

Washington State Register

JULY 3, 1985

OLYMPIA, WASHINGTON

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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 28B.19 or 34.04 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 noon and from 1 p.m. to 5 p.m. Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (206) 753-7470 (SCAN 234-7470).

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

WASHINGTON STATE REGISTER

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

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STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

2. PROPOSED, ADOPTED, AND EMERGENCY RULES OF STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW) may be distinguished by the size and style of type in which they appear.

- (a) **Proposed rules** are those rules pending permanent adoption by an agency and set forth in eight point type.
- (b) **Adopted rules** have been permanently adopted and are set forth in ten point type.
- (c) **Emergency rules** *have been adopted on an emergency basis and are set forth in ten point oblique type.*

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

RCW 34.04.058 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 matter is new matter;
 - (ii) deleted matter is (~~lined out and bracketed 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.

4. EXECUTIVE ORDERS, COURT RULES, NOTICES OF PUBLIC MEETINGS

Material contained in the Register other than rule-making actions taken under the APA or the HEAPA 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.

5. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules take effect thirty days after the rules and the agency order adopting them are filed with the code reviser. This effective date may be delayed, but not advanced, and a delayed 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 and remain effective for a maximum of ninety days from that date.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

A combined subject matter and agency index and a table of WAC sections affected may be found at the end of each issue.

1985

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

<u>Issue No.</u>	<u>Closing Dates¹</u>			<u>Distribution Date</u>	<u>First Agency Action Date³</u>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<i>For Inclusion in—</i>	<i>File no later than—</i>			<i>Count 20 days from—</i>	<i>For hearing/adoption on or after</i>
85-01	Nov 21	Dec 5	Dec 19, 1984	Jan 2, 1985	Jan 22
85-02	Dec 5	Dec 19, 1984	Jan 2, 1985	Jan 16	Feb 5
85-03	Dec 26, 1984	Jan 9, 1985	Jan 23	Feb 6	Feb 26
85-04	Jan 9	Jan 23	Feb 6	Feb 20	Mar 12
85-05	Jan 23	Feb 6	Feb 20	Mar 6	Mar 26
85-06	Feb 6	Feb 20	Mar 6	Mar 20	Apr 9
85-07	Feb 20	Mar 6	Mar 20	Apr 3	Apr 23
85-08	Mar 6	Mar 20	Apr 3	Apr 17	May 7
85-09	Mar 20	Apr 3	Apr 17	May 1	May 21
85-10	Apr 3	Apr 17	May 1	May 15	Jun 4
85-11	Apr 24	May 8	May 22	Jun 5	Jun 25
85-12	May 8	May 22	Jun 5	Jun 19	Jul 9
85-13	May 22	Jun 5	Jun 19	Jul 3	Jul 23
85-14	Jun 5	Jun 19	Jul 3	Jul 17	Aug 6
85-15	Jun 26	Jul 10	Jul 24	Aug 7	Aug 27
85-16	Jul 10	Jul 24	Aug 7	Aug 21	Sep 10
85-17	Jul 24	Aug 7	Aug 21	Sep 4	Sep 24
85-18	Aug 7	Aug 21	Sep 4	Sep 18	Oct 8
85-19	Aug 21	Sep 4	Sep 18	Oct 2	Oct 22
85-20	Sep 4	Sep 18	Oct 2	Oct 16	Nov 5
85-21	Sep 25	Oct 9	Oct 23	Nov 6	Nov 26
85-22	Oct 9	Oct 23	Nov 6	Nov 20	Dec 10
85-23	Oct 23	Nov 6	Nov 20	Dec 4	Dec 24
85-24	Nov 6	Nov 20	Dec 4	Dec 18	Jan 7, 1986

¹All documents are due at the code reviser's office by 5:00 p.m. on the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

²A filing of any length will be accepted on the closing dates of this column if it has been prepared by the order typing service (OTS) of the code reviser's office; see WAC 1-12-220 or 1-13-240. 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.

³"No proceeding may be held on any rule until twenty days have passed from the distribution date of the Register in which notice thereof was contained." RCW 28B.19.030(4) and 34.04.025(4). These dates represent the twentieth day after the distribution date of the applicable Register.

WSR 85-13-001
RULES OF COURT
STATE SUPREME COURT
 [May 29, 1985]

IN THE MATTER OF THE
 ADOPTION OF AMENDMENTS TO JTIR 6.2, JCrR 4.09 AND CAR 21
 NO. 25700-A-365
 ORDER

Amendments to JTIR 6.2, JCrR 4.09 and CAR 21 having been proposed and the Court having determined that the proposed amendments will aid in the prompt and orderly administration of justice; Now, therefore, it is hereby

ORDERED:

(a) That the amendments to JTIR 6.2, JCrR 4.09 and CAR 21 as attached hereto are adopted.

(b) That the amendments are to be published expeditiously in the Washington Reports.

(c) That pursuant to the emergency provisions of GR 9(g) the amendments to JTIR 6.2 shall become effective on July 1, 1985 and the amendments to JCrR 4.09 and CAR 21 shall become effective as of the date of their publication.

DATED at Olympia, Washington, this 29th day of May, 1985.

James M. Dolliver

Robert F. Utter

James A. Andersen

Robert F. Brachtenbach

Keith M. Callow

Fred H. Dore

Wm. C. Goodloe

Vernon R. Pearson

B. Durham

RULE 6.2 MONETARY PENALTY SCHEDULE

(a) Effect of Schedule. The penalty for any infraction listed in this rule may not be changed by local court rule. The court may impose on a defendant a lesser penalty in an individual case.

(b) Unscheduled Infractions. The penalty for any infraction not listed in this rule shall be \$20 25, not including statutory assessments. A court may, by local court rule, provide for a different penalty.

(c) Infractions Not Covered. This schedule does not apply to penalties for parking, standing, stopping, or pedestrian infractions established by municipal or county statute. Penalties for those infractions are established by statute or local court rule, but shall be consistent with the philosophy of these rules.

(d) Penalty Schedule. The following infractions shall have the penalty listed, not including statutory assessments.

Serious Infractions	Penalty
1. Wrong way on freeway (RCW 46.61.150)	\$185 165
2. Wrong way on freeway access (RCW 46.61.155)	\$68 70
3. Backing on limited access highway (RCW 46.61.605)	\$68 70

4. Spilling or failure to secure load (RCW 46.61.655)	\$68 70
5. Throwing or depositing debris on highway (RCW 46.61.645)	\$68 70
6. Disobeying school patrol (RCW 46.61.385)	\$68 70
7. Passing stopped school bus (with red lights flashing) (RCW 46.61.370)	\$68 70
8. Violation of posted road restriction (RCW 46.44.080; RCW 46.44.105(4))	\$185 165
9. Switching license plates, loan of license or use of another's (RCW 46.16.240)	\$68 70
10. Altering or using altered license plates (RCW 46.16.240)	\$68 70
Operator's Licenses (RCW 46.20)	
All RCW 46.20 infractions	\$20 25
Vehicle Licenses (RCW 46.16)	
Expired Vehicle License (RCW 46.16.010)	
Two months or less	\$20 25
Over 2 months	\$68 70
Failure to obtain Washington vehicle license within 2 months after residency established	\$20 25
Failure to obtain Washington vehicle license over 2 months after residency established	\$185 165
Speeding (RCW 46.61.400) if speed limit is over 40 mph	
1-5 mph over limit	\$5 10
6-10 mph over limit	\$17 20
11-15 mph over limit	\$25 35
16-20 mph over limit	\$43 50
21-25 mph over limit	\$63 65
26-30 mph over limit	\$88 85
31-35 mph over limit	\$115 110
36-40 mph over limit	\$145 135
Over 40 mph over limit	\$185 165
Speeding if speed limit is 40 mph or less	
1-5 mph over limit	\$12 20
6-10 mph over limit	\$20 25
11-15 mph over limit	\$35 40
16-20 mph over limit	\$58 60
21-25 mph over limit	\$88 85
26-30 mph over limit	\$120 110
31-35 mph over limit	\$145 135
Over 35 mph over limit	\$185 165
Speed Too Fast for Conditions (RCW 46.61.400(1))	\$20 25
Rules of the Road	
1. Failure to stop (RCW 46.61.050, .210)	\$20 25
2. Failure to yield the right-of-way (RCW 46.61.180, .190, .205, .210, .235, .300, .365)	\$20 25
3. Following too close (RCW 46.61.145, .635)	\$20 25
4. Failure to signal (RCW 46.61.310)	\$20 25
5. Improper lane usage or travel (RCW 46.61.140)	\$20 25

6. Impeding traffic (RCW 46.61.425)	\$20	25
7. Improper passing (RCW 46.61.110, .115, .120, .125, .130)	\$20	25
8. Prohibited and improper turn (RCW 46.61.290, .295, .305)	\$20	25
9. Crossing double yellow line left of center line (RCW 46.61.100, .130, .140)	\$20	25
10. Operating with obstructed vision (RCW 46.61.615)	\$20	25
11. Wrong way on one-way street (RCW 46.61.135)	\$20	25
12. Failure to comply with restrictive signs (RCW 46.61.050)	\$20	25
Accident		
If an accident occurs in conjunction with any of the listed rules-of-the-road infractions or speed too fast for conditions, the penalty for the infraction shall be:		
	\$43	50
Equipment (RCW 46.37)		
1. Illegal use of emergency equipment (RCW 46.37.190)	\$68	70
2. Defective or modified exhaust systems, mufflers, prevention of noise and smoke (RCW 46.37.390(1) and (3))		
First offense (the penalty may be waived upon proof to the court of compliance)	\$25	30
Second offense within 1 year of first offense	\$48	50
Third and subsequent offenses within 1 year of first offense	\$68	70
3. Any other equipment infraction (RCW 46.37.010)	\$20	25
Motorcycles		
Any infraction relating specifically to motorcycles (including no valid endorsement, RCW 46.20.500)	\$20	25
Parking		
1. Illegal parking on roadway (RCW 46.61.560)	\$25	20
2. Any other parking infraction (not defined by city or county ordinance)	\$12	10
Pedestrians		
Any infraction regarding pedestrians (not defined by city or county ordinance)	\$12	10
Bicycles		
Any infraction regarding bicycles	\$12	15
Rules of the Road		
Load Violations (all under RCW 46.44, except over license capacity) (see RCW 46.16)		
1. Over legal—tires, wheelbase (RCW 46.44.105(1))		
(First offense)	\$53	55
(Second offense)	\$88	85
(Third offense)	\$105	100
In addition to the above (RCW 46.44.105(2))		
3¢ per excess pound		
2. Over license capacity (RCW 46.16.145)		

(First offense)	\$53	55
(Second offense)	\$88	85
(Third offense)	\$105	100
3. Violation of special permit	\$43	50
4. Failure to obtain special permit	\$43	50
5. Failure to submit to being weighed	\$43	50
6. Illegal vehicle combination (RCW 46.44.036)	\$43	50
7. Illegally transporting mobile home	\$53	55
Any other infraction defined in RCW 46.44 Off-Road Vehicles (ATVs) (RCW 46.09)	\$25	35
Any 46.09 infraction	\$25	30
Snowmobiles (RCW 46.10)		
Any 46.10 infraction	\$25	30
Failure to respond to notice of infraction or failure to pay penalty (RCW 46.63.110(3))	\$25	\$25

**Rule 4.09
Evidence**

- (a) Unchanged.
- (b) Unchanged.
- (c) Unchanged.
- (d) Breathalyzer Maintenance Certificates.

(1) Admission of Certificate. In the absence of a request to produce a Breathalyzer maintenance operator or a BAC Verifier Data Master infrared instrument operator made at least 7 days prior to trial or such lesser time as the court deems proper, certificates in the following forms are admissible in any court proceeding held pursuant to RCW 46.61.506 for the purpose of determining whether a person was operating or in actual physical control of a motor vehicle while under the influence of intoxicating liquors:

**BREATHALYZER MAINTENANCE AND
CHEMICAL CERTIFICATION**

I, _____, do certify under penalty of perjury as follows:

I am a maintenance operator possessing a valid permit or certificate issued to me by the state toxicologist by virtue of his rules, WAC 448, chapter 12, and RCW 46.61.506.

On _____ (date) at _____ (time) I examined, tested and calibrated a Breathalyzer machine with Serial No. _____ using a sealed ampule of chemicals with Control No. _____ according to the methods established and approved by the state toxicologist.

I further certify that said machine was, on that date, in proper working order, and that the chemicals in ampules with the above control number are suitable for use in this machine.

Breathalyzer Maintenance Operator

Dated _____

**BAC VERIFIER DATA MASTER
CERTIFICATION**

I, _____, do certify under penalty of perjury as follows:

I am employed by the Washington State Patrol Crime Laboratory possessing a valid permit issued to me by the State Toxicologist by virtue of his rule, WAC 448, chapter 12, and RCW 46.61.506.

On _____ (date) at _____ (time) I examined, tested and verified the calibration of a BAC Verifier Data Master instrument with Serial No. _____ according to the methods established and approved by the State Toxicologist.

I further certify that said instrument was, on that date, in proper working order.

Dated _____ Signature _____

(2) Continuanee. The court at the time of trial shall hear testimony concerning the alleged offense and, if necessary, may continue the proceedings for the purpose of obtaining the maintenance operator's presence for testimony concerning the working order of the Breathalyzer machine and his certification thereof. If, at the time the maintenance operator is produced, the prosecutor's Breathalyzer evidence is insufficient, a motion to suppress the results of such tests shall be granted.

(e) BAC Verifier Certificates.

(1) Admission of Certificate. Certificates in the following form are admissible in any court proceeding in lieu of a state expert witness held pursuant to RCW 46.61.506 for the purpose of determining whether a person was operating or in actual physical control of a motor vehicle while under the influence of intoxicating liquors:

I, _____, do certify under penalty of perjury as follows:

I am employed by the Washington State Patrol Crime Laboratory possessing a valid permit issued to me by the State Toxicologist by virtue of his rule, WAC 448, chapter 12, and RCW 46.61.506.

On _____ (date) at _____ (time) I examined, tested and verified the calibration of a BAC Verifier Data Master instrument with Serial No. _____ according to the methods established and approved by the State Toxicologist.

I further certify that said instrument was, on that date, in proper working order.

Dated _____ Signature _____

(2) Continuanee. The court at the time of trial shall hear testimony concerning the alleged offense and, if necessary, may continue the proceedings for the purpose of obtaining evidence concerning the working order of the BAC Verifier Data Master instrument and the certification thereof. If the evidence provided is insufficient, a motion to suppress the results of such tests shall be granted.

Court of Appeals Administrative Rule 21
TRANSFER OF JUDGES AND CASES — JUDGES
PRO TEMPORE

(a) Generally. A judge of one division of the Court of Appeals may sit in any other division by mutual agreement of the Chief Judges of the two divisions involved. A case may be transferred from one division to another by written order of the Chief Judge of the transferring division, with the concurrence of the Chief Judge of the division to which the case is transferred.

(b) For Settlement Conferences. A judge or judge pro tempore of the Court of Appeals may be assigned to expedite the use of settlement conferences provided for under RAP 5.5 as follows:

(1) Judge. A judge of one division of the Court of Appeals may sit in any other division as a settlement conference judge or to replace during argument and decision a judge of another division who has acted as a settlement conference judge, by mutual agreement of the Chief Judges of the two divisions involved.

(2) Judge Pro Tempore. The Chief Judge of any division of the Court of Appeals may appoint an active or retired judge of a court of general jurisdiction record to sit in that division as a settlement conference judge or to replace during argument and decision a judge who has acted as a settlement conference judge.

(c) Judges Pro Tempore. When a member of the court is disqualified or unable to function on a case for good cause, the Chief Judge of any division may by written order designate an active or retired judge of a court of general jurisdiction as a judge pro tempore to sit with the court to hear and determine the case. The designating order shall set forth the period of service.

WSR 85-13-002
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(General Provisions)
[Filed June 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning fees, amending chapter 440-44 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 6, 1985.

The authority under which these rules are proposed is RCW 43.20A.055.

The specific statute these rules are intended to implement is RCW 43.20A.055.

This notice is connected to and continues the matter in Notice No. WSR 85-09-054 filed with the code reviser's office on April 17, 1985.

Dated: May 31, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

WSR 85-13-003
PROPOSED RULES
OFFICE OF
ADMINISTRATIVE HEARINGS
 [Filed June 6, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Administrative Hearings intends to adopt, amend, or repeal rules concerning:

- Amd WAC 10-04-020 Change of agency organization and office locations.
 Amd WAC 10-08-040 Uniform procedural rule on notice of hearing, adding notice of right to interpreter.
 New WAC 10-08-150 New section on language interpreters.
 Amd WAC 10-08-160 Amending interpreter oath;

that the agency will at 10:00 a.m., Friday, July 30, 1985, in the Office of Administrative Hearings, 4224 6th Avenue S.E., Lacey, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 9, 1985.

The authority under which these rules are proposed is RCW 34.12.080.

The specific statute these rules are intended to implement is WAC 10-04-020 - RCW 42.17.250 and 34.04-020; WAC 10-08-040, 10-08-150 and 10-08-160(2) - RCW 34.04.020, 34.04.022 and 2.42.010 - 2.42.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 30, 1985.

Dated: June 6, 1985

By: D. R. LaRose

Chief Administrative Law Judge

STATEMENT OF PURPOSE

Title, Purpose, Summary, Statutes Implemented: WAC 10-04-020 Function—Organization—Offices, amended to update agency organization and field office locations as required by RCW 42.17.250; 10-08-040 Notice of hearing, amended to include notice of a party's right to appointment of an interpreter pursuant to RCW 2.42.030; 10-08-150 Language interpreters, a new section to implement the provisions of RCW 2.42.010 through 2.42.050, providing procedures for appointment of interpreters, mode of interpretation, and explaining an impaired party's rights; and 10-08-160(2) Testimony under oath or affirmation, amended to conform with RCW 2.42.050.

Statutory Authority: RCW 34.12.010 and 34.12.080.

Responsible Agency Person: David R. LaRose, Chief Administrative Law Judge, Office of Administrative Hearings, 4224 6th Avenue S.E., Lacey, Washington 98504-8915, PY-15, (206) 459-6353, scan 585-6353.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: Fiscal impact is no greater than that created by RCW 2.42.040.

These rules are not necessary to comply with a federal law or a federal or state court decision.

These rules will have no economic impact on the small business community.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-04-020 FUNCTION—ORGANIZATION—OFFICES. The office of administrative hearings was created by chapter 34-12 RCW for the impartial administration of administrative hearings for state agencies. The office is under the direction of the chief administrative law judge and is organized in two divisions (~~(the benefits division and the regulatory and special assignments division)~~).

Administrative law judges assigned to the two divisions preside over hearings in contested cases and issue proposals for decisions, including findings of fact and conclusions of law. (~~The benefits division is responsible for hearings held before the employment security department and the department of social and health services. The regulatory and special assignments division~~) Division one is responsible for hearings held before the department of social and health services, the utilities and transportation commission, the liquor control board, the department of licensing, and any other state agency as defined in RCW 3((2))4.12.020(4). Division two is responsible for hearings held before the employment security department.

The administrative office is located at Building No. 1, 4224 - 6th Avenue S.E., Lacey, Washington, 98504-8915. The office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday except legal holidays. Administrative law judges are housed in the following field offices:

Social & Health Subdivision
 ((117 Jefferson))
 1212 Jefferson SE, Suite 200
 Olympia WA 98504-7821

Social & Health Subdivision
 1414 Dexter Avenue North
 Seattle WA 98109

Social & Health Subdivision
 ((428 Hutton Building))
 2nd Floor, ES Building
 ((South 9 Washington))
 South 130 Arthur
 Spokane WA 9920((4))2

Social & Health Subdivision
 2925 Rockefeller
 Everett WA 98201

Yakima Subdivision
 1110 West Lincoln Avenue
 Yakima WA 98902

Utilities & Transportation Subdivision
 ((6th Floor Highways-Licenses Building))
 1212 Jefferson SE, Suite 200
 Olympia WA 98504-7821

Liquor Control Subdivision
 ((1025 East Union))
 1212 Jefferson SE, Suite 200
 Olympia WA 98504-7821

Employment Security Subdivision
 Room 606 Securities Building
 1904 Third Avenue
 Seattle WA 98101

Employment Security Subdivision
 Capital 5000 Building
 Olympia WA 98504-5822

Employment Security Subdivision
 2nd Floor, ES Building
 P.O. Box TAF-C-14
 Spokane WA 99220

All written communications by parties pertaining to a particular case shall be filed with the field office, if any, assigned to the case, and otherwise with the deputy chief administrative law judge at the administrative office.

Reviser's note: RCW 34.04.058 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.

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

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-08-040 NOTICE OF HEARING. (1) In any contested case all parties shall be served with a notice within the time required by statute governing the respective agency or proceeding, and in the absence of a statutory requirement, not less than twenty days before the date set for the hearing. The notice shall include the information specified in RCW 34.04.090(1) and if the hearing is to be conducted by teleconference call the notice shall so state. The notice shall state that if a limited English-speaking party needs an interpreter a qualified interpreter will be appointed, and that there will be no cost to the party if he or she is indigent. The notice shall also include such other information as may be necessary to apprise the parties of the scope and purpose of the hearing.

(2) Defects in notice may be waived if all parties acquiesce.

NEW SECTION

WAC 10-08-150 LANGUAGE INTERPRETERS. (1) An "impaired person" is any person involved in a contested case hearing who is deaf or who, because of other hearing or speech defects, or because of non-English-speaking cultural background cannot readily speak or understand the English language and who, when involved as a party to a contested case hearing, is unable by reason of such defects to obtain due process of law.

(2) When an impaired person is a party to any contested case hearing or witness therein, the presiding officer shall, in the absence of a written waiver by the impaired person, appoint a qualified interpreter to assist the impaired person throughout the proceedings.

(3) No employee of the agency which is involved in the contested case may appear as the interpreter in the proceeding.

(4) The presiding officer and the parties and their representatives may inquire regarding the interpreter's education and experience in interpreting for contested cases, the interpreter's understanding of the basic vocabulary and procedure involved in the case, and the interpreter's impartiality. Upon a showing of good cause the presiding officer shall appoint another interpreter.

(5) Interpreters shall use the consecutive mode of interpretation during the testimony of any impaired party or witness. When an impaired person is a party to a proceeding, the interpreter shall translate all statements made by other hearing participants, using the consecutive mode of interpretation. The presiding officer shall ensure that sufficient extra time is provided to permit such translation and the presiding officer shall ensure that the interpreter translates the entire proceeding to the party to the extent that the party has the same opportunity to understand all statements made during the proceeding as an English-speaking party would hearing the uninterpreted statements.

(6) The presiding officer shall explain to the impaired party that a written decision or order will be issued in English, and that the party may contact the interpreter for a translation of the decision. If the party has a right of review of the order or decision, the presiding officer shall orally inform him or her during the hearing of the right and of the time limits to request review.

(7) The decision or order must include a notice informing the impaired person how to contact the hearing interpreter to obtain a translation of the decision or order, that translation will be provided at no cost to the party if he or she is indigent, and that the party has a right to interpreter assistance in any review procedure.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

WAC 10-18-160 TESTIMONY UNDER OATH OR AFFIRMATION. (1) Every person called as a witness in a hearing shall swear or affirm that the testimony he or she is about to give in the hearing shall be the truth according to the provisions of RCW 5.28-.020 through 5.28.060.

~~((2) Interpreters shall swear or affirm that they will well and truly translate all questions asked of and answers given by the witness requiring interpretation:))~~

(2) Every interpreter shall take an oath that he or she will make a true interpretation to the person being examined of all the proceedings

in a language which said person understands, and that he or she will repeat the statements of said person to the presiding officer in the English language to the best of his or her skill and judgment.

Reviser's note: The amendatory section above appears as filed by the agency pursuant to RCW 34.08.040, however the reference to WAC 10-18-160 is probably intended to be to WAC 10-08-160.

WSR 85-13-004

**NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION**

[Memorandum—June 6, 1985]

The Washington State Human Rights Commission will conduct a special meeting of the Washington Association of Human Rights Agencies on Friday, June 28, 1985, at the Renton Sheraton Hotel, Spruce Room, 800 Rainier Avenue South, Renton, Washington, beginning at 7:00 p.m. The agenda will include discussion of whether or not the organization will become an advisory council to the Washington State Human Rights Commission or will become an independent organization. Further discussion will include goals planning for the organization.

WSR 85-13-005

**REVIEW OF RULES
DEPARTMENT OF TRANSPORTATION**

[Filed June 7, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.230, that the Department of Transportation intends to review the following rules:

- | | |
|-----------------|--|
| ch. 468-06 WAC | Public access to information and records (management services). |
| ch. 468-10 WAC | Practice and procedure (attorney general division). |
| ch. 468-12 WAC | Transportation Commission and Transportation Department State Environmental Policy Act rules (highway division). |
| ch. 468-18 WAC | State aid office (state aid). |
| ch. 468-300 WAC | State ferries and toll bridges (marine division). |

The agency will at 10:00 a.m., Monday, August 12, 1985, in the Board Room, 1D 2, Transportation Building, Olympia, Washington, conduct a public hearing on the rules.

This administrative review of rules is a result of SSB 3386, chapter 324, Laws of 1981. As a result, the Department of Transportation has outlined a schedule for reviewing all of its rules once every four years.

Dated: June 6, 1985

By: A. D. Andreas
Deputy Secretary

WSR 85-13-006
ADOPTED RULES
DEPARTMENT OF
COMMUNITY DEVELOPMENT
 [Order 85-03—Filed June 7, 1985]

I, Chuck Clarke, deputy director of the Department of Community Development, do promulgate and adopt at the Ninth and Columbia Building, MS/GH-51, Olympia, Washington, the annexed rules relating to head start, chapter 365-40 WAC:

Amd	WAC 365-40-010	Purpose and authority.
Amd	WAC 365-40-020	Definitions.
Amd	WAC 365-40-041	Financial support application process.
Amd	WAC 365-40-051	Eligibility criteria.
Amd	WAC 365-40-061	Allowable and unallowable costs.
Amd	WAC 365-40-071	Method of payment and reporting requirements.

This action is taken pursuant to Notice No. WSR 85-04-057 filed with the code reviser on February 5, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Community Development as authorized in RCW 43.63A.060.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED May 31, 1985.

By Chuck Clarke
Deputy Director

AMENDATORY SECTION (Amending Order 78-04, filed 10/25/78)

WAC 365-40-010 PURPOSE AND AUTHORITY. (1) The purpose of this chapter is to outline the conditions and procedures under which state funds will be made available for Head Start programs.

(2) This activity is undertaken pursuant to RCW 43.06.110 and chapter 43.63A RCW.

AMENDATORY SECTION (Amending Order 78-04, filed 10/25/78)

WAC 365-40-020 DEFINITIONS. (1) "Applicant" means a unit(s) of local government (~~or combination thereof, or~~), a qualified private organization, or a combination thereof, which applies for state Head Start funds.

(2) "Contractor" means an applicant which has been allocated state Head Start funds and which has entered into a contract to carry out a Head Start program.

(3) "Director" means the director of the (~~planning and community affairs agency~~) department of community development (hereafter, the agency).

(4) "Head Start program" means an operation undertaken in accordance with the program performance standards set forth in the OCD-HS HEAD START POLICY MANUAL (OCD Notice N-30-364-4) "Head Start program performance standards," published by the United

States Department of Health, Education, and Welfare July, 1975.

AMENDATORY SECTION (Amending Order 79-02, filed 7/20/79)

WAC 365-40-041 FINANCIAL SUPPORT APPLICATION PROCESS. (1) Each potential applicant will be notified by the agency that application for state Head Start financial assistance is to be made to the agency.

(2) An applicant must make formal application in the form and manner specified by the agency. Such application shall be for the period July 1 - June 30 of each fiscal year. Failure of an applicant to make application in a timely manner, within 45 days of receipt of application notice and application form from the agency, will result in no state Head Start funds being allocated.

(3) Applications for state Head Start funds shall contain the following information, in detail:

(a) A description of the services to be provided or activities proposed to be undertaken by the applicant consistent with the provisions of WAC 365-40-051 and 365-40-061.

(b) A budget specifying intended uses of state Head Start funds.

~~((c) An explanation of how the applicant will monitor the use of state funds to assure that provisions of the approved contract are being met.))~~

(4) The agency shall provide a contract for signature to the applicant or a request for additional information within thirty days of receipt of the completed application from the applicant.

AMENDATORY SECTION (Amending Order 82-01, filed 3/22/82)

WAC 365-40-051 ELIGIBILITY CRITERIA. In order to receive Head Start funds, a contractor must provide services to families and individuals eligible according to federal Head Start guidelines who are in need of skills, knowledge, opportunities and motivation to become economically self-sufficient. Each Head Start program must be designed to improve the health and general well-being of the children involved, develop their mental processes, and enhance their conceptual and verbal skills. Head Start funds may be used only for activities which result in direct and measurable services to Head Start program children. State Head Start funds are allocated to programs based on the federal enrollment levels. An additional set-aside of 3% of the pass through funds are allocated for programs with 60 or less children.

AMENDATORY SECTION (Amending Order 82-01, filed 3/22/82)

WAC 365-40-061 (~~ALLOWED AND FORBIDDEN USES OF STATE HEAD START FUNDS~~) ALLOWABLE AND UNALLOWABLE COSTS. (1) Allowable uses of state Head Start funds include but are not limited to:

(a) Purchase of supplies to be consumed by Head Start program children.

(b) Payment of salaries for nonadministrative personnel such as full or part-time teachers or specialists in speech, hearing, hygiene, reading, etc.

(c) Purchases (~~under~~) through contract (~~of~~) for medical or dental services for Head Start children and their families.

(2) (~~Forbidden uses of head start funds~~) Unallowable costs include but are not limited to:

(a) Payment of salaries for administrative personnel such as program directors, assistant directors, bookkeepers, secretaries, etc.

(b) Payment of administrative support expenses such as postage, telephone, travel, utilities, and equipment.

(c) Purchase of nonexpendable equipment with an original cost of (~~\$100~~) \$500 or more and a useful life of at least one year.

AMENDATORY SECTION (Amending Order 82-01, filed 3/22/82)

WAC 365-40-071 METHOD OF PAYMENT AND REPORTING REQUIREMENTS. (1) State Head Start funds will be paid in accordance with the provisions of the applicable contract and these regulations.

(2) All contracts will provide for monthly or quarterly expenditure reimbursement, with vouchers submitted within fifteen days of the end of each quarter or month, as appropriate.

(a) At the time of application the applicant shall state whether vouchers will be submitted on a quarterly or monthly basis.

(b) If vouchers are not submitted in a timely manner, the agency may recapture unclaimed funds.

(c) If a contractor fails to file a claim for expense reimbursement within any six month period, the agency may elect to terminate the contract.

(d) Funds allocated for a program (~~will~~) may be reduced by the amount unclaimed in the program year immediately preceding the new funding year.

(3) If an intended use is not allowable under these rules or the approved contract, the (~~voucher will not be paid~~) contractor will not be reimbursed for the cost of the item.

(4) The agency will notify the contractor within ten days of its discovery of any deficiency and of the need to take corrective action.

(5) In the event corrective action is not taken within thirty days, the contract will be terminated. Funds allocated to the contractor may be subject to redistribution upon termination of any contract.

(6) By agreement between the agency and the contractor, the provisions of the contract may be amended.

(7) Quarterly reports to the agency to assure that funds are being expended for purposes authorized in the approved contract are required in a format approved by the agency.

(8) The contractor shall submit an annual audit of funds provided under this rule by an independent auditor using standard accepted auditing techniques. Such audit may be that conducted for and provided to other funding sources. This audit report must include a breakdown of state funds by contract number.

WSR 85-13-007
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(General Provisions)

[Order 2238—Filed June 7, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to fees, amending chapter 440-44 WAC.

This action is taken pursuant to Notice Nos. WSR 85-09-054 and 85-13-002 filed with the code reviser on April 17, 1985, and June 6, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 43.20A-.055 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 6, 1985.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1965, filed 6/1/83)

WAC 440-44-050 RADIATION MACHINE FACILITY REGISTRATION FEES. The following biennial fees are required at the time of application or renewal:

(1) For (~~dentists,~~) veterinarians, (~~and~~) podiatrists: (~~Forty dollars plus eleven dollars per tube, not to exceed two hundred sixty dollars~~) A fifty dollar registration fee plus sixty dollars for the first tube plus twenty-five dollars for each additional tube.

(2) For (~~industrial, research, or other nonheating arts: Forty dollars plus eleven dollars per tube, not to exceed two hundred sixty dollars~~) hospitals, medical and chiropractic: A fifty dollar registration fee plus one hundred seventy-five dollars for the first tube plus fifty dollars for each additional tube.

(3) For (~~all others: One hundred ten dollars plus sixty-five dollars per tube, not to exceed nine hundred fifty-five dollars~~) industrial, research, and others: A fifty dollar registration fee plus one hundred dollars for the first tube plus fifty dollars for each additional tube.

(4) For dentists: A fifty dollar registration fee plus forty-five dollars for the first tube plus twenty dollars for each additional tube.

AMENDATORY SECTION (Amending Order 2209, filed 2/27/85)

WAC 440-44-057 LICENSE FEES FOR RADIOACTIVE MATERIALS. (1) The fee for each radioactive materials license is the single highest fee category (~~license~~) which describes activities subject to the conditions of the license. When multiple licenses are

required by the department, each license is subject to the applicable license fee. Multiple licenses may be required by the department based upon physical separation of operations, organizational separations within a licensee's operation, or possession of special nuclear material.

(2) FEE CATEGORIES.

(a) For operation of a radioactive waste treatment facility: Annual fee of ~~((eleven))~~ five thousand ~~((five hundred))~~ two hundred fifty dollars.

(b) For operation of a nuclear pharmacy: Annual fee of two thousand ~~((six))~~ one hundred forty dollars.

(c) For operation of a mobile nuclear medicine program: Annual fee of two thousand ~~((six))~~ one hundred thirty dollars.

~~((d))~~ For operation of a nuclear laundry ~~((fixed base))~~: Annual fee of ~~((five))~~ four thousand dollars.

~~((e))~~ ~~((For operation of a nuclear laundry, portable operation: Annual fee of five thousand dollars:))~~

~~((f))~~ For licenses authorizing one curie or more of unsealed radioactive material in the manufacture and distribution of radioactive products or devices containing radioactive material: Annual fee of ((two)) three thousand ~~((six))~~ seven hundred ten dollars.

For licenses authorizing manufacturing utilizing less than one curie of unsealed radioactive material or any quantity of previously sealed sources and distribution of products or devices containing radioactive material: Annual fee of one thousand three hundred twenty dollars.

~~((g))~~ For licenses authorizing decontamination services ~~((or waste brokerage))~~: Annual fee of ~~((two))~~ one thousand ~~((two hundred))~~ eight hundred ninety dollars.

~~((h))~~ For licenses authorizing waste brokerage including the possession, temporary storage, and over-packing only of radioactive waste: Annual fee of one thousand two hundred twenty dollars.

~~((i))~~ For licenses authorizing equipment servicing involving incidental use of calibration sources, for maintenance of equipment containing radioactive material, or possession of sealed sources for the purpose of sales demonstration only: Annual fee of ~~((two))~~ five hundred ~~((twenty-five))~~ sixty dollars.

~~((j))~~ ~~((j))~~ For licenses authorizing health physics services, leak testing, or calibration services: Annual fee of ~~((four hundred thirty-five))~~ one thousand forty dollars.

~~((k))~~ ~~((k))~~ For civil defense licenses: Annual fee of ~~((one))~~ six hundred fifty dollars.

~~((l))~~ ~~((l))~~ For licenses authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than or equal to 1 curie: Annual fee of ~~((ten))~~ seven thousand ~~((four hundred))~~ nine hundred fifty dollars.

~~((m))~~ ~~((m))~~ For licenses authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than 0.1 curie but less than 1 curie: Annual fee of ~~((two))~~ three thousand ~~((six hundred))~~ five hundred seventy dollars.

~~((n))~~ ~~((n))~~ For licenses authorizing possession of atomic numbers three through eighty-three with maximum authorized possession less than or equal to 0.1 curie: Annual fee of ~~((one))~~ two thousand ~~((four))~~ nine hundred fifty dollars.

~~((o))~~ ~~((o))~~ For medical licenses authorizing one or more of Groups II-VI, as defined in WAC 402-22-200 Schedule A:

(i) For licenses authorizing Group II and III (diagnostic nuclear medicine): Annual fee of one thousand ~~((six))~~ four hundred sixty dollars.

(ii) For licenses authorizing Group IV and V (unlimited medical therapy): Annual fee of ~~((eight hundred))~~ one thousand two hundred ten dollars.

