed to be controlled by an operator within the cage or skip.

(viii) Line speed shall not exceed the design limitations of the systems.

(ix) Hoists shall be equipped with landing level indicators at the operator's station. Marking of the hoist rope does not satisfy this requirement.

(x) Whenever glazing is used in the hoist house, it shall be safety glass, or its equivalent, and be free of distortions and obstructions.

(xi) A fire extinguisher that is rated at least 2A:10B:C (multipurpose, dry chemical) shall be mounted in each hoist house.

(xii) Hoist controls shall be arranged so that the operator can perform all operating cycle functions and reach the emergency power cutoff without having to reach beyond the operator's normal operating position.

(xiii) Hoists shall be equipped with limit switches to prevent overtravel at the top and bottom of the hoistway.

(xiv) Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(xv) Hoist operators shall be provided with a closed-circuit voice communication system to each landing station, with speaker-microphones so located that the operator can communicate with individual landing stations during hoist use.

(xvi) When sinking shafts 75 feet (22.86 m) or less in depth, cages, skips, and buckets that may swing, bump, or snag against shaft sides or other structural protrusions shall be guided by fenders, rails, ropes, or a combination of those means.

(xvii) When sinking shafts more than 75 feet (22.86 m) in depth, all cages, skips, and buckets shall be rope or rail-guided to within a rail length from the sinking operation.

(xviii) Cages, skips, and buckets in all completed shafts, or in all shafts being used as completed shafts, shall be rope or rail-guided for the full length of their travel.

(xix) Wire rope used in load lines of material hoists shall be capable of supporting, without failure, at least five times the maximum intended load or the factor recommended by the rope manufacturer, whichever is greater. Refer to chapter 296-155 WAC, Part L, for design factors for wire rope used in personnel hoists. The design factors shall be calculated by dividing the breaking strength of wire rope, as reported in the manufacturer's rating tables, by the total static load, including the weight of the wire rope in the shaft when fully extended.

(xx) A competent person shall visually check all hoisting machinery, equipment, anchorages, and hoisting rope at the beginning of each shift and during hoist use, as necessary.

(xxi) Each safety device shall be checked by a competent person at least weekly during hoist use to ensure suitable operation and safe condition.

(xxii) In order to ensure suitable operation and safe condition of all functions and safety devices, each hoist assembly shall be inspected and load-tested to 100 percent of its rated capacity: At the time of installation; after any repairs or alterations affecting its structural integrity; after the operation of any safety device; and annually when in use. The employer shall prepare a certification record which includes the date each inspection and load-test was performed; the signature of the person who performed the inspection and test; and a serial number or other identifier for the hoist that was inspected and tested. The most recent certification record shall be maintained on file until completion of the project.

(xxiii) Before hoisting personnel or material, the operator shall perform a test run of any cage or skip whenever it has been out of service for one complete shift, and whenever the assembly or components have been repaired or adjusted.

(xiv) Unsafe conditions shall be corrected before using the equipment.

(d) Additional requirements for personnel hoists.

(i) Hoist drum systems shall be equipped with at least two means of stopping the load, each of which shall be capable of stopping and holding 150 percent of the hoist's rated line pull. A broken-rope safety, safety catch, or arrestment device is not a permissible means of stopping under this subsection.

(ii) The operator shall remain within sight and sound of the signals at the operator's station.

(iii) All sides of personnel cages shall be enclosed by one-half inch (12.70 mm) wire mesh (not less than No. 14 gauge or equivalent) to a height of not less than 6 feet (1.83 m). However, when the cage or skip is being used as a work platform, its sides may be reduced in height to 42 inches (1.07 m) when the conveyance is not in motion.

(iv) All personnel cages shall be provided with a positive locking door that does not open outward.

(v) All personnel cages shall be provided with a protective canopy. The canopy shall be made of steel plate, at least 3/16 -inch (4.763 mm) in thickness, or material of equivalent strength and impact resistance. The canopy shall be sloped to the outside, and so designed that a section may be readily pushed upward to afford emergency egress. The canopy shall cover the top in such a manner as to protect those inside from objects falling in the shaft.

(vi) Personnel platforms operating on guide rails or guide ropes shall be equipped with broken-rope safety devices, safety catches, or arrestment devices that will stop and hold 150 percent of the weight of the personnel platform and its maximum rated load.

(vii) During sinking operations in shafts where guides and safeties are not yet used, the travel speed of the personnel platform shall not exceed 200 feet (60.96 m) per minute. Governor controls set for 200 feet (60.96 m) per minute shall be installed in the control system and shall be used during personnel hoisting.

(viii) The personnel platform may travel over the controlled length of the hoistway at rated speeds up to 600 feet (182.88 m) per minute during sinking operations in shafts where guides and safeties are used.

(ix) The personnel platform may travel at rated speeds greater than 600 feet (182.88 m) per minute in complete shafts.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-155-17335	Effective date.
WAC 296-155-17349	Appendix E to WAC 296-155-173—Methylenedianiline—Qualitative and quantitative fit testing procedures.
WAC 296-155-17351	Appendix E-1—Qualitative protocols.
WAC 296-155-17353	Appendix E-1-a—Isoamyl acetate (banana oil) protocol.
WAC 296-155-17355	Appendix E-1-b—Saccharin solution aerosol protocol.
WAC 296-155-17357	Appendix E-1-c—Irritant fume protocol.
WAC 296-155-17359	Appendix E-2—Quantitative fit test procedures.
WAC 296-155-17635	Startup dates.
WAC 296-155-17656	Appendix D to WAC 296-155-176—Qualitative and quantitative fit test protocols.

AMENDATORY SECTION (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

WAC 296-304-03005 Mechanical paint removers. (1) Power tools.

(a) The employer must ensure that employees engaged in the removal of paints, preservatives, rusts or other coatings by means of power tools are protected against eye injury by goggles or face shields that meets the requirements of WAC 296-304-09005 (1) and (2).

(b) All portable rotating tools used for the removal of paints, preservatives, rusts or other coatings shall be adequately guarded to protect both the operator and nearby workers from flying missiles.

(c) Portable electric tools shall be grounded in accordance with the requirements of WAC 296-304-08003 (1) and (2).

(d) In a confined space, the employer must provide mechanical exhaust ventilation sufficient to keep the dust concentration to a minimum, or must protect employees by respiratory protective equipment that meets the requirements of chapter 296-62 WAC, Part E.

(2) Flame removal.

(a) The employer must ensure that when hardened preservative coatings are removed by flame in enclosed spaces, the employees exposed to fumes are protected by air line respirators that meet the requirements of chapter 296-62 WAC, Part E. Employees performing this operation in the open air, and those exposed to the resulting fumes, must be protected by a fume filter respirator that meets the requirements of WAC 296-62-071.

(b) Flame or heat shall not be used to remove soft and greasy preservative coatings.

(3) Abrasive blasting.

(a) Equipment. Hoses and fittings used for abrasive blasting shall meet the following requirements:

(i) Hoses. Hose of a type to prevent shocks from static electricity shall be used.

(ii) Hose couplings. Hose lengths shall be joined by metal couplings secured to the outside of the hose to avoid erosion and weakening of the couplings.

(iii) Nozzles. Nozzles shall be attached to the hose by fittings that will prevent the nozzle from unintentionally becoming disengaged. Nozzle attachments shall be of metal and shall fit onto the hose externally.

(iv) Dead man control. A dead man control device shall be provided at the nozzle end of the blasting hose either to provide direct cutoff or to signal the pot tender by means of a visual and audible signal to cut off the flow, in the event the blaster loses control of the hose. The pot tender shall be available at all times to respond immediately to the signal.

(b) Replacement. Hoses and all fittings used for abrasive blasting shall be inspected frequently to insure timely replacement before an unsafe amount of wear has occurred.

(c) Personal protective equipment.

(i) The employer must ensure that abrasive blasters working in enclosed spaces are protected by abrasive blasting respirators that meet the requirements of WAC 296-24-675 and ((296-62-071)) chapter 296-62 WAC, Part E.

(ii) The employer must ensure that abrasive blasters working in the open are protected as required in subsection (1) of this section.

Exception: When synthetic abrasives containing less than one percent free silica are used, the employer may substitute particulate or dust filter respirators that are approved by the National Institute of Safety and Health (NIOSH) and used according to WAC 296-62-071.

(iii) The employer must ensure that employees, including machine tenders and abrasive recovery workers, working in areas where unsafe concentrations of abrasive materials and dusts are present are protected by eye and respiratory protective equipment that meets the requirements of WAC 296-304-09005 (1) and (2) and chapter 296-62 WAC, Part E.

Exception: This requirement does not apply to blasters.

(iv) The employer must ensure that a blaster is protected against injury from exposure to the blast by appropriate protective clothing, including gloves that meet the requirements of WAC 296-304-09015(1).

(v) A surge from a drop in pressure in the hose line can throw a blaster off the staging. To protect against this hazard,

PERMANENT

the employer must ensure that a blaster is protected by a personal fall arrest system, that meets the requirements of WAC 296-304-09021. The personal fall arrest system must be tied off to the ship or other structure during blasting from elevations where adequate fall protection cannot be provided by railings.

AMENDATORY SECTION (Amending WSR 96-11-067, filed 5/10/96, effective 1/1/97)

WAC 296-305-02501 Emergency medical protection.

(1) Fire fighters who perform emergency medical care or otherwise may be exposed to blood or other body fluids shall be provided with emergency medical face protection devices, and emergency medical garments that meet the applicable requirements of NAPA, Standard on Protective Clothing for Emergency Medical Operations 1999, 1992 edition.

Note: Prior to purchase, fire departments should request the technical data package required in NAPA 1999, 1992 edition, in order to compare glove and garment performance data. Departments reviewing these packages should ensure a relative ranking of the performance data before they purchase in order to provide the best performance of the EMS personal protective clothing.

(2) Fire fighters shall don emergency medical gloves prior to initiating any emergency patient care.

(3) Fire fighters shall don emergency medical garments and emergency medical face protection devices prior to any patient care during which splashes of body fluids can occur such as situations involving spurting blood or childbirth.

Note: Fire fighter turnout gear and gloves with vapor barriers may be used in lieu of emergency medical gloves and garments.

(4) Contaminated emergency medical garments, emergency medical face protection, gloves, devices, and emergency medical gloves shall be cleaned and disinfected, or disposed of, in accordance with WAC 296-62-08001, Part J, Blood borne pathogens.

(5) Fire departments shall establish a designated infection (exposure) control officer who shall ensure that an adequate infection control plan is developed and all personnel are trained and supervised on the plan.

(6) The infection control officer shall be responsible for establishing personnel exposure protocols so that a process for dealing with exposures is in writing and available to all personnel.

(7) The infection control officer or his/her designee will function as a liaison between area hospitals and fire department members to provide notification that a communicable disease exposure is suspected or has been determined by hospital medical personnel. The department infection control officer will institute the established exposure protocols immediately after report of an exposure. The infection control officer shall follow the confidentiality requirements of chapter 246-100 WAC and the medical protocol requirements of WAC 296-62-05209.

(8) Fire departments shall have a written infection (exposure) control plan which clearly explains the intent, benefits, and purpose of the plan. The written document must cover the standards of exposure control such as establishing the

infection control officer and all members affected; education and training; HB. vaccination requirements; documentation and record keeping; cleaning/disinfection of personnel and equipment; and exposure protocols.

(9) Policy statements and standard operating procedure guidelines shall provide general guidance and specific regulation of daily activities. Procedures shall include delegation of specific roles and responsibilities, such as regulation of infection control, as well as procedural guidelines for all required tasks and functions.

(10) Fire departments shall establish a records system for members health and training.

(11) Fire fighters shall be trained in the proper use of P.E., exposure protection, post exposure protocols, disease modes of transmission as it related to infectious diseases.

(12) Infectious disease programs shall have a process for monitoring fire fighters compliance with established guidelines and a means for correcting noncompliance.

(13) Fire department members shall be required to annually review the infectious disease plan, updates, protocols, and equipment used in the program.

(14) Fire departments shall comply with WAC 296-62-08001, Part J, Blood borne pathogens, in its entirety.

(15) Tuberculosis (TB) exposure and respiratory protection requirements.

(a) Fire fighters shall wear a particulate respirator (PR) when entering areas occupied by individuals with suspected or confirmed TB, when performing high risk procedures on such individuals or when transporting individuals with suspected or confirmed TB in a closed vehicle.

(b) A NOSH-approved, 95% efficient particulate air respirator is the minimum acceptable level of respiratory protection.

(i) Fit tests are required.

(ii) Fit tests shall be done ~~((by procedures recommended by the respirator manufacturer or the department))~~ in accordance with chapter 296-62 WAC, Part E.

Note 1: Emergency-response personnel should be routinely screened for tuberculosis at regular intervals. The tuberculin skin test is the only method currently available that demonstrates infection with *Mycobacterium tuberculosis* (M. tuberculosis) in the absence of active tuberculosis.

Note 2: If possible, the rear windows of a vehicle transporting patients with confirmed, suspected, or active tuberculosis should be kept open, and the heater or air conditioner set on a noncirculating cycle.

Additional References:

Chapter 296-62 WAC, Part J, Biological Agents-Blood-borne Pathogens.

WAC 296-62-08001(3), Exposure Control.

WSR 99-10-076

PERMANENT RULES

STATE BOARD OF HEALTH

[Filed May 4, 1999, 2:40 p.m.]

Date of Adoption: December 9, 1998.

Purpose: CORRECTION: The purpose is to correct an error in the official text of WAC 246-290-630 that was not

discovered until after the State Board of Health adopted final revisions to this rule on December 9, 1998. The amendment to this section was intended to incorporate verbatim into state rules a provision in federal law adopted by Congress in 1996. At some point in the process of modifying drafts of the official text, one word was changed, and the change was only recently discovered. The board understood that it was adopting the federal provision. This order would correct the error and conform this section of the WAC to the federal language.

Citation of Existing Rules Affected by this Order:
Amending WAC 246-290-630.

Statutory Authority for Adoption: RCW 43.20.050.

Adopted under notice filed as WSR 98-20-108 on October 7, 1998.

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: Thirty-one days after filing.

May 3, 1999

James Robertson
Executive Director

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-630 General requirements. (1) The purveyor shall ensure that treatment is provided for surface and GWI sources consistent with the treatment technique requirements specified in Part 6 of chapter 246-290 WAC.

(2) The purveyor shall install and properly operate water treatment processes to ensure at least:

- (a) 99.9 percent (3 log) removal and/or inactivation of *Giardia lamblia* cysts; and
- (b) 99.99 percent (4 log) removal and/or inactivation of viruses.

(3) The purveyor shall ensure that the requirements of subsection (2) of this section are met between a point where the source water is not subject to contamination by untreated surface water and a point at or before the first ~~((customer))~~ consumer.

(4) The department may require higher levels of removal and/or inactivation of *Giardia lamblia* cysts and viruses than specified in subsection (2) of this section if deemed necessary to protect the health of consumers served by the system.

(5) The purveyor shall ensure that personnel operating a system subject to Part 6 of chapter 246-290 WAC meet the

requirements under chapter 70.119 RCW and chapter 246-292 WAC.

(6) The purveyor of a **Group A community** system serving water from a surface or GWI source to the public before January 1, 1991, shall comply with applicable minimum treatment requirements. The purveyor shall meet either ~~((the))~~:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662 respectively; ~~((or))~~

(b) The criteria to remain unfiltered under WAC 246-290-690 and the disinfection requirements under WAC 246-290-692; or

(c) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(7) The purveyor of a **Group A noncommunity** system serving water ~~((to the public before January 1, 1991))~~ from a surface or GWI source, shall ~~((install filtration and))~~ meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively; or

(b) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(8) The purveyor of a **Group A** system first serving water from a surface or GWI source to the public after December 31, 1990, shall meet either:

(a) The filtration and disinfection requirements under WAC 246-290-660 and 246-290-662, respectively; or

(b) The criteria to provide a limited alternative to filtration under WAC 246-290-691 and the disinfection requirements under WAC 246-290-692.

(9) ~~((The department shall provide notification to the purveyor of the requirement to install filtration.))~~ The purveyor of a system required to install filtration may choose to provide a limited alternative to filtration or abandon the surface or GWI source as a permanent or seasonal source and develop an alternate, department-approved source. Purveyors that ~~((choose this option and))~~ develop alternate ground water sources or purchase water from a department-approved public water system using a ground water source shall no longer be subject to Part 6 of chapter 246-290 WAC, once the alternate source is approved by the department and is on line.

(10) ~~((Part 6 compliance options are summarized in Table 8.))~~

PERMANENT

Table 8
COMPLIANCE OPTIONS FOR GROUP A SYSTEMS
USING SURFACE OR GWI SOURCES

SYSTEM TYPE	SURFACE WATER OPTIONS (system subject to Part 6)	ALTERNATE GROUND WATER SOURCE OPTIONS (system not subject to Part 6)
Community systems serving water to the public before January 1, 1991	<ul style="list-style-type: none"> • Provide filtration and disinfection; • Remain unfiltered, meet all criteria to remain unfiltered, and provide disinfection; or • Purchase from a system using a surface or GWI source. 	Existing systems may abandon surface or GWI sources and develop alternate department-approved ground water sources.
All other Group A systems using surface or GWI sources	<ul style="list-style-type: none"> • Provide filtration and disinfection; or • Purchase completely treated surface water or GWI water from an approved public water system.) 	Existing systems which develop ground water sources or purchase ground water from a department-approved public water system shall not be subject to the requirements of Part 6, once the alternate source is approved by the department and is on-line.

A purveyor that chooses to provide a limited alternative to filtration shall submit an application to the department that contains the information necessary to determine whether the source can meet the criteria.

(11) If a limited alternative to filtration is provided, then the purveyor shall install and properly operate treatment processes to ensure greater removal and/or inactivation efficiencies of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of public health concern than would be achieved by the combination of filtration and chlorine disinfection.

ing: 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.

April 10, 1999

Joanna Boatman, RN, Chair

Nursing Care Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

WAC 246-840-020 Documents (~~which indicate authorization to practice nursing~~) issued to nurses in Washington. The following documents are the only documents (~~that indicate legal authorization to practice as a licensed practical nurse or registered nurse~~) issued to nurses in Washington.

(1) Active license. A license is issued upon completion of all requirements for licensure, confers the right to use the title licensed practical nurse or licensed registered nurse and the use of its abbreviation, L.P.N. or R.N., and to practice as a licensed practical nurse or registered nurse in the state of Washington.

A student who has graduated from a basic professional nursing course and who is pursuing a baccalaureate degree in nursing, an advanced degree in nursing or an advanced certification in nursing shall hold an active Washington RN license before participating in the practice of nursing as required to fulfill the learning objectives in a clinical course.

Exception to this requirement may be granted by the commission on an individual basis upon a petition submitted by the dean or director of a school of nursing, on a case-by-case basis.

(a) The exception allows the student to practice in a clinical setting only under the direct supervision of an RN faculty member. The commission requires that any RN faculty member supervising these students meet the requirements of direct supervision as defined in WAC 246-840-010 (13)(c)(ii) and, in addition, that supervising faculty document that all clients under the care of the student be assessed by the RN faculty each clinical day.

(b) The dean or director of the school of nursing shall ensure that each faculty member who supervises these stu-

WSR 99-10-079

PERMANENT RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed May 4, 1999, 2:47 p.m.]

Date of Adoption: April 9, 1999.

Purpose: Amend WAC 246-840-020 Documents which indicate authorization to practice nursing in Washington.

Citation of Existing Rules Affected by this Order: Amending WAC 246-840-020.

Statutory Authority for Adoption: RCW 18.79.110.

Adopted under notice filed as WSR 99-06-092 on March 3, 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 0, Amended 0, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

PERMANENT

dents be provided a copy of these rules and be assigned in a manner that allows for direct supervision.

(c) Nursing students who participate in clinical courses under this section are not eligible for the nursing technician role.

(2) Inactive license. A license issued to a person previously holding an active license in this state, is in good standing and does not practice in Washington state. Refer to chapter 246-12 WAC, Part 4.

(3) Limited educational license. A limited educational license may be issued to a person who has been on inactive or lapsed status for three years or more and who wishes to return to active status. A limited educational license does not authorize practice for employment.

(4) Advanced registered nurse practitioner (ARNP) recognition document. An ARNP recognition document may be issued to any person who meets the requirements of the commission as contained in WAC 246-840-300. Only persons holding this recognition document shall have the right to use the title "advanced registered nurse practitioner" or the abbreviation "ARNP" or any title or abbreviation which may indicate that the person is entitled to practice at an advanced and specialized level as a nurse practitioner, a specialized nurse practitioner, a nurse midwife, or a nurse anesthetist. This document authorizes the ARNP to engage in the scope of practice allowed for his or her specialty area and is valid only with a current registered nurse license.

(5) ARNP interim permit. An interim permit may be issued following satisfactory completion of an advanced formal education program, registration for the first certification examination of an approved program following completion of the education and filing of an application, fee and requested documentation. If the applicant passes the examination the department shall grant advanced registered nurse practitioner status. If the applicant fails the examination, the interim permit shall expire upon notification and is not renewable.

(6) ARNP prescriptive authorization. A notation of prescriptive authorization may be placed on the ARNP recognition document issued to any person who meets the requirements of the commission as contained in WAC 246-840-410. This authorizes the ARNP to prescribe drugs within his or her scope of practice and is valid only with a current registered nurse license.

WSR 99-10-091
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed May 4, 1999, 3:49 p.m.]

Date of Adoption: March 19, 1999.

Purpose: To make technical adjustments and clarify existing provisions.

Citation of Existing Rules Affected by this Order: Repealing WAC 180-16-240; and amending WAC 180-16-195 and 180-16-220.

Statutory Authority for Adoption: RCW 28A.150.250, 28A.150.260, 28A.15.220 [28A.150.220].

Adopted under notice filed as WSR 99-04-080 on February 2, 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 0, Amended 2, Repealed 1.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 2, Repealed 1; 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.

May 4, 1999

Larry Davis

Executive Director

AMENDATORY SECTION (Amending Order 2-84, filed 5/17/84)

WAC 180-16-195 Annual reporting and review process. (1) **Annual district reports.** A review of each school district's kindergarten through twelfth grade program shall be conducted annually for the purpose of determining compliance or noncompliance with these basic education allocation entitlement requirements. On or before the third Monday in October of each school year, each school district superintendent shall complete and return the program data report form(s) prepared and distributed by the superintendent of public instruction. Such forms shall be designed to elicit data necessary to a determination of a school district's compliance or noncompliance with these entitlement requirements. Data reported on any such form(s) by a school district shall accurately represent the actual status of the school district's program as of the first school day in October and as thus far provided and scheduled for the entire current school year. Such forms shall be signed by:

- (a) The school board president or chairperson, and
- (b) The superintendent of the school district.

(2) **State staff review.** ~~((The superintendent of public instruction))~~ State board of education staff shall review each school district's program data report and such supplemental state reports as staff ~~((deemed))~~ deems necessary, conduct on-site monitoring visits of randomly selected school districts and prepare recommendations and supporting reports for presentation to the state board of education: *Provided*, That, if a school district's initial program data report and any other state reports considered do not establish compliance with these basic education allocation entitlement requirements, the district shall be provided the opportunity to explain the deficiency and provide supplemental data. School districts which foresee that they will not be able to comply with these entitlement requirements or that are deemed by the ~~((superintendent of public instruction))~~ state board to be in noncompliance

may petition for a waiver on the basis of the limited ground of substantial lack of classroom space as set forth in WAC 180-16-225.

(3) Annual certification of compliance or noncompliance—Withholding of funds for noncompliance.

(a) At the annual March meeting of the state board of education, or at such other meeting as the board shall designate, the board shall certify each school district as being in compliance or noncompliance with these basic education allocation entitlement requirements.

(b) A certification of compliance shall be effective for the then current school year subject to any subsequent ad hoc review and determination of noncompliance as may be deemed necessary (~~(or advisable)~~) by the state board of education or advisable by the superintendent of public instruction. In addition, a certification of compliance shall be effective tentatively for the succeeding school year until such time as the state board takes its annual action certifying compliance or noncompliance with these entitlement requirements.

(c) A certification of noncompliance shall be effective until program compliance is assured by the school district to the satisfaction of (~~(the superintendent of public instruction))~~ state board of education staff, subject to review by the state board. Basic education allocation funds shall be deducted from the basic education allocation of a school district that has been certified as being in noncompliance unless such district has received a waiver, pursuant to WAC 180-16-225, from the state board for such noncompliance, or assurance of program compliance is subsequently provided for the school year previously certified as in noncompliance and is accepted by the state board.

(d) The withholding of basic education allocation funding from a school district shall occur for a noncompliance provided that the school district has been given a reasonable amount of time to remediate the noncompliance situation, not to exceed forty school business days from the time the district receives notice of the noncompliance from the (~~(superintendent of public instruction))~~ state board of education. It is presumed that forty school business days is a reasonable time for school districts to correct an existing noncompliance. The (~~(superintendent of public instruction))~~ state board of education may extend such timeline only if the district demonstrates, by clear and convincing evidence, that such timeline is not reasonable to make the necessary corrections. For the purposes of this section, a school business day shall mean any calendar day, exclusive of Saturdays, Sundays, and any federal and school holidays upon which the office of the superintendent of the school district is open to the public for the conduct of business. A school business day shall be concluded or terminated upon the closure of said office for the calendar day.

(e) The superintendent of public instruction, or his/her designee, after notification by the state board of education to a school district regarding an existing noncompliance, shall enter into a compliance agreement with the school district that shall include, but not be limited to, the following criteria:

(i) A deadline for school district remediation of the noncompliance(s), not to exceed forty school business days per noncompliance as specified in (d) of this subsection.

(ii) A listing of all the noncompliance areas and the necessary terms that must be satisfied in each area in order for the school district to gain compliance status. This listing also shall specify additional deadlines for the accomplishment of the stated terms if different from the final deadline as specified in subsection (1) of this section.

(iii) A closing statement specifying that a school district's failure to remediate a noncompliance by the determined deadline shall result in the immediate withholding of the district's basic education allocation funding by the superintendent of public instruction.

(iv) The date and the signatures of the superintendent of the school district, or his/her designee, and the superintendent of public instruction, or his/her designee, to the agreement. A copy of the completed compliance agreement shall be sent to the chairperson of the school district's board of directors.

(f) In the event a school district fails to sign the compliance agreement within five school business days from the date of issuance or does not satisfy the terms of the signed compliance agreement within the designated amount of time, the superintendent of public instruction shall withhold state funds for the basic education allocation until program compliance is assured.

(g) The superintendent of public instruction shall withhold state funds for the basic education allocation to a school district based on the following procedure:

(i) For the first month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold twenty-five percent of the state funds for the basic education allocation to a school district.

(ii) For the second month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold fifty percent of the state funds for the basic education allocation to a school district.

(iii) For the third month that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold seventy-five percent of the state funds for the basic education allocation to a school district.

(iv) For the fourth month, and every month thereafter, that a noncompliance exists following the conditions as specified in (f) of this subsection, the superintendent of public instruction shall withhold one hundred percent of the state funds for the basic education allocation to a school district until compliance is assured.

(h) Any school district may appeal to the state board of education the decision of noncompliance by the (~~(superintendent of public instruction))~~ state board of education staff. Such appeal shall be limited to the interpretation and application of these rules and regulations by such superintendent of public instruction. Such appeal shall not stay the withholding of any state funds pursuant to this section. The state board of education may not waive any of the basic education entitlement requirements as set forth in this chapter, except as provided in WAC 180-16-225.

AMENDATORY SECTION (Amending WSR 90-01-137, filed 12/20/89, effective 1/20/90)

WAC 180-16-220 Supplemental program and basic education allocation entitlement requirements. The following requirement((s)), while not imposed by the "Basic Education Act of 1977," ((are)) is hereby established by the state board of education as a related supplemental condition((s)) to a school district's entitlement to state basic education allocation funds.

~~((1) Student to certificated staff ratio requirement. The ratio of students enrolled in a school district to full-time equivalent certificated employees shall not exceed twenty-three to one. *Provided*, That nonhigh school districts or school districts that have a student enrollment of two hundred fifty or less in grades nine through twelve may, as an alternative to the foregoing requirement, have a ratio of students to full-time equivalent certificated classroom teachers of twenty-six to one or less. For the purpose of this subsection, "certificated employees" shall mean those employees who are required by state statute or by rule of the state board of education, or by written policy of the school district to possess a professional education permit, certificate or credential issued by the superintendent of public instruction, as a condition to employment and "classroom teacher" shall be defined as in WAC 180-16-210 and the students to classroom teachers ratio shall be computed in accordance with WAC 180-16-210(1).~~

(2)) **Current and valid certificates.** Every school district employee required by WAC ((180-75-055)) 180-79A-140 to possess a professional education permit, certificate, or credential issued by the superintendent of public instruction for his/her position of employment, shall have a current and valid permit, certificate or credential. In addition, effective August 31, 1987, classroom teachers, principals, vice principals, and educational staff associates shall be required to possess endorsements as required by WAC ((180-16-221, 180-16-231, and 180-16-236)) 180-82-105, 180-82-120, and 180-82-125, respectively.

~~((3) Other program requirements self evaluation. Each school district shall adopt a procedure to ensure awareness of and compliance with other program requirements, including provisions set forth in WAC 180-16-240.))~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 180-16-240	Compliance with other program requirements.
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WSR 99-10-092
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed May 4, 1999, 3:52 p.m.]

Date of Adoption: March 19, 1999.

Purpose: Authorizes State Board of Education to adopt rules governing the formal and informal procedures prescribed or authorized by chapter 34.05 RCW.

Citation of Existing Rules Affected by this Order: Amending chapter 180-08 WAC, Practice and procedure.

Statutory Authority for Adoption: RCW 34.05.220.

Adopted under notice filed as WSR 99-04-079 on February 2, 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 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

May 4, 1999

Larry Davis

Executive Director

NEW SECTION

WAC 180-08-015 Scheduled review of state board rules. The state board of education shall review all board rules not less than every three years.

WSR 99-10-093
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed May 4, 1999, 3:56 p.m.]

Date of Adoption: March 19, 1999.

Purpose: To provide clarification of the definition of high school credit as it relates to adult high school completion course work through a college or university.

Citation of Existing Rules Affected by this Order: Amending WAC 180-51-050.

Statutory Authority for Adoption: RCW 28A.230.090.

Adopted under notice filed as WSR 99-04-081 on February 2, 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 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 1, 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.

May 4, 1999

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 97-08-020, filed 3/25/97, effective 4/25/97)

WAC 180-51-050 High school credit—Definition. As used in this chapter the term "high school credit" shall mean:

(1) Grades nine through twelve high school programs. One hundred fifty hours of planned ~~((in-school instruction;))~~ instructional activities approved by the district.

(2) College and university course work. At the college or university level, ~~((except for community college adult high school completion programs;))~~ five quarter or three semester hours shall equal 1.0 high school credit((~~and~~)); Provided, That for the purpose of this subsection, "college and university course work" means course work that generally is designated 100 level or above by the college or university.

(3) Community college ~~((adult))~~ high school completion program - Diploma awarded by community college. Five quarter or three semester hours of community college high school completion course work shall equal 1.0 high school credit ((for students in the community college high school completion program)); Provided, That for purposes of awarding equivalency credit under this subsection, college and university high school completion course work includes course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve.

(4) Community college high school completion program - Diploma awarded by school district. A minimum of .5 and a maximum of 1.0 high school credit may be awarded for every five quarter or three semester hours of community college high school completion course work; Provided, That for purposes of awarding equivalency credit under this subsection, college and university high school completion course work includes course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve.

(5) Each high school district board of directors shall adopt a written policy for determining the awarding of equivalency credit authorized under subsection (4) of this section. The policy shall apply uniformly to all high schools in the district.

(6) A student must first obtain a written release from their school district to enroll in a high school completion program under subsection (3) of this section if the student has not reached age eighteen or whose class has not graduated.

WSR 99-10-094

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed May 4, 1999, 3:58 p.m.]

Date of Adoption: April 8, 1999.

Purpose: Provide school districts and high schools a waiver option from credit-based graduation requirements to support performance-based education.

Citation of Existing Rules Affected by this Order: Amending chapters 180-51 and 180-18 WAC.

Statutory Authority for Adoption: RCW 28A.230.090, 28A.305.140, 28A.600.010.

Adopted under notice filed as WSR 99-06-089 on March 2, 1999.

Changes Other than Editing from Proposed to Adopted Version: Amendments (see sections below).

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 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 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

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

May 4, 1999

Larry Davis

Executive Director

NEW SECTION

WAC 180-18-055 Alternative high school graduation requirements. (1) The shift from a time and credit based system of education to a standards and performance based education system will be a multiyear transition. In order to facilitate the transition and encourage local innovation, the state board of education finds that current credit-based graduation requirements may be a limitation upon the ability of high schools and districts to make the transition with the least amount of difficulty. Therefore, the state board will provide districts and high schools the opportunity to create and implement alternative graduation requirements.

(2) A school district or high school, with permission of the district board of directors, or approved private high school, desiring to implement a local restructuring plan to provide an effective educational system to enhance the educational program for high school students, may apply to the state board of education for a waiver from one or more of the requirements of chapter 180-51 WAC.

(3) The state board of education may grant the waiver for a period up to four school years, or until any new graduation requirements the state board of education may adopt take effect, whichever comes first.

(4) The waiver application shall be in the form of a resolution adopted by the district or private school board of directors which includes a request for the waiver and a plan for restructuring the educational program of one or more high schools which consists of at least the following information:

(a) Identification of the requirements of chapter 180-51 WAC to be waived;

(b) Specific standards for increased student learning that the district or school expects to achieve;

(c) How the district or school plans to achieve the higher standards, including timelines for implementation;

(d) How the district or school plans to determine if the higher standards are met;

(e) Evidence that the board of directors, teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan;

(f) Evidence that students, parents, and citizens were involved in developing the plan; and

(g) Identification of the school years subject to the waiver.

(5) The application also shall include documentation that the school is successful as demonstrated by indicators such as, but not limited to, the following:

(a) The school has clear expectations for student learning;

(b) The graduation rate of the high school for the last three school years;

(c) Any follow-up employment data for the high school's graduate for the last three years;

(d) The college admission rate of the school's graduates the last three school years;

(e) Use of student portfolios to document student learning;

(f) Student scores on the state eleventh grade test the last three school years;

(g) Student scores on the secondary Washington assessment of student learning;

(h) The level and types of parent involvement at the school;

(i) The school's annual performance report the last three school years; and

(j) The level of student, parent, and public satisfaction and confidence in the school as reflected in any survey done by the school the last three school years.

(6) A waiver of WAC 180-51-060 may be granted only if the district or school provides documentation and rationale that any noncredit based graduation requirements that will replace in whole or in part WAC 180-51-060, will support the state's performance-based education system being implemented pursuant to RCW 28A.630.885, and the noncredit based requirements meet the minimum college core admissions standards as accepted by the higher education coordinating board for students planning to attend a baccalaureate institution.

(7) A waiver granted under this section may be renewed upon the state board of education receiving a renewal request from the school district board of directors. Before filing the request, the school district shall conduct at least one public meeting to evaluate the educational requirements that were implemented as a result of the waiver. The request to the state board shall include information regarding the activities and programs implemented as a result of the waiver, whether higher standards for students are being achieved, assurances that students in advanced placement or other postsecondary options programs, such as but not limited to college in the high school, running start, and tech-prep, shall not be disadvantaged, and a summary of the comments received at the public meeting or meetings.

(8) The state board of education shall notify the state board for community and technical colleges and the higher education coordinating board of any waiver granted under this section.

(9) Any waiver requested under this section will be granted with the understanding that the state board of education will affirm that students who graduate under alternative graduation requirements have in fact completed state requirements for high school graduation in a nontraditional program.

(10) Any school or district granted a waiver under this chapter shall report annually to the state board of education, in a form and manner to be determined by the board, on the progress and effects of implementing the waiver.

NEW SECTION

WAC 180-51-107 Alternative high school graduation requirements. Alternative high school graduation requirements may be established under WAC 180-18-055.

WSR 99-10-095

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

(Hop Board)

[Filed May 5, 1999, 8:18 a.m.]

Date of Adoption: May 5, 1999.

Purpose: Amend the qualifications of hop producers that may serve on the board of the Hop Commission.

Citation of Existing Rules Affected by this Order: Amending WAC 16-532-030.

Statutory Authority for Adoption: RCW 15.65.050.

Adopted under notice filed as WSR 99-02-063 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 1, Amended 0, Repealed 0.

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 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.

May 3, 1999

Jim Jesernig

Director

[**AMENDATORY SECTION** (Amending WSR 92-09-068, filed 4/14/92)]

WAC 16-532-020 Hop board. (1) Administration.

The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) Board membership.

(a) The board shall consist of ten members. Nine members shall be affected producers elected as provided in this section. The director shall appoint one member of the board who is neither an affected producer nor a handler to represent the department and the public.

(b) For the purpose of nomination and election of producer members of the board, the affected area shall be the entire state of Washington.

(3) Board membership qualifications.

The affected producer members of the board shall be practical producers of hops and shall be citizens and residents of the state of Washington, over the age of twenty-five years, each of whom is and has been actually engaged in producing hops within the state of Washington for a period of five years and has during that time derived a substantial portion of his income therefrom and who is not engaged in business, directly or indirectly, as a handler or other dealer.

(4) Term of office.

(a) The term of office for members of the board shall be three years and one-third of the membership as nearly as possible shall be elected each year.

(b) Membership positions on the board shall be designated numerically; affected producers shall have positions one through nine and the member appointed by the director position ten.

(c) The term of office for the initial board members shall be as follows:

Positions one, two, three and ten - until June 30, 1967

Positions four, five and six - until June 30, 1966

Positions seven, eight and nine - until June 30, 1965

(d) Terms of office for the board members serving at the time of the 1992 amendment of this section shall be as follows:

Positions one, two, three and ten - until December 31, 1994

Positions four, five and six - until December 31, 1993

Positions seven, eight and nine - until December 31, 1992

(5) Nomination and election of board members. Each year the director shall call for a nomination meeting. Such meeting shall be held at least thirty days in advance of the

date set by the director for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the major production area not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers according to the list maintained by the director pursuant to RCW 15.65.200 of the act. Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting. Any qualified affected producer may be nominated orally for membership on the board at such nomination meetings. Nominations may also be made within five days after any such meetings by written petition filed with the director signed by not less than five affected producers. At the inception of this order nominations may be made at the issuance hearing.

(6) Election of board members.

(a) Members of the board shall be elected by secret mail ballot within the month of November under the supervision of the director. Affected producer members of the board shall be elected by a majority of the votes cast by the affected producers. Each affected producer shall be entitled to one vote.

(b) If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) Notice of every election for board membership shall be published in a newspaper of general circulation within the major production area not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the director in accordance with RCW 15.65.200. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his qualifications. Nonreceipt of a ballot by any affected producer shall not invalidate the election of any board member.

(7) Vacancies prior to election. In the event of a vacancy on the board, the remaining members shall select a qualified person to fill the unexpired term.

(8) Quorum. A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) Board compensation. No member of the board shall receive any salary or other compensation, but each member shall be reimbursed for actual subsistence and traveling expenses incurred through attendance at meetings or other board activities: *Provided*, That such expenses shall be authorized by resolution by unanimous approval of the board at a regular meeting.

(10) Powers and duties of the board. The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of

law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order.

(f) To establish a "hop board marketing revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the state of Washington. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules and regulations of a technical or administrative nature, subject to the provisions of chapter 34.05 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of

federal and state marketing regulations, licenses, agreements or orders.

(o) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

(11) Procedures for board.

(a) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting by written notice to each producer and by regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings of the board with reasonable notice to the members: *Provided*, That the notice of any special meeting may be waived by a waiver thereof by each member of the board.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 99-10-102
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-40—Filed May 5, 1999, 9:42 a.m.]

Date of Adoption: April 3, 1999.

Purpose: To amend WAC 232-28-02201, 232-28-02203, 232-28-02204, 232-28-02205, 232-28-02240, 232-28-248, 232-28-273, 232-28-264, 232-16-810, 232-28-281, 232-28-280, and 232-28-271.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-02201, 232-28-02203, 232-28-02204, 232-28-02205, 232-28-02240, 232-28-248, 232-28-273, 232-28-264, 232-16-810, 232-28-281, 232-28-280, and 232-28-271.

Statutory Authority for Adoption: RCW 77.12.040.

Adopted under notice filed as WSR 99-05-063 on February 17, 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 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 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.
 April 27, 1999
 Debbie Nelson
 for Kelly White, Chair
 Fish and Wildlife Commission

ber 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 98-160, 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 Novem-

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.
	Daylight Savings Time					
Tues. Sept. 1 - Sun. Sept. 6	6:00		7:45	5:50		7:35
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					
Mon. Oct. 26 - 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.

PERMANENT

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
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.

PERMANENT

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.	from to	P.M.	A.M.	from 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
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			
				A.M.	from to	P.M.	A.M.	from to	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

PERMANENT

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		
					A.M.	to	P.M.	A.M.	to	P.M.
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	
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,

PERMANENT

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 Washington

Ring-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 prohibited 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.

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	((1998)) 1999 Permits
Selkirk Mtns.	Oct. 1-Nov. 30	GMU 113	Any Legal Weapon	((12)) <u>15</u>
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)) <u>5</u>
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)) <u>4</u>
Hangman	Oct. 1-Nov. 30	GMU 127, 130	Any Legal Weapon	((1)) <u>2</u>

*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)) <u>3</u>
Cleman Mountain	Sept. 15-Oct. 10	Sheep Unit 7	Any Legal Weapon	((2)) <u>3</u>
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	((1)) <u>3</u>
Swakane	Sept. 15-Oct. 10	Sheep Unit 14	Any Legal Weapon	1

PERMANENT

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)) <u>1999</u> Permits
((Mount Chopaka Methow	Sept. 13-Oct. 31 Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 2-1 Goat Unit 2-2	Any Legal Weapon Any Legal Weapon	4)) 5
Naches Pass	Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 3-6	Any Legal Weapon	3
Bumping River	Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 3-7	Any Legal Weapon	2
Tieton River	Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 3-9	Any Legal Weapon	3
Blazed Ridge	Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 3-10	Any Legal Weapon	6
Kachess Ridge	Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 3-11	Any Legal Weapon	1
East Ross Lake	Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 4-8	Any Legal Weapon	((5)) <u>1</u>
Jack Mountain	Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 4-9	Any Legal Weapon	((2)) <u>1</u>
Foss River	Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 4-32	Any Legal Weapon	((5)) <u>2</u>
((Pratt River Corral Pass	Sept. 13-Oct. 31 Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 4-34 Goat Unit 4-38	Any Legal Weapon Any Legal Weapon	5)) ((4)) <u>2</u>
Tatoosh	Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 5-2	Any Legal Weapon	5
Smith Creek	Sept. ((13)) <u>15</u> -Oct. 31	Goat Unit 5-3	Any Legal Weapon	3

PERMANENT

Goat Rocks Sept. ((13)) 15-Oct. Goat Unit 5-4
31

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

PERMANENT

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 and)) 1999 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.

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 through 316	Any whitetail buck
	((Oct. 17-25))	Oct. 16-24	145 through 154, 162 through 186((, 203, 231))	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.
HUNTERS OVER 65, DISABLED, ((SENIOR,)) OR YOUTH ((HUNTS)) SEASONS				
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.

PERMANENT

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,)) <u>242</u> , 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, <u>278, 281, 284, ((582)) 382</u>	3 pt. min.
			((Sept. 6-15))	Sept. 6-15	130 through 154, 162 through 178, 248, 254, 266, 269, 272, <u>278, 281, 284, ((582)) 382</u>	3 pt. min. or antlerless
Eastern Washington White-tail Deer	((Sept. 1-5))	Sept. 1-5	101 through 124, 204 through ((224, 233, 239)) <u>284, 300 through 316</u>	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)) <u>284, 300 through 316</u>	Any whitetail deer		
			127 through 154, 162 through 186((, 231)))	Whitetail 3 pt. min. or antlerless		

PERMANENT

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)) 506 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, 272	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 and that <u>part of the Henry Jackson Wilderness Area west of the Pacific Crest Trail.</u>	3 pt. min.

PERMANENT

Hunt Area	((1998 Season Dates))	1999 Season Dates	Game Management Units	Legal Deer
Early Muzzleloader Deer Seasons				
Western Washing- ton 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 Washing- ton Whitetail Deer	((Oct. 10-16))	Oct. 9-15	((109, 117,)) 209, 300, <u>304, 316</u>	Whitetail, any buck
			<u>109, 117</u>	<u>Whitetail, any deer</u>
Eastern Washing- ton 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 Washing- ton 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 Washing- ton Whitetail Deer	((Nov. 25-Dec. 15))	Nov. 24-Dec. 15	<u>113, 284</u>	Whitetail, any buck
			139	Whitetail, 3 pt. min.
			130, 136, 172, 181	Whitetail, 3 pt. min. or antlerless
Eastern Washing- ton 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, antl- erless only)) <u>3 pt. min.</u>

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 Wash- ington Blacktail Deer	((Oct. 17-31))	Oct. 16-31	<u>410, 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.

PERMANENT

Hunt Name	((1998)) <u>1999</u> Permit Season	Special Restrictions	Boundary Description	((1998)) <u>1999</u> 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>700</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
Step toe	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>Pearrygin</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))
<u>Desert A</u>	<u>Nov. ((7-22)) 8-23</u>	((3 Pt. Min.)) <u>Any Buck</u>	GMU 290	((9)) <u>13</u>
<u>Desert B</u>	<u>Dec. 1-15</u>	<u>Antlerless</u>	<u>GMU 290</u>	<u>50</u>

PERMANENT

<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)) <u>116</u>
Umtanum A	Nov. ((7-22)) <u>8-23</u>	((3 Pt. Min.)) <u>Any Buck</u>	GMU 342	((59)) <u>129</u>
Alkali A	Nov. ((7-22)) <u>8-23</u>	((3 Pt. Min.)) <u>Any Buck</u>	GMU 371	((59)) <u>64</u>
<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>	<u>Any Buck</u>	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>	<u>Any Deer</u>	GMU 501	((175)) <u>80</u>
Stella	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 504*	75
Mossyrock	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 505	150
Willapa Hills	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 506	((85)) <u>40</u>
Stormking	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 510	75
South Rainier	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 513	75
Packwood	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 516	100
Winston	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 520	100
Ryderwood	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 530	((85)) <u>40</u>
Coweeman	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 550	175
Yale	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 554*	50
Marble	Oct. ((17-30)) <u>16-31</u>	<u>2 Pt. Min. or Antlerless</u>	GMU 558	75
Lewis River	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 560	100
((Washougal	Oct. 17-30	Any Deer	GMU 568	35))
Siouxon	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 572	100
West Klickitat	Oct. ((17-30)) <u>16-31</u>	<u>2 Pt. Min. or Antlerless</u>	GMU 578	25
((East Klickitat	Oct. 17-30	2 Pt. Min. or Antlerless	GMU 582	25))
Grayback	Oct. ((17-30)) <u>16-31</u>	<u>2 Pt. Min. or Antlerless</u>	GMU 588	25
Pysht**	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 603	((30)) <u>50</u>
Olympic	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 621	40
Coyle	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 624	((40)) <u>30</u>
Kitsap	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 627	20
Mason Lake	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 633	((60)) <u>70</u>
Skokomish	Oct. ((17-30)) <u>16-31</u>	<u>2 Pt. Min. or Antlerless</u>	GMU 636	80
Wynoochee	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 648	((75)) <u>100</u>
Satsop	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 651	150
North River	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 658	((40)) <u>60</u>
Minot Peak	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 660	100
Capitol Peak	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 663	((100)) <u>120</u>
Deschutes	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 666	80
Skookumchuck A	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 667	((90)) <u>170</u>
Fall River	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 672	((90)) <u>80</u>
Williams Creek	Oct. ((17-30)) <u>16-31</u>	<u>Any Deer</u>	GMU 673	50

*Firearm Restriction Areas - Muzzleloader or archery equipment only.

**Permit not valid on Merrill and Ring Tree Farm.

PERMANENT

Muzzleloader Only Deer Permit Hunts (Only muzzleloader tag holders may apply.)

((Colville	Oct. 10-16	Antlerless Only	GMUs 109, 117	50
Alta B	Oct. 10-16	3 Pt. Min.	GMU 242	8))
Moses Coulee	Dec. 1-31	Antlerless ((Only))	GMU 269	((25)) 50
Desert ((B)) C	Oct. ((10-16)) 9-15	((3 Pt. Min.)) Any Deer	GMU 290	((+) 2
Quilomene B	Oct. 1-10	((3 Pt. Min.)) Any Buck	GMUs 329, 330	((4)) 20
Umtanum B	Oct. 1-10	((3 Pt. Min.)) Any Buck	GMU 342	((5)) 8
Alkali ((B)) C	Oct. 1-10	((3 Pt. Min.)) Any Buck	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)) 9-15	Any Deer	GMU 651	50

Archery Only ((Buck)) Permit Hunts (Only archery deer tag holders may apply.)

((Alta C	Sept. 1-30	3 Pt. Min.	GMU 242	32))
Desert ((C)) D	Sept. 1-15	((3 Pt. Min.)) Any Deer	GMU 290	((13)) 21
Quilomene C	Sept. 1-15	((3 Pt. Min.)) Any Buck	GMUs 329, 330	((86)) 110
Umtanum C	Sept. 1-15	((3 Pt. Min.)) Any Buck	GMU 342	((86)) 110
Alkali ((C)) E	Sept. 1-15	((3 Pt. Min.)) Any Deer	GMU 371	((155)) 69

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)) 125
Mt. Adams	Oct. 1-10	2-Pt. Min. or Antlerless	Elk Area 059	10
Skookumchuck B	Oct. ((17-30)) 16-31	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)) 8-23	Whitetail, 3-Pt. Min. or Antlerless	GMUs 149, 154, 162-166	10
St. Andrews	Oct. 16-24	Antlerless	GMU 254	20
Green River ((C)) B	Oct. ((11-17)) 10-16	((Antlerless Only)) Any Deer	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)) 16-31	((Antlerless Only)) Any Deer	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)) 16-31	Any Deer	GMU 572	3
Eleven Mile Ridge	Oct. ((17-31)) 16-31	Any Deer	GMU 572	2
Red Mountain	Oct. ((17-31)) 16-31	Any Deer	GMU 572	2
Paradise Ridge	Oct. ((17-31)) 16-31	Any Deer	GMU 572	2
Proverbial Creek	Oct. ((17-31)) 16-31	Any Deer	GMU 572	2
Gobbler's Knob	Oct. ((17-31)) 16-31	2-Pt. Min. or Antlerless	GMU 574	2
((Lone Butte	Oct. 17-31	Any Deer	GMU 560	3))
Skookumchuck ((B)) C	Oct. ((17-Nov. 1)) 16-31	Any Deer	GMU 667	15
Bear River	Oct. ((17-Nov. 1)) 16-31	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)) 16-24	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.)

PERMANENT

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 ((€)) <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 ((€)) <u>D</u>	Oct. ((11-Nov. 1)) <u>10-31</u>	Any Deer	GMU 667	60

AMENDATORY SECTION (Amending Order 98-61, filed 4/22/98, effective 5/23/98)

WAC 232-28-281 ((1998-99 and)) 1999-2000 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,)) and 588 ((and permit only GMUs 157, 524, 556, 602, and 621)).

GMUs Closed to Elk Hunting: 418 (Nooksack), and 437 (Sauk) except for ML Elk Area ((041)) 941, 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 ML Elk Area ((041)) 941, and GMU 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 (Quinault) 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

W((G))E - Western Washington Modern Firearm General ((Bull)) Elk Tag

PERMANENT

WM - Western Washington Muzzleloader Tag

Modern Firearm Elk Seasons

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.

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)) <u>368</u>	((Oct. 31-Nov. 8))	Oct. 30-Nov. 7	Spike bull ((only))
		372, <u>382</u>	((Oct. 5-13))	Oct. 5-13	Antlerless ((Only))
			((Oct. 31-Nov. 8))	Oct. ((31)) <u>30</u> -Nov. ((8)) <u>7</u>	Any Elk
			((Dec. 9-13))	Dec. 9-13	Antlerless ((Only))
		<u>371</u>		Oct. 30-Nov. 7	Any Elk
Western Washington	General (((WG))) <u>WF</u>	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)) <u>6</u> -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.

PERMANENT

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
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, <u>382</u>	((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)) <u>484</u> , 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 and <u>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

PERMANENT

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)) <u>Wallacut</u> 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 044	Nov. 25-Dec. 31	Nov. 24-Dec. 31	Antlerless only))

Muzzleloader Elk Seasons

License Required: ~~((Hunting license.))~~ A valid big game hunting license with an elk tag option.

Tag Required: Valid muzzleloader elk tag as listed below on his/her person for the area hunted.

Hunting Method: Muzzleloader only.

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.