(iii) For licenses authorizing Group II or III and Group IV or V: Annual fee of ~~((two))~~ one thousand nine hundred ninety dollars.

(iv) For licenses authorizing Group VI (unlimited brachytherapy): Annual fee of ~~((six hundred twenty-five))~~ one thousand forty dollars.

~~((p))~~ ~~((p))~~ For licenses authorizing brachytherapy or teletherapy: Annual fee of six hundred ~~((twenty-five))~~ dollars.

~~((q))~~ ~~((q))~~ For licenses authorizing medical or veterinarian possession of greater than 200 millicuries total possession of radioactive material: Annual fee of ~~((one thousand four))~~ nine hundred seventy dollars.

~~((r))~~ ~~((r))~~ For licenses authorizing medical or veterinarian possession of greater than 30 millicuries but less than or equal to 200 millicuries total possession of radioactive material: Annual fee of ~~((one thousand six))~~ seven hundred eighty dollars.

~~((s))~~ ~~((s))~~ For licenses authorizing medical or veterinarian possession of less than or equal to 30 millicuries total possession of radioactive material: Annual fee of ~~((two))~~ five hundred ~~((fifty))~~ seventy dollars.

~~((t))~~ ~~((t))~~ For licenses authorizing Group I as defined in WAC 402-22-200 Schedule A or in vitro uses of radioactive materials: Annual fee of ~~((one))~~ five hundred ~~((fifty))~~ forty dollars.

~~((u))~~ ~~((u))~~ For licenses authorizing possession of special nuclear material as pacemakers or depleted uranium as shielding: Annual fee of ~~((one))~~ two hundred dollars.

~~((v))~~ ~~((v))~~ For licenses authorizing the use of radiographic exposure devices in a permanent radiographic facility (vault) only: Annual fee consisting of ((one)) two thousand five hundred seventy dollars ((for the first licensed exposure device plus four hundred fifty dollars for each additional exposure device)).

~~((w))~~ ~~((w))~~ For licenses authorizing the use of radiographic exposure devices at temporary job sites: Annual fee of three thousand eighty dollars.

~~((x))~~ ~~((x))~~ For licenses authorizing well-logging activities including the use of radioactive tracers: Annual fee of one thousand ~~((fifty))~~ two hundred dollars.

~~((y))~~ ~~((y))~~ For licenses authorizing well-logging activities not including the use of tracers: Annual fee of one thousand fifty dollars.

~~((z))~~ ~~((z))~~ For licenses authorizing possession of unsealed sources in the following amounts:

(i) Greater than or equal to 1 millicurie of I-125 or I-131 or greater than or equal to 100 millicuries of H-3 or

C-14 or greater than or equal to 10 millicuries of any single isotope: Annual fee of one thousand ~~((fifty))~~ six hundred thirty dollars.

(ii) Greater than 0.1 millicurie but less than 1 millicurie of I-125 or I-131 or greater than 10 millicuries but less than 100 millicuries of H-3 or C-14 or greater than 1 millicurie but less than 10 millicuries of any other single isotope: Annual fee of ~~((five))~~ seven hundred eighty dollars.

(iii) Less than or equal to 0.1 millicurie of I-125 or I-131 or less than or equal to 10 millicuries of H-3 or C-14 or less than or equal to 1 millicurie of any other single isotope: Annual fee of ~~((one))~~ six hundred ((fifty)) ten dollars.

~~((ty))~~ (z) For licenses authorizing possession of portable sealed sources (such as moisture/density gauges but excluding radiographic exposure devices) ~~((in the following groups:~~

(i) ~~Authorized possession of portable moisture/density gauges): Annual fee of ((two)) three hundred ten dollars ((for the first licensed gauge plus fifty dollars for each additional gauge to a maximum of five hundred dollars:~~

(ii) ~~Authorized possession of any other portable sealed source, including special nuclear material which is transported from the facility as a condition of use. Annual fee of five hundred dollars:~~

(iii) ~~Authorized possession of any portable sealed source which is restricted to use at the licensee's facility only and does not enter intra-state transport as a condition of use. Annual fee of two hundred fifty dollars).~~

~~((tz))~~ (aa) For licenses authorizing possession of any nonportable sealed source, including special nuclear material but excluding radioactive material used in a gas chromatograph: Annual fee of ~~((two))~~ three hundred thirty dollars ~~((for the first licensed gauge plus fifty dollars for each additional gauge to a maximum of six hundred dollars)).~~

~~((aa))~~ (bb) For licenses authorizing possession of gas chromatograph units containing radioactive material: Annual fee of ~~((one))~~ two hundred ((fifty)) thirty dollars.

~~((bb))~~ (cc) For licenses authorizing ~~((maximum))~~ possession of any ~~((nonportable))~~ self-shielded or pool type irradiator with sealed source greater than 100 curies: Annual fee of ~~((one thousand fifty))~~ six hundred ten dollars.

~~((cc))~~ (dd) For licenses authorizing possession of sealed sources for a walk-in type irradiator: Annual fee of nine hundred sixty dollars.

(ee) For licenses authorizing possession of greater than 1 gram of unsealed special nuclear material or greater than 500 kilograms of source material: Annual fee of two thousand ~~((six))~~ nine hundred ten dollars.

~~((dd))~~ (ff) For licenses authorizing possession of less than or equal to 1 gram of unsealed special nuclear material or less than or equal to 500 kilograms of source material: Annual fee of ~~((three))~~ nine hundred forty dollars.

~~((cc))~~ (gg) For in vitro registrants (requiring filing of form RHF-15): Annual fee of ~~((fifty))~~ thirty dollars.

~~((ff))~~ (hh) For depleted uranium registrants (requiring filing of form RHF-20): Annual fee of ~~((fifty))~~ thirty dollars.

~~((gg))~~ (ii) For licenses issued to mineral processors for naturally occurring radioactive material in excess of exempt concentrations:

(i) License application fee, as defined in chapter 402-70 WAC, not to exceed twenty-seven thousand dollars plus

(ii) The actual cost of the service provided by the department to be paid in quarterly payments equal to the cost incurred by the department during the previous calendar quarter. This quarterly fee may not exceed forty thousand dollars in any calendar quarter and is intended to cover the full cost of regulatory services incurred by the department and its contractors including the department cost of determining and assuring compliance with the provisions of the State Environmental Policy Act.

(3) For reciprocal recognition of out-of-state licenses: Fee equal to ~~((fifty))~~ one hundred percent of the fee that would be charged for an in-state license as described in subsection (2) of this section based upon the actual amount of radioactive material or ~~((number))~~ type of devices requested to be brought into the state. Payment of fee authorizes possession and use in the state of Washington for up to one hundred eighty days of the twelve-month period following payment of the fee.

(4) It is the intent of the department to require all radioactive materials licensees who have not yet paid fees for their licenses to begin doing so on January 1, 1984. The following mechanism will be employed to accomplish this intent. A licensee who has not paid for a license shall remit by January 1, 1984, a prorated amount of the license fee for the period between January 1, 1984 and the annual anniversary of the expiration date of the license. Thereafter, thirty days prior to the annual anniversary date, each licensee shall remit the full annual fee for the license as specified in subsection (2) of this section. The annual anniversary is the month and day of the expiration date of the existing radioactive materials license.

NEW SECTION

WAC 440-44-058 FEES FOR ADDITIONAL SERVICE. (1) In addition to the fee for each radioactive materials license as described in WAC 440-44-057, a licensee will be charged a service fee for each additional service performed.

(2) Definitions.

(a) "Compliance inspection." A compliance inspection is a routinely scheduled visit to the licensee's facility and/or temporary job site(s) for the purpose of determining compliance with the license and applicable regulations. This service is covered by the annual fee.

(b) "Investigation." An investigation is an on-site visit of a licensee's facility or site of operation when, in the department's judgment, it is required for the purpose of reviewing specific conditions, allegations, or other information regarding unusual conditions, operations, or practices. This service is covered by the annual fee.

(c) "Follow-up inspection." A follow-up inspection is an on-site visit to a licensee's facility, required to verify

licensee corrective actions when, in the department's judgment, the preceding compliance inspection or investigation revealed health and safety concerns or significant items of noncompliance which must be corrected. The first follow-up inspection is covered by the annual fee.

(d) "Environmental cleanup monitoring." Environmental cleanup monitoring is an on-site visit by the department to a licensee's facility or site of operation to determine the status of corrective actions to remove environmental radiation contamination resulting from the licensee's operation. Such a monitoring visit may include, but is not limited to, the review of the licensee's records pertaining to the environmental cleanup, observation of the licensee's cleanup work, sampling by the department for analysis, associated laboratory work, and the analysis of the information collected by the department.

(e) "New license application." A new license application is a request to use radioactive material from a person not currently a licensee or from a current licensee requesting authorization to use radioactive material in a new way such that a change of fee category is required.

(f) "Sealed source and device evaluation." A sealed source and device evaluation is a radiological safety evaluation performed by the department on the design, manufacture, and test data of any single sealed source and/or device model for the purpose of registering the sealed source or device with the United States Nuclear Regulatory Commission.

(g) "Direct staff time." Direct staff time is all work time directly applicable to or associated with a specific licensee and includes license file review, inspection preparation, on-site visits, report writing, review and acknowledgement of correspondence, review of license applications, renewals and amendment requests, telephone contacts, and staff or management conferences specifically related to the license. Travel time is not considered direct staff time.

(3) Schedule of fees for additional services.

(a) For a second follow-up inspection and each additional follow-up inspection the licensee will be charged a fee equal to the number of hours in half-hour increments of direct staff time associated with each follow-up inspection at the rate of sixty-five dollars per hour, but not to exceed a maximum of five hundred twenty dollars per follow-up inspection.

(b) For each environmental cleanup monitoring visit, the licensee will be charged a fee equal to the number of hours in half-hour increments of direct staff time associated with each environmental cleanup monitoring visit at the rate of sixty-five dollars per hour, but not to exceed a maximum of one thousand six hundred twenty-five dollars per visit.

(c) For each new license application, the fee will be one hundred thirty dollars in addition to the required annual fee as specified in WAC 440-44-057.

(d) For each sealed source and device evaluation, the licensee will be charged a fee equal to the number of hours in half-hour increments of direct staff time associated with each sealed source and device evaluation at

the rate of sixty-five dollars per hour, but not to exceed a maximum of two thousand dollars per evaluation.

(4) Failure to pay the additional service fee within sixty days of the date of the billing will result in departmental action to modify, suspend, or terminate the license or sealed source and device registration.

NEW SECTION

WAC 440-44-076 ENVIRONMENTAL HEALTH INSPECTION FEE OF STATE INSTITUTIONS, COMMUNITY COLLEGES, FERRIES, AND OTHER STATE OF WASHINGTON FACILITIES. Starting July 1, 1985, an annual environmental health inspection fee shall be assessed as follows:

	Annual Fee Per Facility
(1)(a) Food service establishments as defined in WAC 248-84-002(11) in community colleges, ferries, or any other state of Washington facility. This shall also include dockside food establishments directly providing food for the Washington state ferry system.	\$ 170
(b) State park food service concessions which do not prepare potentially hazardous foods shall be charged seventy-five dollars	
(c) The environmental health inspection referenced in (a) and (b) of this subsection fee may be waived provided there is an agreement between the department of social and health services and the jurisdictional local health agency for it to conduct the food service establishments inspections.	
(2) State institutions.	
(a) 400 or more rated bed capacity	\$2,100
Washington Corrections Center	
Washington State Penitentiary	
Washington State Reformatory	
McNeil Island Corrections Center	
Twin Rivers Corrections Center	
Clallam Bay Corrections Center	
(b) 399-190 rated bed capacity	\$1,000
Purdy Treatment Center for Women	
State School for Deaf	
Washington Soldiers Home	
Washington Veterans Home	
Olympic Corrections Center	
(c) 189-90 rated bed capacity	\$ 500
Echo Glen Childrens Center	
Special Offenders Center (Monroe)	
Larch Corrections Center	

Cedar Creek Corrections
Maple Lane School
Green Hill School
Indian Ridge Treatment Center
Tacoma Work/Training Release
Geiger Work/Training Release
(Spokane)
Naselle Youth Camp

Dated: May 31, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

- (d) 89 or less rated bed capacity § 300
State School for the Blind
Washington State Patrol
Academy
Mission Creek Youth Camp
Firland Corrections Center
Pine Lodge Corrections Center
Canyon View Group Home
Woodinville Group Home
Ridgeview Group Home
Oakridge Group Home
Park Creek Group Home
Sunrise Group Home
Twin Rivers Group Home

(e) Any new institution of the Washington department of corrections; department of social and health services, division of developmental disabilities not inspected by the bureau of nursing home affairs, department of social and health services, or division of juvenile rehabilitation; or department of veterans affairs shall be assessed an appropriate annual fee based on the rated bed capacity.

WSR 85-13-008
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health)
[Filed June 7, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning certificate of need, amending chapter 248-19 WAC.

The department held a public hearing regarding these proposed rules on May 22, 1985. The purpose of this continuation is to give the secretary additional time to consider public testimony.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 31, 1985.

The authority under which these rules are proposed is RCW 70.38.135.

The specific statute these rules are intended to implement is chapter 70.38 RCW.

This notice is connected to and continues the matter in Notice No. WSR 85-07-044 filed with the code reviser's office on March 19, 1985.

WSR 85-13-009
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 7, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning suspension of grant, amending WAC 388-33-355;

that the agency will at 10:00 a.m., Thursday, July 25, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 31, 1985.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.08 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 25, 1985.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration and Personnel
Department of Social and Health Services
Mailstop OB 14
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 11, 1985. The meeting site is in a location which is barrier free.

Dated: June 6, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is made pursuant to RCW 34.04.045.

Re: Amending WAC 388-33-355, change to subsection (1) with addition of (e) A general assistance grant recipient has entered a state mental health hospital; Western State Hospital, Eastern State Hospital, or Portal Program.

Purpose of this Rule Change: To improve client/patient flow out of the state mental health hospitals. Administrative costs related to application processes should also be positively impacted.

Summary of Rule Changes: Entrance into state mental health hospital by GA-U recipient will initiate suspension status for GA-U recipient that for all other

purposes is eligible for grant and financial assistance; suspense status to become effective the first of the month after the month in which the change of circumstances occurred. Suspense status to be in effect for 60 days; and recipient/clients reentering the community within the suspense status period will not have to wait in the hospital while application is being determined—grant status can be realized immediately.

Person Responsible for Drafting, Implementing and Enforcement of These Rules: Val Ivey, Program Manager, Division of Income Assistance, mailstop OB 31C, phone (206) 753-7393.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

AMENDATORY SECTION (Amending Order 1792, filed 4/14/82)

WAC 388-33-355 SUSPENSION OF GRANT. (1) A suspension action is taken when:

(a) A general assistance recipient has income sufficient to meet his or her maintenance requirements for more than one but not to exceed two months, or

(b) The amount of the monthly grant following the budgeting of income or deduction to make restitution on an overpayment is less than ten dollars per month, or

(c) The recipient has entered or is in an institution and his or her income is equal to or exceeds his or her grant requirements but is less than his or her grant requirements plus medical costs and/or nursing home or intermediate care, or

(d) An AFDC or RA recipient receives an extra paycheck because of an extra week in a month which makes them ineligible for one month, or

(e) A general assistance grant recipient has entered a state mental hospital; Western State Hospital, Eastern State Hospital, or PORTAL program.

(2) A suspended grant shall be reinstated when the conditions in subsection (1) of this section cease to exist and the recipient is otherwise eligible.

(3) A suspended grant shall be terminated as provided in WAC 388-33-370.

(4) The rules in this section shall be effective (~~February 1, 1982~~) June 1, 1985.

WSR 85-13-010
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed June 7, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning:

Amd WAC 388-88-050 Adequate nursing home care.
Amd WAC 388-96-369 Patient trust accounts;

that the agency will at 10:00 a.m., Thursday, July 25, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 31, 1985.

The authority under which these rules are proposed is RCW 74.42.620 and 74.46.800.

The specific statute these rules are intended to implement is chapters 74.42 and 74.46 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 25, 1985.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration and Personnel
Department of Social and Health Services
Mailstop OB 14
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 11, 1985. The meeting site is in a location which is barrier free.

Dated: June 6, 1985

By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-88-050 and 388-96-369.

Purpose of the Rules: To clarify how specific supply types will be reimbursed and which types of medical supplies and services can be charged to patient trust fund accounts.

Reason These Rules are Necessary: To reduce any confusion nursing home providers may have regarding the appropriate funding source for reimbursement of patient's medical supplies.

Statutory Authority: RCW 74.42.620 for WAC 388-88-050 and RCW 74.46.800 for WAC 388-96-369.

Summary of Rule Change: WAC 388-88-050 clarifies medical supplies reimbursement; and 388-96-369 clarifies the procedure for charging patient trust fund accounts.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule or Rule Change: Conrad Thompson, Director, Bureau of Nursing Home Affairs, mailstop OB-31, phone 753-3339.

These rules are not necessary as a result of federal law, federal court decision or state court decision.

No economic impact is expected as a result of this change.

AMENDATORY SECTION (Amending Order 1871, filed 9/1/82)

WAC 388-88-050 ADEQUATE NURSING HOME CARE. (1) Care and services rendered must be justified as essential to resident health care needs, with the overall goal of restoration, maintenance at the highest possible level of independence, and/or supportive care. The nursing home is obligated to provide adequate nursing home care as defined in chapter 248-14 WAC and federal regulations. (~~Adequate care and services include but are not necessarily limited to:~~)

(a) The facility must make arrangements for:
(i) Physician services, including certification/recertification, plan of care, and visits;

(ii) Special consultant services, laboratory services, x-ray services, and prescription services.

(b) The facility must provide:

(i) Nursing care and supervision, including provision of twenty-four hour RN staffing when deemed necessary by the provider or the department((:));

((+)) (ii) Personal hygiene((:)); Baths, shampoos, routine nail care, shaves, oral care, and skin care((:));

~~((d))~~ ~~(iii)~~ Health records for each resident(;;);
~~((e))~~ ~~(iv)~~ Services relating to meeting medically related psycho-social needs, ordered by the physician when appropriate(;;);

~~(v)~~ Except as provided to residents of ICF/MR's, ancillary care services as defined in RCW 74.46.020(2), including services provided by activities specialists, audiologists, mental health professionals, social workers, speech pathologists, physical therapists, and occupational therapists;

~~((f))~~ ~~(vi)~~ A nutritionally adequate and varied diet(;;) including supplementary nourishments and vitamins;

~~((g))~~ ~~(vii)~~ A safe and comfortable environment(;;);

~~((h))~~ ~~(viii)~~ ~~((Safeguarding the resident's))~~ Safeguards to assure resident rights and personal possessions.

(2) The nursing home is obligated to provide ~~((items))~~ equipment and supplies ~~((routinely and relatively uniformly used for residents; and))~~ essential for the provision of adequate health care ~~((services. Such))~~ as required in subsection (1) of this section plus items ~~((include))~~ including but ~~((are))~~ not limited to:

(a) Beds, mattresses, bedrails, footstools, traction equipment, cradles, footboards, and trapeze bars;

(b) Resident gowns, linen, nonpersonal laundry, and isolation supplies;

~~((b))~~ ~~(c)~~ Pitchers, basins, bedpans, urinals, commodes, and elevated toilet seats(;;);

~~((e))~~ ~~(d)~~ Materials and supplies used for care of incontinent residents ~~((, such as pads,))~~;

~~((d))~~ ~~(e)~~ Soaps, lotions, shampoos, toothpaste, mouthwash, and powder(;;);

~~((e))~~ ~~(f)~~ Alcohol sponges, applicators, tongue depressors, thermometers, band-aids, facial tissue, and swabs ~~((, and dressings for occasional and emergency use,))~~;

~~((f))~~ ~~(g)~~ Appropriate equipment used for patient positioning, protective support, or restraints(;;);

~~((g))~~ ~~(h)~~ Approved nonlegend ~~((stock drugs and solutions, such as))~~ antacid suspensions and tablets, antiseptics, laxatives, ~~((anti-diarrheal))~~ antidiarrheal medications, ~~((aspirin or equivalent pain relievers))~~ analgesics, salt or sugar substitutes(;;);

~~((h))~~ ~~(i)~~ Physician ordered dietary supplements(;;)

~~((i))~~ ~~(j)~~ Linen and nonpersonal laundry;

~~((j))~~ ~~(k)~~ Clinistix tape or tablets, ~~((quiac))~~ guaiac tests, mineral oil, vaseline, or other lubricants(;;);

~~((k))~~ ~~(l)~~ Medication supplies including gloves, hypodermic syringes, ~~((and))~~ needles, and intravenous setups;

~~((l))~~ ~~(m)~~ Supplies for specimen collections, ~~((simple))~~ irrigations, and enemas(;;)

~~(3)~~ Reusable equipment to be available for periodic use includes(;;);

~~(l)~~ Nonreusable (one-time use) or disposable (time-limited use) supplies and devices used in providing nursing home care, including nonsurgical dressings (e.g., decubiti), suction supplies, urethral catheters, and drainage systems, feeding tubes and bags except as provided under subsection (3)(e) of this section;

~~((a))~~ ~~(m)~~ Ice bags ~~((, hotwater bottles,))~~ and K pads;

~~((b))~~ ~~(n)~~ Bedrails, footstools, traction equipment;

~~((c))~~ ~~(o)~~ Walkers, wheelchairs, wheelchair accessories and wheelchair positioning devices, canes, and crutches(;;) not required for exclusive full-time use by a patient for a permanent disability;

~~((d))~~ ~~(p)~~ Emergency tray ~~((and))~~, emergency aspirator, emergency oxygen and supplies for its administration;

~~((e))~~ ~~(q)~~ Equipment for administration of oxygen.

~~(4)~~ Medically justified services provided for in chapter 388-86 WAC:

(a) Specialty consultation;

(b) Laboratory services including specimen bottles, tubes, needles, and syringes;

(c) X-ray services;

(d) Prescription services;

(e) Eye glasses and examinations;

(f) Physical therapy;

(g) Respiratory therapy and oxygen services.

(5) Surgical appliances, prosthetic devices, and aides to mobility required for the exclusive use of a resident are available to the resident directly according to WAC 388-86-100.

(6) Supplies not usually provided for nursing home residents may be individually ordered according to WAC 388-86-005(2). These items may include medically justified resident care supplies. Requests for such supplies must be authorized by the nursing care consultant. These

supplies may be categorized as nonreusable (one-time use) or disposable (time-limited use), items which can be reused with proper handling and precautions by the same residents, but not between residents.) Infrared lamps and weighing scales.

(3) The exceptions listed below will be reimbursed in accordance with WAC 388-86-005, 388-87-025, and 388-87-027:

(a) Aids to mobility including wheelchairs and wheelchair positioning devices required for the exclusive use of a patient (WAC 388-86-100) for a permanent disability;

(b) Supplies for intermittent catheterization programs;

(c) Commercial formula, when used as the only source of nutrition;

(d) Surgical dressings limited to primary dressings required as the result of a surgical procedure performed by a physician;

(e) The following supplies or devices replacing all or part of the function of a permanently impaired or malfunctioning internal body organ:

(i) Colostomy (and other ostomy) bags and necessary accouterments,

(ii) Urinary retention catheters, tubes, and bags, and

(iii) Feeding tubes, bags, or pumps.

(f) Vitamins, only as covered by the state formulary.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-369 THE PROVIDER SHALL MAINTAIN A SUBSIDIARY LEDGER WITH AN ACCOUNT FOR EACH RECIPIENT FOR WHOM THE PROVIDER HOLDS MONEY IN TRUST. (1) Each account and related supporting information shall:

(a) Be maintained at the facility(;;);

(b) Be kept current(;;);

(c) Be balanced each month(;;); and

(d) Show in detail, with supporting verification, all moneys received on behalf of the individual patient and the disposition of all moneys so received.

(2) Each account shall be available for audit and inspection by a department representative and be maintained for a minimum of four years. The provider further agrees to notify the community services office of the department when:

(a) The account of any individual certified on or before December 31, 1973, whose award letter indicates a limit of ~~((200.00))~~ two hundred dollars cash, reaches the sum of ~~((175.00))~~ one hundred seventy-five dollars.

The community services office will reevaluate the status of each recipient certified under the eligibility criteria prior to January 1, 1974, who has an award letter specifying a ~~((200.00))~~ two hundred dollars cash limit.

(b) The account of any individual certified on or after January 1, 1974, whose resources are within one hundred dollars of the amount listed on the award letter ~~((indicates a limit of \$1,500.00 reaches the sum of \$1,450.00)).~~

(c) For both groups, the accumulation toward the limit, after admission to the facility, is permitted only from savings from the clothing and personal incidentals allowance and other income which the department specifically designates as exempt income from time to time.

(d) No patient account may be overdrawn (show a debit balance). If a patient wants to spend an amount greater than in such patient's trust account, the home may provide money from its own funds and collect the debt by installments from that portion of the patient's allowance remaining at the end of each month. No interest may be charged to patients for such loans.

(3) In order to ensure that patient trust accounts are not charged for services provided under the Title XIX program, any charge for medical services otherwise properly made to a patient's trust account must be supported by a written denial from the department.

(a) ~~((A request for additional equipment such as a))~~ Mobility aids including walkers, wheelchairs, or crutches requested for the exclusive use by a recipient must have a written denial from the department of social and health services before a patient trust account can be charged.

(b) ~~((Except as otherwise provided as follows, a request for physical therapy, restorative therapy, drugs, or other medical services))~~ Requests for medically necessary services and supplies not funded under the provisions of chapter 388-96 WAC or chapter 388-86 WAC (reimbursement rate or coupon system) must have a written denial from the ~~((local CSO))~~ department before a patient trust account can be charged.

~~((c))~~ A written denial from the local CSO is not required when the pharmacist verifies that a drug is not covered by the program ~~((e.g.,~~

~~items on the FDA list of ineffective or possible effective drugs, nonformulary over-the-counter (OTC) medications such as vitamins, laxatives, nose drops, etc.). The pharmacist's notation to this effect is sufficient:))~~

**WSR 85-13-011
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 7, 1985]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Eligibility determination—Medically needy in own home, amending WAC 388-99-020;

that the agency will at 10:00 a.m., Thursday, July 25, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 31, 1985.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 25, 1985.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration and Personnel
Department of Social and Health Services
Mailstop OB 14
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 11, 1985. The meeting site is in a location which is barrier free.

Dated: June 6, 1985

By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045. Amending WAC 388-99-020.

Purpose of the Rule Change: To bring the medically needy income level into compliance with section 1903(f)(1)(B) of the Social Security Act.

Reason the Rule Change is Necessary: To put the department in compliance with section 1903(f)(1)(B) of the Social Security Act.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: The medically needy income level for a family of two is being changed from \$527 [526] to \$517.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, phone (206) 753-7316, mailstop HB-41.

These rules are not necessary as a result of a change in federal law. It has been brought to the department's attention that it is in violation of the above referenced section of the Social Security Act.

AMENDATORY SECTION (Amending Order 2206, filed 2/13/85)

WAC 388-99-020 ELIGIBILITY DETERMINATION—MEDICALLY NEEDY IN OWN HOME. (1) The medically needy income level (MNIL) shall be:

(a) One person	\$ 364
(b) Two persons	\$ ((526)) 517
(c) Three persons	\$ 544
(d) Four persons	\$ 561
(e) Five persons	\$ 646
(f) Six persons	\$ 731
(g) Seven persons	\$ 847
(h) Eight persons	\$ 936
(i) Nine persons	\$ 1,028
(j) Ten persons and above	\$ 1,117

(2) For families and children countable income is determined by deducting, from gross income, amounts that would be deducted in determining AFDC grant eligibility. Earned income exemption of \$30 plus 1/3 of the remainder does not apply for individuals applying solely for medical assistance.

(3) For aged, blind, and disabled individuals countable income is determined by deducting, from gross income, amounts that would be deducted in determining eligibility for the state supplementary payment.

(4) If countable income is equal to or less than the appropriate MNIL, the family or individual is certified eligible.

(5) If countable income is greater than the appropriate MNIL, the applicant is required to spenddown the excess countable income for the base period. The base period shall be the three-month or six-month period which corresponds to the certification period, see WAC 388-99-055.

(6) Financial responsibility of relatives.

(a) For families and children,

(i) Income and resources of spouse or parent are considered available to the applicant whether or not actually contributed if they live in the same household.

(ii) Income and resources of spouse or parent are considered only to the extent of what is actually contributed if not in same household.

(b) For aged, blind, and disabled, see chapter 388-92 WAC for deeming of income.

(7) In mixed households, where more than one assistance unit exists, determine income for the AFDC related assistance unit according to subsection (2) of this section, and for the SSI related assistance unit according to subsection (3) of this section.

**WSR 85-13-012
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 2237—Filed June 7, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Eligibility determination—Medically needy in own home, amending WAC 388-99-020.

I, David A. Hogan, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is the department is out of compliance with section 1903(f)(1)(B) of the Social Security Act.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 5, 1985.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2206, filed 2/13/85)

WAC 388-99-020 ELIGIBILITY DETERMINATION—MEDICALLY NEEDY IN OWN HOME. (1) The medically needy income level (MNIL) shall be:

(a) One person	\$ 364
(b) Two persons	\$ ((526)) 517
(c) Three persons	\$ 544
(d) Four persons	\$ 561
(e) Five persons	\$ 646
(f) Six persons	\$ 731
(g) Seven persons	\$ 847
(h) Eight persons	\$ 936
(i) Nine persons	\$ 1,028
(j) Ten persons and above	\$ 1,117

(2) For families and children countable income is determined by deducting, from gross income, amounts that would be deducted in determining AFDC grant eligibility. Earned income exemption of \$30 plus 1/3 of the remainder does not apply for individuals applying solely for medical assistance.

(3) For aged, blind, and disabled individuals countable income is determined by deducting, from gross income, amounts that would be deducted in determining eligibility for the state supplementary payment.

(4) If countable income is equal to or less than the appropriate MNIL, the family or individual is certified eligible.

(5) If countable income is greater than the appropriate MNIL, the applicant is required to spenddown the excess countable income for the base period. The base period shall be the three-month or six-month period which corresponds to the certification period, see WAC 388-99-055.

(6) Financial responsibility of relatives.

(a) For families and children,

(i) Income and resources of spouse or parent are considered available to the applicant whether or not actually contributed if they live in the same household.

(ii) Income and resources of spouse or parent are considered only to the extent of what is actually contributed if not in same household.

(b) For aged, blind, and disabled, see chapter 388-92 WAC for deeming of income.

(7) In mixed households, where more than one assistance unit exists, determine income for the AFDC related assistance unit according to subsection (2) of this section, and for the SSI related assistance unit according to subsection (3) of this section.

WSR 85-13-013
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 85-59—Filed June 7, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is harvestable numbers of salmon are available for a subsistence fishery.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 7, 1985.

By William R. Wilkerson
Director

NEW SECTION

WAC 220-32-05500J YAKIMA RIVER—SUBSISTENCE FISHERY. Effective immediately until further notice, it is unlawful for persons possessing treaty fishing rights under the Yakima Treaty to fish for or possess salmon taken for subsistence purposes from the waters of the Yakima River except as provided for in this section:

(1) Lawful fishing areas are in the vicinity of Horn Rapids, Prosser, Sunnyside and Wapato Dams, except that it is unlawful to fish within 30 feet of fish bypass structures or fish ladders and it is unlawful to fish in the west branch at Wapato Dam until the fish ladder is operational.

(2) Lawful fishing periods are:

6:00 a.m. June 7 to 6:00 p.m. June 8 at
Sunnyside and Wapato Dams only.

6:00 a.m. June 13 to 6:00 p.m. June 15;

6:00 a.m. June 28 to 6:00 p.m. June 29;

6:00 a.m. June 12 to 6:00 p.m. July 13, 1985

(3) Lawful fishing gear is limited to dip net or rod and reel using bait or lures.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05500I YAKIMA RIVER—SUBSISTENCE FISHERY. (85-38)

WSR 85-13-014

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 85-58—Filed June 7, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is restrictions in Area 4B provide protection for Puget Sound origin sockeye, then Puget Sound origin sockeye and Canadian and Puget Sound chinook stocks, then Canadian and Puget Sound chinook stocks. Restrictions in Area 5, 6, 6C provide protection for Puget Sound and Canadian chinook stocks and Lake Washington and Baker River sockeye while allowing a limited effort, limited impact immobile set net fishery. Restrictions in 6A provide protection for Puget Sound and Canadian chinook stocks and Puget Sound sockeye. Restrictions in 7 and 7A provide protection for Puget Sound and Canadian origin spring chinook while allowing treaty Indian troll harvest of maturing summer-fall chinook. Restrictions in 6B, 9 and 10 provide protection for Puget Sound spring chinook stocks and Lake Washington sockeye. Restrictions in 10A, 10C, 10D, 10F, 10G and the Cedar River provide protection for Lake Washington sockeye. Restrictions in Areas 6D, 7B, 7C, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A and the Elwha, Dungeness, Nooksack, Stillaguamish, Skokomish, Quilcene, Puyallup and White rivers and Minter Creek provide protection for Puget Sound spring chinook stocks. The restrictions in Area 7D provide protection for spring chinook while allowing a Lummi dogfish fishery. Restrictions in 8 and the Skagit River provide protection for spring chinook and Baker River sockeye and subsequent protection for Baker River sockeye.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 7, 1985.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-28-503 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS. Effective immediately, it is unlawful for treaty Indian fishermen to take, fish for, or possess salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following restrictions:

*Area 4B - Effective 6/9 through 6/22, closed to drift gill net gear, and troll gear must release sockeye when open. Effective 6/23 until further notice, drift gill net gear restricted to 5-7/8-inch maximum mesh when open.

*Areas 5, 6, 6C - Closed to all net gear, and troll gear must release chinook salmon greater than 30 inches in length and all sockeye through June 15. Effective 6/16 through 6/22, closed to drift gill net gear, and troll gear must release sockeye when open. Effective 6/23 until further notice, drift gill net gear restricted to 5-7/8-inch maximum mesh when open.

*Area 6A - Closed to all net gear, and other gear must release sockeye when open through 6/22. Troll gear must release chinook greater than 30 inches in length through 6/15 when open.

*Areas 6B, 9 - Closed to all commercial fishing through 6/15. Effective 6/16 through 8/3, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.

Area 6D - Closed to all commercial fishing until further notice.

*Areas 7, 7A - Closed to all net gear, and troll gear must release chinook salmon greater than 30 inches in length through June 15. Effective 6/16 through 6/22, closed to all net gear. Effective 6/23 until further notice, gill net gear restricted to 5-7/8-inch maximum mesh when open.

*Area 7B in that portion north of a line from Post Point to Point Francis - Closed to all net gear, and troll gear must release chinook salmon greater than 30 inches in length through June 30.

*Areas 7B in that portion south of a line from Post Point to Point Francis, 7C -

Closed to all net gear, and troll gear must release chinook greater than 30 inches in length through 6/15.

Area 7D - Closed to all net gear except gill nets with 5-1/2-inch maximum mesh and troll gear must release chinook greater than 30 inches in length through June 15.

*Area 8 and Skagit River downstream of the Mt. Vernon Bridge - Closed to all commercial fishing through June 15. Effective 6/16 through 8/3, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.

*Area 10 - Effective through 6/8, closed to all net gear. Effective 6/9 through 6/29, closed to all net gear, and other gear must release sockeye when open. Effective 6/30 through 8/3, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.

*Area 10A - Effective 6/9 through 8/3, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open.

*Areas 10C, 10D, 10F, 10G - Effective 6/9 until further notice, closed to all commercial fishing.

Areas 11, 11A, 12, 12A, 12B, 12C, 12D, 13 - Closed to all net fishing through June 29.

Area 13A - Closed to all net fishing until further notice.

Elwha, Dungeness, Nooksack, Stillaguamish, Skokomish, Quilcene, Puyallup, and White rivers and Minter Creek - Closed to all commercial fishing until further notice.

*Skagit River - (1) Mt. Vernon Bridge to Gilligan Creek: Closed to all commercial fishing through 6/22. Effective 6/23 through 8/3, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open. (2) Gilligan Creek to Hamilton Boat Launch: Closed to all commercial fishing through 6/29. Effective 6/30 through 8/3, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open. (3) Hamilton Boat Launch to the Baker River: Closed to all commercial fishing through 7/6. Effective 7/7 through 8/3, gill net gear restricted to 6-1/2-inch minimum mesh, and other gear must release sockeye when open. (4) Upstream of Baker River: Closed to all commercial fishing until further notice.

*Cedar River - Effective 6/9 until further notice, closed to all commercial fishing.

REPEALER

The following of the Washington Administrative Code is repealed effective immediately:

WAC 220-28-502 PUGET SOUND COMMERCIAL SALMON FISHERY RESTRICTIONS (85-54)

WSR 85-13-015
ADOPTED RULES
LOTTERY COMMISSION
[Order 75—Filed June 10, 1985]

Be it resolved by the Washington State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

New	WAC 315-11-160	Definitions for Instant Game Number 16 ("People's Choice").
New	WAC 315-11-161	Criteria for Instant Game Number 16.
New	WAC 315-11-162	Ticket validation requirements for Instant Game Number 16.
New	WAC 315-11-170	Definitions for Instant Game Number 17 ("Doubling Dollars").
New	WAC 315-11-171	Criteria for Instant Game Number 17.
New	WAC 315-11-172	Ticket validation requirements for Instant Game Number 17.
Amd	WAC 315-04-220	Limited off premises sales permit.
Amd	WAC 315-32-040	Prizes for Evergreen Lotto.

This action is taken pursuant to Notice No. WSR 85-10-075 filed with the code reviser on May 1, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 67.70.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 7, 1985.

By Duane Kovacevich
Deputy Director

NEW SECTION

WAC 315-11-160 DEFINITIONS FOR INSTANT GAME NUMBER 16 ("PEOPLE'S CHOICE"). (1) Play symbols: The following are the "play symbols:" "\$2.00," "\$5.00," "10.00," "20.00," "50.00," "\$100\$," and "\$5,000." One of these play symbols appears under each of the six rub-off spots on the front of the ticket.

(2) Validation number: The unique nine-digit number on the lower right portion of the front of the ticket. The number is covered by latex which is overprinted "DO NOT REMOVE".

(3) Pack-ticket number: The ten-digit number of the form 6000001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 16 constitute the "pack number" which starts at 6000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Captions: The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 16, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
\$2.00	TWOS
\$5.00	FIVES
10.00	TENS
20.00	TWENTYS
50.00	FIFTYS
\$100\$	HUNDRED
\$5000	FIVE-THOU

(5) Agent verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the licensed agent uses to verify instant winners below \$25. For Instant Game Number 16, the agent verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The agent verification codes used by the licensed agent to verify lower tier prizes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
TWO	\$2.00
FIV	\$5.00
TEN	\$10.00
TTY	\$20.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in a plastic bag or plastic shrinkwrapping.

NEW SECTION

WAC 315-11-161 CRITERIA FOR INSTANT GAME NUMBER 16. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having the following play symbols in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

- Three \$2.00 play symbols – Win \$2.00
- Three \$5.00 play symbols – Win \$5.00
- Three 10.00 play symbols – Win \$10.00
- Three 20.00 play symbols – Win \$20.00
- Three 50.00 play symbols – Win \$50.00
- Three \$100\$ play symbols – Win \$100.00
- Three \$5000 play symbols – Win \$5,000

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 16 set forth in WAC 315-11-162, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) Instant prize winning tickets shall be redeemed in the manner set forth on the back of the ticket and in the player's brochure.

(6) There shall be no grand prize drawing.

(7) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 16 and/or

(b) Vary the number of tickets sold in Instant Game Number 16 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(8) The lottery shall conduct in conjunction with Instant Game Number 16 an incentive program pursuant to WAC 315-04-190(3). The purpose of the program is to increase sales of lottery tickets through increased and more effective use of point-of-sale material.

(a) The program shall be conducted as follows:

(i) Four drawings, using licensed agent numbers, will be held during Instant Game Number 16 at times and places and pursuant to procedures established by the director. At each drawing, twenty-five primary and five alternate licensed agent numbers will be drawn.

(ii) Licensed agents whose number is drawn and whose license is active and accounts receivable are current within thirty days at the time of the drawing will be qualified for further participation in the program. Agents whose license is inactive or accounts receivable are not current within thirty days at the time of the drawing will be disqualified and replaced by a licensed agent whose number was drawn as an alternate number.

(iii) Licensed agents selected for further participation at any drawing will not be eligible for participation in future drawings.

(iv) Lottery personnel shall visit each licensed agent qualified for further participation to determine whether point-of-sale material is displayed at each checkout area where lottery tickets are sold. Those agents with point-of-sale material displayed at each such checkout area will be eligible for the finalist drawing.

(v) The finalist drawing will be held at a time and place and pursuant to procedures established by the director. Six winners will be drawn from those agents eligible for the finalist drawing.

(b) Each of the six winners will receive a vacation package for two persons to one of the following locations: Disneyland; Reno, Nevada; Palm Springs, California; Colorado; Alaska; Hawaii; or Mexico. The vacation package will include air fare and double occupancy hotel accommodations for seven days and six nights subject to availability.

(i) Vacations must be taken between August 1, 1985, and December 1, 1985; provided, trips may not be taken during holidays.

(ii) Winners must choose the destination and dates of their vacation package not later than July 15, 1985.

(iii) The vacation packages awarded under this program have no cash value; however, they are fully transferable.

(iv) The cost of each vacation package shall not exceed one thousand four hundred dollars.

(v) Each winner shall be liable for the federal income tax due, if any, as a result of being awarded the vacation package.

(c) Washington state liquor control board stores and agencies are not eligible to participate in this incentive program.

NEW SECTION

WAC 315-11-162 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 16. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 16 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the six rub-off spots on the front of the ticket.

(b) Each of the six play symbols must have a caption below and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbol	Mead 15 Point Archer font
Captions	Mead 5 x 11 Matrix font
Pack-Ticket Number	OCR-A Size 1 Condensed font
Validation Number	OCR-A Size 1 Condensed font
Agent Verification Code	Mead 7 x 12 Matrix font

(d) Each of the play symbols and their captions, the validation number, pack-ticket number and the agent verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-160(1) and each of the captions must be exactly one of those described in WAC 315-11-160(4).

(2) Removal of part or all of the latex overprinted "DO NOT REMOVE" covering of the validation number will not invalidate an otherwise valid ticket.

(3) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11-170 DEFINITIONS FOR INSTANT GAME NUMBER 17 ("DOUBLING DOLLARS"). (1) Play symbols: The following are the "play symbols:" "\$2.00," "\$5.00," "10.00," "50.00," "\$5,000" and "\$\$." One of these play symbols appears under each of the six rub-off spots on the front of the ticket.

(2) Validation number: The unique nine-digit number on the lower right portion of the front of the ticket. The number is covered by latex which is overprinted "DO NOT REMOVE."

(3) Pack-ticket number: The ten-digit number of the form 7000001-000 printed on the front of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 17 constitute the "pack number" which starts at 7000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Captions: The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 17, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
\$2.00	TWO\$
\$5.00	FIVE\$
10.00	TEN\$
50.00	FIFTY\$
\$5000	FIVE-THOU
\$\$	DOUBLER

(5) Agent verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the licensed agent uses to verify instant winners below \$25. For Instant Game Number 17, the agent verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The agent verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
TWO	\$2.00
FOR	\$4.00
FIV	\$5.00
TEN	\$10.00
TTY	\$20.00

(6) Pack: A set of four hundred fanfolded instant game tickets separated by perforations and packaged in a plastic bag or plastic shrinkwrapping.

NEW SECTION

WAC 315-11-171 CRITERIA FOR INSTANT GAME NUMBER 17. (1) The price of each instant game ticket shall be \$1.00.

(2) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(a) The bearer of a ticket having the following play symbols in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

- Three \$2.00 play symbols – Win \$2.00
- Two \$2.00 play symbols and \$\$ – Win \$4.00
- Three \$5.00 play symbols – Win \$5.00
- Two \$5.00 play symbols and \$\$ – Win \$10.00
- Three 10.00 play symbols – Win \$10.00
- Two \$10.00 play symbols and \$\$ – Win \$20.00
- Three 50.00 play symbols – Win \$50.00
- Two \$50.00 play symbols and \$\$ – Win \$100.00
- Three \$5000 play symbols – Win \$5,000
- Two \$5000 play symbols and \$\$ – Win \$10,000

(b) In any event, only the highest instant prize amount meeting the standards of (a) of this subsection will be paid on a given ticket.

(3) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 17 set forth in WAC 315-11-172, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(5) There shall be no grand prize drawing.

(6) Notwithstanding any other provisions of these rules, the director may:

(a) Vary the length of Instant Game Number 17; and/or

(b) Vary the number of tickets sold in Instant Game Number 17 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(7) The lottery shall conduct in conjunction with Instant Game Number 17 an incentive program pursuant to WAC 315-04-190(3). The purpose of the program is to increase sales of lottery tickets through increased agent participation. The program shall consist of an agent game which shall be conducted as follows:

(a) General:

(i) Each Instant Game 17 pack of instant tickets shall contain one "Doubling Dollars Agent Game" ticket which has a six-digit number corresponding to the pack number of that pack.

(ii) Agent game tickets are void if stolen, unissued, unreadable, mutilated, altered, counterfeit in whole or in part, miscut, misregistered, defective, printed or produced in error, multiply printed or blank or partially blank, or if pack number is not on the lottery's official list of valid packs.

(iii) All tickets, transactions and winners are subject to lottery rules, regulations and procedures, and state law.

(b) Eligibility requirements:

(i) Only licensed agents that are active lottery sales outlets with these accounts receivable current within thirty days at the time of the drawing and their employees are eligible to participate in the "Doubling Dollars Agent Game".

(ii) Agent game tickets must be from a pack of Instant Game 17 tickets of which at least 50 percent (200

of the tickets have been sold. Reproductions or facsimiles will not be accepted.

(c) Entry procedures:

(i) Fill out the entry information on the back of the agent game ticket.

(ii) Place the agent game ticket in an envelope. Only one entry per envelope will be accepted.

(iii) Mail the envelope with proper postage to the address specified on the back of the agent game ticket ("Agent Game", Tacoma, WA 98460) or deliver it in person during normal business hours to:

Office of the Director
Washington State Lottery
600 Park Village Plaza
1200 Cooper Point Road SW
Olympia, Washington

(iv) There is no limit to the number of entries a licensed agent or their employees may submit, but each entry must be submitted in a separate envelope and the entry and entrant of each must meet the qualifications set forth above.

(v) Entries must be received by the lottery not later than thirty days after the official end of game of Instant Game 17 announced by the director.

(vi) A nonconforming entry, at the sole discretion of the director, may be disqualified.

(vii) The lottery shall not be responsible for any mail until received.

(viii) The lottery shall not be responsible for any other material mailed or delivered to the lottery for entry into the agent game drawing. All mail not drawn will be incinerated unopened.

(d) Winner selection:

(i) There will be one drawing for the "Doubling Dollars Agent Game".

(ii) The drawing will be held at a time and place and pursuant to procedures established by the director.

(iii) The prizes awarded at the agent game drawing will be: One – \$5,000 prize, two – \$2,500 prizes, seven – \$1,000 prizes, twenty – \$500 prizes, and twenty – \$100 prizes.

NEW SECTION

WAC 315-11-172 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 17. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 17 all of the following validation requirements apply.

(a) Exactly one play symbol must appear under each of the six rub-off spots on the front of the ticket.

(b) Each of the six play symbols must have a caption below and each must agree with its caption.

(c) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbol	Mead 15 Point Archer font
Captions	Mead 5 x 11 Matrix font
Pack-Ticket Number	OCR-A Size 1 Condensed font
Validation Number	OCR-A Size 1 Condensed font
Agent Verification Code	Mead 7 x 12 Matrix font

(d) Each of the play symbols and their captions, the validation number, pack-ticket number and the agent verification code must be printed in black ink.

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-170(1) and each of the captions must be exactly one of those described in WAC 315-11-170(4).

(2) Removal of part or all of the latex overprinted "DO NOT REMOVE" covering of the validation number will not invalidate an otherwise valid ticket.

(3) Any ticket not passing all the validation requirements in WAC 315-10-070 and subsection (1) of this section is invalid and ineligible for any prize.

AMENDATORY SECTION (Amending Order 14, filed 2/10/83)

WAC 315-04-220 LIMITED OFF PREMISES SALES PERMIT. (1) The director may permit any licensed agent who has been issued a general or provisional license to sell tickets in locations other than that specified on its license and to employ persons to make such sales provided that:

(a) ~~((The director shall specify the geographical area in which such sales may be made, and the types of locations in which such sales may be made.))~~ A licensed agent requesting a "limited off premises sales permit" shall submit an application, completed in its entirety, using a form approved by the director.

(b) ~~((Any person))~~ An application for a "limited off premises sales permit" for instant lottery tickets must be submitted to the lottery a minimum of thirty days prior to the event to provide adequate time for processing. An application for a "limited off premises sales permit" for on-line games must be submitted a minimum of sixty days prior to the event to provide adequate time for processing. Applications received after these time limits may not be approved.

(c) The geographical area and type of location in which such sales are requested shall be individually approved by the director.

(d) Each licensed agent making such sales shall be individually approved by the director and shall display identification in such form and manner as shall be prescribed by the director.

~~((c))~~ (e) The licensed agent and its employees shall abide by such other instructions and restrictions as may be prescribed by the director to govern such sales.

~~((d))~~ (2) The licensed agent's license shall bear an addendum with the phrase "limited off premises sales permitted," and the licensed agent shall display with its license the addendum which sets forth the terms and conditions under which such sales may be made. A photocopy of the addendum shall be posted at each location where off premises sales are permitted.

(3) Licensed agents must redeem low-tier winning tickets sold at the off premises location at that location

and at their licensed location. The location of the licensed location must be posted at the off premises location. Licensed agents must also provide claim forms to holders of high-tier winning tickets at both locations.

(4) The "limited off premises sales permit" shall be valid for not more than thirty days and may be renewed twice, if approved by the director, for periods not to exceed thirty days each.

(5) Licensed agents granted "limited off premises sales permits" will not be required to conduct other licensed business activities at the off premises locations.

(6) Licensed agents granted "limited off premises sales permits" shall bear all costs associated with such sales including but not limited to construction of booths, stands, etc.; telephone line installation; telephone line charges and installation of a dedicated electric circuit.

AMENDATORY SECTION (Amending Order 66, filed 10/5/84)

WAC 315-32-040 PRIZES FOR EVERGREEN LOTTO. (1) The prize amounts to be paid to each Evergreen Lotto player who selects a winning combination of numbers vary due to the parimutuel calculation of prizes. The prize amounts are based on the total amount in the prize pool for that Evergreen Lotto drawing distributed over the number of winning tickets in each of the following categories.

<u>WINNING COMBINATIONS</u>	<u>PRIZE CATEGORIES</u>
All six winning numbers in one play	First Prize (Jackpot)
Any five but not six winning numbers in one play	Second Prize
Any four but not five or six winning numbers in one play	Third Prize

(2) Prize pool. The prize pool consists of forty-five percent of Evergreen Lotto revenue.

(3) Prize amounts.

(a) First prize (jackpot). Fifty-eight percent of the prize pool is to be divided equally among all players who selected all six winning numbers in one play (in any sequence), provided, that the jackpot shall have a minimum cash value of \$500,000. The director may increase the minimum cash value of the jackpot by an amount not to exceed the amount added to the jackpot from the prior week's sales.

(b) Second prize. Twenty percent of the prize pool is to be divided equally among all players who selected five of the six winning numbers in one play (in any sequence).

(c) Third prize. Twenty percent of the prize pool is to be divided equally among all players who selected four of the six winning numbers in one play (in any sequence).

(d) Prize reserve. Two percent of the prize pool is to be held for payment of jackpot prizes at the discretion of the director.

(e) All prize allocations will be rounded down to nearest dollar, and the remainder, if any, from the rounding process shall be placed in the prize reserve.

(f) The holder of a winning ticket may win only one prize per play in connection with the winning number drawn but shall be entitled only to the highest prize category won by those numbers.

(g) The holder of two or more jackpot winning tickets with a cumulative total cash value of \$250,000 or more may elect to receive a single prize based on the total cash value with prize payments in accordance with subsection (5) (a) or (b) or this section.

(h) In the event any player who has selected four, five, or six of the six winning numbers does not claim the prize won within one hundred eighty days after the drawing in which the prize was won, that player's prize shall be retained in the state lottery fund for further use as prizes, pursuant to RCW 67.70.190.

(4) Roll-over feature.

(a) If no player selects all six winning numbers for any given drawing, the jackpot accumulated for that drawing will be added to the jackpot accumulation for the next drawing. This process is repeated until the jackpot is won.

(b) If no player selects five of the six winning numbers for any given drawing, the second prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(c) If no player selects four of the six winning numbers for any given drawing, the third prize allocation will be added to the jackpot accumulation for the next drawing or placed in the prize reserve for future consideration at the discretion of the director.

(5) Prize payments will be made in accordance with WAC 315-30-030(6).

(a) Each prize that has a cash value of \$500,000 or more shall be paid in twenty equal annual payments.

(b) Each prize that has a cash value from \$250,000 up to but not including \$500,000 shall be paid in ten equal annual payments.

(c) Each prize that has a cash value of less than \$250,000 shall be paid in a single lump sum.

(d) For prizes paid over a period of years, the lottery will make the first annual payment. The remaining payments will be paid in the form of fixed term annuity.

WSR 85-13-016
EMERGENCY RULES
LOTTERY COMMISSION
[Order 76—Filed June 10, 1985]

Be it resolved by the Washington State Lottery Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

Rep	WAC 315-04-100	License renewals.
Amd	WAC 315-04-200	Denial, suspension or revocation of a license.
Amd	WAC 315-06-120	Payment of prizes—General provisions.
Amd	WAC 315-10-030	Instant games criteria.
Amd	WAC 315-10-070	Ticket validation requirements.
Amd	WAC 315-30-030	On-line games criteria.

We, the Washington State Lottery Commission, find that an emergency exists and that this order is necessary

for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is WAC 315-04-200, that misrepresentation of or failure to disclose criminal history is grounds for denial, suspension or revocation of a license required clarification; WAC 315-04-100, license renewal is no longer required and this rule was inconsistent with other licensing rules; and WAC 315-06-120, 315-10-030, 315-10-070 and 315-30-030, the procedures and conditions for submittal of claims and payment of prizes required clarification.

These rules are required before permanent rules could be adopted. Delay in implementation would be contrary to the public interest.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 67.70.040 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 7, 1985.

By Duane Kovacevich
Deputy Director

AMENDATORY SECTION (Amending Order 72, filed 4/5/85)

WAC 315-04-200 DENIAL, SUSPENSION OR REVOCATION OF A LICENSE. *The director may deny an application for or suspend or revoke any license issued pursuant to these rules for one or more of the following reasons:*

(1) *Failure to meet or maintain the eligibility criteria for license application and issuance established by chapter 7, Laws of 1982 2nd ex. sess., or these rules;*

(2) *Failure to account for lottery tickets received or the proceeds of the sale of tickets or to post a bond if required by the director or to comply with the instructions of the director concerning the licensed activity;*

(3) *Failure to pay to the lottery any obligation when due;*

(4) *Violating any of the provisions of chapter 7, Laws of 1982 2nd ex. sess., or these rules;*

(5) *Failure to file any return or report or to keep records required by the director or by these rules;*

(6) *Failure to pay any federal, state or local tax or indebtedness;*

(7) *Fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the lottery;*

(8) *If public convenience is adequately served by other licensees;*

(9) *Failure to sell a sufficient number of tickets to meet administrative costs;*

(10) *If there is a history of thefts or other forms of losses of tickets or revenue therefrom;*

(11) If there is a delay in accounting or depositing in the designated depository the revenues from the ticket sales;

(12) Has violated, failed or refused to comply with any of the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW (Gambling Act), or chapter 7, Laws of 1982 2nd ex. sess., or when a violation of any provisions of chapter 7, Laws of 1982 2nd ex. sess., has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(13) Knowingly causes, aids, abets or conspires with another to cause any person to violate any of the laws of this state;

(14) Has obtained a license by fraud, misrepresentation, concealment or through inadvertence or mistake;

(15) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor, involving any gambling activity or physical harm to individuals or involving moral turpitude;

(16) Makes a misrepresentation of, or fails to disclose, a material fact to the commission or director on any report, record, application form or questionnaire required to be submitted to the commission or director. Misrepresentation of, or failure to disclose criminal history shall be considered a material fact for purposes of this section;

(17) Denies the commission or director or their authorized representatives, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted, or fails to promptly produce for inspection or audit any book, record, document or item required by law or these rules;

(18) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses indicated under subsection (15) of this section: **PROVIDED**, That at the request of an applicant for an original license, the director may defer decision upon the application during the pendency of such prosecution or appeal;

(19) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in lottery or gambling or related activities would be inimical to the proper operation of an authorized lottery or gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

(20) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a

nature as to be inimical to the policy of this state or to the proper operation of the authorized lottery or gambling or related activities in this state. For the purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders;

(21) Failure to follow the instructions of the director for the conduct of any particular game or special event;

(22) Failure to follow security procedures of the director for the handling of tickets or for the conduct of any particular game or special event; or

(23) Makes a misrepresentation of fact to the purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event.

REPEALER :

The following section of the Washington Administrative Code is repealed:

WAC 315-04-100 LICENSE RENEWALS.

AMENDATORY SECTION (Amending Order 64, filed 9/17/84)

WAC 315-06-120 PAYMENT OF PRIZES—GENERAL PROVISIONS. (1) The director may designate claim centers for the filing of prize claims, and the location of such centers shall be publicized from time to time by the director.

(2) A claim shall be entered in the name of a single legal entity as claimant, either one individual or one organization. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) as issued by the internal revenue service and such number is shown on the claim form. Groups, family units, organizations, clubs, or other organizations which are not a legal entity, or do not possess a federal employer's identification number, shall designate one individual in whose name the claim is to be entered.

(3) Unless otherwise provided in the rules for a specific type of game, a claimant shall sign the back of the ticket and/or complete and sign a claim form approved by the director. The claimant shall submit the claim form and/or claimant's ticket to the lottery in accordance with the director's instructions as stated in the players' manual and/or on the back of the ticket or submit a request for reconstruction of an alleged winning ticket and sufficient evidence to enable reconstruction and that the claimant had submitted a claim for the prize, if any, for that ticket. The claimant, by submitting the claim or request for reconstruction, agrees to the following provisions:

(a) The discharge of the state, its officials, officers, and employees of all further liability upon payment of the prize; and

(b) The authorization to use the claimant's name for publicity purposes upon award of the prize.

(4) A prize must be claimed within the time limits prescribed by the director in the instructions for the conduct of a specific game, but in no case shall a prize be claimed later than 180 days after the official end of that instant game or the on-line game drawing for which that on-line ticket was purchased.

(5) The director may deny awarding a prize to a claimant if:

(a) The ticket was not legally issued initially;

(b) The ticket was stolen from the commission, director, its employees or agents, or from a licensed agent; or

(c) The ticket has been altered or forged, or has otherwise been mutilated such that the authenticity of the ticket cannot be reasonably assured by the director.

(6) No person entitled to a prize may assign his or her right to claim it except:

(a) That payment of a prize may be made to any court appointed legal representative, including, but not limited to, guardians, executors, administrators, receivers, or other court appointed assignees; or

(b) For the purposes of paying federal, state or local tax.

(7) In the event that there is a dispute or it appears that a dispute may occur relative to any prize, the director may refrain from making payment of the prize pending a final determination by the director or by a court of competent jurisdiction relative to the same.

(8) A ticket that has been legally issued by a licensed agent is a bearer instrument until signed. The person who signs the ticket is considered the bearer of the ticket. Payment of any prize may be made to the bearer, and all liability of the state, its officials, officers, and employees and of the commission, director and employees of the commission terminates upon payment.

(9) All prizes shall be paid within a reasonable time after the claims are (~~verified~~) validated by the director and a winner is determined. Provided, prizes paid for claims validated pursuant to WAC 315-10-070(2) shall not be paid prior to one hundred eighty-one days after the official end of that instant game. The date of the first installment payment of each prize to be paid in installment payments shall be the date the claim is validated. Subsequent installment payments shall be made as follows:

(a) If the prize was awarded as the result of a drawing conducted by the lottery, installment payments shall be made weekly, monthly, or annually from the date of the drawing in accordance with the type of prize awarded; or

(b) If the prize was awarded in a manner other than a drawing conducted by the lottery, installment payments shall be made weekly, monthly, or annually from the date the claim is validated in accordance with the type of prize awarded.

(10) The director may, at any time, delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim or any other matter that may have come to his or her attention. All delayed payments shall be brought up to date immediately upon the director's confirmation and continue to be paid on each originally scheduled payment date thereafter.

(11) If any prize is payable for the life of the claimant, only a natural person may claim such a prize and, if claiming on behalf of a group, corporation or the like, the life of such natural person claiming the prize shall be the measuring life.

(12) The director's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from the payment or awarding of prizes shall be final and binding upon all participants in the lottery.

(13) Each licensed agent shall pay all prizes authorized to be paid by the licensed agent by these rules during its normal business hours at the location designated on its license.

(14) In the event a dispute between the director and the claimant occurs as to whether the ticket is a winning ticket, and if the ticket prize is not paid, the director may, solely at his or her option, replace the disputed ticket with an unplayed ticket (or tickets of equivalent sales price from any game). This shall be the sole and exclusive remedy of the claimant.

AMENDATORY SECTION (Amending Order 72, filed 4/5/85)

WAC 315-10-030 INSTANT GAMES CRITERIA. (1) The price of an instant game ticket shall not be less than \$1.00 and not more than \$5.00.

(2) Winners of an instant game are determined by the matching or specified alignment of the play numbers on the tickets. The ticket bearer must notify the lottery of the win and submit the winning ticket to the lottery as specified by the director. The winning ticket must be validated by the lottery through use of the validation number and/or any other means as specified by the director.

(3) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

(4) The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier prizes are of less than \$25.00. Higher tier prizes are of \$25.00 or more. The director shall determine the number of lower and higher tier prizes.

(5) The length of operation of an instant game shall not exceed fifteen weeks. The start date and closing date of the instant game shall be publicly announced. Licensed agents shall not sell any tickets prior to the start date of a game unless expressly authorized by the director. Licensed agents may continue to sell tickets for each instant game for up to fourteen days after the official end of game as authorized by WAC 315-10-060.

(6) There is no required frequency of drawing or method of selection of a winner in an instant game.

(7) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from redeemed tickets meeting the criteria stated in specific game rules as determined by the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before

a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.

(b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director to correspond with the size and length of the instant game and to comply with subsection (3) of this section.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

(8) Procedures for claiming instant game prizes are as follows:

(a) To claim an instant game prize of less than \$25.00, the claimant shall present the apparent winning ticket to the licensed agent from whom the ticket was purchased. The licensed agent shall verify the claim and, if acceptable, make payment of the amount due the claimant. In the event the licensed agent cannot verify the claim, the claimant shall fill out a claim form, as provided in WAC 315-06-120, which shall be obtained from the licensed agent and present the completed form, together with the disputed ticket to the director. If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(b) To claim an instant prize of \$25.00 or more, the claimant shall complete a claim form, as provided in WAC 315-06-120, which is obtained from the licensed agent or the director and mail the completed form together with the winning ticket to the director. Upon validation by the director, a check shall be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(c) To claim an instant prize pursuant to WAC 315-10-070(2), the claimant shall notify the lottery of the claim and request reconstruction of the ticket not later than one hundred eighty days after the official end of that instant game. If the director authorizes reconstruction, the ticket shall not be validated nor the prize paid prior to the one hundred eighty-first day following the official end of that instant game. A ticket(s) validated pursuant to WAC 315-10-070(2) shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

(d) Any ticket not passing all the validation checks specified by the director is invalid and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective

ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

AMENDATORY SECTION (Amending Order 68, filed 11/7/84)

WAC 315-10-070 TICKET VALIDATION REQUIREMENTS. (1) To be a valid Washington state lottery instant game ticket, a ticket must meet all of the following validation requirements.

(a) The ticket must have been issued by the director in an authorized manner.

(b) The ticket must not be altered, unreadable, reconstructed, or tampered with in any manner.

(c) The ticket must not be counterfeit in whole or in part.

(d) The ticket must not be stolen nor appear on any list of omitted tickets on file with the lottery.

(e) The ticket must be complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error.

(f) The ticket must have exactly one play symbol and exactly one caption under each of the rub-off spots, exactly one pack-ticket number, exactly one agent verification code, and exactly one validation number. They must be present in their entirety, legible, right-side up, and not reversed in any manner.

(g) The validation number of an apparent winning ticket shall appear on the lottery's official list of validation numbers of winning tickets; and a ticket with that validation number shall not have been previously paid.

(h) The ticket must pass all additional confidential validation requirements established by the director.

(2) The director may authorize reconstruction of an alleged winning ticket which was not received and/or cannot be located by the lottery. Provided, the person requesting reconstruction submits to the lottery sufficient evidence to enable reconstruction and that they have submitted a claim for the prize, if any, for that ticket. If the reconstructed ticket is a winning ticket and meets the validation requirements contained in subsection (1) of this section and the specific validation requirements contained in the rules for its specific game, the director may authorize payment of the prize. Provided, the ticket shall not be validated nor the prize paid prior to the one hundred eighty-first day following the official end of that instant game. A ticket(s) validated pursuant to this subsection shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

(3) Any ticket not passing all the validation requirements in subsection (1) of this section and the specific validation requirements contained in the rules for its specific game is invalid and ineligible for any prize.

~~((3))~~ (4) The director may replace any invalid ticket with an unplayed ticket of equivalent sales price from any current instant game. In the event a defective ticket is purchased, the only responsibility or liability of the lottery shall be the replacement of the defective ticket with an unplayed ticket of equivalent sales price from any current instant game, or issue a refund of the sales price. However, if the ticket is partially mutilated or if the ticket is not intact but it still can be validated by

other validation tests, the director may pay the prize for that ticket.

AMENDATORY SECTION (Amending Order 64, filed 9/17/84)

WAC 315-30-030 ON-LINE GAMES CRITERIA. (1) The base price of an on-line ticket shall not be less than \$.50 and not more than \$5.00.

(2) On the average the total of all prizes available to be won in an on-line game shall not be less than forty-five percent of the on-line game's projected revenue.

(3) The manner and frequency of drawings may vary with the type of on-line game.

(4) The times, locations, and drawing procedures shall be determined by the director.

(5) A ticket bearer (~~(entitled to)~~) claiming a prize shall submit the apparent winning ticket as specified by the director. The ~~((winning))~~ ticket must be validated pursuant to WAC 315-30-050 by the lottery or an on-line agent through use of the validation number and any other means as specified by the director.

(6) Procedures for claiming on-line prizes are as follows:

(a) To claim an on-line game prize of \$600.00 or less within thirty days of the drawing, the claimant shall present the winning on-line ticket to any on-line agent or to the lottery.

(i) If the claim is presented to an on-line agent, the on-line agent shall validate the claim and, if determined to be a winning ticket, make payment of the amount due the claimant. If the on-line agent cannot validate the claim, the claimant may obtain and complete a claim form, as provided in WAC 315-06-120, and submit it with the disputed ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(ii) If the claim is presented to the lottery, the claimant shall complete a claim form, as provided in WAC 315-06-120, and submit it with the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(b) To claim an on-line prize of more than \$600.00, or any prize more than thirty days after the date of the drawing, the claimant shall obtain and complete a claim form, as provided in WAC 315-06-120, and submit it with the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly

notified. Nonwinning tickets will not be returned to the claimant.

WSR 85-13-017
ADOPTED RULES
SECRETARY OF STATE
 [Order 85-1—Filed June 10, 1985]

I, Laura Eckert, Assistant Secretary of State of the Office of the Secretary of State, do promulgate and adopt at Second Floor, Legislative Building, Olympia, Washington, the annexed rules relating to general rules of practice and procedure governing public records requests, state archives.

This action is taken pursuant to Notice No. WSR 85-10-063 filed with the code reviser on May 1, 1985. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 42.17.250 which directs that the Office of the Secretary of State has authority to implement the provisions of RCW 42.17.250.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED June 5, 1985.

By Laura Eckert
 Assistant Secretary of State

Chapter 434-15 WAC
PUBLIC RECORDS—ARCHIVES

WAC	
434-15-010	Purpose.
434-15-020	Definitions.
434-15-030	Description of central and field organization of the division of archives and records management.
434-15-040	Operations and procedures.
434-15-050	Public records available.
434-15-060	Public records officer.
434-15-070	Office hours.
434-15-080	Requests for public records—Archives—Scheduled.
434-15-090	Copying.
434-15-100	Exemptions.
434-15-110	Review of denials of public records requests.
434-15-120	Protection of public records.
434-15-130	Records index.
434-15-140	Communication with division—Address.
434-15-150	Adoption of form.
434-15-990	Appendix A—Management organization chart of state archivist.
434-15-99001	Appendix B—Form—Request for public records.

NEW SECTION

WAC 434-15-010 PURPOSE. The purpose of this chapter shall be to ensure compliance by the office of the secretary of state, division of archives and records management with the provisions of chapter 1, Laws of 1973 (Initiative 276), Disclosure—Campaign finances—Lobbying—Records; and in particular with sections 25—32 of that act, dealing with public records.

NEW SECTION

WAC 434-15-020 DEFINITIONS. (1) Public records. "Public record" includes any writing containing information relating to the conduct of governmental 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.

(2) Writing. "Writing means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic tape, punched cards, discs, drums and other documents."

(3) Division of archives and records management. The division of archives and records management is established by chapter 40.14 RCW. The division of archives and records management shall hereinafter be referred to as the "division." Where appropriate, the term division also refers to the staff and employees of the division of archives and records management.

(4) Archives. Those public records of state and local governmental agencies of continuing historical value transferred to the custody and jurisdiction of the division of archives after their legal, financial and administrative values have ceased.

(5) Division records. Those records pertaining to the operations of the division of archives and records management.

(6) Scheduled records. Those public records scheduled for transfer to and disposition from the records center but which remain under the jurisdiction of the agency of record origin.

NEW SECTION

WAC 434-15-030 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION OF THE DIVISION OF ARCHIVES AND RECORDS MANAGEMENT. Division of archives and records management. The division is an administrative service and regulatory agency. The administrative office of the division and its staff are located at the Archives and Records Center Building, Olympia, Washington.

NEW SECTION

WAC 434-15-040 OPERATIONS AND PROCEDURES. The division of archives and records management is the primary archival and records management agency of Washington state government. The division is

organized as depicted in Appendix A. Through its several sections and operating units it carries on the following functions:

(1) Manages the archives of the state of Washington;

(2) Centralizes the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;

(3) Inspects, inventories, catalogs, and arranges retention and transfer schedules on all record files of all state departments and other agencies of state government;

(4) Insures the maintenance and security of all state public records and establishes safeguards against unauthorized removal or destruction;

(5) Establishes and operates such state records centers as may from time to time be authorized by appropriation for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;

(6) Establishes policies and procedures for operation of the state-wide records management, essential records protection and archival programs and operation of the state records center, archival, and microfilm bureau facilities;

(7) Operates a central microfilm bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the archivist; approves microfilming projects undertaken by state departments and all other agencies of state government; and maintains proper standards for this work;

(8) Maintains necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly supervises such destruction of public records as shall be authorized by law;

(9) Provides assistance to agencies of local government in records management related matters;

(10) Manages a state-wide essential records protection program including the operation of an essential records storage facility, and serves as depository for essential record microfilms for local government agencies.

NEW SECTION

WAC 434-15-050 PUBLIC RECORDS AVAILABLE. All public records of the division as defined in WAC 434-15-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310 and WAC 434-15-100.

NEW SECTION

WAC 434-15-060 PUBLIC RECORDS OFFICER. (1) The divisional records shall be in the charge of the public records officer designated by the secretary of state. The person so designated shall be located in the administrative office of the secretary of state. The public records officer shall be responsible for the following: The implementation of the division's rules and regulations regarding release of public records, coordinating the staff of the division in this regard, and generally insuring

compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

(2) The archival records in the custody of the division shall be in the charge of the state archivist. The state archivist shall be located in the state archives and records center building. The state archivist shall be responsible for the following: The implementation of the division's regulations regarding the release of archival records, coordinating the staff of the division in this regard and generally insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

(3) The scheduled records in the custody of the division shall be in the charge of the public records officer designated by the agency of record origin. The public records officer of the agency of records origin shall be responsible for implementation of the agency's rules and regulations regarding the release of public records and coordinating with the staff of the state archives in this regard insofar as records of his agency in the custody of the state archivist are concerned.

NEW SECTION

WAC 434-15-070 OFFICE HOURS. Divisional records, archives and scheduled records shall be available for inspection and copying during the customary office hours of the division. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

NEW SECTION

WAC 434-15-080 REQUESTS FOR PUBLIC RECORDS—ARCHIVES—SCHEDULED. In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) Divisional records. A request shall be made in writing upon the form prescribed in WAC 434-15-150 which shall be available at the division's administrative office or at the secretary of state's administrative office. The form shall be presented to the secretary of state's public records officer at his office, or if he is not available, to any member of the division's staff at the administrative office of the division, during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

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

(2) Archives. A request shall be made in writing upon a form prescribed by the division which shall be available at the state archives and records center. The form shall be presented to the state archivist, or to a member of the division's staff, designated by the state archivist, at the state archives building, during customary office hours. The requests shall include the same information as that supplied for public records of the division.