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, 184))	((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))
		<u>ML 911</u>		<u>Aug. 14-Sept. 12</u>	<u>Any elk</u>
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))

PERMANENT

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. 9-15</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. 10-16	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-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

PERMANENT

	WA, W((G))E, WM	564, Archery, <u>and</u> 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 equip- ment.	Any Elk	((Nov. 7-15))	Nov. 6-14
	WM	ML Area No. 941	Any Elk		Oct. 1, 1999- Jan. 31, 2000
Northeast	N((G))E	101, 105, 121, 124 west of SR 395, <u>127,</u> <u>130, 133, 136, 139</u>	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 (Washing- ton)	Any Elk Tag	Grant, Adams, Douglas (and), <u>Frank-</u> <u>lin, Okanogan and Benton (south of the</u> <u>Yakima River) cos. and Chelan County</u> 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.</u> <u>15</u>
<u>Colockum</u>	CM	ML Area 911; <u>Advanced Hunter Edu-</u> <u>cation Hunters Only</u>	Any Elk		<u>Nov. 24-Dec.</u> <u>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).

PERMANENT

Hunt Name	Permit Season	Special Restric- tions	Elk Tag Prefix	Boundary Descrip- tion	((1998)) 1999 Per- mits
Modern Firearm Bull Permit Hunts					
Blue Creek A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 154	((3)) <u>4</u>
Watershed ((A)) *	Oct. ((34)) <u>30</u> -Nov. ((8)) <u>7</u>	3 Pt. Min. or Antlerless	BA, B((G))E, BM	GMU 157	50
Dayton A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any bull</u>	B((G))E	GMU 162	5
Tucannon A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 166	((3)) <u>2</u>
Wenaha A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 169	((6)) <u>7</u>
Mountain View A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 172	((5)) <u>8</u>
Peola A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 178	((2)) <u>1</u>
Couse <u>A</u>	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 181	1
Grande Ronde A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	B((G))E	GMU 186	1
Naneum A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	C((G))E	GMU 328	((+9)) <u>21</u>
Quilomene A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	C((G))F	GMU 329	((+0)) <u>9</u>

Hunt Name	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	(1998) 1999 Permits
Peaches Ridge A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	Y ((G)) F	GMUs 336, 346	((88)) <u>118</u>
Observatory A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	Y ((G)) F	GMUs 340, 342	((52)) <u>67</u>
Goose Prairie A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	Y ((G)) F	GMUs 352, 356	((41)) <u>114</u>
Bethel A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	Y ((G)) F	GMU 360	((30)) <u>71</u>
Rimrock A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	Y ((G)) F	GMU 364	((63)) <u>94</u>
Cowiche A	Oct. ((25)) <u>24</u> -Nov. ((8)) <u>7</u>	((3 Pt. Min.)) <u>Any Bull</u>	Y ((G)) F	GMU 368	((+)) <u>8</u>
Margaret A	Nov. ((2-15)) <u>1-14</u>	3 Pt. Min.	W ((G)) F	GMU 524	((14)) <u>10</u>
Toutle A	Nov. ((2-15)) <u>1-14</u>	3 Pt. Min.	W ((G)) F	GMU 556	((17)) <u>88</u>
Dickey A	Nov. ((2-15)) <u>6-14</u>	3 Pt. Min.	W ((G)) F	GMU 602	((46)) <u>54</u>
Olympic A	Nov. ((2-15)) <u>6-14</u>	3 Pt. Min.	W ((G)) F	GMU 621	((14)) <u>13</u>

*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)) F 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. ((17)) <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)) F or BM	GMU 169	((3)) <u>2</u>
Peola B	Nov. ((4-8)) <u>3-7</u>	Antlerless	B ((G)) F or BM	GMU 178	25
Wenatchee Mtns.	Oct. 1-10	((3 Pt. Min.)) <u>Any Bull</u>	C ((G)) F, CM, Y ((G)) F, or YM	GMU 302, 335	((18)) <u>22</u>
Shushuskin	Dec. 1-31	Antlerless	Y ((G)) F or YM	Elk Area 031	50
Malaga A***	Sept. 1-Oct. 3	((Any Elk)) <u>Antlerless</u>	C ((G)) F or CM	Elk Area 032	75
((Malaga B)) <u>Malaga ((C)) B</u>	Oct. 11-31 Nov. 10-Dec. 31	<u>Any Elk</u> ((Any Elk)) <u>Antlerless</u>	<u>CG or CM</u> C ((G)) F or CM	<u>Elk Area 032</u> Elk Area ((033)) <u>032</u>	75) ((75)) <u>40</u>
((Peshastin A)) <u>Peshastin B</u>	Sept. 1-Oct. 3 Nov. 10-Dec. 31	Antlerless <u>Any Elk</u>	<u>CG or CM</u> CG or CM	<u>Elk Area 033</u> Elk Area 033	25 25)
Taneum	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y ((G)) F or YM	GMU 336	150
Manastash ((A))	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y ((G)) F or YM	GMU 340	((300)) <u>250</u>
Umtanum <u>A</u>	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y ((G)) F or YM	GMU 342	((350)) <u>300</u>
Little Naches A	Nov. ((4-8)) <u>3-7</u>	Antlerless	Y ((G)) F or YM	GMU 346	((250)) <u>225</u>
Little Naches B	Oct. 1-10	((3 Pt. Min.)) <u>Any Bull</u>	Y ((G)) F or YM	GMU 346	((19)) <u>18</u>

PERMANENT

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
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)) <u>10</u>
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)) <u>30</u>
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>9</u>
Minot Peak	((Nov. 11-15)) <u>Oct. 9-15</u>	Antlerless	W ((G)) E or WM	GMU 660**	((40)) <u>20</u>
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 Bull</u>	BM	GMU 154	1
Dayton B	Oct. 1-10	((3 Pt. Min.)) <u>Any Bull</u>	BM	GMU 162	1
Tucannon B	Oct. 1-10	((3 Pt. Min.)) <u>Any Bull</u>	BM	GMU 166	1

PERMANENT

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	((+) 3
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> <u>Bull</u>	BM	GMU 181	1
Grande Ronde B	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> <u>Bull</u>	BM	GMU 186	1
Naneum ((€)) <u>B</u>	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> <u>Bull</u>	CM	GMU 328	2
Quilomene ((€)) <u>B</u>	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> <u>Bull</u>	CM	GMU 329, 330	((4) 1
Peaches Ridge B	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> <u>Bull</u>	YM	GMUs 336, 346	((20)) 24
Observatory B	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> <u>Bull</u>	YM	GMUs 340, 342	((49)) 21
Goose Prairie B	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> <u>Bull</u>	YM	GMUs 352, 356	((5) 16
Bethel C	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> <u>Bull</u>	YM	GMU 360	((3) 10
Rimrock C	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> <u>Bull</u>	YM	GMU 364	((45)) 13
Cowiche C	Oct. 1-10	((3 Pt. Min.)) <u>Any</u> <u>Bull</u>	YM	GMU 368	((3) 6
Margaret C	Oct. 1-10	3 Pt. Min.	WM	GMU 524	((3) 2
Toutle C	Oct. 1-10	3 Pt. Min.	WM	GMU 556	20
Dickey B	Oct. 1-10	3 Pt. Min.	WM	GMU 602	((8) 6
Olympic B	Oct. 1-10	3 Pt. Min.	WM	GMU 621	((2) 3

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. ((40-46)) 9-15	Spike or Antlerless	BM	GMU 178	50
Couse C***	Oct. ((40-46)) 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
Umtanum B	Oct. 10-16	Antlerless	YM	GMU 342	125
Stella***	Nov. 26-Dec. 15	3 Pt. Min. or Antlerless	WM	GMU 504	100
Boistfort ((B))***	Jan. ((46-31, 1999)) 1-15, 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
Malaga C***	Oct. 9-29	Antlerless	CM	Elk Area 032	75
North River***	Nov. 26-Dec. 15	Antlerless ((Only))	WM	GMU 658	20

PERMANENT

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)) <u>1</u>
Dayton C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 162	((3)) <u>5</u>
Tucannon C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 166	((+)) <u>2</u>
Wenaha D	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 169	((8)) <u>5</u>
Mountain View C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 172	((5)) <u>7</u>
Peola E	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 178	((2)) <u>1</u>
Couse F	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 181	((+)) <u>3</u>
Grande Ronde C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	BA	GMU 186	1
Naneum ((D)) <u>C</u>	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	CA	GMU 328	((77)) <u>17</u>
Quilomene ((D)) <u>C</u>	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	CA	GMU 329, 330	((23)) <u>9</u>
Peaches Ridge C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMUs 336, 346	((53)) <u>106</u>
Observatory C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMUs 340, 342	((26)) <u>62</u>
Goose Prairie C	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMUs 352, 356	((29)) <u>82</u>
Bethel D	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMU 360	((48)) <u>60</u>
Rimrock D	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMU 364	((82)) <u>43</u>
Cowiche D	Sept. 1-14	((3 Pt. Min.)) <u>Any Bull</u>	YA	GMU 368	((5)) <u>9</u>
Margaret D	Sept. 1-14	3 Pt. Min.	WA	GMU 524	((6)) <u>5</u>
Toutle D	Sept. 1-14	3 Pt. Min.	WA	GMU 556	((89)) <u>85</u>
Dickey C	Sept. 1-14	3 Pt. Min.	WA	GMU 602	((39)) <u>35</u>
Olympic C	Sept. 1-14	3 Pt. Min.	WA	GMU 621	((6)) <u>5</u>

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	((+0)) <u>4</u>
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)) <u>10</u>
((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>NE, NM or NA</u>	<u>GMUs 109-130</u>	<u>15</u>
Observatory <u>D</u>	Oct. ((25)) <u>24-Nov. ((8)) 7</u>	Any Elk	Y ((G)) <u>E</u> or YM	GMU 340, 342	((+5)) <u>5</u>
Little Naches C	Oct. 1-10	Any Elk	Y ((G)) <u>E</u> , YM, YA	GMU 346	((+5)) <u>5</u>
<u>Little Naches D</u>	<u>Oct. 30-Nov. 7</u>	<u>Antlerless</u>	<u>YE, 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)) <u>E</u> or WM	GMU 572	1
Eleven Mile Ridge	Nov. ((9-15)) <u>8-14</u>	3 Pt. Min. or Antlerless	W ((G)) <u>E</u> or WM	GMU 572	1
Red Mountain	Nov. ((9-15)) <u>8-14</u>	3 Pt. Min. or Antlerless	W ((G)) <u>E</u> or WM	GMU 572	1
Paradise Ridge	Nov. ((9-15)) <u>8-14</u>	3 Pt. Min. or Antlerless	W ((G)) <u>E</u> or WM	GMU 572	1

PERMANENT

Proverbial Creek	Nov. ((9-15)) 8-14	3 Pt. Min. or Antlerless	W ((G)) E or WM	GMU 572	1
Lone Butte <u>A</u>	Sept. 1-14	Any Elk	Any Archery Elk Tag	GMU 560	1
Lone Butte <u>B</u>	Nov. ((9-15)) 8-14	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
Centralia Mine C	<u>Jan. 8-16, 2000</u>	<u>Antlerless</u>	<u>Any Elk Tag</u>	<u>Portion of GMU 667</u>	<u>8</u>
Centralia Mine D	<u>Jan 22-30, 2000</u>	<u>Antlerless</u>	<u>Any Elk Tag</u>	<u>Portion of GMU 667</u>	<u>8</u>
South Bank ((€)) <u>B</u>	Dec. 10-20	Antlerless ((Only))	Any Elk Tag	Elk Area 062*	3

*Firearm Restriction Area - Hunters may use only muzzleloader equipment.

***Damage Hunt.

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

PERMANENT

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 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

* 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.

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

PERMANENT

1999 - Mule Deer

Wilson Population Control Deer Hunting

If deer counts conducted the last week of November or first week of December exceed 1350 deer, special hunting opportunities will be available on Wilson Creek PLWMA. All hunts will be available only to Advanced Hunter Education (AHE) graduates. The harvest quota will be the number of deer exceeding 1350 but not more than 100. Legal animals will be antlerless only, except one in ten hunters will be allowed to take a management buck (3 points or less on one side).

AHE hunters will be contacted by the Wilson PLWMA manager to determine their interest in the hunt. After harvest quotas are determined, Wilson PLWMA manager will contact the desired number of AHE hunters to participate in the hunt. Hunt dates will be during the month of December, but exact dates will be determined by the PLWMA manager and the hunter.

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
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

PERMANENT

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 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
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

PERMANENT

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; 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 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 (Washucna-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 to 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 north-west 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-Bee-

hive 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 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 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.

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.

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 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 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 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 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; 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 KLUCKITAT (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)) Lakeside Road; then south on the ((Gravel Pit)) Lakeside 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 KLUCKITAT (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 and northwest 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 Yakima 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 Colocum Pass Road; then north on the Colocum 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 Gulch~~

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 Dickey 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 Reecer Creek; north on Reecer 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 Hungry Junction Road; west on Hungry 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.

Muzzleloader Area No. 926 Guemes (Skagit County): That part of GMU 407 (North Sound) on Guemes Island.

Muzzleloader Area No. 941 Skagit River (Skagit County): Beginning at the intersection of State Route 9 and State Route 20; then east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Highway; west on South Skagit Highway to State Route 9; north on State Route 9 to point of beginning.

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)) 1999 - 2000 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.)~~

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
Clallam	That portion of GMU 624 (Coyle) located within Clallam County.
Clark	GMU 564 (Battleground)
Cowlitz	GMU 554 (Yale) GMU 504 (Stella)
Franklin, Grant, Adams	Those portions of GMU 281 (Ringold) and GMU 278 (Wahluke) known as the Wahluke Slope Wildlife Area.
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:

PERMANENT

COUNTY	AREA	COUNTY	AREA
	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.	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.
Island	That portion of GMU 410 (Island) located on Camano and Whidbey islands.		
Jefferson	Indian and Marrowstone islands.		GMU 627 (Kitsap) south of Highway 302 on the Longbranch Peninsula is a firearm restriction 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. 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.)	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 and Point Roberts.</u>
Kitsap	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.		

PERMANENT

WSR 99-09-001
EMERGENCY RULES
DEPARTMENT OF ECOLOGY

[Order 99-08—Filed April 7, 1999, 1:14 p.m.]

Date of Adoption: April 5, 1999.

Purpose: To adopt by reference modifications to the forest practices rules to provide greater protection for federally listed threatened and endangered salmonids (including bull trout). Adds newly listed salmonids to an existing emergency rule. This procedural rule classifies forest practices in mapped areas as Class IV-Special, requiring additional environmental review. Includes revisions of Type 2 and 3 Waters and defines requirements for the Forest Practices Board manual. Supercedes emergency rule filed on March 17, 1999.

Citation of Existing Rules Affected by this Order:
 Amending chapter 173-202 WAC.

Statutory Authority for Adoption: RCW 90.48.420, 76.09.040, and chapter 34.05 RCW.

Other Authority: Chapter 43.21A RCW.

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; and 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: For stream typing, data show many streams were mis-typed and this emergency rule would correct those errors and provide protection commensurate with resource values and based on current information. Typing of streams affects protection measures. Salmonid (including bull trout) part will provide additional protection through environmental review of salmonid species listed as threatened or endangered by the National Marine Fisheries Service. This action will help manage forestry activities that might negatively impact listed fish.

Water Typing Emergency Rule: The Forest Practices Board (FPB) and the Department of Ecology (DOE) find good cause for an emergency to modify the water typing rules. This document organizes and summarizes information presented to and discussed by the board in public meetings. The reasons for findings are as follows:

New data have shown the physical characteristics of streams, as defined in the current forest practices rules, are no longer accurate. Accurate water typing is critical to public resource protection. This emergency rule updates those physical characteristics based on current knowledge so that appropriate resource protection can be provided to fish habitat and water quality.

This emergency rule establishes presumptions for determining fish use in the absence of field verification and is necessary during permanent rule making updating the water type rules and associated riparian protection. Because water typing triggers riparian protection through the forest practices rules, watershed analysis, and some local land use decisions, the definitions used to determine water types must reflect current knowledge about fish use and habitat. Due to signif-

icant field verification of water types and research, more is known today about fish distribution and the physical characteristics of fish habitat than was known when the existing water type definitions were written (see WAC 222-16-030). In addition, the Clean Water Act section 303(d) listings, and actual and potential Endangered Species Act listings cause increased pressure on the forest practices regulation system that will result in increased cost and complexities for all participants. If the water typing system is not upgraded immediately, it will contribute to potential listings and increase the associated burdens of such listings.

In August 1994, the Point-No-Point Treaty Council published a report, stream typing errors in Washington Water Type Maps for Watersheds of Hood Canal and the Southwest Olympic Peninsula. Simultaneously, the Quinault Indian Nation and the Department of Fish and Wildlife were also reviewing water types in the southwest part of the Olympic Peninsula. Data from these studies indicated that 72% of the Type 4 streams were actually Type 2 or 3 streams. In addition, projects funded by the United States Fish and Wildlife Service with cooperation from some western Cascade landowners and Washington trout have also resulted in significant upgrades.

The intent of the Forest Practices Act is to meet water quality standards under the Clean Water Act. As indicated by the number of water bodies listed under section 303(d) of the Clean Water Act, water quality standards are not being met. The number of waterbodies included on the Department of Ecology's 303(d) water quality limited list has increased and now includes many forested streams. Numerous fish stocks are being considered for listing under the Endangered Species Act. The state has water quality antidegradation regulatory requirements. These requirements demand that the beneficial in-stream uses, such as salmonid habitat, be fully protected. Changes in water quality are not allowed that violate the standards set to fully protect these uses. Further, degradation of water quality, even where it does not cause a violation of the standards, is not allowed unless all known, available, and reasonable best management practices are being used to reduce the effect on water quality; and the activity has been found to be in the overriding public interest. Water quality standards cannot be met if inaccurate stream typing information is used in assessing the impacts of forest practices.

The public has a strong interest in protecting public resources, including water, and fish, especially those listed as endangered and threatened species. Immediate action is necessary to ensure that impacts from forest practices near water are carefully evaluated while the board and ecology are in the process of adopting permanent rules. Without an emergency rule, public resources, including the habitat of threatened and endangered species, could be significantly impacted by forest practices because of incorrect water typing.

The FPB and DOE maintain rule-making files for this emergency rule that have detailed background information supporting these findings. Please contact Judith Holter, DNR at (360) 902-1412 or Doug Rushton, DOE at (360) 407-6180 if you would like to inspect these files.

Salmonid Emergency Rule: On March 16, 1999, the NMFS listed seven additional Washington state salmonid stocks (i.e., ESUs or Evolutionary Significant Units) as

threatened or endangered under the Endangered Species Act. These stocks and their listing status are:

- Upper Columbia River Spring Chinook - endangered
- Puget Sound Fall Chinook - threatened
- Lower Columbia River Fall Chinook - threatened
- Hood Canal Summer Chum - threatened
- Lower Columbia River Chum - threatened
- Middle Columbia Steelhead - threatened
- Lake Ozette Sockeye - threatened

These findings continue to support the previously listed stocks covered under the emergency rule adopted by the Forest Practices Board on November 18, 1998, and readopted on February 10, 1999. These stocks, their status, and the dates listed are:

- Upper Columbia Steelhead - endangered - August 1997
- Snake River Steelhead - threatened - August 1997
- Lower Columbia Steelhead - threatened - March 1998
- Columbia River Bull Trout - threatened - June 1998

The Forest Practices Board and the Department of Ecology find good cause for an emergency rule to protect these salmonid stocks. This document organizes and summarizes information presented to and discussed by the board in public meetings. The reasons for this finding are as follows:

I. SALMONID NEEDS.

Salmonid Biology - General: The family *Salmonidae* includes salmon, trout and char. Salmonids have several life history phases which include spawning, incubation, rearing and migration. Salmonids are most commonly associated with cool riverine waters in the temperate and arctic regions of the Northern Hemisphere. Although some species and stocks have adapted to marine and lacustrine (lake) environments for parts of their life history, they all have a common dependence on running cool fresh water and gravel that is reasonably free of fine sediment for spawning and incubation. Once the eggs hatch, most juveniles still require rearing habitat which includes forage, clean cool water, and cover provided by rocks, banks and large woody debris, although the duration of freshwater rearing varies among species and stocks. Stream nutrient conditions are important for those species with extended riverine rearing. Finally, most stocks need to be able to migrate upstream and downstream as both juveniles and adults.

Factors Limiting Habitat of All Salmonids: In order to provide cool, clean water and habitat that includes pools, clean gravel and stable channels, the following habitat requirements are necessary in order to provide for healthy salmonids: Shade, stable stream banks, large woody debris, and fish passage.

Shade and Stream Temperature. Shade is needed to provide cool water temperatures. Shade is most critical for species and stocks that are present during the summer. Temperatures above 10 to 18° C, depending on the species and feeding conditions, may cause declining health, reduced growth or weight loss, displacement to less desirable habitat, and, under prolonged or extreme conditions, death.

Adult salmonids are biologically timed to spawn within a certain temperature range and time period. Warmer conditions may force adults to spawn after their preferred time period, and they are then often in poorer physical condition

which results in reduced survival of the progeny. Stocks that spawn in the late summer or early fall are especially vulnerable, including Hood Canal Summer Chum, Puget Sound Fall Chinook, Upper Columbia River Spring Chinook, and bull trout.

Nonsummer water temperatures may be important for juveniles of some anadromous stocks. Timing of egg hatching, emergence, and fry emigration of pink and chum salmon are strongly affected by freshwater temperature. Juvenile migration to marine waters (coho, steelhead and chinook) is biologically timed by temperature, solar periodicity, and possibly other factors such as flow. There appears to be a window of time (one or three months) for fish to reach marine waters when marine conditions are best for growth and survival.

To restore and maintain natural cool water temperatures, trees along the riparian zones of fish-bearing streams and along contributing nonfish-bearing streams must be retained to assure that the solar radiation does not warm the streams beyond their natural range. Solar heating is a cumulative effect, such that the loss of shade in upstream channels may reduce habitat quality downstream. Because of this, it is important to extend shading upstream into perennial nonfish-bearing waters. On a watershed scale, excessive loss of shade will reduce that amount of habitat available for rearing during the summer. The current Class AA water quality standard (16° C) was intended to fully protect salmonids; however, this standard has since been shown to be inadequate for bull trout and possibly other species. Water temperature standards are currently under review by the Washington Department of Ecology, and recommended revisions are expected some time this year.

Although direct solar radiation is the most significant effect, other factors can contribute to higher water temperatures. Micro-climate effects from upland clearcuts, ground water heating where shallow ground water become exposed by clearcuts, and channel widening from sediment aggradation are nonshade effects that may be significant in some channels.

Sediment. Sediment naturally enters stream channels from bank erosion and landslides. Certain forest practice activities can greatly accelerate the influx of sediment and can damage fish habitat. Sediment may come from infrequent massive influxes caused by induced landslides and severe bank erosion. Sediment from these sources often include both fine sediment and coarse sediment. Poor construction and maintenance of unpaved forest roads or soil disturbance from unsuspended yarding or heavy equipment near streams causes a steady influx of fine sediment into the channel.

Fine sediment can settle in spawning gravel, often filling the intergravel spaces. This reduces the survival of salmonid eggs by reducing oxygen levels, or it traps alevin (larval salmonids). This intergravel zone (termed the hyporheic zone) is also important habitat for most aquatic invertebrate species and plays an important role in the organic decomposition and nutrient recycling in the stream ecosystems, which are key to providing food for salmonids. The depth and width of the hyporheic zone can be significantly diminished by the

influx of fine sediment, effectively blocking the penetration of oxygen and nutrients into the streambed.

Coarse sediment can be beneficial to fish habitat, providing spawning gravel and juvenile habitat. However, excessive quantities of sediment associated with landslides and rapid bank erosion can destroy habitat by filling pools and creating long stretches of gravel that are prone to scour (gravel mobilization) during floods. Scour destroys eggs and alevin.

Hydrology. Clearcut stands have the capacity to accumulate considerably more snow than forested stands with full canopies. As a result, the size and timing of surface run-off events can be changed as a result of forest management. This can occur primarily as a result of rain-on-snow events in harvested areas or through snowmelt run-off on the eastside. These run-off events are more likely to be triggered at higher elevations where snow has greater potential to accumulate. Forest roads can also exacerbate surface run-off by extending the watershed drainage network up roadside ditches and sometimes tread surfaces, resulting in faster run-off from roads that are directly connected to streams.

Both of these run-off effects result in higher peak flows in stream channels, which in turn increases the frequency and extent of scour and, where streambanks are unstable, increases stream bank erosion. These effects can kill salmonid eggs and alevin, fill pools, and degrade other physical habitat features.

Large Woody Debris. Juvenile salmonids need pools and cover for refuge and desired feeding conditions. Stream morphology that contains adequate pools requires input of large woody debris (LWD) on a continuous basis. The LWD provides structure in the streams and creates the formation of pools and cover. It also moderates the movement of sediment and contributes to the stability of spawning gravel. Very large pieces of wood are required to function effectively because of the large flood events common to the Northwest. Conifer species are preferred for LWD because they are more resistant to decay, and they achieve greater sizes than deciduous species.

Adult fish also use LWD for resting areas and cover during migration. This need is particularly important in large anadromous stocks and bull trout that hold over summer in rivers prior to spawning; they need deep cool pools with cover for survival during low flow periods. Stocks especially vulnerable include spring chinook, summer steelhead, bull trout and, to a lesser extent, the late summer spawners such as Puget Sound Chinook and Hood Canal Summer Chum.

Trees from the adjacent riparian stand are an important source of LWD. In larger stream channels, wood from upstream sources are also important. Large, multiple rotation conifers are needed, especially in larger stream channels. Harvest of riparian forest stands will result in long term declines in LWD abundance.

Fish Passage. Adult salmonids need to move upstream to access spawning areas. Juvenile fish need to move upstream and downstream to find desirable feeding conditions or take refuge from undesirable environmental conditions. Forest road stream crossings often block fish passage.

Bank Stability. Trees and shrubs rooted in the banks of a stream channel are important in maintaining a deep channel

and preventing the erosion of sediment from the stream banks. Exposed root masses are important refuge for juvenile fish. Removal of logs from the channel and stream bank can contribute to fine sediment erosion and loss of in-channel habitat features.

Specific Species Biological Attributes and How They Relate to Forest Practices Activities:

Chum Salmon. Migrating adult chum salmon enter rivers and streams to spawn from September to February; there is considerable variation among stocks. Most stocks, including the two listed on March 16, 1999, are not extensive freshwater migrants. They prefer spawning areas close to marine waters, and they rarely jump falls greater than four feet in height. Spawning may occur individually or enmass (i.e., large numbers on one spawning bed) in both rivers and streams. Juveniles emigrate to sea within weeks of emergence from gravel while they are still fry (i.e., at a very small size). During their brief freshwater residence, juveniles use intergravel spaces, brushy in-water cover, shallow river margins, and backwater sloughs as refuge from predators and water currents.

Chum salmon need an abundance of clean, stable gravel. Stability may be provided by low channel gradients, LWD and other hydraulic obstructions, or some combination of both. Adult Hood Canal Summer Chum may enter fresh water at a time when solar heating is still significant and flow is low, so shading and deep pool habitat should be fully protected. Full shade protection is also recommended for Columbia River Chum because there is uncertainty about critical timing of hatching and emigration for the survival of juveniles in early ocean life.

Fall Chinook Salmon. Chinook salmon enter rivers from August to November, spawning primarily in rivers and, less frequently, streams. Juvenile chinook emerge from the gravel in March and April. Freshwater residency varies considerably, both within stocks and between stocks. Juveniles may remain in freshwater for only two to three months, during which time they actively feed and grow. Some juveniles may stay in freshwater over the summer. A few of these emigrate during the summer and fall, but most wait until the following spring.

Other than the fact that they prefer larger channels, the spawning and juvenile rearing habitat requirements of chinook are typical of other salmonids. They need shade, clean stable spawning gravel, LWD for pools and cover, and shade for cool water temperatures.

Spring Chinook Salmon. The life history and habitat requirements of spring chinook are similar to fall chinook, with the exception that adult migration in freshwater starts prior to July 1, and spawning occurs in August and September. Thus, there are special habitat requirements associated with over-summer holding and spawning during the time when flow is very low and temperatures are at their peak. Many spring chinook stocks are associated with cold, often glacial, river systems.

Mid-Columbia Steelhead. This is a "summer" steelhead stock, meaning that adults enter fresh water as early as a year before spawning. Part of the adult population spend the summer in freshwater and need full shade protection, and they need deep pools for holding during the late summer low

flow period. Steelhead are the strongest jumpers among anadromous salmonids, with leaps of up to 20' vertical feet under favorable pool and flow conditions. More often than any other anadromous species, they define the upper extent of anadromous utilization. Spawning occurs in March, April, and May, and the fry emerge from the gravel during the summer. While some steelhead push to the headwaters to spawn in small channels, others spawn in large rivers. Juvenile steelhead typically spend one to three summers in freshwater before emigrating to sea. Steelhead are more likely to use steeper gradients for both spawning and rearing than other anadromous species.

Lake Ozette Sockeye. Lake Ozette Sockeye spawn in tributaries to Lake Ozette. As with most sockeye stocks, the juveniles rear in lakes for one to two years before emigrating to the ocean. Thus, the habitat requirements of this stock require protection of lacustrine habitat in addition to the riverine spawning and incubation habitat required by other species. Lake nutrient conditions and competitive and predatory interactions with other lake species often affect the survival and productivity of sockeye stocks.

Bull Trout. Bull trout (*Salvelinus confluentus*), a native char, is a cold-water species that moved north and into higher elevations after the last glacial period. Bull trout exhibit both migratory and nonmigratory life history forms (Brown 1994). Resident populations generally spend their entire lives in small headwater streams, whereas migratory populations spawn and rear in headwater tributary streams for several years before migrating to either larger river systems (fluvial), lakes and reservoirs (adfluvial), or the ocean (anadromous) for adult rearing. Bull trout generally concentrate in reaches influenced by groundwater where temperature and flow conditions may be more stable (MBTSG 1998; Baxter et al., in press; Baxter and Hauer, in prep.).

Dolly Varden (*Salvelinus malma*) and bull trout (*Salvelinus confluentus*) were considered to be the same species until the late 1970s when Cavender (1978) provided evidence to suggest that there was a dichotomy. The American Fisheries Society accepted Cavender's work in 1980 and recognized the separation of the two species (Mongillo 1993). However, the two species are difficult to differentiate in the field; extensive and costly genetic work must be done in the laboratory. Furthermore, their life histories and habitat requirements are similar, if not identical (Mongillo 1993, Brown 1994). Therefore, from a management and recovery perspective, they are currently considered the same species. As pertains to an emergency rule, while coastal and Puget Sound populations can be either species or a combination of Dolly Varden and bull trout, all populations in Eastern Washington and the Columbia River drainage are assumed to be bull trout.

Bull trout habitat requirements differ from other salmonids in the following ways:

- Temperature requirements for bull trout are colder than for other salmonids (especially for spawning and juvenile rearing); in some cases, so cold as to exclude other salmonids which would otherwise compete for habitat and food. When living within the same habitat with other salmonids, colder temperatures can give bull trout the competitive advantage (MBTSG 1998).

- Bull trout will often stratify higher in the watershed than other salmonids (especially resident life forms and for spawning and rearing). (Adams 1994.)
- Because bull trout spawn higher in the headwaters, they can be more vulnerable to fish passage problems.
- Bull trout spend a longer period time in the gravels before emergence (220+ days) and thus are more vulnerable to sediment and scouring peak flows.

Additional Factors Limiting Bull Trout Habitat: The decline of bull trout throughout their range has been linked to habitat destruction and migration barriers, as well as other factors such as introduced exotic species (Dambacher and Jones 1997). Bull trout spawning, incubation, and juvenile rearing generally occur in second through fourth order streams which are most susceptible to effects resulting from harvest. Effects may be more obvious on smaller streams than on larger ones. Timber harvest can influence stream temperature, LWD recruitment, local run-off patterns, erosion, sedimentation, channel aggradation, and channel stability (MBTSG 1998).

Shade and Stream Temperature Effects on Bull Trout.

Bull trout are glacial relics and require a narrow range of cold temperature conditions to rear and reproduce (Brown 1994, Adams and Bjornn 1997, Buchanan and Gregory 1997). Temperatures required to initiate spawning (late August through October) vary from 4-11°C, depending on the drainage (McPhail and Murray 1979, Wydoski and Whitney 1979, Fraley and Shepard 1989, Kraemer 1991, Buchanan and Gregory 1997). Egg incubation (late August through April) occurs at 1-6°C (McPhail and Murray 1979, Weaver and White 1985, Brown 1994, Buchanan and Gregory 1997). Optimal temperature ranges for juvenile rearing occur from 4-10°C (McPhail and Murray 1979, Buchanan and Gregory 1997). In the Flathead drainage in Montana, bull trout juveniles have been rarely observed in streams with summer temperatures exceeding 15°C (Fraley and Shepard 1989). Adults are known to tolerate somewhat higher temperatures (Kraemer 1991, Brown 1994); however, they are seldom found in streams with summer temperatures exceeding 18°C and are often found near cold perennial springs (Shepard et al. 1984b, Brown 1994). Higher densities of adult bull trout have been found to occur at temperatures less than 12°C (Adams 1994, Clancy 1996, Buchanan and Gregory 1997). Optimum temperatures for migration are 10-12°C (McPhail and Murray 1979, Buchanan and Gregory 1997).

Various factors contribute towards providing for cool water in streams (shade, groundwater contribution, elevation, etc.). Shade is the primary factor that is impacted by land management and which is needed to reduce solar radiation to the stream, to protect groundwater sources and seeps and springs, and to provide for microclimate. Shade contributing trees within the riparian zone must be retained in both fish-bearing and contributing nonfish-bearing streams to maintain cool water temperatures. Sediment deposition and resultant stream widening can also cause an increase in stream temperature, as well as alteration of natural streamflow regimes and reduced groundwater inflows (MBTSG 1998).

The current state water quality standard for stream temperature is targeted to maintain water temperatures below 16

and 18°C depending on the Department of Ecology stream class. However, because bull trout and Dolly Varden have temperature requirements which are below those for other salmonids, the current water quality standard is not adequate. The United States Environmental Protection Agency has established temperature criteria for bull trout (now used as a state water quality standard in Idaho). The temperature standard to meet bull trout requirements is set at 10°C expressed as a consecutive seven-day average of the daily maximum temperatures for June, July, August and September. It is believed that if a summer temperature criterion of 10°C is met, natural seasonal variability in stream temperatures will result in attainment of appropriate thermal requirements during the remainder of the year in bull trout spawning and juvenile rearing areas (United States Environmental Protection Agency 1997).

Sediment and Roads Effects on Bull Trout. The long overwinter intragravel incubation and development for bull trout (average 220 days) leaves them vulnerable to increases in fine sediments and degradation of water quality (Fraleley and Shepard 1989). A significant negative correlation between fry emergence of bull trout and the percentage of redd materials smaller than 6.35 mm was found by Weaver and Fraley (1991). Analyses conducted within the Columbia River Basin support the conclusion that increasing road densities are correlated with declining aquatic habitat conditions and aquatic integrity. Results show that bull trout are less likely to use moderate to highly roaded areas for spawning and rearing, and if found in these areas, they are less likely to be at strong population levels (Lee et al. 1997; MBTSG 1998; Baxter et al., in press).

Stream bank stability must be maintained to prevent increases in sediment inputs to the stream from forest practices. Construction and maintenance of roads must be conducted in ways which minimize road density and cut off delivery of sediments to streams. Roads should also be constructed and maintained to prevent changes to the hydrologic regime resulting in higher peak flows and increased sedimentation. Ground disturbance should be minimized and mitigated. Best management practices for sediment and roads should apply to nonfish-bearing streams as well as fish-bearing streams.

Large Woody Debris and Bull Trout. Large woody debris is important for the formation of deep pools and habitat complexity needed by bull trout. Adult bull trout prefer deep cold pools, often associated with the cover of large woody debris, for foraging and for holding during migration (Shepard et al. 1984b, Fraley and Shepherd 1989, Goetz 1989, Brown 1994). Juvenile rearing of bull trout is also often associated with pools with shelter-providing large organic debris or clean cobble (McPhail and Murray 1979). A strong preference exists for plunge and scour pools over all other habitat types in southeast Washington (Brown 1994). Large woody debris is also necessary to maintain the step pool formation in steeper headwater streams inhabited by bull trout, and for sediment storage.

Fish Passage and Bull Trout. Due to loss of connectivity, many bull trout populations have become fragmented throughout their range, and remnant headwater populations

are all that remain for some drainages. Fish passage barriers result in the loss of genetic exchange, loss in the ability to respond to changes in seasonal habitat requirements and conditions, loss in the ability to recolonize habitats after disturbance regimes, and often extinction of local populations (Rieman et al. 1993, MBTSG 1998). Barriers not only include man-made barriers at road crossings, but also low flows caused from aggregation of excessive coarse sediment, and elevated temperatures.

2. ENDANGERED SPECIES ACT LISTINGS AND THE FOREST PRACTICES ACT.

The Endangered Species Act (ESA) was enacted to conserve threatened and endangered species and the ecosystems upon which they depend. ESA salmonid listings are given on page one.

ESA listings lead to "take" being prohibited. "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or attempt to engage in any such conduct. "Harm" can include significant habitat modification or degradation. In addition, the listing itself is indicative of the need to provide protection of the habitat required by these species to assure recovery of the species and protection from harm.

A governmental agency can be responsible for a take if it authorizes the activity that exacts a taking. In a March 1998 decision, the United States Court of Appeals for the First Circuit ordered a Massachusetts agency to prevent the taking of the Northern Right Whale, an endangered species. The court found whales could be harmed from entanglement in fishing gear from commercial fishing activities authorized by agency regulations. The court found the state licensed the commercial fishing in a manner likely to cause harm, even though its actions were only an indirect cause. Thus, the Forest Practices Board and the Department of Ecology could be vulnerable for take if permits continue to be approved without consideration of listed species protected from harm. Actions to enforce the ESA could be brought by the federal government or other third parties.

The ESA requires federal agencies to examine the impact of their actions on protected species. The Washington Forest Practices Board has been working with the United States Fish and Wildlife Service (USFWS) to have the existing state forest practice rules for the northern spotted owl recognized as part of a proposed federal rule providing protection of that species under the ESA. The USFWS has consulted with the National Marine Fisheries Service (NMFS) regarding how the anadromous (listed and proposed to be listed) fish may be impacted by the proposed federal rule. In a letter dated September 16, 1998, NMFS concluded that the existing state forest practice rules "do not leave adequate riparian buffers to provide the important ecosystem functions necessary to support the biological requirements of anadromous salmonids." NMFS indicated that "any further degradation of habitat conditions that reduces essential habitat functions may have a significant impact, which poses an unacceptable risk to the survival and recovery" of certain salmonid evolutionarily significant units (ESUs), including the Upper Columbia Steelhead addressed in the emergency rule.

Oregon had developed a plan to protect salmonids which was relied on by NMFS in its decision not to list certain spe-

cies of salmonids as threatened. The Oregon plan was based largely on future actions and voluntary efforts. In June 1998, a federal court rejected this decision as inadequate to prevent endangerment to salmonids under the ESA. In Washington, the forest practice rules also rely on voluntary efforts. The watershed analysis process (chapter 222-22 WAC) is entirely voluntary. Voluntary efforts are not adequate to prevent endangerment to already listed salmonids. Emergency action is necessary because of the state's obligation to comply with the ESA. This emerging and unexpected development makes it clear that the existing rules are not adequate and the listed species are in jeopardy.

3. CONTINUING TO APPROVE FOREST PRACTICES PERMITS IN LISTED AREAS.

Forest Practices Applications in Listed Areas: The listed areas of the state contain nearly more than 17.5 million acres of nonfederal land, of which about 8.4 million acres are state and private forest land covered by the current forest practices rules. The number of ESU acres are:

Listed Areas (ESUs)	Total Nonfederal Acres	Nonfederal Forest Land Acres
Listed before March 16, 1999	11,105,062	4,339,279
Listed on March 16, 1999	6,477,298	4,111,385
Total	17,582,360	8,450,664

Most of the habitat that salmonids seek for spawning and rearing are in the forested areas of the state. This portion of the habitat continues to be critical to the survival and well-being of these species. See the map in WAC 222-16-088 which shows areas listed prior to and on March 16, 1999.

When the 1998 listings occurred, there were approximately 1,398 approved applications within two hundred feet of fish-bearing streams in the steelhead and bull trout ESUs. The department estimates that there are 4,705 approved applications in the chum, chinook and sockeye areas. Since operations under these permits may have some impact on salmonid habitat, these applicants have been or are being sent letters notifying them of the listings. If they had questions, the letter said they should contact National Marine Fisheries Service or the United States Fish and Wildlife Service directly for clarification whether their operations may cause a concern for listed steelhead.

Since the listings last year, five hundred and fifty-eight applications/notifications have been approved within two hundred feet of fish-bearing waters within the listed areas for bull trout and steelhead. These permits contain a note to applicants warning them that this state permit does not necessarily meet federal law under the ESA.

The department estimates that, additionally, about 4,894 applications in all the listed ESUs will be approved between now and when a permanent rule might be adopted and become effective (estimated to be Winter 2000). These applications would be within two hundred feet of fish-bearing waters. Since permits are effective for a two-year period, applications approved prior to a new permanent rule taking effect in 2000 would be valid through 2002. Thus, nearly four years from now, some salmonid habitat would still be at risk absent an emergency rule.

The Forest Practices Act (chapter 76.09 RCW) requires protection of public resources. In order to protect these listed salmonids, the habitat associated with spawning, rearing and migration needs to be protected.

Why Current Forest Practices Rules are Inadequate for All Listed Salmonids: Current and newly-approved forest practice operations conducted under the existing rules could cause additional harm to ESA-listed salmonids because continued harvests in riparian areas would decrease shade, bank stability, and large woody debris, and continued road construction in these areas would also impact salmonid habitat. Specific impacts are categorized as follows:

Shade and Stream Temperature. Under the current forest practices rules, shade is required to meet current temperature criteria at 16 or 18 degrees centigrade. These standards may be modified soon by the Department of Ecology. At the present time, shade is not fully provided on some Type 3 streams because landowners only have to seek shade as far as the maximum width riparian management zone (RMZ). The maximum width RMZs for Type 3 streams are currently fifty feet on streams greater than five feet wide and twenty-five feet on streams that are less than five feet wide. There are some circumstances where significant shading occurs from beyond fifty feet.

An additional factor where current rules are inadequate for meeting temperature requirements involves removal of shade in nonfish-bearing waters which contribute to the temperature of fish-bearing waters downstream. This removal of shade elevates the water temperature which then cumulatively elevates temperatures downstream.

Stream Bank Stability and Soil Disturbance. Under the current rules, bank stability is protected except where bank erosion rates are high. It applies to all logs embedded in the bank and all trees and other vegetation rooted in the bank. Under some circumstances, especially at high elevations where shade requirements do not call for a wide buffer, soils disturbance from yarding and heavy equipment can result in fine sediment entering the stream and damaging spawning beds. A minimum of 30' is needed to protect stream bank stability and soil disturbance. Additional protection is needed in the case of rapid stream bank erosion, or soil and slope conditions conducive to surface erosion and soil transport.

Forest Roads. Roads are covered by the current rules; however, existing information would lead us to believe that standards need to be upgraded and that roads are out of compliance with existing rules as much as half the time as documented in the 1991 compliance report prepared by Timber, Fish and Wildlife's Field Implementation Committee. Preliminary findings from an on-going internal audit by the Department of Natural Resources also show that construction of roads in certain areas of the state indicate that the minimum standards are not adequate to protect public resources. Furthermore, greater efforts should be made to reduce road densities or minimize further increases in road densities, depending on the basin. Where fine sediment is not a concern, road drainages still need to be disconnected from stream channels as much as possible to reduce hydrologic impacts from road networks.

Large Woody Debris. Under the current rules, LWD is only provided at a minimal level. The number of leave trees

EMERGENCY

required to be retained in the RMZ is not based on the ability to improve both near and long-term continuous LWD recruitment. Input of LWD to stream channels generally occurs within one tree height from the channel edge (FEMAT 1993, McDade et al. 1990). Removal of trees from within this area results in a reduction of LWD recruitment to the stream channel. Furthermore, current rules often allow harvest of the larger multiple rotation conifers within the RMZ, which are needed to provide functioning LWD in streams larger than 10' wide.

Summary. The literature indicates that in order to protect bank stability and prevent surface erosion of fine sediment, a thirty foot no-cut buffer and no heavy equipment buffer is recommended. In addition, to achieve 95% recruitment of the key piece wood (i.e., wood that is large enough to start the forming of log jams indexed by stream size) approximately one hundred foot buffer is required. Additional buffers may be needed to account for areas that have high susceptibility to windthrow, provide additional large woody debris (LWD) recruitment, unstable slopes protection, protection of seeps, springs and stream associated wetlands. Other functions include microclimate (air temperature and humidity, etc.). Given the above information, current forest practice rules are deficient, particularly in providing LWD, adequate shade, bank stability, and excessive contributions of sediment from roads and ground disturbance.

4. PROTECTING PUBLIC RESOURCES AND CLASS IV-SPECIAL CLASSIFICATION.

The public has a strong interest in protecting public resources, including water, fish, and wildlife, especially those listed as endangered and threatened species. Immediate action is necessary to ensure that impacts from forest practices in the salmonid listed areas are carefully evaluated while the board is in the process of adopting permanent rules. Without an emergency rule, habitat of these threatened and endangered species could be significantly impacted by forest practices.

The Forest Practices Act requires that forest practices which have the potential for a substantial impact on the environment be classified as Class IV so that they receive additional environmental review under the State Environmental Policy Act (chapter 43.21C RCW). SEPA recognizes the critical importance of restoring and maintaining environmental quality to the public welfare and the importance of full disclosure of adverse environmental impacts caused by agency actions. The Forest Practices Board is obligated under the law to identify those forest practices that have potential for substantial impact on the environment and classify them as Class IV-Special so that additional SEPA review is conducted. If there is the potential for damage to the habitat of a state or federal listed species, then there is potential for substantial impact on the environment. An emergency rule would not necessarily prohibit harvest; it would require additional review to evaluate environmental impacts. This process includes public notice and a public comment period.

As described above, certain forest practices in the salmonid listed areas have the potential for impact on listed salmonids. This impact is substantial because of the number of forest practices in the listed areas and because the current rules are inadequate. Absent permanent rules that adequately pre-

vent these impacts, RCW 76.09.050 and SEPA require the emergency rule change in classification.

5. STATE WATER QUALITY REQUIREMENTS.

The intent of the Forest Practices Act is to meet water quality standards under the Water Pollution Control Act. As indicated by the 2,600 miles of Washington's streams and rivers listed under section 303(d) of the Clean Water Act, water quality standards are not being met. Temperature increases attributed to forestry activities cause 303(d) listings. In 1996, streams with elevated temperatures comprised the largest group on the entire 303(d) list. Temperature limits in the water quality standards are intended to fully protect in-stream beneficial uses by preventing any decrease in salmonid health or reproductive success. These temperature standards are being updated in the near future. This goal is consistent with the state water quality antidegradation regulatory requirements. These requirements demand that the beneficial in-stream uses, such as salmonid habitat, be fully protected. Changes in water quality are not allowed that violate the standards set to fully protect these uses. Further, degradation of water quality, even where it does not cause a violation of the standards, is not allowed unless all known, available, and reasonable best management practices are being used to reduce the affect on water quality; and the activity has been found to be in the overriding public interest.

6. RULE-MAKING FILES.

The Forest Practices Board and the Department of Ecology maintain rule-making files for this emergency rule that have detailed background information supporting these findings. Please contact Judith Holter, DNR at (360) 902-1412 or Doug Rushton, DOE at (360) 407-6180 if you would like to inspect these files.

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

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

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

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

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

Effective Date of Rule: Immediately.

April 5, 1999

Tom Fitzsimmons
Director

AMENDATORY SECTION (Amending Order 97-46, filed 3/30/98, effective 4/30/98)

WAC 173-202-020 Certain WAC sections adopted by reference. The following sections of the Washington Administrative Code existing on (~~March 13, 1998~~) April 6, 1999, are hereby adopted by reference as part of this chapter

in all respects as though the sections were set forth herein in full:

- WAC 222-08-035—Continuing review of forest practices regulations.
- WAC 222-10-020—*SEPA policies for certain forest practices within 200 feet of a Type I Water.
- WAC 222-10-040—*Class IV-Special threatened and endangered species SEPA policies.
- WAC 222-10-043—*Salmonids.
- WAC 222-12-010—Authority.
- WAC 222-12-040—Alternate plans.
- WAC 222-12-045—Adaptive management.
- WAC 222-12-046—Cumulative effect.
- WAC 222-12-070—Enforcement policy.
- WAC 222-12-090—Forest practices board manual.
- WAC 222-16-010—General definitions.
- WAC 222-16-030—Water typing system.
- WAC 222-16-035—Wetland typing system.
- WAC 222-16-050 (1)(a), (1)(e), (1)(h), (1)(i), (1)(j), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (3)(n), (3)(o), (3)(p), (4)(c), (4)(d), (4)(e), (5)(b), (5)(c), (5)(d), (5)(e), (5)(f), (5)(h), (5)(n), (5)(o)—Classes of forest practices.
- WAC 222-16-070—Pesticide uses with the potential for a substantial impact on the environment.
- WAC 222-16-080—Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species.
- WAC 222-16-088—*Salmonid listed areas.
- WAC 222-22-010—Policy.
- WAC 222-22-020—Watershed administrative units.
- WAC 222-22-030—Qualification of watershed resource analysts, specialists, and field managers.
- WAC 222-22-040—Watershed prioritization.
- WAC 222-22-050—Level 1 watershed resource assessment.
- WAC 222-22-060—Level 2 watershed resource assessment.
- WAC 222-22-070—Prescription recommendation.
- WAC 222-22-080—Approval of watershed analysis.
- WAC 222-22-090—Use and review of watershed analysis.
- WAC 222-22-100—Application review prior to watershed analysis.
- WAC 222-24-010—Policy.
- WAC 222-24-020 (2), (3), (4), (6)—Road location.
- WAC 222-24-025 (2), (5), (6), (7), (8), (9), (10)—Road design.
- WAC 222-24-030 (2), (4), (5), (6), (7), (8), (9)—Road construction.
- WAC 222-24-035 (1), (2)(c), (2)(d), (2)(e), (2)(f)—Landing location and construction.
- WAC 222-24-040 (1), (2), (3), (4)—Water crossing structures.
- WAC 222-24-050—Road maintenance.
- WAC 222-24-060 (1), (2), (3), (6)—Rock quarries, gravel pits, borrow pits, and spoil disposal areas.
- WAC 222-30-010—Policy—Timber harvesting.

- WAC 222-30-020 (2), (3), (4), (5), (7)(a), (7)(e), (7)(f), (8)(c)—Harvest unit planning and design.
- WAC 222-30-025—Green-up: Even-aged harvest size and timing.
- WAC 222-30-030—Stream bank integrity.
- WAC 222-30-040—Shade requirements to maintain stream temperature.
- WAC 222-30-050 (1), (2), (3)—Felling and bucking.
- WAC 222-30-060 (1), (2), (3), (5)(c)—Cable yarding.
- WAC 222-30-070 (1), (2), (3), (4), (5), (7), (8), (9)—Tractor and wheeled skidding systems.
- WAC 222-30-080 (1), (2)—Landing cleanup.
- WAC 222-30-100 (1)(a), (1)(c), (4), (5)—Slash disposal.
- WAC 222-34-040—Site preparation and rehabilitation.
- WAC 222-38-010—Policy—Forest chemicals.
- WAC 222-38-020—Handling, storage, and application of pesticides.
- WAC 222-38-030—Handling, storage, and application of fertilizers.
- WAC 222-38-040—Handling, storage, and application of other forest chemicals.

WSR 99-10-004

EMERGENCY RULES

DEPARTMENT OF TRANSPORTATION

[Filed April 22, 1999, 10:49 a.m.]

Date of Adoption: April 22, 1999.

Purpose: To modify the rule covering the movement of oversize farm implements in order to relieve the economic hardship imposed by certain permitting requirements and escort vehicles requirements. The proposed rule provides specific exemptions for movement of farm implements.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-290.

Statutory Authority for Adoption: RCW 46.44.090.

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: Farmers are currently experiencing a hardship in moving oversize farm implements while being out of compliance, by necessity, of existing rules. The emergency adoption will provide immediate relief to the farm community.

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.

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

Effective Date of Rule: Immediately.

April 22, 1999

Gerald E. Smith

Deputy Secretary, Operations

AMENDATORY SECTION (Amending Order 46, Resolution No. 243, filed 5/20/85)

WAC 468-38-290 Farm implements. (1) A farm implement ((means)) includes any device that directly affects the production of agricultural products, including fertilizer and chemical applicator rigs and equipment auxiliary to them. For purposes of this section, it must weigh less than forty-five thousand pounds((-It must)), be less than twenty feet in width, and move on pneumatic tires, or solid rubber tracks having protuberances that will not hurt the highway, when on public highways ((and must be less than twenty feet wide)).