(3) Scheduled records. Requests for scheduled records in the custody but not under the jurisdiction of the state archives, must be made through the office of record origin in accord with the rules and regulations regarding the release of public records by that agency as published in the Washington Administrative Code in compliance with chapter 42.17 RCW. An approved request form or letter of authorization from an appropriate agency of records origin must then be presented to the state archivist, or a member of the division's staff, thereby granting access. The request or letter of authorization shall include the same or nearly the same identifying information as that supplied for public records of the division.

(4) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record request.

NEW SECTION

WAC 434-15-090 FEES. (1) No fee shall be charged for the inspection of public records.

(2) No fees shall be charged for records search and retrieval services.

(3) The division shall charge a fee of twenty-five cents per page of copy for providing copies of public records or fifteen cents per page of copy for customer use of the division's copy equipment.

(4) The division shall charge three dollars per tape for duplication or copying of cassette tapes.

(5) The division shall charge a fee of five dollars for a photo print, to a maximum size of eight inches by ten inches.

(6) The division shall charge a fee for research services, in the amount of fifteen dollars per hour of research, five dollar minimum.

(7) The division shall charge a fee of five dollars per certificate for issuance of a certificate or certified copies.

(8) The division shall charge for microfilm or microfiche services according to prevailing Microfilm Bureau rates.

These charges are the amounts necessary to reimburse the division for costs incident to copying and other services.

NEW SECTION

WAC 434-15-100 EXEMPTIONS. (1) The division reserves the right to determine that a public record

or archive record requested in accordance with the procedures outlined in WAC 434-15-080 is exempt under the provisions of RCW 42.17.310.

(2) In addition, pursuant to RCW 42.17.310, the division reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer or state archivist will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

NEW SECTION

WAC 434-15-110 REVIEW OF DENIALS OF PUBLIC RECORDS REQUESTS. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the director of the department. The secretary of state shall immediately consider the matter and either affirm or reverse such denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the secretary of state has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

NEW SECTION

WAC 434-15-120 PROTECTION OF PUBLIC RECORDS. Records will be made available to the requestor subject to the following restrictions:

(1) The records may not be removed from the area designated.

(2) The quantity of records may be limited in consonance with the requested use.

(3) All possible care will be taken by the requestor to prevent damage to the records.

(4) Records may not be marked or altered in any way.

(5) Use of liquids and fountain pens and eating, drinking, and smoking while utilizing the records is prohibited.

(6) Records shall not be defaced in any way including writing on, folding or folding anew if in folded form, tracing or fastening with clips or other fasteners except those that may already exist in the file.

(7) Records may not be cut or mutilated in any way.

(8) Records must be kept in the order in which received.

(9) Records will be returned to the state archivist or his designee by the requestor when no longer required and no later than the end of the customary office hours as set forth in WAC 434-15-070.

NEW SECTION

WAC 434-15-130 RECORDS INDEX. (1) Index. The division has available to all persons a current index which provides identifying information as to the following records issued, adopted, or promulgated since its inception:

"(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;

"(c) Administrative staff manuals and instructions to staff that affect a member of the public;

"(d) Planning policies and goals, and interim and final planning decisions;

"(e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others;

"(f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or it is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party;

"(g) Public records accessioned into the archive proper of the state of Washington; and

"(h) Scheduled records in the custody of the state archives."

(2) Availability. The current index promulgated by the division shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

NEW SECTION

WAC 434-15-140 COMMUNICATION WITH DIVISION—ADDRESS. All communications with the division including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW and these rules; requests for copies of the division's decisions and other matters, shall be addressed as follows: Office of the Secretary of State, c/o Public Records Officer, Legislative Building, P.O. Box 9000 Olympia, Washington 98504.

NEW SECTION

WAC 434-15-150 ADOPTION OF FORM. The division hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the

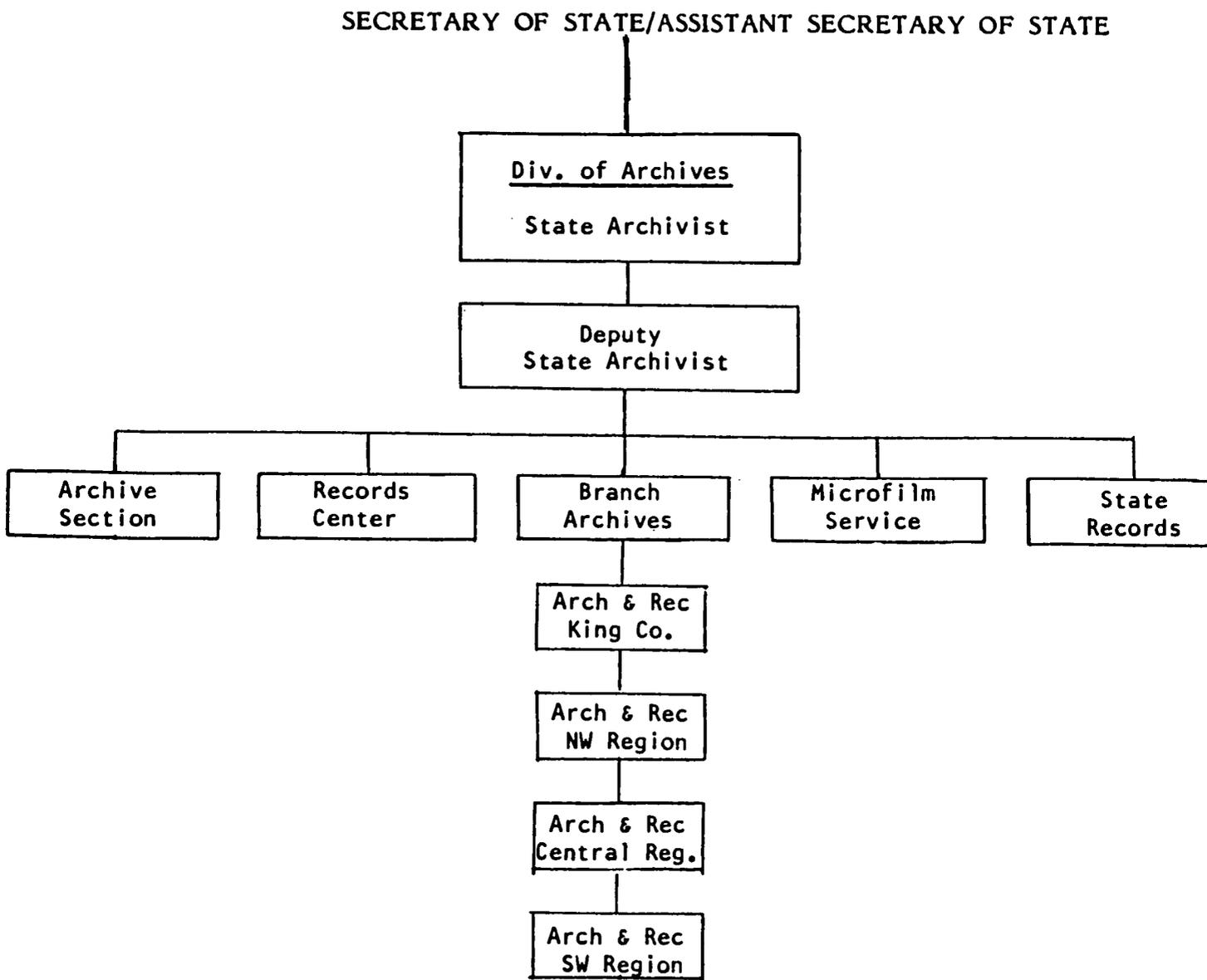
form attached hereto as Appendix B entitled "Request for public record."

NEW SECTION

WAC 434-15-990 APPENDIX A—MANAGEMENT ORGANIZATION CHART OF STATE ARCHIVIST.

APPENDIX A

ORGANIZATIONAL CHART, Division of Archives, Office of the Secretary of State



NEW SECTION

**WAC 434-15-99001 APPENDIX B—FORM—
REQUEST FOR PUBLIC RECORDS.**

APPENDIX B

REQUEST FOR PUBLIC RECORDS

NAME OF REQUESTOR:

ADDRESS:

PHONE:

DATE OF REQUEST:

TIME OF REQUEST:

Nature of Request:

1. Index Reference

Signature

For Office Use Only:

- | | | |
|----------------------------------|--|---|
| | | Record |
| (1) Request | Record | Withheld |
| Granted <input type="checkbox"/> | Withheld <input type="checkbox"/> | In Part <input type="checkbox"/> |
- (2) If withheld, name the exemption contained in RCW 42.17.310 which authorizes the withholding of the record or part of record: Subsection (1) ().
- (3) If withheld, briefly explain how the exemption applies to the record withheld.
- (4) If request granted, time, day

WSR 85-13-018
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
COMMUNITY DEVELOPMENT
 [Memorandum—June 8, 1985]

The Washington State Department of Community Development (DCD) will hold a public hearing on a proposed 1986 low-income home energy assistance program (LIHEAP) state plan.

The hearing will be held on Thursday, July 18, 1985, in the DCD Fifth Floor Conference Room, Ninth and Columbia Building, Fifth Floor, Olympia, Washington. The hearing will begin promptly at 10:00 a.m. and close at 12:00 noon, unless participation 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. on

Wednesday, July 17, 1985, to the attention of Katherine Friedt, Assistant Director, Division for Community Services, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151.

For additional information or a copy of the draft plan, please contact Steve Payne at (206) 754-8980.

WSR 85-13-019
NOTICE OF PUBLIC MEETINGS
HOSPITAL COMMISSION
 [Memorandum—June 7, 1985]

The State Hospital Commission will meet in Seattle at the Vance Airport Inn on Thursday, June 27, 1985, at 8:30 a.m. The hospitals scheduled for informal hearing have previously filed with the commission their annual budget and rate requests and their requests for amendments to their previously approved budget and rates. Staff findings and recommendations will be transmitted to the scheduled hospitals and to members of the Hospital Commission in accordance with WAC 261-20-135. Such information is on file in the commission's office and is available for inspection.

Meetings of the State Hospital Commission are scheduled for July 25, 1985, and August 8, 1985, at the Vance Airport Inn, Seattle.

WSR 85-13-020
ADOPTED RULES
DEPARTMENT OF CORRECTIONS
 [Order 85-06—Filed June 10, 1985]

I, Amos E. Reed, secretary of the Department of Corrections, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- Amd WAC 137-08-060 Public records available.
- New WAC 137-08-105 Correction of erroneous information.
- Amd WAC 137-08-110 Fees—Inspection and copying.
- Amd WAC 137-08-150 Exemption to public records disclosure.

This action is taken pursuant to Notice No. WSR 85-10-066 filed with the code reviser on May 1, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 10.97.080, 42.17.250 and 72.01.090 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 10, 1985.

By Robert E. Trimble
 Deputy Secretary
 for Amos E. Reed
 Secretary

AMENDATORY SECTION (Amending Order 82-3, filed 1/26/82)

WAC 137-08-060 PUBLIC RECORDS AVAILABLE. (1) Requests for any identifiable public record may be initiated at any office of the department during normal business hours.

(2) The department shall at all times take the most timely possible action on requests for disclosure, and shall be required to respond in writing within ten working days of receipt of the request for disclosure. The department's failure to so respond shall entitle the person seeking disclosure to petition the public records officer pursuant to WAC (~~(137-04-140)~~) 137-08-140.

NEW SECTION

WAC 137-08-105 CORRECTION OF ERRONEOUS INFORMATION. (1) A client may challenge the accuracy or completeness of criminal history record information, as defined in chapter 10.97 RCW, pertaining to the client and maintained in the department's files. Such challenge shall be effected in accordance with chapter 446-20 WAC.

(2) A client may challenge the accuracy and completeness of information in the department's files pertaining to the client other than criminal history record information. Such challenge shall be effected in accordance with department policies and procedures.

AMENDATORY SECTION (Amending Order 82-3, filed 1/26/82)

WAC 137-08-110 FEES—INSPECTION AND COPYING. (1) No fee shall be charged for the inspection of public records.

(2) The department shall collect (~~(the following fees)~~) a fee of twenty cents per page plus postage to reimburse itself for (~~(actual costs incident to)~~) the cost of providing copies of public records(:

- (a) ~~Fifty cents per page for ten pages or less;~~
- (b) ~~Thirty-five cents per page from eleven to fifty pages;~~
- (c) ~~Twenty cents per page for over fifty pages).~~

(3) Nothing contained in this section shall preclude the department from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the department.

(4) The secretary of the department or his designee is authorized to waive any of the foregoing copying costs.

AMENDATORY SECTION (Amending Order 82-3, filed 1/26/82)

WAC 137-08-150 EXEMPTIONS TO PUBLIC RECORDS DISCLOSURE. The department reserves the right to determine if a public record requested in accordance with the procedures outlined in WAC 137-08-090 is exempt or nondisclosable under RCW 42.17.250 through 42.17.340.

Nondisclosable records include, but are not limited to:

(1) Personal information in any files concerning a prisoner, probationer, or parolee to the extent required

by RCW 42.17.310 (1)(a); however, disclosure may be made to that person or that person's representative, except as otherwise prohibited by these rules;

(2) Data (including information revealing the identity of persons who file complaints, except as the complainant may authorize) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement or penology agencies, and state agencies vested with the responsibility to discipline members of any profession. This data is nondisclosable to the extent required by RCW 42.17.310 (1)(d) and (e), 10.97-.080 and chapter 446-20 WAC;

(3) Certain juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW;

(4) Personal information in files maintained for an employee of the department to the extent required by RCW 42.17.310 (1)(b);

(5) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intraagency memoranda in which opinions are expressed or policies formulated or recommended; except that a specific record shall be disclosable when publicly cited by the department in connection with any action to the extent required by RCW 42.17.310 (1)(i);

(6) Records which are relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2).

(7) Criminal history records information ((including conviction and nonconviction information as required)) the disclosure of which is prohibited by chapter 10.97 RCW.

WSR 85-13-021
PROPOSED RULES
HOSPITAL COMMISSION
 [Filed June 11, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Hospital Commission intends to adopt, amend, or repeal rules concerning this notice proposes to add new section WAC 261-40-170 to Title 261 WAC: Washington State Hospital Commission, regarding negotiated rates. The proposed rules are intended to implement RCW 70.39.140(1) and set forth: Disclosure requirements, cost elements that must be included in any negotiated rate, and procedures for the commission to review and retroactively disapprove a negotiated rate;

that the agency will at 10:00 a.m., Thursday, July 25, 1985, in the Vance Airport Inn, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 70.39.180.

The specific statute these rules are intended to implement is RCW 70.39.140(1).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 19, 1985.

Dated: June 10, 1985
By: Maurice A. Click
Executive Director

STATEMENT OF PURPOSE

Title and Number of Rule Chapters: WAC 261-40-170 Negotiated rates.

Statutory Authority: RCW 70.39.180(1).

Specific Statute that Rule is Intended to Implement: RCW 70.39.140(1).

Reasons Supporting the Proposed Rules: To provide guidelines for negotiating rates effective July 1, 1985.

Agency Personnel Responsible for the Drafting, Implementation and Enforcement of These Rules: Mr. Maurice A. Click, Executive Director, and Ms. Mary K. Bensen, Deputy Director, Washington State Hospital Commission, 206 Evergreen Plaza Building, 711 South Capitol Way, Mailstop FJ-21, Olympia, Washington 98504, (206) 753-1990.

Name of the Person or Organization Whether Private, Public, or Governmental that is Proposing the Rule: Washington State Hospital Commission.

These rules are not necessary to comply with a federal law or a federal or state court decision.

Pursuant to RCW 19.85.040, the Hospital Commission has determined that a small business economic impact statement is not necessary.

NEW SECTION

WAC 261-40-170 NEGOTIATED RATES (1) After July 1, 1985, any hospital may negotiate with and charge any particular payer or purchaser rates that are less than those approved by the Commission, if:

- (a) the rates are cost justified; and
- (b) the rates do not result in any shifting of costs to other payers or purchasers in the current or any subsequent year; and
- (c) all the terms of such negotiated rates are filed with the Commission within ten (10) working days and made available for public inspection.

(2) Each hospital must submit full disclosure of each negotiated rate, including:

- (a) the names of the parties to the negotiation;
- (b) the period of time covered by the agreement;
- (c) the negotiated rate or the amount of the reduction from the rate approved by the Commission; and
- (d) any other conditions related to the negotiated rates.

(3) Each hospital shall make the terms of the negotiated rate available to the public on request.

- (4) Each negotiated rate must include:
 - (a) total allocated operating expenses incurred in providing services to the payer or purchaser;
 - (b) full allocation of charity care; and
 - (c) full allocation of Medicare and Medicaid contractual adjustments.

(5) The differential between billed charges, based on the hospital's full established rates, and the payment received, based on the negotiated rate, must be separately identified for each negotiated contract and reported on Lines 26-31, Form RE-8 Deductions from Revenue. These amounts are "Memo" only and may not be allocated to other payers or purchasers in the current or any subsequent year.

(6) The Commission shall review a negotiated rate upon the request of any interested party, including a member of the Commission or Commission staff. Such a request shall include the following:

- (a) identification of the party requesting the review;

- (b) identification of the particular negotiated rate involved;
 - (c) a clear statement of the violation alleged, e.g., it is not cost justified; it results in a cost shift to other payers or purchasers; or it does not otherwise conform with the provisions of RCW 70.39.140;
 - (d) a statement of how a party is affected by the negotiated rate;
 - (e) evidence supporting the party's claim; and
 - (f) the action requested of the Commission.
- (7) If upon review the negotiated rate is found to contravene any provision of RCW 70.39.140, the Commission may retrospectively disapprove such rate. Such disapproval shall be effective as of the date of the Commission's order disapproving the negotiated rate. Once a negotiated rate is disapproved by the Commission, the hospital may no longer charge such rate.
- (8) The Commission will publish a list of all negotiated rates filed by hospitals.

WSR 85-13-022

PROPOSED RULES

DEPARTMENT OF LICENSING

(Securities Division)

[Filed June 11, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Licensing intends to adopt, amend, or repeal rules concerning the registration of securities broker-dealers, salespersons, investment advisors and investment advisor salespersons:

Amd	WAC 460-20A-210	Notice of changes by broker-dealers.
Amd	WAC 460-20A-220	Salesperson registration and examination.
Amd	WAC 460-20A-230	Broker-dealer registration and examination.
Amd	WAC 460-20A-400	Dual representation and affiliation.
Amd	WAC 460-24A-050	Investment advisor and investment advisor salesperson (representative) registration and examinations.
Amd	WAC 460-24A-060	Financial statements required of investment advisors.
Amd	WAC 460-24A-205	Notice of changes by investment advisor;

that the agency will at 9:00 a.m., Tuesday, July 23, 1985, in Room F 22, 3rd Floor, Department of Transportation Building, Franklin and Maple Park, Olympia, Washington 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 30, 1985.

These rules are promulgated pursuant to RCW 21.20.450 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 21.20 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 23, 1985.

By: T. A. Aragon
Director

STATEMENT OF PURPOSE

Title and Number of Rule Sections: Chapter 460-20A WAC, Broker-dealers and salesmen; includes WAC 460-20A-210 Notice of changes by broker-dealers; 460-20A-220 Salespersons registration and examination; 460-20A-230 Broker-dealer registration and examination; and 460-20A-400 Dual representation and

affiliation; chapter 460-24A WAC, Investment advisors; includes WAC 460-24A-050 Investment advisors and investment advisor salesperson (representative) registration and examination; 460-24A-060 Financial statements required on investment advisors; and 460-24A-205 Notice of change by investment advisor.

Statutory Authority: RCW 21.20.450.

Specific Statute that Rules are Intended to Implement: Chapter 21.20 RCW.

Summary of the Rules: This notice proposes to amend several of the broker-dealer, salesperson, investment advisor, and investment advisor rules as follows: WAC 460-20A-210 is being amended to conform to the requirements of the central registration depository which requires Form U-4 21 days after employment and Form U-5 30 days after termination; 460-20A-220 is being amended to add the NASD Series 64 as an examination to qualify an individual for a limited license to sell real estate securities; 460-20A-230 is being amended to correct the type of form required for registration application, to conform the language to that of federal registration for describing those individuals who do not need to take the financial and operations examination to become a broker-dealer and to require notification to the Securities Division of a change in qualifying officer of a broker-dealer; 460-20A-400 is being amended to make it clear that dual licensing, whether it be dual licensing as a securities salesperson, investment advisor or a combination thereof, requires an undertaking of joint and several liability; 460-24A-050 is being amended to require notification to the Securities Division of a change in qualifying officer of an investment advisor; 460-24A-060 is being amended to clarify that financial statements required by investment advisors are required annually; and 460-24A-205 is being amended to require notification to the Securities Division of termination of any investment advisor salesperson by use of the NASD Form U-5 within 10 days and notification of employment of any new investment advisor salesperson by use of the NASD Form U-4 within 30 days after hiring occurs.

Reasons Supporting the Proposed Rules: The rules are being amended in the broker-dealer and salesperson area to conform to time periods required by the central registration depository, to add an alternative test to qualify for a securities salesperson's license, to clarify when the financial and operations examination will be required and to clarify when joint and several liability undertakings will be required. The rules are being amended in the investment advisor and investment advisor salesperson area because there have been continuing questions about when joint and several liability undertakings will be required. The requirement of notification upon change of the qualifying officer will allow the Securities Division to stay up to date in regard to its testing requirements. The amendments on notification by use of U-4 and U-5 will keep the Securities Division current on who is registered with whom.

Agency Personnel Responsible for Drafting: Deborah Bortner, Assistant Securities Administrator, Securities Division, 1300 Quince Street S.E., Olympia, Washington 98504, (206) 753-6928; Implementation: Joan Baird,

Assistant Director, Business and Professions Administration, 1300 Quince Street S.E., Olympia, Washington 98504, (206) 753-6928; and Enforcement: John Maxwell, Chief of Enforcement, Securities Division, 1300 Quince Street S.E., Olympia, Washington 98504, (206) 753-6928.

Name of the Person or Organization, Whether Private, Public, or Governmental, that is Proposing the Rule: Department of Licensing, Securities Division.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: These changes will clarify division positions and decrease necessity of multiple contacts with licensees thereby decreasing costs. The clarifications to conform with the central registration depository will make less work for applicants and licensees.

The rule is not necessary to comply with a federal law or a federal or state court action.

Small Business Economic Impact Statement: Not applicable.

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

WAC 460-20A-210 NOTICE OF CHANGES BY BROKER-DEALERS. (1) Each licensed broker-dealer shall, upon any change in the information contained in its application for a certificate (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information (and in any event within 30 days after the change occurs).

(2) Each licensed broker-dealer shall notify the Administrator of the employment of any new agent in Washington by submitting a completed NASD Form U-4 to the Administrator or the Administrator's designee, within ~~((+0))~~ (21) days after the event occurs.

(3) Each licensed broker-dealer shall notify the Administrator of the termination of employment of any agent in Washington by submitting a completed NASD Form U-5 to the Administrator or the Administrator's designee, within 30 days after the event occurs.

~~((+3))~~ (4) With respect to any broker-dealer registered under the Securities Exchange Act of 1934, it shall be sufficient compliance with Subsection (1) of this Section if a copy of an amendment to Form BD of the Securities And Exchange Commission containing the required information, or transmitted for filing to, the Administrator not later than the date on which such amendment is required to be filed with the Securities and Exchange Commission.

Reviser's note: RCW 34.04.058 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 SDO-128-81 [SDO-149-81], filed 11/18/81 [12/31/81])

WAC 460-20A-220 SALESPERSON REGISTRATION AND EXAMINATION. (1) Every applicant for registration as a securities salesperson, unless exempt as provided herein, shall pass the following examinations with a score of 70% or better and complete the NASD Form U-4.

(a) For a salesperson's license to effect or attempt to effect sales of general securities, the individual shall pass the NASD Uniform Securities Agent State Law Examination and either the SECO/NASD Non-Member General Securities Representative Examination or the General Securities Representative Examination, provided that any applicant taking the SECO/NASD Non-Member General Securities Representative Examination or the NASD General Securities Representative Examination after August 19, 1981 but prior to February 19, 1982 shall not be required to complete the NASD Uniform Securities Agent State Law Exam.

(b) For a limited salesperson's license to effect or to attempt to effect sales of investment company securities, variable contracts or mutual funds, the individual shall pass the NASD Investment Company

Products/Variable Contracts Representative Examination and the Uniform Securities Agent State Law examination.

(c) For a limited salesperson's license to effect or to attempt to effect sales of limited partnership interests and interests in tax shelters, the individual shall pass the NASD Direct Participation Program Representative Examination and the Uniform Securities Agent State Law Examination.

(d) For a limited salesperson's license to effect or to attempt to effect sales of municipal bonds, the individual shall pass the NASD Municipal Securities Representative Examination and the Uniform Securities Agent State Law Examination.

(e) For a limited salesperson's license to effect or to attempt to effect sales of real estate program offerings, the individual shall pass the Uniform Real Estate Securities Examination and the Uniform Securities Agent State Law Exam.

(2) Any individual out of the business of effecting transactions in securities for less than two years and who has previously passed the required examinations in (a), (b), (c), ~~((or))~~ (d) or (e) above or the Washington State Securities Examination shall not be required to re-take the examination(s) to be eligible to be relicensed upon application.

(3) Upon written application and approval, the director may exempt the following persons from the testing requirements in Subsection (1) above:

(a) For a particular original offering of an issuer's securities, not more than two officers of an issuer or corporate general partner or two individual general partners. No such person may again register within five years as a salesperson without passing the written examinations.

(b) A salesperson engaged exclusively in the sale of condominium securities provided that written notice is given to the director five days prior to the exercise of the exemption and that such salesperson submit his/her current Washington real estate license to the director. If that license is cancelled, suspended or revoked, the exemption will not apply to any further transaction.

(4) The licenses in Section (1) shall be effective until December 31 of the year of passage at which time it shall be renewed or delinquent. The renewal fee for 1981 shall be \$12.50. For all years thereafter, the renewal fee shall be \$15.00. For any renewal application postmarked after December 31 but before March 1, the fee shall be \$25.00. No renewal applications will be accepted after March 1. Such licensees must submit a new application and filing fee. The fee for transfers shall be \$25.00. For reinstatements prior to December 1, the fee shall be \$35.00 and shall be valid until December 31 of the year of reinstatement. Thereafter effectiveness shall run through the next renewal period.

(5) Any applicant not completing the salesperson application in full shall be issued a deficiency letter. The deficiency must be corrected within the subsequent six-month period. If not so completed, one-half the filing fee shall be returned to the applicant. A new application and filing fee must then be filed in order to initiate application.

(6) Any salesperson registered prior to August 15, 1981, and who was registered with the Washington State Securities division as of the date of the adoption of these regulations and registered thereafter, shall be subject to the regulation in effect at the time of the original application.

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

Reviser's note: RCW 34.04.058 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.

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

AMENDATORY SECTION (Amending Order SDO-128-81 [SDO-149-81], filed 11/18/81 [12/31/81])

WAC 460-20A-230 **BROKER-DEALER REGISTRATION AND EXAMINATION.** (1) In order to be licensed in this state as a broker-dealer the individual applicant, an officer if the applicant is a corporation, or a general partner if the applicant is a partnership shall pass the following examination with a score of 70% or better and complete the ~~((NASD)) SEC Form B/D ((including Schedule F as it pertains to Washington State.))~~ and complete the state of Washington Registration Check Sheet.

(a) For a broker-dealers license to effect transactions in general securities one individual, officer or general partner shall pass the NASD General Securities Principal Examination, the Uniform Securities Agent State Law Examination, and the Financial and Operations Principal Examination.

(b) For a limited broker-dealer license to effect transactions in investment company securities, variable contracts or mutual funds one individual, officer or general partner shall pass the NASD Investment Company Products/Variable Contracts Principal Examination and the Uniform Securities Agent State Law Examination.

(c) For a limited broker-dealers license to effect transactions in limited partnership interests and interests in tax shelters one individual, officer or general partner shall pass the NASD Direct Participation Programs Principal Examination and the Uniform Securities Agent State Law Examination.

(d) For a limited broker-dealer's license to effect transactions in municipal bonds, one individual, officer or general partner shall pass the NASD Municipal Securities Principal Examination and the Uniform Securities Agent State Law Examination.

(2) The director may upon application waive the Financial and Operations Examination required in (a) above for brokerage firms ~~((using another broker-dealer as a clearing agent, provided that the broker-dealer acting as the clearing agent has passed the examination.))~~ which do not hold funds or securities for, or owe money or securities to customers and do not carry accounts of or for customers.

(3) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership ceases to be an officer or general partner, then the broker-dealer must notify the Securities Division of a substitute officer or general partner who has passed ((must pass)) the same category of examination specified in (a), (b), (c) or (d) above within two months in order to maintain the broker-dealers license.

(4) The licenses in (a), (b) or (c) shall be effective until December 31 of the year of passage at which time it shall be renewed or be delinquent. The renewal fee for 1981 shall be \$62.50. For all years thereafter, the renewal fee shall be &75.00. For any renewal application postmarked after December 31 but before March 1, the fee shall be \$100.00. No renewal applications will be accepted after March 1. Such licensee must submit a new application and filing fee.

(5) Any applicant not completing the broker-dealer application in full shall be issued a deficiency letter. The deficiency must be corrected within the subsequent six-month period. If not so completed, one-half the filing fee shall be returned to the applicant. A new application and filing fee must then be filed in order to initiate application.

(6) Any broker-dealer registered prior to August 15, 1981, and who was registered with the Washington State Securities Division as of the date of the adoption of these regulations and remained registered thereafter shall be subject to regulations in effect at the time of the original application.

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

Reviser's note: RCW 34.04.058 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.

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

AMENDATORY SECTION (Amending Order 342, filed 9/29/75)

WAC 460-20A-400 **DUAL REPRESENTATION AND AFFILIATION.** (1) A person may be registered simultaneously in Washington as a security sales~~((man))~~ person with more than one broker-dealer, issuer, or owner of securities, ~~((if an undertaking in a form acceptable to the administrator is entered into in writing between all employers.))~~

~~((2))~~ A person~~((s))~~ may be registered simultaneously in Washington as an investment adviser sales~~((man))~~ person with more than one investment adviser or may be registered simultaneously in Washington as a securities salesperson and an investment adviser salesperson if an undertaking in a form acceptable to the administrator is entered into in writing between all employers.

(2) The undertaking~~((s))~~ for (1) ~~((and ((2))~~ shall contain the following provisions:

(a) The effective date of the dual employment with the respective employers;

(b) Consent by each employer to the employment of the sales((man)) person by all other employers; and

(c) An agreement by each employer to assume joint and several liability with all other employers for any act or omission of the sales((man)) person in violation of the Washington Securities Law during his period of employment and continuing until written notice is given to the administrator of the termination of the employment relationship.

(d) An agreement that each employer will register the sales((man)) person with the Securities Division and pay the applicable registration fee.

((4)) (3) A separate application for registration or renewal shall be made by each employer desiring to employ the sales((man)) person. An executed copy of the undertaking required by subsection (1) ((2)) shall accompany the application. The application shall be filed with the Administrator and shall contain such exhibits and information as may be required by the Administrator, together with the fees required by RCW 21.20.340.

Reviser's note: RCW 34.04.058 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.

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

AMENDATORY SECTION (Amending Order SDO-128-81 [SDO-6-83], filed 11/18/81 [1/13/83])

WAC 460-24A-050 INVESTMENT ADVISOR & INVESTMENT ADVISOR SALESPERSON (REPRESENTATIVE) REGISTRATION AND EXAMINATIONS. (1) In order to be licensed in this state as an investment advisor the individual applicant, the officer if the applicant is a corporation or a general partner if the applicant is a partnership shall complete the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and complete one of the following with a score of seventy percent (70%) or better:

- (a) NASD General Securities Principal Examination (Series 24) or
- (b) NASD Investment Company Products/Variable Contracts Principal Examination (Series 26).

The applicant must also complete a form ADV for the state of Washington.

(2) An individual applicant, an officer if the applicant is a corporation or a general partner if the applicant is a partnership any one of which has completed the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and which holds one of the following designations, shall not be required to complete the exams designated in subsection (1)(a) and (b) in order to apply for an investment advisors license:

- (a) Chartered Investment Counselor, or
- (b) Chartered Financial Analyst, or
- (c) Certified Financial Planner whose designation is completed on or after the effective date of these rules.

The applicant must also complete a Form ADV for the state of Washington.

(3) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership ceases to be an officer or general partner, then the investment advisor must notify the Securities Division of a substitute officer or general partner who has passed ((must pass)) the examinations required in (1) above within two months in order to maintain the investment advisor license.

(4) In order to be licensed in this state as an investment advisor salesperson (representative) the individual applicant shall complete the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and complete one of the following with a score of seventy percent (70%) or better unless Section (6) applies:

- (a) NASD General Securities Representative Examination (Series 7), or
- (b) NASD Investment Company Products/Variable Contracts Limited Representative Qualifications Examination (Series 6).

The applicant must also complete the form U-4 for the state of Washington.

(5) An individual who has completed the Uniform Securities Agent State Law Examination with a score of seventy percent (70%) or better and who holds one of the following designations shall not be required to complete the exams designated in subsection (4) in order to apply for an investment advisor salesperson (representative) license.

- (a) Chartered Investment Counselor
- (b) Chartered Financial Analyst
- (c) Certified Financial Planner whose designation is completed on or after the effective date of these rules.

The applicant must also complete the form U-4 for the state of Washington.

(6) The Administrator may waive the testing requirements in Section (5) for an investment advisor representative whose activities will be limited to supervising the firm's investment advisory activities in Washington, provided that the applicant has been employed for five years preceding the filing of the application in a supervisory capacity, or as a portfolio manager, by an investment advisor registered under the Investment Advisors Act of 1940 for at least five years and the investment advisor has been engaged in rendering "investment supervisory services" as defined in Section 202(a)(13) of the Investment Advisors Act of 1940.

(7) Any individual who has been retained or employed by an investment advisor to solicit clients or offer the services of the investment advisor or manage the accounts of said clients any time during the two years prior to application and who has previously passed the Washington State Investment Advisors Examination shall not be required to retake the examination(s) to be eligible to be relicensed as an investment advisor salesperson (representative) upon application.

(8) Any investment advisor or investment advisor salesperson registered prior to August 15, 1981, and who was registered with the Washington State Securities Division as of the date of the adoption of these regulations and remained registered thereafter shall be subject to the regulations in effect at the time of the original application.

Reviser's note: RCW 34.04.058 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.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

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

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

WAC 460-24A-060 FINANCIAL STATEMENTS REQUIRED ON INVESTMENT ADVISERS. Every investment adviser shall file with the director a statement of financial condition in such detail as will disclose generally the nature and amount of assets and liabilities and the net worth of such investment adviser as of a date within ninety days prior to the date on which it is filed. Such reports shall be filed annually with the director not more than ninety days after the end of the investment advisor's fiscal year-end (unless extension of time is granted by the director).

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

WAC 460-24A-205 NOTICE OF CHANGES BY INVESTMENT ADVISER. (1) Each licensed investment adviser shall, upon any change in the information contained in its application for a certificate (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information (and in any event within 30 days after the change occurs).

(2) With respect to any investment adviser registered under the Investment Advisors Act of 1940, it shall be a sufficient compliance with Subsection (1) of this Section if a copy of an amendment to Form ADV, of the Securities and Exchange Commission containing the required information, or transmitted for filing to, the Administrator not later than the date on which such amendment is required to be filed with the Securities and Exchange Commission.

(3) Each licensed investment advisor shall notify the administrator of the employment of any new representative in Washington by submitting a completed NASD Form U-4 to the Administrator or the Administrator's designee, within 10 days after the event occurs.

(4) Each licensed investment advisor shall notify the Administrator of the termination of employment of any representative in Washington,

by submitting a complete NASD Form U-5 to the Administrator or the Administrator's designee, within 30 days after the event occurs.

WSR 85-13-023
EMERGENCY RULES
DEPARTMENT OF
SERVICES FOR THE BLIND
[Order 85-04—Filed June 11, 1985]

I, Paul Dzedzic, director of the Department of Services for the Blind, do promulgate and adopt at 921 Lakeridge Drive, Olympia, WA 98504, the annexed rules relating to:

Rep	WAC 67-25-180	Economic need.
Rep	WAC 67-25-185	Economic need—Financial statement required.
Rep	WAC 67-25-190	Economic need—Standards for determining.
Rep	WAC 67-25-200	Economic need—Notification of decision.

I, Paul Dzedzic, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is to have these rules in effect until permanently adopted in the near future.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Department of Services for the Blind as authorized in chapter 74.18 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 11, 1985.

By Paul Dzedzic
Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 67-25-180 *ECONOMIC NEED.*
WAC 67-25-185 *ECONOMIC NEED—FINANCIAL STATEMENT REQUIRED.*
WAC 67-25-190 *ECONOMIC NEED—STANDARDS FOR DETERMINING.*
WAC 67-25-200 *ECONOMIC NEED—NOTIFICATION OF DECISION.*

WSR 85-13-024
ADOPTED RULES
OLYMPIC COLLEGE

[Order 23, Resolution No. 51-0585—Filed June 11, 1985]

Be it resolved by the board of trustees, Community College District #3, of Olympic College, acting at the

Art Lecture Room, A-103, Olympic College, 16th and Chester, Bremerton, Washington, that it does adopt the annexed rules relating to regular meetings of the board of trustees, WAC 132C-104-060.

This action is taken pursuant to Notice No. WSR 85-07-050 filed with the code reviser on March 20, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated under the general rule-making authority of Olympic College as authorized in chapter 28B.50 RCW.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED May 28, 1985.

By Donna M. Allen
Dean of Administrative Services

AMENDATORY SECTION (Amending Order 20, Resolution 48-0678, filed 8/7/78)

WAC 132C-104-060 **REGULAR MEETINGS OF THE BOARD OF TRUSTEES.** One regular meeting of the board of trustees shall be held each month. This meeting shall be held on the fourth Tuesday (~~((off~~ ~~font))~~) of each month and begin at 7:30 p.m., in the (~~(Art Lecture Room A-103))~~ Board Room, College Service Center, Olympic College Campus, 16th and Chester Streets, Bremerton, Washington, or at such other time and place as the board may direct from time to time and as published in the state register. The location of each meeting is available in the office of the President, Olympic College, 16th and Chester Streets, Bremerton, Washington.

WSR 85-13-025
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed June 11, 1985]

The Department of Labor and Industries hereby withdraws the following proposed rules:

Procedures for dispute resolution, petition for review and expedited appeal in vocational rehabilitation of industrially injured workers, filed on March 5, 1985, under Notice No. WSR 85-06-039, and reduction of benefits of qualified injured workers for nonparticipation in an approved rehabilitation plan, filed on March 5, 1985, under Notice No. WSR 85-06-040.

R. A. Davis
Director

WSR 85-13-026
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed June 11, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning procedures and benefits for employers who employ preferred workers.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 11, 1985.

The authority under which these rules are proposed is RCW 51.04.020(4), 51.04.030 and 51.16.120(3).

The specific statute these rules are intended to implement is RCW 51.16.120(3).

This notice is connected to and continues the matter in Notice No. WSR 85-06-038 filed with the code reviser's office on March 5, 1985.

Dated: June 11, 1985

By: R. A. Davis

WSR 85-13-027
ADOPTED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Order 85-12—Filed June 11, 1985]

I, Richard Davis, director of the Department of Labor and Industries, do promulgate and adopt at the General Administration Building, Olympia, Washington 98504, the annexed rules relating to adding amendatory language to WAC 296-16-010(2) and deleting language from WAC 296-16-010(3). The amendatory language in WAC 296-16-010(2) adds medical aid premiums to those premium payments from which the employer of a preferred worker is excused for a period not to exceed 36 months. The language deleted from WAC 296-16-010(3) eliminates the requirement that written acknowledgement by the department precede the employment of a preferred worker.

This action is taken pursuant to Notice No. WSR 85-06-038 filed with the code reviser on March 5, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 51.04.020(1) and 51.16.120(3) and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 11, 1985.

By R. A. Davis
 Director

AMENDATORY SECTION (Amending Order 80-24, filed December 2 [1], 1980)

WAC 296-16-010 PREMIUM WAIVED FOR EMPLOYMENT OF PREFERRED WORKER. In order to implement the provisions of RCW 51.16.120(3) by way of encouraging employment of injured workers who are not reemployed by the employer at the time of injury, the following provisions are adopted:

Any employer who employs a "preferred worker" as defined in these rules shall be excused from the payment of industrial insurance premiums and/or accident costs under the circumstances and conditions herein provided:

(1) A "preferred worker" may be classified as such by the department when the supervisor or his or her designee shall determine, in his or her discretion, that such person has sustained an industrial injury or occupational disease under our state Industrial Insurance Act which prevents the worker from returning to work with the former employer and that such injury or occupational disease is substantially impairing the likelihood of such worker's reemployment with other employers.

(2) Any state fund employer, other than the employer at the time of injury or exposure, who employs a "preferred worker" shall be excused, during the period of employment of such worker but not to exceed thirty-six calendar months, from the payment of any accident fund premiums and medical aid premiums which would otherwise be due based upon such employment.

(3) In the event that a further injury or occupational disease is sustained by a reemployed "preferred worker" during the first thirty-six months subsequent to the hiring of such "preferred worker", while in the employ of the accepting employer, such employer, whether insured by the state fund or self-insured, shall not be charged with the costs of any such claim which would otherwise be charged to or paid by such employer. Such costs shall be charged against the second injury fund.

The provisions of subsections (2) and (3) of this section shall apply only if the department acknowledges the application of such rules in writing. (~~prior to such employment.~~)

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

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

WSR 85-13-028
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
(Water Resources)

[Order 85-16—Filed June 11, 1985]

I, Glen H. Fiedler, deputy director of the Department of Ecology (WDOE), do promulgate and adopt at the Washington Department of Ecology, Lacey, Washington, the annexed rules relating to administration of flood control zones, amending WAC 508-60-040, regarding waiver of the prohibition of dwellings for human habitation in the floodway. WDOE may only apply

this waiver to communities which are complying with the National Flood Insurance Program requirements.

I, Glen H. Fiedler, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this amendment is needed to accommodate a limited number of undeveloped residential parcels which are located in the floodways. These parcels are subject to those local regulation permit programs which require flood proofing, elevation above 100 year flood levels and no encroachment on floodway conveyance.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapter 43.21A RCW which directs that the Department of Ecology has authority to implement the provisions of chapter 86.16 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 10, 1985.

By Glen H. Fiedler
Deputy Director

AMENDATORY SECTION (Amending Order DE 79-25, filed 11/26/79)

WAC 508-60-040 FLOOD CHANNEL AND FLOODWAY USAGE. All complete applications for flood control zone permits that request authorization for the construction, reconstruction, or modification of any works or structures upon the floodway or over or in the channel of any body of water or drainway will be examined by the department to insure compliance with all of the following requirements:

(1) The structures or works are designed so as not to be appreciably damaged by flood waters.

(2) The structures or works shall be firmly anchored or affixed to the realty in order to prevent dislocation by flood water and damage to life, health, and property.

(3) The structures or works will not adversely influence the regimen of any body of water by restricting, altering, hindering, or increasing flow of the flood waters in the floodway or flood channel expected during a flood up to a magnitude of a one hundred year frequency. (In consideration of this provision the department shall determine whether the structures or works either alone, or in combination with existing or future similar works could adversely influence the efficiency or the capacity of the floodway or adversely affect existing drainage courses or facilities. The determination of these effects shall be based on the assumption that the floodway encroachment resulting from any proposed structures or works will extend for a significant reach of the stream together with an encroachment equal in degree on the opposite side of the stream.)

(4) The structures or works are not designed for, or will not be used for either (a) uses associated with high flood damage potential or (b) dwellings for human habitation of a permanent nature, provided that a new single family farmhouse or substantial improvements to an existing single family farmhouse may be permitted under the following conditions:

(i) A new single family farmhouse must be built as the replacement of an existing single family farmhouse on the same farmsite. The house being replaced shall be removed from the floodway in its entirety, including the foundation. The permit shall specify a date for completion of the above work.

(ii) The elevation of the lowest habitable floor of the residence, including basement, shall be one foot higher than the one hundred year flood elevation.

(iii) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(iv) New and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters.

(v) All other utilities and connections to public utilities shall be designed, constructed, and located to minimize or eliminate flood damage.

(vi) There must be no potential site for the farmhouse on the farmsite outside the floodway.

WAC 508-60-040 (4)(b) may be waived by the department for properties located within those counties and incorporated cities that are enrolled in the regular phase of the National Flood Insurance Program (NFIP) and are administering their floodplain management regulation permit program in compliance with the NFIP requirements pursuant to 44 CFR, Title 44, Chapter 1, Part 60 - Criteria for Land Management and Use.

Any application for a permit which complies with all requirements of this section and the provisions of WAC 508-60-060 and 508-60-070 will be granted.

WSR 85-13-029

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Filed June 11, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning designation maps, amending WAC 173-22-060.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 18, 1985.

The authority under which these rules are proposed is RCW 90.58.030, 90.58.120 and 90.58.200.

This notice is connected to and continues the matter in Notice No. WSR 85-09-066 filed with the code reviser's office on April 17, 1985.

Dated: June 3, 1985

By: Glen H. Fiedler
Deputy Director

WSR 85-13-030
PROPOSED RULES
DEPARTMENT OF NATURAL RESOURCES
(Board of Natural Resources)
 [Filed June 11, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Natural Resources, Department of Natural Resources, intends to adopt, amend, or repeal rules concerning management of dredge spoil disposal and disposal fees for Puget Sound and the Straits of Juan de Fuca.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on June 13, 1985.

The authority under which these rules are proposed is RCW 79.90.100.

The specific statute these rules are intended to implement is RCW 79.90.100 and 43.30.150.

This notice is connected to and continues the matter in Notice No. WSR 85-08-040 filed with the code reviser's office on April 3, 1985.

Dated: June 11, 1985
 By: James A. Stearns
 for Brian J. Boyle
 Commissioner of Public Lands
 Chairman of the Board

WSR 85-13-031
PROPOSED RULES
DEPARTMENT OF FISHERIES
 [Filed June 12, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial fishing rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 24, 1985.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

This notice is connected to and continues the matter in Notice No. WSR 85-08-038 filed with the code reviser's office on April 3, 1985.

Dated: May 17, 1985
 By: Russell W. Cahill
 for William R. Wilkerson
 Director

WSR 85-13-032
ADOPTED RULES
DEPARTMENT OF FISHERIES
 [Order 85-60—Filed June 12, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

This action is taken pursuant to Notice No. WSR 85-08-038 filed with the code reviser on April 3, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED May 24, 1985.

By Russell W. Cahill
 for William R. Wilkerson
 Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-20-030 GENERAL PROVISIONS—
 OFF-RESERVATION TREATY INDIAN CEREMONIAL FISHING. (866)

AMENDATORY SECTION (Amending Order 84-53, filed 6/21/84)

WAC 220-22-030 PUGET SOUND SALMON MANAGEMENT AND CATCH REPORTING AREAS. (1) Area 4B shall include those waters of Puget Sound easterly of a line projected from the Bonilla Point light on Vancouver Island to the Tatoosh Island light, thence to the most westerly point on Cape Flattery and westerly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River.

(2) Area 5 shall include those waters of Puget Sound easterly of a line projected true north from the fishing boundary marker at the mouth of the Sekiu River and westerly of a line projected true north from Low Point.

(3) Area 6 shall include those waters of Puget Sound easterly of a line projected from the Angeles Point Monument to the William Head light on Vancouver Island, northerly of a line projected from the Dungeness Spit light to the Partridge Point light, westerly of a line projected from the Partridge Point light to the Smith Island light, and southerly of a line projected from the Smith Island light to vessel traffic lane buoy R to the Trial Island light.

(4) Area 6A shall include those waters of Puget Sound easterly of a line projected from the Partridge Point light to the Smith Island light to the most northeasterly of the Lawson Reef lighted buoys (RB 1 Qk Fl Bell) to Northwest Island to the Initiative 77 marker on Fidalgo Island and westerly of a line projected from Reservation Head on Fidalgo Island to West Point on Whidbey Island.

(5) Area 6B shall include those waters of Puget Sound southerly of a line projected from the Dungeness Spit light to the Partridge Point light, westerly of a line projected from the Partridge Point light to the Point Wilson

light and easterly of a line projected 155° true from Dungeness Spit light to Kulo Kala Point.

(6) Area 6C shall include those waters of Puget Sound easterly of a line projected true north from Low Point and westerly of a line projected from the Angeles Point Monument to the William Head light on Vancouver Island.

(7) Area 6D shall include those waters of Puget Sound westerly of a line projected 155° true from Dungeness Spit light to Kulo Kala Point.

(8) Area 7 shall include those waters of Puget Sound southerly of a line projected true west from the Sandy Point light, northerly of a line projected from the Trial Island light to vessel traffic lane buoy R to the Smith Island light to the most northeasterly of the Lawson Reef lighted buoys (RB 1 Qk Fl Bell) to Northwest Island to the Initiative 77 marker on Fidalgo Island, and westerly of a line projected from Sandy Point to Point Migley, thence along the eastern shore-line of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island, thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island, thence to March Point on Fidalgo Island, excluding those waters of East Sound northerly of a line projected due west from Rosario Point on Orcas Island.

(9) Area 7A shall include those waters of Puget Sound northerly of a line projected true west from the Sandy Point light.

(10) Area 7B shall include those waters of Puget Sound southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line projected 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 following the shoreline to Southeast Point on Guemes Island, thence to March Point on Fidalgo Island, northerly of the Burlington Northern railroad bridges at the north entrances to Swinomish Channel and westerly of a line projected from William Point light on Samish Island 28° true to the range light near Whiskey Rock on the north shore of Samish Bay.

(11) Area 7C shall include those waters of Puget Sound easterly of a line projected from William Point light on Samish Island 28° true to the range light near Whiskey Rock on the north shore of Samish Bay.

(12) Area 7D shall include those waters of Puget Sound easterly of a line projected southeasterly from the Sandy Point light to the most westerly point of Gooseberry Point.

(13) Area 7E shall include those waters of Puget Sound within East Sound northerly of a line projected due west from Rosario Point on Orcas Island.

~~((+4))~~ (14) Area 8 shall include those waters of Puget Sound easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, westerly of a line projected from the light on East Point 340° true to the light on Camano Island (Saratoga Pass light #2, Fl Red 4 Sec) southerly of the Burlington Northern railroad bridges at the north

entrances to Swinomish Channel and northerly of the state highway 532 bridges between Camano Island and the mainland.

~~((+4))~~ (15) Area 8A shall include those waters of Puget Sound easterly of a line projected from the East Point light on Whidbey Island 340° true to the light on Camano Island (Saratoga Pass light #2, Fl Red 4 Sec), northerly of a line projected from the southern tip of Possession Point 110° true to the shipwreck on the opposite shore, ~~((and))~~ southerly of the State Highway 532 bridges between Camano Island and the mainland excluding those waters of Area 8D.

(16) Area 8D shall include those waters of Puget Sound inside and easterly of a line projected 225 degrees from the pilings at old Bower's Resort to a fishing boundary marker approximately 2,000 feet offshore, thence northwesterly to a point 2,000 feet off Mission Point, thence across the mouth of Tulalip Bay to a point 2,000 feet off Hermosa Point, thence northwesterly following a line 2,000 feet offshore to a fishing boundary marker off the slide north of Tulalip Bay, thence due east to a fishing boundary marker at the slide.

~~((+5))~~ (17) Area 9 shall include those waters of Puget Sound southerly and easterly of a line projected from the Partridge Point light to the Point Wilson light, northerly of the site of the Hood Canal Floating Bridge, northerly of a line projected true west from the shoreward end of the Port Gamble tribal dock on Point Julia to the mainland in the community of Port Gamble, southerly of a line projected from the southern tip of Possession Point 110° true to the shipwreck on the opposite shore and northerly of a line projected from the Apple Cove Point light to the light at the south end of the Edmond's breakwater at Edwards Point.

~~((+6))~~ (18) Area 9A shall include those waters of Puget Sound known as Port Gamble Bay southerly of a line projected true west from the shoreward end of the Port Gamble tribal dock on Point Julia to the mainland in the community of Port Gamble.

~~((+7))~~ (19) Area 10 shall include those waters of Puget Sound southerly of a line projected from the Apple Cove Point light to the light at the south end of the Edmond's breakwater at Edwards Point, westerly of a line projected 233° true from the Acapulco restaurant near Shilshole Marina through entrance piling No. 8 to the southern shore of the entrance to the Lake Washington Ship Canal, westerly of a line projected 7° true from a point on Duwamish Head through the Duwamish Head light to Pier 91, northerly of a true east-west line passing through the Point Vashon light, easterly of a line projected from Orchard Point to Beans Point on Bainbridge Island, and northerly and easterly of a line projected true west from Agate Point on Bainbridge Island to the mainland.

~~((+8))~~ (20) Area 10A shall include those waters of Puget Sound easterly of a line projected 7° true from a point on Duwamish Head through the Duwamish Head light to Pier 91.

~~((+9))~~ (21) Area 10C shall include those waters of Lake Washington southerly of the Evergreen Point Floating Bridge.

~~((20))~~ (22) Area 10D shall include those waters of the Sammamish River south of the State Highway 908 Bridge and Lake Sammamish.

~~((21))~~ (23) Area 10E shall include those waters of Puget Sound westerly of a line projected from Orchard Point to Beans Point on Bainbridge Island and southerly and westerly of a line projected true west from Agate Point on Bainbridge Island to the mainland.

~~((22))~~ (24) Area 10F shall include those waters of Puget Sound easterly of a line projected 233° true from the Acapulco restaurant near Shilshole Marina through entrance piling Number 8 to the southern shore of the entrance to the Lake Washington ship canal and those waters of the Lake Washington ship canal westerly of a line projected from Webster Point true south to the Evergreen Point Floating Bridge including the waters of Salmon Bay, the Lake Washington Ship canal, Lake Union and Portage Bay.

~~((23))~~ (25) Area 10G shall include those waters of Lake Washington northerly of the Evergreen Point Floating Bridge, easterly of a line projected from Webster Point true south to the Evergreen Point Floating Bridge and those waters of the Sammamish River north of the State Highway 908 Bridge.

~~((24))~~ (26) Area 11 shall include those waters of Puget Sound southerly of a true east-west line passing through the Point Vashon light, northerly of a line from Browns Point to the Asarco smelter stack on the opposite shore of Commencement Bay, and northerly of the Tacoma Narrows Bridge.

~~((25))~~ (27) Area 11A shall include those waters of Puget Sound southerly of a line from Browns Point to the Asarco smelter stack on the opposite shore of Commencement Bay.

~~((26))~~ (28) Area 12 shall include those waters of Puget Sound southerly of the site of the Hood Canal Floating Bridge and northerly and easterly of a line projected from the Tskutsko Point light to Misery Point.

~~((27))~~ (29) Area 12A shall include those waters of Puget Sound northerly of a line projected from Pulali Point true east to the mainland.

~~((28))~~ (30) Area 12B shall include those waters of Puget Sound southerly of a line projected from Pulali Point true east to the mainland, northerly of a line projected from Ayock Point true east to the mainland, and westerly of a line projected from the Tskutsko Point light to Misery Point.

~~((29))~~ (31) Area 12C shall include those waters of Puget Sound southerly of a line projected from Ayock Point true east to the mainland and northerly and westerly of a line projected from Ayres Point to the ~~((fishing boundary marker))~~ public boat ramp at Union.

~~((30))~~ (32) Area 12D shall include those waters of Puget Sound easterly of a line projected from Ayres Point to the ~~((fishing boundary marker))~~ public boat ramp at Union.

~~((31))~~ (33) Area 13 shall include those waters of Puget Sound southerly of the Tacoma Narrows Bridge and a line projected from Green Point to Penrose Point and northerly and easterly of a line projected from the

Devil's Head light to Treble Point, thence through lighted buoy No. 3 to the mainland and westerly of the railroad trestle at the mouth of Chambers Bay.

~~((32))~~ (34) Area 13A shall include those waters of Puget Sound northerly of a line projected from Green Point to Penrose Point.

~~((33))~~ (35) Area 13C shall include those waters of Puget Sound easterly of the railroad trestle at the mouth of Chambers Bay.

~~((34))~~ (36) Area 13D shall include those waters of Puget Sound westerly of a line projected from the Devil's Head Light to Treble Point, thence through lighted buoy Number 3 to the mainland, northerly of a line projected from Johnson Point to Dickenson Point, northerly of a line projected from the light at Dofflemeyer Point to Cooper Point, easterly of a line projected from Cooper Point to the southeastern shore of Sanderson Harbor, easterly of a line projected from the northern tip of Steamboat Island to the light at Arcadia to Hungerford Point and southerly of a line projected true east-west through the southern tip of Stretch Island.

~~((35))~~ (37) Area 13E shall include those waters of Puget Sound southerly of a line projected from Johnson Point to Dickenson Point.

~~((36))~~ (38) Area 13F shall include those waters of Puget Sound southerly of a line projected from the light at Dofflemeyer Point to Cooper Point.

~~((37))~~ (39) Area 13G shall include those waters of Puget Sound southerly of a line projected from Cooper Point to the southeastern shore of Sanderson Harbor.

~~((38))~~ (40) Area 13H shall include those waters of Puget Sound southwesterly of a line projected from the northern tip of Steamboat Island to the light at Arcadia and those waters easterly of a line projected 64° true from Kamilche Point to the opposite shore.

~~((39))~~ (41) Area 13I shall include those waters of Puget Sound southwesterly of a line projected 64° true from Kamilche Point to the opposite shore.

~~((40))~~ (42) Area 13J shall include those waters of Puget Sound northwesterly of a line projected from the light at Arcadia to Hungerford Point.

~~((41))~~ (43) Area 13K shall include those waters of Puget Sound northerly of a line projected true east-west through the southern tip of Stretch Island.

AMENDATORY SECTION (Amending Order 84-53, filed 6/21/84)

WAC 220-47-307 CLOSED AREAS—PUGET SOUND SALMON. It is unlawful to take, fish for, or possess salmon taken for commercial purposes with any type of gear from the following portions of Puget Sound Salmon Management and Catch Reporting Areas:

Area 7B – That portion south and east of a line from William Point on Samish Island to Saddlebag Island to the southeastern tip of Guemes Island, and that portion northerly of the railroad trestle in Chuckanut Bay.

Area 7C – That portion southeasterly of a line projected from the mouth of Oyster Creek 237° true to a fishing boundary marker on Samish Island.

Area 8 – That portion of Skagit Bay easterly of a line projected from Brown Point on Camano Island to a white monument on the easterly point of Ika Island,

thence across the Skagit River to the terminus of the jetty with McGlenn Island.

Area 8A – Those waters easterly of a line projected from Mission Point at the south end of Tulalip Bay, thence to Buoy C1, thence to the green light at the entrance jetty of the Snohomish River thence across the mouth of the Snohomish River to the red light at Western Gear Corporation and those waters northerly of a line from Camano Head to ~~((Hermosa Point on the north end of Tulalip Bay))~~ the northern boundary of Area 8D.

Area 9 – Those waters lying inside and westerly of a line projected from the Point No Point Light to Sierra Echo Buoy thence to Forbes Landing Wharf, east of Hansville.

Area 10 – That portion easterly of a line projected from Meadow Point to West Point and that portion of Port Madison northwest of a line from the Agate Pass entrance light to the light on the end of the Indianola dock.

Area 10E – Those waters of Liberty Bay north of a line projected due east from the southernmost Keyport Dock, those waters of Dyes Inlet north of the Manette Bridge, and those waters of Sinclair Inlet southwest of a line projected true east from the Bremerton Ferry Terminal.

Area 11 – Those waters northerly of a line projected true west from the light at the mouth of Gig Harbor and those waters south of a line from Browns Point to the northernmost point of land on Point Defiance.

Area 12A – Those waters north of a line from Fisherman's Point on the Bolton Peninsula to the boat haven at Quilcene.

Area 12B – Those waters within 1/4 mile of the mouths of the Dosewallips, Duckabush, and Hamma Hamma Rivers.

Area 12C – Those waters within 1,000 feet of the western shore between Glen Ayr trailer park and the Hoodspout marina dock.

Area 13A – Those waters of Burley Lagoon north of State Route 302, those waters within 1,000 feet of the outer oyster stakes off Minter Creek Bay including all waters of Minter Creek Bay, those waters westerly of a line drawn due north from Thompson Spit at the mouth of Glen Cove, and those waters within 1/4 mile of Green Point.

AMENDATORY SECTION (Amending Order 84-53, filed 6/21/84)

WAC 220-47-311 PURSE SEINE—SEASONS. It is unlawful to take, fish for or possess salmon taken with purse seine gear for commercial purposes except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the seasons provided for hereinafter in each respective Management and Catch Reporting Area:

Areas 4B, 5, 6, 6A, 6B, 6C, ~~((6D,))~~ 7 and 7A – closed.

Area 6D – September 23 through October 25.

Area 7B – September ((+0)) 9 through ((October 30)) November 12.

Areas 7C ~~((and)),~~ 7D, and 7E – closed.

Area 8 – ~~((closed))~~ August 23 through November 4.

Area 8A – September ((+0)) 3 through October ((23)) 28.

Areas 8D, 9, and 9A – closed.

Areas 10 and 11 – September ((+0)) 16 through October ((23)) 28.

Areas 10A, 10C, and 10D ~~((, 10E, 10F, 10G and 11A))~~ – closed.

Area 10E – October 22 through October 29.

Areas 10F, 10G and 11A – closed.

Area ~~((s))~~ 12 ~~((and 12B))~~ – September 10 through October ((23)) 28.

Area 12A – September 10 through September 24.

Area 12C – July 31 through August 13.

Areas ~~((+2A))~~ 12B, ~~((+2C,))~~ 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, 13K and all fresh-water areas – closed.

AMENDATORY SECTION (Amending Order 84-53, filed 6/21/84)

WAC 220-47-312 PURSE SEINE—WEEKLY PERIODS. It is unlawful during any open season to take, fish for or possess salmon taken with purse seine gear except during the weekly open periods hereinafter designated in the following Puget Sound Salmon Management and Catch Reporting Areas:

Area 6D – Week of September 22: Monday through Saturday. Weeks beginning September 29, October 6, and October 13: Sunday through Saturday. Week beginning October 20: Sunday through Friday.

Area 7B – Week beginning September ((9)) 8: Monday through Saturday. Weeks beginning September ((+6)) 15, ((23)) 22 and ((30)) 29, and October ((7)) 6 and 13: Sunday through Saturday. Week beginning October ((+4)) 20: Sunday through Friday. Weeks beginning October ((2+)) 27 and ((28)) November 3 and 10: Monday and Tuesday.

Area 8 – Week beginning August 18: Friday. Week beginning August 25: Monday through Wednesday. Weeks beginning October 27 and November 3: Monday.

Area 8A – Weeks beginning September ((9)) 1 and 8 and October ((+4)) 20: ((Monday)) Tuesday. Weeks beginning September ((+6)) 15 and 22: Monday and Tuesday. Week beginning October ((2+)) 27: ((Tuesday)) Monday.

Areas 10 and 11 – Week beginning October 20: Tuesday. Weeks beginning September ((9)) 15 and ((+6)) 22: Monday and Tuesday. ((Week beginning October 14: Monday:)) Week beginning October ((2+)) 27: ((Tuesday)) Monday.

Area 10E – Week beginning October 20: Tuesday and Wednesday. Week beginning October 27: Monday and Tuesday.

Area ~~((s))~~ 12 ~~((and 12B))~~ – Weeks beginning ((July 29, August 5)) September 8 and 22 and October ((2+)) 20: Tuesday. Week ~~((s))~~ beginning September ((9 and +6)) 15: Monday and Tuesday. Week beginning October ((+4)) 27: Monday.

Area 12A – Weeks beginning September 8 and 22: Tuesday. Week beginning September 15: Monday and Tuesday.

Area 12C – Week beginning July 28: Wednesday.
Week beginning August 4: Monday. Week beginning
August 11: Tuesday.

AMENDATORY SECTION (Amending Order 84-53,
filed 6/21/84)

WAC 220-47-313 PURSE SEINE—DAILY HOURS. It is unlawful during any open day to take, fish for or possess salmon taken with purse seine gear in the following Puget Sound Salmon Management and Catch Reporting Areas except during the daily open hours hereinafter designated:

Area 6D from September 23 to October 24 and area
7B from September 9 to October ((+8)) 24 – 24 hours
per day.

Areas 6D and 7B on October ((+9)) 25 – 12:01 a.m.
to 4:00 p.m. Pacific Daylight Time.

Area 8 on August 23 – 5:00 a.m. to 4:00 p.m. Pacific
Daylight Time.

All other open areas – July ((29)) 28 through October
((27)) 26: 5:00 a.m. to 9:00 p.m. Pacific Daylight Time.
October ((28)) 27 through November ((3)) 30: 5:00
a.m. to 8:00 p.m. Pacific Standard Time.

AMENDATORY SECTION (Amending Order 84-53,
filed 6/21/84)

WAC 220-47-319 SPECIAL MESH SIZE. It shall be unlawful to take, fish for or possess salmon taken with purse seine gear in Puget Sound Salmon Management and Catch Reporting Areas 6B, 6D, 8, 8A, 8D, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13A, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J and 13K from the second Monday in September through November 30 unless said purse seine gear is constructed so that the first 100 meshes below the corkline that are within 75 fathoms of the bunt, excluding the bunt, are of a size not less than 5 inches stretch measure.

AMENDATORY SECTION (Amending Order 84-53,
filed 6/21/84)

WAC 220-47-411 GILL NET—SEASONS. It is unlawful to take, fish for or possess salmon taken with gill net gear for commercial purposes except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the seasons provided for hereinafter in each respective fishing area:

Areas 4B, 5, 6, 6A, 6B, 6C, ((6D;)) 7 and 7A –
closed.

Area 6D – September 22 through October 25.

Area 7B – July 30 through ((October 30)) November
13.

Area 7C – July 30 through August 15.

Area 7D and 7E – closed.

Area 8 – ((closed)) August 22 through November 4.

Area 8A – September ((9)) 2 through October ((22))
29.

Areas 8D, 9, and 9A – closed.

Area 10 – September ((9)) 16 through October ((22))
29.

Areas 10A, 10C, 10D, ((10E, 10F and 10G)) –
closed.

Area 10E – October 21 through October 30.

Areas 10F and 10G – closed.

Area 11 – September ((9)) 16 through October ((22))
29.

Area 11A – closed.

Area((s)) 12 ((and 12B)) – ((July 30)) September 9
through October ((22)) 29.

Area 12A – September 9 through September 24.

Area 12C – July 30 through August 13.

Areas ((12A)) 12B, ((12C;)) 12D, 13, 13A, 13C,
13D, 13E, 13F, 13G, 13H, 13I, 13J, 13K and all fresh-
water areas – closed.

AMENDATORY SECTION (Amending Order 84-53,
filed 6/21/84)

WAC 220-47-412 GILL NET—WEEKLY PERIODS. It is unlawful during any open season to take, fish for or possess salmon taken with gill net gear except during the weekly open periods hereinafter designated in the following Puget Sound Salmon Management and Catch Reporting Areas:

Area 6D – Weeks beginning September 22, 29, and
October 6 and 13: Sunday through Saturday. Week
beginning October 20: Sunday through Friday.

Area 7B – Week beginning July ((29)) 28: ((Monday
and)) Tuesday and Wednesday nights. ((Week begin-
ning August 5: Tuesday, Wednesday, and Thursday
nights:)) Weeks beginning August ((+2)) 4 and 11:
Monday, Tuesday, and Wednesday nights. Weeks
beginning September ((9)) 8, ((+6)) 15, ((23)) 22 and
((30)) 29, and October ((7)) 6 and 13: Sunday through
Saturday. Week beginning October ((+4)) 20: Sunday
through Friday. ((Week beginning October 21: Sunday
and Monday nights:)) Weeks beginning October ((28))
27 and November 10: Monday and Tuesday nights.
Week beginning November 3: Sunday and Monday
nights.

Area 7C – Week beginning July ((29)) 28: ((Monday
and)) Tuesday and Wednesday nights. ((Week begin-
ning August 5: Tuesday, Wednesday and Thursday
nights:)) Weeks beginning August ((+2)) 4 and 11:
Monday, Tuesday and Wednesday nights.

Area 8 – Week beginning August 18: Thursday night.
Week beginning August 25: Monday, Tuesday, and
Wednesday nights. Week beginning October 27: Mon-
day night. Week beginning November 3: Sunday night.

Area 8A – Week beginning September 1: Tuesday
night. Weeks beginning September ((9)) 8 and October
20 and 27: ((Sunday)) Monday night. Week beginning
September ((+6)) 15: Monday and Tuesday nights.
Week((s)) beginning ((October 14 and 21)) September
22: Sunday and Monday nights.

Areas 10 and 11 – Weeks beginning ((September 9))
October 20 and 27: ((Sunday and)) Monday night((s)).
Week beginning September ((+6)) 15: Monday and
Tuesday nights. Week((s)) beginning ((October 14 and
21)) September 22: Sunday and Monday nights.

Area 10E – Weeks beginning October 20 and 27:
Monday and Tuesday nights.

~~Area(s) 12 (and 12B) - (Week beginning July 29: Monday night. Week beginning August 5: Tuesday night:)) Weeks beginning September (9) 8 and 22 and October 20 and 27: ((Sunday and)) Monday night(s)). Week beginning September ((16)) 15: Monday and Tuesday nights. ((Weeks beginning October 14 and 21: Monday night:))~~

~~Area 12A - Weeks beginning September 8 and 22: Monday night. Week beginning September 15: Monday and Tuesday nights.~~

~~Area 12C - Week beginning July 28: Tuesday night. Weeks beginning August 4 and 11: Monday night.~~

AMENDATORY SECTION (Amending Order 84-53, filed 6/21/84)

WAC 220-47-413 GILL NET—DAILY HOURS. It is unlawful during any open day to take, fish for or possess salmon taken with gill net gear in the following Puget Sound Salmon Management and Catch Reporting Areas except during the daily open hours hereinafter designated:

July ((29)) 28 through August ((11)) 10 - 7:00 p.m. to 9:30 a.m. Pacific Daylight Time in all open areas.

August ((12)) 11 through September ((15)) 14 - 6:00 p.m. to 9:00 a.m. Pacific Daylight Time in all open areas unless otherwise provided.

September ((9)) 8 through October ((18)) 24 - open 24 hours per day in Area 7B.

September 22 through October 24 - open 24 hours per day in Area 6D.

October ((19)) 25 - 12:01 a.m. to 4:00 p.m. Pacific Daylight Time in Areas 6D and 7B.

September ((16)) 15 through October ((27)) 26 - 5:00 p.m. to 9:00 a.m. Pacific Daylight Time in all open areas unless otherwise provided.

October ((28)) 27 through November ((3)) 16 - 4:00 p.m. to 8:00 a.m. Pacific Standard Time in all open areas.

November 17 through November 30 - 3:00 p.m. to 9:00 a.m. Pacific Standard Time in all open areas.

AMENDATORY SECTION (Amending Order 84-53, filed 6/21/84)

WAC 220-47-414 GILL NET—MESH SIZES. It is unlawful to take(~~(, fish for))~~ or possess salmon taken with gill net gear containing mesh smaller than the minimum size stretch measure or larger than the maximum size stretch measure as hereinafter designated in the following Puget Sound Salmon Management and Catch Reporting Areas during the periods specified:

~~((July 29 through September 8 - All open areas - 7 inch minimum mesh size.~~

~~September 9 through October 20 - Areas 7B and 7C - 5 inch minimum mesh size. October 21 through November 3 - Areas 7B and 7C - 6 inch minimum mesh size.~~

~~September 9 through October 13 - All other open areas - 5 inch minimum mesh size.~~

~~October 14 through November 3 - All other open areas - 6 inch minimum mesh size:)) Area 6D - September 22 through October 25: 5 inch minimum mesh.~~

Area 7B - July 28 through August 3: 5 inch minimum mesh; August 4 through September 7: 7 inch minimum mesh; September 8 through October 26: 5 inch minimum mesh; October 27 through November 30: 6 inch minimum mesh.

Area 7C - July 28 through August 3: 5 inch minimum mesh; August 4 through August 17: 7 inch minimum mesh.

Area 8 - August 18 through September 7: 5 inch minimum mesh and 6 inch maximum mesh; October 27 through November 30: 6 inch minimum mesh.

Area 8A - September 8 through October 19: 5 inch minimum mesh; October 20 through November 30: 6 inch minimum mesh.

Areas 10 and 11 - September 8 through October 12: 5 inch minimum mesh; October 13 through November 30: 6 inch minimum mesh.

Area 10E - October 20 through November 30: 6 inch minimum mesh.

Area 12 - September 8 through October 19: 5 inch minimum mesh; October 20 through November 30: 6 inch minimum mesh.