~~((Spray rigs including fertilizer or chemical applicator rigs or equipment auxiliary to any of these rigs are farm implements:~~

~~(2) Permits: Farm implements less than fourteen feet wide do not require a special permit for movement on state highways other than fully controlled limited access highways:~~

~~A quarterly or annual permit to move farm implements may be purchased by a farmer or by a person engaged in the business of selling or maintaining farm implements. Such a permit or copy will allow the person or company identified on the permit to draw, drive, or haul any farm implement on state highways:~~

~~(3) Movements of oversize farm implements are subject to the following regulations:~~

~~(a) An unescorted farm implement shall travel at least five hundred feet behind other vehicles so as to allow other drivers to pass:~~

~~(b) If five or more vehicles line up behind a farm implement, the operator of the farm implement shall pull off the road at the first point wide enough to allow traffic to pass safely:~~

~~(c) Oversize farm implements may be moved only during daylight hours. Such movements are prohibited at the times and on those days listed in WAC 468-38-230.~~

~~The department may permit movements outside daylight hours during an emergent harvest season to a company or farmer who requests and receives permission in writing. Pilot cars are required for such movements as prescribed in subsection (4)(e) of this section:~~

~~(d) Convoying with pilot cars may be used to move farm implements. Two way radio equipment shall be provided to the pilot cars:~~

~~(e) Lights: Requirements for hazard warning lights visible from one thousand feet, clearance lights, reflectors, and other lights shall be as prescribed in RCW 46.37.160.~~

~~(4) Flags, signs, and escorts are required for the movement of farm implements as follows:~~

~~(a) Flags: If the farm implement is over eight and one-half feet wide, it must display red flags at least twelve inches square so as to wave freely on all four corners of the vehicle and at the extreme ends of all protrusions, projections, or overhangs:~~

~~(b) Signs: If the farm implement is over eight and one-half feet wide, oversize load signs visible to oncoming and overtaking traffic must be displayed. These signs must meet the requirements of WAC 468-38-190. A farm implement preceded and followed by pilot cars is not required to display such signs:~~

~~(c) Escort cars: On two-lane state highways, escort cars must precede and follow if the farm implement is over twelve and one-half feet wide. Vehicles or loads whose width is between ten and twelve and one-half feet are exempt from having escort cars only when operating within fifty miles of the business owning the equipment:~~

~~On multiple-lane state highways, one escort car in the rear is required if vehicle or load is more than fourteen feet wide:~~

~~Other requirements for escort cars and their operation are prescribed by WAC 468-38-110.~~

~~When approval to use a flagperson instead of an escort vehicle is given, the permit shall specifically state that exemption:~~

~~(d) Posting a route may be used in lieu of escort cars if the route to be traveled is less than two miles. Signs reading **oversize vehicle moving ahead** on a square at least three feet on each side shall be placed at points before the oversize farm implement enters or leaves the highway and at any entry points along the way. These signs must be removed immediately after the oversize movement has been completed.) (2) Self-propelled farm implements, including a farm tractor pulling no more than two implements (no vehicle capable of carrying a load may pull more than one trailing implement, i.e., a truck of any kind) up to sixteen feet wide are exempt from acquiring a special motor vehicle permit for movement: Provided, That the movement of the implement(s) complies with the following safety requirements:~~

(a) Oversize signs: If the farm implement exceeds ten feet wide, it must display an "oversize load" sign(s) visible to both oncoming and overtaking traffic. Signs must comply with the requirements of WAC 468-38-190. If the implement is both preceded and followed by escort vehicles a sign will not be required on the implement itself.

(b) Curfew/commuter hours: Movement of a farm implement in excess of ten feet wide must also comply with any published curfew or commuter hour restrictions.

(c) Red flags: If the farm implement, moving during daylight hours, exceeds ten feet wide, the vehicle configuration must display clean, bright red flags at least twelve inches square, so as to wave freely at all four corners, or extremities, of the overwidth implement and at the extreme ends of all protrusions, projections or overhangs. If the transported implement exceeds the end of the trailer by more than four

feet, one flag is required at the extreme rear, also, if the width of the protrusion exceeds two feet, there shall be required two flags at the rear of the protrusion to indicate the maximum width.

(d) Warning lights: Lamps, and other lighting must be in compliance with RCW 46.37.160 Hazard warning lights and reflectors on farm equipment—Slow moving vehicle emblem. The slow moving vehicle emblem is for equipment moving at a speed of twenty-five miles per hour or less.

(e) Convoys: Farm implement convoys shall maintain at least five hundred feet between vehicles to allow the traveling public room to pass safely. If five or more vehicles become lined up behind an implement, escorted or unescorted, the driver/operator of the transported implement, and escorts, if any, shall pull off the road at the first point wide enough to allow traffic to pass safely. Convoying of farm implements is permitted with properly equipped escort vehicles.

(f) Escort vehicles: In general, the use of escort vehicles must comply with WAC 468-38-110 Escort vehicle requirements and WAC 468-38-100, which covers when escort vehicles are required. The following specific exemptions are provided:

(i) A farmer operating his own equipment, or operated by his employee (to include farmers working in a cooperative effort with their neighbors, but not to include commercial for hire farming operations), in transport between his own fields, is exempt from WAC 468-38-110 (5)(a) and (b), (6), (11)(e), and (16)(a) and (b) when operating off of the interstate and on the following rural interstate segments:

I-90 between Exit 109 (Ellensburg) and Exit 270 (Tyler);

I-82 between junction with I-90 (Ellensburg) and Exit 31 (Yakima);

I-82 between Exit 37 (Union Gap) and Exit 102 (West Richland);

I-82 between Exit 114 and the Washington/Oregon border;

I-182 between junction with I-82 (West Richland) and junction with SR-395;

I-5 between Exit 208 (near Marysville) and Exit 250 (near Bellingham).

(ii) On two-lane highways, one escort vehicle must precede the implement(s) and one escort vehicle must follow the implement(s) when the width exceeds twelve and one-half feet wide; implements not exceeding twelve and one-half feet wide are exempt from using escort vehicles.

(iii) On multiple-lane highways, one escort in the rear is required if the vehicle exceeds fourteen feet wide.

(iv) A flagperson(s) may be used in lieu of an escort(s) for moves of less than five hundred yards. This allowance must be stated on any permit that may be required for the move.

(g) Road posting: Posting a route may be used in lieu of escort vehicles if the route to be traveled is less than two miles. Signs reading "oversize vehicle moving ahead" on a square at least three feet on each side (in diamond configuration), with black lettering on orange background, shall be placed at points before the oversize implement enters or leaves the highway and at any entry points along the way.

The signs must be removed immediately after the move has been completed.

(3) Farm implements exceeding sixteen feet wide, but not more than twenty feet wide, are required to have a special motor vehicle permit for movement on state highways. A quarterly or annual permit may be purchased by a farmer, or any person engaged in the business of selling and/or maintaining farm implements, to move within a designated area, generally three to four counties. The permit is required to be physically present at the time of movement. In addition to the safety requirements listed in subsection (2) of this section, notification of a move must be made to all Washington state patrol detachment offices or Washington department of transportation maintenance areas affected by the move, to determine if the route is passable. Phone listings are provided with each permit.

**WSR 99-10-011
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-36—Filed April 23, 1999, 4:17 p.m., effective April 26, 1999, 8:00 a.m.]

Date of Adoption: April 23, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04600N and 220-52-04000J; and amending WAC 220-52-046 and 220-52-040.

Statutory Authority for Adoption: RCW 75.08.080.

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: There is a harvestable surplus of crab in the area opened by this regulation. A reduced pot limit is necessary to avoid exceeding the allocation. The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. Agreed plans with applicable tribes have been entered as required by federal court order. Such plans have the effect of a federal court order. 898 F. Supp. 1453, 1466, 3.1. Pursuant to RCW 34.04.350 [34.05.350], the need to comply with such federal court orders in the form of allocative management plans constitutes an emergency that requires bypassing the time periods inherent in permanent rule making.

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 0, Repealed 2.

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: April 26, 1999, 8:00 a.m.

April 23, 1999

J. P. Koenings

Director

REPEALER

The following sections of the Washington Administrative Code are repealed effective 8:01 p.m., April 27, 1999:

- WAC 220-52-04600N Commercial crab fishery—36 Hour limited opening on April 26.
- WAC 220-52-04000J Commercial crab fishery—25 Pot per license limit for April 26 opening.

NEW SECTION

WAC 220-52-04600N Commercial crab fishery—36 Hour limited opening on April 26 Notwithstanding the provisions of WAC 220-52-046, effective 8:00 a.m. April 26, 1999 until 8:00 p.m. April 27, it is lawful to fish for Dungeness crab for commercial purposes in Puget Sound in the following areas:

(1) All waters of Marine Fish/Shellfish Management and Catch Reporting Area 24B, with the exception of those waters inside a line projected from Priest Point to the five-meter tower between Gedney Island and Priest Point, thence northwesterly on a line between the five-meter tower and Barnum Point to the intersection with a line projected true west from Kayak Point, thence east to shore, and those waters north of a line projected true west from Kayak Point, and south and west of a line from Kayak Point to Barnum Point.

(2) Waters of Marine Fish/Shellfish Management and Catch Reporting Area 24C south of a line from East Point on Whidbey Island to Lowell Point on Camano Island, with the exception of those waters inshore of the 400 foot depth contour within an area bounded by parallel lines projected northeasterly from Sandy Point and the entrance to the marina at Langley.

(3) Waters of Marine Fish/Shellfish Management and Catch Reporting Area 26A north of a line from Picnic Point to Possession Point on Whidbey Island, with the exception of those waters south and east of a line projected from the 3A buoy at the Snohomish River mouth to the outermost tip of the ferry dock at Mukilteo, and those waters within a line from the green number 1 buoy at Scatchet Head to the green number 1 buoy at Possession Point thence following the 200 foot contour to a point due east from the Glendale Dock.

[NEW SECTION]

WAC 220-52-04000J Commercial crab fishery—25 Pot per license limit for April 26 opening Notwithstanding the provisions of WAC 220-52-040, effective 8:00 a.m. April 26, 1999 until further notice, it is unlawful for any person to take or fish for crab for commercial purposes in the Puget Sound licensing district using, operating, or controlling any more than an aggregate total of 25 shellfish pots or ring nets. This limit shall apply to each license. However, this shall not preclude a person holding two Puget Sound crab licenses from designating and using the licenses from one vessel as authorized by RCW 75.28.048(4).

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

WSR 99-10-018
EMERGENCY RULES
STATE TOXICOLOGIST
[Filed April 27, 1999, 1:10 p.m.]

Date of Adoption: April 27, 1999.

Purpose: The purpose of this change is to correct an oversight in establishing the admissibility standards for breath alcohol test results. This regulation is remedial in nature and is designed to ensure that the standards for the admissibility of breath tests in judicial proceedings are consistent with the regulations for performing a breath test.

Citation of Existing Rules Affected by this Order: Amending 1 [WAC 448-13-060].

Statutory Authority for Adoption: RCW 46.61.506.

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: When other amendments to Title 448 WAC were adopted effective April 1, 1999, this section was inadvertently not amended. As now written it will correct this oversight until a permanent change in the regulation can be made. There is insufficient time to promulgate this as a permanent rule without adversely affecting the public interest.

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

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

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

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

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

EMERGENCY

Effective Date of Rule: Immediately.

April 27, 1999

Barry K. Logan Ph.D.
State Toxicologist

AMENDATORY SECTION (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

WAC 448-13-060 Validity and certification of test results. A test shall be a valid test and so certified, if the requirements of WAC 448-13-040, 448-13-050 and 448-13-055 are met, and in addition the following criteria for precision and accuracy, as determined solely from the breath test document, are met:

(1) The internal standard test results in the message "verified."

(2) In order to be valid, the two breath samples must agree to within plus or minus ten percent of their mean. This shall be determined as follows:

(a) The breath test results shall be reported, truncated to three decimal places.

(b) The mean of the two breath test results shall be calculated and rounded to four decimal places.

(c) The lower acceptable limit shall be determined by multiplying the above mean by 0.9, and truncating to three decimal places.

(d) The upper acceptable limit shall be determined by multiplying the mean by 1.1 and truncating to three decimal places.

(e) If the results fall within and inclusive of the upper and lower acceptable limits, the two breath samples are valid.

(3) The simulator external standard result must lie between .090 to .110 inclusive for tests conducted prior to April 1, 1999, and .072 to .088 inclusive for tests conducted on or after April 1, 1999. This provision is remedial in nature and applies to any judicial proceeding conducted after April 27, 1999.

(4) All four blank tests must give results of .000.

If these criteria are met, then these and no other factors are necessary to indicate the proper working order of the instrument, and so certify it, at the time of the breath test.

**WSR 99-10-021
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-38—Filed April 27, 1999, 3:36 p.m.]

Date of Adoption: April 27, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-57-16000R and 220-57-16000S; and amending WAC 220-57-160.

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: Opens select area sport fisheries in off-channel sites for spring chinook which have been released from net pens as part of a BPA funded study to design fisheries in areas outside of the mainstem Columbia River. This rule is consistent with requirements of the Endangered Species Act. 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 2.

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.

April 27, 1999

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-57-16000S Columbia river - Salmon seasons and areas Notwithstanding the provisions of WAC 220-57-160 effective immediately until July 31, 1999, it is unlawful to take, fish for or possess salmon in the Columbia River from the Interstate 5 Bridge downstream to the mouth, except as described below:

SELECT AREA SPORT FISHERIES

1) Tongue Point Select Area

Area: Tongue Point Basin is open to fishing in all waters bounded by a line from the red light at Tongue Point to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. All open waters are under concurrent Washington/Oregon jurisdiction.

Dates: Lawful to fishing for salmon effective immediately until further notice, Daily Limit of six salmon, no more than two may be adults.

2) South Channel Select Area

Area: South Channel (near Tongue Point) is open to fishing in all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to a

flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel. All open waters are under concurrent Washington/Oregon jurisdiction.

3) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge. In addition, Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

Dates: Lawful to fish for salmon effective immediately until further notice, Daily Limit of six salmon, no more than two may be adults.

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

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-57-16000R Columbia River—Salmon seasons and areas. (99-14)

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. July 31, 1999:

WAC 220-57-16000S Columbia River—Salmon seasons and areas

**WSR 99-10-022
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-37—Filed April 27, 1999, 3:38 p.m., effective April 28, 1999, 7:00 p.m.]

Date of Adoption: April 27, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000Q; 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: These select areas (terminal areas) are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River.

Several stocks of salmon have been released from net pens in these select areas to provide fisheries. All salmon returning to these net pens are harvestable. This rule is consistent with actions of the Columbia River Compact hearing of January 28, 1999, and is consistent with requirements of the Endangered Species Act. 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: April 28, 1999, 7:00 p.m.

April 27, 1999

Evan Jacoby

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-33-01000Q Columbia River gillnet seasons below Bonneville-Select area commercial fisheries Notwithstanding the provisions of WAC 220-33-010 and WAC 220-33-020, it is unlawful for a person to take or possess salmon, shad, and sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Tongue Point Basin Select Area

Area: Tongue Point Basin is open to fishing in all waters bounded by a line from the red light at Tongue Point to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. All open waters are under concurrent Washington/Oregon jurisdiction.

Dates: 7 P.M. Wednesday April 28 to 5 A.M. Thursday April 29, 1999, and
7 P.M. Sundays to 5 A.M. Mondays
7 P.M. Tuesdays to 5 A.M. Wednesdays
May 2 to June 9, 1999

Gear: 8 inch maximum mesh
250 fathoms maximum length
weight on lead line cannot exceed 2 pounds per fathom

EMERGENCY

Allowable Sale: salmon, sturgeon, shad

Miscellaneous Rules: Fishers participating in the Tongue Point Basin fishery may have stored on board their boats, gill nets with leadline in excess of 2 pounds per fathom. Transportation or possession of fish outside of the fishing area when the mainstem Columbia is closed is unlawful unless by a licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

2) South Channel Select Area

Area: South Channel (near Tongue Point) is open to fishing in all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to a flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel. All open waters are under concurrent Washington/Oregon jurisdiction.

Dates: 7 P.M. Wednesday April 28 to 5 A.M. Thursday April 29, 1999, and
7 P.M. Sundays to 5 A.M. Mondays
7 P.M. Tuesdays to 5 A.M. Wednesdays
May 2 to June 9, 1999

Gear: 8 inch maximum mesh
100 fathoms maximum length

Allowable Sale: salmon, sturgeon, shad

Miscellaneous Rules: Transportation or possession of fish outside of the fishing area when the mainstem Columbia is closed is unlawful unless by a licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

3) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge. In addition, Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

Dates: 7 P.M. Wednesday April 28 to 7 A.M. Thursday April 29, 1999, and
7 P.M. Wednesdays to 7 A.M. Thursdays
7 P.M. Thursdays to 7 A.M. Fridays
May 5 to June 11, 1999

Gear: 8 inch maximum mesh
100 fathoms maximum length

Allowable Sale: salmon, sturgeon, shad

Miscellaneous Rules: Transportation or possession of fish outside of the fishing area when the mainstem Columbia is closed is unlawful unless by a licensed buyer. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 7:01 a.m. June 11, 1999:

WAC 220-33-01000Q Columbia River gillnet seasons below Bonneville—
Select area commercial fisheries.

**WSR 99-10-023
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-52—Filed April 27, 1999, 3:39 p.m., effective April 27, 1999, 8:01 p.m.]

Date of Adoption: April 27, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04600P and 220-52-04000K; and amending WAC 220-52-046 and 220-52-040.

Statutory Authority for Adoption: RCW 75.08.080.

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: There is a harvestable surplus of crab in the area opened by this regulation. A reduced pot limit is necessary to avoid exceeding the allocation. The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. Agreed plans with applicable tribes have been entered as required by federal court order. Such plans have the affect of a federal court order. 898 F. Supp. 1453, 1466, 3.1. Pursuant to RCW 34.04.350 [34.05.350], the need to comply with such federal court orders in the form of allocative management plans constitutes an emergency that requires bypassing the time periods inherent in permanent rule making.

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 0, Repealed 2.

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: April 27, 1999, 8:01 p.m.

April 27, 1999

J. D. Brittell

for Jeff P. Koenings

Director

number 1 buoy at Possession Point thence following the 200 foot contour to a point due east from the Glendale Dock.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 8:01 p.m. April 28, 1999:

WAC 220-52-04600P Commercial crab fishery—
24 Hour limited opening on
April 27.

WAC 220-52-04000K Commercial crab fishery—
25 Pot per license limit for
April 27 opening.

NEW SECTION

WAC 220-52-04000K Commercial crab fishery—25 Pot per license limit for April 27 opening. Notwithstanding the provisions of WAC 220-52-040, effective 8:01 p.m. April 27, 1999 until 8:00 p.m. April 28, 1999, it is unlawful for any person to take or fish for crab for commercial purposes in the Puget Sound licensing district using, operating, or controlling any more than an aggregate total of 25 shellfish pots or ring nets. This limit shall apply to each license. However, this shall not preclude a person holding two Puget Sound crab licenses from designating and using the licenses from one vessel as authorized by RCW 75.28.048(4).

NEW SECTION

WAC 220-52-04600P Commercial crab fishery—24 Hour limited opening on April 27 Notwithstanding the provisions of WAC 220-52-046, effective 8:01 p.m. April 27, 1999 until 8:00 p.m. April 28, it is lawful to fish for Dungeness crab for commercial purposes in Puget Sound in the following areas:

(1) All waters of Marine Fish/Shellfish Management and Catch Reporting Area 24B, with the exception of those waters inside a line projected from Priest Point to the five-meter tower between Gedney Island and Priest Point, thence northwesterly on a line between the five-meter tower and Barnum Point to the intersection with a line projected true west from Kayak Point, thence east to shore, and those waters north of a line projected true west from Kayak Point, and south and west of a line from Kayak Point to Barnum Point.

(2) Waters of Marine Fish/Shellfish Management and Catch Reporting Area 24C south of a line from East Point on Whidbey Island to Lowell Point on Camano Island, with the exception of those waters inshore of the 400 foot depth contour within an area bounded by parallel lines projected northeasterly from Sandy Point and the entrance to the marina at Langley.

(3) Waters of Marine Fish/Shellfish Management and Catch Reporting Area 26A north of a line from Picnic Point to Possession Point on Whidbey Island, with the exception of those waters south and east of a line projected from the 3A buoy at the Snohomish River mouth to the outermost tip of the ferry dock at Mukilteo, and those waters within a line from the green number 1 buoy at Scatchet Head to the green

**WSR 99-10-035
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-35—Filed April 30, 1999, 7:58 a.m., effective May 15, 1999, 9:00 a.m.]

Date of Adoption: April 27, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500X; and amending WAC 220-56-325.

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: Stock assessment has shown there are sufficient shrimp available for recreational harvest. Recreational harvest scheduling has been agreed to under the shellfish subproceeding *United States v. Washington*. There is insufficient time to promulgate permanent rules and still allow for a recreational fishery.

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.

EMERGENCY

Effective Date of Rule: May 15, 1999, 9:00 a.m.

April 27, 1999

J. P. Koenigs

Director

WSR 99-10-036

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 99-53—Filed April 30, 1999, 7:59 a.m.]

NEW SECTION

WAC 220-56-32500X Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-310, 220-56-315, 220-56-320, 220-56-325 and 220-56-330, effective May 15, 1999 until further notice it is unlawful to fish for or possess shrimp from those waters of Hood Canal south of the Hood Canal floating bridge except as provided for in this section:

(1) Fishing for shrimp is allowed between 9:00 a.m. and 1:00 p.m. on the following dates: May 15, 19, 22, and 26, 1999.

(2) No shrimp fisher may use more than one shrimp pot on any one day. All shrimp pots must conform to the Hood Canal shrimp pot requirements set forth in WAC 220-56-320(4). It shall be unlawful for the operator of any boat to have on board or to fish more than four shrimp pots at any time from one boat. A boat is defined as a vessel in the water from which shrimp pots are set and pulled. No shrimp fisher may set gear prior to 9:00 a.m. May 15, 1999. No shrimp fisher may leave shrimp fishing gear in the water between:

1:00 p.m. May 15 and 9:00 a.m. May 19;

1:00 p.m. May 19 and 9:00 a.m. May 22;

1:00 p.m. May 22 and 9:00 a.m. May 26;

or after 1:00 p.m. May 26, 1999.

(3) All unattended shrimp gear must be marked with a buoy, and the buoy must conform with the requirements and be marked as provided for in WAC 220-56-320(1). It is unlawful to have more than one shrimp pot attached to one line.

(4) It is unlawful for any one person to take in any one day more than eighty shrimp. The first eighty shrimp taken must be retained. After the eightieth shrimp has been retained by a fisher, the fisher must stop fishing and release all additional shrimp immediately to the water unharmed.

(5) The use of all crab pot gear is prohibited. No crab fisher may use more than two ring nets or two star traps, or more than one ring net and one star trap. No crab fisher may set or pull ring nets or star traps between one hour after official sunset to one hour before official sunrise.

(6) All unattended crab gear must be marked with a buoy, and the buoy must conform with the requirements and be marked as provided for in WAC 220-56-320(1).

REPEALER

The following section of the Washington Administrative Code is repealed effective 1:01 p.m. May 26, 1999:

WAC 220-56-32500X Shrimp—Areas and seasons.

Date of Adoption: April 29, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 75.08.080.

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 regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. 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.

April 29, 1999

J. P. Koenigs

Director

NEW SECTION

WAC 220-56-32500Y Recreational rules for shrimp districts 1 (Discovery Bay area) and 3 (Port Angeles Harbor) Notwithstanding the provisions of WAC 220-56-325 and WAC 220-56-310 it is unlawful to fish for or possess shrimp from those waters of Shrimp District 1 and Shrimp District 3 except as provided for in this section:

(1) Effective June 5, 1999, until further notice, fishing is allowed for all species of shrimp in Shrimp District 1 except that:

(a) Minimum size for spot shrimp in Shrimp District 1 is 1-3/16 inches carapace length.

(b) Spot shrimp may be retained only on Saturdays through August 21, 1999. Spot shrimp caught on days other than Saturdays and after August 21, 1999 until further notice must be returned immediately to the water unharmed.

(c) The daily bag limit is 10 pounds of which, on Saturdays, no more than 50 shrimp may be spot shrimp.

(2) Effective June 5, 1999, until further notice, fishing is allowed for all species of shrimp in Shrimp District 3 except that:

(a) Spot shrimp may be retained on Saturdays and Sundays only as part of the 10 pound daily bag limit. Spot shrimp caught on all other days must be returned immediately to the water unharmed.

(b) There is no minimum size for spot shrimp in Shrimp District 3.

WSR 99-10-037
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-54—Filed April 30, 1999, 8:01 a.m., effective May 1, 1999, 12:01 a.m.]

Date of Adoption: April 29, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-24-020.

Statutory Authority for Adoption: RCW 75.08.080.

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: A harvestable quota of chinook salmon is available for troll fishermen. This regulation is adopted at the recommendation of the Pacific Fisheries Management Council and is consistent with federal law. 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: May 1, 1999, 12:01 a.m.

April 29, 1999

J. P. Koenings

Director

NEW SECTION

WAC 220-24-02000H Commercial salmon troll. Notwithstanding the provisions of WAC 220-24-010, 220-24-020 and WAC 220-24-030, effective immediately until further notice it is unlawful to fish for or possess salmon taken

for commercial purposes with troll gear from those waters west of the Bonilla-Tatoosh line, the Pacific Ocean and waters west of the Buoy 10 Line at the mouth of the Columbia River from the U.S. - Canada border to Cape Falcon, Oregon except as provided for in this section:

(1) Effective 12:01 a.m., May 1, 1999, through 11:59 p.m. June 15, 1999, it is lawful to fish for and possess salmon except coho salmon taken from these waters, except for Washington waters in a closed control zone at the mouth of the Columbia River, described as those waters inside a line projected six miles due west from North Head along 46°18'00" N latitude to 124°13'18" W longitude, then southerly along a line 167° true to 46°11'06" N latitude and 124°11'00" W (the Columbia River Buoy) then northeast along the red buoy line to the tip of the south jetty.

(2) Each participating vessel must land and deliver to a port within the area or an adjacent closed area within 48 hours of any closure.

(3) Lawful terminal gear is restricted to lawful troll gear with single point, single shank barbless hooks.

(4) No chinook salmon smaller than 28 inches in total length may be taken or retained in the fishery provided for herein, except that frozen salmon taken in this fishery may be landed pursuant to WAC 220-20-015.

(5) It is unlawful to fish for or possess salmon taken for commercial purposes with gear other than troll gear.

WSR 99-10-038
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-39—Filed April 30, 1999, 8:02 a.m., effective May 1, 1999, 12:01 a.m.]

Date of Adoption: April 27, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-05000V; and amending WAC 220-44-050.

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: These regulations are necessary to achieve conservation goals and to maintain consistency between state and federal 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.

EMERGENCY

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: May 1, 1999, 12:01 a.m.

April 27, 1999

Larry W. Peck

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-44-05000W Coastal bottomfish catch limits. Notwithstanding the provisions of WAC 220-44-050, effective 12:01 a.m. May 1, 1999 until further notice, it is unlawful to possess, transport through the waters of the state or land in any Washington State port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the following species:

1. The following definitions apply to this section:

a. **Cumulative limit** - A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per calendar month or cumulative period, without a limit on the number of landings or trips. The cumulative limit includes all fish harvested by a vessel during the cumulative period, whether taken in limited entry or open access fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative period. For B-platoon vessels a calendar month shall be the 16th of the month through the 15th of the following month.

b. **Cumulative period** - Period 2 - April through May, Period 3 - June through July.

c. **Daily trip limit** - The maximum amount of fish that may be taken and retained, possessed or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours.

d. **Groundfish limited entry fishery** - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National Marine Fisheries Service endorsed for the qualifying gear type.

e. **Groundfish open access fishery** - Fishing activity by a vessel equipped with setline or bottomfish pot gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

f. **Shrimp trawl fishery** - Fishing activity by a vessel equipped with shrimp trawl gear when ocean pink shrimp comprise more than one half the volume of shrimp aboard.

g. **Spot prawn trawl fishery** - Fishing activity by a vessel equipped with shrimp trawl gear when ocean spot prawns comprise more than half the volume of shrimp aboard.

h. **Vessel trip** - A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

i. **Vessel trip limit** - The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

j. **Dressed length** - The dressed length of a fish is the distance from the anterior insertion of the first dorsal fin to the tip of the tail.

2. **Groundfish limited entry fishery limits.** The following limits apply to the groundfish limited entry fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, and 63 (notwithstanding the provisions of WAC 220-44-030):

a. **Pacific ocean perch** - One-month cumulative limit of 4,000 pounds. No minimum size.

b. **Widow rockfish** - Cumulative period limits as follows: Period 2 - 16,000 pounds, Period 3 - 11,000 pounds per period. No minimum size.

c. **Shortbelly rockfish** - No minimum size. No maximum poundage.

d. **Black rockfish** - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

e. **Sebastes complex** - All species of rockfish except Pacific ocean perch, widow, shortbelly, and thornyhead (*Sebastes* spp.) Cumulative period limits as follows: Period 2 - 25,000 pounds of which no more than 13,000 pounds may be yellowtail rockfish and 9,000 pounds may be canary rockfish. Period 3 - 30,000 pounds of which no more than 16,000 pounds may be yellowtail rockfish and 14,000 pounds may be canary rockfish.

f. **DTS Complex - (Dover sole, Thornyhead rockfish, and Sablefish)** -

(1) **Dover sole**, cumulative period limits as follows: Period 2 - 25,000 pounds, Period 3 - 20,000 pounds per period.

(2) **Longspine thornyheads**, cumulative period limits as follows: Periods 2, 3 - 8,000 pounds per period.

(3) **Shortspine thornyheads**, cumulative period limits as follows: Periods 2, 3 - 2,000 pounds per period.

(4) **Sablefish** -

(a) **Trawl vessels** - Cumulative period limits as follows: Period 2 - 12,000 pounds, Period 3 - 10,000 pounds per period. Not more than 500 pounds (round weight) of sablefish per trip may be smaller than 22 inches. Sablefish total length of 22 inches is equivalent to dressed length of 15.5 inches. To convert sablefish from dressed weight to round weight, multiply the dressed weight by 1.6.

(b) **Non-trawl vessels** - Daily trip limit of 300 pounds (round weight). Cumulative limit of 2,400 pounds per two-

EMERGENCY

month period. Two month periods are May 1 through June 30. No minimum size.

g. **Pacific Whiting** - Trip limit of 10,000 pounds. Effective June 15, 1999 until further notice, no trip limit. No minimum size.

h. **Lingcod** - Cumulative period limits as follows: Periods 2, 3 - 1,000 pounds per period. Total length minimum size limit of 24 inches. Lingcod total length of 24 inches is equivalent to dressed length of 19.5 inches. To convert lingcod from dressed weight to round weight, multiply the dressed weight by 1.5. To convert lingcod from dressed, head on (gutted only), weight, multiply the dressed weight by 1.1.

(1) It shall be lawful to land up to 100 pounds of lingcod under 24 inches taken in the trawl fishery only.

3. Groundfish open access fishery limits. The following limits apply to the groundfish open access fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 59B, 60A-1, 60A-2, 61, 62, and 63 (notwithstanding the provisions of WAC 220-44-030). Notwithstanding the provisions of this subsection, no groundfish open access fishery limit may exceed a groundfish limited entry fishery daily, vessel or cumulative limit or more than 50% of any period 2 or 3 cumulative limit.

(a) **Sablefish** - Daily trip limit of 300 pounds (round weight) not to exceed two-month cumulative limit of 1,800 pounds. Two-month periods are May 1 through June 30. No minimum size.

(b) **Pacific ocean perch** - Cumulative limit of 100 pounds per calendar month.

(c) **Widow rockfish** - Cumulative limit of 2,000 pounds per calendar month.

(d) **Sebastes complex** - All species of rockfish except Pacific ocean perch, widow, shortbelly, and thornyhead (*Sebastes* spp.) Cumulative limit of 12,000 pounds per calendar month of which no more than 6,500 pounds may be yellowtail rockfish, 3,500 pounds may be black and blue rockfish combined, and 2,000 pounds may be canary rockfish. Cumulative limit of 2,000 pounds per calendar month on *Sebastes* complex other than black, blue, canary and yellowtail rockfish.

(e) **Lingcod** - April 1st until further notice when there is a cumulative limit of 250 pounds per calendar month.

(f) **Pacific whiting** - Cumulative limit of 100 pounds per calendar month.

(g) **Dover sole** - Cumulative limit of 100 pounds per calendar month.

(h) **Shortspine thornyheads** - Illegal to take, possess, transport or land shortspine thornyheads.

(i) **Longspine thornyheads** - Illegal to take, possess, transport or land longspine thornyheads.

4. Shrimp trawl fishery limits: Limit of 500 pounds of groundfish per day fished not to exceed trip limit of 2,000 pounds of groundfish. Groundfish landings may not exceed 50% of the total weight of species landed from any shrimp trawl trip. Landings may not exceed any single open access species limit with the following exceptions:

(a) **Dover sole** - Trip limit of 2,000 pounds.

(b) **Pacific whiting** - Trip limit of 2,000 pounds.

(c) **Sablefish** - Two-month cumulative limit of 1,800 pounds. Two-month periods are May 1 through June 30. No daily or trip limit.

5. Spot prawn trawl fishery limits: Trip limit of 300 pounds of groundfish, not to exceed any single open access species limit. Groundfish landings (excluding spiny dogfish) may not exceed 50% of the total weight of species landed from any spot prawn trawl trip.

6. Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

7. It is unlawful during the unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species or category of bottomfish having a cumulative limit, vessel trip limit or daily trip limit.

8. The fisher's copy of all fish receiving tickets showing landings of species provided for in this section shall be retained aboard the landing vessel for 90 days after landing.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. April 30, 1999.

WAC 220-44-05000V Coastal bottomfish catch limits. (99-20)

WSR 99-10-049
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 99-58—Filed April 30, 1999, 4:39 p.m., effective May 1, 1999, 12:01 a.m.]

Date of Adoption: April 30, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing, see repealer section below; and amending WAC 220-16-550, 220-56-105, 220-56-115, 220-56-124, 220-56-191, 220-56-195, 220-56-205, 220-56-235, 220-56-255, 220-57-135, 220-57-140, 220-57-145, 220-57-165, 220-57-175, 220-57-187, 220-57-200, 220-57-255, 220-57-270, 220-57-315, 220-57-319, 220-57-335, 220-57-340, 220-57-346, 220-57-355, 220-57-365, 220-57-405, 220-57-440, 220-57-505, 220-57-510, 220-57-515, 220-57-520, and 232-28-619.

Statutory Authority for Adoption: RCW 75.08.080 and 77.12.040.

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: These rules implement the recommendations of the North of Falcon subgroup of the Pacific Fisheries Management Council, and are interim until the permanent rules take effect. There is insufficient time to promulgate permanent rules before the scheduled fisheries begin.

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 32, Amended 0, Repealed 31.

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: May 1, 1999, 12:01 a.m.

April 30, 1999

Larry W. Peck

for Jeff P. Koenings

Director

NEW SECTION

WAC 220-16-55000A Octopus hole conservation area. Notwithstanding the provisions of WAC 220-16-550, the southern boundary of the Octopus Hole Conservation Area is latitude 47°26'40".

NEW SECTION

WAC 220-56-10500B River mouth definitions. Notwithstanding the provisions of WAC 220-56-105, effective May 1, 1999, until further notice the mouth of Chambers Creek is defined as the Burlington Northern Railroad Bridge.

NEW SECTION

WAC 220-56-11500A Angling gear. Effective July 1, 1999, until further notice, it is unlawful to use a downrigger, to use more than two ounces of weight attached to a line, or to use a lure or diver weighing more than two ounces when fishing in Catch Record Card Area 10.

NEW SECTION

WAC 220-56-12400E Hoodsport hatchery. Notwithstanding the provisions of WAC 220-56-124, when those waters defined in WAC 220-56-124 are open the special daily limit is four salmon, of which not more than two may be chinook salmon and chum salmon must be released July 1 until further notice.

NEW SECTION

WAC 220-56-19100I Puget Sound salmon seasons. Notwithstanding the provisions of WAC 220-56-191, in the following Catch Record Card Areas (Areas):

(1) Area 7 - effective July 1, 1999, until further notice, special daily limit of two salmon, not more than one of which may be a chinook salmon.

(2) Area 9 when fishing from the Hood Canal Bridge fishing pontoon only - effective May 1 through June 30, 1999, special daily limit of two salmon not more than one of which may be a chinook salmon. Closed to salmon angling July 1, 1999, until further notice.

(3) Area 10 - Effective July 1, 1999, until further notice, closed east of a line from West Point to Alki Point and east of a line from Point Wells to Meadow Point.

(4) Area 11 - Closed through May 31, 1999, except from Dash Point Dock and Point Defiance Boathouse Dock. Effective June 1, 1999, until further notice release pink salmon. Effective May 1, 1999, until further notice, salmon angling is open from the Dash Point Dock and the Point Defiance Boathouse Dock - Special daily limit of 2 salmon, not more than one of which may be a chinook salmon.

(5) Area 12 - Effective July 1, 1999, until further notice, in waters south of Ayock Point, special daily limit of two salmon, not more than one of which may be a chinook salmon, and release chum and pink salmon. Waters north of Ayock Point are closed until further notice.

(6) Area 13 - Effective July 1, 1999, until further notice release wild coho salmon.

All provisions of WAC 220-56-191 not inconsistent with the provision of this section remain in effect.

NEW SECTION

WAC 220-56-19500B Closed areas—Saltwater salmon angling. Notwithstanding the provisions of WAC 220-56-195, the following areas are closed to salmon angling during the periods indicated:

(1) Bellingham Bay: Those waters of Bellingham, Samish and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point,

thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island thence following the shoreline to Yellow Bluff on the southwest corner of Guemes Island thence to Yellow Bluff reef range marker thence to the ferry terminal dock east of Shannon Point - Closed July 1, 1999, until further notice.

(2) Commencement Bay: Those waters east of a line projected from the Sperry Ocean dock to landfall below the Cliff House Restaurant on the north shore of Commencement Bay - Closed June 1 through July 31.

(3) Rosario Strait/Eastern Strait of Juan de Fuca: Those waters of Catch Record Card Area 7 in Rosario Strait and the eastern portion of the Strait of Juan de Fuca southerly of a line running from Sandy Point to Point Migley on Lummi Island, then following the western shore of Lummi Island to a line running from Lawrence Point on Orcas Island through Lummi Rocks Buoy, then from Lawrence Point along the southeasterly shore of Orcas Island to Deer Point, then true south to Blakely Island, then south along the Blakely Island shore to the southernmost point of Blakely Island, then along Thatcher Pass to Fauntleroy Point, then along the eastern shore of Decatur Island to the southernmost point of Decatur Island, then across Lopez Pass to Lopez Island and following the shore of Lopez Island southwesterly to Iceberg Point, then from Iceberg Point to Cattle Point, then south-southwest to the Salmon Bank Buoy, then true west to the Area 7 boundary - Closed July 1 through July 31.

NEW SECTION

WAC 220-56-20500C Nonbuoyant lures and night closures. Notwithstanding the provisions of WAC 220-56-205:

(1) The nonbuoyant lure restrictions of WAC 220-56-205 apply in the following waters:

(a) Cowlitz River from Mill Creek to the Barrier Dam - May 1, 1999, until further notice.

(b) Icicle River - June 1 through June 30, 1999.

(2) The nonbuoyant lure restriction is removed from the Wenatchee River May 1, 1999, until further notice.

NEW SECTION

WAC 220-56-23500C Bottomfish - Lingcod. Notwithstanding the provisions of WAC 220-56-235, effective May 1, 1999, until further notice the daily limit for lingcod in Catch Record Card Areas 1 through 4 is 2 fish, minimum length 24 inches.

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

NEW SECTION

WAC 220-56-25500H Halibut—Seasons—Daily limits. Notwithstanding the provisions of WAC 220-56-235, effective May 1, 1999, until further notice it is unlawful to fish for or possess halibut taken for personal use except as provided for in this section:

(1) Catch Record Card Area 1: Open May 1, 1999, until further notice. Minimum size 32 inches in length. The daily

limit is the first halibut 32 inches in length or greater brought aboard the vessel.

(2) Catch Record Card Area 2:

(a) Waters south of the Queets River, north of 47°N and east of 124°40'W: Open May 2, 1999, until further notice.

(b) All other open waters in Area 2: Open May 2, 1999, until further notice, except closed 12:01 a.m. each Friday through 11:59 p.m. each Saturday.

(c) Closed waters: Waters inside a rectangle defined by the following four corners: 47°19'N, 124°53'W; 47°19'N, 124°48'W; 47°16'N, 124°53'W; 47°16'N, 124°48'W;

(3) Catch Record Card Area 3 and waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh line: Open May 1, 1999, until further notice, except closed 12:01 a.m. each Sunday through 11:59 p.m. each Monday and in the closed waters of a rectangle defined by the following four corners: 48°18'N, 125°11'W; 48°18'N, 124°59'W; 48°04'N, 125°11'W; 48°04'N, 124°59'W

(4) Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5 through 13: Open May 27 through July 12, 1999, except closed 12:01 a.m. each Tuesday through 11:59 p.m. each Wednesday.

NEW SECTION

WAC 220-57-13500V Calawah River. Notwithstanding the provisions of WAC 220-57-135, effective May 1, 1999, until further notice, lawful terminal gear other than single point barbless hooks may be used.

NEW SECTION

WAC 220-57-14000V Chehalis River. Notwithstanding the provisions of WAC 220-57-140, effective May 1 until July 31, 1999, Daily Limit A downstream from the High Bridge on the Weyerhaeuser 1000 line.

NEW SECTION

WAC 220-57-14500A Cispus River. Notwithstanding the provisions of WAC 220-57-145, effective May 1, 1999, until further notice Daily Limit A except release wild coho. Eight-inch minimum size.

NEW SECTION

WAC 220-57-16500B Copalis River. Notwithstanding the provisions of WAC 220-57-165, effective July 1, 1999, until further notice Daily Limit A downstream from the Carlisle Bridge.

NEW SECTION

WAC 220-57-17500P Cowlitz River. Notwithstanding the provisions of WAC 220-57-175, effective May 1 through July 31, 1999, Special Daily Limit of 1 salmon. Closed to fishing from south bank May 1 through June 15 from 400 feet below Barrier Bam to mouth of Mill Creek. Cumulative limit of 5 salmon April 1 through July 31, 1999.

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

NEW SECTION

WAC 220-57-18700C Deep River. Notwithstanding the provisions of WAC 220-57-187, effective June 1 through July 31, 1999, Daily Limit C downstream from town bridge.

NEW SECTION

WAC 220-57-20000N Dickey River. Notwithstanding the provisions of WAC 220-57-200, effective July 1, 1999, until further notice, Daily Limit A downstream from the mouth of the East Fork.

NEW SECTION

WAC 220-57-25500D Green River. Notwithstanding the provisions of WAC 220-57-255:

(1) Effective May 1 through May 31, 1999, Daily Limit A downstream from 400 feet below the Green River Hatchery upper water intake.

(2) Effective June 1, 1999, until further notice, Daily Limit A except release chum and wild adult coho and no more than 1 adult chinook may be retained.

NEW SECTION

WAC 220-57-27000G Hoh River. Notwithstanding the provisions of WAC 220-57-270:

(1) The Hoh River is closed through May 31, 1999.

(2) Effective June 1, 1999, until further notice, Daily Limit C downstream from the mouth of the South Fork.

NEW SECTION

WAC 220-57-31500H Klickitat River. Notwithstanding the provisions of WAC 220-57-315, effective June 1, 1999, until further notice, Daily Limit C downstream from fishing boundary markers at the downstream end of the Klickitat River salmon hatchery.

NEW SECTION

WAC 220-57-31900U Lewis River. Notwithstanding the provisions of WAC 220-57-319:

(1) Mainstem: Effective May 1, 1999, until further notice, Special Daily Limit of 1 salmon downstream from East Fork to mouth.

(2) North Fork: Effective May 1, 1999, until further notice, Special Daily Limit of 1 salmon downstream from Colvin Creek to mouth.

(3) Cumulative limit of 5 salmon in the Lewis River and all forks, April 1 through July 31, 1999.

NEW SECTION

WAC 220-57-33500A Naselle River. Notwithstanding the provisions of WAC 220-57-335, effective July 1, 1999

until further notice, Daily Limit A except release wild adult coho salmon downstream from the Highway 4 Bridge.

NEW SECTION

WAC 220-57-34000I Nemah River. Notwithstanding the provisions of WAC 220-57-340, effective July 1, 1999, until further notice, Daily Limit A except release wild adult coho salmon in the Middle Nemah downstream from the DNR Bridge on the Middle Nemah A-Line Road and in the South Nemah from the confluence with the Middle Nemah to the mouth

NEW SECTION

WAC 220-57-34600A Niawiakum River. Notwithstanding the provisions of WAC 220-57-346, effective July 1, 1999, until further notice, Daily Limit A except release wild adult coho salmon downstream from the South Bend-Palix Road. Single point barbless hooks required.

NEW SECTION

WAC 220-57-35500A North River. Notwithstanding the provisions of WAC 220-57-355, effective July 1, 1999, until further notice, Daily Limit A except release wild adult coho salmon downstream from the mouth of Salmon Creek.

NEW SECTION

WAC 220-57-36500A Palix River. Notwithstanding the provisions of WAC 220-57-365, effective July 1, 1999, until further notice, Daily Limit A except release wild adult coho salmon downstream from the confluence of the South and Middle Forks.

NEW SECTION

WAC 220-57-40500A Samish River. Notwithstanding the provisions of WAC 220-57-405, effective July 1, 1999, until further notice, Special Daily Limit of 2 salmon downstream from the Thomas Road Bridge to the Bayview-Edison Road Bridge.

NEW SECTION

WAC 220-57-44000A Smith River. Notwithstanding the provisions of WAC 220-57-440, effective July 1, 1999, until further notice, Daily Limit A except release wild adult coho downstream from the Highway 101 Bridge to the mouth. Single point barbless hooks required.

NEW SECTION

WAC 220-57-50500D White Salmon River. Notwithstanding the provisions of WAC 220-57-505, effective May 1 through June 15, 1999, the White Salmon River is closed to salmon angling.

NEW SECTION

WAC 220-57-51000A Willapa River. Notwithstanding the provisions of WAC 220-57-510, effective July 1, 1999, until further notice, Daily Limit A except release wild adult coho salmon downstream from the Highway 6 Bridge to the department boat launch in South Bend. Lawful terminal gear other than single point barbless hooks may be used.

NEW SECTION

WAC 220-57-51500P Wind River. Notwithstanding the provisions of WAC 220-57-505, effective May 1 through June 15, 1999, the Wind River is closed to salmon angling.

NEW SECTION

WAC 220-57-52000A Wishkah River. Notwithstanding the provisions of WAC 220-57-520, effective July 1, 1999, until further notice the Wishkah River is closed to salmon angling.

NEW SECTION

WAC 232-28-61900G Exceptions to state-wide gamefish rules. Notwithstanding the provisions of WAC 232-28-619:

(1) Effective May 1, 1999, until further notice:

(a) Bear Lake (Spokane County) and Nason Creek Fish Pond (Chelan County) are open to holders of disability licenses.

(b) Headgate Pond (Asotin County) is open to holders of senior and disability licenses.

(c) Joe Creek (Grays Harbor Count) upstream from Highway 109 Bridge to Ocean Beach Road Bridge: Trout: minimum length 14 inches.

(2) Effective July 1, 1999, until further notice, single point barbless hooks required in the Niawiakum River.

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 sections of the Washington Administrative Code are repealed effective July 17, 1999:

- WAC 220-16-55000A Octopus hole conservation area.
- WAC 220-56-10500B River mouth definitions.
- WAC 220-56-11500A Angling gear.
- WAC 220-56-12400E Hoodspout hatchery.
- WAC 220-56-19100I Puget Sound salmon seasons.
- WAC 220-56-19500B Closed areas—Saltwater salmon angling.
- WAC 220-56-20500C Nonbuoyant lures and night closures.
- WAC 220-56-23500C Bottomfish—Lingcod.
- WAC 220-56-25500H Halibut—Seasons—Daily limits.
- WAC 220-57-13500V Calawah River

- WAC 220-57-14000V Chehalis River.
- WAC 220-57-14500A Cispus River.
- WAC 220-57-16500B Coplais River.
- WAC 220-57-17500P Cowlitz River.
- WAC 220-57-18700C Deep River.
- WAC 220-57-20000N Dickey River.
- WAC 220-57-25500D Green River.
- WAC 220-57-27000G Hoh River.
- WAC 220-57-31500H Kilckitat River.
- WAC 220-57-31900U Lewis River.
- WAC 220-57-33500A Naselle River.
- WAC 220-57-34000I Nemah River.
- WAC 220-57-34600A Niawiakum River.
- WAC 220-57-35500A North River.
- WAC 220-57-36500A Palix River.
- WAC 220-57-40500A Samish River.
- WAC 220-57-44000A Smith River
- WAC 220-57-50500D White Salmon River.
- WAC 220-57-51000A Willapa River
- WAC 220-57-51500P Wind River
- WAC 220-57-52000A Wishkah River
- WAC 232-28-61900G Exception to state-wide gamefish rules.

Reviser's note: The spelling errors in the above material occurred in the copy filed by the Department of Fish and Wildlife and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 99-10-050
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 99-56—Filed April 30, 1999, 4:42 p.m.]

Date of Adoption: April 30, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-88A-07000Z and 220-88A-08000W; and amending WAC 220-52-075, 220-69-240, 220-88A-060, 220-88A-070, and 220-88A-080.

Statutory Authority for Adoption: RCW 75.08.080.

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: The provisions of this emergency rule are necessitated by federal court order. The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. Agreed plans with applicable tribes have been entered as required by the court order. Such plans have the effect of a federal court order. 898 F. Supp. 1453, 1466, 3.1. Pursuant to RCW 34.04.350 [34.05.350], the need to comply with such federal court orders in the form of allocative management plans constitutes an emergency that requires bypassing the time periods inherent in permanent rulemaking. The 1999 state/tribal Puget Sound shrimp harvest management plan requires adoption of the harvest seasons and the prohibition on night time fishing contained in this emergency rule. Failure to comply

EMERGENCY

with the conservation and/or allocation requirements of such plans may result in contempt of federal court or failure of all commercial shrimp fishing in a given region addressed by a plan. Under current rules, the spot shrimp quotas established in the 1999 state/tribal Puget Sound shrimp harvest management plan can be far exceeded in one day of fishing. A weekly landing limit for spot shrimp is necessary to reduce risk of overharvest. The additional harvest log and catch reporting rules are necessary to maintain an orderly fishery, provide the ability to enforce state/tribal plan requirements, and to ensure conservation. 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 5, 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.

April 30, 1999

Larry W. Peck
for Jeff P. Koenings
Director

NEW SECTION

WAC 220-52-07500B Puget Sound shrimp pot fishery—Harvest log requirements Notwithstanding the provisions of WAC 220-52-075, effective immediately until further notice:

1) Vessel operators engaged in commercial harvest of shrimp from Puget Sound with shellfish pot gear must record the vessel's Washington Department of Fish and Wildlife boat registration number, number of pots pulled, soak time, gear location (including latitude and longitude to the nearest tenth of a minute or to the nearest second), and weight(s) of catch before leaving the site where catch is taken. A separate weight for each species caught and retained must be recorded. When single pots are fished an entry is required for each pot site. When two or more pots are fished on a common ground line the catch site must be recorded at the location of the last pot on the ground line that is pulled. It shall be unlawful to fail to permanently record this information into the department-supplied harvest log before leaving each catch site. Harvest logs must be maintained and submitted in ascending consecutive order of harvest log serial numbers. Harvest logs must be submitted for each month in which fishing activity occurs and must be received by the department within ten days following any month in which fishing occurs.

2) The serial number must be recorded onto the harvest log at the time of sale, or before leaving the last catch site of the day if the vessel operator holds a wholesale dealer license and is the original receiver of the catch.

3) Vessel operators engaged in commercial harvest of shrimp from Puget Sound with shellfish pot gear must report their daily catch by telephone before leaving the last catch site fished each day. For harvest in Crustacean Management Regions 1 or 2, reports must be made to the La Conner district office (360) 466-4345 extension 245. For harvest in Crustacean Management Regions 3, 4, or 6, reports must be made to the Point Whitney Shellfish Laboratory (360) 796-4601, extension 800. All reports must specify the total number of pounds of each shrimp species in possession, number of pots fished, the Marine Fish-Shellfish Management and Catch Reporting Area where shrimp were harvested, and the port or name of vessel where the catch will be landed or sold. The fish receiving ticket reporting requirements of WAC 220-69-240 remain in effect.

NEW SECTION

WAC 220-69-24000K Shrimp dealer reporting requirements - Specification of fish receiving ticket serial number. Notwithstanding the provisions of WAC 220-69-240, effective immediately until further notice: It is unlawful for the original receiver of shrimp other than ghost shrimp taken from Puget Sound to fail to report to the department the previous week's purchases by 10:00 a.m. the following Monday. For harvest in Crustacean Management Regions 1 or 2, reports must be made to the La Conner district office by voice (360) 466-4345 extension 245, or facsimile (360) 466-0515. For harvest in Crustacean Management Regions 3, 4, or 6, reports must be made to the Point Whitney Shellfish Laboratory by voice (360) 796-460, extension 800, or facsimile (360) 796-4997. All reports must specify the serial numbers of the fish receiving tickets on which the previous week's shrimp were sold, and the total number of pounds caught by gear type, Marine Fish-Shellfish Management and Catch Reporting Area, and species listed on each ticket.

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

NEW SECTION

WAC 220-88A-06000A Puget Sound crustacean management regions. Notwithstanding the provisions of WAC 220-88A-060, effective immediately until further notice the following areas are defined as Puget Sound Crustacean Management Regions:

(1) Crustacean Management Region 1A - (Western San Juan Islands) The portion of Marine Fish-Shellfish Management and Catch Reporting Area 20B west of a line from Point Doughty on Orcas Island to the bell buoy at the international boundary due north of Waldron Island, and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 22A west of the following line: beginning at Steep Point On Orcas Island to Neck Point on Shaw Island, then southerly following the west coast of Shaw Island to the southern-

EMERGENCY

most point of Shaw Island, then to the western entrance to Fisherman's Bay on Lopez Island, then southerly and easterly following the west coast of Lopez Island to Point Colville.

(2) Crustacean Management Region 1B - (Eastern San Juan Islands) The portions of Marine Fish-Shellfish Management and Catch Reporting Areas 20B and 22A to the east of Crustacean Management Region 1A and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 21A north and west of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.

(3) Crustacean Management Region 1C - (Gulf of Georgia/North Puget Sound Bays) All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 21B, and 22B, and the portion of Marine Fish-Shellfish Management and Catch Reporting Area 21A outside of Crustacean Management Region 1B.

(4) Crustacean Management Region 2 - (Central Puget Sound) All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 25B, 25D, 25E, and 26A.

(5) Crustacean Management Region 3 - (Strait of Juan de Fuca) All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 23C, 23D, 25A, and 29.

(6) Crustacean Management Region 4 - (Southern Central Puget Sound) All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 26B, 26C, and 26D.

(7) Crustacean Management Region 5 - (Hood Canal) All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 25C, 27A, 27B, and 27C.

(8) Crustacean Management Region 6 - (South Puget Sound) All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 28A, 28B, 28C, and 28D.

(9) All areas currently closed under WAC 220-88A-060 remain closed.

NEW SECTION

WAC 220-88A-07000R Emerging commercial fishery—Puget Sound shrimp pot fishery—Seasons—Weekly trip limits. Notwithstanding the provisions of WAC 220-88A-070, effective immediately until further notice it is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear except as provided for in this section:

(1) All waters of Crustacean Management Regions 1B, 1C, 2, 3, 4, and 6 are open to harvest of all shrimp species except spot shrimp from 8:00 a.m. May 1 until 11:59 p.m., May 31, 1999, with the following exceptions: Marine Fish-Shellfish Catch Reporting Areas 23A, and 23B will remain closed until June 1, 1999.

(2) All waters of Crustacean Management Regions 1A, 1C, 2, 3, 4, and 6 are open to harvest of all shrimp from June 1, 1999 until further notice.

(3) It is unlawful to set or pull shellfish pot gear from one hour after official sunset until one hour before official sunrise.

(4) It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 800 pounds per week or to exceed 300 pounds per

week from Crustacean Management Regions 2 or 4. The spot shrimp trip limit accounting week is Monday through Sunday.

(5) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day.

(6) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Catch Reporting Area.

(7) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers. No fisher may land shrimp without immediate delivery to a licensed wholesale dealer or, if transferred at sea, without transfer to a licensed wholesale dealer.

NEW SECTION

WAC 220-88A-08000X Emerging commercial fishery—Puget Sound shrimp beam trawl fishery—Restrictions to avoid gear conflicts. Notwithstanding the provisions of WAC 220-88A-080, effective immediately until further notice:

(1) It is unlawful to fish for shrimp in Puget Sound with beam trawl gear except:

(a) Crustacean management area 1 - Open May 1 until further notice.

(b) Crustacean management area 3 - Open May 16 until further notice.

(2) The following restrictions apply to shrimp trawl harvest in Marine Fish-Shellfish Management and Catch Reporting Area 20A:

(a) Closed in waters east of a line from the southwest corner of Point Roberts to Sandy Point.

(b) Closed in waters shallower than 20 fathoms.

(c) Closed in waters shallower than fifty fathoms from April 16 through July 15.

(3) It is unlawful to trawl for shrimp from one hour after official sunset to one hour before official sunrise.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-88A-07000Z Emerging commercial fishery—Puget Sound shrimp pot (99-32)

WAC 220-88A-08000W Emerging commercial fishery—Puget Sound shrimp trawl experimental fishery—Seasons and gear (99-32)

WSR 99-10-096
EMERGENCY RULES
DEPARTMENT OF HEALTH

[Filed May 5, 1999, 8:43 a.m.]

Date of Adoption: May 4, 1999.

Purpose: Add requirement to submit proof of nitrate test for drinking water when applying for temporary worker housing licensure.

Citation of Existing Rules Affected by this Order: Amending WAC 246-358-025.

Statutory Authority for Adoption: RCW 43.70.340.

Other Authority: Chapter 70.114A RCW.

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: Recent events have heightened the awareness of the drinking water issue in temporary labor camps and temporary worker housing. The acute contaminants identified by a nitrate analysis, pose immediate health risks in target populations which include infants and pregnant women. The submission of proof of nitrate analysis will assist the department in taking measures to protect these populations at risk from exposure.

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

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

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

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

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

Effective Date of Rule: Immediately.

May 4, 1999

Mary Selecky
Secretary

AMENDATORY SECTION (Amending WSR 96-01-084, filed 12/18/95, effective 1/1/96)

WAC 246-358-025 Operating license. (1) An operator shall notify the department or contracted health officer to request licensure when:

(a) Housing consists of:

(i) Five or more dwelling units;

(ii) Any combination of dwelling units, or spaces that house ten or more occupants; or

(b) Compliance with MSPA requires licensure.

(2) An operator shall apply for an operating license at least forty-five days prior to either the use of housing or the expiration of an existing operating license by submitting to the department or contracted health officer:

(a) A completed application on a form provided by the department or contracted health officer;

(b) Proof of a nitrate analysis, and proof of satisfactory results of a bacteriological water quality test as required by WAC 246-358-055(~~((2), or)~~) (3); alternatively proof housing is connected to a community water system; and

(c) A fee as specified in WAC 246-358-990.

(3) An operator may allow the use of housing without a license when all of the following conditions exist:

(a) The operator applied for an operating license in accordance with subsection (2) of this section at least forty-five days before occupancy, as evidenced by the post mark;

(b) The department or contracted health officer has not inspected the housing or issued an operating license;

(c) Other local, state, or federal laws, rules, or codes do not prohibit use of the housing; and

(d) The operator provides and maintains housing in compliance with this chapter.

(4) An operator shall:

(a) Post the operating license in a place readily accessible to workers;

(b) Notify the department or contracted health officer in the event of a transfer of ownership; and

(c) Cooperate with the department or contracted health officer during on-site inspections.

(5) An operator may appeal decisions of the department in accordance with chapter 34.05 RCW and chapter 246-08 WAC.

WSR 99-10-009
RULES COORDINATOR
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT
 [Filed April 23, 1999, 8:11 a.m.]

I have appointed Jean Ameluxen, director of intergovernmental relations, as my designated rules coordinator. She has authority to represent the agency for all circumstances relating to the legislative rule-making process. This appointment is effective immediately and supercedes all previous appointments.

Ms. Ameluxen can be reached by phone at (360) 753-2227, by fax at (360) 586-3582, or by e-mail at jeana@cted.wa.gov.

Tim Douglas
 Director

WSR 99-10-014
NOTICE OF PUBLIC MEETINGS
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES
 [Memorandum—April 23, 1999]

Following are details of two upcoming Participant Outcomes Data Consortium (PODC) meetings. The PODC is composed of representatives from the State Board for Community and Technical Colleges, Office of the Superintendent of Public Instruction, Workforce Training and Education Coordinating Board, and Employment Security.

April 30, 1999, at 9 a.m. to noon, at Workforce Training and Education Coordinating Board, Small Conference Room, Airdustrial Park, Building 17, Olympia. Agenda: Discussion of data needed for the consumer reports system.

June 11, 1999, at 9 a.m. to noon, at State Board for Community and Technical Colleges, Second Floor Conference Room, 319 Seventh Avenue, Olympia. Agenda: Election of officers, designation of caretaker agency.

WSR 99-10-040
DEPARTMENT OF ECOLOGY
 [Filed April 30, 1999, 11:29 a.m.]

PUBLIC COMMENT PERIOD ON WATER
TEMPERATURE STRATEGY FOR THE UPPER CHEHALIS RIVER

Water temperatures in many areas of the Upper Chehalis River Watershed (WRIA 23) have become too warm during the dry summer months to sustain all the expected life-cycle stages of cold water fish (salmon, steelhead, and trout).

This is a violation of state water quality standards. The Federal Clean Water Act requires the state to develop strategies to reverse these conditions and restore temperatures to levels that will sustain the cold water fish that still survive in the Upper Chehalis River system.

The Department of Ecology has developed a draft Total Maximum Daily Load (TMDL) for water temperature in the

Upper Chehalis River (WRIA 23). This study evaluates water temperatures and makes recommendations about what must be done to reduce those temperatures to levels that will sustain all life-cycle stages of cold water fish. The study proposes to reduce water temperatures to acceptable levels over time by restoring riparian zone shade.

The public is invited to comment on this draft study until June 4, 1999. An electronic copy of the draft Upper Chehalis River Basin Temperature TMDL may be obtained by e-mailing Kahle Jennings at kjen461@ecy.wa.gov. To obtain a paper copy of the TMDL, contact Cathy Brockmann at 407-6270.

Written comments should be postmarked no later than June 4, 1999 and mailed to: Kahle Jennings, Department of Ecology, Southwest Regional Office, P.O. Box 47775, Olympia, WA 98504-7775.

Comments will also be accepted through electronic mail at kjen461@ecy.wa.gov through June 4, 1999. For further information call (360) 407-6269.

WSR 99-10-053
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
 (Beef Commission)
 [Memorandum—April 30, 1999]

This is to notify you of a change in the date of May 1999 board meeting of the Washington State Beef Commission. The meeting has been changed to May 27, 1999, in Ellensburg, instead of May 20.

This is a second change. If there are questions, please contact (206) 444-2902.

WSR 99-10-075
INTERPRETIVE AND POLICY STATEMENT
DEPARTMENT OF HEALTH
 [Filed May 4, 1999, 2:39 p.m.]

NOTICE OF ADOPTION OF GUIDELINES

Title of Guidelines: Drinking Water State Revolving Fund 1997 Guidelines; Drinking Water State Revolving Fund 1998 Guidelines and Loan Application; 1999 DWSRF Loan Guidelines and Application.

Effective Date: New September 30, 1997, revision February 8, 1999, March 2, 1999.

Issuing Agency/Division: Jointly managed by:

1. Department of Health (DOH), Environmental Health Programs, Division of Drinking Water.
2. Washington State Public Works Board and its fiscal agent, the Washington State Community, Trade and Economic Development (CTED), Local Development Assistance Division.

Description: The DWSRF Guidelines have been amended as follows:

Revision 1:

A) Retroactive amendment to 1997 DWSRF Program guidelines related to project funding request; and

B) Retroactive amendment to 1997 DWSRF Program guidelines relating to date when eligible project expenses may be reimbursed as part of a construction loan.

C) Project loan fee procedure applies to both 1997 and 1998 applications.

Revision 2:

A) Retroactive amendment to 1998 DWSRF Program guidelines related to project funding request; and

B) Retroactive amendment to 1998 DWSRF Program guidelines relating to date when eligible project expenses may be reimbursed as part of a construction loan.

C) Project loan fee procedure applies to both 1997 and 1998 applications.

Revision 3:

1997 DWSRF Program guidelines (updated guidelines/application pertaining to 1999 loan cycle).

Contact: Judy J. Sides, Department of Health, Division of Drinking Water, P.O. Box 47822, Olympia, WA 98504-7822, phone (360) 236-3096, Internet jjw0303@doh.wa.gov.

WSR 99-10-099

INTERPRETIVE AND POLICY STATEMENT WASHINGTON STATE LOTTERY

[Filed May 5, 1999, 9:25 a.m.]

The Washington State Lottery has recently adopted or revised the following policies:

POL 130.004 - Security Systems (revision)

Lottery security no longer uses a security receipt to track security tools issues; the information is captured on a materials/accesses checklist that includes security tools. Removed employees being financially liable for ensuring that security systems are secure when they do not relinquish their security tools upon termination or request of lottery security.

Signed March 17, 1999.

POL 130.009 - Retrieving Lottery Materials and Accesses (revision)

Clarified that when an item is issued to an established employee, the security chief will ensure the employee initials the materials/accesses checklist next to that item.

Signed March 17, 1999.

POL 310.021 - Use of Sporting Events Tickets (revision)

This policy outlines guidelines for using admission tickets provided to the lottery by sports organizations. This revision clarified that it is the marketing manager or designee who provides one sporting event ticket to employees who must attend the event to conduct lottery business. Added that lottery vendors may also be given a ticket to conduct lottery business. Clarified that the tickets given out cannot be used by friends or family, unless the director determines it would be beneficial to the lottery, such as when volunteers are needed to distribute lottery materials at an event, and an insufficient number of lottery employees have volunteered.

Signed March 17, 1999.

POL 220.016 - State Sponsored Charge Cards (revision)

Added a sentence clarifying that state sponsored charge cards can be used for state travel expenses only. Added that the director's designee is also authorized to approve issuance of charge cards, etc. Also updated position titles.

Signed February 22, 1999.

POL 230.006 - Receiving, Activating, and Settling Instant Tickets (revision)

Minor housekeeping changes made, such as: Regional sales managers no longer recommend that a DSR visit a retailer who is missing scratch tickets, but lottery security may request that a DSR work with the retailer as part of an investigation into the missing tickets. As part of the definition of "settled status," clarified that "sweeping" an account means transferring funds from a retailer's account to the lottery's account.

Signed March 4, 1999.

POL 240.001 - Power Protectors/Dedicated Power for On-Line Terminals (new)

This new policy requires all new on-line retailers to have a silicon avalanche diode (SAD) power protector installed on their on-line terminal at the time the terminal is installed. However, the retailer support manager may determine that circumstances justify approving dedicated power to the terminal, in lieu of a SAD power protector. Existing retailers must have either a SAD unit or dedicated power. Retailers can purchase SAD units directly from the lottery, at the lottery's cost. The amount must be paid via EFT sweep. If the SAD unit is not purchased from the lottery, it must meet specific criteria outlined in the policy, and the retailer support manager must approve its use.

Signed February 5, 1999.

POL 320.047 - Bonus Lotto Promotion (new)

From February 8 through March 12, players who purchased a \$5 Lotto ticket had a chance to win one of six prizes of \$25,000. The on-line terminal printed a "voucher" awarding the prize for every "Nth" \$5 Lotto ticket purchase. Retailers who sold the ticket received a prize of \$5,000. Both the ticket purchased, and the voucher, had to be presented at a lottery office for the player to collect the \$25,000 prize.

Signed February 4, 1999.

POL 440.005 - Electronic Mail Use (revision)

Clarified that e-mail users must maintain a filing system (hard copy or via e-mail) for the following types of messages:

1. Correspondence or memoranda related to official public business.
2. Agendas.
3. Documents related to legal or audit issues.
4. Messages which document agency action, decisions, operations and responsibilities.
5. Documents that initiate, authorize, or complete a business transaction.
6. Drafts of documents that are circulated for comment or approval.
7. Final reports or recommendations.
8. Other messages sent or received that relate to the transaction of state government business.

Also attached to the policy is a list of e-mail etiquette, which employees are requested, but not required, to use.

Signed February 22, 1999.

To receive a copy of any of these policies, contact Becky Zopolis, Washington State Lottery, P.O. Box 43000, Olympia, WA 98504-3000, phone (360) 586-1051, fax (360) 586-6586.

April 12, 1999
Merritt D. Long
Director

WSR 99-10-108
PROCLAMATION
OFFICE OF THE GOVERNOR

[Filed May 5, 1999, 10:25 a.m.]

AMENDMENT TO STATE OF EMERGENCY

WHEREAS, the floods and slides, which began January 29, 1999, are continuing to threaten citizens and property in Washington State.

WHEREAS, floods and slides are causing extensive damage to homes, businesses, public utilities, public facilities, and infrastructure in Pend Oreille County.

NOW THEREFORE, I, GARY LOCKE, Governor of the state of Washington, as a result of the aforementioned situation and under Chapters 38.08, 38.52, and 43.06 RCW, do hereby amend the Proclamation of March 2, 1999, and further proclaim that a State of Emergency exists in Pend Oreille County.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia this 4th day of May A.D., Nineteen Hundred and Ninety-Nine.

Gary Locke

Governor of Washington

BY THE GOVERNOR:

Donald F. Whiting

Assistant Secretary of State

WSR 99-10-110
DEPARTMENT OF ECOLOGY

[Filed May 5, 1999, 10:30 a.m.]

ENVIRONMENTAL PERFORMANCE
PARTNERSHIP AGREEMENT

The Draft Environmental Performance Partnership Agreement for July 1, 1999 - June 30, 2001, between the Washington Department of Ecology and the United States Environmental Protection Agency Region 10, will be published May 21, 1999.

This document identifies the joint goals and priorities of the two agencies for the next biennium, as well as the activities that will be carried out and the measures that will be used to track the agencies' progress.

The Draft Environmental Performance Partnership Agreement for July 1, 1999 - June 30, 2001 (PPA) will be available for public comment and review May 21 - June 21, 1999. Written comments will be accepted through June 21, 1999. Copies of the Draft PPA may be obtained by phoning ecology's publications office: (360) 407-7472 or ecology's TDD line (360) 407-6006.

This Environmental Performance Partnership Agreement will also be available on ecology's and EPA's internet home pages, after May 21, 1999, at the following addresses:

Ecology: <http://www.wa.gov/ecology>.

EPA: <http://www.epa.gov/r10earth>.

For further information, contact:

For Ecology: Leslie Romer, Washington Department of Ecology, 300 Desmond Drive, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6998, fax (360) 407-6989, e-mail lrom461@ecy.wa.gov.

For EPA Region 10: Jack Boller, United States Environmental Protection Agency, Region 10, Washington Operations Office, 300 Desmond Drive, Suite 102, Lacey, WA 98503, phone (360) 753-9428, fax (360) 753-8080, e-mail boller.jack@epamail.epa.gov.

WSR 99-10-111
DEPARTMENT OF ECOLOGY

[Filed May 5, 1999, 10:32 a.m.]

NOTICE OF PUBLIC HEARING

**Revising Washington's State Implementation Plan
Visibility Requirements**

The federal Clean Air Act requires states to review and, if necessary, revise their state implementation plans (SIPs) for visibility protection. The visibility SIP: Provides for continuing consultation between the state and federal land managers on implementing the visibility protection program; provides for a monitoring strategy for mandatory Class I federal areas (national parks and several wilderness areas) and the use of available visibility data; and contains a long-term strategy to make reasonable progress toward national visibility goals.

The Washington State Department of Ecology (ecology) has developed revisions to the SIP based on a review conducted in 1997. The review concluded the SIP is adequately dealing with visibility impairment under current rules, needs to be updated administratively to reflect rule changes that have occurred, and may need to be revised again to address new federal rules covering regional haze visibility impairment.

Ecology will hold a public hearing to receive comments on the proposed visibility SIP revisions at 2:00 p.m. on June 10, 1999, at the Department of Ecology Headquarters Building, Room OA 36, 300 Desmond Drive, Lacey, WA. Written comments must be postmarked no later than June 10, 1999,

and should be sent to Maxine Willis, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

For more information on the proposed visibility requirements prior to the hearing, please contact Gary Rothwell, (360) 407-6820.

WSR 99-10-113
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT

[Filed May 5, 1999, 11:21 a.m.]

The Washington State Department of Community, Trade and Economic Development plans to hold a public hearing on the proposed Washington state plan for the 2000 low-income home energy assistance program (LIHEAP).

The hearing will be held Thursday, July 8, 1998 [1999], at the Department of Community, Trade and Economic Development, 906 Columbia Street S.W., 4th Floor Conference Room, Olympia, WA 98504-8300. The hearing will begin at 10:00 a.m. and close at 11:00 unless taking testimony requires more time.

Two typewritten copies of all oral testimony are requested. There will be a question and answer period. Written testimony will be accepted until 5:00 p.m., July 8, 1999. Written testimony should be sent to the attention of Bruce Yasutake, Community Services, Department of Community, Trade and Economic Development, 906 Columbia Street S.W., P.O. Box 48300, Olympia, WA 98504-8300.

The state plan is available in alternate format upon request. Meetings sponsored by CTED shall be accessible to persons with disabilities. Accommodations may be arranged with a minimum of ten working days notice, to Bruce Yasutake, or TDD (360) 753-2200.

If you have any questions or need additional information, please contact Bruce Yasutake at (360) 586-0498 or by e-mail at brucey@cted.wa.gov.

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	16-54-016	REP	99-09-023	16-86-030	AMD-P	99-03-087
4-25-750	PREP	99-05-026	16-54-018	NEW	99-09-023	16-86-030	AMD	99-09-025
4-25-780	PREP	99-05-027	16-54-020	AMD-P	99-03-084	16-86-040	AMD-P	99-03-087
16-05-005	REP-P	99-05-022	16-54-020	AMD	99-09-023	16-86-040	AMD	99-09-025
16-05-005	REP	99-08-039	16-54-030	AMD-P	99-03-084	16-86-055	AMD-P	99-03-087
16-05-010	AMD-P	99-05-022	16-54-030	AMD	99-09-023	16-86-055	AMD	99-09-025
16-05-010	AMD	99-08-039	16-54-040	AMD-P	99-03-084	16-86-060	AMD-P	99-03-087
16-05-015	REP-P	99-05-022	16-54-040	AMD	99-09-023	16-86-060	AMD	99-09-025
16-05-015	REP	99-08-039	16-54-071	AMD-P	99-03-084	16-86-070	AMD-P	99-03-087
16-05-020	REP-P	99-05-022	16-54-071	AMD	99-09-023	16-86-070	AMD	99-09-025
16-05-020	REP	99-08-039	16-54-082	AMD-P	99-03-084	16-86-080	AMD-P	99-03-087
16-05-025	REP-P	99-05-022	16-54-082	AMD	99-09-023	16-86-080	AMD	99-09-025
16-05-025	REP	99-08-039	16-54-101	AMD-P	99-03-084	16-86-090	AMD-P	99-03-087
16-05-030	REP-P	99-05-022	16-54-101	AMD	99-09-023	16-86-090	AMD	99-09-025
16-05-030	REP	99-08-039	16-54-120	AMD-P	99-03-084	16-86-092	AMD-P	99-03-087
16-05-035	REP-P	99-05-022	16-54-120	AMD	99-09-023	16-86-092	AMD	99-09-025
16-05-035	REP	99-08-039	16-54-135	AMD-P	99-03-084	16-86-093	REP-P	99-03-087
16-05-040	AMD-P	99-05-022	16-54-135	AMD	99-09-023	16-86-093	REP	99-09-025
16-05-040	AMD	99-08-039	16-54-150	REP-P	99-03-084	16-86-095	AMD-P	99-03-087
16-05-045	REP-P	99-05-022	16-54-150	REP	99-09-023	16-86-095	AMD	99-09-025
16-05-045	REP	99-08-039	16-59	AMD-P	99-03-085	16-86-100	REP-P	99-03-087
16-19-010	NEW-P	99-07-116	16-59-001	AMD-P	99-03-085	16-86-100	REP	99-09-025
16-19-015	NEW-P	99-07-116	16-59-001	REP	99-09-024	16-88-010	REP-XR	99-07-114
16-19-020	NEW-P	99-07-116	16-59-005	NEW	99-09-024	16-88-020	REP-XR	99-07-114
16-19-030	NEW-P	99-07-116	16-59-010	AMD-P	99-03-085	16-88-030	REP-XR	99-07-114
16-19-100	NEW-P	99-07-116	16-59-010	AMD	99-09-024	16-88-040	REP-XR	99-07-114
16-19-110	NEW-P	99-07-116	16-59-020	AMD-P	99-03-085	16-89-005	NEW-P	99-03-086
16-19-120	NEW-P	99-07-116	16-59-020	AMD	99-09-024	16-89-005	NEW	99-09-026
16-19-130	NEW-P	99-07-116	16-59-030	AMD-P	99-03-085	16-89-010	NEW-P	99-03-086
16-19-140	NEW-P	99-07-116	16-59-030	AMD	99-09-024	16-89-010	NEW	99-09-026
16-19-200	NEW-P	99-07-116	16-59-060	AMD-P	99-03-085	16-89-015	NEW-P	99-03-086
16-19-210	NEW-P	99-07-116	16-59-060	AMD	99-09-024	16-89-015	NEW	99-09-026
16-19-300	NEW-P	99-07-116	16-59-070	REP-P	99-03-085	16-89-020	NEW-P	99-03-086
16-19-310	NEW-P	99-07-116	16-59-070	REP	99-09-024	16-89-020	NEW	99-09-026
16-19-320	NEW-P	99-07-116	16-86	AMD-P	99-03-087	16-89-030	NEW-P	99-03-086
16-19-330	NEW-P	99-07-116	16-86-005	AMD-P	99-03-087	16-89-030	NEW	99-09-026
16-30	AMD-XA	99-07-115	16-86-005	AMD	99-09-025	16-89-040	NEW-P	99-03-086
16-30-001	REP-XA	99-07-115	16-86-015	AMD-P	99-03-087	16-89-040	NEW	99-09-026
16-30-010	AMD-XA	99-07-115	16-86-015	AMD	99-09-025	16-89-050	NEW-P	99-03-086
16-30-100	REP-XA	99-07-115	16-86-017	AMD-P	99-03-087	16-89-050	NEW	99-09-026
16-54-010	AMD-P	99-03-084	16-86-017	AMD	99-09-025	16-89-060	NEW-P	99-03-086
16-54-010	AMD	99-09-023	16-86-017	AMD	99-03-087	16-89-060	NEW	99-09-026
16-54-016	AMD-P	99-03-084	16-86-020	AMD-P	99-03-087	16-89-070	NEW-P	99-03-086
			16-86-020	AMD	99-09-025			

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-89-070	NEW	99-09-026	16-401-020	AMD-P	99-07-126	16-470-910	PREP	99-03-096
16-89-080	NEW-P	99-03-086	16-401-021	NEW-P	99-07-126	16-470-910	AMD-P	99-07-125
16-89-080	NEW	99-09-026	16-401-023	AMD-P	99-07-126	16-470-911	NEW-P	99-07-125
16-89-090	NEW-P	99-03-086	16-401-025	AMD-P	99-07-126	16-470-915	PREP	99-03-096
16-89-090	NEW	99-09-026	16-401-026	NEW-P	99-07-126	16-470-915	AMD-P	99-07-125
16-89-100	NEW-P	99-03-086	16-401-030	AMD-P	99-07-126	16-470-916	NEW-P	99-07-125
16-89-100	NEW	99-09-026	16-401-031	NEW-P	99-07-126	16-470-920	PREP	99-03-096
16-89-110	NEW-P	99-03-086	16-401-040	AMD-P	99-07-126	16-470-920	AMD-P	99-07-125
16-89-110	NEW	99-09-026	16-401-041	NEW-P	99-07-126	16-470-921	NEW-P	99-07-125
16-89-120	NEW-P	99-03-086	16-401-050	AMD-P	99-07-126	16-481	PREP	99-03-090
16-89-120	NEW	99-09-026	16-403	PREP	99-03-108	16-483	PREP	99-03-091
16-108	PREP	99-03-045	16-406-001	PREP	99-04-094	16-532-020	AMD-P	99-02-063
16-108-010	AMD-P	99-07-118	16-406-020	PREP	99-04-094	16-532-020	AMD	99-10-095
16-125	PREP	99-04-066	16-406-020	AMD-P	99-08-108	16-545-010	NEW	99-02-064
16-142	PREP	99-04-067	16-406-025	NEW-P	99-08-108	16-545-015	NEW	99-02-064
16-142-001	REP-P	99-09-095	16-406-030	PREP	99-04-094	16-545-020	NEW	99-02-064
16-142-010	REP-P	99-09-095	16-406-030	AMD-P	99-08-108	16-545-030	NEW	99-02-064
16-142-020	REP-P	99-09-095	16-406-050	PREP	99-04-094	16-545-040	NEW	99-02-064
16-142-030	REP-P	99-09-095	16-406-050	AMD-P	99-08-108	16-545-041	NEW	99-02-064
16-142-040	REP-P	99-09-095	16-412-010	REP-XR	99-08-112	16-545-050	NEW	99-02-064
16-142-050	REP-P	99-09-095	16-412-020	REP-XR	99-08-112	16-545-080	NEW	99-02-064
16-142-060	REP-P	99-09-095	16-412-030	REP-XR	99-08-112	16-561-010	AMD-P	99-07-108
16-142-100	NEW-P	99-09-095	16-412-040	REP-XR	99-08-112	16-561-130	NEW-P	99-07-108
16-142-110	NEW-P	99-09-095	16-412-050	REP-XR	99-08-112	16-575-015	NEW-P	99-06-070
16-142-120	NEW-P	99-09-095	16-412-060	REP-XR	99-08-112	16-604-010	REP	99-04-069
16-142-130	NEW-P	99-09-095	16-424-010	REP-XR	99-08-112	16-645-005	NEW-P	99-02-066
16-142-140	NEW-P	99-09-095	16-424-020	REP-XR	99-08-112	16-645-005	NEW	99-06-072
16-142-150	NEW-P	99-09-095	16-424-030	REP-XR	99-08-112	16-645-010	NEW-P	99-02-066
16-142-160	NEW-P	99-09-095	16-436	PREP	99-08-111	16-645-010	NEW	99-06-072
16-142-170	NEW-P	99-09-095	16-448	PREP	99-08-110	16-662-105	AMD-P	99-04-111
16-165-100	NEW-P	99-08-088	16-451-010	REP-XR	99-08-112	16-662-105	AMD	99-07-056
16-165-110	NEW-P	99-08-088	16-451-020	REP-XR	99-08-112	16-662-110	AMD-P	99-04-111
16-165-120	NEW-P	99-08-088	16-451-030	REP-XR	99-08-112	16-662-110	AMD	99-07-056
16-165-130	NEW-P	99-08-088	16-451-040	REP-XR	99-08-112	16-752	PREP	99-07-123
16-165-140	NEW-P	99-08-088	16-451-050	REP-XR	99-08-112	16-752-115	REP-XR	99-07-124
16-165-150	NEW-P	99-08-088	16-451-060	REP-XR	99-08-112	16-752-120	REP-XR	99-07-124
16-165-160	NEW-P	99-08-088	16-451-070	REP-XR	99-08-112	16-752-125	REP-XR	99-07-124
16-167-010	AMD-P	99-07-117	16-458	AMD-XA	99-08-113	16-752-130	REP-XR	99-07-124
16-167-020	AMD-P	99-07-117	16-458-004	REP-XA	99-08-113	16-752-135	REP-XR	99-07-124
16-167-030	AMD-P	99-07-117	16-458-075	AMD-XA	99-08-113	16-752-140	REP-XR	99-07-124
16-167-040	AMD-P	99-07-117	16-458-080	AMD-XA	99-08-113	16-752-145	REP-XR	99-07-124
16-167-050	AMD-P	99-07-117	16-458-085	AMD-XA	99-08-113	16-752-146	REP-XR	99-07-124
16-200-695	AMD-P	99-04-093	16-460-005	REP-XR	99-08-112	16-752-147	REP-XR	99-07-124
16-200-695	AMD	99-08-037	16-460-008	REP-XR	99-08-112	16-752-150	REP-XR	99-07-124
16-200-705	AMD-P	99-04-093	16-460-040	REP-XR	99-08-112	16-752-155	REP-XR	99-07-124
16-200-705	AMD	99-08-037	16-460-080	REP-XR	99-08-112	16-752-160	REP-XR	99-07-124
16-200-7061	AMD-P	99-04-093	16-460-100	REP-XR	99-08-112	16-752-165	REP-XR	99-07-124
16-200-7061	AMD	99-08-037	16-461	PREP	99-03-108	16-752-170	REP-XR	99-07-124
16-212	PREP	99-07-132	16-462	PREP	99-03-094	25-12-010	REP-P	99-03-098
16-219-010	PREP	99-07-088	16-462	AMD-XA	99-07-127	25-12-020	REP-P	99-03-098
16-219-016	PREP	99-07-086	16-462-010	AMD-XA	99-07-127	25-12-030	REP-P	99-03-098
16-219-100	PREP	99-07-111	16-462-015	AMD-XA	99-07-127	25-12-040	REP-P	99-03-098
16-219-105	PREP	99-07-111	16-462-020	AMD-XA	99-07-127	25-12-050	REP-P	99-03-098
16-228-320	REP-XR	99-04-006	16-462-021	NEW-XA	99-07-127	25-12-060	REP-P	99-03-098
16-228-320	REP	99-07-113	16-462-022	NEW-XA	99-07-127	25-12-070	REP-P	99-03-098
16-228-330	REP-XR	99-04-006	16-462-025	AMD-XA	99-07-127	25-12-110	NEW-P	99-03-098
16-228-330	REP	99-07-113	16-462-030	AMD-XA	99-07-127	25-12-120	NEW-P	99-03-098
16-228-340	REP-XR	99-04-007	16-462-035	AMD-XA	99-07-127	25-12-130	NEW-P	99-03-098
16-228-340	REP	99-07-112	16-462-045	REP-XA	99-07-127	25-12-140	NEW-P	99-03-098
16-230	PREP	99-07-087	16-462-050	AMD-XA	99-07-127	25-12-150	NEW-P	99-03-098
16-316-474	PREP	99-04-096	16-462-055	AMD-XA	99-07-127	25-12-160	NEW-P	99-03-098
16-316-717	PREP	99-04-096	16-462-060	REP-XA	99-07-127	25-12-170	NEW-P	99-03-098
16-316-727	PREP	99-04-096	16-470	PREP	99-03-092	25-12-180	NEW-P	99-03-098
16-319-041	PREP	99-04-095	16-470-900	PREP	99-03-096	50-16-020	REP-XR	99-04-073
16-322	PREP	99-03-093	16-470-900	AMD-P	99-07-125	50-16-020	REP	99-08-123
16-401	PREP	99-03-095	16-470-905	PREP	99-03-096	50-16-025	REP-XR	99-04-073
16-401-019	AMD-P	99-07-126	16-470-905	AMD-P	99-07-125	50-16-025	REP	99-08-123

Table

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
50-16-030	REP-XR	99-04-073	132A-108-090	NEW-P	99-10-100	132A-320-020	NEW-P	99-10-100
50-16-030	REP	99-08-123	132A-116-001	NEW-P	99-10-100	132A-320-030	NEW-P	99-10-100
50-16-035	REP-XR	99-04-073	132A-116-006	NEW-P	99-10-100	132A-350-015	NEW-P	99-10-100
50-16-035	REP	99-08-123	132A-116-011	NEW-P	99-10-100	132A-350-020	NEW-P	99-10-100
50-16-040	REP-XR	99-04-073	132A-116-016	NEW-P	99-10-100	132A-350-030	NEW-P	99-10-100
50-16-040	REP	99-08-123	132A-116-021	NEW-P	99-10-100	132A-350-040	NEW-P	99-10-100
50-16-045	REP-XR	99-04-073	132A-116-026	NEW-P	99-10-100	132A-350-045	NEW-P	99-10-100
50-16-045	REP	99-08-123	132A-116-030	NEW-P	99-10-100	132A-350-050	NEW-P	99-10-100
50-16-050	REP-XR	99-04-073	132A-120-006	NEW-P	99-10-100	132H-168-010	REP-P	99-05-018
50-16-050	REP	99-08-123	132A-120-011	NEW-P	99-10-100	132H-168-010	REP	99-10-045
50-16-055	REP-XR	99-04-073	132A-120-016	NEW-P	99-10-100	132H-168-020	REP-P	99-05-018
50-16-055	REP	99-08-123	132A-120-021	NEW-P	99-10-100	132H-168-020	REP	99-10-045
50-16-060	REP-XR	99-04-073	132A-120-026	NEW-P	99-10-100	132H-168-030	REP-P	99-05-018
50-16-060	REP	99-08-123	132A-120-031	NEW-P	99-10-100	132H-168-030	REP	99-10-045
50-16-065	REP-XR	99-04-073	132A-120-036	NEW-P	99-10-100	132H-168-040	REP-P	99-05-018
50-16-065	REP	99-08-123	132A-120-041	NEW-P	99-10-100	132H-168-040	REP	99-10-045
50-16-070	REP-XR	99-04-073	132A-120-046	NEW-P	99-10-100	132H-168-050	REP-P	99-05-018
50-16-070	REP	99-08-123	132A-120-051	NEW-P	99-10-100	132H-168-050	REP	99-10-045
50-16-075	REP-XR	99-04-073	132A-120-056	NEW-P	99-10-100	132H-168-060	REP-P	99-05-018
50-16-075	REP	99-08-123	132A-120-061	NEW-P	99-10-100	132H-168-060	REP	99-10-045
50-16-080	REP-XR	99-04-073	132A-122-011	NEW-P	99-10-100	132H-168-070	REP-P	99-05-018
50-16-080	REP	99-08-123	132A-122-021	NEW-P	99-10-100	132H-168-070	REP	99-10-045
50-16-085	REP-XR	99-04-073	132A-130-010	NEW-P	99-10-100	132H-168-080	REP-P	99-05-018
50-16-085	REP	99-08-123	132A-130-020	NEW-P	99-10-100	132H-168-080	REP	99-10-045
50-16-090	REP-XR	99-04-073	132A-130-030	NEW-P	99-10-100	132H-168-090	REP-P	99-05-018
50-16-090	REP	99-08-123	132A-131-010	NEW-P	99-10-100	132H-168-090	REP	99-10-045
50-16-095	REP-XR	99-04-073	132A-131-020	NEW-P	99-10-100	132H-168-990	REP-P	99-05-018
50-16-095	REP	99-08-123	132A-133-020	NEW-P	99-10-100	132H-168-990	REP	99-10-045
50-16-100	REP-XR	99-04-073	132A-140-001	NEW-P	99-10-100	132H-168-9901	REP-P	99-05-018
50-16-100	REP	99-08-123	132A-140-006	NEW-P	99-10-100	132H-168-9901	REP	99-10-045
50-16-105	REP-XR	99-04-073	132A-140-011	NEW-P	99-10-100	132H-168-9902	REP-P	99-05-018
50-16-105	REP	99-08-123	132A-140-016	NEW-P	99-10-100	132H-168-9902	REP	99-10-045
50-44-037	NEW-P	99-07-131	132A-140-021	NEW-P	99-10-100	132H-168-9903	REP-P	99-05-018
50-44-037	NEW	99-10-024	132A-140-026	NEW-P	99-10-100	132H-168-9903	REP	99-10-045
50-44-039	NEW-P	99-07-131	132A-140-030	NEW-P	99-10-100	132H-169-010	NEW-P	99-05-018
50-44-039	NEW	99-10-024	132A-150-010	NEW-P	99-10-100	132H-169-010	NEW	99-10-045
51-40-23110	REP-E	99-05-030	132A-150-020	NEW-P	99-10-100	132H-169-020	NEW-P	99-05-018
67-55-040	AMD	99-05-005	132A-156-006	NEW-P	99-10-100	132H-169-020	NEW	99-10-045
67-55-060	AMD	99-05-005	132A-156-011	NEW-P	99-10-100	132H-169-030	NEW-P	99-05-018
67-75-010	AMD	99-05-005	132A-156-016	NEW-P	99-10-100	132H-169-030	NEW	99-10-045
67-75-020	AMD	99-05-005	132A-160-006	NEW-P	99-10-100	132H-169-040	NEW-P	99-05-018
67-75-030	AMD	99-05-005	132A-168-006	NEW-P	99-10-100	132H-169-040	NEW	99-10-045
67-75-040	AMD	99-05-005	132A-168-011	NEW-P	99-10-100	132H-169-050	NEW-P	99-05-018
67-75-042	AMD	99-05-005	132A-168-016	NEW-P	99-10-100	132H-169-050	NEW	99-10-045
67-75-044	AMD	99-05-005	132A-168-021	NEW-P	99-10-100	132H-169-060	NEW-P	99-05-018
67-75-050	AMD	99-05-005	132A-168-026	NEW-P	99-10-100	132H-169-060	NEW	99-10-045
82-50-021	AMD-XA	99-07-128	132A-176-006	NEW-P	99-10-100	132H-169-070	NEW-P	99-05-018
98-70-010	PREP	99-10-017	132A-276-031	NEW-P	99-10-100	132H-169-070	NEW	99-10-045
130-16	PREP	99-08-060	132A-276-045	AMD-P	99-10-100	132H-169-080	NEW-P	99-05-018
131-16-021	PREP	99-09-017	132A-280-006	NEW-P	99-10-100	132H-169-080	NEW	99-10-045
131-16-450	PREP	99-04-029	132A-280-011	NEW-P	99-10-100	132H-169-090	NEW-P	99-05-018
131-16-450	AMD-E	99-07-057	132A-280-016	NEW-P	99-10-100	132H-169-090	NEW	99-10-045
131-16-450	AMD-P	99-08-013	132A-280-021	NEW-P	99-10-100	132H-169-100	NEW-P	99-05-018
131-28	PREP	99-10-015	132A-280-026	NEW-P	99-10-100	132H-169-100	NEW	99-10-045
131-46	PREP	99-08-057	132A-280-031	NEW-P	99-10-100	132H-169-110	NEW-P	99-05-018
132A	PREP	99-07-060	132A-280-035	NEW-P	99-10-100	132H-169-110	NEW	99-10-045
132A-104-011	NEW-P	99-10-100	132A-280-040	NEW-P	99-10-100	132H-169-120	NEW-P	99-05-018
132A-104-016	NEW-P	99-10-100	132A-280-045	NEW-P	99-10-100	132H-169-120	NEW	99-10-045
132A-104-021	NEW-P	99-10-100	132A-280-050	NEW-P	99-10-100	132H-169-130	NEW-P	99-05-018
132A-108-010	NEW-P	99-10-100	132A-280-055	NEW-P	99-10-100	132H-169-130	NEW	99-10-045
132A-108-020	NEW-P	99-10-100	132A-280-060	NEW-P	99-10-100	132K-16	PREP	99-04-028
132A-108-030	NEW-P	99-10-100	132A-280-065	NEW-P	99-10-100	132K-16-010	REP-P	99-07-109
132A-108-040	NEW-P	99-10-100	132A-280-070	NEW-P	99-10-100	132K-16-010	REP	99-10-046
132A-108-050	NEW-P	99-10-100	132A-280-075	NEW-P	99-10-100	132K-16-020	REP-P	99-07-109
132A-108-060	NEW-P	99-10-100	132A-280-080	NEW-P	99-10-100	132K-16-020	REP	99-10-046
132A-108-070	NEW-P	99-10-100	132A-280-085	NEW-P	99-10-100	132K-16-030	REP-P	99-07-109
132A-108-080	NEW-P	99-10-100	132A-320-010	NEW-P	99-10-100	132K-16-030	REP	99-10-046

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132K-16-040	REP-P	99-07-109	132K-16-400	REP	99-10-046	132K-125-260	NEW-P	99-07-109
132K-16-040	REP	99-10-046	132K-16-410	REP-P	99-07-109	132K-125-260	NEW	99-10-046
132K-16-050	REP-P	99-07-109	132K-16-410	REP	99-10-046	132K-125-270	NEW-P	99-07-109
132K-16-050	REP	99-10-046	132K-16-420	REP-P	99-07-109	132K-125-270	NEW	99-10-046
132K-16-060	REP-P	99-07-109	132K-16-420	REP	99-10-046	132K-125-280	NEW-P	99-07-109
132K-16-060	REP	99-10-046	132K-16-430	REP-P	99-07-109	132K-125-280	NEW	99-10-046
132K-16-070	REP-P	99-07-109	132K-16-430	REP	99-10-046	132K-125-290	NEW-P	99-07-109
132K-16-070	REP	99-10-046	132K-16-440	REP-P	99-07-109	132K-125-290	NEW	99-10-046
132K-16-110	REP-P	99-07-109	132K-16-440	REP	99-10-046	132K-125-300	NEW-P	99-07-109
132K-16-110	REP	99-10-046	132K-16-450	REP-P	99-07-109	132K-125-300	NEW	99-10-046
132K-16-120	REP-P	99-07-109	132K-16-450	REP	99-10-046	132K-125-310	NEW-P	99-07-109
132K-16-120	REP	99-10-046	132K-16-460	REP-P	99-07-109	132K-125-310	NEW	99-10-046
132K-16-130	REP-P	99-07-109	132K-16-460	REP	99-10-046	132K-125-320	NEW-P	99-07-109
132K-16-130	REP	99-10-046	132K-16-470	REP-P	99-07-109	132K-125-320	NEW	99-10-046
132K-16-140	REP-P	99-07-109	132K-16-470	REP	99-10-046	132K-125-330	NEW-P	99-07-109
132K-16-140	REP	99-10-046	132K-16-480	REP-P	99-07-109	132K-125-330	NEW	99-10-046
132K-16-150	REP-P	99-07-109	132K-16-480	REP	99-10-046	132K-125-340	NEW-P	99-07-109
132K-16-150	REP	99-10-046	132K-125-010	NEW-P	99-07-109	132K-125-340	NEW	99-10-046
132K-16-160	REP-P	99-07-109	132K-125-010	NEW	99-10-046	132K-125-350	NEW-P	99-07-109
132K-16-160	REP	99-10-046	132K-125-020	NEW-P	99-07-109	132K-125-350	NEW	99-10-046
132K-16-170	REP-P	99-07-109	132K-125-020	NEW	99-10-046	132K-125-360	NEW-P	99-07-109
132K-16-170	REP	99-10-046	132K-125-030	NEW-P	99-07-109	132K-125-360	NEW	99-10-046
132K-16-180	REP-P	99-07-109	132K-125-030	NEW	99-10-046	132K-125-370	NEW-P	99-07-109
132K-16-180	REP	99-10-046	132K-125-040	NEW-P	99-07-109	132K-125-370	NEW	99-10-046
132K-16-190	REP-P	99-07-109	132K-125-040	NEW	99-10-046	132K-125-380	NEW-P	99-07-109
132K-16-190	REP	99-10-046	132K-125-050	NEW-P	99-07-109	132K-125-380	NEW	99-10-046
132K-16-200	REP-P	99-07-109	132K-125-050	NEW	99-10-046	132K-125-390	NEW-P	99-07-109
132K-16-200	REP	99-10-046	132K-125-060	NEW-P	99-07-109	132K-125-390	NEW	99-10-046
132K-16-210	REP-P	99-07-109	132K-125-060	NEW	99-10-046	132K-125-400	NEW-P	99-07-109
132K-16-210	REP	99-10-046	132K-125-070	NEW-P	99-07-109	132K-125-400	NEW	99-10-046
132K-16-220	REP-P	99-07-109	132K-125-070	NEW	99-10-046	132K-125-410	NEW-P	99-07-109
132K-16-220	REP	99-10-046	132K-125-080	NEW-P	99-07-109	132K-125-410	NEW	99-10-046
132K-16-230	REP-P	99-07-109	132K-125-080	NEW	99-10-046	132K-125-420	NEW-P	99-07-109
132K-16-230	REP	99-10-046	132K-125-090	NEW-P	99-07-109	132K-125-420	NEW	99-10-046
132K-16-240	REP-P	99-07-109	132K-125-090	NEW	99-10-046	132K-125-430	NEW-P	99-07-109
132K-16-240	REP	99-10-046	132K-125-100	NEW-P	99-07-109	132K-125-430	NEW	99-10-046
132K-16-250	REP-P	99-07-109	132K-125-100	NEW	99-10-046	132N-160	PREP	99-06-011
132K-16-250	REP	99-10-046	132K-125-110	NEW-P	99-07-109	132N-160-010	NEW-P	99-10-044
132K-16-260	REP-P	99-07-109	132K-125-110	NEW	99-10-046	132N-160-020	NEW-P	99-10-044
132K-16-260	REP	99-10-046	132K-125-120	NEW-P	99-07-109	132N-160-030	NEW-P	99-10-044
132K-16-270	REP-P	99-07-109	132K-125-120	NEW	99-10-046	132N-160-040	NEW-P	99-10-044
132K-16-270	REP	99-10-046	132K-125-130	NEW-P	99-07-109	132N-160-050	NEW-P	99-10-044
132K-16-280	REP-P	99-07-109	132K-125-130	NEW	99-10-046	132N-160-060	NEW-P	99-10-044
132K-16-280	REP	99-10-046	132K-125-140	NEW-P	99-07-109	132N-160-070	NEW-P	99-10-044
132K-16-290	REP-P	99-07-109	132K-125-140	NEW	99-10-046	132N-160-080	NEW-P	99-10-044
132K-16-290	REP	99-10-046	132K-125-150	NEW-P	99-07-109	132N-160-090	NEW-P	99-10-044
132K-16-300	REP-P	99-07-109	132K-125-150	NEW	99-10-046	132P-33-010	AMD-P	99-08-019
132K-16-300	REP	99-10-046	132K-125-160	NEW-P	99-07-109	132P-33-020	AMD-P	99-08-019
132K-16-310	REP-P	99-07-109	132K-125-160	NEW	99-10-046	132P-33-080	AMD-P	99-08-019
132K-16-310	REP	99-10-046	132K-125-170	NEW-P	99-07-109	132P-33-100	AMD-P	99-08-019
132K-16-320	REP-P	99-07-109	132K-125-170	NEW	99-10-046	132P-33-120	AMD-P	99-08-019
132K-16-320	REP	99-10-046	132K-125-180	NEW-P	99-07-109	132P-33-123	NEW-P	99-08-019
132K-16-330	REP-P	99-07-109	132K-125-180	NEW	99-10-046	132P-33-125	NEW-P	99-08-019
132K-16-330	REP	99-10-046	132K-125-190	NEW-P	99-07-109	132P-33-130	AMD-P	99-08-019
132K-16-340	REP-P	99-07-109	132K-125-190	NEW	99-10-046	132P-33-150	AMD-P	99-08-019
132K-16-340	REP	99-10-046	132K-125-200	NEW-P	99-07-109	132P-33-155	NEW-P	99-08-019
132K-16-350	REP-P	99-07-109	132K-125-200	NEW	99-10-046	132P-33-160	AMD-P	99-08-019
132K-16-350	REP	99-10-046	132K-125-210	NEW-P	99-07-109	132P-33-170	AMD-P	99-08-019
132K-16-360	REP-P	99-07-109	132K-125-210	NEW	99-10-046	132P-33-210	AMD-P	99-08-019
132K-16-360	REP	99-10-046	132K-125-220	NEW-P	99-07-109	132P-33-220	AMD-P	99-08-019
132K-16-370	REP-P	99-07-109	132K-125-220	NEW	99-10-046	132P-33-230	AMD-P	99-08-019
132K-16-370	REP	99-10-046	132K-125-230	NEW-P	99-07-109	132P-33-260	AMD-P	99-08-019
132K-16-380	REP-P	99-07-109	132K-125-230	NEW	99-10-046	132P-33-270	AMD-P	99-08-019
132K-16-380	REP	99-10-046	132K-125-240	NEW-P	99-07-109	132P-276	PREP	99-05-041
132K-16-390	REP-P	99-07-109	132K-125-240	NEW	99-10-046	132Q-12-010	REP-C	99-05-040
132K-16-390	REP	99-10-046	132K-125-250	NEW-P	99-07-109	132Q-12-010	REP	99-10-012
132K-16-400	REP-P	99-07-109	132K-125-250	NEW	99-10-046	132X-10	PREP	99-06-032