Area 12A - September 8 through September 28: 5 inch minimum mesh.

Area 12C - July 28 through September 7: 5 inch minimum mesh.

WSR 85-13-033

EMERGENCY RULES

DEPARTMENT OF FISHERIES

[Order 85-61—Filed June 12, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is provides additional information on the management of the squid fishery.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 12, 1985.

By William R. Wilkerson
Director

NEW SECTION

WAC 220-52-06600G SQUID FISHERY. Notwithstanding the provisions of WAC 220-52-066, effective June 15 until further notice it is unlawful to fish for squid for commercial purposes within 1/4 mile of the shoreline of an incorporated city or town except that a fishery is authorized within Port Angeles Harbor for vessels utilizing up to (2) two brailles less than 10 feet in diameter and lights not exceeding 1,000 watts for commercial squid fishing 75 feet or more from docks, piers, and shoreline between the hours of midnight and 6:00 a.m. Monday through Thursday of each week. Fishermen participating in this fishery must complete the Department of Fisheries squid harvest log and return the completed log to the Department of Fisheries each week postmarked no later than midnight Friday of each week.

WSR 85-13-034
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 85-62—Filed June 12, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is molting crab stocks are in danger of handling mortality if captured during bottom-fish trawl fishing.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 12, 1985.

By Gary C. Alexander
for William R. Wilkerson
Director

NEW SECTION

WAC 220-48-01500R TRAWL CLOSURE. Notwithstanding the provisions of WAC 220-48-015, effective 12:01 a.m. June 14, 1985, until further notice:

(1) It is unlawful for any person to fish for or possess foodfish taken with trawl gear in those waters of Puget Sound easterly of a line projected from the southwest point of Point Roberts to the number 6 bell buoy southeasterly of Point Roberts thence southeasterly to gong buoy A northerly of Alden Bank thence to gong buoy B

southerly of Alden Bank, thence to Point Migly on Lummi Island, unless the fisherman has in possession a permit issued by the Director allowing such fishing, and it is unlawful to fail to comply with all provisions of such permit.

(2) It is unlawful for any person to fish for or possess foodfish taken with trawl gear in those waters of Bellingham Bay easterly of a line from Post Point to Eliza Rock thence to William Point.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. June 14, 1985:

WAC 220-48-01500Q TRAWL CLOSURE. (85-53)

WSR 85-13-035
EMERGENCY RULES
DEPARTMENT OF AGRICULTURE
[Order 1859—Filed June 13, 1985]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to phytosanitary inspections, chapter 16-316 WAC.

I, C. Alan Pettibone, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is Saudi Arabia requires that all wheat seed being exported to their country shall have a phytosanitary certificate. Inspections of wheat fields will begin almost immediately. The fees will cover the department's costs. Fees already established are for the inspection of vegetable seed fields.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to chapter 15.49 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 13, 1985.

By Michael V. Schwisow
Deputy Director

AMENDATORY SECTION (Amending Order 1737, filed 5/15/81)

WAC 16-316-315 FEE AND CHARGES. (1) Fee for area and field inspection:

(a) Field inspection (payable with application):

(i) All seed except wheat seed. For each required inspection (per acre or fraction thereof) \$ 4.00
(with minimum fee of \$20.00 per field per inspection)

(ii) Wheat seed only. For each required inspection (per acre or fraction thereof) \$ 0.50 (with minimum fee of twenty dollars per field per inspection)

An additional charge of (~~(\$0.50)~~) fifty cents per acre shall be charged for each disease requested in excess of two.

(b) Area inspection ((~~per 100 lbs~~)) (per one hundred pounds) \$ 0.05 Billed at time certificate is issued with a minimum of (~~(\$20.00)~~) twenty dollars and a maximum of (~~(\$150.00)~~) one hundred fifty dollars per certificate.

(2) Late application penalty fee \$10.00 This additional fee shall be charged for each application received after due date.

(3) Sampling fee when sampling is required:

(a) Beans, peas, lentils, cereal grains ((~~per 100 lbs~~)) (per one hundred pounds) \$ 0.05

(b) Other crops ((~~per 100 lbs~~)) (per one hundred pounds) \$ 0.15

(4) Serology test: Fee to be established by the state of Idaho.

An official ((5)) five pound sample is required from each (~~(+0.000)) ten thousand pounds or portion thereof. Officially drawn samples ((with)) shall be submitted to: State plant pathologist, Idaho department of agriculture, P.O. Box 410, Twin Falls, Idaho 83301.~~

(5) Fees for services not listed in this ((~~order~~)) rule shall be set on the basis of the actual cost to the department of agriculture or the most appropriate fee established ((with)) shall be used.

(6) Laboratory analysis of plant material: An additional fee of (~~(\$18.00)) eighteen dollars per field shall be charged when necessary to examine plant material in the laboratory to verify disease.~~

WSR 85-13-036
NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION
[Memorandum—June 13, 1985]

The July 25-26, 1985, regular IAC meeting of the Intergency Committee for Outdoor Recreation will be held in the Washington Room, Governor House Motor Hotel, 521 South Capitol Way, Olympia, beginning at 9:00 a.m., Thursday. (Friday, July 26th, is held in reserve should it be necessary to extend discussion of agenda items. For public convenience, the IAC attempts to keep its meetings to one day.)

This meeting is not a funding session of the IAC. Agenda items will include: Fiscal, planning, administrative reports; project changes, if any, for both off-road vehicle (ORV) projects and local grant-in-aid projects; legislation status; final adoption of the Washington Statewide Comprehensive Outdoor Recreation Plan (SCORP); adoption of the participating state agencies'

master list capital budget projects for 1985-87; action program 1985-87, and any other matters to be brought before the committee.

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided at this regular IAC meeting if necessary. A request for this type of service, however, must be received by the IAC ten days before the meeting (July 15, 1985). Please contact: Robert L. Wilder, Director, 4800 Capitol Boulevard, KP-11, Olympia, Washington 98504, (206) 753-3610. The meeting site is barrier free.

WSR 85-13-037
PROPOSED RULES
GAMBLING COMMISSION
[Filed June 14, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning amendatory sections WAC 230-20-325, 230-40-050 and 230-40-055;

that the agency will at 10:00 a.m., Friday, August 9, 1985, in the Ridpath Hotel, West 515 Sprague, Spokane, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW [9.46.]070 (1) and (9), [9.46.]020(19) as amended by HB 402, [9.46.]020(20) as amended by SSB 3066, and [9.46.]070 (1), (2) and (12).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 9, 1985.

Dated: June 14, 1985
By: Ronald O. Bailey
Deputy Director

STATEMENT OF PURPOSE

Title: Amendatory sections WAC 230-20-325 Manner of conducting a raffle; 230-40-050 Fees for card playing; and 230-40-055 Card tournaments for fee and prizes.

Description of Purpose: Amends rules to comply with statutory changes passed by the forty-ninth legislature in SSB 3066 and HB 402.

Statutory Authority: RCW 9.46.070 (1) and (9), 9.46.020(19) as amended by HB 402, 9.46.020(20) as amended by SSB 3066, and 9.46.070 (1), (2) and (12).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-20-325 authorizes raffle chances to be sold for \$5.00; 230-40-050 authorizes licensed card rooms to collect a fee of up to \$2.00 per half hour from each player participating in the card game; and 230-40-055 authorizes licensed card rooms to charge a fee of up to \$50 for entry into a card tournament where prizes are awarded.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Keith Kisor, Director, 234-0865 scan, 753-0865 comm, and Ronald O. Bailey, Deputy Director, 234-1075 scan, 753-1075 comm, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504.

Proponents and Opponents: Gambling Commission staff proposes these rule amendments.

Agency Comments: The agency believes the proposed rules are self-explanatory and need no further comment.

These rules were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small businesses in the state of Washington by the adoption of these amendments.

AMENDATORY SECTION (Amending Order 149, filed 4/15/85)

WAC 230-20-325 MANNER OF CONDUCTING A RAFFLE. All raffles shall be conducted by selling individual prenumbered tickets for not more than ~~((one))~~ five dollars and awarding prizes by selecting winners by a random drawing from among all tickets sold. The following operating procedures apply:

(1) All tickets for use in any raffle shall be consecutively numbered and each ticket shall be accounted for separately in accordance with WAC 230-08-070. Raffle tickets sold to the general public shall have a stub or other detachable section bearing a duplicate number corresponding to the number on the ticket.

(2) All prizes awarded, whether in cash or merchandise, and all rules by which such prizes may be won, including all costs to a participant, shall be disclosed to each participant. This information shall be printed upon each ticket sold, or shall be otherwise provided in writing to each purchaser at the time of sale and shall also include, but not be limited to, date and time of drawing, location of drawing, and name of organization conducting raffle.

(3) No person shall be required to pay, directly or indirectly, more than ~~((\$1-00))~~ \$5.00 in order to enter any raffle. Each raffle ticket must be sold for the same price as every other raffle ticket being used for that particular raffle. No free tickets, or any opportunity to participate in the drawing of any raffle, shall be awarded or given to a person as a prize or reward for selling raffle tickets or for purchasing a certain number of raffle tickets. No person shall be required to obtain more than one ticket or to pay for anything other than the ticket, in order to enter the raffle: PROVIDED, That licensed raffles conducted among members of the organization only, may be conducted using alternative sales methods if specifically authorized by the commission. This authority will be issued on an individual basis and will require a detailed written request.

(4) If an entrant is required to be present at a raffle drawing in order to be eligible for the prize drawing, then a statement setting forth this condition shall be set forth conspicuously on each raffle ticket and on all promotional material concerning the raffle. When the participant is not required to be present at the drawing the ticket stub or other detachable section(s) of the ticket shall contain the purchaser's name, complete address, and telephone number, and shall be maintained for a period of not less than three years from the end of the fiscal year in which the raffle was completed.

(5) In conducting a drawing in connection with any raffle, each ticket seller shall return to the licensee the stubs or other detachable section of all tickets sold. The licensee shall then place each stub or other detachable section of each ticket sold into a receptacle out of which the winning tickets are to be drawn. Such receptacle shall be designed so that each ticket placed therein has an equal opportunity with every other ticket to be the one withdrawn.

Reviser's note: RCW 34.04.058 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 144, filed 1/9/85)

WAC 230-40-050 FEES FOR CARD PLAYING. No fee shall be charged a person, directly or indirectly, to play in a card game in excess of those fees set forth below:

(1) For all card games, except as provided in (2) below, the fee shall not exceed ~~((\$1-00))~~ \$2.00 per half hour, or portion thereof, per player.

The fee charged shall be collected by the licensee in cash, or in wagering chips, directly from the player upon each half hour only. No player shall be required to pay for or purchase any other goods or services as a condition of playing cards beyond the ~~((\$1-00))~~ \$2.00 per half hour per player except under section (3) below. The fee schedule applicable to the type of games and number of tables in the card room shall be conspicuously posted on the premises where it can be clearly seen by the players in the card games.

(2) A person requesting a new deck of cards beyond those regularly furnished by the operator as required by WAC 230-40-070(2) may be charged a fee not to exceed the actual cost to the licensee of the deck. Further, Class D licensees may charge a fee not to exceed actual cost to the licensee per deck for each deck of playing cards furnished to a table as required by these rules, or as requested by any player at the table. The fee shall be collected in cash directly from the players, or the player requesting the deck, at the time the deck is introduced into the game.

(3) This rule shall not prevent a bona fide nonprofit or charitable organization which has been established and operated for purposes other than card playing from charging its usual membership fee to belong to the organization.

(4) The licensee shall collect the same fee from all players at a table except licensed card room employees or the licensed owner. If he elects to allow free play, then all players at a table must be allowed to play for free.

The amount collected each half hour shall be recorded by the licensee immediately following the collection of the fees on a standard card room format prescribed and supplied by the commission to the licensee. All records required by this rule shall be maintained for a period of three years from the end of the licensee's fiscal year for which the record is kept.

AMENDATORY SECTION (Amending Order 144, filed 1/9/85)

WAC 230-40-055 CARD TOURNAMENTS FOR FEE AND PRIZES. (1) A card tournament wherein a fee is charged to the participants and prizes are awarded to the winning players shall be licensed by the commission. Card room licensees with a Class A, B, or E license may conduct a card tournament for a fee without obtaining a card tournament license: PROVIDED, That Class B licensees are limited to only those card games authorized under their licensing class. Card room licensees with a Class D or R license must first obtain a card tournament license before they can conduct a card tournament in which the players are charged a fee to enter. The licensee shall notify the commission ten days in advance of any card tournament where the players are charged a fee to enter. A card tournament shall not exceed ten consecutive calendar days.

(2) The fee for a player to enter a card tournament for prizes shall not exceed ~~(((\$25-00))~~ \$50.00 including all separate fees which might be paid by a player for various phases or events of the tournament. There shall be no buy-ins or additional opportunities allowing the players to purchase additional chips beyond those provided with the ~~(((\$25-00))~~ \$50.00 entry fee.

(3) The chips used in card tournaments shall have no monetary value and may be redeemed only for prizes established by the licensee. The licensee may award prizes in excess of those entry fees collected as authorized in paragraph (2) above.

(4) The licensee may adopt house rules to facilitate the operation of card tournaments: PROVIDED, That all house rules must be submitted to the commission for approval and posted where all tournament participants can see and read the rules.

(5) The licensee shall maintain a record of all such fees collected and the number of participants for each tournament conducted. This information shall be entered on the card room daily control sheet for the time and date the tournament begins.

(6) The licensee shall maintain a record of all prizes awarded to include the amount the licensed operator actually paid for each prize and the name and complete address of each winning participant.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 85-13-038
PROPOSED RULES
GAMBLING COMMISSION
 [Filed June 14, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning amendatory section WAC 230-30-075;

that the agency will at 10:00 a.m., Thursday, September 12, 1985, in the Tyee Motor Inn, 500 Tyee Drive, Olympia, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW [9.46.]070 (1), (2) and (11) and [9.46.]110.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before September 12, 1985.

Dated: June 14, 1985

By: Ronald O. Bailey
 Deputy Director

STATEMENT OF PURPOSE

Title: Amendatory section WAC 230-30-075 Minimum percentage of prizes for certain gambling activities.

Description of Purpose: Amends rule to limit the size of a single prize on punchboards/pull tabs to \$200.

Statutory Authority: RCW 9.46.070 (1), (2) and (11) and 9.46.110.

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-30-075 authorizes the awarding of a single cash prize or a combination merchandise/cash prize to a maximum limit of \$200.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Keith Kisor, Director, 234-0865 scan, 753-0865 comm, and Ronald O. Bailey, Deputy Director, 234-1075 scan, 753-1075 comm, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504.

Proponents and Opponents: Gambling Commission staff proposes this rule amendment.

Agency Comments: The agency believes the proposed rule is self-explanatory and needs no further comment.

This rule was not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small businesses in the state of Washington by the adoption of this amendment.

AMENDATORY SECTION (Amending Order 119, filed 2/19/82)

WAC 230-30-075 MINIMUM PERCENTAGE OF PRIZES FOR CERTAIN GAMBLING ACTIVITIES. No operator shall put out for play and no distributor or manufacturer of punchboards and

pull tabs shall sell or otherwise provide to any person in this state or for use in this state any punchboard or pull tab series that does not contain the following minimum percentage in prizes:

(1) Punchboards - a minimum of 60 percent respecting each punchboard placed out for public play.

(2) Pull tabs - a minimum of 60 percent respecting each series of pull tabs placed out for public play.

(3) For the purposes of determining the percentage of prizes offered on any punchboard, or in any pull tab series under this section, total merchandise prizes shall be computed at the amount actually paid therefor by the licensed operator plus 50 percent of that actual cost.

(4) Single cash prizes on punchboards/pull tabs shall not exceed:

(a) ~~((One))~~ Two hundred ~~(((\$100)))~~ (\$200) in cash; ~~(((\$)))~~ or

(b) A merchandise prize, or combination merchandise prize, for which the operator has not expended more than ~~((one))~~ two hundred dollars.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 85-13-039
WITHDRAWAL OF PROPOSED RULES
HOSPITAL COMMISSION
 [Filed June 14, 1985]

The State Hospital Commission is withdrawing notice of intention to adopt, amend or repeal rules, WSR 85-13-021, filed on June 11, 1985. We will file a new notice on June 14, 1985.

Maurice A. Click
 Executive Director

WSR 85-13-040
PROPOSED RULES
HOSPITAL COMMISSION
 [Filed June 14, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Hospital Commission intends to adopt, amend, or repeal rules concerning this notice proposes to add new section WAC 261-40-170 to Title 261 WAC: Washington State Hospital Commission, regarding negotiated rates. The proposed rules are intended to implement RCW 70.39.140(1) and set forth: Disclosure requirements, cost elements that must be included in any negotiated rate, and procedures for the commission to review and retrospectively disapprove a negotiated rate;

that the agency will at 10:00 a.m., Thursday, July 25, 1985, in the Vance Airport Inn, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 70.39.180.

The specific statute these rules are intended to implement is RCW 70.39.140(1).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 19, 1985.

Dated: June 14, 1985
 By: Maurice A. Click
 Executive Director

STATEMENT OF PURPOSE

Title and Number of Rule Chapters: WAC 261-40-170 Negotiated rates.

Statutory Authority: RCW 70.39.180(1).

Specific Statute that Rule is Intended to Implement: RCW 70.39.140(1).

Reasons Supporting the Proposed Rules: To provide guidelines for negotiating rates effective July 1, 1985.

Agency Personnel Responsible for the Drafting, Implementation and Enforcement of These Rules: Mr. Maurice A. Click, Executive Director, and Ms. Mary K. Bensen, Deputy Director, Washington State Hospital Commission, 206 Evergreen Plaza Building, 711 South Capitol Way, Mailstop FJ-21, Olympia, Washington 98504, (206) 753-1990.

Name of the Person or Organization Whether Private, Public, or Governmental that is Proposing the Rule: Washington State Hospital Commission.

These rules are not necessary to comply with a federal law or a federal or state court decision.

Pursuant to RCW 19.85.040, the Hospital Commission has determined that a small business economic impact statement is not necessary.

NEW SECTION

WAC 261-40-170 NEGOTIATED RATES (1) After July 1, 1985, any hospital may negotiate with and charge any particular payer or purchaser rates that are less than those approved by the Commission, if:

- (a) the rates are cost justified; and
- (b) the rates do not result in any shifting of costs to other payers or purchasers in the current or any subsequent year; and
- (c) all the terms of such negotiated rates are filed with the Commission within ten (10) working days and made available for public inspection.

(2) Within ten (10) working days after the contract is signed, the hospital must submit full disclosure of each negotiated rate, including:

- (a) the names of the parties to the negotiation;
- (b) the period of time covered by the agreement;
- (c) the negotiated rate or the amount of the reduction from the rate approved by the Commission; and
- (d) any other terms or conditions related to the negotiated rates.

(3) Each hospital shall make the information reported in WAC 261-40-170(2) available to the public on request.

(4) Each negotiated rate must include:

(a) total operating expenses, including both direct and indirect expenses, as defined in the Manual adopted under WAC 261-20-030, incurred in providing services to the payer or purchaser;

(b) Full allocation of charity care discounts recorded in accounts 5900, 5910, 5920 and 5960, as defined in the Manual adopted under WAC 261-20-030; and

(c) full allocation of Medicare and Medicaid contractual adjustments recorded in accounts 5810 and 5820, as defined in the Manual adopted under WAC 261-20-030.

(5) The differential between billed charges, based on the hospital's full established rates, and the payment received, based on the negotiated rate, must be separately identified for each negotiated contract and reported on Lines 26-31, Form RE-8 Deductions from Revenue. These amounts are "Memo" only and may not be allocated to other payers or purchasers in the current or any subsequent year.

(6) The Commission shall review a negotiated rate upon the request of any interested party, including a member of the Commission or Commission staff. Such a request shall include the following:

- (a) identification of the party requesting the review;
- (b) identification of the particular negotiated rate involved;

(c) a clear statement of the violation alleged, e.g., it is not cost justified; it results in a cost shift to other payers or purchasers; or it does not otherwise conform with the provisions of RCW 70.39.140;

(d) a statement of how a party is affected by the negotiated rate;

(e) evidence supporting the party's claim; and

(f) the action requested of the Commission.

(7) If upon review the negotiated rate is found to contravene any provision of RCW 70.39.140, the Commission may retrospectively disapprove such rate. Such disapproval shall be effective as of the date of the Commission's order disapproving the negotiated rate. Once a negotiated rate is disapproved by the Commission, the hospital may no longer charge such rate.

(8) The Commission will publish a list of all negotiated rates filed by hospitals.

WSR 85-13-041

ADOPTED RULES

GAMBLING COMMISSION

[Order 151—Filed June 14, 1985]

Be it resolved by the Washington State Gambling Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to:

Rep	WAC 230-20-063	Limits on bingo gross receipts and prize payouts and requirements for net income.
New	WAC 230-20-064	Maximum receipts, prizes, and expenses for bingo games. Net income required.

WAC 230-20-064 replaces WAC 230-20-063, and relates to bingo prize payout and net income requirements for Class "F" and larger bingo.

This action is taken pursuant to Notice No. WSR 85-09-041 filed with the code reviser on April 15, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 9.46.070 (7), (13) and (18) and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 13, 1985.

By Ronald O. Bailey
 Deputy Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-20-063 LIMITS ON BINGO GROSS RECEIPTS AND PRIZE PAYOUTS AND REQUIREMENTS FOR NET INCOME.

NEW SECTION

WAC 230-20-064 MAXIMUM RECEIPTS, PRIZES, AND EXPENSES FOR BINGO GAMES. NET INCOME REQUIRED. Bingo is to be conducted as a social pastime and for the raising of funds to support the purpose(s) of the organization only. Bona fide

charitable or nonprofit organizations licensed to operate bingo must comply with the following limitations:

(1) Gross receipts from the sale of bingo cards shall not exceed the limits by class of license for the license year as set out in WAC 230-04-201 and Table 1. below. Any organization not currently licensed to conduct bingo at any class and applying for a class "F" or above license shall submit with its license application a pro forma plan of operation including a market study with: planned attendance; prices; prize payout schedules; and net income predictions; and any other information requested by the commission.

(2) To prevent the payment of prizes in such amounts that would significantly reduce net income, prize payouts as percentages of gross receipts shall not exceed the percentages listed in Table 1. by class of license. Any licensee who exceeds the maximum calendar quarter prize payout limit for its class of license by more than two percentage points (2.0%) in any month and/or exceeds its calendar quarter limits during any quarter must report to the commission, no later than 15 days following the end of the month or quarter.

(3) To insure that licensees meet the intent of RCW 9.46.010 and to prevent the payment of excessive expenses, adjusted net income as a percentage of gross receipts shall not be less than the percentage listed in Table 1. by class of license for any calendar year. Any licensee who reports net income more than two percentage points (2.0%) below the minimum calendar year requirement for its class during any quarter must report to the commission additional information as required.

(4) All administrative procedures, policies, and definitions required to administer this section shall be approved by the commission, and furnished to all affected licensees. Prize payout limits, net income minimum requirements, and administrative procedures will be reviewed annually to measure the effect of this section on the licensed organizations. The annual review shall be held at the March meeting which by law must be held in Olympia and/or periodically by request of the commission with proper and timely notification to the staff.

Table 1.

License Class	Annual Gross Receipts	Calendar Year Prize Payout Limits	Calendar Quarter Prize Payout Limits	Calendar Year Adjusted Net Income Minimum Requirements
A	Up to \$ 10,000	No Limits	No Limits	None
B	\$ 10,001- 50,000	No Limits	No Limits	None
C	50,001- 100,000	No Limits	No Limits	None
D	100,001- 300,000	No Limits	No Limits	None
E	300,001- 500,000	No Limits	No Limits	None
F	500,001- 1,000,000	83.0 - 80.0%	84.0%	4.0 - 5.0%
G	1,000,001- 1,500,000	80.0 - 78.0%	81.0%	5.0 - 7.0%
H	1,500,001- 2,000,000	78.0 - 76.0%	79.0%	7.0 - 9.0%
I	2,000,001- 2,500,000	76.0 - 74.0%	77.0%	9.0 - 11.0%
J	2,500,001- 3,000,000	74.0 - 72.0%	75.0%	11.0 - 13.0%
K	3,000,001- 3,500,000	72.0 - 70.0%	73.0%	13.0 - 14.0%

WSR 85-13-042
PROPOSED RULES
DEPARTMENT OF NATURAL RESOURCES
(Board of Natural Resources)
 [Filed June 17, 1985]

Dated: June 13, 1985
 By: Brian J. Boyle
 Commissioner of Public Lands
 Chairman of the Board

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Natural Resources, Department of Natural Resources, intends to adopt, amend, or repeal rules concerning management of dredge spoil disposal and disposal fees for Puget Sound and the Straits of Juan de Fuca.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 2, 1985.

The authority under which these rules are proposed is RCW 79.90.100.

The specific statute these rules are intended to implement is RCW 79.90.100 and 43.30.150.

This notice is connected to and continues the matter in Notice Nos. WSR 85-08-040 and 85-13-030 filed with the code reviser's office on April 3, 1985, and June 11, 1985.

AMENDATORY SECTION (Amending Order 343, filed 7/3/80)

WAC 332-30-166 OPEN WATER DISPOSAL SITES. (1) Open water disposal sites are established primarily for the disposal of dredged material obtained from marine or fresh waters. These sites are generally not available for disposal of material derived from upland or dryland excavation except when such materials would enhance the aquatic habitat.

(2) Material may be disposed of on state owned aquatic land only at approved open water disposal sites and only after authorization has been obtained from the department. Applications for use of any area other than an established site shall be rejected. However, the applicant may appeal to the Interagency Open Water Disposal Site Evaluation Committee for establishment of a new site.

(3) Application for use of an established site must be for dredged material that meets the approval of federal and state agencies and for which there is no practical alternative upland disposal site or beneficial use such as beach enhancement.

(4) Authorization for use of the site will only be issued after certification by the environmental protection agency and the department of ecology that disposal of the material at the site will not have a significant adverse impact on the environment. In addition, all necessary federal, state, and local government permits shall be acquired before

DNR grants permission to use the site, and any use authorization granted by DNR shall be subject to the terms and conditions of such permits. DNR may suspend or terminate any authorization to use a site upon the expiration of any required permit.

(5) All leases for use of a designated site must require notification to DNR in Olympia twenty-four hours prior to each use. DNR Olympia must be notified five working days prior to the first use to permit an on-site visit to confirm with dump operator the site location.

~~((5))~~ (6) Pipeline disposal of material to an established disposal site will require special consideration.

~~((6-A))~~ (7) An application and a lease fee will be charged at a rate sufficient to cover all departmental costs associated with management of the sites. Fees will be reviewed and adjusted annually or more often as needed. A penalty fee may be charged for unauthorized dumping or dumping beyond the lease site. Army Corps of Engineers navigation channel maintenance projects are exempt from this fee schedule.

FEES

(a) Application fee

(i) Puget Sound and Strait of Juan De Fuca: \$.15 per cubic yard (c.y.) for the first 200,000 c.y.; Negotiated fee for project volumes exceeding 200,000 c.y.: Minimum fee \$2,000.00

(ii) Grays Harbor/Willapa Harbor: Minimum fee \$300.00

(b) Lease fee - \$100.00 all sites

(c) Penalty fee - \$5.00/cubic yard

~~((7))~~ (8) Open water disposal site selection. Sites are selected and managed by the department with the advice of the interagency open water disposal site evaluation committee (a technical committee of the aquatic resources advisory committee). The committee is composed of representatives of the state departments of ecology, fisheries, game, and natural resources as well as the Federal Army Corps of Engineers, National Marine Fisheries Service, Environmental Protection Agency, and Fish and Wildlife Service. The department chairs the committee. Meetings are irregular. The committee has developed a series of guidelines to be used in selecting disposal sites. The objectives of the site selection guidelines are to reduce damage to living resources known to utilize the area, and to minimize the disruption of normal human activity that is known to occur in the area. The guidelines are as follows:

(a) Select areas of common or usual natural characteristics. Avoid areas with uncommon or unusual characteristics.

(b) Select areas, where possible, of minimal dispersal of material rather than maximum widespread dispersal.

(c) Sites subject to high velocity currents will be limited to sandy or coarse material whenever feasible.

(d) When possible, use disposal sites that have substrate similar to the material being dumped.

(e) Select areas close to dredge sources to insure use of the sites.

(f) Protect known fish nursery, fishery harvest areas, fish migration routes, and aquaculture installations.

(g) Areas proposed for dredged material disposal may require an investigation of the biological and physical systems which exist in the area.

(h) Current velocity, particle size, bottom slope and method of disposal must be considered.

(i) Projects transporting dredged material by pipeline will require individual review.

(j) Placement of temporary site marking buoys may be required.

(k) The department will assure disposal occurs in accordance with permit conditions. Compliance measures may include, but are not limited to, visual or electronic surveillance, marking of sites with buoys, requiring submittal of operator reports and bottom sampling or inspection.

(l) Special consideration should be given to placing material at a site where it will enhance the habitat for living resources.

~~((H))~~ (m) Locate sites where surveillance is effective and can easily be found by tugboat operators.

~~((H))~~ (9) The department shall conduct such subtidal surveys as are necessary for siting and managing the disposal sites.

WSR 85-13-043
RULES OF COURT
STATE SUPREME COURT

[June 5, 1985]

In the Matter of the Adoption of RAP 7.2(k), 7.2(l), 8.1(e), 8.1(f), 9.12, 10.4(h); CR 26(f), 26(g), and 37(e) and Amendments to: RAP 2.2(a), 2.3(a), 2.5(b), 5.2, 5.3(h), 7.2(c), 7.2(j), 8.1(b), 8.1(d), 9.1(b), 9.2(e), 9.5, 9.6, 9.11(a), 10.3(e), 10.4(a), 10.4(b), 12.2, 12.5(a), 14.3(a), 16.2(d); CR 4(i), 7(b), 9(i), 11, 26(a), 26(b), 28(b), 30(b), 33(a), 33(c), 34(b), 36(a), 37(a), 37(b), 44(a), 52(c), 56(c), and 67.

NO. 25700-A-366

ORDER

The Board of Governors of the Washington State Bar Association having recommended the adoption of RAP 7.2(k), 7.2(l), 8.1(e), 8.1(f), 9.12, 10.4(h); CR 26(f), 26(g), and 37(e); and Amendments to RAP 2.2(a), 2.3(a), 2.5(b), 5.2, 5.3(h) 7.2(c), 7.2(j), 8.1(b), 8.1(d), 9.1(b), 9.2(e), 9.5, 9.6, 9.11(a), 10.3(e), 10.4(a), 10.4(b), 12.2, 12.5(a), 14.3(a), 16.2(d); CR 4(i), 7(b), 9(i), 11, 26(a), 26(b), 28(b), 30(b) 33(a), 33(c), 34(b), 36(a), 37(a), 37(b), 44(a), 52(c), 56(c), and 67, and the proposed Rules and Amendments having been published for comment in 103 Wn.2d Advance Sheet No. 3, and the Court having considered the proposed Rules, Amendments and comments submitted thereto, and having determined that the proposed Rules and Amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the Rules and Amendments as attached hereto are adopted.

(b) That the Rules and Amendments will be published in the special rules edition of the Washington Reports in July, 1985, and will become effective September 1, 1985.

DATED at Olympia, Washington this 5th day of June, 1985.

James M. Dolliver

Robert F. Utter

Fred H. Dore

Robert F. Brachtenbach

James A. Andersen

Vernon R. Pearson

Wm. C. Goodloe

Keith M. Callow

Durham, J.

RAP 7.2

AUTHORITY OF TRIAL COURT AFTER REVIEW ACCEPTED

(a) Unchanged.

(b) Unchanged.

(c) Enforcement of Trial Court Decision in Civil Cases. In a civil case, except to the extent a decision has been superseded as provided in rule 8.1, the trial court has authority to enforce any decision of the trial court

and a party may execute on any judgment of the trial court. Any person may take action premised on the validity of a trial court decision until enforcement of the decision is superseded as provided in rule 8.1.

(d) Unchanged.

(e) Unchanged.

(f) Unchanged.

(g) Unchanged.

(h) Unchanged.

(i) Unchanged.

(j) Juvenile Court Decision. The trial court has authority to act on matters of supersedeas, stays, bonds, and the release of a person, and extension of jurisdiction pending review of a juvenile court proceeding.

(k) Perpetuation of Testimony. The trial court has authority to supervise discovery proceedings pursuant to CR 27.

(l) Multiple Parties, Claims, or Counts. If the trial court has entered a judgment that may be appealed under rule 2.2(d) in a case involving multiple parties, claims, or counts the trial court retains full authority to act in the portion of the case that is not being reviewed by the appellate court.

RAP 8.1

SUPERSEDEAS IN THE TRIAL COURT

(a) Unchanged.

(b) Supersedeas by Bond or Other Security. Except when prohibited by statute, a party may supersede the enforcement of a money judgment or decision affecting property by filing a supersedeas bond executed by one or more sureties approved by the trial court. The bond must be conditioned for the satisfaction of the judgment in full together with interest and costs, and the satisfaction in full of any probable modification of the judgment by the appellate court. If a party seeks to supersede only part of a decision, the bond amount shall be adjusted to accomplish the purpose desired. The trial court may authorize a party to post security other than a bond. The money judgment or decision is superseded only as to the party furnishing the bond or other security.

(1) Unchanged.

(2) Unchanged.

(c) Unchanged.

(d) Periodic Payments. If the judgment or decision provides for periodic payments, the trial court may deny or allow supersedeas in its discretion.

(e) Modification of Supersedeas Decision. After a supersedeas bond or other security has been approved and filed, the trial court may, upon application of a party or on its own motion, and for good cause shown, discharge the bond, change the amount of the bond or other security or require a new bond or other security.

(f) Objection to Supersedeas Decision. A party may object to a supersedeas decision of the trial court by motion in the appellate court.

NEW RAP 9.12

SPECIAL RULE FOR ORDER ON SUMMARY JUDGMENT

On review of an order granting or denying a motion for summary judgment the appellate court will consider only evidence and issues called to the attention of the trial court. A party should designate in the order granting or denying the motion for summary judgment the documents and other evidence called to the attention of the trial court before the order on summary judgment was entered. Documents or other evidence called to the attention of the trial court but not designated in the order shall be made a part of the record by supplemental order of the trial court or by stipulation of counsel.

[RAP 10.4]

~~before the brief is due. Such a motion must set forth the extraordinary reasons why compliance with the usual provision of Rule 10.4(b) cannot be met. The motion may be heard ex parte.~~

(c) Unchanged.

(d) Unchanged.

(e) Unchanged.

(f) Unchanged.

(g) Unchanged.

(h) Unpublished opinions. A party may not cite as an authority an unpublished opinion of the court of appeals.

[CR 26]

~~subsection (b)(4)(C) of this rule, concerning fees and expenses as the court may deem appropriate. A party may, subject to the provisions of this rule and of rules 30 and 31, depose each person whom any other party expects to call as an expert witness at trial.~~

(B) A party may discover facts known or opinions held by an expert who is not expected to be called as a witness at trial, only as provided in rule 35(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(C) Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subsections (b)(4)(A)(ii) and (b)(4)(B) of this rule; and (ii) with respect to discovery obtained under subsection (b)(4)(A)(ii) of this rule the court may require, and with respect to discovery obtained under subsection (b)(4)(B) of this rule the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(c) Unchanged.

(d) Unchanged.

(e) Unchanged.

CR 26(f)

[NEW RULE]

(f) Discovery Conference. At any time after commencement of an action the court may direct the attorneys for the parties to appear before it for a conference

on the subject of discovery. The court shall do so upon motion by the attorney for any party if the motion includes:

- (1) A statement of the issues as they then appear;
- (2) A proposed plan and schedule of discovery;
- (3) Any limitations proposed to be placed on discovery;
- (4) Any other proposed orders with respect to discovery; and
- (5) A statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion.

P Each party and his attorney are under a duty to participate in good faith in the framing of a discovery plan if a plan is proposed by the attorney for any party.

P Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served not later than 10 days after service of the motion.

Following the discovery conference, the court shall enter an order tentatively identifying the issues for discovery purposes, establishing a plan and schedule for discovery, setting limitations on discovery, if any, and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the action. An order may be altered or amended whenever justice so requires.

Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the court may combine the discovery conference with a pretrial conference authorized by rule 16.

(g) Signing of Discovery Requests, Responses, and Objections. Every request for discovery or response or objection thereto made by a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the request, response, or objection and state his address. The signature of the attorney or party constitutes a certification that he has read the request, response, or objection, and that to the best of his knowledge, information, and belief formed after a reasonable inquiry it is: (1) consistent with these rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (2) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and (3) not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation. If a request, response, or objection is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the party making the request, response, or objection and a party shall not be obligated to take any action with respect to it until it is signed.

If a certification is made in violation of the rule, the court, upon motion or upon its own initiative, shall impose upon the person who made the certification, the party on whose behalf the request, response, or objection

is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney's fee.

[CR 37]

make such protective order as it would have been empowered to make on a motion made pursuant to rule 26(c).

- (3) Unchanged.
- (4) Unchanged.
- (b) Failure to Comply with Order.

(1) Sanctions by Court in District County Where Deposition is Taken. If a deponent fails to be sworn or to answer a question after being directed to do so by the court in the county in which the deposition is being taken, the failure may be considered a contempt of that court.

(2) Sanctions by Court in Which Action is Pending. If a party or an officer, director, or managing agent of a party or a person designated under rule 30(b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under section (a) of this rule or rule 35, or if a party fails to obey an order entered under rule 26(f), the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

- (A) Unchanged.
- (B) Unchanged.
- (C) Unchanged.
- (D) Unchanged.
- (E) Unchanged.
- (c) Unchanged.
- (d) Unchanged.

(e) Failure to Participate in the Framing of a Discovery Plan. If a party or his attorney fails to participate in good faith in the framing of a discovery plan by agreement as is required by rule 26(f), the court may, after opportunity for hearing, require such party or his attorney to pay to any other party the reasonable expenses, including attorney's fees, caused by the failure.

RAP 2.2

DECISIONS OF THE SUPERIOR COURT WHICH MAY BE APPEALED

(a) Generally. Unless otherwise prohibited by statute or court rule and except as provided in sections (b) and (c), a party may appeal from only the following superior court decisions:

- (1) Final Judgment. The final judgment entered in any action or proceeding, except a final decree of adoption.
- (2) Interlocutory Decree of Adoption. An interlocutory decree of adoption: (Reserved).
- (3) Unchanged.
- (4) Unchanged.
- (5) Unchanged.
- (6) Unchanged.
- (7) Unchanged.
- (8) Unchanged.
- (9) Unchanged.

- (10) Unchanged.
- (11) Unchanged.
- (12) Unchanged.
- (13) Unchanged.
- (b) Unchanged.
- (c) Unchanged.
- (d) Unchanged.

RAP 2.3

DECISIONS OF THE TRIAL COURT WHICH
MAY BE REVIEWED BY DISCRETIONARY
REVIEW

(a) Decision of Superior Court. Unless otherwise prohibited by statute or court rule, a party may seek discretionary review of any act of the superior court not appealable as a matter of right.

- (b) Unchanged.
- (c) Unchanged.
- (d) Unchanged.

RAP 2.5

CIRCUMSTANCES WHICH MAY AFFECT
SCOPE OF REVIEW

(a) Unchanged.

(b) Acceptance of Benefits.

(1) Generally, Decision Subject to Modification. A party may accept the benefits of a trial court decision without losing the right to obtain review of that decision only (i) if the decision is one which is subject to modification by the court making the decision or (ii) if the party gives security as provided in subsection (b)(2); or (iii) if, regardless of the result of the review, the party will be entitled to at least the benefits of the trial court decision.

(2) ~~Other Decision~~—Security. If a party gives adequate security to make restitution if the decision is reversed or modified, a party may accept the benefits of the decision without losing the right to obtain review of that decision. The trial court making the decision shall fix the amount and type of security to be given by the party accepting the benefits.

(3) Conflict With Statutes. In the event of any conflict between this section and a statute, the statute governs.

(c) Unchanged.

RAP 5.2

TIME ALLOWED TO FILE NOTICE

(a) Unchanged.

(b) Notice for Discretionary Review. Except as provided in rules 3.2(e), 5.2(d) and (f), and 15.2(a), a notice for discretionary review must be filed in the trial court within 30 days after the entry act of the decision of the trial court which the party filing the notice wants reviewed.

(c) Unchanged.

(d) Unchanged.

(e) Effect of Certain Posttrial Motions. A notice of appeal of orders deciding certain timely posttrial motions designated in this paragraph must be filed in the trial court within (1) 30 days after the entry of the order, or (2) if a statute provides that a notice of appeal, a

petition for extraordinary writ, or a notice for discretionary review must be filed within a time period other than 30 days after entry of a the decision to which the motion is directed, the number of days after the entry of the order deciding the posttrial motion established by the statute for initiating review. The posttrial motions to which this rule applies are a motion for arrest of judgment under CrR 7.4, a motion for new trial under CrR 7.6, a motion for reconsideration or new trial under CR 59, and a motion for amendment of judgment under CR 59.

(f) Subsequent Notice by Other Parties. If a timely notice of appeal or a timely notice for discretionary review is filed by a party, any other party who wants relief from the decision must file a notice of appeal or notice for discretionary review with the trial court clerk within the later of (1) 14 days after service by the trial court clerk of the notice filed by the other party, or (2) the time within which notice must be given as provided in sections (a), (b), (d) or (e).

(g) Unchanged.

RAP 5.3

CONTENT OF NOTICE—FILING

(a) Unchanged.

(b) Unchanged.

(c) Unchanged.

(d) Unchanged.

(e) Unchanged.

(f) Unchanged.

(g) Unchanged.

(h) Amendment of Notice Directed to Portion of Decision. The appellate court may, on its own initiative or on the motion of a party, permit an amendment of a notice to include additional parts of a decision in order to do justice. On discretionary review, the appellate court may, on its own initiative or on the motion of a party, permit an amendment of a notice to include acts of the trial court that are subsequent to the act for which discretionary review was first sought if the subsequent acts relate to the subject of the first review. If the amendment is permitted, the record should be supplemented as provided in rule 9.10. The appellate court may condition the amendment on appropriate terms, including payment of a compensatory award under rule 18.9.

(i) Unchanged.

(j) Unchanged.

RAP 7.2

AUTHORITY OF TRIAL COURT AFTER REVIEW
ACCEPTED

(a) Unchanged.

(b) Unchanged.

(c) Enforcement of Trial Court Decision in Civil Cases. In a civil case, except to the extent a decision has been superseded as provided in rule 8.1, the trial court has authority to enforce any decision of the trial court and a party may execute on any judgment of the trial court. Any person may take action premised on the validity of a trial court decision until enforcement of the decision is superseded as provided in rule 8.1.

(d) Unchanged.
 (e) Unchanged.
 (f) Unchanged.
 (g) Unchanged.
 (h) Unchanged.
 (i) Unchanged.
 (j) Juvenile Court Decision. The trial court has authority to act on matters of supersedeas, stays, bonds, and the release of a person, and extension of jurisdiction pending review of a juvenile court proceeding.

(k) Perpetuation of Testimony. The trial court has authority to supervise discovery proceedings pursuant to CR 27.

(l) Multiple Parties, Claims, or Counts. If the trial court has entered a judgment that may be appealed under rule 2.2(d) in a case involving multiple parties, claims, or counts the trial

RAP 8.1

SUPERSEDEAS IN THE TRIAL COURT

(a) Unchanged.

(b) Supersedeas by Bond or Other Security. Except when prohibited by statute, a party may supersede the enforcement of a money judgment or decision affecting property by filing a supersedeas bond executed by one or more sureties approved by the trial court. The bond must be conditioned for the satisfaction of the judgment in full together with interest and costs, and the satisfaction in full of any probable modification of the judgment by the appellate court. If a party seeks to supersede only part of a decision, the bond amount shall be adjusted to accomplish the purpose desired. The trial court may authorize a party to post security other than a bond. The money judgment or decision is superseded only as to the party furnishing the bond or other security.

(1) Unchanged.

(2) Unchanged.

(c) Unchanged.

(d) Periodic Payments. If the judgment or decision provides for periodic payments, the trial court may deny or allow supersedeas in its discretion.

(e) Modification of Supersedeas Decision. After a supersedeas bond or other security has been approved and filed, the trial court may, upon application of a party or on its own

RAP 9.1

COMPOSITION OF RECORD ON REVIEW

(a) Unchanged.

(b) Report of Proceedings. The report of any oral proceeding must be transcribed in the form of a type-written report of proceedings. The report of proceedings may take the form of a "verbatim report of proceedings" as provided in rule 9.2, a "narrative report of proceedings" as provided in rule 9.3, or an "agreed report of proceedings" as provided in rule 9.4.

(c) Unchanged.

(d) Unchanged.

RAP 9.2

VERBATIM REPORT OF PROCEEDINGS

(a) Unchanged.

(b) Unchanged.

(c) Unchanged.

(d) Unchanged.

(e) ~~Index: Table of Contents.~~ The verbatim report of proceedings should include an index a table of contents indicating, under the headings listed below, the pages where the following appear:

(1)-(6) Unchanged.

(f) Unchanged.

(g) Unchanged.

RAP 9.5

FILING AND SERVICE OF REPORT OF PROCEEDINGS — OBJECTIONS

(a) Generally. The party seeking review must file the report of proceedings with the clerk of the trial court; ~~and then submit it to the judge as provided in section (b);~~ within 90 days after review is accepted by the appellate court. The party must at the time of filing the report of proceedings serve one copy on an adverse party and serve and file notice of the filing on all other parties. A party may serve and file objections to, and propose amendments to, a narrative report of proceedings or a verbatim report of proceedings within 10 days after receipt of the report of proceedings or receipt of the notice of filing of the report of proceedings. If objections or amendments to the report of proceedings are served and filed, ~~the report of proceedings and~~ any objections or proposed amendments must be ~~submitted to heard by~~ the trial court judge before whom the proceedings were held for settlement and approval. The trial court may direct the party seeking review to pay for the expense of any modifications of the proposed report of proceedings.

~~(b) Submission of Report of Proceedings to Trial Judge. A report of proceedings must be submitted to the trial court judge before whom the proceedings were held for approval. The judge may call the parties to appear before the court for the purpose of adding to or correcting the report of proceedings. The report of proceedings is deemed approved if the trial court judge does not otherwise notify the parties within 10 days after submission of the report to the judge and if a party has not objected to the report as provided in section (a).~~

~~(c) (b) Substitute Judge May Settle Report of Proceedings.~~ If the judge before whom the proceedings were held is for any reason unable to promptly settle questions as provided in section (a), ~~or unable to promptly accept and review the report as provided in section (b),~~ another judge may act in the place of the judge before whom the proceedings were held.

~~(d) (c) Use of Copy of Report of Proceedings.~~ The party who has the right to file the next brief must be given the use of the copy of the report of proceedings. If more than one party has the right to file the next brief, the parties must cooperate in the use of the report of proceedings. When all briefs are filed, the copy of the report of proceedings should be returned to the party who paid for it.

RAP 9.6

DESIGNATION OF CLERK'S PAPERS AND EXHIBITS

The party seeking review should, within 30 days after review is accepted, serve on all other parties and file with the trial court clerk a designation of those clerk's papers and exhibits the party wants the trial court clerk to transmit to the appellate court. Any other party may in the same manner designate additional clerk's papers or exhibits for transmittal to the appellate court. Each party is encouraged to designate only clerk's papers and exhibits needed to review the issues presented to the appellate court.

RAP 9.11

ADDITIONAL EVIDENCE ON REVIEW

(a) Remedy Limited. The appellate court may ~~only on its own initiative~~ direct that additional evidence be taken before the decision of a case on review if: (1) additional proof of facts is needed to fairly resolve the issues on review, (2) the additional evidence would probably change the decision being reviewed, (3) it is equitable to excuse a party's failure to present evidence to the trial court, (4) the remedy available to a party through postjudgment motions in the trial court is inadequate or unnecessarily expensive, (5) the appellate court remedy of granting a new trial is inadequate or unnecessarily expensive, and (6) it would be inequitable to decide the case solely on the evidence already taken in the trial court.

(b) Unchanged.

RAP 10.3

CONTENT OF BRIEF

(a) Unchanged.

(b) Unchanged.

(c) Unchanged.

(d) Unchanged.

(e) Amicus Curiae Brief. The brief of amicus curiae should conform to section (a), except assignments of error are not required but and the brief should in all respects be limited to the issues of concern to amicus. Amicus must review all briefs on file and avoid repetition of matters in other briefs.

(f) Unchanged.

(g) Unchanged.

RAP 10.4

PREPARATION AND FILING OF BRIEF BY PARTY

(a) Typing and Filing Brief. One legible, clean, and reproducible copy of the brief must be filed with the appellate court. The brief should be typed with black ribbon on 20-pound substance 8 1/2- x 11-inch white paper. ~~The type should not be smaller than pica equivalent to 10 point type.~~ Type must be pica type or its equivalent, with no more than 10 characters an inch. Lines should not generally exceed 5 inches in length. Margins 2 inches on the left side and 1 1/2 inches on the right side and on the top and bottom of each page

are preferred. Lines should be double or 1 1/2 spaced. Quotations may be single spaced and footnotes should be single spaced.

(b) Length of Brief. A brief of appellant, petitioner, or respondent, and a pro se brief in a criminal case should not exceed 70 pages if double spaced, or 54 pages if 1 1/2 spaced. A reply brief should not exceed 35 pages if double spaced, or 27 pages if 1 1/2 spaced. An amicus curiae brief should not exceed 30 pages if double spaced, or 23 pages if 1 1/2 spaced. For the purpose of determining compliance with this rule appendices are included. The title sheet, table of contents, and table of authorities are not included. In the absence of compelling circumstances the court will not grant a motion to file an over-length brief.

~~(i) Waiver of Page Limitations. Waiver of page limitations will be granted only upon a motion made at least 14 days before the brief is due. Such a motion must set forth the extraordinary reasons why compliance with the usual provision of Rule 10.4(b) cannot be met. The motion may be heard ex parte.~~

(c) Unchanged.

(d) Unchanged.

(e) Unchanged.

(f) Unchanged.

(g) Unchanged.

(h) Unpublished opinions. A party may not cite as an authority an unpublished opinion of the court of appeals.

RAP 12.2

DISPOSITION ON REVIEW

The appellate court may reverse, affirm, or modify the decision being reviewed and take any other action as the merits of the case and the interest of justice may require. Upon issuance of the mandate of the appellate court as provided in rule 12.5, the action taken ~~and~~ or decision made by the appellate court is effective and binding on the parties to the review and governs all subsequent proceedings in the action in any court, unless otherwise directed upon recall of the mandate as provided in rule 12.9, and except as provided in rule 2.5(c)(2).

RAP 12.5

MANDATE

(a) Mandate Defined. A "mandate" is the written notification by the clerk of the appellate court to the trial court and to the parties of an appellate court decision terminating review. No mandate issues for an interlocutory decision of the appellate court.

(b) Unchanged.

(c) Unchanged.

(d) Unchanged.

RAP 14.3

EXPENSES ALLOWED AS COSTS

(a) Generally. Only statutory attorney fees and the reasonable expenses actually incurred by a party for the following items which were reasonably necessary for review may be awarded to a party as costs: (1) preparation of the original and one copy of the report of proceedings, (2) copies of the clerk's papers, (3) preparation of an

original document to be reproduced by the clerk, as provided in rule 14.3(b), (4) transmittal of the record on review, (5) bonds given in connection with the review, and (6) the lesser of the charges of the clerk for reproduction of briefs, petitions, and motions, or the costs incurred by the party reproducing briefs as authorized under rule 10.5(a), and (7) the filing fee. If a party has incurred an expense for one of the designated items, the item is presumed to have been reasonably necessary for review, which presumption is rebuttable. The amount paid by a party for the designated item is presumed reasonable, which presumption is rebuttable.

- (b) Unchanged.
- (c) Unchanged.

RAP 16.2

ORIGINAL ACTION AGAINST STATE OFFICER

(a) Unchanged.

(b) Unchanged.

(c) Unchanged.

(d) Decisions Made by Commissioner or Clerk. A commissioner or clerk will, at the hearing, determine if the petition should be decided by the Supreme Court, transferred, or dismissed. If the commissioner or clerk decides that the petition should be transferred, the petition will be transferred to a superior court for determination on the merits. If the petition is not transferred or dismissed, the commissioner or clerk will refer questions of fact to a master or to the superior court unless an agreed and adequate written statement of facts is approved by the parties prior to or at the hearing. The commissioner or clerk will also determine the timing of all remaining steps in the proceeding, including time for filing briefs on the merits.

- (e) Unchanged.
- (f) Unchanged.
- (g) Unchanged.

CR 4

PROCESS

(-) [Deleted.]

(a) Unchanged.

(b) Unchanged.

(c) Unchanged.

(d) Unchanged.

(e) Unchanged.

(f) Unchanged.

(g) Unchanged.

(h) Unchanged.

(i) Alternative Provisions for Service in a Foreign Country.

(1) Manner. When a statute or rule authorizes service upon a party not an inhabitant of or found within the state, and service is to be effected upon the party in a foreign country, it is also sufficient if service of the summons and complaint is made: (A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or (B) as directed by the foreign authority in response to a letter rogatory, ~~when service in either case is reasonably calculated to give actual notice~~; or a

letter of request; or (C) upon an individual, by delivery to him personally, and upon a corporation or partnership or association, by delivery to an officer, a managing or general agent; or (D) by any form of mail, requiring a signed receipt, to be addressed and mailed to the party to be served; or (E) pursuant to the means and terms of any applicable treaty or convention; or (F) by diplomatic or consular officers when authorized by the United States Department of State; ~~(E)~~ or (G) as directed by order of the court. Service under (C) or ~~(E)~~ (G) above may be made by any person who is not a party and is not less than 21 years of age or who is designated by order of the court or by the foreign court. The method for service of process in a foreign country must comply with applicable treaties, if any, and must be reasonably calculated, under all the circumstances, to give actual notice.

(2) Return. Proof of service may be made as prescribed by section (g) of this rule, or by the law of the foreign country, or by a method provided in any applicable treaty or convention, or by order of the court. When service is made pursuant to subsection (1)(D) of this section, proof of service shall include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court.

- (j) Unchanged.

CR 7

PLEADINGS ALLOWED; FORM OF MOTIONS

- (a) Unchanged.
- (b) Motions and Other Papers.

(1) How Made. An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) Form. The rules applicable to captions, ~~signing~~, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

(3) Signing. All motions shall be signed in accordance with rule 11.

~~(3)~~ (4) Identification of Evidence. When a motion is supported by affidavits or other papers, it shall specify the papers to be used by the moving party.

- (c) Unchanged.
- (d) Unchanged.

CR 9

PLEADING SPECIAL MATTERS

- (a) Unchanged.
- (b) Unchanged.
- (c) Unchanged.
- (d) Unchanged.
- (e) Unchanged.
- (f) Unchanged.
- (g) Unchanged.
- (h) Unchanged.
- (i) Pleading Ordinance. In pleading any ordinance of a county, city or town in this state it shall be sufficient to

state the title of such ordinance and the date of its passage, whereupon the court shall take judicial notice of the existence of such ordinance and the tenor and effect thereof.

- (j) Unchanged.
- (k) Unchanged.
- (l) Unchanged.

CR 11

SIGNING OF PLEADINGS, MOTIONS AND OTHER PAPER LEGAL MEMORANDA: SANCTIONS

Every pleading, motion, and ~~other paper~~ legal memoranda of a party represented by an attorney shall be dated and signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign and date his pleading, motion, or ~~other paper~~ legal memoranda and state his address. Petitions for dissolution of marriage, separation, declarations concerning the validity of a marriage, custody, and modification of decrees issued as a result of any of the foregoing petitions shall be verified. Other pleadings need not, but may be, verified or accompanied by affidavit. The signature of a party or of an attorney constitutes a certificate by him that he has read the pleading, motion, or ~~other paper~~ legal memoranda; that to the best of his knowledge, information, and belief, there is good ground to support it, and that it is not interposed for delay: formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or ~~other paper~~ legal memoranda is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. ~~or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the pleading had not been served. For a willful violation of this rule an attorney may be subjected to appropriate action as for contempt. Similar action may be taken if scandalous or indecent matter is inserted.~~ If a pleading, motion, or ~~other paper~~ legal memoranda is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or ~~other paper~~ legal memoranda, including a reasonable attorney fee.

CR 26

GENERAL PROVISIONS GOVERNING DISCOVERY

(a) Discovery Methods. Parties may obtain discovery by one or more of the following methods: depositions

upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission. ~~Unless the court orders otherwise under Section (c) of this rule, the frequency of use of these methods is not limited.~~

(b) ~~Scope of Discovery.~~ Discovery Scope and Limits. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

The frequency or extent of use of the discovery methods set forth in section (a) shall be limited by the court if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (iii) the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation. The court may act upon its own initiative after reasonable notice or pursuant to a motion under section (c).

- (2) Unchanged.
- (3) Unchanged.

(4) Trial Preparation: Experts. Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subsection (b)(1) of this rule and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(A)(i) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at trial, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion; and to state such other information about the expert as may be discoverable under these rules. ~~(ii) Upon motion, the court may order further discovery by other means, subject to such restrictions as to scope and such provisions, pursuant to subsection (b)(4)(C) of this rule, concerning fees and expenses as the court may deem appropriate. A party may, subject to the provisions of this rule and of rules 30 and 31, depose each person whom any other party expects to call as an expert witness at trial.~~

CR 30

DEPOSITIONS UPON ORAL EXAMINATION

(a) Unchanged.

(b) Notice of Examination: General Requirements; Special Notice; Nonstenographic Recording; Production of Documents and Things; Deposition of Organization.

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing of not less than 5 days (exclusive of the day of service, Saturdays, Sundays and court holidays) to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(2) Leave of court is not required for the taking of a deposition by plaintiff if the notice (A) states that the person to be examined is about to go out of the state and will be unavailable for examination unless his deposition is taken before expiration of the 30-day period, and (B) sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, and his signature constitutes a certification by him that to the best of his knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by rule 11 are applicable to the certification.

If a party shows that when he was served with notice under this subsection (b)(2) he was unable through the exercise of diligence to obtain counsel to represent him at the taking of the deposition, the deposition may not be used against him.

(3) The court may for cause shown enlarge or shorten the time for taking the deposition.

(4) The parties may stipulate in writing or the court may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event The stipulation or the order shall designate the person before whom the deposition shall be taken, the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. If the order is made, A party may nevertheless arrange to have a stenographic transcription made at his own expense. Any objections under section (c), any changes made by the witness, his signature identifying the deposition as his own or the statement of the officer that is required if the witness does not sign, as provided in section (e), and the certification of the officer required by section (f) shall be set forth in a writing to accompany a deposition recorded by nonstenographic means.

(5) The notice to a party deponent may be accompanied by a request made in compliance with rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of rule 34 shall apply to the request.

(6) A party may in his notice and in a subpoena name as the deponent a public or private corporation or a

(B) A party may discover facts known or opinions held by an expert who is not expected to be called as a witness at trial, only as provided in rule 35(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(C) Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subsections (b)(4)(A)(ii) and (b)(4)(B) of this rule; and (ii) with respect to discovery obtained under subsection (b)(4)(A)(ii) of this rule the court may require, and with respect to discovery obtained under subsection (b)(4)(B) of this rule the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(c) Unchanged.

(d) Unchanged.

(e) Unchanged.

CR 28

PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN

(-) Unchanged.

(a) Unchanged.

(b) In Foreign Countries. In a foreign country, depositions may be taken (1) on notice before a person authorized to administer oaths in the place in which the examination is held, either by the law thereof or by the law of the United States, or (2) before a person commissioned by the court, and the person so commissioned shall have the power by virtue of his commission to administer any necessary oath and take testimony, or (3) pursuant to a letter rogatory or a letter of request, or (4) pursuant to the means and terms of any applicable treaty or convention. A commission, ~~or a letter rogatory, or a letter of request~~ shall be issued on application and notice, and on terms that are just and appropriate. It is not requisite to the issuance of a commission, ~~or a letter rogatory, or a letter of request~~ that the taking of the deposition in any other manner is impracticable or inconvenient; and ~~both a commission, and a letter rogatory, and a letter of request~~ may all be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or by descriptive title. A letter rogatory may be addressed "To the Appropriate Authority in [here name the country]." A letter of request or any other device permitted by any applicable treaty or convention shall be styled in the form prescribed by that treaty or convention. Evidence obtained in response to a letter rogatory or a letter of request need not be excluded merely for the reason that it is not a verbatim transcript or that the testimony was not taken under oath or for any similar departure from the requirements for depositions taken within the United States under these rules.

(c) Unchanged.

partnership or association or governmental agency and designate with reasonable particularity the matters on which examination is requested. In that event the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters known on which he will testify. A subpoena shall advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to the matters known or reasonably available to the organization. This subsection (b)(6) does not preclude taking a deposition by any other procedure authorized in these rules.

(7) The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone or by other electronic means. For the purposes of this rule and rules 28(a), 37(a)(1), 37(b)(1), and 45(d), a deposition taken by telephone or by other electronic means is taken at the place where the deponent is to answer questions propounded to him.

- (c) Unchanged.
- (d) Unchanged.
- (e) Unchanged.
- (f) Unchanged.
- (g) Unchanged.

CR 33

INTERROGATORIES TO PARTIES

(a) Availability; Procedures for Use. Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may, without leave of court, be served upon the plaintiff after the summons and a copy of the complaint are served upon the defendant, or the complaint is filed, whichever shall first occur, and upon any other party with or after service of the summons and complaint upon that party.

Interrogatories shall be so arranged that after each separate question there shall appear a blank space reasonably calculated to enable the answering party to have his answer typed in. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 20 days after the service of the interrogatories, except that a defendant may serve answers or objections within 40 days after service of the summons and complaint upon that defendant. The parties may stipulate or ~~the any party submitting the interrogatories~~ may move for an order under rule 37(a) with respect to any objection to or other failure to answer an interrogatory.

(b) Unchanged.

(c) Option To Produce Business Records. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom

the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. A specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer may be ascertained.

CR 34

PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES

(a) Unchanged.

(b) Procedure. The request may, without leave of court, be served upon the plaintiff after the summons and a copy of the complaint are served upon the defendant, or the complaint is filed, whichever shall first occur, and upon any other party with or after service of the summons and complaint upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place and manner of making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within 20 days after the service of the request, except that a defendant may serve a response within 40 days after service of the summons and complaint upon that defendant. The parties may stipulate or the court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(c) Unchanged.

CR 36

REQUESTS FOR ADMISSION

(a) Request for Admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of rule 26(b) set forth in the request that relate to statements or opinions of fact or of

the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the plaintiff after the summons and a copy of the complaint are served upon the defendant, or the complaint is filed, whichever shall first occur, and upon any other party with or after service of the summons and complaint upon that party. Requests for admission shall not be combined in the same document with any other form of discovery.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 20 days after service of the request, or within such shorter or longer time as the court may allow the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 40 days after service of the summons and complaint upon him. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of rule 37(c), deny the matter or set forth reasons why he cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The provisions of rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(b) Unchanged.

CR 37

FAILURE TO MAKE DISCOVERY: SANCTIONS

(a) Motion for Order Compelling Discovery. A party, upon reasonable notice to other parties and all persons affected thereby, may apply to the court in the county

where the deposition was taken, or in the county where the action is pending, for an order compelling discovery as follows:

(1) Appropriate Court. An application for an order to a party may be made to the court in which the action is pending, or on matters relating to a deposition, to the court in the county where the deposition is being taken. An application for an order to a deponent who is not a party shall be made to the court in the county where the deposition is being taken.

(2) Motion. If a deponent fails to answer a question propounded or submitted under rules 30 or 31, or a corporation or other entity fails to make a designation under rule 30(b)(6) or 31(a), or a party fails to answer an interrogatory submitted under rule 33, or if a party, in response to a request for inspection submitted under rule 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering any party may move for an order compelling an answer or a designation, or an order compelling inspection in accordance with the request. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order.

If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to rule 26(c).

(3) Unchanged.

(4) Unchanged.

(b) Failure to Comply with Order.

(1) Sanctions by Court in ~~District~~ County Where Deposition is Taken. If a deponent fails to be sworn or to answer a question after being directed to do so by the court in the county in which the deposition is being taken, the failure may be considered a contempt of that court.

(2) Sanctions by Court in Which Action is Pending. If a party or an officer, director, or managing agent of a party or a person designated under rule 30(b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under section (a) of this rule or rule 35, or if a party fails to obey an order entered under rule 26(f), the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(A) Unchanged.

(B) Unchanged.

(C) Unchanged.

(D) Unchanged.

(E) Unchanged.

(c) Unchanged.

(d) Unchanged.

(e) Failure to Participate in the Framing of a Discovery

CR 44(a)

(a) Authentication.

(1) Domestic. An official record kept within the United States, or any state, district, commonwealth, territory, trust territory or insular possession thereof, or within

~~the Panama Canal Zone, the Trust Territory of the Pacific Islands, or the Ryukyu Islands, any state of free association with the United States, or an entry therein,~~ when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied by a certificate that such officer has the custody. The certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office or official custody of the seal of the political subdivision and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office or the seal of the political subdivision.

(2) Foreign. A foreign official record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof; or a copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position (A) of the attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice-consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the court may, for good cause shown, either admit an attested copy without final certification or permit the foreign official record to be evidenced by an attested summary with or without a final certification. The final certification shall be dispensed with whenever both the United States and the foreign country in which the official record is located are parties to a treaty or convention that abolishes or displaces such requirement, in which case the record and the attestation shall be certified by the means provided in the treaty or convention.

CR 52

DECISIONS, FINDINGS AND CONCLUSIONS

(a) Unchanged.

(b) Unchanged.

(c) Presentation. Unless an emergency is shown to exist, or a party has failed to appear at a hearing or trial, the court shall not sign findings of fact or conclusions of law until the defeated party or parties have received 5 days' notice of the time and place of the submission, and have been served with copies of the proposed findings and conclusions. Persons who have failed to appear at a hearing or trial after notice, may, in the discretion of the trial court, be deemed to have waived their right to notice of presentation or previous review of the proposed findings and conclusions.

(d) Unchanged.

(e) Unchanged.

CR 56

SUMMARY JUDGMENT

(a) Unchanged.

(b) Unchanged.

(c) Motion and Proceedings. The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party, prior to the day of hearing, may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

(d) Unchanged.

(e) Unchanged.

(f) Unchanged.

(g) Unchanged.

CR 67

DEPOSIT IN COURT

In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of court, may deposit with the court all or any part of such sum or thing; whether or not that party claims all or any part of the sum or thing. The party making the deposit shall serve the order permitting deposit on the clerk of the court. Money paid into court under this rule shall be deposited and withdrawn in accordance with the provisions of RCW 4.44.480 through 4.44.500 or any like statute or rule.

Reviser's note: Pursuant to RCW 34.08.040, the style and format of this order appear exactly as filed by the State Supreme Court, with the exception of the bracketed rule number headings, which have been supplied by the code reviser for clarification.

WSR 85-13-044

EXECUTIVE ORDER

OFFICE OF THE GOVERNOR

[EO 85-04]

Establishing the Task Force on Support Enforcement

WHEREAS, support enforcement and related issues surrounding separation, divorce and parental responsibility have become major social issues and are of significant importance to the state of Washington; and,

WHEREAS, external pressures, and the growth and complexity of these problems indicate that the state may be required to assume a catalyst role in their resolution; and,

WHEREAS, it is desirable and beneficial to create a forum through which we can define the state's appropriate role and develop a clear and comprehensive implementation plan.

NOW, THEREFORE, I, Booth Gardner, Governor of the state of Washington, by virtue of authority vested in me by law, do hereby establish the Executive Task Force on Support Enforcement, to be composed of 21 members from judicial, legislative and executive branches of government, academic experts and citizen representatives. I have appointed the Secretary of the Department of Social and Health Services to serve as chair of the Task Force. This Task Force is appointed for one year, and shall have responsibility for developing, and submitting to me, a comprehensive plan for Washington's future role in child support enforcement and related issues.

IN WITNESS WHERE-
OF, I have hereunto set my
hand and caused the seal of
the state of Washington to
be affixed at Olympia this
13th day of June, A.D.,
nineteen hundred and
eighty-five.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Guy Dorland

Acting Deputy
Secretary of State

WSR 85-13-045
PROPOSED RULES
HOSPITAL COMMISSION
[Filed June 17, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Hospital Commission intends to adopt, amend, or repeal rules concerning the amending of the text of the commission's *Accounting and Reporting Manual for Hospitals*, second edition, filed with the code reviser on June 8, 1984, as Order Number 84-01, but not published as part of the Washington Administrative Code. System of accounts, chapters 2000, 8000 and 10000, are amended to provide instructions for submitting charity care data as required by chapter 261-14 WAC. The quarterly report and SS-8 forms contained within chapter 10000 of the commission's *Accounting and Reporting Manual for Hospitals* are also amended to provide for reporting of charity care data as required by chapter 261-14 WAC;

that the agency will at 9:30 a.m., Thursday, July 25, 1985, in the Vance Airport Inn, Seattle, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 70.39.180(1) and 34.04.020.

The specific statute these rules are intended to implement is chapter 70.39 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 19, 1985.

Dated: June 13, 1985
By: Maurice A. Click
Executive Director

STATEMENT OF PURPOSE

Title and Number of Rule Changes: Chapter 261-20 WAC, Regulation relating to and establishment of a uniform system of accounting and financial reporting.

Statutory Authority: RCW 70.39.100.

Summary of the Rule: This rule amends the text of the commission's *Accounting and Reporting Manual for Hospitals*, second edition, filed with the code reviser on June 8, 1984, as Order Number 84-01, but not published as part of the Washington Administrative Code. This rule provides instructions for submitting charity care data as required by chapter 261-14 WAC and revises the quarterly report and SS-8 forms.

Reasons Supporting the Proposed Rule: The commission is required to adopt uniform procedures, data requirements, and criteria for identifying patients receiving charity care and a definition of residual bad debt, including reasonable and uniform standards for collection procedures to be used in efforts to collect the unpaid portion of hospital charges that are the patient's responsibility. This amendment provides instructions and revised quarterly report and SS-8 forms for submission of charity care data as required by chapter 261-14 WAC.

Persons Responsible for the Drafting, Implementation and Enforcement of the Rule Changes: Maurice A. Click, Executive Director, and Mary K. Bensen, Deputy Director, Washington State Hospital Commission, MS FJ-21, Olympia, Washington 98504, (206) 753-1990.

These rules are not necessary to comply with a federal law, a federal or state court decision.

Pursuant to RCW 19.85.040, the Hospital Commission submits the following small business economic impact statement. The Hospital Commission's rules currently provide for an alternative system for reporting by smaller hospitals: WAC 261-20-074 et seq. The proposed revisions retain these specialized and reduced reporting requirements for smaller hospitals. The staff of the Hospital Commission believes that this alternative reporting system enables the smaller hospitals to report the information required by the statute in the least onerous fashion.

Reviser's note: The text of the proposed amendments to the Washington State Hospital Commission's *Accounting and Reporting Manual for Hospitals*, second edition, has been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the proposed Washington State Hospital Commission's *Accounting and Reporting Manual for Hospitals*, second edition, can be obtained by writing to the Washington State Hospital Commission, Mailstop FJ-21, Olympia, WA 98504.

WSR 85-13-046
ADOPTED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Order 85-13—Filed June 17, 1985]

insurance accident fund base rates and medical aid rates by class of industry shall be as set forth below.

((Rates Effective
 January 1, 1985

I, Richard A. Davis, director of the Department of Labor and Industries, do promulgate and adopt at the General Administration Building, Olympia, Washington 98504, the annexed rules relating to revising the accident fund and medical aid base rates of each risk classification for workers' compensation insurance underwritten by the Department of Labor and Industries.

This action is taken pursuant to Notice No. WSR 85-10-067 filed with the code reviser on May 1, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 51.16.035 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 17, 1985.

By R. A. Davis
 Director

AMENDATORY SECTION (Amending Order 82-38, filed 11/29/82, effective 1/1/83)

WAC 296-17-850 EXPERIENCE RATING PLAN—ELIGIBILITY AND EXPERIENCE PERIOD. (1) Eligibility. Each employer who has reported experience during more than one fiscal year of the "experience period" shall have his base rates multiplied by an "experience modification" calculated in accordance with the rules of this manual. The development of the "experience modification" as set forth in WAC 296-17-855 shall include losses and exposure reported in all risk classes: PROVIDED, That the "experience modification" determined in accordance with WAC 296-17-855 shall not apply to industrial insurance rates in the following classes: 5-5 (WAC 296-17-520), 5-6 (WAC 296-17-52001), 5-7 (WAC 296-17-52002), and 48-7 (WAC 296-17-648). Employer premiums in the foregoing classes shall be computed at base industrial insurance rates as set forth in WAC 296-17-895.

(2) Experience period. The "experience period" shall be the oldest three of the ((four)) five fiscal years preceding the effective date of premium rates as set forth in WAC 296-17-895.