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132X- 20	PREP	99-06-032	162- 38-110	AMD-P	99-04-108	173-548-030	AMD-P	99-09-092
132X- 30	PREP	99-06-032	162- 38-130	REP-P	99-04-108	173-548-031	NEW-P	99-09-092
132X- 40	PREP	99-06-032	173- 16-010	REP-P	99-08-124	173-548-032	NEW-P	99-09-092
132X- 50	PREP	99-06-032	173- 16-020	REP-P	99-08-124	173-548-033	NEW-P	99-09-092
132X- 60	PREP	99-06-032	173- 16-030	REP-P	99-08-124	173-548-034	NEW-P	99-09-092
136-130-050	AMD-P	99-09-084	173- 16-040	REP-P	99-08-124	173-548-035	NEW-P	99-09-092
162- 16-020	REP-P	99-04-108	173- 16-050	REP-P	99-08-124	173-548-036	NEW-P	99-09-092
162- 16-030	REP-P	99-04-108	173- 16-060	REP-P	99-08-124	173-548-037	NEW-P	99-09-092
162- 16-040	REP-P	99-04-108	173- 16-064	REP-P	99-08-124	173-548-040	AMD-P	99-09-092
162- 16-050	REP-P	99-04-108	173- 16-070	REP-P	99-08-124	173-548-050	AMD-P	99-09-092
162- 16-060	REP-P	99-04-108	173- 16-070	REP-P	99-08-124	173-548-060	AMD-P	99-09-092
162- 16-070	REP-P	99-04-108	173- 16-200	REP-P	99-08-124	173-548-070	AMD-P	99-09-092
162- 16-080	REP-P	99-04-108	173- 26-020	AMD-P	99-08-124	173-548-075	NEW-P	99-09-092
162- 16-090	REP-P	99-04-108	173- 26-095	NEW-P	99-08-124	173-548-076	NEW-P	99-09-092
162- 16-100	REP-P	99-04-108	173- 26-100	AMD-P	99-08-124	174-280-015	AMD-P	99-08-030
162- 16-110	REP-P	99-04-108	173- 26-110	AMD-P	99-08-124	174-280-030	AMD-P	99-08-030
162- 16-120	REP-P	99-04-108	173- 26-120	AMD-P	99-08-124	180- 08-015	NEW-P	99-04-079
162- 16-130	REP-P	99-04-108	173- 26-170	NEW-P	99-08-124	180- 08-015	NEW	99-10-092
162- 16-140	REP-P	99-04-108	173- 26-180	NEW-P	99-08-124	180- 16-195	AMD-P	99-04-080
162- 16-150	REP-P	99-04-108	173- 26-190	NEW-P	99-08-124	180- 16-195	AMD	99-10-091
162- 16-160	REP-P	99-04-108	173- 26-200	NEW-P	99-08-124	180- 16-215	PREP	99-04-088
162- 16-170	REP-P	99-04-108	173- 26-210	NEW-P	99-08-124	180- 16-215	AMD-P	99-07-069
162- 16-200	NEW-P	99-04-108	173- 26-220	NEW-P	99-08-124	180- 16-220	AMD-P	99-04-080
162- 16-210	NEW-P	99-04-108	173- 26-230	NEW-P	99-08-124	180- 16-220	AMD	99-10-091
162- 16-220	NEW-P	99-04-108	173- 26-240	NEW-P	99-08-124	180- 16-221	REP-XR	99-03-001
162- 16-230	NEW-P	99-04-108	173- 26-250	NEW-P	99-08-124	180- 16-221	REP	99-07-054
162- 16-240	NEW-P	99-04-108	173- 26-260	NEW-P	99-08-124	180- 16-222	REP-XR	99-03-001
162- 16-250	NEW-P	99-04-108	173-201A	PREP	99-05-060	180- 16-222	REP	99-07-054
162- 16-260	NEW-P	99-04-108	173-202-020	AMD-E	99-07-077	180- 16-226	REP-XR	99-03-001
162- 16-270	NEW-P	99-04-108	173-202-020	AMD-E	99-09-001	180- 16-226	REP	99-07-054
162- 16-280	NEW-P	99-04-108	173-202-020	AMD-C	99-09-094	180- 16-231	REP-XR	99-03-001
162- 16-290	NEW-P	99-04-108	173-303	PREP	99-10-041	180- 16-231	REP	99-07-054
162- 22-010	AMD-P	99-04-108	173-400	PREP	99-07-093	180- 16-236	REP-XR	99-03-001
162- 22-020	AMD-P	99-04-108	173-400	PREP	99-09-093	180- 16-236	REP	99-07-054
162- 22-025	NEW-P	99-04-108	173-400	PREP	99-10-042	180- 16-236	REP	99-07-054
162- 22-030	REP-P	99-04-108	173-400-030	AMD-XA	99-04-097	180- 16-238	REP-XR	99-03-001
162- 22-035	NEW-P	99-04-108	173-400-040	AMD-XA	99-04-097	180- 16-238	REP	99-07-054
162- 22-040	REP-P	99-04-108	173-400-060	AMD-XA	99-04-097	180- 16-240	REP-P	99-04-080
162- 22-045	NEW-P	99-04-108	173-400-070	AMD-XA	99-04-097	180- 16-240	REP	99-10-091
162- 22-050	REP-P	99-04-108	173-400-075	AMD-XA	99-04-097	180- 18-055	NEW-P	99-04-082
162- 22-060	REP-P	99-04-108	173-400-104	AMD-XA	99-04-097	180- 18-055	NEW-P	99-06-089
162- 22-065	NEW-P	99-04-108	173-400-115	AMD-XA	99-04-097	180- 18-055	NEW	99-10-094
162- 22-070	REP-P	99-04-108	173-405	PREP	99-07-093	180- 20-011	NEW	99-08-004
162- 22-075	NEW-P	99-04-108	173-410	PREP	99-07-093	180- 20-034	AMD	99-08-004
162- 22-080	REP-P	99-04-108	173-415	PREP	99-10-042	180- 20-035	REP	99-08-004
162- 22-090	AMD-P	99-04-108	173-425	AMD-P	99-07-110	180- 20-040	REP	99-08-004
162- 22-100	AMD-P	99-04-108	173-425-010	AMD-P	99-07-110	180- 20-055	REP	99-08-004
162- 26-010	AMD-P	99-04-108	173-425-020	AMD-P	99-07-110	180- 20-060	REP	99-08-004
162- 26-020	REP-P	99-04-108	173-425-030	AMD-P	99-07-110	180- 20-070	REP	99-08-004
162- 26-030	REP-P	99-04-108	173-425-040	AMD-P	99-07-110	180- 20-075	REP	99-08-004
162- 26-035	REP-P	99-04-108	173-425-050	AMD-P	99-07-110	180- 20-080	REP	99-08-004
162- 26-040	AMD-P	99-04-108	173-425-060	AMD-P	99-07-110	180- 20-101	AMD	99-08-004
162- 26-050	REP-P	99-04-108	173-425-070	AMD-P	99-07-110	180- 20-111	AMD	99-08-004
162- 26-060	AMD-P	99-04-108	173-425-080	AMD-P	99-07-110	180- 20-115	AMD	99-08-004
162- 26-070	AMD-P	99-04-108	173-425-090	REP-P	99-07-110	180- 20-120	AMD	99-08-004
162- 26-080	AMD-P	99-04-108	173-425-090	REP-P	99-07-110	180- 20-150	REP	99-08-004
162- 26-090	REP-P	99-04-108	173-425-100	REP-P	99-07-110	180- 22-150	PREP	99-04-083
162- 26-100	AMD-P	99-04-108	173-425-110	REP-P	99-07-110	180- 22-150	AMD-P	99-07-065
162- 26-110	AMD-P	99-04-108	173-433	PREP	99-07-093	180- 25	PREP	99-06-074
162- 26-120	AMD-P	99-04-108	173-434	PREP	99-07-093	180- 26	PREP	99-06-080
162- 26-135	NEW-P	99-04-108	173-481	PREP	99-10-042	180- 27	PREP	99-06-079
162- 26-140	AMD-P	99-04-108	173-532-085	NEW-S	99-08-125	180- 27-082	NEW-W	99-03-026
162- 30-010	AMD-P	99-04-108	173-548	AMD-P	99-09-092	180- 27-083	NEW-W	99-03-026
162- 30-020	AMD-P	99-04-108	173-548-001	NEW-P	99-09-092	180- 29	PREP	99-06-078
162- 38-040	AMD-P	99-04-108	173-548-002	NEW-P	99-09-092	180- 29-040	AMD-P	99-10-001
162- 38-100	AMD-P	99-04-108	173-548-005	NEW-P	99-09-092	180- 29-095	PREP	99-04-086
162- 38-105	NEW-P	99-04-108	173-548-010	AMD-P	99-09-092	180- 29-095	AMD-P	99-07-067
			173-548-015	NEW-P	99-09-092	180- 31	PREP	99-06-077
			173-548-020	AMD-P	99-09-092			

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
180- 32	PREP	99-06-076	180- 82-321	NEW	99-07-102	192-120-010	NEW	99-08-073
180- 33	PREP	99-06-075	180- 82-322	NEW	99-04-008	192-120-020	NEW	99-08-073
180- 40-215	PREP	99-04-084	180- 82-324	NEW	99-04-008	192-120-030	NEW	99-08-073
180- 40-215	AMD-P	99-07-064	180- 82-326	NEW	99-04-008	192-120-035	NEW	99-08-073
180- 41-035	PREP	99-04-090	180- 82-328	NEW	99-04-008	192-120-040	NEW	99-08-073
180- 41-035	AMD-P	99-07-073	180- 82-330	NEW	99-04-008	192-140-005	NEW	99-08-073
180- 51	PREP	99-10-089	180- 82-331	NEW	99-06-005	192-140-010	NEW	99-08-073
180- 51-050	AMD-P	99-04-081	180- 82-332	NEW	99-04-008	192-140-020	NEW	99-08-073
180- 51-050	AMD	99-10-093	180- 82-334	NEW	99-04-008	192-140-025	NEW	99-08-073
180- 51-107	NEW-P	99-04-082	180- 82-336	NEW	99-04-008	192-140-030	NEW	99-08-073
180- 51-107	NEW-P	99-06-089	180- 82-338	NEW-W	99-08-081	192-150-090	NEW	99-08-073
180- 51-107	NEW	99-10-094	180- 82-339	NEW	99-04-008	192-180-005	NEW-P	99-09-097
180- 51-110	PREP	99-04-091	180- 82-340	NEW-W	99-08-081	192-180-010	NEW-P	99-09-097
180- 51-110	AMD-P	99-07-072	180- 82-342	NEW	99-04-008	192-180-015	NEW-P	99-09-097
180- 52	PREP	99-10-090	180- 82-343	NEW	99-04-008	192-180-020	NEW-P	99-09-097
180- 55-085	PREP	99-04-089	180- 82-344	NEW	99-04-008	192-180-025	NEW-P	99-09-097
180- 55-085	AMD-P	99-07-068	180- 82-346	NEW	99-04-008	192-180-030	NEW-P	99-09-097
180- 56-245	PREP	99-04-092	180- 82-348	NEW	99-04-008	192-200-020	NEW	99-08-073
180- 56-245	AMD-P	99-07-071	180- 82-349	NEW-P	99-04-110	192-210-005	NEW-E	99-05-003
180- 77A	PREP	99-04-046	180- 82-349	NEW	99-07-102	192-210-010	NEW-E	99-05-003
180- 77A-028	AMD-P	99-07-049	180- 82-350	NEW	99-04-008	192-210-015	NEW-E	99-05-003
180- 77A-029	AMD-P	99-07-049	180- 82-352	NEW	99-04-008	192-300-050	NEW-P	99-05-068
180- 77A-080	NEW-P	99-07-049	180- 82-354	NEW	99-04-008	192-320-050	NEW-P	99-05-068
180- 78-155	PREP	99-04-087	180- 82-355	NEW	99-04-008	194- 22	PREP	99-07-005
180- 78-155	AMD-P	99-07-070	180- 82-356	NEW	99-04-008	196- 23	PREP	99-07-135
180- 78-207	PREP	99-04-087	180- 82-360	NEW	99-04-008	196- 23	PREP	99-07-136
180- 78-207	AMD-P	99-07-070	180- 82-362	NEW-W	99-08-081	196- 23-010	NEW-P	99-10-084
180- 78-210	PREP	99-04-087	180- 85-075	AMD-E	99-05-002	196- 23-020	NEW-P	99-10-085
180- 78-210	AMD-P	99-07-070	180- 85-075	PREP	99-06-039	196- 23-030	NEW-P	99-10-086
180- 79A-223	PREP	99-06-038	180- 85-075	AMD-P	99-10-002	196- 23-050	NEW-P	99-10-087
180- 79A-223	AMD-P	99-10-003	182- 25-030	PREP	99-08-107	196- 24-058	PREP	99-07-134
180- 79A-300	AMD	99-06-006	182- 25-040	PREP	99-05-077	196- 24-058	REP-P	99-10-081
180- 79A-380	PREP	99-04-085	182- 25-085	PREP	99-05-077	196- 24-060	PREP	99-02-073
180- 79A-380	AMD-P	99-07-066	182- 25-085	NEW-P	99-08-106	196- 24-060	REP-P	99-10-088
180- 82	PREP	99-04-109	182- 25-090	PREP	99-05-077	196- 24-085	PREP	99-02-071
180- 82-002	NEW	99-04-008	182- 25-090	AMD-P	99-08-106	196- 24-090	PREP	99-02-075
180- 82-004	NEW	99-04-008	182- 25-100	AMD	99-07-078	196- 24-090	REP-P	99-10-082
180- 82-105	NEW	99-04-008	182- 25-105	AMD	99-07-078	196- 24-092	PREP	99-02-076
180- 82-110	NEW	99-04-008	182- 25-110	AMD	99-07-078	196- 24-092	REP-P	99-10-083
180- 82-115	NEW	99-04-008	192- 04-170	AMD	99-08-073	196- 24-095	PREP	99-02-077
180- 82-120	NEW	99-04-008	192- 04-190	AMD	99-08-073	196- 24-095	REP-P	99-10-084
180- 82-125	NEW	99-04-008	192- 12-005	REP	99-08-073	196- 24-097	PREP	99-02-078
180- 82-130	NEW	99-04-008	192- 12-035	REP-XR	99-10-005	196- 24-097	REP-P	99-10-085
180- 82-200	NEW	99-04-008	192- 12-072	REP-P	99-05-068	196- 24-098	PREP	99-02-079
180- 82-201	NEW	99-04-008	192- 12-080	REP-XR	99-10-006	196- 24-098	REP-P	99-10-087
180- 82-202	NEW	99-04-008	192- 12-110	REP-XR	99-10-007	196- 24-100	PREP	99-02-072
180- 82-204	NEW	99-04-008	192- 12-115	REP-XR	99-10-008	196- 24-100	AMD-P	99-10-088
180- 82-210	NEW	99-04-008	192- 12-141	REP	99-08-073	196- 25-040	PREP	99-02-074
180- 82-215	NEW	99-04-008	192- 12-150	REP	99-08-073	196- 25-040	AMD-P	99-10-080
180- 82-300	NEW	99-04-008	192- 12-182	REP	99-08-073	196- 25-050	NEW-P	99-10-082
180- 82-302	NEW-W	99-08-081	192- 12-330	AMD	99-08-073	196- 25-060	NEW-P	99-10-083
180- 82-304	NEW	99-04-008	192- 15-150	AMD	99-08-073	196- 25-100	NEW-P	99-10-081
180- 82-306	NEW-W	99-08-081	192- 16-051	REP-E	99-05-003	196- 26-020	PREP	99-02-070
180- 82-308	NEW	99-04-008	192- 16-052	REP-E	99-05-003	196- 26-020	AMD-P	99-08-132
180- 82-310	NEW	99-04-008	192- 16-057	REP-E	99-05-003	204- 10-020	AMD	99-09-049
180- 82-312	NEW	99-04-008	192- 23-002	REP	99-08-073	204- 24-050	AMD	99-06-023
180- 82-314	NEW	99-04-008	192- 23-013	REP	99-08-073	204- 32-020	AMD	99-09-021
180- 82-315	NEW-P	99-04-110	192- 23-018	REP	99-08-073	204- 32-040	AMD	99-09-021
180- 82-315	NEW	99-07-102	192- 24-001	REP	99-08-073	204- 32-060	AMD	99-09-021
180- 82-316	NEW	99-04-008	192- 24-010	REP	99-08-073	204- 80-020	AMD	99-02-045
180- 82-317	NEW-P	99-04-110	192- 24-020	REP	99-08-073	204- 90-140	AMD	99-09-049
180- 82-317	NEW	99-07-102	192- 24-030	REP-P	99-09-097	204- 96-010	NEW	99-09-048
180- 82-318	NEW	99-04-008	192-110-005	NEW	99-08-073	208-464-010	REP	99-03-009
180- 82-319	NEW-P	99-04-110	192-110-015	NEW	99-08-073	208-464-020	REP	99-03-009
180- 82-319	NEW	99-07-102	192-110-020	NEW	99-08-073	208-464-030	REP	99-03-009
180- 82-320	NEW	99-04-008	192-110-050	NEW	99-08-073	208-464-040	REP	99-03-009
180- 82-321	NEW-P	99-04-110	192-120-001	NEW	99-08-073	208-464-050	REP	99-03-009

Table

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
208-464-060	REP	99-03-009	220- 55-05500A	NEW-E	99-06-007	220- 57-13500V	REP-E	99-10-049
208-464-070	REP	99-03-009	220- 55-060	AMD	99-03-029	220- 57-14000V	NEW-E	99-10-049
208-464-080	REP	99-03-009	220- 55-065	AMD	99-03-029	220- 57-14000V	REP-E	99-10-049
208-464-090	REP	99-03-009	220- 55-070	AMD	99-03-029	220- 57-14500A	REP-E	99-10-049
208-480-010	REP	99-03-009	220- 55-075	REP	99-03-029	220- 57-14500A	NEW-E	99-10-049
208-480-020	REP	99-03-009	220- 55-100	AMD	99-03-029	220- 57-16000R	NEW-E	99-07-006
208-480-030	REP	99-03-009	220- 55-105	AMD	99-03-029	220- 57-16000R	REP-E	99-10-021
208-480-040	REP	99-03-009	220- 55-110	AMD	99-03-029	220- 57-16000S	REP-E	99-10-021
208-480-050	REP	99-03-009	220- 55-115	AMD	99-03-029	220- 57-16000S	NEW-E	99-10-021
208-480-060	REP	99-03-009	220- 55-120	AMD	99-03-029	220- 57-16500B	NEW-E	99-10-049
208-480-070	REP	99-03-009	220- 55-125	AMD	99-03-029	220- 57-16500B	REP-E	99-10-049
220- 16-225	AMD	99-08-029	220- 55-155	REP	99-03-029	220- 57-17500N	NEW-E	99-08-046
220- 16-55000A	NEW-E	99-10-049	220- 55-160	NEW	99-08-029	220- 57-17500P	NEW-E	99-10-049
220- 16-55000A	REP-E	99-10-049	220- 56-100	AMD	99-08-029	220- 57-17500P	REP-E	99-10-049
220- 24-02000H	NEW-E	99-10-037	220- 56-103	AMD	99-08-029	220- 57-18700B	NEW-E	99-08-046
220- 32-05100J	NEW-E	99-04-059	220- 56-10500B	NEW-E	99-10-049	220- 57-18700C	NEW-E	99-10-049
220- 32-05100J	REP-E	99-04-059	220- 56-10500B	REP-E	99-10-049	220- 57-18700C	REP-E	99-10-049
220- 32-05100K	NEW-E	99-07-009	220- 56-11500A	NEW-E	99-10-049	220- 57-20000N	NEW-E	99-10-049
220- 32-05100K	REP-E	99-07-009	220- 56-11500A	REP-E	99-10-049	220- 57-20000N	REP-E	99-10-049
220- 32-05500T	REP-E	99-09-016	220- 56-12400E	NEW-E	99-10-049	220- 57-25500C	NEW-E	99-08-046
220- 32-05500T	NEW-E	99-09-016	220- 56-12400E	REP-E	99-10-049	220- 57-25500D	REP-E	99-10-049
220- 32-05700A	NEW-E	99-08-048	220- 56-145	AMD	99-08-029	220- 57-25500D	NEW-E	99-10-049
220- 33-01000N	NEW-E	99-05-055	220- 56-185	AMD	99-08-029	220- 57-27000G	REP-E	99-10-049
220- 33-01000N	REP-E	99-05-055	220- 56-19100G	REP-E	99-05-061	220- 57-27000G	NEW-E	99-10-049
220- 33-01000P	NEW-E	99-06-031	220- 56-19100G	NEW-E	99-05-061	220- 57-31000A	NEW-E	99-08-046
220- 33-01000P	REP-E	99-06-031	220- 56-19100I	NEW-E	99-10-049	220- 57-31500G	NEW-E	99-08-046
220- 33-01000Q	NEW-E	99-10-022	220- 56-19100I	REP-E	99-10-049	220- 57-31500H	NEW-E	99-10-049
220- 33-01000Q	REP-E	99-10-022	220- 56-19500B	REP-E	99-10-049	220- 57-31500H	REP-E	99-10-049
220- 44-05000U	REP-E	99-08-045	220- 56-19500B	NEW-E	99-10-049	220- 57-31900T	NEW-E	99-08-046
220- 44-05000V	NEW-E	99-08-045	220- 56-20500C	NEW-E	99-10-049	220- 57-31900U	NEW-E	99-10-049
220- 44-05000V	REP-E	99-10-038	220- 56-20500C	REP-E	99-10-049	220- 57-31900U	REP-E	99-10-049
220- 44-05000W	NEW-E	99-10-038	220- 56-23500C	NEW-E	99-10-049	220- 57-33500A	NEW-E	99-10-049
220- 44-08000A	NEW-E	99-03-008	220- 56-23500C	REP-E	99-10-049	220- 57-33500A	REP-E	99-10-049
220- 48-01500I	NEW-E	99-08-011	220- 56-250	AMD-W	99-10-073	220- 57-34000I	NEW-E	99-10-049
220- 52-04000I	NEW-E	99-09-035	220- 56-255	AMD	99-08-029	220- 57-34000I	REP-E	99-10-049
220- 52-04000I	REP-E	99-09-035	220- 56-25500H	NEW-E	99-10-049	220- 57-34600A	REP-E	99-10-049
220- 52-04000J	NEW-E	99-10-011	220- 56-25500H	REP-E	99-10-049	220- 57-35500A	REP-E	99-10-049
220- 52-04000J	REP-E	99-10-011	220- 56-267	NEW	99-08-029	220- 57-35500A	NEW-E	99-10-049
220- 52-04000K	REP-E	99-10-023	220- 56-270	AMD	99-08-029	220- 57-36500A	NEW-E	99-10-049
220- 52-04000K	NEW-E	99-10-023	220- 56-27000E	NEW-E	99-07-007	220- 57-36500A	REP-E	99-10-049
220- 52-046	AMD	99-10-062	220- 56-28500S	NEW-E	99-07-006	220- 57-40500A	NEW-E	99-10-049
220- 52-04600J	REP-E	99-08-048	220- 56-28500S	REP-E	99-07-006	220- 57-40500A	REP-E	99-10-049
220- 52-04600K	REP-E	99-08-011	220- 56-30500D	NEW-E	99-09-014	220- 57-44000A	REP-E	99-10-049
220- 52-04600L	NEW-E	99-08-011	220- 56-310	AMD	99-08-029	220- 57-44000A	NEW-E	99-10-049
220- 52-04600L	REP-E	99-09-035	220- 56-320	AMD	99-08-029	220- 57-50500C	NEW-E	99-08-046
220- 52-04600M	REP-E	99-09-035	220- 56-32500X	NEW-E	99-10-035	220- 57-50500D	NEW-E	99-10-049
220- 52-04600M	NEW-E	99-09-035	220- 56-32500X	REP-E	99-10-035	220- 57-50500D	REP-E	99-10-049
220- 52-04600N	NEW-E	99-10-011	220- 56-32500Y	NEW-E	99-10-036	220- 57-51000A	REP-E	99-10-049
220- 52-04600N	REP-E	99-10-011	220- 56-330	AMD	99-08-029	220- 57-51000A	NEW-E	99-10-049
220- 52-04600P	REP-E	99-10-023	220- 56-33000L	REP-E	99-08-011	220- 57-51500P	NEW-E	99-10-049
220- 52-04600P	NEW-E	99-10-023	220- 56-33000M	NEW-E	99-08-011	220- 57-51500P	REP-E	99-10-049
220- 52-050	REP-E	99-04-053	220- 56-33000M	REP-E	99-08-038	220- 57-52000A	NEW-E	99-10-049
220- 52-07100I	REP-E	99-07-033	220- 56-33000N	NEW-E	99-08-038	220- 57-52000A	REP-E	99-10-049
220- 52-07100I	NEW-E	99-07-033	220- 56-33000N	REP-E	99-08-058	220- 72-076	AMD	99-10-061
220- 52-07100J	REP-E	99-08-010	220- 56-33000P	NEW-E	99-08-058	220- 88A-07000	NEW-E	99-09-036
220- 52-07100J	NEW-E	99-08-010	220- 56-350	AMD	99-08-029	220- 88A-08000	NEW-E	99-09-036
220- 52-07300J	REP-E	99-03-054	220- 56-35000V	REP-E	99-07-008	220- 88B-010	REP-E	99-04-053
220- 52-07300K	NEW-E	99-03-054	220- 56-35000W	NEW-E	99-07-008	220- 88B-020	REP-E	99-04-053
220- 52-07500B	NEW-E	99-10-050	220- 56-35000W	REP-E	99-09-034	220- 88B-030	REP-E	99-04-053
220- 52-24000K	NEW-E	99-10-050	220- 56-35000X	NEW-E	99-08-047	220- 88B-040	REP-E	99-04-053
220- 55-001	NEW	99-03-029	220- 56-35000Y	NEW-E	99-09-034	220- 88B-050	REP-E	99-04-053
220- 55-005	AMD	99-03-029	220- 56-380	AMD	99-08-029	220-110-204	AMD-XA	99-05-023
220- 55-010	AMD	99-03-029	220- 56-38000P	REP-E	99-07-008	220-110-204	AMD	99-10-048
220- 55-015	AMD	99-03-029	220- 56-38000Q	NEW-E	99-07-008	220-110-205	AMD-XA	99-05-023
220- 55-040	AMD	99-03-029	220- 56-38000Q	REP-E	99-09-034	220-110-205	AMD	99-10-048
220- 55-050	AMD	99-03-029	220- 56-38000R	NEW-E	99-09-034	220-130	AMD-P	99-05-075
220- 55-055	AMD	99-03-029	220- 57-13500V	NEW-E	99-10-049	220-130-010	AMD-P	99-05-075

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220-130-020	AMD-P	99-05-075	222- 30-070	AMD-C	99-09-078	230- 40-860	NEW-P	99-08-093
220-130-030	AMD-P	99-05-075	222- 38-020	AMD-C	99-09-078	230- 40-865	NEW-P	99-08-093
220-130-040	AMD-P	99-05-075	222- 38-030	AMD-C	99-09-078	230- 40-870	NEW-P	99-08-093
220-130-050	AMD-P	99-05-075	222- 46-055	NEW-C	99-09-078	230- 40-875	NEW-P	99-08-093
220-130-060	AMD-P	99-05-075	222- 46-060	AMD-C	99-09-078	230- 40-880	NEW-P	99-08-093
220-130-070	AMD-P	99-05-075	222- 46-065	AMD-C	99-09-078	230- 40-885	NEW-P	99-08-093
220-130-080	NEW-P	99-05-075	230- 02-109	NEW-P	99-08-093	230- 40-890	NEW-P	99-08-093
220-88A-06000	NEW-E	99-10-050	230- 02-110	AMD-P	99-08-093	230- 40-900	REP-P	99-08-093
220-88A-07000	NEW-E	99-10-050	230- 02-145	NEW-P	99-08-094	230- 50-010	AMD-P	99-08-093
220-88A-07000	REP-E	99-10-050	230- 02-400	REP-P	99-08-093	232- 12-001	AMD	99-03-029
220-88A-08000	REP-E	99-10-050	230- 02-425	AMD-P	99-08-093	232- 12-001	AMD	99-08-029
220-88A-08000	NEW-E	99-10-050	230- 04-022	AMD-P	99-08-093	232- 12-017	AMD	99-08-024
222- 08-035	AMD-C	99-09-078	230- 04-140	AMD-P	99-08-093	232- 12-01701	AMD	99-08-024
222- 10-020	NEW-E	99-07-075	230- 04-203	AMD-P	99-08-093	232- 12-018	AMD	99-08-029
222- 10-020	NEW-E	99-08-078	230- 04-204	AMD-P	99-08-093	232- 12-047	AMD-P	99-05-064
222- 10-020	NEW-C	99-09-078	230- 04-207	NEW-P	99-08-093	232- 12-047	AMD-W	99-10-112
222- 10-030	NEW-C	99-09-078	230- 08-027	NEW-P	99-08-093	232- 12-054	AMD-P	99-05-064
222- 10-040	AMD-E	99-07-075	230- 08-040	AMD-P	99-08-093	232- 12-054	AMD-W	99-10-112
222- 10-040	AMD-E	99-08-078	230- 08-090	AMD-P	99-08-093	232- 12-069	REP	99-03-029
222- 10-043	NEW-E	99-07-075	230- 12-050	AMD-P	99-08-093	232- 12-072	NEW	99-03-029
222- 10-043	NEW-E	99-08-078	230- 12-072	NEW-P	99-08-093	232- 12-157	AMD	99-03-029
222- 12-044	NEW-C	99-09-078	230- 12-345	NEW-P	99-08-093	232- 12-166	AMD	99-03-029
222- 12-045	AMD-C	99-09-078	230- 20-058	NEW	99-03-103	232- 12-189	AMD	99-03-029
222- 12-090	AMD-E	99-07-074	230- 20-115	AMD-P	99-08-094	232- 12-241	REP	99-03-029
222- 12-090	AMD-E	99-08-077	230- 20-125	AMD-P	99-08-094	232- 12-31500F	NEW-E	99-08-063
222- 12-090	AMD-C	99-09-078	230- 20-230	AMD-P	99-08-094	232- 12-619	AMD	99-03-029
222- 16-010	AMD-E	99-07-075	230- 20-242	AMD-P	99-08-094	232- 12-619	AMD	99-08-029
222- 16-010	AMD-E	99-08-078	230- 40-010	AMD-P	99-08-093	232- 12-830	NEW	99-03-029
222- 16-010	AMD-C	99-09-078	230- 40-015	AMD-P	99-08-093	232- 16-810	AMD-P	99-05-063
222- 16-030	AMD-E	99-07-074	230- 40-030	AMD-P	99-08-093	232- 16-810	AMD	99-10-102
222- 16-030	AMD-E	99-08-077	230- 40-050	AMD-P	99-08-093	232- 21-101	REP	99-05-024
222- 16-030	AMD-C	99-09-078	230- 40-060	REP-P	99-08-093	232- 28-02201	AMD-P	99-05-063
222- 16-050	AMD-E	99-07-075	230- 40-070	AMD-P	99-08-093	232- 28-02201	AMD	99-10-102
222- 16-050	AMD-E	99-08-078	230- 40-120	AMD-P	99-08-093	232- 28-02203	AMD-P	99-05-063
222- 16-050	AMD-C	99-09-078	230- 40-125	AMD-P	99-08-093	232- 28-02203	AMD	99-10-102
222- 16-080	AMD-E	99-07-075	230- 40-125	AMD-P	99-09-096	232- 28-02204	AMD-P	99-05-063
222- 16-080	AMD-E	99-08-078	230- 40-125	REP-P	99-09-096	232- 28-02204	AMD	99-10-102
222- 16-088	NEW-E	99-07-075	230- 40-130	AMD-P	99-08-093	232- 28-02205	AMD-P	99-05-063
222- 16-088	NEW-E	99-08-078	230- 40-150	REP-P	99-08-093	232- 28-02205	AMD	99-10-102
222- 20-010	AMD-C	99-09-078	230- 40-160	REP-P	99-08-093	232- 28-02240	AMD-P	99-05-063
222- 20-015	NEW-C	99-09-078	230- 40-200	AMD-P	99-08-093	232- 28-02240	AMD	99-10-102
222- 20-020	AMD-C	99-09-078	230- 40-225	AMD-P	99-08-093	232- 28-248	AMD-P	99-05-063
222- 20-070	AMD-C	99-09-078	230- 40-400	AMD-P	99-08-093	232- 28-248	AMD	99-10-102
222- 22-010	AMD-C	99-09-078	230- 40-550	NEW-P	99-08-093	232- 28-264	AMD-P	99-05-063
222- 22-030	AMD-C	99-09-078	230- 40-552	NEW-P	99-08-093	232- 28-264	AMD	99-10-102
222- 22-035	NEW-C	99-09-078	230- 40-554	NEW-P	99-08-093	232- 28-271	AMD-P	99-05-063
222- 22-040	AMD-C	99-09-078	230- 40-556	NEW-P	99-08-093	232- 28-271	AMD	99-10-102
222- 22-050	AMD-C	99-09-078	230- 40-558	NEW-P	99-08-093	232- 28-273	AMD-P	99-05-063
222- 22-060	AMD-C	99-09-078	230- 40-560	NEW-P	99-08-093	232- 28-273	AMD	99-10-102
222- 22-065	NEW-C	99-09-078	230- 40-562	NEW-P	99-08-093	232- 28-280	AMD-P	99-05-063
222- 22-070	AMD-C	99-09-078	230- 40-564	NEW-P	99-08-093	232- 28-280	AMD	99-10-102
222- 22-075	NEW-C	99-09-078	230- 40-566	NEW-P	99-08-093	232- 28-281	AMD-P	99-05-063
222- 22-076	NEW-C	99-09-078	230- 40-568	NEW-P	99-08-093	232- 28-281	AMD	99-10-102
222- 22-090	AMD-C	99-09-078	230- 40-600	NEW-P	99-08-093	232- 28-619	AMD	99-08-029
222- 24-010	AMD-C	99-09-078	230- 40-610	NEW-P	99-08-093	232- 28-61900B	NEW-E	99-04-060
222- 24-020	AMD-C	99-09-078	230- 40-800	NEW-P	99-08-093	232- 28-61900B	REP-E	99-04-060
222- 24-030	AMD-C	99-09-078	230- 40-810	NEW-P	99-08-093	232- 28-61900C	NEW-E	99-06-020
222- 24-035	AMD-C	99-09-078	230- 40-815	NEW-P	99-08-093	232- 28-61900D	NEW-E	99-07-006
222- 24-040	AMD-C	99-09-078	230- 40-820	NEW-P	99-08-093	232- 28-61900D	REP-E	99-07-006
222- 24-050	AMD-E	99-07-075	230- 40-825	NEW-P	99-08-093	232- 28-61900E	NEW-E	99-08-046
222- 24-050	AMD-E	99-08-078	230- 40-830	NEW-P	99-08-093	232- 28-61900E	REP-E	99-08-046
222- 24-050	AMD-C	99-09-078	230- 40-833	NEW-P	99-08-093	232- 28-61900F	NEW-E	99-09-015
222- 24-060	AMD-C	99-09-078	230- 40-835	NEW-P	99-08-093	232- 28-61900F	REP-E	99-09-015
222- 30-010	AMD-C	99-09-078	230- 40-840	NEW-P	99-08-093	232- 28-61900G	REP-E	99-10-049
222- 30-020	AMD-C	99-09-078	230- 40-845	NEW-P	99-08-093	232- 28-61900G	NEW-E	99-10-049
222- 30-040	AMD-E	99-07-075	230- 40-850	NEW-P	99-08-093	232- 32-010	REP-P	99-05-076
222- 30-040	AMD-E	99-08-078	230- 40-855	NEW-P	99-08-093	232- 32-020	REP-P	99-05-076

Table

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
232- 32-030	REP-P	99-05-076	236- 48-153	AMD-XA	99-10-069	246- 25-120	RECOD	99-04-049
232- 32-040	REP-P	99-05-076	236- 48-155	REP-XR	99-10-068	246- 25-125	RECOD	99-04-049
232- 32-050	REP-P	99-05-076	236- 48-162	REP-XR	99-10-068	246- 25-130	RECOD	99-04-049
232- 32-060	REP-P	99-05-076	236- 48-163	REP-XR	99-10-068	246- 25-131	RECOD	99-04-049
232- 32-070	REP-P	99-05-076	236- 48-164	REP-XR	99-10-068	246- 25-135	RECOD	99-04-049
236- 12-065	PREP	99-08-086	236- 48-165	AMD-XA	99-10-069	246- 25-140	RECOD	99-04-049
236- 12-470	PREP	99-08-086	236- 48-166	AMD-XA	99-10-069	246- 25-145	RECOD	99-04-049
236- 12-500	PREP	99-08-086	236- 48-167	AMD-XA	99-10-069	246- 25-150	RECOD	99-04-049
236- 47-001	REP	99-06-001	236- 48-190	AMD-XA	99-10-069	246- 25-155	RECOD	99-04-049
236- 47-002	REP	99-06-001	236- 48-230	AMD-XA	99-10-069	246- 25-160	RECOD	99-04-049
236- 47-003	REP	99-06-001	236- 48-250	AMD-XA	99-10-069	246- 25-165	RECOD	99-04-049
236- 47-004	REP	99-06-001	236- 48-251	AMD-XA	99-10-069	246- 25-170	RECOD	99-04-049
236- 47-005	REP	99-06-001	236- 48-252	AMD-XA	99-10-069	246- 25-175	RECOD	99-04-049
236- 47-006	REP	99-06-001	236- 48-253	AMD-XA	99-10-069	246- 25-180	RECOD	99-04-049
236- 47-007	REP	99-06-001	236- 48-254	REP-XR	99-10-068	246-100-042	AMD-XA	99-06-091
236- 47-008	REP	99-06-001	236- 48-300	REP-XR	99-10-068	246-205-990	AMD-P	99-07-120
236- 47-009	REP	99-06-001	236- 49-001	AMD-XA	99-10-069	246-217-001	REP-P	99-08-097
236- 47-010	REP	99-06-001	236- 49-010	AMD-XA	99-10-069	246-217-002	REP-P	99-08-097
236- 47-011	REP	99-06-001	236- 49-020	AMD-XA	99-10-069	246-217-005	NEW-P	99-08-097
236- 47-012	REP	99-06-001	236- 49-030	REP-XR	99-10-068	246-217-010	AMD-P	99-08-097
236- 47-013	REP	99-06-001	236- 49-040	REP-XR	99-10-068	246-217-011	REP-P	99-08-097
236- 47-014	REP	99-06-001	236- 49-055	AMD-XA	99-10-069	246-217-015	NEW-P	99-08-097
236- 47-015	REP	99-06-001	236- 49-060	AMD-XA	99-10-069	246-217-020	REP-P	99-08-097
236- 47-016	REP	99-06-001	236- 49-061	REP-XR	99-10-068	246-217-025	NEW-P	99-08-097
236- 47-017	REP	99-06-001	240- 10-030	AMD-P	99-08-109	246-217-030	REP-P	99-08-097
236- 48-003	AMD-XA	99-10-069	245- 02-010	DECOD	99-04-049	246-217-035	NEW-P	99-08-097
236- 48-005	REP-XR	99-10-068	245- 02-020	DECOD	99-04-049	246-217-040	REP-P	99-08-097
236- 48-009	REP-XR	99-10-068	245- 02-025	DECOD	99-04-049	246-217-045	NEW-P	99-08-097
236- 48-011	AMD-XA	99-10-069	245- 02-030	DECOD	99-04-049	246-217-050	REP-P	99-08-097
236- 48-012	AMD-XA	99-10-069	245- 02-035	DECOD	99-04-049	246-217-060	AMD-P	99-08-097
236- 48-013	AMD-XA	99-10-069	245- 02-040	DECOD	99-04-049	246-217-070	AMD-P	99-08-097
236- 48-021	AMD-XA	99-10-069	245- 02-045	DECOD	99-04-049	246-221-265	AMD	99-05-013
236- 48-023	REP-XR	99-10-068	245- 02-050	DECOD	99-04-049	246-221-280	AMD	99-05-012
236- 48-024	AMD-XA	99-10-069	245- 02-100	DECOD	99-04-049	246-222-030	AMD	99-05-012
236- 48-025	AMD-XA	99-10-069	245- 02-110	DECOD	99-04-049	246-243-040	AMD	99-05-012
236- 48-026	REP-XR	99-10-068	245- 02-115	DECOD	99-04-049	246-243-090	AMD	99-05-012
236- 48-035	AMD-XA	99-10-069	245- 02-120	DECOD	99-04-049	246-254-053	AMD-P	99-09-099
236- 48-036	AMD-XA	99-10-069	245- 02-125	DECOD	99-04-049	246-254-070	AMD-P	99-07-120
236- 48-041	REP-XR	99-10-068	245- 02-130	DECOD	99-04-049	246-254-080	AMD-P	99-07-120
236- 48-051	REP-XR	99-10-068	245- 02-131	DECOD	99-04-049	246-254-090	AMD-P	99-07-120
236- 48-052	REP-XR	99-10-068	245- 02-135	DECOD	99-04-049	246-254-100	AMD-P	99-07-120
236- 48-061	REP-XR	99-10-068	245- 02-140	DECOD	99-04-049	246-282-990	AMD-P	99-07-120
236- 48-071	AMD-XA	99-10-069	245- 02-145	DECOD	99-04-049	246-290-001	AMD	99-07-021
236- 48-079	AMD-XA	99-10-069	245- 02-150	DECOD	99-04-049	246-290-002	NEW	99-07-021
236- 48-081	REP-XR	99-10-068	245- 02-155	DECOD	99-04-049	246-290-010	AMD	99-07-021
236- 48-082	REP-XR	99-10-068	245- 02-160	DECOD	99-04-049	246-290-020	AMD	99-07-021
236- 48-083	AMD-XA	99-10-069	245- 02-165	DECOD	99-04-049	246-290-025	AMD	99-07-021
236- 48-084	REP-XR	99-10-068	245- 02-170	DECOD	99-04-049	246-290-030	AMD	99-07-021
236- 48-085	AMD-XA	99-10-069	245- 02-175	DECOD	99-04-049	246-290-035	NEW	99-07-021
236- 48-093	REP-XR	99-10-068	245- 02-180	DECOD	99-04-049	246-290-040	AMD	99-07-021
236- 48-094	AMD-XA	99-10-069	246- 05-001	REP	99-03-062	246-290-050	AMD	99-07-021
236- 48-096	AMD-XA	99-10-069	246- 05-010	REP	99-03-062	246-290-060	AMD	99-07-021
236- 48-097	REP-XR	99-10-068	246- 05-020	REP	99-03-063	246-290-100	AMD	99-07-021
236- 48-098	AMD-XA	99-10-069	246- 05-030	REP	99-03-062	246-290-105	NEW	99-07-021
236- 48-099	AMD-XA	99-10-069	246- 08-400	AMD-P	99-10-078	246-290-110	AMD	99-07-021
236- 48-101	REP-XR	99-10-068	246- 25	PREP	99-04-050	246-290-115	REP	99-07-021
236- 48-111	AMD-XA	99-10-069	246- 25-010	RECOD	99-04-049	246-290-120	AMD	99-07-021
236- 48-121	AMD-XA	99-10-069	246- 25-020	RECOD	99-04-049	246-290-125	NEW	99-07-021
236- 48-122	AMD-XA	99-10-069	246- 25-025	RECOD	99-04-049	246-290-130	AMD	99-07-021
236- 48-123	AMD-XA	99-10-069	246- 25-030	RECOD	99-04-049	246-290-132	NEW	99-07-021
236- 48-124	AMD-XA	99-10-069	246- 25-035	RECOD	99-04-049	246-290-135	AMD	99-07-021
236- 48-132	AMD-XA	99-10-069	246- 25-040	RECOD	99-04-049	246-290-140	AMD	99-07-021
236- 48-141	AMD-XA	99-10-069	246- 25-045	RECOD	99-04-049	246-290-200	AMD	99-07-021
236- 48-142	AMD-XA	99-10-069	246- 25-050	RECOD	99-04-049	246-290-220	AMD	99-07-021
236- 48-143	AMD-XA	99-10-069	246- 25-100	RECOD	99-04-049	246-290-221	NEW	99-07-021
236- 48-151	REP-XR	99-10-068	246- 25-110	RECOD	99-04-049	246-290-222	NEW	99-07-021
236- 48-152	AMD-XA	99-10-069	246- 25-115	RECOD	99-04-049	246-290-230	AMD	99-07-021

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-290-235	NEW	99-07-021	246-318-170	REP	99-04-052	246-320-010	NEW	99-04-052
246-290-240	REP	99-07-021	246-318-180	REP	99-04-052	246-320-025	NEW	99-04-052
246-290-250	AMD	99-07-021	246-318-190	REP	99-04-052	246-320-045	NEW	99-04-052
246-290-300	AMD	99-07-021	246-318-200	REP	99-04-052	246-320-065	NEW	99-04-052
246-290-310	AMD	99-07-021	246-318-210	REP	99-04-052	246-320-085	NEW	99-04-052
246-290-320	AMD	99-07-021	246-318-220	REP	99-04-052	246-320-105	NEW	99-04-052
246-290-330	REP	99-07-021	246-318-230	REP	99-04-052	246-320-125	NEW	99-04-052
246-290-410	REP	99-07-021	246-318-240	REP	99-04-052	246-320-145	NEW	99-04-052
246-290-415	NEW	99-07-021	246-318-250	REP	99-04-052	246-320-165	NEW	99-04-052
246-290-416	NEW	99-07-021	246-318-260	REP	99-04-052	246-320-185	NEW	99-04-052
246-290-420	AMD	99-07-021	246-318-270	REP	99-04-052	246-320-205	NEW	99-04-052
246-290-430	REP	99-07-021	246-318-280	REP	99-04-052	246-320-225	NEW	99-04-052
246-290-440	REP	99-07-021	246-318-290	REP	99-04-052	246-320-245	NEW	99-04-052
246-290-451	NEW	99-07-021	246-318-300	REP	99-04-052	246-320-265	NEW	99-04-052
246-290-455	NEW	99-07-021	246-318-310	REP	99-04-052	246-320-285	NEW	99-04-052
246-290-460	AMD	99-07-021	246-318-320	REP	99-04-052	246-320-305	NEW	99-04-052
246-290-470	AMD	99-07-021	246-318-330	REP	99-04-052	246-320-325	NEW	99-04-052
246-290-480	AMD	99-07-021	246-318-350	REP	99-04-052	246-320-345	NEW	99-04-052
246-290-490	AMD	99-07-021	246-318-370	REP	99-04-052	246-320-365	NEW	99-04-052
246-290-495	NEW	99-07-021	246-318-380	REP	99-04-052	246-320-385	NEW	99-04-052
246-290-601	AMD	99-07-021	246-318-390	REP	99-04-052	246-320-405	NEW	99-04-052
246-290-610	REP	99-07-021	246-318-400	REP	99-04-052	246-320-500	NEW	99-04-052
246-290-620	AMD	99-07-021	246-318-420	REP	99-04-052	246-320-505	NEW	99-04-052
246-290-630	AMD	99-07-021	246-318-440	REP	99-04-052	246-320-515	NEW	99-04-052
246-290-630	AMD	99-10-076	246-318-450	REP	99-04-052	246-320-525	NEW	99-04-052
246-290-632	AMD	99-07-021	246-318-500	REP	99-04-052	246-320-535	NEW	99-04-052
246-290-634	AMD	99-07-021	246-318-510	REP	99-04-052	246-320-545	NEW	99-04-052
246-290-636	AMD	99-07-021	246-318-520	REP	99-04-052	246-320-555	NEW	99-04-052
246-290-638	AMD	99-07-021	246-318-530	REP	99-04-052	246-320-565	NEW	99-04-052
246-290-640	AMD	99-07-021	246-318-540	REP	99-04-052	246-320-575	NEW	99-04-052
246-290-650	AMD	99-07-021	246-318-550	REP	99-04-052	246-320-585	NEW	99-04-052
246-290-652	AMD	99-07-021	246-318-560	REP	99-04-052	246-320-595	NEW	99-04-052
246-290-654	AMD	99-07-021	246-318-570	REP	99-04-052	246-320-605	NEW	99-04-052
246-290-660	AMD	99-07-021	246-318-580	REP	99-04-052	246-320-615	NEW	99-04-052
246-290-662	AMD	99-07-021	246-318-590	REP	99-04-052	246-320-625	NEW	99-04-052
246-290-664	AMD	99-07-021	246-318-600	REP	99-04-052	246-320-635	NEW	99-04-052
246-290-666	AMD	99-07-021	246-318-610	REP	99-04-052	246-320-645	NEW	99-04-052
246-290-668	AMD	99-07-021	246-318-620	REP	99-04-052	246-320-655	NEW	99-04-052
246-290-670	AMD	99-07-021	246-318-630	REP	99-04-052	246-320-665	NEW	99-04-052
246-290-672	AMD	99-07-021	246-318-640	REP	99-04-052	246-320-675	NEW	99-04-052
246-290-674	AMD	99-07-021	246-318-650	REP	99-04-052	246-320-685	NEW	99-04-052
246-290-676	AMD	99-07-021	246-318-660	REP	99-04-052	246-320-695	NEW	99-04-052
246-290-678	AMD	99-07-021	246-318-670	REP	99-04-052	246-320-705	NEW	99-04-052
246-290-686	AMD	99-07-021	246-318-680	REP	99-04-052	246-320-715	NEW	99-04-052
246-290-690	AMD	99-07-021	246-318-690	REP	99-04-052	246-320-725	NEW	99-04-052
246-290-691	NEW	99-07-021	246-318-700	REP	99-04-052	246-320-735	NEW	99-04-052
246-290-692	AMD	99-07-021	246-318-710	REP	99-04-052	246-320-745	NEW	99-04-052
246-290-694	AMD	99-07-021	246-318-720	REP	99-04-052	246-320-755	NEW	99-04-052
246-290-696	AMD	99-07-021	246-318-730	REP	99-04-052	246-320-765	NEW	99-04-052
246-290-990	AMD-P	99-07-120	246-318-740	REP	99-04-052	246-320-775	NEW	99-04-052
246-292-160	AMD-P	99-07-120	246-318-750	REP	99-04-052	246-320-785	NEW	99-04-052
246-310-990	PREP	99-05-011	246-318-760	REP	99-04-052	246-320-795	NEW	99-04-052
246-316-990	PREP-W	99-04-048	246-318-770	REP	99-04-052	246-320-805	NEW	99-04-052
246-318-010	REP	99-04-052	246-318-780	REP	99-04-052	246-320-815	NEW	99-04-052
246-318-013	REP	99-04-052	246-318-790	REP	99-04-052	246-320-990	NEW	99-04-052
246-318-015	REP	99-04-052	246-318-800	REP	99-04-052	246-320-99902	NEW	99-04-052
246-318-017	REP	99-04-052	246-318-810	REP	99-04-052	246-358-025	AMD-E	99-10-096
246-318-020	REP	99-04-052	246-318-820	REP	99-04-052	246-358-600	NEW-P	99-08-098
246-318-025	REP	99-04-052	246-318-830	REP	99-04-052	246-358-610	NEW-P	99-08-098
246-318-030	REP	99-04-052	246-318-840	REP	99-04-052	246-358-620	NEW-P	99-08-098
246-318-033	REP	99-04-052	246-318-850	REP	99-04-052	246-358-630	NEW-P	99-08-098
246-318-035	REP	99-04-052	246-318-860	REP	99-04-052	246-358-640	NEW-P	99-08-098
246-318-040	REP	99-04-052	246-318-870	REP	99-04-052	246-358-650	NEW-P	99-08-098
246-318-042	REP	99-04-052	246-318-880	REP	99-04-052	246-358-660	NEW-P	99-08-098
246-318-150	REP	99-04-052	246-318-890	REP	99-04-052	246-358-670	NEW-P	99-08-098
246-318-155	REP	99-04-052	246-318-99002	REP	99-04-052	246-358-680	NEW-P	99-08-098
246-318-160	REP	99-04-052	246-318-99910	REP	99-04-052	246-359-001	NEW	99-03-065
			246-320-001	NEW	99-04-052			

Table of WAC Sections Affected

WAC#	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-359-005	NEW	99-03-065	246-560-045	NEW	99-03-043	246-838-040	REP	99-08-104
246-359-010	NEW	99-03-065	246-560-050	AMD	99-03-043	246-840-020	AMD-P	99-06-092
246-359-020	NEW	99-03-065	246-560-060	AMD	99-03-043	246-840-020	AMD	99-10-079
246-359-030	NEW	99-03-065	246-560-065	NEW	99-03-043	246-840-050	AMD-P	99-08-099
246-359-040	NEW	99-03-065	246-560-070	REP	99-03-043	246-840-070	AMD-P	99-08-099
246-359-050	NEW	99-03-065	246-560-075	NEW	99-03-043	246-840-090	AMD-P	99-08-099
246-359-060	NEW	99-03-065	246-560-077	NEW	99-03-043	246-840-125	PREP	99-03-066
246-359-070	NEW	99-03-065	246-560-085	NEW	99-03-043	246-840-740	NEW	99-04-051
246-359-080	NEW	99-03-065	246-802-990	AMD-P	99-02-057	246-843-060	REP	99-03-069
246-359-090	NEW	99-03-065	246-802-990	AMD	99-08-101	246-843-200	REP	99-03-068
246-359-100	NEW	99-03-065	246-808-101	REP-XR	99-03-061	246-843-220	REP	99-03-067
246-359-110	NEW	99-03-065	246-808-301	REP-XR	99-03-061	246-843-225	REP	99-03-067
246-359-120	NEW	99-03-065	246-808-320	REP-XR	99-03-061	246-845-990	AMD-P	99-02-057
246-359-130	NEW	99-03-065	246-808-330	REP-XR	99-03-061	246-845-990	AMD	99-08-101
246-359-140	NEW	99-03-065	246-808-340	REP-XR	99-03-061	246-847-990	AMD-P	99-02-057
246-359-150	NEW	99-03-065	246-808-350	REP-XR	99-03-061	246-847-990	AMD	99-08-101
246-359-160	NEW	99-03-065	246-808-360	REP-XR	99-03-061	246-849-990	AMD-P	99-02-057
246-359-170	NEW	99-03-065	246-808-370	REP-XR	99-03-061	246-849-990	AMD	99-08-101
246-359-180	NEW	99-03-065	246-808-380	REP-XR	99-03-061	246-850-060	NEW-P	99-03-083
246-359-200	NEW	99-03-065	246-808-390	REP-XR	99-03-061	246-850-060	NEW	99-07-122
246-359-210	NEW	99-03-065	246-808-640	REP-XR	99-03-061	246-851-990	AMD-P	99-02-057
246-359-220	NEW	99-03-065	246-808-990	AMD-P	99-02-057	246-851-990	AMD	99-08-101
246-359-230	NEW	99-03-065	246-808-990	AMD	99-08-101	246-915-990	AMD-P	99-02-057
246-359-240	NEW	99-03-065	246-810-990	AMD-P	99-02-057	246-915-990	AMD	99-08-101
246-359-250	NEW	99-03-065	246-810-990	AMD	99-08-101	246-918-115	NEW-P	99-07-121
246-359-300	NEW	99-03-065	246-811-010	NEW-P	99-09-100	246-918-116	NEW-P	99-07-121
246-359-310	NEW	99-03-065	246-811-030	NEW-P	99-09-100	246-918-990	AMD-P	99-06-093
246-359-320	NEW	99-03-065	246-811-045	NEW-P	99-09-100	246-919-630	NEW-P	99-07-121
246-359-330	NEW	99-03-065	246-811-046	NEW-P	99-09-100	246-919-640	NEW-P	99-07-121
246-359-340	NEW	99-03-065	246-811-047	NEW-P	99-09-100	246-922-010	AMD-P	99-08-100
246-359-350	NEW	99-03-065	246-811-048	NEW-P	99-09-100	246-922-090	REP-P	99-08-100
246-359-400	NEW	99-03-065	246-811-049	NEW-P	99-09-100	246-922-100	AMD-P	99-08-100
246-359-405	NEW	99-03-065	246-811-070	NEW-P	99-09-100	246-924-180	AMD-P	99-09-101
246-359-410	NEW	99-03-065	246-811-075	NEW-P	99-09-100	246-924-230	AMD-P	99-09-101
246-359-420	NEW	99-03-065	246-811-080	NEW-P	99-09-100	246-924-240	AMD-P	99-09-101
246-359-430	NEW	99-03-065	246-811-990	NEW-P	99-09-100	246-924-250	AMD-P	99-09-101
246-359-440	NEW	99-03-065	246-817-990	AMD-P	99-02-057	246-924-300	AMD-P	99-09-101
246-359-500	NEW	99-03-065	246-817-990	AMD	99-08-101	246-924-330	AMD-P	99-09-101
246-359-510	NEW	99-03-065	246-822-990	AMD-P	99-02-057	246-924-340	REP-P	99-09-101
246-359-520	NEW	99-03-065	246-822-990	AMD	99-08-101	246-924-990	AMD-P	99-02-057
246-359-530	NEW	99-03-065	246-828-045	NEW	99-08-102	246-924-990	AMD	99-08-101
246-359-540	NEW	99-03-065	246-828-105	AMD-XA	99-08-096	246-926-990	AMD-P	99-02-057
246-359-550	NEW	99-03-065	246-828-110	REP	99-07-020	246-926-990	AMD	99-08-101
246-359-560	NEW	99-03-065	246-828-120	REP	99-07-020	246-928-990	AMD-P	99-02-057
246-359-565	NEW	99-03-065	246-828-130	REP	99-07-020	246-928-990	AMD	99-08-101
246-359-570	NEW	99-03-065	246-828-140	REP	99-07-020	246-930-499	REP	99-07-018
246-359-575	NEW	99-03-065	246-828-150	REP	99-07-020	246-930-990	AMD-P	99-02-057
246-359-580	NEW	99-03-065	246-828-160	REP	99-07-020	246-930-990	AMD	99-08-101
246-359-590	NEW	99-03-065	246-828-170	REP	99-07-020	246-935-140	REP-XR	99-02-080
246-359-600	NEW	99-03-065	246-828-180	REP	99-07-020	250-20-001	AMD-P	99-10-074
246-359-700	NEW	99-03-065	246-828-190	REP	99-07-020	250-20-011	AMD-P	99-10-074
246-359-710	NEW	99-03-065	246-828-200	REP	99-07-020	250-20-021	AMD-P	99-10-074
246-359-720	NEW	99-03-065	246-828-210	REP	99-07-020	250-20-031	AMD-P	99-10-074
246-359-730	NEW	99-03-065	246-828-230	REP	99-07-020	250-20-041	AMD-P	99-10-074
246-359-740	NEW	99-03-065	246-828-240	REP	99-07-020	250-61-060	AMD	99-06-022
246-359-750	NEW	99-03-065	246-828-250	REP	99-07-020	250-61-090	AMD	99-06-021
246-359-760	NEW	99-03-065	246-828-260	REP	99-07-020	250-79	PREP	99-10-070
246-359-800	NEW	99-03-065	246-828-290	AMD	99-08-103	251-01-014	NEW-P	99-02-054
246-359-990	NEW	99-03-065	246-828-310	REP	99-07-020	251-01-014	NEW	99-05-042
246-360-990	PREP	99-10-077	246-828-340	REP	99-07-019	251-01-015	AMD-P	99-02-054
246-560-001	AMD	99-03-043	246-830-990	AMD-P	99-02-057	251-01-015	AMD	99-05-042
246-560-002	NEW	99-03-043	246-830-990	AMD	99-08-101	251-01-040	AMD-P	99-02-054
246-560-010	AMD	99-03-043	246-834-050	NEW	99-03-064	251-01-040	AMD	99-05-042
246-560-011	NEW	99-03-043	246-834-060	AMD	99-03-064	251-01-190	AMD-P	99-02-054
246-560-025	NEW	99-03-043	246-834-070	AMD	99-03-064	251-01-190	AMD	99-05-042
246-560-035	NEW	99-03-043	246-834-080	AMD	99-03-064	251-01-330	REP-P	99-02-054
246-560-040	AMD	99-03-043	246-834-990	PREP	99-06-090	251-01-330	REP	99-05-042

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
251- 01-400	AMD-P	99-02-054	284- 43	AMD-C	99-03-037	296- 30-020	AMD	99-07-004
251- 01-400	AMD	99-05-042	284- 43	AMD-C	99-03-038	296- 30-025	REP	99-07-004
251- 01-420	REP-P	99-02-054	284- 43-130	AMD-P	99-03-006	296- 30-060	AMD	99-07-004
251- 01-420	REP	99-05-042	284- 43-130	AMD-P	99-03-007	296- 30-081	AMD	99-07-004
251- 01-440	AMD-P	99-02-054	284- 43-810	NEW-P	99-03-006	296- 30-900	AMD	99-07-004
251- 01-440	AMD	99-05-042	284- 43-810	NEW-P	99-03-007	296- 31-010	PREP	99-10-101
251- 17-090	AMD-P	99-02-054	286- 26-100	PREP	99-08-092	296- 31-012	PREP	99-10-101
251- 17-090	AMD	99-05-042	286- 26-100	AMD-P	99-08-114	296- 31-016	PREP	99-10-101
251- 23-010	AMD-P	99-02-054	292-100-005	NEW	99-06-073	296- 31-040	AMD	99-07-004
251- 23-010	AMD	99-05-042	292-100-006	NEW	99-06-073	296- 31-060	PREP	99-10-101
251- 23-030	AMD-P	99-02-054	292-100-007	NEW	99-06-073	296- 31-065	PREP	99-10-101
251- 23-030	AMD	99-05-042	292-100-010	AMD	99-06-073	296- 31-067	PREP	99-10-101
251- 23-040	AMD-P	99-02-054	292-100-020	AMD	99-06-073	296- 31-068	PREP	99-10-101
251- 23-040	AMD	99-05-042	292-100-030	AMD	99-06-073	296- 31-071	AMD	99-07-004
251- 23-050	AMD-P	99-02-054	292-100-040	AMD	99-06-073	296- 31-072	AMD	99-07-004
251- 23-050	AMD	99-05-042	292-100-050	AMD	99-06-073	296- 31-073	AMD	99-07-004
251- 23-060	AMD-P	99-02-054	292-100-060	AMD	99-06-073	296- 31-075	AMD	99-07-004
251- 23-060	AMD	99-05-042	292-100-070	AMD	99-06-073	296- 31-080	AMD	99-07-004
251- 24-030	AMD-P	99-02-054	292-100-080	AMD	99-06-073	296- 31-085	NEW	99-07-004
251- 24-030	AMD	99-05-042	292-100-090	AMD	99-06-073	296- 31-100	REP	99-07-004
251- 24-040	AMD-W	99-05-058	292-100-100	AMD	99-06-073	296- 32	PREP	99-02-083
260- 24-560	AMD	99-05-048	292-100-105	NEW	99-06-073	296- 32	PREP	99-04-057
260- 44-110	AMD-P	99-02-082	292-100-110	AMD	99-06-073	296- 36	PREP	99-02-083
260- 44-110	AMD	99-05-049	292-100-120	AMD	99-06-073	296- 36	PREP	99-06-040
260- 44-120	AMD-P	99-02-082	292-100-130	AMD	99-06-073	296- 37	PREP	99-02-083
260- 44-120	AMD	99-05-049	292-100-140	AMD	99-06-073	296- 45	PREP	99-02-083
260- 48-600	AMD-P	99-02-081	292-100-150	AMD	99-06-073	296- 45-015	AMD-XA	99-04-078
260- 48-600	AMD	99-06-026	292-100-160	AMD	99-06-073	296- 45-015	AMD	99-09-080
260- 48-620	AMD-P	99-02-081	292-100-170	AMD	99-06-073	296- 45-045	AMD-XA	99-04-078
260- 48-620	AMD	99-06-026	292-100-180	AMD	99-06-073	296- 45-045	AMD	99-09-080
260- 48-700	NEW-P	99-02-081	292-100-190	AMD	99-06-073	296- 45-17550	AMD-XA	99-04-078
260- 48-700	NEW	99-06-026	292-100-200	AMD	99-06-073	296- 45-17550	AMD	99-09-080
260- 48-710	NEW-P	99-02-081	292-100-210	NEW	99-06-073	296- 45-215	AMD-XA	99-04-078
260- 48-710	NEW	99-06-026	296- 14	PREP	99-10-025	296- 45-215	AMD	99-09-080
260- 48-720	NEW-P	99-02-081	296- 17	PREP	99-05-051	296- 45-325	AMD-XA	99-04-078
260- 48-720	NEW	99-06-026	296- 17	PREP	99-07-099	296- 45-325	AMD	99-09-080
260- 48-910	NEW-P	99-02-081	296- 17	PREP	99-07-100	296- 45-455	AMD-XA	99-04-078
260- 48-910	NEW	99-06-026	296- 17-900	AMD-E	99-04-106	296- 45-455	AMD	99-09-080
260- 52-070	AMD	99-05-047	296- 20-135	AMD-P	99-05-079	296- 45-901	AMD-XA	99-04-078
260- 75	PREP	99-03-014	296- 20-135	AMD	99-10-043	296- 45-901	AMD	99-09-080
275- 27	PREP	99-10-063	296- 23-220	AMD-P	99-05-079	296- 46-090	AMD	99-05-052
275- 27-020	AMD	99-04-071	296- 23-220	AMD	99-10-043	296- 46-23040	AMD	99-05-052
275- 27-180	NEW	99-04-071	296- 23-230	AMD-P	99-05-079	296- 46-370	AMD	99-05-052
275- 27-185	NEW	99-04-071	296- 23-230	AMD	99-10-043	296- 46-495	AMD	99-05-052
275- 27-190	NEW	99-04-071	296- 24	PREP	99-02-083	296- 46-50002	AMD	99-05-052
275- 27-191	NEW	99-04-071	296- 24	PREP	99-04-057	296- 46-910	AMD-P	99-08-128
275- 27-192	NEW	99-04-071	296- 24	PREP	99-08-070	296- 46-915	AMD-P	99-08-128
275- 27-193	NEW	99-04-071	296- 24-040	AMD-P	99-10-072	296- 46-930	AMD	99-05-052
275- 27-194	NEW	99-04-071	296- 24-07501	AMD	99-10-071	296- 46-940	AMD	99-05-052
275- 27-195	NEW	99-04-071	296- 24-51005	AMD	99-10-071	296- 46-950	AMD	99-05-052
275- 27-196	NEW	99-04-071	296- 24-51009	AMD	99-10-071	296- 50	PREP	99-02-083
275- 27-197	NEW	99-04-071	296- 24-58503	AMD	99-05-080	296- 50	PREP	99-06-040
275- 27-198	NEW	99-04-071	296- 24-58505	AMD	99-05-080	296- 52	PREP	99-02-083
275- 27-199	NEW	99-04-071	296- 24-58513	AMD	99-10-071	296- 52	PREP	99-04-057
275- 27-200	NEW	99-04-071	296- 24-58515	AMD	99-10-071	296- 54	PREP	99-02-083
275- 27-202	NEW	99-04-071	296- 24-58516	NEW	99-10-071	296- 54-501	AMD-P	99-08-072
275- 27-204	NEW	99-04-071	296- 24-58517	AMD	99-10-071	296- 54-503	AMD-P	99-08-072
275- 27-211	NEW	99-04-071	296- 24-67507	AMD	99-10-071	296- 54-505	AMD-P	99-08-072
275- 27-212	NEW	99-04-071	296- 24-67515	AMD	99-10-071	296- 54-507	AMD-P	99-08-072
275- 27-213	NEW	99-04-071	296- 24-67517	AMD	99-10-071	296- 54-509	AMD-P	99-08-072
275- 30-010	AMD	99-03-077	296- 24-71507	AMD	99-10-071	296- 54-511	AMD-P	99-08-072
275- 30-030	AMD	99-03-077	296- 24-71513	AMD	99-10-071	296- 54-51110	NEW-P	99-08-072
275- 30-040	AMD	99-03-077	296- 24-71517	AMD	99-10-071	296- 54-51120	NEW-P	99-08-072
275- 30-050	REP	99-03-077	296- 24-71519	AMD	99-10-071	296- 54-51130	NEW-P	99-08-072
275- 30-060	AMD	99-03-077	296- 27	PREP	99-02-083	296- 54-51140	NEW-P	99-08-072
275- 30-070	AMD	99-03-077	296- 27	PREP	99-08-069	296- 54-51150	NEW-P	99-08-072
275- 30-080	REP	99-03-077	296- 28	PREP	99-02-083	296- 54-51160	NEW-P	99-08-072

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-54-51170	NEW-P	99-08-072	296-54-583	AMD-P	99-08-072	296-62-07130	NEW	99-10-071
296-54-51180	NEW-P	99-08-072	296-54-585	AMD-P	99-08-072	296-62-07131	NEW	99-10-071
296-54-51190	NEW-P	99-08-072	296-54-587	AMD-P	99-08-072	296-62-07132	NEW	99-10-071
296-54-513	AMD-P	99-08-072	296-54-589	AMD-P	99-08-072	296-62-07133	NEW	99-10-071
296-54-515	AMD-P	99-08-072	296-54-58910	NEW-P	99-08-072	296-62-07150	NEW	99-10-071
296-54-51510	NEW-P	99-08-072	296-54-58920	NEW-P	99-08-072	296-62-07151	NEW	99-10-071
296-54-51520	NEW-P	99-08-072	296-54-58930	NEW-P	99-08-072	296-62-07152	NEW	99-10-071
296-54-51530	NEW-P	99-08-072	296-54-58940	NEW-P	99-08-072	296-62-07153	NEW	99-10-071
296-54-517	AMD-P	99-08-072	296-54-58950	NEW-P	99-08-072	296-62-07154	NEW	99-10-071
296-54-519	AMD-P	99-08-072	296-54-58960	NEW-P	99-08-072	296-62-07155	NEW	99-10-071
296-54-521	AMD-P	99-08-072	296-54-58970	NEW-P	99-08-072	296-62-07156	NEW	99-10-071
296-54-523	AMD-P	99-08-072	296-54-591	AMD-P	99-08-072	296-62-07160	NEW	99-10-071
296-54-525	REP-P	99-08-072	296-54-593	AMD-P	99-08-072	296-62-07161	NEW	99-10-071
296-54-527	AMD-P	99-08-072	296-54-59310	NEW-P	99-08-072	296-62-07162	NEW	99-10-071
296-54-529	AMD-P	99-08-072	296-54-59320	NEW-P	99-08-072	296-62-07170	NEW	99-10-071
296-54-531	AMD-P	99-08-072	296-54-59330	NEW-P	99-08-072	296-62-07171	NEW	99-10-071
296-54-533	AMD-P	99-08-072	296-54-59340	NEW-P	99-08-072	296-62-07172	NEW	99-10-071
296-54-535	AMD-P	99-08-072	296-54-595	AMD-P	99-08-072	296-62-07175	NEW	99-10-071
296-54-537	AMD-P	99-08-072	296-54-59510	NEW-P	99-08-072	296-62-07176	NEW	99-10-071
296-54-539	AMD-P	99-08-072	296-54-59520	NEW-P	99-08-072	296-62-07177	NEW	99-10-071
296-54-53910	NEW-P	99-08-072	296-54-597	AMD-P	99-08-072	296-62-07178	NEW	99-10-071
296-54-53920	NEW-P	99-08-072	296-54-59710	NEW-P	99-08-072	296-62-07179	NEW	99-10-071
296-54-53930	NEW-P	99-08-072	296-54-59720	NEW-P	99-08-072	296-62-07182	NEW	99-10-071
296-54-53940	NEW-P	99-08-072	296-54-59730	NEW-P	99-08-072	296-62-07184	NEW	99-10-071
296-54-541	AMD-P	99-08-072	296-54-599	REP-P	99-08-072	296-62-07186	NEW	99-10-071
296-54-543	AMD-P	99-08-072	296-54-601	AMD-P	99-08-072	296-62-07188	NEW	99-10-071
296-54-545	AMD-P	99-08-072	296-54-603	AMD-P	99-08-072	296-62-07190	NEW	99-10-071
296-54-547	AMD-P	99-08-072	296-54-604	NEW-P	99-08-072	296-62-07192	NEW	99-10-071
296-54-54710	NEW-P	99-08-072	296-54-605	AMD-P	99-08-072	296-62-07194	NEW	99-10-071
296-54-54720	NEW-P	99-08-072	296-54-607	AMD-P	99-08-072	296-62-07201	NEW	99-10-071
296-54-54730	NEW-P	99-08-072	296-54-701	NEW-P	99-08-072	296-62-07202	NEW	99-10-071
296-54-54740	NEW-P	99-08-072	296-54-70110	NEW-P	99-08-072	296-62-07203	NEW	99-10-071
296-54-54750	NEW-P	99-08-072	296-54-70120	NEW-P	99-08-072	296-62-07205	NEW	99-10-071
296-54-54760	NEW-P	99-08-072	296-54-70130	NEW-P	99-08-072	296-62-07206	NEW	99-10-071
296-54-549	AMD-P	99-08-072	296-54-703	NEW-P	99-08-072	296-62-07208	NEW	99-10-071
296-54-551	AMD-P	99-08-072	296-54-705	NEW-P	99-08-072	296-62-07209	NEW	99-10-071
296-54-553	AMD-P	99-08-072	296-54-707	NEW-P	99-08-072	296-62-07210	NEW	99-10-071
296-54-555	AMD-P	99-08-072	296-54-99002	AMD-P	99-08-072	296-62-07212	NEW	99-10-071
296-54-557	AMD-P	99-08-072	296-54-99003	AMD-P	99-08-072	296-62-07213	NEW	99-10-071
296-54-55710	NEW-P	99-08-072	296-54-99004	AMD-P	99-08-072	296-62-07214	NEW	99-10-071
296-54-55720	NEW-P	99-08-072	296-54-99007	REP-P	99-08-072	296-62-07217	NEW	99-10-071
296-54-55730	NEW-P	99-08-072	296-54-99008	REP-P	99-08-072	296-62-07218	NEW	99-10-071
296-54-559	AMD-P	99-08-072	296-54-99009	REP-P	99-08-072	296-62-07219	NEW	99-10-071
296-54-561	AMD-P	99-08-072	296-54-99010	REP-P	99-08-072	296-62-07222	NEW	99-10-071
296-54-563	AMD-P	99-08-072	296-54-99013	NEW-P	99-08-072	296-62-07223	NEW	99-10-071
296-54-565	AMD-P	99-08-072	296-54-99014	NEW-P	99-08-072	296-62-07224	NEW	99-10-071
296-54-567	AMD-P	99-08-072	296-56	PREP	99-02-083	296-62-07225	NEW	99-10-071
296-54-569	AMD-P	99-08-072	296-56-60053	AMD	99-10-071	296-62-07230	NEW	99-10-071
296-54-571	AMD-P	99-08-072	296-56-60235	AMD	99-10-071	296-62-07231	NEW	99-10-071
296-54-573	AMD-P	99-08-072	296-59	PREP	99-02-083	296-62-07233	NEW	99-10-071
296-54-57310	NEW-P	99-08-072	296-59	PREP	99-06-040	296-62-07234	NEW	99-10-071
296-54-57315	NEW-P	99-08-072	296-62	PREP	99-02-083	296-62-07235	NEW	99-10-071
296-54-57320	NEW-P	99-08-072	296-62	PREP	99-04-057	296-62-07236	NEW	99-10-071
296-54-57325	NEW-P	99-08-072	296-62	PREP	99-07-014	296-62-07238	NEW	99-10-071
296-54-57330	NEW-P	99-08-072	296-62-071	AMD	99-10-071	296-62-07239	NEW	99-10-071
296-54-57335	NEW-P	99-08-072	296-62-07101	AMD	99-10-071	296-62-07240	NEW	99-10-071
296-54-57340	NEW-P	99-08-072	296-62-07102	NEW	99-10-071	296-62-07242	NEW	99-10-071
296-54-57345	NEW-P	99-08-072	296-62-07103	AMD	99-10-071	296-62-07243	NEW	99-10-071
296-54-57350	NEW-P	99-08-072	296-62-07105	AMD	99-10-071	296-62-07245	NEW	99-10-071
296-54-57355	NEW-P	99-08-072	296-62-07107	AMD	99-10-071	296-62-07246	NEW	99-10-071
296-54-575	AMD-P	99-08-072	296-62-07109	AMD	99-10-071	296-62-07247	NEW	99-10-071
296-54-577	AMD-P	99-08-072	296-62-07111	AMD	99-10-071	296-62-07248	NEW	99-10-071
296-54-579	AMD-P	99-08-072	296-62-07113	AMD	99-10-071	296-62-07251	NEW	99-10-071
296-54-581	AMD-P	99-08-072	296-62-07115	AMD	99-10-071	296-62-07253	NEW	99-10-071
296-54-58110	NEW-P	99-08-072	296-62-07117	AMD	99-10-071	296-62-07255	NEW	99-10-071
296-54-58120	NEW-P	99-08-072	296-62-07119	REP	99-10-071	296-62-07257	NEW	99-10-071
296-54-58130	NEW-P	99-08-072	296-62-07121	REP	99-10-071	296-62-07260	NEW	99-10-071

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296- 62-07261	NEW	99-10-071	296- 62-130	AMD	99-07-063	296- 62-30930	NEW	99-07-097
296- 62-07263	NEW	99-10-071	296- 62-14533	AMD	99-10-071	296- 62-30935	NEW	99-07-097
296- 62-07265	NEW	99-10-071	296- 62-20011	AMD	99-10-071	296- 62-30940	NEW	99-07-097
296- 62-07267	NEW	99-10-071	296- 62-20019	AMD	99-10-071	296- 62-3100	AMD	99-07-097
296- 62-07269	NEW	99-10-071	296- 62-20027	AMD	99-10-071	296- 62-31005	NEW	99-07-097
296- 62-07271	NEW	99-10-071	296- 62-300	AMD	99-07-097	296- 62-31010	NEW	99-07-097
296- 62-07273	NEW	99-10-071	296- 62-30001	NEW	99-07-097	296- 62-31015	NEW	99-07-097
296- 62-07275	NEW	99-10-071	296- 62-30003	NEW	99-07-097	296- 62-31020	NEW	99-07-097
296- 62-07277	NEW	99-10-071	296- 62-3010	AMD	99-07-097	296- 62-3110	AMD	99-07-097
296- 62-07279	NEW	99-10-071	296- 62-30105	NEW	99-07-097	296- 62-31105	NEW	99-07-097
296- 62-07281	NEW	99-10-071	296- 62-30110	NEW	99-07-097	296- 62-31110	NEW	99-07-097
296- 62-07283	NEW	99-10-071	296- 62-30115	NEW	99-07-097	296- 62-3112	REP	99-07-097
296- 62-07285	NEW	99-10-071	296- 62-30120	NEW	99-07-097	296- 62-3120	AMD	99-07-097
296- 62-07287	NEW	99-10-071	296- 62-30125	NEW	99-07-097	296- 62-3130	AMD	99-07-097
296- 62-07289	NEW	99-10-071	296- 62-30130	NEW	99-07-097	296- 62-31305	NEW	99-07-097
296- 62-07291	NEW	99-10-071	296- 62-30135	NEW	99-07-097	296- 62-31310	NEW	99-07-097
296- 62-07293	NEW	99-10-071	296- 62-30140	NEW	99-07-097	296- 62-31315	NEW	99-07-097
296- 62-07295	NEW	99-10-071	296- 62-30145	NEW	99-07-097	296- 62-31320	NEW	99-07-097
296- 62-07306	AMD	99-10-071	296- 62-3020	AMD	99-07-097	296- 62-31325	NEW	99-07-097
296- 62-07308	AMD	99-10-071	296- 62-30205	NEW	99-07-097	296- 62-31330	NEW	99-07-097
296- 62-07329	AMD	99-10-071	296- 62-30210	NEW	99-07-097	296- 62-31335	NEW	99-07-097
296- 62-07336	AMD	99-10-071	296- 62-30215	NEW	99-07-097	296- 62-3138	AMD	99-07-097
296- 62-07337	AMD	99-10-071	296- 62-30220	NEW	99-07-097	296- 62-3140	AMD	99-07-097
296- 62-07342	AMD	99-10-071	296- 62-30225	NEW	99-07-097	296- 62-31405	NEW	99-07-097
296- 62-07343	AMD	99-10-071	296- 62-30230	NEW	99-07-097	296- 62-31410	NEW	99-07-097
296- 62-07347	AMD	99-10-071	296- 62-30235	NEW	99-07-097	296- 62-31415	NEW	99-07-097
296- 62-07367	AMD	99-10-071	296- 62-3030	AMD	99-07-097	296- 62-31420	NEW	99-07-097
296- 62-07369	AMD	99-10-071	296- 62-30305	NEW	99-07-097	296- 62-31425	NEW	99-07-097
296- 62-07379	REP	99-10-071	296- 62-30310	NEW	99-07-097	296- 62-31430	NEW	99-07-097
296- 62-07383	AMD	99-10-071	296- 62-30315	NEW	99-07-097	296- 62-31435	NEW	99-07-097
296- 62-07413	AMD	99-10-071	296- 62-3040	AMD	99-07-097	296- 62-31440	NEW	99-07-097
296- 62-07425	AMD	99-10-071	296- 62-30405	NEW	99-07-097	296- 62-31445	NEW	99-07-097
296- 62-07431	REP	99-10-071	296- 62-30410	NEW	99-07-097	296- 62-31450	NEW	99-07-097
296- 62-07441	AMD	99-10-071	296- 62-30415	NEW	99-07-097	296- 62-31455	NEW	99-07-097
296- 62-07445	REP	99-10-071	296- 62-30420	NEW	99-07-097	296- 62-31460	NEW	99-07-097
296- 62-07460	AMD	99-10-071	296- 62-30425	NEW	99-07-097	296- 62-31465	NEW	99-07-097
296- 62-07470	AMD	99-10-071	296- 62-30430	NEW	99-07-097	296- 62-31470	NEW	99-07-097
296- 62-07521	AMD	99-10-071	296- 62-30435	NEW	99-07-097	296- 62-3152	AMD	99-07-097
296- 62-07523	AMD	99-10-071	296- 62-30440	NEW	99-07-097	296- 62-3160	AMD	99-07-097
296- 62-07533	REP	99-10-071	296- 62-30445	NEW	99-07-097	296- 62-3180	AMD	99-07-097
296- 62-07540	AMD	99-10-071	296- 62-30450	NEW	99-07-097	296- 62-3190	AMD	99-07-097
296- 62-07550	REP	99-10-071	296- 62-30455	NEW	99-07-097	296- 62-3195	AMD	99-07-097
296- 62-07615	AMD	99-10-071	296- 62-30460	NEW	99-07-097	296- 62-410	NEW	99-07-097
296- 62-07635	REP	99-10-071	296- 62-30465	NEW	99-07-097	296- 62-41001	NEW	99-07-097
296- 62-07639	REP	99-10-071	296- 62-3050	AMD	99-07-097	296- 62-41003	NEW	99-07-097
296- 62-07662	REP	99-10-071	296- 62-30505	NEW	99-07-097	296- 62-41010	NEW	99-07-097
296- 62-07664	REP	99-10-071	296- 62-30510	NEW	99-07-097	296- 62-41011	NEW	99-07-097
296- 62-07666	REP	99-10-071	296- 62-30515	NEW	99-07-097	296- 62-41013	NEW	99-07-097
296- 62-07668	REP	99-10-071	296- 62-30520	NEW	99-07-097	296- 62-41015	NEW	99-07-097
296- 62-07670	REP	99-10-071	296- 62-30525	NEW	99-07-097	296- 62-41017	NEW	99-07-097
296- 62-07672	REP	99-10-071	296- 62-30530	NEW	99-07-097	296- 62-41019	NEW	99-07-097
296- 62-07701	AMD-P	99-08-071	296- 62-30535	NEW	99-07-097	296- 62-41020	NEW	99-07-097
296- 62-07703	AMD-P	99-08-071	296- 62-3060	AMD	99-07-097	296- 62-41021	NEW	99-07-097
296- 62-07709	AMD-P	99-08-071	296- 62-30605	NEW	99-07-097	296- 62-41023	NEW	99-07-097
296- 62-07712	AMD-P	99-08-071	296- 62-30610	NEW	99-07-097	296- 62-41025	NEW	99-07-097
296- 62-07713	AMD-P	99-08-071	296- 62-30615	NEW	99-07-097	296- 62-41030	NEW	99-07-097
296- 62-07715	AMD	99-10-071	296- 62-3070	AMD	99-07-097	296- 62-41031	NEW	99-07-097
296- 62-07721	AMD-P	99-08-071	296- 62-30705	NEW	99-07-097	296- 62-41033	NEW	99-07-097
296- 62-07722	AMD-P	99-08-071	296- 62-30710	NEW	99-07-097	296- 62-41035	NEW	99-07-097
296- 62-07722	AMD	99-10-071	296- 62-30715	NEW	99-07-097	296- 62-41040	NEW	99-07-097
296- 62-07728	AMD-P	99-08-071	296- 62-3080	AMD	99-07-097	296- 62-41041	NEW	99-07-097
296- 62-07733	AMD	99-10-071	296- 62-3090	AMD	99-07-097	296- 62-41042	NEW	99-07-097
296- 62-07735	AMD-P	99-08-071	296- 62-30905	NEW	99-07-097	296- 62-41043	NEW	99-07-097
296- 62-07737	AMD-P	99-08-071	296- 62-30910	NEW	99-07-097	296- 62-41044	NEW	99-07-097
296- 62-07739	REP	99-10-071	296- 62-30915	NEW	99-07-097	296- 62-41045	NEW	99-07-097
296- 62-11019	AMD	99-10-071	296- 62-30920	NEW	99-07-097	296- 62-41046	NEW	99-07-097
296- 62-11021	AMD	99-10-071	296- 62-30925	NEW	99-07-097	296- 62-41047	NEW	99-07-097

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-62-41060	NEW	99-07-097	296-79-29011	AMD-P	99-06-071	296-104-165	PREP	99-05-021
296-62-41061	NEW	99-07-097	296-79-29013	AMD-P	99-06-071	296-104-170	PREP	99-05-021
296-62-41063	NEW	99-07-097	296-79-29015	AMD-P	99-06-071	296-104-285	REP-P	99-04-036
296-62-41080	NEW	99-07-097	296-79-29017	AMD-P	99-06-071	296-104-285	REP	99-08-049
296-62-41081	NEW	99-07-097	296-79-29019	REP-P	99-06-071	296-104-502	PREP	99-05-021
296-62-41082	NEW	99-07-097	296-79-29021	AMD-P	99-06-071	296-104-700	AMD-P	99-04-036
296-62-41084	NEW	99-07-097	296-79-29023	AMD-P	99-06-071	296-104-700	AMD	99-08-049
296-62-41085	NEW	99-07-097	296-79-29025	REP-P	99-06-071	296-115	PREP	99-02-083
296-62-41086	NEW	99-07-097	296-79-29027	AMD-P	99-06-071	296-125-0212	NEW-W	99-09-081
296-63	PREP	99-02-083	296-79-29029	AMD-P	99-06-071	296-125-0630	NEW-W	99-09-081
296-65	PREP	99-02-083	296-79-29031	AMD-P	99-06-071	296-125-0725	NEW-W	99-09-081
296-65-003	AMD-P	99-08-071	296-79-29033	AMD-P	99-06-071	296-150C	PREP	99-05-078
296-65-010	AMD-P	99-08-071	296-79-29035	AMD-P	99-06-071	296-150C-0140	NEW-P	99-08-129
296-65-012	AMD-P	99-08-071	296-79-29037	AMD-P	99-06-071	296-150C-0320	AMD-P	99-08-129
296-65-020	AMD-P	99-08-071	296-79-300	AMD-P	99-06-071	296-150C-0805	NEW-P	99-08-129
296-65-025	AMD-P	99-08-071	296-79-310	AMD-P	99-06-071	296-150C-0810	AMD-P	99-08-129
296-65-030	AMD-P	99-08-071	296-79-31001	AMD-P	99-06-071	296-150C-0960	AMD-P	99-08-129
296-67	PREP	99-02-083	296-79-31003	AMD-P	99-06-071	296-150C-1080	AMD-P	99-08-129
296-78	PREP	99-02-083	296-79-31005	REP-P	99-06-071	296-150C-1345	NEW-P	99-08-129
296-78	PREP	99-06-040	296-79-31007	REP-P	99-06-071	296-150C-1545	NEW-P	99-08-129
296-78-665	AMD	99-10-071	296-79-31009	AMD-P	99-06-071	296-150C-1580	AMD-P	99-08-129
296-78-71019	AMD	99-10-071	296-79-31011	REP-P	99-06-071	296-150C-3000	AMD-P	99-08-128
296-79	PREP	99-02-083	296-79-31013	REP-P	99-06-071	296-150F	PREP	99-05-078
296-79-010	AMD-P	99-06-071	296-79-320	AMD-P	99-06-071	296-150F-0050	NEW-P	99-08-129
296-79-011	NEW-P	99-06-071	296-86A-020	AMD-P	99-08-128	296-150F-0140	NEW-P	99-08-129
296-79-020	AMD-P	99-06-071	296-86A-025	AMD-P	99-08-128	296-150F-0320	AMD-P	99-08-129
296-79-030	AMD-P	99-06-071	296-86A-028	AMD-P	99-08-128	296-150F-0605	NEW-P	99-08-129
296-79-040	AMD-P	99-06-071	296-86A-030	AMD-P	99-08-128	296-150F-0610	NEW-P	99-08-129
296-79-050	AMD-P	99-06-071	296-86A-040	AMD-P	99-08-128	296-150F-0615	NEW-P	99-08-129
296-79-060	REP-P	99-06-071	296-86A-060	AMD-P	99-08-128	296-150F-0620	NEW-P	99-08-129
296-79-070	AMD-P	99-06-071	296-86A-070	AMD-P	99-08-128	296-150F-0625	NEW-P	99-08-129
296-79-080	AMD-P	99-06-071	296-86A-073	AMD-P	99-08-128	296-150F-3000	AMD-P	99-08-128
296-79-090	AMD-P	99-06-071	296-86A-074	AMD-P	99-08-128	296-150M	PREP	99-05-078
296-79-100	AMD-P	99-06-071	296-86A-075	AMD-P	99-08-128	296-150M-0020	AMD-P	99-08-129
296-79-110	AMD-P	99-06-071	296-86A-080	AMD-P	99-08-128	296-150M-0120	NEW-P	99-08-129
296-79-120	AMD-P	99-06-071	296-99	PREP	99-02-083	296-150M-0140	NEW-P	99-08-129
296-79-130	AMD-P	99-06-071	296-104-001	PREP	99-05-021	296-150M-0306	AMD-P	99-08-129
296-79-140	AMD-P	99-06-071	296-104-002	PREP	99-05-021	296-150M-0309	NEW-P	99-08-129
296-79-150	AMD-P	99-06-071	296-104-010	PREP	99-05-021	296-150M-0400	REP-P	99-08-129
296-79-160	AMD-P	99-06-071	296-104-015	PREP	99-05-021	296-150M-0600	AMD-P	99-08-129
296-79-170	AMD-P	99-06-071	296-104-017	PREP	99-05-021	296-150M-0610	AMD-P	99-08-129
296-79-180	AMD-P	99-06-071	296-104-018	PREP	99-05-021	296-150M-0614	NEW-P	99-08-129
296-79-190	AMD-P	99-06-071	296-104-020	PREP	99-05-021	296-150M-0615	NEW-P	99-08-129
296-79-200	AMD-P	99-06-071	296-104-025	PREP	99-05-021	296-150M-0640	AMD-P	99-08-129
296-79-210	AMD-P	99-06-071	296-104-030	PREP	99-05-021	296-150M-0655	NEW-P	99-08-129
296-79-220	AMD-P	99-06-071	296-104-035	PREP	99-05-021	296-150M-3000	AMD-P	99-08-128
296-79-230	AMD-P	99-06-071	296-104-040	PREP	99-05-021	296-150P	PREP	99-05-078
296-79-240	AMD-P	99-06-071	296-104-045	PREP	99-05-021	296-150P-0020	AMD-P	99-08-129
296-79-250	AMD-P	99-06-071	296-104-050	PREP	99-05-021	296-150P-0050	NEW-P	99-08-129
296-79-255	REP-P	99-06-071	296-104-055	PREP	99-05-021	296-150P-0140	NEW-P	99-08-129
296-79-260	AMD-P	99-06-071	296-104-060	PREP	99-05-021	296-150P-3000	AMD-P	99-08-128
296-79-270	AMD-P	99-06-071	296-104-065	PREP	99-05-021	296-150R	PREP	99-05-078
296-79-27001	REP-P	99-06-071	296-104-100	PREP	99-05-021	296-150R-0020	AMD-P	99-08-129
296-79-27003	AMD-P	99-06-071	296-104-102	PREP	99-05-021	296-150R-0050	NEW-P	99-08-129
296-79-27005	AMD-P	99-06-071	296-104-105	PREP	99-05-021	296-150R-0140	NEW-P	99-08-129
296-79-27007	AMD-P	99-06-071	296-104-107	PREP	99-05-021	296-150R-3000	AMD-P	99-08-128
296-79-27009	AMD-P	99-06-071	296-104-110	PREP	99-05-021	296-150T-0010	NEW-P	99-08-130
296-79-27011	AMD-P	99-06-071	296-104-115	PREP	99-05-021	296-150T-0020	NEW-P	99-08-130
296-79-27013	AMD-P	99-06-071	296-104-125	PREP	99-05-021	296-150T-0030	NEW-P	99-08-130
296-79-27015	AMD-P	99-06-071	296-104-130	PREP	99-05-021	296-150T-0040	NEW-P	99-08-130
296-79-280	AMD-P	99-06-071	296-104-135	PREP	99-05-021	296-150T-0050	NEW-P	99-08-130
296-79-290	AMD-P	99-06-071	296-104-140	PREP	99-05-021	296-150T-0070	NEW-P	99-08-130
296-79-29001	AMD-P	99-06-071	296-104-145	PREP	99-05-021	296-150T-0080	NEW-P	99-08-130
296-79-29003	AMD-P	99-06-071	296-104-150	PREP	99-05-021	296-150T-0100	NEW-P	99-08-130
296-79-29005	AMD-P	99-06-071	296-104-151	PREP	99-05-021	296-150T-0110	NEW-P	99-08-130
296-79-29007	AMD-P	99-06-071	296-104-155	PREP	99-05-021	296-150T-0120	NEW-P	99-08-130
296-79-29009	AMD-P	99-06-071	296-104-160	PREP	99-05-021	296-150T-0130	NEW-P	99-08-130

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-150T-0140	NEW-P	99-08-130	296-305-02015	AMD	99-05-080	308- 56A-065	AMD	99-08-064
296-150T-0200	NEW-P	99-08-130	296-305-02501	AMD	99-10-071	308- 56A-070	AMD-P	99-04-037
296-150T-0210	NEW-P	99-08-130	296-305-04001	AMD	99-05-080	308- 56A-070	AMD	99-08-064
296-150T-0220	NEW-P	99-08-130	296-305-04501	AMD	99-05-080	308- 56A-075	AMD-P	99-04-037
296-150T-0230	NEW-P	99-08-130	296-305-04503	AMD	99-05-080	308- 56A-075	AMD	99-08-064
296-150T-0250	NEW-P	99-08-130	296-305-05001	AMD	99-05-080	308- 56A-140	AMD-P	99-07-016
296-150T-0300	NEW-P	99-08-130	296-305-05007	AMD	99-05-080	308- 56A-145	REP-P	99-07-016
296-150T-0320	NEW-P	99-08-130	296-305-05009	AMD	99-05-080	308- 56A-160	AMD-P	99-07-016
296-150T-0340	NEW-P	99-08-130	296-305-06005	AMD	99-05-080	308- 56A-200	AMD-P	99-07-016
296-150T-0350	NEW-P	99-08-130	296-305-06007	AMD	99-05-080	308- 56A-205	REP-P	99-07-016
296-150T-0380	NEW-P	99-08-130	296-307	PREP	99-02-083	308- 56A-215	AMD-P	99-07-016
296-150T-0390	NEW-P	99-08-130	296-350	PREP	99-02-083	308- 56A-250	AMD-P	99-04-038
296-150T-0400	NEW-P	99-08-130	296-350	PREP	99-08-069	308- 56A-250	AMD	99-08-065
296-150T-0410	NEW-P	99-08-130	296-400A-045	AMD-XA	99-03-109	308- 56A-255	REP-P	99-04-038
296-150T-0500	NEW-P	99-08-130	296-400A-045	AMD	99-07-101	308- 56A-255	REP	99-08-065
296-150T-0510	NEW-P	99-08-130	296-401A-100	AMD	99-05-052	308- 56A-265	AMD-P	99-04-038
296-150T-0520	NEW-P	99-08-130	296-401A-140	AMD	99-05-052	308- 56A-265	AMD	99-08-065
296-150T-0530	NEW-P	99-08-130	296-401A-530	AMD	99-05-052	308- 56A-270	AMD-P	99-04-038
296-150T-0540	NEW-P	99-08-130	296-401A-700	AMD-P	99-08-128	308- 56A-270	AMD	99-08-065
296-150T-0550	NEW-P	99-08-130	308- 10-010	PREP	99-08-036	308- 56A-275	AMD-P	99-04-038
296-150T-0580	NEW-P	99-08-130	308- 10-045	AMD-XA	99-05-004	308- 56A-275	AMD	99-08-065
296-150T-0590	NEW-P	99-08-130	308- 10-045	AMD	99-09-045	308- 56A-280	REP-P	99-04-038
296-150T-0600	NEW-P	99-08-130	308- 12-320	AMD-P	99-05-050	308- 56A-280	REP	99-08-065
296-150T-0700	NEW-P	99-08-130	308- 12-320	AMD	99-08-062	308- 56A-285	REP-P	99-04-038
296-150T-0710	NEW-P	99-08-130	308- 12-326	AMD-P	99-05-050	308- 56A-285	REP	99-08-065
296-150T-0720	NEW-P	99-08-130	308- 12-326	AMD	99-08-062	308- 56A-300	AMD-P	99-09-043
296-150T-3000	NEW-P	99-08-130	308- 19-010	AMD-P	99-08-087	308- 56A-305	AMD-P	99-09-043
296-155	PREP	99-02-083	308- 19-020	AMD-P	99-08-087	308- 56A-310	AMD-P	99-09-043
296-155	PREP	99-04-057	308- 19-030	AMD-P	99-08-087	308- 56A-315	AMD-P	99-09-043
296-155	PREP	99-06-040	308- 19-100	AMD-P	99-08-087	308- 56A-320	AMD-P	99-09-043
296-155	PREP	99-07-015	308- 19-105	NEW-P	99-08-087	308- 56A-325	AMD-P	99-09-043
296-155	PREP	99-08-070	308- 19-110	AMD-P	99-08-087	308- 56A-330	AMD-P	99-09-043
296-155-17317	AMD	99-10-071	308- 19-140	AMD-P	99-08-087	308- 56A-335	AMD	99-06-037
296-155-17335	REP	99-10-071	308- 19-150	AMD-P	99-08-087	308- 56A-340	REP	99-06-037
296-155-17337	AMD	99-10-071	308- 19-160	AMD-P	99-08-087	308- 56A-345	REP	99-06-037
296-155-17341	AMD	99-10-071	308- 19-200	AMD-P	99-08-087	308- 56A-350	REP	99-06-037
296-155-17349	REP	99-10-071	308- 19-210	AMD-P	99-08-087	308- 56A-355	AMD	99-06-037
296-155-17351	REP	99-10-071	308- 19-220	AMD-P	99-08-087	308- 56A-360	REP	99-06-037
296-155-17353	REP	99-10-071	308- 19-230	AMD-P	99-08-087	308- 56A-365	REP	99-06-037
296-155-17355	REP	99-10-071	308- 19-240	AMD-P	99-08-087	308- 56A-420	AMD	99-02-049
296-155-17357	REP	99-10-071	308- 19-250	AMD-P	99-08-087	308- 57	PREP	99-07-080
296-155-17359	REP	99-10-071	308- 19-300	AMD-P	99-08-087	308- 57-500	NEW-P	99-09-044
296-155-174	AMD	99-10-071	308- 19-400	AMD-P	99-08-087	308- 58-010	PREP	99-10-054
296-155-17613	AMD	99-10-071	308- 19-410	AMD-P	99-08-087	308- 58-020	PREP	99-10-054
296-155-17625	AMD	99-10-071	308- 19-420	AMD-P	99-08-087	308- 58-030	PREP	99-10-054
296-155-17635	REP	99-10-071	308- 19-430	NEW-P	99-08-087	308- 58-040	PREP	99-10-054
296-155-17652	AMD	99-10-071	308- 19-440	NEW-P	99-08-087	308- 58-050	PREP	99-10-054
296-155-17656	REP	99-10-071	308- 21-010	REP-XR	99-10-026	308- 66-190	AMD	99-02-049
296-155-220	AMD	99-10-071	308- 21-100	REP-XR	99-10-026	308- 66-190	AMD-W	99-05-059
296-155-367	AMD	99-10-071	308- 21-200	REP-XR	99-10-026	308- 78	PREP	99-08-127
296-155-655	AMD	99-10-071	308- 21-300	REP-XR	99-10-026	308- 78-020	PREP	99-08-127
296-155-730	AMD	99-10-071	308- 21-400	REP-XR	99-10-026	308- 78-030	PREP	99-08-127
296-200A-900	AMD-P	99-08-128	308- 21-500	REP-XR	99-10-026	308- 78-040	PREP	99-08-127
296-301	PREP	99-04-057	308- 21-600	REP-XR	99-10-026	308- 78-045	PREP	99-08-127
296-301	PREP	99-06-040	308- 32-015	REP-XR	99-09-056	308- 78-050	PREP	99-08-127
296-302	PREP	99-02-083	308- 32-020	REP-XR	99-09-056	308- 78-060	PREP	99-08-127
296-303	PREP	99-02-083	308- 32-030	REP-XR	99-09-056	308- 78-070	PREP	99-08-127
296-304	PREP	99-02-083	308- 32-040	REP-XR	99-09-056	308- 78-080	PREP	99-08-127
296-304-03005	AMD	99-10-071	308- 32-050	REP-XR	99-09-056	308- 78-090	PREP	99-08-127
296-305	PREP	99-02-083	308- 32-060	REP-XR	99-09-056	308- 93-135	PREP	99-10-057
296-305-01003	AMD	99-05-080	308- 32-070	REP-XR	99-09-056	308- 93-140	PREP	99-10-057
296-305-01005	AMD	99-05-080	308- 32-080	REP-XR	99-09-056	308- 93-145	PREP	99-10-057
296-305-01509	AMD	99-05-080	308- 32-090	REP-XR	99-09-056	308- 93-155	PREP	99-10-057
296-305-02001	AMD	99-05-080	308- 48-800	PREP	99-10-016	308- 93-250	AMD	99-03-002
296-305-02003	AMD	99-05-080	308- 56A-060	AMD-P	99-04-037	308- 93-270	AMD	99-03-002
296-305-02007	AMD	99-05-080	308- 56A-060	AMD	99-08-064	308- 93-280	AMD	99-03-002
296-305-02013	AMD	99-05-080	308- 56A-065	AMD-P	99-04-037	308- 93-320	PREP	99-10-057

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
308-93-410	REP	99-03-002	308-125-120	AMD	99-04-075	315-11A-173	REP-XR	99-10-031
308-93-520	AMD	99-07-041	308-125-200	AMD	99-04-074	315-11A-174	REP-XR	99-10-031
308-93-530	AMD	99-07-041	308-330-300	AMD	99-04-070	315-11A-175	REP-XR	99-10-031
308-93-540	AMD	99-07-041	308-330-307	AMD	99-04-070	315-11A-176	REP-XR	99-10-031
308-93-550	REP	99-07-041	308-330-425	AMD	99-04-070	315-11A-177	REP-XR	99-10-031
308-93-560	REP	99-07-041	308-400-030	AMD	99-06-003	315-11A-178	REP-XR	99-10-031
308-93-570	REP	99-07-041	308-400-050	REP	99-06-003	315-11A-179	REP-XR	99-10-031
308-93-580	REP	99-07-041	308-400-053	AMD	99-06-003	315-11A-180	REP-XR	99-10-031
308-93-590	REP	99-07-041	308-400-054	REP	99-06-003	315-11A-181	REP-XR	99-10-031
308-93-600	REP	99-07-041	308-400-058	AMD	99-06-003	315-11A-182	REP-XR	99-10-031
308-93-620	REP	99-03-002	308-400-059	AMD	99-06-003	315-11A-184	REP-XR	99-10-031
308-96A	PREP	99-07-040	308-400-062	AMD	99-06-003	315-11A-185	REP-XR	99-10-031
308-96A	PREP-W	99-07-079	308-400-070	REP	99-06-003	315-11A-186	REP-XR	99-10-031
308-96A-046	PREP	99-10-056	308-400-095	AMD	99-06-003	315-33A-060	AMD-P	99-04-012
308-96A-050	PREP	99-10-056	308-400-120	AMD	99-06-003	315-33A-060	AMD-W	99-05-036
308-96A-056	PREP	99-10-056	308-410-050	REP	99-06-003	315-33A-060	AMD-P	99-10-052
308-96A-057	PREP	99-10-056	308-410-070	AMD	99-06-003	315-34-055	PREP	99-10-051
308-96A-061	PREP	99-10-058	314-04-005	AMD-P	99-08-014	315-34-060	AMD-P	99-04-012
308-96A-062	PREP	99-10-058	314-04-006	NEW-P	99-08-014	315-34-060	AMD-W	99-05-036
308-96A-063	PREP	99-10-058	314-04-007	NEW-P	99-08-014	317-100-010	REP	99-07-076
308-96A-064	PREP	99-10-058	314-04-010	REP-XR	99-09-038	317-100-020	REP	99-07-076
308-96A-080	PREP	99-03-003	314-10-040	AMD	99-03-031	317-100-030	REP	99-07-076
308-96A-085	PREP	99-03-003	314-12	PREP	99-09-039	317-100-040	REP	99-07-076
308-96A-090	PREP	99-03-003	314-12-170	AMD	99-03-032	317-100-050	REP	99-07-076
308-96A-097	PREP	99-03-003	314-12-210	NEW-S	99-06-097	317-100-060	REP	99-07-076
308-96A-099	NEW	99-06-029	314-12-215	NEW-S	99-06-097	317-100-070	REP	99-07-076
308-96A-100	REP	99-06-029	314-12-220	NEW-S	99-06-097	317-100-080	REP	99-07-076
308-96A-101	NEW	99-06-029	314-12-225	NEW-S	99-06-097	317-100-090	REP	99-07-076
308-96A-105	REP	99-06-029	314-12-300	NEW	99-03-032	326-02-034	PREP	99-05-083
308-96A-106	REP	99-06-029	314-12-310	NEW	99-03-032	326-30-041	PREP	99-05-082
308-96A-110	AMD	99-06-029	314-12-320	NEW	99-03-032	332-24-221	AMD-P	99-08-117
308-96A-120	REP	99-06-029	314-12-330	NEW	99-03-032	332-30-170	NEW	99-07-034
308-96A-135	AMD	99-06-029	314-12-340	NEW	99-03-032	332-52-065	PREP	99-08-116
308-96A-136	AMD	99-06-029	314-14-160	AMD	99-03-033	352-12	AMD	99-04-117
308-96A-145	AMD	99-06-029	314-14-165	NEW	99-03-033	352-12-005	AMD	99-04-117
308-96A-505	PREP	99-10-056	314-14-170	NEW	99-03-033	352-12-010	AMD	99-04-117
308-96A-510	PREP	99-10-056	314-15	PREP	99-09-039	352-12-020	AMD	99-04-117
308-96A-520	PREP	99-10-056	314-16	PREP	99-09-039	352-12-030	AMD	99-04-117
308-96A-530	PREP	99-10-056	314-16-160	PREP	99-04-002	352-12-040	AMD	99-04-117
308-96A-540	PREP	99-10-056	314-16-180	PREP	99-04-113	352-12-050	AMD	99-04-117
308-99-010	PREP	99-10-055	314-16-260	NEW-S	99-07-085	352-32	PREP	99-06-042
308-99-020	PREP	99-10-055	314-16-265	NEW-S	99-07-085	352-32-070	PREP	99-06-042
308-99-021	PREP	99-10-055	314-16-270	NEW-S	99-07-085	352-32-070	AMD-P	99-10-065
308-99-025	PREP	99-10-055	314-16-275	NEW-S	99-07-085	352-32-075	PREP	99-06-042
308-99-030	PREP	99-10-055	314-20	PREP	99-04-112	352-32-075	AMD-P	99-10-065
308-99-040	PREP	99-10-055	314-37-030	NEW	99-04-114	352-32-25001	AMD-P	99-04-118
308-99-050	PREP	99-10-055	314-68-010	AMD-P	99-05-014	352-32-25001	AMD	99-08-031
308-104-109	NEW-P	99-02-052	314-68-010	AMD	99-10-066	352-32-25002	REP-P	99-04-118
308-104-109	NEW	99-05-032	314-68-020	AMD-P	99-05-014	352-32-25002	REP	99-08-031
308-124	AMD	99-03-042	314-68-020	AMD	99-10-066	352-37-020	AMD-W	99-08-084
308-124-001	REP	99-03-042	314-68-030	AMD-P	99-05-014	352-37-190	AMD-W	99-08-084
308-124-005	REP	99-03-042	314-68-030	AMD	99-10-066	356-05-012	NEW-P	99-02-053
308-124-007	AMD	99-03-042	314-68-040	AMD-P	99-05-014	356-05-012	NEW	99-05-043
308-124-021	AMD	99-03-042	314-68-040	AMD	99-10-066	356-05-013	AMD-P	99-02-053
308-124A-200	AMD	99-03-042	314-68-050	AMD-P	99-05-014	356-05-013	AMD	99-05-043
308-124A-460	AMD	99-03-042	314-68-050	AMD	99-10-066	356-05-207	AMD-P	99-02-053
308-124B-140	AMD	99-03-042	315-04	PREP	99-04-076	356-05-207	AMD	99-05-043
308-124B-145	NEW	99-03-042	315-04-190	PREP	99-04-003	356-05-327	REP-P	99-02-053
308-124B-150	AMD	99-03-042	315-06-075	NEW	99-04-077	356-05-327	REP	99-05-043
308-124C-010	AMD	99-03-042	315-06-085	NEW	99-04-077	356-05-447	AMD-P	99-02-053
308-124D-061	AMD	99-03-042	315-11A-166	REP-XR	99-10-031	356-05-447	AMD	99-05-043
308-124D-070	NEW	99-03-042	315-11A-167	REP-XR	99-10-031	356-09-010	AMD-P	99-02-053
308-124D-080	NEW	99-03-042	315-11A-168	REP-XR	99-10-031	356-09-010	AMD	99-05-043
308-124F-010	REP	99-03-042	315-11A-169	REP-XR	99-10-031	356-09-030	AMD-P	99-02-053
308-124F-020	REP	99-03-042	315-11A-170	REP-XR	99-10-031	356-09-030	AMD	99-05-043
308-124F-030	REP	99-03-042	315-11A-171	REP-XR	99-10-031	356-09-040	AMD-P	99-02-053
308-125-090	AMD-P	99-08-028	315-11A-172	REP-XR	99-10-031	356-09-040	AMD	99-05-043

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
356- 09-050	AMD-P	99-02-053	388- 86-0022	PREP	99-05-044	388-310-0100	AMD	99-08-051
356- 09-050	AMD	99-05-043	388- 86-047	REP-P	99-05-073	388-310-0200	AMD-P	99-05-072
356- 22-010	AMD-P	99-02-053	388- 86-047	REP	99-09-007	388-310-0200	AMD	99-08-051
356- 22-010	AMD	99-05-043	388- 86-059	PREP	99-06-043	388-310-0300	AMD-P	99-05-071
356- 22-040	AMD-P	99-02-053	388- 86-073	PREP	99-03-075	388-310-0300	AMD	99-10-027
356- 22-040	AMD	99-05-043	388- 86-097	REP-P	99-08-122	388-310-0400	AMD-P	99-05-071
356- 22-090	AMD-P	99-02-053	388- 86-100	AMD-W	99-08-080	388-310-0400	AMD	99-10-027
356- 22-090	AMD	99-05-043	388- 86-200	PREP	99-06-043	388-310-0500	AMD-P	99-05-071
356- 22-180	AMD-P	99-02-053	388- 86-200	AMD-W	99-08-080	388-310-0500	AMD	99-10-027
356- 22-180	AMD	99-05-043	388- 87-0005	PREP	99-05-044	388-310-0600	AMD-P	99-05-071
356- 26-010	AMD-P	99-02-053	388- 87-0007	PREP	99-05-044	388-310-0600	AMD	99-10-027
356- 26-010	AMD	99-05-043	388- 87-0008	PREP	99-05-044	388-310-0700	AMD-P	99-05-071
356- 26-060	AMD-P	99-02-053	388- 87-0010	PREP	99-05-044	388-310-0700	AMD	99-10-027
356- 26-060	AMD	99-05-043	388- 87-0011	PREP	99-05-044	388-310-0800	AMD-P	99-05-071
356- 26-070	AMD-P	99-02-053	388- 87-0020	PREP	99-05-044	388-310-0800	AMD-S	99-10-028
356- 26-070	AMD	99-05-043	388- 87-0025	PREP	99-05-044	388-310-0900	AMD-P	99-05-071
356- 26-110	AMD	99-03-044	388- 87-0105	PREP	99-05-044	388-310-0900	AMD	99-10-027
356- 30-010	AMD-P	99-02-053	388- 87-0250	PREP	99-05-044	388-310-1000	AMD-P	99-05-071
356- 30-010	AMD	99-05-043	388- 87-079	PREP	99-06-043	388-310-1000	AMD	99-10-027
363-116-082	AMD	99-08-003	388- 87-080	REP-P	99-08-122	388-310-1050	AMD-P	99-05-071
363-116-300	AMD-P	99-08-075	388-200-1160	PREP	99-08-040	388-310-1050	AMD	99-10-027
365- 18-010	NEW-S	99-04-072	388-290-010	AMD-P	99-08-121	388-310-1100	AMD-P	99-05-071
365- 18-020	NEW-S	99-04-072	388-290-015	NEW-P	99-08-121	388-310-1100	AMD	99-10-027
365- 18-030	NEW-S	99-04-072	388-290-020	REP-P	99-08-121	388-310-1200	AMD-P	99-05-071
365- 18-040	NEW-S	99-04-072	388-290-025	REP-P	99-08-121	388-310-1200	AMD	99-10-027
365- 18-050	NEW-S	99-04-072	388-290-030	REP-P	99-08-121	388-310-1200	AMD	99-05-071
365- 18-060	NEW-S	99-04-072	388-290-035	REP-P	99-08-121	388-310-1300	AMD-P	99-05-072
365- 18-070	NEW-S	99-04-072	388-290-050	REP-P	99-08-121	388-310-1300	AMD	99-08-051
365- 18-080	NEW-S	99-04-072	388-290-055	REP-P	99-08-121	388-310-1400	AMD-P	99-05-071
365- 18-090	NEW-S	99-04-072	388-290-060	REP-P	99-08-121	388-310-1400	AMD	99-10-027
365- 18-100	NEW-S	99-04-072	388-290-070	REP-P	99-08-121	388-310-1500	AMD-P	99-05-071
365- 18-110	NEW-S	99-04-072	388-290-075	NEW-P	99-08-121	388-310-1500	AMD	99-10-027
365- 18-120	NEW-S	99-04-072	388-290-080	REP-P	99-08-121	388-310-1600	AMD-P	99-05-071
365-130	PREP	99-08-059	388-290-080	REP-P	99-08-121	388-310-1600	AMD	99-10-027
365-140	PREP	99-06-025	388-290-090	REP-P	99-08-121	388-310-1600	AMD	99-10-027
365-140-010	AMD-P	99-10-114	388-290-1000	NEW-P	99-08-121	388-310-1700	AMD-P	99-05-071
365-140-030	AMD-P	99-10-114	388-290-105	REP-P	99-08-121	388-310-1700	AMD	99-10-027
365-140-040	AMD-P	99-10-114	388-290-1050	NEW-P	99-08-121	388-310-1800	AMD-P	99-05-071
365-140-050	AMD-P	99-10-114	388-290-1100	NEW-P	99-08-121	388-310-1800	AMD	99-10-027
365-140-060	AMD-P	99-10-114	388-290-1100	NEW-P	99-08-121	388-310-1900	AMD-P	99-05-071
365-170	PREP	99-10-067	388-290-1150	NEW-P	99-08-121	388-310-1900	AMD	99-10-027
381- 50-180	AMD	99-07-081	388-290-1200	NEW-P	99-08-121	388-320	PREP	99-07-104
388- 14-420	PREP	99-09-003	388-290-125	NEW-P	99-08-121	388-320-350	REP-P	99-03-076
388- 14-420	AMD-E	99-09-004	388-290-1250	NEW-P	99-08-121	388-320-350	REP	99-06-044
388- 15-177	PREP	99-05-070	388-290-1300	NEW-P	99-08-121	388-320-360	REP-P	99-03-076
388- 15-196	AMD	99-03-041	388-290-1350	NEW-P	99-08-121	388-320-360	REP	99-06-044
388- 15-19600	AMD	99-03-041	388-290-1375	NEW-P	99-08-121	388-320-370	REP-P	99-03-076
388- 15-19610	AMD	99-03-041	388-290-1400	NEW-P	99-08-121	388-320-370	REP	99-06-044
388- 15-19620	AMD	99-03-041	388-290-150	NEW-P	99-08-121	388-320-375	NEW-P	99-03-076
388- 15-19620	AMD	99-03-041	388-290-150	NEW-P	99-08-121	388-320-375	NEW	99-06-044
388- 15-19630	AMD	99-03-041	388-290-200	NEW-P	99-08-121	388-330-010	PREP	99-07-039
388- 15-19640	AMD	99-03-041	388-290-270	NEW-P	99-08-121	388-330-020	PREP	99-07-039
388- 15-19650	AMD	99-03-041	388-290-280	NEW-P	99-08-121	388-330-030	PREP	99-07-039
388- 15-19660	AMD	99-03-041	388-290-300	NEW-P	99-08-121	388-330-035	PREP	99-07-039
388- 15-19670	AMD	99-03-041	388-290-350	NEW-P	99-08-121	388-330-040	PREP	99-07-039
388- 15-19680	AMD	99-03-041	388-290-375	NEW-P	99-08-121	388-330-050	PREP	99-07-039
388- 15-202	PREP	99-09-051	388-290-400	NEW-P	99-08-121	388-330-050	PREP	99-07-039
388- 15-203	PREP	99-09-051	388-290-450	NEW-P	99-08-121	388-330-060	PREP	99-07-039
388- 15-205	PREP	99-09-051	388-290-475	NEW-P	99-08-121	388-400	PREP	99-07-105
388- 78A-020	AMD-XA	99-09-052	388-290-500	NEW-P	99-08-121	388-400-0020	AMD-P	99-04-102
388- 78A-040	AMD-XA	99-09-052	388-290-525	NEW-P	99-08-121	388-400-0020	AMD	99-08-050
388- 78A-050	AMD-XA	99-09-052	388-290-550	NEW-P	99-08-121	388-408-0010	AMD-P	99-10-105
388- 78A-055	AMD-XA	99-09-052	388-290-600	NEW-P	99-08-121	388-408-0015	AMD-P	99-10-105
388- 78A-150	AMD-XA	99-09-052	388-290-650	NEW-P	99-08-121	388-418-0025	AMD-P	99-07-137
388- 78A-240	AMD-XA	99-09-052	388-290-700	NEW-P	99-08-121	388-418-0025	AMD	99-10-064
388- 78A-265	AMD-XA	99-09-052	388-290-750	NEW-P	99-08-121	388-426	PREP	99-08-120
388- 78A-320	AMD-XA	99-09-052	388-290-800	NEW-P	99-08-121	388-434-0005	PREP	99-04-054
388- 78A-330	AMD-XA	99-09-052	388-290-850	NEW-P	99-08-121	388-438-0110	PREP	99-10-047
			388-290-900	NEW-P	99-08-121	388-440	PREP	99-08-120
			388-310-0100	AMD-P	99-05-072	388-444-0035	AMD	99-07-024

Table

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-444-0040	AMD	99-07-024	388-527-2740	AMD-P	99-07-025	388-550-3000	AMD	99-06-046
388-444-0045	AMD	99-07-024	388-527-2742	AMD-P	99-07-025	388-550-3100	AMD	99-06-046
388-444-0075	AMD	99-07-024	388-527-2750	AMD-P	99-07-025	388-550-3450	PREP	99-06-084
388-448-0001	PREP	99-04-055	388-527-2752	REP-P	99-07-025	388-550-3450	AMD-P	99-09-091
388-450-0050	PREP	99-03-040	388-527-2753	REP-P	99-07-025	388-550-3500	AMD	99-06-046
388-450-0050	AMD-P	99-06-098	388-527-2754	AMD-P	99-07-025	388-550-3500	PREP	99-06-084
388-450-0050	AMD	99-09-054	388-527-2790	AMD-P	99-07-025	388-550-3500	AMD-P	99-09-091
388-450-0106	PREP	99-03-040	388-527-2795	NEW-P	99-07-025	388-550-3700	AMD	99-06-046
388-450-0116	PREP	99-03-040	388-530-1800	PREP	99-05-044	388-550-3900	PREP	99-06-084
388-450-0195	AMD-E	99-05-046	388-530-2050	PREP	99-05-044	388-550-3900	AMD-P	99-09-091
388-450-0195	AMD-P	99-06-088	388-533	PREP	99-06-043	388-550-4100	PREP	99-06-084
388-450-0195	AMD	99-09-055	388-535-1000	REP	99-07-023	388-550-4100	AMD-P	99-09-091
388-452-0005	AMD-P	99-08-015	388-535-1010	NEW	99-07-023	388-550-4500	AMD	99-06-046
388-462-0005	REP-P	99-10-105	388-535-1050	AMD	99-07-023	388-550-4500	PREP	99-06-084
388-462-0010	AMD-P	99-10-105	388-535-1060	NEW	99-07-023	388-550-4500	AMD-P	99-09-091
388-462-0020	NEW-P	99-10-105	388-535-1080	NEW	99-07-023	388-550-4700	AMD	99-06-046
388-470-0005	PREP	99-03-040	388-535-1100	AMD	99-07-023	388-550-4800	AMD	99-06-046
388-470-0010	PREP	99-03-040	388-535-1150	AMD	99-07-023	388-550-4800	AMD-P	99-09-090
388-470-0012	NEW-P	99-06-099	388-535-1200	AMD	99-07-023	388-550-4900	PREP	99-06-083
388-470-0012	NEW	99-09-053	388-535-1220	NEW	99-07-023	388-550-4900	AMD-P	99-09-087
388-470-0015	PREP	99-03-040	388-535-1230	NEW	99-07-023	388-550-5000	PREP	99-06-083
388-470-0020	PREP	99-03-040	388-535-1240	NEW	99-07-023	388-550-5000	AMD-P	99-09-087
388-470-0025	PREP	99-03-040	388-535-1250	AMD	99-07-023	388-550-5100	PREP	99-06-083
388-470-0050	PREP	99-03-040	388-535-1260	NEW	99-07-023	388-550-5100	AMD-P	99-09-087
388-470-0070	PREP	99-03-040	388-535-1300	AMD	99-07-023	388-550-5110	PREP	99-06-083
388-478-0015	AMD	99-04-056	388-535-1350	AMD	99-07-023	388-550-5110	NEW-P	99-09-087
388-478-0055	AMD	99-04-103	388-535-1400	AMD	99-07-023	388-550-5120	PREP	99-06-083
388-478-0055	PREP	99-05-045	388-535-1450	AMD	99-07-023	388-550-5120	NEW-P	99-09-087
388-478-0060	AMD	99-05-074	388-535-1500	AMD	99-07-023	388-550-5150	PREP	99-06-083
388-478-0070	AMD-P	99-08-118	388-535-1550	AMD	99-07-023	388-550-5150	AMD-P	99-09-087
388-478-0070	AMD-E	99-08-119	388-540-001	PREP	99-05-044	388-550-5200	PREP	99-06-083
388-478-0075	PREP	99-07-103	388-540-010	PREP	99-05-044	388-550-5200	AMD-P	99-09-087
388-478-0075	AMD-E	99-08-001	388-540-020	PREP	99-05-044	388-550-5250	PREP	99-06-083
388-478-0080	AMD-P	99-08-118	388-540-040	PREP	99-05-044	388-550-5250	AMD-P	99-09-087
388-478-0080	AMD-E	99-08-119	388-540-050	PREP	99-05-044	388-550-5300	PREP	99-06-083
388-478-0085	PREP	99-07-103	388-543-1000	NEW-W	99-08-080	388-550-5300	AMD-P	99-09-087
388-478-0085	AMD-E	99-08-001	388-543-1100	NEW-W	99-08-080	388-550-5350	PREP	99-06-083
388-484-0005	AMD-P	99-04-102	388-543-1200	NEW-W	99-08-080	388-550-5350	AMD-P	99-09-087
388-484-0005	AMD	99-08-050	388-543-1300	NEW-W	99-08-080	388-550-5400	PREP	99-06-083
388-501-0130	PREP	99-05-044	388-543-1400	NEW-W	99-08-080	388-550-5400	AMD-P	99-09-087
388-501-0160	PREP	99-08-040	388-543-1500	NEW-W	99-08-080	388-550-5600	PREP	99-06-085
388-501-0165	PREP	99-08-041	388-543-1600	NEW-W	99-08-080	388-550-6000	AMD	99-06-046
388-501-0175	PREP	99-05-044	388-543-1700	NEW-W	99-08-080	388-550-6000	PREP	99-06-086
388-502-0220	PREP	99-06-085	388-543-1800	NEW-W	99-08-080	388-550-6000	AMD-P	99-09-089
388-502-0250	PREP	99-05-044	388-543-1900	NEW-W	99-08-080	388-551-1000	NEW-P	99-05-073
388-505-0540	PREP	99-05-044	388-543-2000	NEW-W	99-08-080	388-551-1000	NEW	99-09-007
388-505-0595	PREP	99-05-044	388-543-2100	NEW-W	99-08-080	388-551-1010	NEW-P	99-05-073
388-511-1130	PREP	99-05-044	388-543-2200	NEW-W	99-08-080	388-551-1010	NEW	99-09-007
388-513-1305	AMD	99-06-045	388-543-2300	NEW-W	99-08-080	388-551-1010	NEW	99-09-007
388-513-1315	AMD	99-06-045	388-543-2400	NEW-W	99-08-080	388-551-1200	NEW-P	99-05-073
388-513-1320	AMD	99-06-045	388-543-2500	NEW-W	99-08-080	388-551-1200	NEW	99-09-007
388-513-1330	AMD	99-06-045	388-543-2600	NEW-W	99-08-080	388-551-1210	NEW	99-09-007
388-513-1350	AMD	99-06-045	388-543-2700	NEW-W	99-08-080	388-551-1210	NEW	99-09-007
388-513-1360	AMD	99-06-045	388-543-2800	NEW-W	99-08-080	388-551-1300	NEW-P	99-05-073
388-513-1365	AMD	99-06-045	388-543-2900	NEW-W	99-08-080	388-551-1300	NEW	99-09-007
388-513-1380	AMD-P	99-06-100	388-543-3000	NEW-W	99-08-080	388-551-1310	NEW-P	99-05-073
388-513-1380	AMD-E	99-08-016	388-550-1050	AMD	99-06-046	388-551-1310	NEW	99-09-007
388-513-1395	AMD	99-06-045	388-550-1050	PREP	99-06-087	388-551-1315	NEW-P	99-05-073
388-515-1510	AMD	99-06-045	388-550-1050	AMD-P	99-09-088	388-551-1315	NEW	99-09-007
388-515-1530	AMD	99-06-045	388-550-1200	AMD	99-06-046	388-551-1320	NEW-P	99-05-073
388-526-2610	PREP	99-05-044	388-550-2431	NEW	99-06-046	388-551-1320	NEW	99-09-007
388-527	AMD-P	99-07-025	388-550-2800	AMD	99-06-046	388-551-1330	NEW-P	99-05-073
388-527-2700	NEW-P	99-07-025	388-550-2800	PREP	99-06-084	388-551-1330	NEW	99-09-007
388-527-2730	AMD-P	99-07-025	388-550-2800	AMD-P	99-09-091	388-551-1340	NEW-P	99-05-073
388-527-2733	NEW-P	99-07-025	388-550-2900	AMD	99-06-046	388-551-1340	NEW	99-09-007
388-527-2735	REP-P	99-07-025	388-550-2900	PREP	99-06-084	388-551-1350	NEW-P	99-05-073
388-527-2737	NEW-P	99-07-025	388-550-2900	AMD-P	99-09-091	388-551-1350	NEW	99-09-007
						388-551-1360	NEW-P	99-05-073

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-551-1360	NEW	99-09-007	390- 20-015	AMD-P	99-09-076	399- 30-032	NEW	99-09-020
388-551-1400	NEW-P	99-05-073	390- 20-023	PREP	99-06-067	399- 30-033	NEW-P	99-05-062
388-551-1400	NEW	99-09-007	390- 20-023	REP-P	99-09-059	399- 30-033	NEW	99-09-020
388-551-1410	NEW-P	99-05-073	390- 20-100	PREP	99-06-068	399- 30-034	NEW-P	99-05-062
388-551-1410	NEW	99-09-007	390- 20-100	REP-P	99-09-060	399- 30-034	NEW	99-09-020
388-551-1500	NEW-P	99-05-073	390- 20-115	PREP	99-06-069	415-108-671	REP-XR	99-08-074
388-551-1500	NEW	99-09-007	390- 20-115	REP-P	99-09-061	415-112-561	REP-XR	99-08-074
388-551-1510	NEW-P	99-05-073	391- 08	PREP	99-04-013	415-115-070	REP-XR	99-08-074
388-551-1510	NEW	99-09-007	391- 08-310	AMD-P	99-10-107	419- 14-135	NEW-P	99-07-131
388-551-1520	NEW-P	99-05-073	391- 08-810	AMD-P	99-10-107	419- 14-135	NEW	99-10-024
388-551-1520	NEW	99-09-007	391- 55	PREP	99-04-013	419- 14-140	NEW-P	99-07-131
388-551-1530	NEW-P	99-05-073	391- 55-001	AMD-P	99-10-107	419- 14-140	NEW	99-10-024
388-551-1530	NEW	99-09-007	391- 55-002	AMD-P	99-10-107	434- 55-060	AMD-XA	99-05-038
388-552-001	NEW-P	99-08-122	391- 55-010	AMD-P	99-10-107	434- 55-065	AMD-XA	99-05-038
388-552-005	NEW-P	99-08-122	391- 55-020	NEW-P	99-10-107	434-130-090	AMD-XA	99-05-039
388-552-100	NEW-P	99-08-122	391- 55-030	AMD-P	99-10-107	434-180-215	AMD	99-02-047
388-552-200	NEW-P	99-08-122	391- 55-032	AMD-P	99-10-107	434-180-265	AMD	99-02-048
388-552-210	NEW-P	99-08-122	391- 55-050	AMD-P	99-10-107	434-180-360	AMD	99-02-047
388-552-220	NEW-P	99-08-122	391- 55-070	AMD-P	99-10-107	434-240-205	AMD-P	99-05-054
388-552-230	NEW-P	99-08-122	391- 55-071	AMD-P	99-10-107	434-240-205	AMD	99-08-089
388-552-240	NEW-P	99-08-122	391- 55-090	AMD-P	99-10-107	434-260	AMD-P	99-07-043
388-552-300	NEW-P	99-08-122	391- 55-110	AMD-P	99-10-107	434-260-010	AMD-P	99-07-043
388-552-310	NEW-P	99-08-122	391- 55-120	NEW-P	99-10-107	434-260-020	AMD-P	99-07-043
388-552-320	NEW-P	99-08-122	391- 55-130	AMD-P	99-10-107	434-260-030	AMD-P	99-07-043
388-552-330	NEW-P	99-08-122	391- 55-150	AMD-P	99-10-107	434-260-040	AMD-P	99-07-043
388-552-340	NEW-P	99-08-122	391- 55-200	AMD-P	99-10-107	434-260-050	AMD-P	99-07-043
388-552-350	NEW-P	99-08-122	391- 55-205	AMD-P	99-10-107	434-260-060	AMD-P	99-07-043
388-552-360	NEW-P	99-08-122	391- 55-210	AMD-P	99-10-107	434-260-070	REP-P	99-07-043
388-552-370	NEW-P	99-08-122	391- 55-215	AMD-P	99-10-107	434-260-080	AMD-P	99-07-043
388-552-380	NEW-P	99-08-122	391- 55-220	AMD-P	99-10-107	434-260-110	AMD-P	99-07-043
388-552-390	NEW-P	99-08-122	391- 55-225	AMD-P	99-10-107	434-260-120	AMD-P	99-07-043
388-552-400	NEW-P	99-08-122	391- 55-230	AMD-P	99-10-107	434-260-130	AMD-P	99-07-043
388-552-410	NEW-P	99-08-122	391- 55-235	AMD-P	99-10-107	434-260-140	AMD-P	99-07-043
388-552-420	NEW-P	99-08-122	391- 55-240	AMD-P	99-10-107	434-260-145	NEW-P	99-07-043
390- 12-255	PREP	99-06-050	391- 55-245	AMD-P	99-10-107	434-260-150	AMD-P	99-07-043
390- 12-255	AMD-P	99-09-062	391- 55-255	AMD-P	99-10-107	434-260-160	AMD-P	99-07-043
390- 14-015	PREP	99-06-051	391- 55-265	NEW-P	99-10-107	434-260-170	AMD-P	99-07-043
390- 14-015	AMD-P	99-09-063	391- 55-310	AMD-P	99-10-107	434-260-180	REP-P	99-07-043
390- 14-020	PREP	99-06-052	391- 55-315	AMD-P	99-10-107	434-260-190	AMD-P	99-07-043
390- 14-020	AMD-P	99-09-064	391- 55-320	AMD-P	99-10-107	434-260-200	AMD-P	99-07-043
390- 14-025	PREP	99-06-053	391- 55-330	AMD-P	99-10-107	434-260-210	REP-P	99-07-043
390- 14-025	AMD-P	99-09-065	391- 55-335	AMD-P	99-10-107	434-260-215	REP-P	99-07-043
390- 14-030	PREP	99-06-054	391- 55-340	AMD-P	99-10-107	434-260-220	AMD-P	99-07-043
390- 14-030	AMD-P	99-09-066	391- 55-350	AMD-P	99-10-107	434-260-225	NEW-P	99-07-043
390- 14-035	PREP	99-06-055	391- 65	PREP	99-04-013	434-260-230	REP-P	99-07-043
390- 14-035	AMD-P	99-09-067	391- 65-001	AMD-P	99-10-107	434-260-235	NEW-P	99-07-043
390- 14-040	PREP	99-06-056	391- 65-002	AMD-P	99-10-107	434-260-240	AMD-P	99-07-043
390- 14-040	AMD-P	99-09-068	391- 65-010	AMD-P	99-10-107	434-260-250	REP-P	99-07-043
390- 14-045	PREP	99-06-057	391- 65-030	AMD-P	99-10-107	434-260-260	AMD-P	99-07-043
390- 14-045	AMD-P	99-09-069	391- 65-050	AMD-P	99-10-107	434-260-270	REP-P	99-07-043
390- 14-055	PREP	99-06-058	391- 65-070	AMD-P	99-10-107	434-260-280	REP-P	99-07-043
390- 14-055	REP-P	99-09-057	391- 65-090	AMD-P	99-10-107	434-260-290	REP-P	99-07-043
390- 14-100	PREP	99-06-059	391- 65-110	AMD-P	99-10-107	434-260-300	AMD-P	99-07-043
390- 14-100	AMD-P	99-09-070	391- 65-130	AMD-P	99-10-107	434-260-305	NEW-P	99-07-043
390- 14-105	PREP	99-06-060	391- 65-150	AMD-P	99-10-107	434-260-310	AMD-P	99-07-043
390- 14-105	REP-P	99-09-058	392-121-10603	REP	99-08-008	434-260-320	AMD-P	99-07-043
390- 14-110	PREP	99-06-061	392-121-10604	REP	99-08-008	434-260-330	AMD-P	99-07-043
390- 14-110	AMD-P	99-09-071	392-121-107	AMD	99-08-008	434-260-340	AMD-P	99-07-043
390- 17-030	PREP	99-06-062	392-121-182	AMD	99-08-008	434-260-350	AMD-P	99-07-043
390- 17-030	AMD-P	99-09-072	392-121-183	REP	99-08-008	434-261-005	AMD-P	99-05-054
390- 18-020	PREP	99-06-063	392-121-188	AMD	99-08-008	434-261-005	AMD	99-08-089
390- 18-020	AMD-P	99-09-073	392-121-201	AMD	99-08-008	434-261-080	AMD-P	99-05-054
390- 18-050	PREP	99-06-064	392-121-206	AMD	99-08-008	434-261-080	AMD	99-08-089
390- 18-050	AMD-P	99-09-074	392-121-210	AMD	99-08-008	434-324-105	REP-P	99-05-054
390- 20-014	PREP	99-06-065	392-169	PREP	99-09-008	434-324-105	REP	99-08-089
390- 20-014	AMD-P	99-09-075	392-172	PREP	99-06-049	434-334-055	AMD-P	99-05-034
390- 20-015	PREP	99-06-066	399- 30-032	NEW-P	99-05-062	434-334-055	AMD	99-08-115

Table

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
434-334-063	NEW-P	99-05-034	448- 13-060	AMD-E	99-10-018	458- 20-195	AMD-XA	99-08-022
434-334-063	NEW	99-08-115	448- 13-060	AMD-XA	99-10-019	458- 20-206	REP-XR	99-04-019
434-334-065	AMD-P	99-05-034	448- 13-065	AMD	99-06-048	458- 20-206	REP	99-08-005
434-334-065	AMD	99-08-115	448- 13-070	AMD	99-06-048	458- 20-207	AMD-XA	99-08-023
434-334-070	AMD-P	99-05-034	448- 13-080	AMD	99-06-048	458- 20-216	AMD-P	99-04-014
434-334-070	AMD	99-08-115	448- 13-140	AMD	99-06-048	458- 20-216	AMD	99-08-034
434-334-075	AMD-P	99-05-034	448- 13-170	AMD	99-06-048	458- 20-222	AMD-P	99-04-015
434-334-075	AMD	99-08-115	448- 13-180	AMD	99-06-048	458- 20-222	AMD	99-08-033
434-334-080	DECOD-P	99-05-034	448- 13-210	AMD	99-06-048	458- 20-225	REP-XR	99-04-019
434-334-080	AMD-P	99-05-034	448- 15-010	NEW	99-06-047	458- 20-225	REP	99-08-005
434-334-080	DECOD	99-08-115	448- 15-020	NEW	99-06-047	458- 20-226	AMD-XA	99-04-021
434-334-080	AMD	99-08-115	448- 15-030	NEW	99-06-047	458- 20-226	AMD	99-09-013
434-334-082	NEW-P	99-05-034	448- 15-040	NEW	99-06-047	458- 20-228	AMD-P	99-10-034
434-334-082	NEW	99-08-115	448- 15-050	NEW	99-06-047	458- 20-231	AMD	99-02-055
434-334-085	AMD-P	99-05-034	448- 15-060	NEW	99-06-047	458- 20-238	AMD-XA	99-04-020
434-334-085	AMD	99-08-115	456- 12-010	REP-P	99-08-091	458- 20-261	NEW-P	99-04-022
434-334-090	AMD-P	99-05-034	456- 12-015	NEW-P	99-08-091	458- 20-261	NEW	99-08-035
434-334-090	AMD	99-08-115	456- 12-020	REP-P	99-08-091	458- 20-263	AMD-XA	99-06-028
434-334-095	AMD-P	99-05-034	456- 12-025	NEW-P	99-08-091	458- 40-660	PREP	99-06-036
434-334-095	AMD	99-08-115	456- 12-030	REP-P	99-08-091	458- 40-660	AMD-P	99-10-039
434-334-100	AMD-P	99-05-034	456- 12-035	NEW-P	99-08-091	458- 50-010	REP-XR	99-04-031
434-334-100	AMD	99-08-115	456- 12-040	REP-P	99-08-091	458- 50-010	REP	99-08-006
434-334-105	AMD-P	99-05-034	456- 12-045	NEW-P	99-08-091	458- 50-050	REP-XR	99-04-031
434-334-105	AMD	99-08-115	456- 12-050	REP-P	99-08-091	458- 50-050	REP	99-08-006
434-334-110	AMD-P	99-05-034	456- 12-055	NEW-P	99-08-091	458- 57	PREP	99-07-133
434-334-110	AMD	99-08-115	456- 12-060	REP-P	99-08-091	458- 57-575	NEW	99-03-010
434-334-115	REP-P	99-05-034	456- 12-065	NEW-P	99-08-091	458- 61-090	AMD-P	99-10-033
434-334-115	REP	99-08-115	456- 12-070	REP-P	99-08-091	458- 65-010	REP-XR	99-10-032
434-334-120	RECOD-P	99-05-034	456- 12-075	NEW-P	99-08-091	458- 65-020	REP-XR	99-04-018
434-334-120	RECOD	99-08-115	456- 12-080	REP-P	99-08-091	458- 65-020	REP	99-08-007
434-334-125	NEW-P	99-05-034	456- 12-085	NEW-P	99-08-091	458- 65-030	REP-XR	99-04-018
434-334-125	NEW	99-08-115	456- 12-090	REP-P	99-08-091	458- 65-030	REP	99-08-007
434-334-130	NEW-P	99-05-034	456- 12-095	NEW-P	99-08-091	458- 65-040	REP-XR	99-04-018
434-334-130	NEW	99-08-115	456- 12-100	REP-P	99-08-091	458- 65-040	REP	99-08-007
434-334-135	NEW-P	99-05-034	456- 12-105	NEW-P	99-08-091	460- 21B-060	AMD-XA	99-07-012
434-334-135	NEW	99-08-115	456- 12-110	REP-P	99-08-091	460- 22B-090	AMD-XA	99-07-012
434-334-140	NEW-P	99-05-034	456- 12-115	NEW-P	99-08-091	460- 24A-110	NEW	99-03-050
434-334-140	NEW	99-08-115	456- 12-120	REP-P	99-08-091	460- 24A-145	NEW	99-03-052
434-334-145	NEW-P	99-05-034	456- 12-130	REP-P	99-08-091	460- 24A-220	AMD	99-03-051
434-334-145	NEW	99-08-115	456- 12-140	REP-P	99-08-091	460- 28A-015	AMD	99-03-053
434-334-150	NEW-P	99-05-034	458- 08	PREP	99-05-069	468- 06-040	AMD-XA	99-02-065
434-334-150	NEW	99-08-115	458- 12-040	PREP	99-05-069	468- 06-040	AMD	99-07-013
434-334-155	NEW-P	99-05-034	458- 12-300	PREP	99-05-069	468- 12	PREP	99-04-042
434-334-155	NEW	99-08-115	458- 12-301	PREP	99-05-069	468- 34-010	AMD-W	99-08-082
434-334-160	NEW-P	99-05-034	458- 12-305	PREP	99-05-069	468- 34-020	AMD-W	99-08-082
434-334-160	NEW	99-08-115	458- 12-315	REP-XR	99-04-017	468- 34-100	AMD-W	99-08-082
434-334-165	NEW-P	99-05-034	458- 12-320	REP-XR	99-04-017	468- 34-120	AMD-W	99-08-082
434-334-165	NEW	99-08-115	458- 12-326	PREP	99-05-069	468- 34-150	AMD-W	99-08-082
434-334-170	NEW-P	99-05-034	458- 12-327	PREP	99-05-069	468- 34-330	AMD-W	99-08-082
434-334-170	NEW	99-08-115	458- 12-330	PREP	99-05-069	468- 38-110	AMD-P	99-05-006
434-334-175	NEW-P	99-05-034	458- 12-335	PREP	99-05-069	468- 38-110	AMD	99-08-025
434-334-175	NEW	99-08-115	458- 12-336	PREP	99-05-069	468- 38-150	REP-XR	99-04-058
440- 22	PREP	99-10-010	458- 12-337	PREP	99-05-069	468- 38-150	REP	99-07-098
440- 25	PREP	99-06-082	458- 12-338	PREP	99-05-069	468- 38-170	REP-XR	99-04-058
446- 16-070	AMD-P	99-03-080	458- 12-339	PREP	99-05-069	468- 38-170	REP	99-07-098
446- 16-070	AMD	99-07-051	458- 16-280	PREP	99-09-085	468- 38-210	REP-XR	99-04-058
446- 16-080	AMD-P	99-03-080	458- 16-282	PREP	99-09-085	468- 38-210	REP	99-07-098
446- 16-080	AMD	99-07-051	458- 16-320	AMD-XA	99-07-090	468- 38-290	AMD-E	99-10-004
446- 16-100	AMD-P	99-03-080	458- 16A-010	AMD	99-04-016	468- 38-290	PREP	99-10-020
446- 16-100	AMD	99-07-051	458- 20-119	AMD-XA	99-06-027	468- 51-010	AMD	99-06-034
446- 16-110	AMD-P	99-03-080	458- 20-131	AMD-P	99-05-017	468- 51-020	AMD	99-06-034
446- 16-110	AMD	99-07-051	458- 20-131	AMD	99-08-090	468- 51-030	AMD	99-06-034
446- 20-600	AMD-P	99-03-081	458- 20-157	REP-XR	99-04-019	468- 51-040	AMD	99-06-034
446- 20-600	AMD	99-07-050	458- 20-157	REP	99-08-005	468- 51-060	AMD	99-06-034
448- 13-030	AMD	99-06-048	458- 20-165	AMD-XA	99-08-032	468- 51-070	AMD	99-06-034
448- 13-040	AMD	99-06-048	458- 20-167	AMD	99-03-005	468- 51-080	AMD	99-06-034
448- 13-050	AMD	99-06-048	458- 20-192	PREP	99-09-082	468- 51-090	AMD	99-06-034

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
468- 51-100	AMD	99-06-034	479-510-410	AMD-P	99-03-088	480- 62	PREP	99-08-053
468- 51-105	NEW	99-06-034	479-510-410	AMD	99-08-020	480- 70	PREP	99-08-012
468- 51-110	AMD	99-06-034	479-510-420	AMD-P	99-03-088	480- 90	PREP	99-08-052
468- 51-120	AMD	99-06-034	479-510-420	AMD	99-08-020	480-92-011	AMD	99-05-016
468- 51-130	AMD	99-06-034	479-510-450	NEW-P	99-03-088	480-92-016	NEW	99-05-016
468- 51-140	AMD	99-06-034	479-510-450	NEW	99-08-020	480-92-021	AMD	99-05-016
468- 51-150	AMD	99-06-034	479-510-460	NEW-P	99-03-088	480-92-031	AMD	99-05-016
468- 52-020	AMD	99-06-035	479-510-460	NEW	99-08-020	480-92-041	NEW	99-05-016
468- 52-030	AMD	99-06-035	480- 09-005	NEW	99-05-031	480-92-050	AMD	99-05-016
468- 52-040	AMD	99-06-035	480- 09-010	AMD	99-05-031	480-92-060	AMD	99-05-016
468- 52-050	AMD	99-06-035	480- 09-012	AMD	99-05-031	480-92-070	AMD	99-05-016
468- 52-060	AMD	99-06-035	480- 09-100	AMD	99-05-031	480-92-080	AMD	99-05-016
468- 52-070	AMD	99-06-035	480- 09-101	NEW	99-05-031	480-92-090	AMD	99-05-016
468- 54	PREP	99-10-029	480- 09-115	AMD	99-05-031	480-92-100	AMD	99-05-016
468- 58	PREP	99-10-030	480- 09-120	AMD	99-05-031	480-92-110	AMD	99-05-016
468-300-010	AMD-P	99-05-035	480- 09-125	AMD	99-05-031	480-100	PREP	99-08-105
468-300-010	AMD	99-08-066	480- 09-130	AMD	99-05-031	480-110-011	REP-W	99-07-053
468-300-020	AMD-P	99-05-035	480- 09-135	AMD	99-05-031	480-110-016	REP-W	99-07-053
468-300-020	AMD	99-08-066	480- 09-140	AMD	99-05-031	480-110-018	REP-W	99-07-053
468-300-040	AMD-P	99-05-035	480- 09-150	AMD	99-05-031	480-110-021	REP-W	99-07-053
468-300-040	AMD	99-08-066	480- 09-200	AMD	99-05-031	480-110-023	REP-W	99-07-053
468-300-220	AMD-P	99-05-035	480- 09-210	AMD	99-05-031	480-110-026	REP-W	99-07-053
468-300-220	AMD	99-08-066	480- 09-220	AMD	99-05-031	480-110-028	REP-W	99-07-053
468-300-700	AMD	99-07-059	480- 09-230	AMD	99-05-031	480-110-031	REP-W	99-07-053
468-310-010	AMD	99-03-025	480- 09-340	AMD	99-05-031	480-110-032	REP-W	99-07-053
468-310-020	AMD	99-03-025	480- 09-390	AMD	99-05-031	480-110-036	REP-W	99-07-053
468-310-050	AMD	99-03-025	480- 09-400	AMD	99-05-031	480-110-041	REP-W	99-07-053
468-310-060	AMD	99-03-025	480- 09-410	AMD	99-05-031	480-110-046	REP-W	99-07-053
468-310-100	AMD	99-03-025	480- 09-420	AMD	99-05-031	480-110-051	REP-W	99-07-053
468-500-001	AMD-XA	99-06-004	480- 09-425	AMD	99-05-031	480-110-056	REP-W	99-07-053
474- 10-010	NEW	99-03-004	480- 09-426	AMD	99-05-031	480-110-061	REP-W	99-07-053
474- 10-020	NEW	99-03-004	480- 09-430	AMD	99-05-031	480-110-066	REP-W	99-07-053
474- 10-030	NEW	99-03-004	480- 09-440	AMD	99-05-031	480-110-071	REP-W	99-07-053
474- 10-040	NEW	99-03-004	480- 09-460	AMD	99-05-031	480-110-076	REP-W	99-07-053
474- 10-050	NEW	99-03-004	480- 09-465	AMD	99-05-031	480-110-081	REP-W	99-07-053
474- 10-060	NEW	99-03-004	480- 09-466	AMD	99-05-031	480-110-086	REP-W	99-07-053
474- 10-070	NEW	99-03-004	480- 09-467	AMD	99-05-031	480-110-091	REP-W	99-07-053
474- 10-080	NEW	99-03-004	480- 09-470	AMD	99-05-031	480-110-096	REP-W	99-07-053
474- 10-090	NEW	99-03-004	480- 09-475	AMD	99-05-031	480-110-101	REP-W	99-07-053
474- 10-100	NEW	99-03-004	480- 09-500	AMD	99-05-031	480-110-111	REP-W	99-07-053
478-140	AMD-P	99-08-056	480- 09-510	AMD	99-05-031	480-110-116	REP-W	99-07-053
478-140-010	AMD-P	99-08-056	480- 09-600	AMD	99-05-031	480-110-121	REP-W	99-07-053
478-140-015	AMD-P	99-08-056	480- 09-610	AMD	99-05-031	480-110-126	REP-W	99-07-053
478-140-018	AMD-P	99-08-056	480- 09-620	AMD	99-05-031	480-110-131	REP-W	99-07-053
478-140-019	NEW-P	99-08-056	480- 09-700	AMD	99-05-031	480-110-136	REP-W	99-07-053
478-140-021	AMD-P	99-08-056	480- 09-705	AMD	99-05-031	480-110-141	REP-W	99-07-053
478-140-024	AMD-P	99-08-056	480- 09-710	AMD	99-05-031	480-110-146	REP-W	99-07-053
478-140-050	AMD-P	99-08-056	480- 09-720	AMD	99-05-031	480-110-151	REP-W	99-07-053
478-140-060	REP-P	99-08-056	480- 09-730	AMD	99-05-031	480-110-156	REP-W	99-07-053
478-140-070	AMD-P	99-08-056	480- 09-735	AMD	99-05-031	480-110-161	REP-W	99-07-053
478-140-080	NEW-P	99-08-056	480- 09-736	AMD	99-05-031	480-110-166	REP-W	99-07-053
478-210-010	REP	99-06-033	480- 09-740	AMD	99-05-031	480-110-171	REP-W	99-07-053
478-210-020	REP	99-06-033	480- 09-745	AMD	99-05-031	480-110-176	REP-W	99-07-053
479- 16-020	AMD-P	99-03-089	480- 09-750	AMD	99-05-031	480-110-500	NEW-W	99-07-053
479- 16-020	AMD	99-08-021	480- 09-751	AMD	99-05-031	480-110-510	NEW-W	99-07-053
479- 16-040	AMD-P	99-03-089	480- 09-760	AMD	99-05-031	480-110-520	NEW-W	99-07-053
479- 16-040	AMD	99-08-021	480- 09-770	AMD	99-05-031	480-110-530	NEW-W	99-07-053
479- 16-098	AMD-P	99-03-089	480- 09-780	AMD	99-05-031	480-110-540	NEW-W	99-07-053
479- 16-098	AMD	99-08-021	480- 09-800	AMD	99-05-031	480-110-550	NEW-W	99-07-053
479- 20-007	AMD-P	99-03-089	480- 09-810	AMD	99-05-031	480-110-560	NEW-W	99-07-053
479- 20-007	AMD	99-08-021	480- 09-815	AMD	99-05-031	480-110-570	NEW-W	99-07-053
479- 20-020	AMD-P	99-03-089	480- 09-820	AMD	99-05-031	480-110-580	NEW-W	99-07-053
479- 20-020	AMD	99-08-021	480- 09-830	REP	99-05-031	480-110-590	NEW-W	99-07-053
479- 20-025	AMD-P	99-03-089	480- 12-100	REP-W	99-08-085	480-110-600	NEW-W	99-07-053
479- 20-025	AMD	99-08-021	480- 12-370	RE-AD	99-08-026	480-110-610	NEW-W	99-07-053
479- 20-037	AMD-P	99-03-089	480- 12-375	REP	99-08-026	480-110-620	NEW-W	99-07-053
479- 20-037	AMD	99-08-021	480- 12-375	REP-W	99-08-085	480-110-630	NEW-W	99-07-053

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-110-640	NEW-W	99-07-053	480-143-170	NEW-P	99-03-074	480-146-360	NEW	99-08-054
480-110-650	NEW-W	99-07-053	480-143-170	NEW	99-08-055	480-146-370	NEW-P	99-03-073
480-110-660	NEW-W	99-07-053	480-143-180	NEW-P	99-03-074	480-146-370	NEW	99-08-054
480-110-670	NEW-W	99-07-053	480-143-180	NEW	99-08-055	480-146-380	NEW-P	99-03-073
480-110-680	NEW-W	99-07-053	480-143-190	NEW-P	99-03-074	480-146-380	NEW	99-08-054
480-110-690	NEW-W	99-07-053	480-143-190	NEW	99-08-055	490-500-005	PREP	99-06-081
480-110-700	NEW-W	99-07-053	480-143-200	NEW-P	99-03-074	490-500-010	PREP	99-06-081
480-110-710	NEW-W	99-07-053	480-143-200	NEW	99-08-055	490-500-015	PREP	99-06-081
480-110-720	NEW-W	99-07-053	480-143-210	NEW-P	99-03-074	490-500-022	PREP	99-06-081
480-110-730	NEW-W	99-07-053	480-143-210	NEW	99-08-055	490-500-025	PREP	99-06-081
480-110-740	NEW-W	99-07-053	480-143-990	REP-P	99-03-074	490-500-030	PREP	99-06-081
480-110-750	NEW-W	99-07-053	480-143-990	REP	99-08-055	490-500-050	PREP	99-06-081
480-110-760	NEW-W	99-07-053	480-146-010	REP-P	99-03-073	490-500-055	PREP	99-06-081
480-110-770	NEW-W	99-07-053	480-146-010	REP	99-08-054	490-500-065	PREP	99-06-081
480-110-780	NEW-W	99-07-053	480-146-020	REP-P	99-03-073	490-500-070	PREP	99-06-081
480-110-790	NEW-W	99-07-053	480-146-020	REP	99-08-054	490-500-080	PREP	99-06-081
480-120	PREP	99-09-027	480-146-030	REP-P	99-03-073	490-500-170	PREP	99-06-081
480-120-052	NEW	99-10-013	480-146-030	REP	99-08-054	490-500-180	PREP	99-06-081
480-120-058	NEW	99-10-013	480-146-040	REP-P	99-03-073	490-500-185	PREP	99-06-081
480-120-139	AMD-P	99-07-107	480-146-040	REP	99-08-054	490-500-190	PREP	99-06-081
480-120-144	NEW	99-05-015	480-146-050	REP-P	99-03-073	490-500-200	PREP	99-06-081
480-120-151	NEW	99-05-015	480-146-050	REP	99-08-054	490-500-205	PREP	99-06-081
480-120-152	NEW	99-05-015	480-146-060	REP-P	99-03-073	490-500-257	PREP	99-06-081
480-120-153	NEW	99-05-015	480-146-060	REP	99-08-054	490-500-260	PREP	99-06-081
480-120-154	NEW	99-05-015	480-146-070	REP-P	99-03-073	490-500-270	PREP	99-06-081
480-121	AMD-P	99-07-106	480-146-070	REP	99-08-054	490-500-275	PREP	99-06-081
480-121-010	AMD-P	99-07-106	480-146-080	REP-P	99-03-073	490-500-300	PREP	99-06-081
480-121-020	AMD-P	99-07-106	480-146-080	REP	99-08-054	490-500-325	PREP	99-06-081
480-121-030	AMD-P	99-07-106	480-146-090	REP-P	99-03-073	490-500-350	PREP	99-06-081
480-121-040	AMD-P	99-07-106	480-146-090	REP	99-08-054	490-500-380	PREP	99-06-081
480-121-050	REP-P	99-07-106	480-146-091	REP-P	99-03-073	490-500-385	PREP	99-06-081
480-121-060	NEW-P	99-07-106	480-146-091	REP	99-08-054	490-500-389	PREP	99-06-081
480-121-070	NEW-P	99-07-106	480-146-095	REP-P	99-03-073	490-500-390	PREP	99-06-081
480-121-080	NEW-P	99-07-106	480-146-095	REP	99-08-054	490-500-418	PREP	99-06-081
480-121-090	NEW-P	99-07-106	480-146-200	REP-P	99-03-073	490-500-420	PREP	99-06-081
480-121-100	NEW-P	99-07-106	480-146-200	REP	99-08-054	490-500-430	PREP	99-06-081
480-140	PREP	99-09-028	480-146-210	REP-P	99-03-073	490-500-435	PREP	99-06-081
480-143-010	REP-P	99-03-074	480-146-210	REP	99-08-054	490-500-437	PREP	99-06-081
480-143-010	REP	99-08-055	480-146-220	REP-P	99-03-073	490-500-445	PREP	99-06-081
480-143-020	REP-P	99-03-074	480-146-220	REP	99-08-054	490-500-450	PREP	99-06-081
480-143-020	REP	99-08-055	480-146-230	REP-P	99-03-073	490-500-455	PREP	99-06-081
480-143-030	REP-P	99-03-074	480-146-230	REP	99-08-054	490-500-460	PREP	99-06-081
480-143-030	REP	99-08-055	480-146-240	NEW-P	99-03-073	490-500-465	PREP	99-06-081
480-143-040	REP-P	99-03-074	480-146-240	NEW	99-08-054	490-500-470	PREP	99-06-081
480-143-040	REP	99-08-055	480-146-250	NEW-P	99-03-073	490-500-475	PREP	99-06-081
480-143-050	REP-P	99-03-074	480-146-250	NEW	99-08-054	490-500-477	PREP	99-06-081
480-143-050	REP	99-08-055	480-146-260	NEW-P	99-03-073	490-500-480	PREP	99-06-081
480-143-060	REP-P	99-03-074	480-146-260	NEW	99-08-054	490-500-485	PREP	99-06-081
480-143-060	REP	99-08-055	480-146-270	NEW-P	99-03-073	490-500-500	PREP	99-06-081
480-143-070	REP-P	99-03-074	480-146-270	NEW	99-08-054	490-500-505	PREP	99-06-081
480-143-070	REP	99-08-055	480-146-280	NEW-P	99-03-073	490-500-510	PREP	99-06-081
480-143-080	REP-P	99-03-074	480-146-280	NEW	99-08-054	490-500-525	PREP	99-06-081
480-143-080	REP	99-08-055	480-146-290	NEW-P	99-03-073	490-500-530	PREP	99-06-081
480-143-100	NEW-P	99-03-074	480-146-290	NEW	99-08-054	490-500-542	PREP	99-06-081
480-143-100	NEW	99-08-055	480-146-300	NEW-P	99-03-073	490-500-545	PREP	99-06-081
480-143-110	NEW-P	99-03-074	480-146-300	NEW	99-08-054	490-500-555	PREP	99-06-081
480-143-110	NEW	99-08-055	480-146-310	NEW-P	99-03-073	490-500-560	PREP	99-06-081
480-143-120	NEW-P	99-03-074	480-146-310	NEW	99-08-054	490-500-580	PREP	99-06-081
480-143-120	NEW	99-08-055	480-146-320	NEW-P	99-03-073	490-500-590	PREP	99-06-081
480-143-130	NEW-P	99-03-074	480-146-320	NEW	99-08-054	490-500-600	PREP	99-06-081
480-143-130	NEW	99-08-055	480-146-330	NEW-P	99-03-073	490-500-605	PREP	99-06-081
480-143-140	NEW-P	99-03-074	480-146-330	NEW	99-08-054	490-500-615	PREP	99-06-081
480-143-140	NEW	99-08-055	480-146-340	NEW-P	99-03-073	490-500-620	PREP	99-06-081
480-143-150	NEW-P	99-03-074	480-146-340	NEW	99-08-054	490-500-622	PREP	99-06-081
480-143-150	NEW	99-08-055	480-146-350	NEW-P	99-03-073	490-500-625	PREP	99-06-081
480-143-160	NEW-P	99-03-074	480-146-350	NEW	99-08-054	490-500-627	PREP	99-06-081
480-143-160	NEW	99-08-055	480-146-360	NEW-P	99-03-073	490-500-630	PREP	99-06-081

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
490-500-635	PREP	99-06-081						
516- 13-090	AMD-P	99-03-011						
516- 13-090	AMD-E	99-03-012						
516- 13-090	AMD	99-07-089						
516- 15-050	AMD-P	99-03-011						
516- 15-050	AMD-E	99-03-012						
516- 15-050	AMD	99-07-089						
516-133	PREP	99-08-044						

TABLE

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

ACCOUNTANCY, BOARD OF

Certificates and licenses
 continuing education
 foreign reciprocity
 renewal and fee cycle revised
 Confidential information
 Fees
 Hearings
 Meetings

PREP 99-05-027
 PREP 99-05-027
 PREP 99-05-025
 PREP 99-05-026
 PERM 99-02-008
 PERM 99-02-009
 PERM 99-02-008
 PREP 99-01-005
 MISC 99-02-007

AGRICULTURE, DEPARTMENT OF

Alfalfa seed commission
 meetings
 Animal health
 brucellosis vaccine
 importation
 scrapie control
 Asparagus commission
 meetings
 Barley commission
 meetings
 Beef commission
 meetings
 Blueberry commission
 meetings
 Brands
 permanent renewal
 Bulb commission
 meetings
 Cattle
 brands
 feedlots
 brucellosis vaccinates
 Chemicals
 picloran
 Cranberry commission
 meetings
 Eggs and egg products
 Farmed salmon commission
 meetings
 Fertilizers
 application rates for commercial fertilizers
 metals analysis methods
 Field pea and chick pea
 standards
 Food processing operations
 Food safety
 pull date labeling
 raw fruit juice product labeling
 Fruits and vegetables
 apple standards
 apricot standards amended
 grapevines
 registration and certification
 inspections
 onion, cantaloupe, rhubarb, and tomato standards
 rule repeal
 peach standards
 inspection rule retained
 potato grade standards
 raw fruit juice product labeling
 Fryer commission
 meetings
 Grain
 inspection fee schedule

MISC 99-01-037
 PROP 99-03-084
 PROP 99-03-087
 PERM 99-09-023
 PERM 99-09-025
 PROP 99-03-084
 PROP 99-03-086
 PERM 99-09-026
 MISC 99-01-109
 MISC 99-02-010
 MISC 99-02-042
 MISC 99-09-031
 MISC 99-10-053
 MISC 99-04-009
 MISC 99-07-047
 PREP 99-07-084
 MISC 99-01-017
 PREP 99-07-084
 EXAD 99-07-115
 PREP 99-07-087
 MISC 99-04-010
 PREP 99-03-045
 PROP 99-07-118
 MISC 99-05-008
 PROP 99-01-048
 PERM 99-02-035
 PROP 99-04-093
 PERM 99-08-037
 PROP 99-01-048
 PERM 99-02-035
 PREP 99-04-096
 PROP 99-08-088
 PREP 99-04-067
 PROP 99-09-095
 PROP 99-07-117
 PREP 99-03-108
 PREP 99-04-094
 PROP 99-08-108
 PREP 99-03-094
 EXAD 99-07-127
 PREP 99-03-108
 EXRE 99-08-112
 PREP 99-08-111
 PREP 99-08-110
 PROP 99-07-117
 MISC 99-01-123
 PREP 99-07-132

Hop board
 meetings
 membership qualifications
 Hops
 bales and tares
 Horticulture inspection district boundaries
 reference to word horticultural changed to
 fruits and vegetables
 Integrated pest management, interagency
 coordinating committee meetings
 Livestock
 brands
 identification program
 Meat
 custom slaughter and facilities
 Milk and milk products
 Mint
 rootstock certification
 Mint commission
 meetings
 Noxious weed control board
 meetings
 noxious weed grant program
 noxious weed list
 yellow nutsedge
 Nurseries
 inspection fees
 Pesticide registration, commission on
 meetings
 Pesticides
 ethyl parathion
 ethylene dibromide (EDB) tolerances
 heptachlor treated grain seed
 phosdrin
 protection of pollinating insects
 ziram
 Plant pests
 detection, testing and inspection fees
 grape phylloxera
 Potato commission
 meetings
 Poultry
 importation
 Quarantine
 apple maggot
 grape virus
 yellow nutsedge
 Red raspberry commission
 grades and packs, standards
 meetings
 Rules agenda
 Seeds
 certification fees
 Strawberry commission
 meetings
 Technical assistance
 lists of organizations
 Tuberculosis in cervidae
 Turfgrass seed commission
 creation
 Weights and measures
 national standards adopted
 Wheat commission
 meetings
 Wine commission
 assessments
 rates increased
 meetings

MISC 99-02-006
 PROP 99-02-063
 PERM 99-10-095
 PROP 99-02-066
 PERM 99-06-072
 EXAD 99-08-113
 MISC 99-07-017
 PREP 99-07-084
 PERM 99-04-069
 PROP 99-07-116
 PREP 99-04-066
 PREP 99-03-093
 MISC 99-01-036
 MISC 99-04-035
 EXRE 99-07-124
 PREP 99-07-123
 PREP 99-03-095
 PROP 99-07-126
 MISC 99-08-042
 PREP 99-07-111
 EXRE 99-04-007
 PERM 99-07-112
 EXRE 99-04-006
 PERM 99-07-113
 PREP 99-07-086
 PREP 99-02-021
 PREP 99-07-088
 PREP 99-03-096
 PROP 99-07-125
 PREP 99-03-090
 MISC 99-02-013
 PROP 99-03-085
 PERM 99-09-024
 PREP 99-03-092
 PREP 99-03-091
 PREP 99-07-123
 PREP 99-01-180
 PROP 99-07-108
 MISC 99-01-176
 MISC 99-04-107
 MISC 99-07-129
 PREP 99-04-095
 PREP 99-04-096
 MISC 99-01-072
 PROP 99-05-022
 PERM 99-08-039
 EXRE 99-07-114
 PERM 99-02-064
 PROP 99-04-111
 PERM 99-07-056
 MISC 99-06-009
 PREP 99-02-062
 PROP 99-06-070
 MISC 99-01-046
 MISC 99-01-074

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

AIR POLLUTION				CODE REVISER'S OFFICE		
(See ECOLOGY, DEPARTMENT OF ; individual air pollution control authorities)				Quarterly reports		
				98-19 - 98-24 See Issue 99-02		
				99-01 - 99-07 See Issue 99-08		
ARCHITECTS				COLLEGES AND UNIVERSITIES		
(See LICENSING, DEPARTMENT OF)				(See HIGHER EDUCATION COORDINATING BOARD ; names of individual institutions)		
ASIAN PACIFIC AMERICAN AFFAIRS, COMMISSION ON				COLUMBIA BASIN COLLEGE		
Meetings	MISC	99-01-018	Meetings		MISC 99-01-056	
ATTORNEY GENERAL'S OFFICE				COLUMBIA RIVER GORGE COMMISSION		
Notice of request for opinion	MISC	99-01-152	Urban area boundary revisions and proposed plan amendments		PROP 99-05-057. PERM 99-09-041	
	MISC	99-02-003				
	MISC	99-08-027				
Opinions			COMBINED FUND DRIVE			
city council member compensation (1999, No. 1)	MISC	99-06-012	(See PERSONNEL, DEPARTMENT OF)			
county meetings, authority to ban video or sound recordings (1998, No. 15)	MISC	99-01-107				
military leave for public employees (1999, No. 2)	MISC	99-06-013				
public utility districts, authority (1998, No. 14)	MISC	99-01-106				
BASIC HEALTH PLAN				COMMODITY COMMISSIONS		
(See HEALTH CARE AUTHORITY)				(See AGRICULTURE, DEPARTMENT OF)		
BATES TECHNICAL COLLEGE				COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF		
Meetings	MISC	99-07-092	Bond users clearinghouse		PREP 99-08-059	
BELLEVUE COMMUNITY COLLEGE				Building permit fee		PERM 99-01-089
Meetings	MISC	99-01-042	Community economic revitalization board meetings		MISC 99-04-041 MISC 99-09-002	
Public records, access	PROP	99-05-018	Early childhood education and assistance programs funding		PREP 99-10-067	
	PERM	99-10-045	Electric local curtailment		PREP 99-07-005	
BELLINGHAM TECHNICAL COLLEGE				Emergency food assistance program		PREP 99-06-025 PROP 99-10-114
Meetings	MISC	99-01-002	Historic registers application process		PROP 99-03-098	
	MISC	99-01-108	Industrial development		PREP 99-08-060	
	MISC	99-02-068	Long-term care ombudsman program		PROP 99-04-072	
	MISC	99-05-007	Low-income home energy assistance program		MISC 99-10-113	
	MISC	99-07-002	Public works board financial assistance, standards meetings		PROP 99-05-062 MISC 99-01-091 MISC 99-06-018 MISC 99-06-019	
	MISC	99-08-018	public health need and substantial environmental degradation definitions		PERM 99-09-020	
BENTON COUNTY CLEAN AIR AUTHORITY				Rules coordinator		MISC 99-10-009
Meetings	MISC	99-07-046				
BLIND, DEPARTMENT OF SERVICES FOR THE				COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR		
Client services, eligibility	PROP	99-01-022	Exceptional faculty awards trust fund		PREP 99-04-029 EMER 99-07-057 PROP 99-08-013	
	PERM	99-05-005	Meetings		MISC 99-01-045 MISC 99-04-098	
BOILER RULES, BOARD OF				Participant outcomes data consortium meetings		MISC 99-10-014
(See LABOR AND INDUSTRIES, DEPARTMENT OF)				Retirement rule revisions		PREP 99-09-017
BUILDING CODE COUNCIL				Running start program		PREP 99-08-057
Building code allowable shear tables	EMER	99-05-030	Tuition and fees		PREP 99-10-015	
CAPITOL CAMPUS				CONVENTION AND TRADE CENTER		
(See GENERAL ADMINISTRATION, DEPARTMENT OF)				Meetings		
CASCADIA COMMUNITY COLLEGE				MISC 99-01-044 MISC 99-03-019 MISC 99-06-010 MISC 99-07-044 MISC 99-09-047		
Meetings	MISC	99-01-047				
	MISC	99-03-071				
CEMETERY BOARD				CORRECTIONS, DEPARTMENT OF		
(See LICENSING, DEPARTMENT OF)				Facilities site selection process		PREP 99-07-096
CENTRALIA COLLEGE				Meetings		MISC 99-06-008
Meetings	MISC	99-01-071				
CHILD SUPPORT				COUNTY ROAD ADMINISTRATION BOARD		
(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)				Meetings		
CHILDREN'S SERVICES				MISC 99-01-006 MISC 99-04-040 PERM 99-01-020 PERM 99-01-021 MISC 99-01-019 MISC 99-01-021 PROP 99-09-084		
(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)				Practice and procedure		
CLARK COLLEGE				Rules coordinator		
Administration practices	PREP	99-06-011	Rural arterial program			
	PROP	99-10-044				
Meetings	MISC	99-01-128				
CLARKSTON, PORT OF						
Meetings	MISC	99-01-081				

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

CRIME VICTIMS COMPENSATION (See LABOR AND INDUSTRIES, DEPARTMENT OF)			MISC 99-08-067
			MISC 99-08-068
CRIMINAL JUSTICE TRAINING COMMISSION			
Meetings	MISC	99-03-013	
EASTERN WASHINGTON UNIVERSITY			
Meetings	MISC	99-03-035	
	MISC	99-03-072	
	MISC	99-04-023	
	MISC	99-06-015	
	MISC	99-08-017	
Rules coordinator	MISC	99-01-125	
ECOLOGY, DEPARTMENT OF			
Air pollution			
aluminum smelter emissions	PREP	99-10-042	
nation emission and performance for new sources standards			
federal compliance	EXAD	99-04-097	
prevention of significant deterioration program	PREP	99-09-093	
visibility requirements	MISC	99-10-111	
wood fired boilers	PREP	99-07-093	
Burning			
open, outdoor	PROP	99-07-110	
Environmental performance partnership agreement	MISC	99-10-110	
Flood control assistance account program grants			
public hearing on proposed award list	MISC	99-07-094	
Forest practices to protect salmonids	EMER	99-07-077	
	EMER	99-09-001	
Forest practices to protect water quality	PROP	99-02-016	
	PROP	99-09-094	
Hazardous waste			
federal regulations, incorporation	PREP	99-10-041	
Marine employee's commission meetings	MISC	99-09-018	
Marine safety			
State Environmental Policy Act (SEPA) compliance	EXRE	99-01-087	
	PERM	99-07-076	
Municipal stormwater general permits	MISC	99-03-078	
	MISC	99-03-079	
Radioactive waste			
commercial low level disposal-site use permit	MISC	99-04-034	
low level disposal	MISC	99-04-034	
Rules agenda	MISC	99-04-047	
Shoreline Management Act			
guidelines for development of master programs	PROP	99-08-124	
Stormwater			
watershed-based municipal stormwater general permits	MISC	99-08-061	
Vessels			
inspection standards	MISC	99-04-115	
	MISC	99-06-002	
Water			
cleanup list	MISC	99-08-126	
surface water quality standards	PREP	99-05-060	
wastewater discharge			
fresh fruit packing industry NPDES permit	MISC	99-04-063	
	MISC	99-09-022	
sand and gravel general permit	MISC	99-09-079	
Water resources			
Methow Valley River basin			
water conservation and management	PROP	99-09-092	
Upper Chehalis River watershed			
water temperature strategy	MISC	99-10-040	
Water rights			
application processing	PROP	99-08-125	
changes or transfers	MISC	99-04-032	
exempt ground water withdrawals	MISC	99-04-033	
Wetland mitigation banks	PREP	99-03-097	
ECONOMIC DEVELOPMENT FINANCE AUTHORITY			
Meetings	MISC	99-01-041	
EDMONDS COMMUNITY COLLEGE			
Meetings	MISC	99-01-009	
	MISC	99-02-043	
	MISC	99-02-051	
	MISC	99-03-015	
	MISC	99-04-064	
	MISC	99-06-094	
	MISC	99-07-045	
EDUCATION, STATE BOARD OF			
Appeal procedures	PERM	99-01-172	
Certification			
compliance and requirements	PREP	99-04-087	
	PROP	99-07-070	
endorsements			
biology, chemistry, earth science, physics, mathematics	PROP	99-04-110	
	PERM	99-07-102	
early childhood education	PERM	99-06-005	
technology	PREP	99-04-109	
school nurse	PREP	99-06-038	
	PROP	99-10-003	
school occupational therapist	PREP	99-06-038	
	PROP	99-10-003	
school physical therapist	PREP	99-06-038	
	PROP	99-10-003	
school speech-language pathologist or audiologist	PREP	99-06-038	
	PROP	99-10-003	
standards	PERM	99-01-174	
Construction documents			
compliance with public works provisions	PREP	99-04-086	
	PROP	99-07-067	
Continuing education requirements	EMER	99-05-002	
	PREP	99-06-039	
	PROP	99-10-002	
Early childhood special education			
subject area endorsement	PROP	99-01-171	
	PERM	99-06-005	
Educational service districts			
criteria for organization	PREP	99-04-083	
	PROP	99-07-065	
Elementary and secondary standards	PREP	99-04-089	
	PROP	99-07-068	
Emergency exit drills	PREP	99-04-090	
	PROP	99-07-073	
Equivalency credit	PREP	99-04-091	
	PROP	99-07-072	
Funding of schools			
state support	PERM	99-04-008	
	PROP	99-04-080	
	PERM	99-10-091	
Health services	PREP	99-04-089	
	PROP	99-08-081	
High schools			
adult completion course work credit defined	PROP	99-04-081	
	PERM	99-10-093	
graduation requirements	PROP	99-04-082	
	PROP	99-06-089	
	PREP	99-10-089	
	PERM	99-10-094	
Marketing education	PERM	99-01-173	
Minimum length of school year	PREP	99-04-088	
	PROP	99-07-069	
Parents' rights	PREP	99-10-090	
Physical education	PREP	99-04-085	
	PROP	99-07-066	
Practice and procedure	PROP	99-04-079	
	PERM	99-10-092	
School plant facilities			
state assistance	PROP	99-03-026	
basic state support	PREP	99-06-079	
educational specifications and site selection	PREP	99-06-078	
	PREP	99-06-080	
	PROP	99-10-001	
interdistrict cooperation in financing school plant construction	PREP	99-06-077	
interdistrict transportation cooperatives	PREP	99-06-076	
modernization	PREP	99-06-075	
preliminary provisions	PREP	99-06-074	
School staff assignments	PREP	99-03-001	
	PERM	99-07-054	
Specialized services	PROP	99-04-092	
	PROP	99-07-071	
Students rights	PREP	99-04-084	
	PROP	99-07-064	
Transportation			
state assistance	PROP	99-01-157	
	PERM	99-08-004	

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

	PROP 99-05-063	Card rooms	PROP 99-08-093
	PERM 99-10-102	house banked card games	PREP 99-09-009
big game auction permits and raffles	PERM 99-01-144	Licenses	
bighorn sheep	PREP 99-01-136	qualifications	PREP 99-09-010
	PROP 99-05-063	Promotional contests of chance	PREP 99-09-011
	PERM 99-10-102	Public disclosure	PREP 99-09-012
cougar	PREP 99-01-136	Washington blackjack	PREP 99-07-095
	PROP 99-05-063		PROP 99-09-096
	PERM 99-10-102		
deer	PREP 99-01-136	GENERAL ADMINISTRATION, DEPARTMENT OF	
	PROP 99-05-063	Capitol campus design advisory committee	
	PERM 99-10-102	meetings	MISC 99-01-026
disabled hunters			MISC 99-01-118
crossbow and cocking device	PROP 99-05-064		MISC 99-05-020
	PROP 99-10-112	Capitol facilities division	
elk	PREP 99-01-136	meetings	MISC 99-04-030
	PROP 99-05-063	Capitol grounds rules	
	PERM 99-10-102	penalties for violations removed	PREP 99-08-086
game management units (GMUs)	PREP 99-10-115	Federal surplus property	EXRE 99-01-151
	PREP 99-01-136		PERM 99-06-001
	PROP 99-05-063	Procurement, office of	
	PERM 99-10-102	process	EXAD 99-10-069
goose	PREP 99-01-136	repeal of inapplicable rules	EXRE 99-10-068
	PROP 99-05-063	Property development, division of	
	PERM 99-10-102	meetings	MISC 99-08-002
hunting hours and small game permit hunts	PREP 99-01-136	State capitol committee	
	PROP 99-05-063	meetings	MISC 99-05-067
	PERM 99-10-102		
migratory gamebirds	PREP 99-10-104	GOVERNOR, OFFICE OF THE	
moose	PREP 99-01-136	Clemency and pardons board	
	PROP 99-05-063	meetings	MISC 99-04-065
	PERM 99-10-102	Counties, state of emergency	MISC 99-03-028
mountain goat	PREP 99-01-136		MISC 99-04-068
	PROP 99-05-063		MISC 99-06-041
	PERM 99-10-102		MISC 99-06-096
private lands wildlife management areas	PERM 99-01-138		MISC 99-07-035
	PERM 99-01-145		MISC 99-07-055
restricted and closed areas	PREP 99-01-136		MISC 99-07-083
	PROP 99-05-063		MISC 99-10-108
	PERM 99-10-102	Ecology, department of	
rules clarification	PREP 99-10-103	notice of appeal	MISC 99-05-001
Prospecting		Thomas Lake appeal	MISC 99-07-052
gold and fish pamphlet	EXRE 99-01-054	Executive orders	
	PERM 99-05-024	Council of economic advisors	MISC 99-04-027
small scale prospecting and mining	PERM 99-01-088	Executive orders, rescission	MISC 99-01-103
	EXAD 99-05-023	School-to-work transition task force	
	PERM 99-10-048	meetings	MISC 99-07-082
Rules agenda	MISC 99-02-018		
Trapping	PREP 99-10-104	GRAYS HARBOR COLLEGE	
Volunteer cooperative projects	PREP 99-01-032	Meetings	MISC 99-01-043
	PROP 99-05-075		MISC 99-01-124
	PROP 99-05-076		
Wildlife		GREEN RIVER COMMUNITY COLLEGE	
deleterious exotic wildlife		Meetings	MISC 99-02-005
designation and control	PROP 99-01-055		
	PERM 99-08-024	GROWTH MANAGEMENT HEARINGS BOARDS	
endangered, threatened, or sensitive species	PREP 99-01-137	Meetings	MISC 99-02-050
			MISC 99-04-045
FOOD ASSISTANCE PROGRAM		HAZARDOUS WASTE	
(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)		(See ECOLOGY, DEPARTMENT OF)	
FOREST PRACTICES BOARD		HEALTH, DEPARTMENT OF	
(See also ECOLOGY, DEPARTMENT OF)		Antitrust immunity and competitive oversight	
Meetings	MISC 99-01-083	transfer	PROP 99-04-049
Protection for threatened and endangered salmonids	EMER 99-07-075	Antitrust review fees	PREP 99-04-050
	EMER 99-08-078	Boarding homes	
Rules agenda	MISC 99-01-082	civil fines	PROP 99-04-048
	PROP 99-09-078	Certificate of need	
Water quality	PROP 99-01-070	fees	PREP 99-05-011
Water typing rules	EMER 99-07-074	Chemical dependency professionals	
	EMER 99-08-077	certification	
		minimum standards	PROP 99-09-100
GAMBLING COMMISSION		examination and AIDS education requirements	PREP 99-08-095
Bingo		Children with special health care needs program	PERM 99-01-100
charitable and nonprofit licenses			PERM 99-03-043
net return	PERM 99-03-103	Chiropractic quality assurance commission	
promotions	PREP 99-03-099	standards and licenses	PREP 99-03-061
	PREP 99-03-100	Community environmental health	
	PREP 99-03-101	on-site sewage systems	MISC 99-03-059
	PREP 99-03-102	Environmental health program fees	PROP 99-07-120
	PREP 99-04-005		
	PROP 99-08-094		

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Fees					
decreased for certain professions	PROP	99-02-057	Shellfish programs	PERM	99-07-018
	PERM	99-08-101	sewage disposal for commercial operation while		
Food workers' permit	PROP	99-08-097	operating a vessel	MISC	99-07-119
Health professions quality assurance division			Temporary worker housing		
discipline	MISC	99-03-055	building codes	PERM	99-03-065
intranet and internet use	MISC	99-03-056	cherry harvest	PREP	99-03-082
review of proposed statements procedures	MISC	99-03-057		PROP	99-08-098
Hearing and speech, board of			drinking water	EMER	99-10-096
audiology and speech-language pathology			Transient accommodations		
education requirements	PROP	99-01-097	fees	PREP	99-10-077
	PERM	99-08-102	Veterinary, board of governors		
minimum standards of practice	EXAD	99-08-096	disciplinary reinstatement	MISC	99-02-080
hearing instrument purchase agreements	PROP	99-01-096	Water		
	PERM	99-08-103	drinking water		
surety bonding	PERM	99-07-019	loan guidelines	MISC	99-10-075
unfair practices	PERM	99-07-019	standards	PERM	99-07-021
Hospitals				PERM	99-10-076
acute care hospital					
standards	PERM	99-04-052			
Lead			HEALTH CARE AUTHORITY		
reporting of blood lead levels	EXAD	99-06-091	Basic health plan		
Local public health			appeals	PERM	99-07-078
guidelines	PERM	99-03-062	eligibility criteria	PREP	99-08-107
rules review	PERM	99-03-063	underreported income	PREP	99-05-077
LPN			Meetings	PROP	99-08-106
education supervision	MISC	99-02-060	Public employees benefits board	MISC	99-03-018
standing orders and protocols	MISC	99-02-060	meetings	MISC	99-07-036
surgical technologist	MISC	99-02-059		MISC	99-09-030
Medical quality assurance commission			Rules agenda	MISC	99-06-101
sexual misconduct	PROP	99-07-121			
standing orders and protocols	MISC	99-02-061			
Medical records			HEARING AND SPEECH, BOARD OF		
fees allowed for searching and duplicating	PROP	99-10-078	(See HEALTH, DEPARTMENT OF)		
Midwives			HIGHER EDUCATION COORDINATING BOARD		
examinations	PERM	99-03-064	Administrative requirements	EXAD	99-01-039
retired active status	PREP	99-06-090		PERM	99-06-021
Nursing care quality assurance commission			Exemptions from authorization	EXAD	99-01-040
alcohol misuse	PREP	99-09-098		PERM	99-06-022
home health aids			Meetings	MISC	99-01-116
simple trach care	MISC	99-02-058	Running start program	PREP	99-10-070
impaired practical nurse program, license			State need grant	PROP	99-10-074
surcharge	PERM	99-01-099			
licenses			HIGHLINE COMMUNITY COLLEGE		
authorization to practice	PROP	99-06-092	Meetings	MISC	99-01-110
	PROP	99-08-099		MISC	99-09-077
	PERM	99-10-079			
endorsement	PROP	99-08-099	HISPANIC AFFAIRS, COMMISSION ON		
qualifications	EXRE	99-01-092	Meetings	MISC	99-04-001
	EXAD	99-01-098			
	PERM	99-08-104	HORSE RACING COMMISSION		
occlusive dressings	MISC	99-05-010	Horses		
retired/active status	PREP	99-03-066	identification	PERM	99-05-048
sexual misconduct	PERM	99-04-051	Parimutuel rules	PROP	99-02-081
vagal nerve stimulator magnet	MISC	99-05-009		PERM	99-06-026
voluntary monitoring	MISC	99-03-058	Race	PERM	99-05-047
Nursing home administrators, board of			Satellite locations	PREP	99-03-014
complaints and hearing procedures	PERM	99-03-067	Weights and equipment	PROP	99-02-082
program manager	PERM	99-03-069		PERM	99-05-049
suitability and character	PERM	99-03-068			
Orthotist and prosthetists			HUMAN RIGHTS COMMISSION		
examinations of candidates	PROP	99-03-083	Disability discrimination	PROP	99-04-108
	PERM	99-07-122	Meetings	MISC	99-01-129
Osteopathic medicine and surgery			HUNTING		
standing orders and protocols	MISC	99-02-061	(See FISH AND WILDLIFE, DEPARTMENT OF)		
Pharmacy, board of			INDETERMINATE SENTENCE REVIEW BOARD		
standing orders and protocols	MISC	99-02-061	Hearing record preservation	MISC	99-07-081
Physician assistants			INDUSTRIAL INSURANCE APPEALS, BOARD OF		
substance abuse monitoring surcharge	PROP	99-06-093	Rules coordinator	MISC	99-04-043
Podiatric medical board			INFORMATION SERVICES, DEPARTMENT OF		
clinical rotation	MISC	99-03-060	Meetings	MISC	99-03-024
delegation of duties	PROP	99-08-100			
Psychology, examining board of			INSURANCE COMMISSIONER'S OFFICE		
continuing education	PROP	99-09-101	Address	MISC	99-03-036
Radiation protection			Fraternal benefit societies		
dosimetry reporting	PROP	99-01-094	risk-based surplus	PERM	99-01-142
	PERM	99-05-013	Health care services insurance		
industrial radiography equipment	PROP	99-01-095	mental health benefits	PROP	99-03-007
	PERM	99-05-012			
machine facility registration fees	PROP	99-09-099			
Sex offender treatment provider program					
certification	EXRE	99-01-093			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

destroyed vehicles, reporting drivers' licenses extension	PREP 99-10-054	MEDICAL CARE (See HEALTH, DEPARTMENT OF)	
foreign organization license plates	PROP 99-02-052	MILITARY DEPARTMENT	
foreign plated vehicles, operation	PERM 99-05-032	911 enhanced funding	PREP 99-06-024
honorary consul license plates	PREP 99-10-058	MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF	
licenses	PREP 99-10-055	Annual goals	PREP 99-05-082
	PREP 99-10-058	Political subdivision fees	PREP 99-05-083
	PERM 99-01-133	MODEL TRAFFIC ORDINANCE (See LICENSING, DEPARTMENT OF)	
special license plates	PROP 99-01-139	MOTOR VEHICLES (See LICENSING, DEPARTMENT OF; TRANSPORTATION, DEPARTMENT OF; WASHINGTON STATE PATROL; UTILITIES AND TRANSPORTATION COMMISSION)	
veterans	PREP 99-03-003	NATURAL RESOURCES, DEPARTMENT OF	
Practice and procedure	PERM 99-06-029	Aquatic lands exchange	PERM 99-07-034
Public records disclosure	PREP 99-10-056	Burning permit fees	PROP 99-08-117
copying fees	PREP 99-10-056	Meetings	MISC 99-02-028
	PERM 99-01-104	Milwaukee Road Corridor-recreation use	MISC 99-08-083
definitions	EXAD 99-05-004		PREP 99-08-116
Real estate appraisers	PERM 99-09-045	NURSING CARE (See HEALTH, DEPARTMENT OF)	
appraisers	PREP 99-08-028	OLYMPIC COLLEGE	
fees	PERM 99-04-075	Meetings	MISC 99-01-025
uniform standards of practice	PROP 99-01-158		MISC 99-04-044
	PERM 99-04-074	OSTEOPATHY (See HEALTH, DEPARTMENT OF)	
Real estate commission		OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR	
brokers and salesmen	PERM 99-03-042	Meetings	MISC 99-03-047
rules review	MISC 99-03-027	Off-road vehicle funds	MISC 99-03-048
Rules agenda			EXAD 99-01-148
Uniform commercial code filing office	PERM 99-06-003		PREP 99-08-092
fees			PROP 99-08-114
Vessels		PARKS AND RECREATION COMMISSION	
registration and certificate of title	PERM 99-01-134	Marine facilities	
	PROP 99-02-012	moorage and use	PROP 99-01-120
	PERM 99-03-002	Meetings	PERM 99-04-117
	PERM 99-07-041	Public use of park areas	MISC 99-01-135
	PREP 99-10-057	Trails	PROP 99-04-118
		bicycle and equestrian use	PERM 99-08-031
LIQUOR CONTROL BOARD		Wind/sand sailing on ocean beaches	PREP 99-06-042
Added activities on licensed premises	PREP 99-04-113		PROP 99-10-065
Alcoholic beverages brought into state for personal use	PROP 99-05-014	PENINSULA COLLEGE	PROP 99-08-084
	PERM 99-10-066	WAC update	PREP 99-07-060
Credit card or debit card use	PERM 99-04-114		PROP 99-10-100
Electronic funds transfer	PREP 99-04-002	PERSONNEL, DEPARTMENT OF	
Hearing methods		Affirmative action	
rules review	EXRE 99-09-038	governor's affirmative action policy committee	
Licenses		meetings	MISC 99-01-085
penalty guidelines	PERM 99-03-032	Initiative 200 compliance	EMER 99-01-050
retail	PERM 99-03-033		EMER 99-01-051
rules review	PROP 99-06-097	Certifications	PROP 99-02-053
Malt beverages	PREP 99-09-039	actions required	PROP 99-02-054
tax reporting and filing		Combined fund drive	PERM 99-05-042
Sports, entertainment facilities	PREP 99-04-112	Housekeeping changes and rules clarification	PERM 99-05-043
alcohol service	PROP 99-07-085	Meetings	
Tobacco products		Probationary period	
sale or handling by employees under age eighteen	PERM 99-03-031	PERSONNEL RESOURCES BOARD (See PERSONNEL, DEPARTMENT OF)	
Violations		PESTICIDES (See AGRICULTURE, DEPARTMENT OF)	
administrative procedure	PROP 99-08-014		
LOTTERY COMMISSION			
Instant game rules	EXRE 99-10-031		
Lotto			
cash option	PREP 99-10-051		
drawing dates	PROP 99-04-012		
	PROP 99-05-036		
	PROP 99-10-052		
Meetings	MISC 99-08-009		
On-line games			
ticket sales	PERM 99-04-077		
Policy summaries	MISC 99-06-014		
	MISC 99-10-099		
Quinto			
drawing dates	PROP 99-04-012		
Retailer compensation	PREP 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)			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

PIERCE COLLEGE

Meetings MISC 99-01-122
 Student rights and responsibilities/code of conduct PREP 99-04-028
 PROP 99-07-109
PERM 99-10-046

PILOTAGE COMMISSIONERS, BOARD OF

New pilots, limitations PROP 99-01-117
 PERM 99-08-003
 Puget Sound district annual tariff PROP 99-08-075

PROPERTY TAX

(See **REVENUE, DEPARTMENT OF**)

PROSPECTING

(See **FISH AND WILDLIFE, DEPARTMENT OF**)

PUBLIC ASSISTANCE

(See **SOCIAL AND HEALTH SERVICES, DEPARTMENT OF**)

PUBLIC DISCLOSURE COMMISSION

Agency rules
 uniform procedure and format for public PREP 99-06-050
 PROP 99-09-062

Commercial advertisers
 public inspection of records PREP 99-06-064
 PROP 99-09-074

Contributions to candidates, elected officials,
 political committees or public office fund
 lobbyist making contributions on behalf of
 employer PREP 99-06-067
 PROP 99-09-059

Elected public officials
 annual list PREP 99-06-059
 PROP 99-09-070
 name not on list, impact PREP 99-06-061
 PROP 99-09-071
 responsibility for developing PREP 99-06-060
 PROP 99-09-058

Freedom of communication
 employer interference PREP 99-06-068
 PROP 99-09-060

Legislature
 form for report of legislative activity by
 legislators and staff PREP 99-06-069
 PROP 99-09-061

Lobbyist registration
 last calendar quarter of biennial period PREP 99-06-065
 PROP 99-09-075
 termination PREP 99-06-066
 PROP 99-09-076

Political advertising
 political party identification PREP 99-06-063
 PROP 99-09-073

Public records
 copying charges for records on CDs and diskettes PREP 99-06-054
 PROP 99-09-066
 hours for inspection and copying PREP 99-06-052
 PROP 99-09-064
 index PREP 99-06-057
 PROP 99-09-069
 officer PREP 99-06-051
 PROP 99-09-063

public inspection
 exemptions PREP 99-06-055
 PROP 99-09-067
 requests PREP 99-06-053
 PROP 99-09-065
 forms PREP 99-06-058
 PROP 99-09-057
 review of denials PREP 99-06-056
 PROP 99-09-068

Rules agenda MISC 99-01-150
 Sample ballots PREP 99-06-062
 PROP 99-09-072

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Interest arbitration and grievance rules PREP 99-04-013
PROP 99-10-107
 Meetings MISC 99-02-011
 Rules agenda MISC 99-01-086

PUBLIC INSTRUCTION, SUPERINTENDENT OF

Alternative learning experience requirements PERM 99-08-008
 Running start program PREP 99-09-008
 Special education services PREP 99-06-049

PUBLIC WORKS BOARD

(See **COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF**)

PUGET SOUND AIR POLLUTION CONTROL AGENCY

Dust control PROP 99-04-104
 PERM 99-07-061
 Gasoline storage and distribution **PROP** 99-10-097
 Meetings MISC 99-01-003
 Odor control PROP 99-04-104
 Outdoor burning
 military training PROP 99-04-104
 Source review requirements PROP 99-04-105
 PERM 99-07-062
PROP 99-10-098
 Spray coating operations

RADIATION PROTECTION

(See **HEALTH, DEPARTMENT OF**)

REAL ESTATE APPRAISERS

(See **LICENSING, DEPARTMENT OF**)

RETIREMENT SYSTEMS, DEPARTMENT OF

Early retirement window EXRE 99-08-074
 Law enforcement officers and fire fighters
 retirement system
 disability and general definitions PREP 99-09-006
 Meetings MISC 99-02-029
 Teacher's retirement system (TRS) plan I PREP 99-07-026
 Untimely or deficient reporting EXRE 99-08-074

REVENUE, DEPARTMENT OF

Abandoned property EXRE 99-04-018
 PERM 99-08-007
EXRE 99-10-032

Business and occupation tax
 laundries and dry cleaners EXAD 99-08-032
 sales of meals EXAD 99-06-027
 successor to person quitting business PROP 99-04-014
 PERM 99-08-034
 veterinarians PROP 99-04-015
 PERM 99-08-033

Deductibility
 business and occupation tax, sales tax, public
 utility tax EXAD 99-08-022

Estate taxes
 rule revisions PREP 99-07-133
 waiver or cancellation of penalty PERM 99-03-010

Excise taxes
 domestic violence victims
 housing for low-income homeless, tax exemption EXAD 99-07-090
 educational institutions PERM 99-03-005
 fuel oil, oil products, other extracted products EXRE 99-04-019
 PERM 99-08-005

Indian reservations
 internal distribution tax PREP 99-09-082
 PERM 99-02-055
 landscape and horticultural services EXAD 99-04-021
 PERM 99-09-013

pattern makers EXRE 99-04-019
 payment responsibilities **PROP** 99-10-034
 poultry and hatching egg producers EXRE 99-04-019
PROP 99-10-033
 real estate excise tax PROP 99-04-022
 ride sharing exemptions and credits PERM 99-08-035

Intercounty utilities and transportation companies PERM 99-04-031
 PERM 99-08-006
 EXAD 99-08-023

Legal, arbitration, and mediation services
 Property tax
 agricultural land valuation PERM 99-01-067
 exemptions PREP 99-09-085
 forest land valuation PERM 99-02-030
 homes for aging EMER 99-02-031
 inflation rate PERM 99-01-068
 nonprofit homes for the aging PERM 99-04-016
 refunds, rate of interest PERM 99-01-066
 revaluation PREP 99-05-069

Subject/Agency Index

(Citation in bold type refer to material in this issue)

timber and forest products	EXRE	99-04-017	SKAGIT VALLEY COLLEGE	
Rules agenda	MISC	99-01-175	Meetings	MISC 99-02-044
Sales of meals	EXAD	99-06-027		MISC 99-07-091
Sales tax				
games of chance	PROP	99-05-017	SOCIAL AND HEALTH SERVICES, DEPARTMENT OF	
	PERM	99-08-090	Aging and adult services administration	
landfill gas, wind, and solar energy electric			adult family homes	
generating facilities	EXAD	99-06-028	secure environments	PREP 99-03-105
watercraft to nonresidents	EXAD	99-04-020	boarding home licensing	EXAD 99-09-052
Timber excise tax			in-home care providers	
stumpage values	PERM	99-02-032	contract qualifications	PERM 99-03-041
	PREP	99-06-036	long-term care services	PREP 99-09-051
	PROP	99-10-039	private duty nursing services	PREP 99-01-165
Use tax			Alcohol and substance abuse, division of	
advertising materials printed outside state	PREP	99-01-090	chemical dependency services	
fuel oil, oil products, other extracted products	EXRE	99-04-019	county administration	PREP 99-06-082
landfill gas, wind, and solar energy electric			treatment service providers, certification	PREP 99-10-010
generating facilities	EXAD	99-06-028	Child care	
watercraft to nonresidents	EXAD	99-04-020	subsidized payment rates	PROP 99-08-121
RULES COORDINATORS			Child protective services	
(See Issue 99-01 for a complete list of rules			investigations, notification and appeal process	PREP 99-01-164
coordinators designated as of 12/24/98)			Child support, division of	
Community, trade and economic development,			case closure	PREP 99-09-003
department of	MISC	99-10-009		EMER 99-09-004
County road administration board	MISC	99-01-019	"most wanted" internet site	PERM 99-01-057
Eastern Washington University	MISC	99-01-125		MISC 99-03-039
Industrial insurance appeals, board of	MISC	99-04-043	noncompliance penalties	MISC 99-01-030
Insurance commissioner, office of	MISC	99-03-036	prehearing procedures	MISC 99-07-038
Lower Columbia College	MISC	99-01-007	stepparent liability	MISC 99-01-031
Veterans affairs, department of	MISC	99-01-130	Children's administration	
Washington state library	MISC	99-05-019	child care facilities	
Western Washington University	MISC	99-02-067	licensing requirements	PREP 99-07-039
			child care payment rate	PREP 99-05-070
			foster homes	
			payment rates	PREP 99-01-114
			safety requirements	PERM 99-01-059
			Indian child welfare	PREP 99-01-166
RUNNING START PROGRAM			Developmental disabilities, division of	
(See HIGHER EDUCATION COORDINATING BOARD)			family support opportunity	
			pilot program	PERM 99-04-071
SAFETY STANDARDS			service providers, standards	PREP 99-10-063
(See LABOR AND INDUSTRIES, DEPARTMENT OF)			Economic services administration	
			assistance programs, division of	
SALES TAX			errors and omissions corrected	PREP 99-07-105
(See REVENUE, DEPARTMENT OF)			eligibility	PROP 99-02-014
			emergency assistance	PREP 99-01-113
SCHOOLS			exceptions and complaints	PREP 99-08-120
(See EDUCATION, STATE BOARD OF)			general assistance-unemployable	PREP 99-04-055
			need standards	PROP 99-01-029
SEATTLE COMMUNITY COLLEGES			payment of grants	PERM 99-04-056
Meetings	MISC	99-01-061	resource	PERM 99-02-039
				PREP 99-03-040
SECRETARY OF STATE				PROP 99-06-098
Elections			SSI program	PROP 99-06-099
absentee ballots	PREP	99-07-042	standards of assistance	PERM 99-09-053
mailing methods	PREP	99-01-064		PERM 99-09-054
ballots	PROP	99-05-033		PROP 99-01-027
	PERM	99-08-089		EMER 99-01-028
	PREP	99-10-106		PERM 99-04-103
county procedures, review	PROP	99-05-054	SSI supplemental security income	
	PROP	99-07-043	payment standard	PREP 99-05-045
inactive voters, cancellation notice	PREP	99-01-064	Food assistance program	
	PROP	99-05-053	eligibility	PROP 99-01-111
logic and accuracy tests	PROP	99-05-034		EMER 99-01-112
	PERM	99-08-115		PERM 99-05-074
officials, certification	PREP	99-01-065		PERM 99-01-058
presidential primary	PREP	99-10-106		PERM 99-01-069
Electronic Authentication Act				EMER 99-05-046
implementation	PERM	99-02-047		PROP 99-06-088
	PERM	99-02-048		PERM 99-09-055
Limited liability companies			noncitizens, eligibility	
fees	EXAD	99-05-039	utility allowances	
Limited partnerships				
fees	EXAD	99-05-038	General assistance	
			pregnant woman	PROP 99-04-102
SECURITIES				PROP 99-10-105
(See FINANCIAL INSTITUTIONS, DEPARTMENT OF)			Juvenile rehabilitation administration	
SEX OFFENDER TREATMENT PROVIDER PROGRAM			parole revocation	PERM 99-03-077
(See HEALTH, DEPARTMENT OF)			Management services administration	
			declaratory orders	PROP 99-03-076
SHORELINE COMMUNITY COLLEGE				PERM 99-06-044
Meetings	MISC	99-01-126	language interpretation services and translations	PREP 99-09-086
	MISC	99-07-001	public disclosure	PREP 99-07-104
			Medical assistance administration	

Subject/Agency Index

(Citation in bold type refer to material in this issue)

alien emergency medical services	PREP 99-10-047	Roads, particulate matter control	PERM	99-03-030
clear writing principles	PREP 99-05-044			
community spouse needs and family needs allowances	EMER 99-01-168	SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE		
	PROP 99-06-100	Meetings	MISC	99-03-020
	EMER 99-08-016			
dental services	PROP 99-01-169	SUPREME COURT, STATE		
	PERM 99-07-023	Attorney fees and expenses	MISC	99-01-015
eligibility	PROP 99-02-015	Capital cases		
	PROP 99-07-137	filing of briefs	MISC	99-05-029
	PERM 99-10-064	stay of execution	MISC	99-07-010
estate recovery	PROP 99-07-025	House counsel	MISC	99-05-028
federal property levels	PREP 99-07-103	Judicial information system committee membership	MISC	99-01-016
	EMER 99-08-001	Motions, determination	MISC	99-01-015
hospital services	PROP 99-01-170			
	PROP 99-05-073	TACOMA COMMUNITY COLLEGE		
	PERM 99-06-045	Meetings	MISC	99-01-008
	PERM 99-06-046		MISC	99-09-019
	PERM 99-09-007			
definitions	PREP 99-06-087	TAX APPEALS, BOARD OF		
	PROP 99-09-088	Meetings	MISC	99-01-060
outpatient payment	PREP 99-06-086	Public records	PROP	99-08-091
	PROP 99-09-089			
payment method - state only programs rates	PROP 99-09-090			
	PREP 99-06-084	TAXATION		
	PROP 99-09-091	(See REVENUE, DEPARTMENT OF)		
appeals	PREP 99-06-085			
infusion, parenteral, and enteral therapies	PREP 99-03-104	THE EVERGREEN STATE COLLEGE		
interview requirements	PROP 99-08-015	Disciplinary records of student	PREP	99-05-056
managed care	PREP 99-01-167		PROP	99-08-030
maternity-related services		Shoplifting policy	PREP	99-05-065
home birth provider	PREP 99-06-043			
medical equipment, supplies, prosthetics, and orthotics	PROP 99-08-080	TOXICOLOGIST, STATE		
medical services request	PREP 99-08-041	Breath alcohol screening test administration	PROP	99-01-011
medically needy, eligibility	EMER 99-01-162		PROP	99-01-012
	PREP 99-01-163		PERM	99-06-047
	PROP 99-08-118		PERM	99-06-048
	EMER 99-08-119		EMER	99-10-018
noncovered service for clients	PREP 99-08-040		EXAD	99-10-019
occupational therapy	PREP 99-03-075			
oxygen and respiratory equipment and services	PROP 99-08-122	TRAFFIC SAFETY COMMISSION		
payment method	PREP 99-06-083	Meetings	MISC	99-01-035
	PROP 99-09-087			
prescription drug program billing instruction	MISC 99-04-025	TRANSPORTATION, DEPARTMENT OF		
Rules agenda	MISC 99-04-026	Central and field organization chain of command	EXAD	99-02-065
Temporary assistance for needy families (TANF)			PERM	99-07-013
community jobs wage subsidy program	EMER 99-02-038	City/county project coordination	PERM	99-01-121
five year limit	PROP 99-04-102	Escort vehicle requirements	EXRE	99-04-058
	PERM 99-08-050		PERM	99-07-098
pregnant women	PROP 99-10-105	Farm implements, oversize	EMER	99-10-004
Vocational rehabilitation services	PREP 99-06-081		PREP	99-10-020
WorkFirst		Ferries		
participation requirements	PROP 99-01-115	contractor prequalification	PERM	99-03-025
	PROP 99-05-071	fare schedule	PROP	99-05-035
	PROP 99-05-072		PERM	99-08-066
	PERM 99-07-024	preferential loading	PERM	99-07-059
	PERM 99-08-051	Highway access management		
	PERM 99-10-027	access control	PERM	99-06-035
	PROP 99-10-028	limited access hearings	PREP	99-10-029
		limited access highways	PREP	99-10-030
		permits	PERM	99-06-034
SOUTH PUGET SOUND COMMUNITY COLLEGE		Oversize and overweight permits		
General provisions	PREP 99-06-032	escort vehicles	PROP	99-05-006
Meetings	MISC 99-01-073		PERM	99-08-025
			EMER	99-10-004
SOUTHWEST AIR POLLUTION CONTROL AUTHORITY			PREP	99-10-020
sources	PERM 99-07-027	Rules agenda	MISC	99-01-053
	PERM 99-07-028	State Environmental Policy Act		
	PERM 99-07-029	review and update	PREP	99-04-042
	PERM 99-07-030	Transportation building address	EXAD	99-06-004
	PERM 99-07-032	Utility franchises and permits	PROP	99-08-082
SPOKANE, COMMUNITY COLLEGES OF				
Appointing authority, delegation	PROP 99-01-132	TRANSPORTATION IMPROVEMENT BOARD		
	PROP 99-05-040	Meetings	MISC	99-03-023
	PERM 99-10-012		MISC	99-07-011
Meetings	MISC 99-04-024		MISC	99-08-076
		Rules update	PROP	99-03-089
SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY		Transportation Equity Act, implementation	PERM	99-08-021
Burning restrictions	PROP 99-01-063		PROP	99-03-088
	PERM 99-03-046		PERM	99-08-020

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

TREASURER, OFFICE OF THE STATE			flashing lamps	PERM	99-02-045
Securities			headlamps		
collateral for payment	PERM	99-03-004	blue tint	PREP	99-09-049
TRUST COMPANIES			ignition interlock breath alcohol devices	PERM	99-01-156
(See FINANCIAL INSTITUTIONS, DEPARTMENT OF)			impounds	PREP	99-09-048
UNEMPLOYMENT COMPENSATION			tire chain use	EXAD	99-01-084
(See EMPLOYMENT SECURITY DEPARTMENT)				PERM	99-06-023
UNIVERSITY OF WASHINGTON			WASHINGTON STATE UNIVERSITY		
Meetings	MISC	99-01-080	Meetings	MISC	99-09-005
	MISC	99-04-062	WESTERN WASHINGTON UNIVERSITY		
Rules agenda	MISC	99-03-016	Bicycle traffic and parking	PROP	99-03-011
Student records disclosure	PREP	99-01-075		EMER	99-03-012
	PROP	99-08-056	Organization	PERM	99-07-089
Thomas Burke Museum	EXRE	99-01-131	Rules coordinator	PREP	99-08-044
	PERM	99-06-033	address	MISC	99-02-067
			Skateboards and in-line skates	MISC	99-08-043
				PROP	99-03-011
				EMER	99-03-012
USURY RATES			WHATCOM COMMUNITY COLLEGE		
(See inside front cover)			Meetings	MISC	99-01-127
UTILITIES AND TRANSPORTATION COMMISSION			WILDLIFE		
Budgets			(See FISH AND WILDLIFE, DEPARTMENT OF)		
rules review	PREP	99-09-028	WORKERS' COMPENSATION		
Electric companies	PREP	99-08-105	(See LABOR AND INDUSTRIES, DEPARTMENT OF)		
Gas companies	PREP	99-08-052	WORKFIRST		
Low-level radioactive waste disposal rates	PERM	99-05-016	(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)		
Motor carriers			WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD		
household goods	PERM	99-01-077	Meetings	MISC	99-04-101
	PERM	99-08-026		MISC	99-06-095
	PROP	99-08-085		MISC	99-09-033
Pipeline safety	PERM	99-02-036		MISC	99-09-042
	PERM	99-02-037	YAKIMA REGIONAL CLEAN AIR AUTHORITY		
Practice and procedure	PERM	99-05-031	Compliance and enforcement	PROP	99-01-033
Property transfers	PROP	99-03-074	Permits	PROP	99-01-033
	PERM	99-08-055		PROP	99-06-017
Railroad company operations	PREP	99-08-053	Public hearings	PROP	99-03-049
Securities, liens, affiliated interests, refunding of notes, and leases	PROP	99-03-073		PROP	99-06-017
	PERM	99-08-054	YAKIMA VALLEY COMMUNITY COLLEGE		
Solid waste collection companies	PREP	99-08-012	Meetings	MISC	99-07-048
Telecommunications			Public records	PREP	99-05-041
customer proprietary network information	PERM	99-05-015	Student rights and responsibilities	PROP	99-08-019
	PROP	99-07-107			
registration	PROP	99-07-106			
Telephones					
pay phone and operator services providers, level of service	PERM	99-02-020			
prepaid calling card services, standards	PERM	99-10-013			
rules review	PREP	99-09-027			
subscriber rates, calling areas	PERM	99-01-076			
Water companies					
investor owned companies	PROP	99-07-053			
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			
	MISC	99-06-016			
	MISC	99-09-046			
WASHINGTON STATE LIBRARY					
Library commission					
meetings	MISC	99-01-078			
	MISC	99-04-100			
	MISC	99-07-022			
Rules coordinator	MISC	99-05-019			
WASHINGTON STATE PATROL					
Background checks	PROP	99-03-080			
	PROP	99-03-081			
	PERM	99-07-050			
	PERM	99-07-051			
Buses					
warning device exemption	PREP	99-09-021			
Fire protection policy board					
meetings	MISC	99-05-066			
Motor vehicles					











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