AMENDATORY SECTION (Amending Order 85-7, filed 2/28/85, effective 4/1/85)

WAC 296-17-895 INDUSTRIAL INSURANCE ACCIDENT FUND BASE RATES AND MEDICAL AID RATES BY CLASS OF INDUSTRY. Industrial

Class	Accident Fund Base Rate	Medical Aid Fund Rate
1-1	.6897	.4712
1-2	.4642	.4157
1-3	.5756	.5629
1-4	.4729	.3509
1-5	.5802	.5533
1-6	1.1119	.7710
1-7	.5008	.3805
1-8	.5516	.3842
1-9	.9017	.7761
2-1	1.2644	.8667
2-2	1.4438	1.0578
2-6	.6145	.5299
3-1	.3027	.2989
3-2	.9070	.4880
3-6	.2985	.3109
3-7	.2849	.3448
4-1	1.1969	.9475
4-2	.7472	.8755
4-3	.8635	.6254
5-2	.5704	.4199
5-3	.3547	.4093
5-4	.6620	.4903
5-5	.6870	.5786
5-6	.8826	.7491
5-7	.9005	.7277
5-8	1.0040	.7730
5-9	.8546	.6579
6-1	.2488	.2646
6-2	.2606	.2413
6-3	.4458	.2739
6-4	.6820	.7121
6-6	.1259	.1492
6-7	.1643	.1710
6-8	.2488	.2646
7-1	.6832	.7223
8-3	.2346	.2085
8-4	.3787	.5207
9-1	1.2688	.4948
10-2	.6220	.4093
10-3	.3633	.2779
10-4	.3633	.2779
10-5	1.5333	1.0170
10-7	.0491	.0727
11-1	.2739	.2697
11-2	.6368	.4830
11-3	.2111	.2125
11-4	.2761	.2916
11-6	.0602	.0957
11-8	.2853	.2897
13-1	.2165	.2266
13-3	.1165	.1643

((Rates Effective
January 1, 1985

((Rates Effective
January 1, 1985

Class	((Rates Effective January 1, 1985		Class	((Rates Effective January 1, 1985	
	Accident Fund-Base Rate	Medical Aid-Fund Rate		Accident Fund-Base Rate	Medical Aid-Fund Rate
13-4	.0072	.0140	36-6	.3566	.3526
13-5	.1350	.1884	37-1	.1144	.1506
14-1	.4712	.5766	37-2	.2944	.2461
14-4	.2812	.1908	37-7	.2132	.2141
15-1	.2097	.2296	37-8	.1195	.1352
15-7	.1744	.1764	38-1	.1560	.1784
17-1	1.1894	.6408	38-2	.0950	.1075
17-2	1.1894	.6408	38-8	.1061	.1199
17-3	.3126	.2402	39-1	.1858	.1632
17-4	.3434	.3618	39-2	.3561	.3063
18-1	.4416	.4813	39-3	.5012	.6399
20-2	.3628	.2953	39-5	.0759	.1165
20-3	.2348	.2312	39-6	.2698	.2807
20-4	.4022	.4622	39-9	.0967	.1452
20-5	.1918	.2349	40-2	.3949	.2951
20-7	.2304	.2400	41-1	.0744	.0994
20-8	.1591	.1500	41-3	.1386	.1872
21-1	.2665	.2907	41-7	.0394	.0577
21-2	.2348	.2312	41-8	.0744	.0994
21-4	.1039	.1658	41-9	.0744	.0994
21-5	.4050	.3988	42-1	.2878	.2277
22-1	.1438	.1335	43-1	.4455	.4505
22-2	.2069	.1612	43-2	.4374	.4525
24-1	.3419	.3343	43-3	.4736	.5513
29-3	.4101	.4165	43-4	.3737	.3327
29-4	.5145	.4117	43-5	.6971	.4550
29-6	.2615	.2753	44-1	.2475	.2277
29-8	.4168	.4232	44-2	.3239	.3004
31-1	.4325	.3453	44-4	.2348	.2312
31-2	.3122	.2466	45-1	.0696	.0772
31-3	.3122	.2466	45-2	.0287	.0267
31-4	.3424	.2733	45-4	.0355	.0641
31-5	.4718	.4629	46-1	.2762	.4672
33-1	.4532	.4365	48-2	.1319	.1340
33-2	.3269	.3180	48-3	.1562	.2269
33-3	.1760	.2333	48-4	.3137	.3029
33-9	.2279	.3075	48-5	.1642	.1788
34-1	.2201	.2312	48-6	.0409	.0534
34-2	.2318	.2810	48-7	.6870	.5786
34-3	.0728	.0529	48-8	.1807	.2547
34-4	.2761	.2897	48-9	.1109	.1211
34-5	.1200	.1223	49-1	.0358	.0565
34-6	.1029	.1842	49-2	.0804	.0914
34-7	.1759	.2141	49-3	.0358	.0565
34-8	.0680	.0793	49-4	.0089	.0122
34-9	.1014	.1308	49-5	.1460	.1484
35-1	.2660	.3516	49-6	.0294	.0374
35-3	.1849	.2459	49-7	.0584	.0574
35-6	.3539	.2729	49-8	.0596	.1286
35-8	.2028	.2459	49-9	.0596	.1286
36-2	.0516	.0637	50-1	2.1618	1.5449
36-3	.2735	.3318	50-2	.2249	.2750
36-4	.4951	.4203	50-3	.7123	.3866
36-5	.1790	.2027	50-4	.3808	.4928

((Rates Effective
January 1, 1985

((Rates Effective
January 1, 1985

Class	Accident Fund-Base Rate	Medical Aid-Fund Rate
51-1	.4732	.4309
51-2	.7544	.7078
51-3	.6477	.5469
51-6	.3264	.4004
51-8	.4214	.4669
51-9	.3154	.2806
52-1	.2275	.2250
52-4	.8762	.4040
52-6	.2450	.2506
52-7	.0746	.0964
52-8	.4017	.4901
52-9	.3101	.3760
53-1	.0094	.0135
53-5	.0160	.0199
53-6	.0188	.0172
53-7	.1167	.1142
61-3	.0182	.0277
61-4	.2076	.2027
61-5	.1216	.1578
61-7	.0899	.1087
61-8	.2379	.2306
61-9	.0213	.0233
62-1	.0914	.1098
62-2	.3765	.3076
62-3	.0693	.0824
62-4	.0766	.1057
62-5	.0766	.1057
62-6	.0766	.1057
62-7	.4319	.7898
62-8	.1486	.1633
62-9	.1109	.1970
63-1	.0672	.0595
63-2	.0954	.0859
63-3	.0256	.0277
63-4	.0719	.0729
63-5	.0324	.0482
63-6	.1022	.1537
63-8	.0223	.0188
63-9	.0542	.0854
64-2	.1326	.1222
64-3	.0798	.1023
64-4	.0279	.0387
64-5	.2361	.2813
64-6	.0437	.0544
64-7	.1031	.1215
64-8	.1747	.2354
64-9	.2597	.3415
65-1	.0235	.0256
65-2	.0083	.0123
65-3	.0706	.0394
65-4	.0955	.1589

Class	Accident Fund-Base Rate	Medical Aid-Fund Rate
65-5	.1020	.1077
65-6	.0249	.0308
65-8	.1718	.1967
65-9	.0959	.1225
66-1	.1335	.1521
66-2	.2489	.2088
66-3	.1306	.1409
66-4	.0410	.0440
66-5	.1086	.1299
66-7	.0746	.0964
66-8	.1691	.1301
66-9	.9389	1.1782
67-4	.0967	.1220
67-5	.2727	.4213
67-6	.1522	.1847
67-7	4.66*	8.98*
67-8	1.0846	1.0980
67-9	.0681	.1052
68-1	.3776	.2545
68-2	.2118	.2730
68-3	1.8960	1.5451
68-4	.1230	.1576
68-9	1.0015	2.0736
69-1	-	.0562
69-2	.6083	.3585
69-3	2.4133	2.7010
69-4	.1876	.1990
69-5	.1876	.1990
69-6	-	.1990
69-7	.6494	.5735
69-8	.2631	.2148
69-9	.0451	.0544
71-1	.0243	.0256
71-2	7.20*	27.14*
71-3	.1081	.1108
71-4	.0216	.0209
71-5	.1581	.1456
71-6	.2772	.2683
71-7	.3861	.4111
71-8	.9391	.7929
71-9	2.5333	2.2113
72-1	.1155	.1154
72-2	.0294	.0296
72-3	.0547	.0575
72-4	-	-
73-1	.2179	.3068
73-2	.2170	.3079
73-7	.2145	.3109
73-8	.1042	.1235
73-9	.0681	.1052))

Rates Effective
July 1, 1985

Class	<u>Accident Fund Base Rate</u>	<u>Medical Aid Fund Rate</u>
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1-1	.9173	.5169
1-2	.6174	.4560
1-3	.7655	.6175
1-4	.6290	.3849
1-5	.7717	.6070
1-6	1.4788	.8458
1-7	.6661	.4174
1-8	.7336	.4215
1-9	1.1993	.8514
2-1	1.6817	.9508
2-2	1.9203	1.1604
2-6	.8173	.5813
3-1	.4026	.3279
3-2	1.2063	.5353
3-6	.3970	.3411
3-7	.3789	.3782
4-1	1.5919	1.0394
4-2	.9938	.9604
4-3	1.1485	.6861
5-2	.7586	.4606
5-3	.4718	.4490
5-4	.8805	.5379
5-5	.9137	.6347
5-6	1.1739	.8218
5-7	1.1977	.7983
5-8	1.3353	.8480
5-9	1.1366	.7217
6-1	.3309	.2903
6-2	.3466	.2647
6-3	.5929	.3005
6-4	.9071	.7812
6-6	.1674	.1637
6-7	.2185	.1876
6-8	.3309	.2903
7-1	.9087	.7924
8-3	.3120	.2287
8-4	.5037	.5712
9-1	1.6875	.5428
10-2	.8273	.4490
10-3	.4832	.3049
10-4	.4832	.3049
10-5	2.0393	1.1156
10-7	.0653	.0798
11-1	.3643	.2959
11-2	.8469	.5299
11-3	.2808	.2331
11-4	.3672	.3199
11-6	.0801	.1050
11-8	.3794	.3178
13-1	.2879	.2486
13-3	.1549	.1802
13-4	.0096	.0154
13-5	.1796	.2067
14-1	.6267	.6325

Rates Effective
July 1, 1985

Class	<u>Accident Fund Base Rate</u>	<u>Medical Aid Fund Rate</u>
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14-4	.3740	.2093
15-1	.2789	.2519
15-7	.2320	.1935
17-1	1.5819	.7030
17-2	1.5819	.7030
17-3	.4158	.2635
17-4	.4567	.3969
18-1	.5873	.5280
20-2	.4825	.3239
20-3	.3123	.2536
20-4	.5349	.5070
20-5	.2551	.2577
20-7	.3064	.2633
20-8	.2116	.1646
21-1	.3544	.3189
21-2	.3123	.2536
21-4	.1382	.1819
21-5	.5387	.4375
22-1	.1913	.1464
22-2	.2752	.1768
24-1	.4547	.3667
29-3	.5454	.4569
29-4	.6843	.4516
29-6	.3478	.3020
29-8	.5543	.4643
31-1	.5752	.3788
31-2	.4152	.2705
31-3	.4152	.2705
31-4	.4554	.2998
31-5	.6275	.5078
33-1	.6028	.4788
33-2	.4348	.3488
33-3	.2341	.2559
33-9	.3031	.3373
34-1	.2927	.2536
34-2	.3083	.3083
34-3	.0968	.0580
34-4	.3672	.3178
34-5	.1596	.1342
34-6	.1369	.2021
34-7	.2339	.2349
34-8	.0904	.0870
34-9	.1349	.1435
35-1	.3538	.3857
35-3	.2459	.2698
35-6	.4707	.2994
35-8	.2697	.2698
36-2	.0686	.0699
36-3	.3638	.3640
36-4	.6585	.4611
36-5	.2381	.2224
36-6	.4743	.3868
37-1	.1522	.1652
37-2	.3916	.2700

Rates Effective
July 1, 1985

Rates Effective
July 1, 1985

<u>Class</u>	<u>Accident Fund Base Rate</u>	<u>Medical Aid Fund Rate</u>
37-7	.2836	.2349
37-8	.1589	.1483
38-1	.2075	.1957
38-2	.1264	.1179
38-8	.1411	.1315
39-1	.2471	.1790
39-2	.4736	.3360
39-3	.6666	.7020
39-5	.1009	.1278
39-6	.3588	.3079
39-9	.1286	.1593
40-2	.5252	.3237
41-1	.0990	.1090
41-3	.1843	.2054
41-7	.0524	.0633
41-8	.0990	.1090
41-9	.0990	.1090
42-1	.3828	.2498
43-1	.5925	.4942
43-2	.5817	.4964
43-3	.6299	.6048
43-4	.4970	.3650
43-5	.9271	.4991
44-1	.3292	.2498
44-2	.4308	.3295
44-4	.3123	.2536
45-1	.0926	.0847
45-2	.0382	.0293
45-4	.0472	.0703
46-1	.3673	.5125
48-2	.1754	.1470
48-3	.2077	.2489
48-4	.4172	.3323
48-5	.2184	.1961
48-6	.0544	.0586
48-7	.9137	.6347
48-8	.2403	.2794
48-9	.1475	.1328
49-1	.0476	.0620
49-2	.1069	.1003
49-3	.0476	.0620
49-4	.0118	.0134
49-5	.1942	.1628
49-6	.0391	.0410
49-7	.0777	.0630
49-8	.0793	.1411
49-9	.0793	.1411
50-1	2.8752	1.6948
50-2	.2991	.3017
50-3	.9474	.4241
50-4	.5065	.5406
51-1	.6294	.4727
51-2	1.0034	.7765
51-3	.8614	.5999

<u>Class</u>	<u>Accident Fund Base Rate</u>	<u>Medical Aid Fund Rate</u>
51-6	.4341	.4392
51-8	.5605	.5122
51-9	.4195	.3078
52-1	.3026	.2468
52-4	1.1653	.4432
52-6	.3259	.2749
52-7	.0992	.1058
52-8	.5343	.5376
52-9	.4124	.4125
53-1	.0125	.0148
53-5	.0213	.0218
53-6	.0250	.0189
53-7	.1552	.1253
61-3	.0242	.0304
61-4	.2761	.2224
61-5	.1617	.1731
61-7	.1196	.1192
61-8	.3164	.2530
61-9	.0283	.0256
62-1	.1216	.1205
62-2	.5007	.3374
62-3	.0922	.0904
62-4	.1019	.1160
62-5	.1019	.1160
62-6	.1019	.1160
62-7	.5744	.8664
62-8	.1976	.1791
62-9	.1475	.2161
63-1	.0894	.0653
63-2	.1269	.0942
63-3	.0340	.0304
63-4	.0956	.0800
63-5	.0431	.0529
63-6	.1359	.1686
63-8	.0297	.0206
63-9	.0721	.0937
64-2	.1764	.1341
64-3	.1061	.1122
64-4	.0371	.0425
64-5	.3140	.3086
64-6	.0581	.0597
64-7	.1371	.1333
64-8	.2324	.2582
64-9	.3454	.3746
65-1	.0313	.0281
65-2	.0110	.0135
65-3	.0939	.0432
65-4	.1270	.1743
65-5	.1357	.1181
65-6	.0331	.0338
65-8	.2285	.2158
65-9	.1275	.1344
66-1	.1776	.1669
66-2	.3310	.2291

Rates Effective
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Class	Accident Fund Base Rate	Medical Aid Fund Rate
66-3	.1737	.1546
66-4	.0545	.0483
66-5	.1444	.1425
66-7	.0992	.1058
66-8	.2249	.1427
66-9	1.2487	1.2925
67-4	.1286	.1338
67-5	.3627	.4622
67-6	.2024	.2026
67-7	6.20*	9.85*
67-8	1.4425	1.2045
67-9	.0906	.1154
68-1	.5022	.2792
68-2	.2817	.2995
68-3	2.5217	1.6950
68-4	.1636	.1729
68-9	1.3320	2.2747
69-1	-	.0617
69-2	.8090	.3933
69-3	3.2097	2.9630
69-4	.2495	.2183
69-5	.2495	.2183
69-6	-	.2183
69-7	.8637	.6291
69-8	.3499	.2356
69-9	.0600	.0597
71-1	.0323	.0281
71-2	9.58*	29.77*
71-3	.1438	.1215
71-4	.0287	.0229
71-5	.2103	.1597
71-6	.3687	.2943
71-7	.5135	.4510
71-8	1.2490	.8698
71-9	3.3693	2.4258
72-1	.1536	.1266
72-2	.0391	.0325
72-3	.0728	.0631
72-4	-	-
73-1	.2898	.3366
73-2	.2886	.3378
73-7	.2853	.3411
73-8	.1386	.1355
73-9	.0906	.1154

*Daily rate. The daily rate shall be paid in full on any person for any calendar day in which any duties are performed that are incidental to the profession of the worker.

WSR 85-13-047
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed June 17, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules relating to the use of biological products in animal health care, chapter 16-42 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 9, 1985.

The authority under which these rules are proposed is chapter 16.36 RCW.

This notice is connected to and continues the matter in Notice Nos. WSR 85-09-061 and 85-12-025 filed with the code reviser's office on April 17, 1985, and May 31, 1985.

Dated: June 17, 1985
By: Mike Willis
Assistant Director

WSR 85-13-048
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 17, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning AFDC and GAU—Eligibility—Need, amending chapter 388-28 WAC;

that the agency will at 2:00 p.m., Thursday, July 25, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 31, 1985.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.12 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 25, 1985.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration and Personnel
Department of Social and Health Services
Mailstop OB 14
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 11, 1985. The meeting site is in a location which is barrier free.

Dated: June 17, 1985

By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

Re: Chapter 388-28 WAC.

Purpose of the Rule Change: To implement the Deficit Reduction Act of 1984, comply with federal requirements and settle a court suit in the case of Pearson v. Rahm.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: WAC 388-28-300, reference to WAC 388-28-030 is changed to WAC 388-22-030 to correct a typographical error. WAC 388-28-355, references to presumptive spouse are changed to nonrelated adult. This has been done to avoid any possible confusion in terms which would result in including a nonresponsible person in the household unit. This term also includes persons who are not necessarily acting as a spouse but who are willing and able to contribute financially to the assistance unit. This change is to clarify who is financially responsible and specify that nonfamily members may voluntarily contribute but cannot be part of the assistance unit. The basic principle or rule has not been changed. A nonrelated person may voluntarily contribute financially, but may not be part of the assistance unit. This rule is necessary to be in compliance with federal regulations. (233.90(a)(1)) WAC 388-28-475, reference to WAC 388-28-400 through 388-28-455 is corrected to WAC 388-28-400 through 388-28-457. An editorial change. WAC 388-28-420 (2)(6), 388-28-438(1), 388-28-439 and 388-28-520, these sections have been rearranged and a new section added that covers the treatment of property used in self employment. The treatment of accounts receivable is clarified. The rule has not been changed, accounts receivable are an exempt resource under an agreed plan as long as diligent effort is made to collect. This rule is necessary to be in compliance with federal regulations. (223.20(6)(B)) WAC 388-28-425, real property (other than the home) with net equity value in excess of the resource maximum can be exempt for up to nine months provided a good faith effort is being made to sell the property. An agreement to repay and a lien are filed at time of application. If the property is sold within nine months the amount of the overpayment will be the amount of aid received, but not to exceed the net proceeds of the sale. If the property is not sold within nine months or eligibility ceases for any other reason, the entire amount of assistance received is an overpayment. The change is necessary to be in compliance with the Deficit Reduction Act of 1984. WAC 388-28-435(7), an income tax refund is considered a resource in the month received rather than income. This change is made as a result of the Pearson v. Rahm court case decision. WAC 388-28-450, this section has been reorganized. There has been no wording or rule change. WAC 388-28-475(1), reference to "presumptive spouse" is changed to "nonrelated adult." Reference to WAC 388-28-300 through 388-28-395 is corrected to WAC 388-28-300 through 388-28-420. WAC 388-28-480(c), deletes "circumstances" as affecting the third and subsequent

months grant amounts as inappropriate. Grant amounts are affected by income received during the budget/report month. Corrects the exception reference. Corrects the cross reference for exception to this rule. This change is made to be in compliance with the Code of Federal Regulations. (233.33) WAC 388-28-480(5), deletes "contractually agreed" loans as exceptions to considering loans as income. All loans are considered income unless obtained and used for purposes other than current maintenance. This change is made to be in compliance with the Code of Federal Regulations. (233.20) WAC 388-28-483 (2)(a)(b), clarifies that if prospective budgeting is in error an overpayment must be established or a correcting payment made. This is to be in compliance with federal regulations. (233.33) WAC 388-28-483 (4)(a), deletes "circumstances" as a condition for retroactive budgeting. WAC 388-28-483 (4)(c), adds more definitive language for noncurrent income budgeting in the third and fourth months of eligibility. This is to be in compliance with federal regulations. (233.35) WAC 388-28-484(7), reference to WAC 388-28-484 is corrected to read "subsection (7)(a)." WAC 388-28-500 (2)(d), reference to presumptive spouse is changed to nonrelated adult. WAC 388-28-500(4), this is a new subsection which specifies the conditions in which the income of a minor parent's parent or legal guardian, less applicable disregards, must be considered available to meet the needs of such minor parent. This change is to be in compliance with the Deficit Reduction Act of 1984. WAC 388-28-500 (5)(6), these sections deleted as inappropriate references to medical programs. Subsequent sections are renumbered. WAC 388-28-515 (1)(b), this section is deleted as incentive payments are not provided by JTPA. WAC 388-28-515(3), the section was changed to clarify that the earned income exemption is allowed in addition to the other expenses described in this section. This does not represent a change in rule. WAC 388-28-535(2), changes rule to no longer provide the family an option as to whether a child is included in or excluded from the assistance unit. Specifies how the income of an ineligible child is considered including the income of a child who is a minor parent. This subsection also specifies how the income of a stepchild is treated when such stepchild is included in or excluded from the assistance unit at the option of the family. This rule is revised to comply with the Deficit Reduction Act of 1984. WAC 388-28-570(3), clarifies earned income includes earnings from JTPA and deletes public service employment as no longer appropriate. WAC 388-28-570 (4)(d), deletes language pertaining to treatment of unearned income from JTPA as inappropriate. WAC 388-28-570 (6)(a)(ii), adds the amount of dependent care costs paid must be verified by the provider on a form prescribed by the department and must have been paid from declared earnings. WAC 388-28-570 (6)(d), clarifies when exemptions and deductions are not allowed if a recipient fails without good cause to report earnings to the department. The clarifications correct the language to be in compliance with the CFR. (233.20) WAC 388-28-570 (6)(d), clarifies when exemptions and deductions are not allowed if a recipient

fails without good cause to report earnings to the department. The clarifications correct the language to be in compliance with the CFR. (233.20) WAC 388-28-575(g), deletes specific language of JTPA. JTPA income is considered as any other income, earned or unearned. This does not represent a change in how the income is treated.

Persons Responsible for the Drafting, Implementation and Enforcement of the Rule Change: Betty Brinkman and Bill Hosford, Program Managers, Division of Income Assistance, mailstop OB 31C, phone 753-4908/753-1735.

Some of these rules are necessary to comply with federal law. Some are necessary to comply with a state court decision. Some are neither.

AMENDATORY SECTION (Amending Order 1241, filed 9/23/77)

WAC 388-28-300 PROPERTY RIGHTS AND ENTITLEMENTS. WAC 388-28-300 through 388-28-392 deal with rules governing rights to property as these affect eligibility for public assistance. "Property" as used in this section includes both "resources" and "income" as defined in WAC (~~(388-28-030)~~) 388-22-030.

AMENDATORY SECTION (Amending Order 1940, filed 1/28/83)

WAC 388-28-355 (~~((PRESUMPTIVE SPOUSE))~~) NONRELATED ADULT IN HOUSEHOLD. (1) When a dependent child lives with one parent and another person (~~((whom the department presumes to be the spouse but who is))~~) not legally married to the parent:

(a) The parent must declare those portions of the income and resources of the (~~((presumptive spouse which are))~~) nonrelated adult provided voluntarily for the support of the (~~((child(ren)))~~) child or children and the parent.

(b) Only such income and resources which have been stipulated by the parent to be actually available on a regular basis to meet the needs of the parent and (~~((child(ren)))~~) child or children shall be considered in determining the income available to the parent and (~~((child(ren)))~~) child or children.

(2) Unwillingness of the (~~((presumptive spouse))~~) nonrelated adult to contribute does not affect the child's eligibility for assistance.

(3) The needs of the (~~((presumptive spouse))~~) nonrelated adult may not be included in the assistance unit - see WAC (~~((388-24-050(4)))~~) 388-24-050(1), 388-29-020 and 388-29-080(3).

(4) The natural parent is not relieved of a legal obligation to support his or her child by contributions from the (~~((presumptive spouse))~~) non-related adult toward the child's support.

AMENDATORY SECTION (Amending Order 2087, filed 3/14/84)

WAC 388-28-420 EFFECT OF RESOURCES ON FINANCIAL NEED—REAL PROPERTY—HOME. (1) The applicant's home is an exempt resource subject to the conditions specified. There is no ceiling value on the home.

(2) A home is defined as real property owned and used by an applicant as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, including property normally considered and used as a part of a home, such as:

- (a) Yard and home garden space;
- (b) Road to get to the home;
- (c) Right of way to and land holding a water supply;
- (d) Outbuildings and land on which they are located serving a normal and useful function of the home, such as garage, woodshed, chicken house, barn, pasture for cow, etc. In this connection, the use of necessary land and buildings to produce self-consumed products is considered as a reasonable part of the home property;

(e) (~~((Land and buildings necessary to carry out the functions when such a plan is approved by the CSO))~~) Real property used in a self-employment enterprise is treated according to WAC 388-28-439.

Property in addition to that covered under subsections (2)(a) through (2)(e) of this section is considered under WAC (~~((388-28-455))~~) 388-28-425 and 388-28-450.

(3) The home when used as a place of residence by the applicant or by his or her dependents is an exempt resource.

(a) "Dependents" as used in this section means spouse of the applicant and/or minor children and disabled sons or daughters.

(b) "Disabled sons or daughters" means one or more unmarried, natural or adopted, minor or adult sons or daughters with a medically-verified disability significantly handicapping them in performing employment or homemaking activities and dependent on the applicant for their livelihood.

(4) When the home is not being used for residential purposes by the applicant or by his or her dependents, the property shall be considered as a nonexempt resource subject to the exceptions in subsections (4)(a) and (b) of this section.

(a) An applicant absent from his or her home for temporary visits is considered as continuing to reside in his or her home unless he or she expresses his or her intent to abandon the home as a residence.

(b) Effective June 12, 1980, an applicant absent from his or her home for more than ninety days is presumed to have abandoned the home for residential purposes, except when such absence is due to natural disaster, hospitalization, or other health reasons. When such absence is over ninety days, and there is cause to believe the applicant will be unable to return to his or her home and the home is not occupied by his or her dependents, there shall be a rebuttable presumption the home is a nonexempt resource when the following conditions are met.

(i) The individual specifies in writing his or her intent not to return to the home and use the home as his or her place of residence either for himself or herself, or for his or her dependents, or

(ii) For medical absences, the CSO administrator, with the cooperation of the medical consultant, shall contact the president of the local medical society and ask that three doctors, one of which may be the attending doctor, review the existing medical findings and history and provide the CSO with a statement signed by all three physicians that it is their professional belief and opinion the individual, for health reasons, will either be able or unable to return to his or her home property. If the conclusion reached by the three physicians is not unanimous, this shall be so indicated.

In the event the evaluation from the three physicians indicates it is their medical opinion the individual will be able to return to his or her home during his or her lifetime, the home property shall continue to be considered as exempt property.

In the event the evaluation from the three physicians indicates unanimously it is their medical opinion the individual will be unable to return to his or her home during the remainder of his or her lifetime, the home, if not occupied by his or her dependents, shall be considered nonexempt property which can be made available to meet need.

The CSO administrator shall advise the president of the local medical society, as well as the physicians selected by the president, the department will pay each physician participating in the review an amount not to exceed ten dollars per case.

(iii) For absences resulting from natural disaster, the local office administrator determines the residence is accessible and inhabitable. When a home that is determined inaccessible or uninhabitable could, in the judgment of the CSO administrator, become accessible and inhabitable with reasonable effort and expense to the applicant, the home is presumed to be a nonexempt resource.

NEW SECTION

WAC 388-28-425 EFFECT OF RESOURCES ON FINANCIAL NEED—REAL PROPERTY OTHER THAN HOME—ALL PROGRAMS. If an applicant owns real property with net equity value in excess of the resource maximum, he or she may receive assistance for a period not to exceed nine months provided:

- (1) He or she is making a good-faith effort to sell the property.
- (2) He or she signs a repayment agreement and a lien is filed with the department at the time of application to repay the amount of aid received during such period that would not have been paid had the property been sold at the beginning of such period, but not to exceed the amount of the net proceeds of such sale.

(3) If the property is not sold within the nine-month period, or if eligibility ceases for any other reason, the entire amount of aid paid during such period is an overpayment.

AMENDATORY SECTION (Amending Order 2200, filed 1/30/85)

WAC 388-28-435 EFFECT OF RESOURCES ON FINANCIAL NEED—PERSONAL PROPERTY EXEMPTIONS—CEILING VALUES—AFDC AND RA. (1) Household furnishings and

personal clothing essential for daily living are exempt resources without ceiling value. Such items in storage shall be presumed to be not essential for daily living, but all other household furnishings and personal clothing shall be presumed to be essential for daily living and both presumptions stand in the absence of evidence to the contrary.

(2) The total value of cash, marketable securities, cash discount value of real estate or chattel mortgages, sales contracts, cash surrender value of life insurance, and excess value of vehicles, value of nonexempt property, and any other resources not specifically exempted shall not exceed one thousand dollars regardless of family size. Possession of resources in excess of the maximum shall render the household ineligible.

(3) Term or burial insurance up to a maximum equity value of one thousand five hundred dollars per family member for the use of the applicant or applicants or recipient or recipients is exempt.

(4) One cemetery plot for each member of the assistance household is exempt personal property. Any additional plots shall be considered as a resource with other resources up to the ceiling maximum of one thousand dollars.

(5) One used and useful vehicle with an equity value of one thousand five hundred dollars or less is an exempt resource.

(6) Excess equity value of a used and useful vehicle and the equity value of other vehicles shall apply toward the limit in subsection (2) of this section.

(7) An income tax refund is a resource in the month received and considered with the resources in subsection (2) of this section.

AMENDATORY SECTION (Amending Order 2087, filed 3/14/84)

WAC 388-28-438 EFFECT OF RESOURCES ON FINANCIAL NEED—PERSONAL PROPERTY EXEMPTIONS—ALL PROGRAMS. (1) ~~((Other personal property, such as tools, farm machinery, livestock, business equipment, and inventory, can be declared an exempt resource by the CSO on the basis of an agreed plan. The following conditions apply:~~

~~(a) The exempted property must either produce income reducing the applicant's or recipient's need for public assistance, or aid in rehabilitating him or her or his or her dependents by providing self-employment experience which can reasonably be expected to lead to full or partial self-support.~~

~~(b) If stock, raw materials, or inventory of a business are exempted, any increase in their value must be examined to determine whether the increase is necessary to the health of the enterprise. Such increase shall not be used as a means of diverting funds which might reasonably constitute income to the recipient.~~

~~(2)) Funds represented by values within the ceiling values are not used to determine financial need or to compute grants.~~

~~((3)) (2) Funds represented by values in excess of the maxima or ceilings are nonexempt; that is, they are used to determine financial need and to compute general assistance grants. If the funds are in excess of the ceiling value for AFDC and refugee assistance, the applicant/recipient is ineligible.~~

~~((4)) (3) All cash savings held by the applicant or held jointly with any other person shall be considered. Any funds on deposit, in hand, or in any place from which cash may be drawn by the applicant, is a cash fund. A cash fund includes a bank account, savings, funds held in trust for future use (when applicant can make withdrawals), savings bonds, advance insurance premium payments, interest, etc.~~

~~((5)) (4) A joint account, ((or)) an account held for another, or funds held for others shall be considered the property of the applicant or recipient since the entire amount is at his or her disposal, except when the applicant or recipient can show that all or a portion of the funds ((deposited within the account)) is derived from funds exclusively the other holder's and held and/or utilized solely for the benefit of that ((account)) holder. All funds ((within the account)) so verified shall not be considered actually available to the applicant or recipient.~~

~~((6)) (5) The equity value in the cash discount value of a chattel mortgage or sales contract represents the value of the resource.~~

~~((7)) (6) Any payments on mortgages or contracts received by an applicant or recipient shall be considered income as specified in WAC 388-28-580.~~

~~((8)) (7) When the equity of another person in an unassignable policy held by an applicant can be established, the amount of such equity may be deducted in determining the applicant's holdings in insurance, provided the person holding the equity is named as beneficiary of the proceeds to the extent of such equity and without power or revocation by the insured.~~

~~((9)) (8) An insurance policy legally assigned belongs to the assignee and may not be regarded as the property of the insured. However, the assignment of a policy within two years prior to application or by a recipient must be evaluated as the transfer of a resource.~~

~~((10)) (9) In determining the resource value of automobiles, the national automobile dealers association official used car guide shall be used. For automobiles listed in this guide, "average loan" value in the current edition shall be presumed to be the resource value.~~

~~((11)) (10) In determining the resource value of recreational vehicles, the Kelley Bluebook R.V. Guide shall be used. For vehicles listed in this guide, "wholesale" value in the current edition shall be presumed to be the resource value.~~

~~((12)) (11) For vehicles not listed in these guides, the method of determining the resource value shall be documented in the case record.~~

~~((13)) (12) The values listed in these guides can be overcome by positive evidence to the contrary. Such evidence shall be documented in the case record.~~

~~((14)) (13) The changes to resource limits for federally funded programs will be phased in by applying them when case actions are taken and/or when eligibility is determined or redetermined.~~

NEW SECTION

WAC 388-28-439 EFFECT OF RESOURCES ON NEED—PROPERTY USED IN SELF-EMPLOYMENT. (1) Real and personal property used in a self-employment enterprise such as land, buildings, tools, farm machinery, livestock, business equipment, and inventory can be declared an exempt resource by the CSO on the basis of an agreed plan. The following conditions apply:

(a) The exempted property must either produce income reducing the applicant's or recipient's need for public assistance or aid in rehabilitating him or her or his or her dependents by providing self-employment experience which can reasonably be expected to lead to full or partial self-support.

(b) If stock, raw materials, or inventory of a business is exempted, any increase in value must be examined to determine whether the increase is necessary to the health of the enterprise. Such increase shall not be used as a means of diverting funds which might reasonably constitute income to the recipient.

(2) In the absence of an agreed plan, the business assets of a self-employment enterprise are nonexempt resources available to the owner in the amount of the sale value minus encumbrances, unless the resources are generally exempt under the provisions of WAC 388-28-420, 388-28-430, and 388-28-435.

(a) Accounts receivable are exempt resources under an agreed plan as long as diligent effort is being made to collect. If efforts to collect are unsuccessful, then the department shall require the accounts be turned over to a collection agency. Failure to do so will cause the accounts to become a nonexempt resource. When payment is received, it is treated as income pursuant to WAC 388-28-520.

(b) Good will is an intangible asset. It has no value unless the business is sold, and therefore is not an available resource.

AMENDATORY SECTION (Amending Order 2087, filed 3/14/84)

WAC 388-28-450 NONEXEMPT RESOURCES—EFFECT ON FINANCIAL NEED. ~~((+))~~ The possession of a nonexempt resource by an applicant affects his or her financial need to the extent the value of the resource decreases his or her need for public assistance.

(1) For all programs, the value assigned to such resources shall be the fair market value minus legal encumbrances.

(2) For general assistance, the value of such resource is deducted from the cost of ~~((the general assistance))~~ applicant's requirements for one month at time of application and each succeeding eligibility review. If the value of nonexempt resources exceeds one month's appropriate payment level plus additional requirements, the applicant is ineligible.

~~((2) For general assistance, the value assigned to such resources shall be the fair market value minus legal encumbrances.)~~

(3) For AFDC and RA, the ~~((value of nonexempt resources shall be the fair market value minus legal encumbrances. The))~~ fair market value shall be reassessed if the applicant provides acceptable evidence that a good-faith effort has been made to sell the resource at the fair market value determined by the department and the value is less than the resource ceiling. If the total value of the nonexempt resource exceeds the maximum in WAC 388-28-435(2), the applicant is ineligible.

AMENDATORY SECTION (Amending Order 2200, filed 1/30/85)

WAC 388-28-475 USE OF INCOME AND INCOME POTENTIALS. (1) Meaning of income (see definition in WAC ((~~388-20-030~~) 388-22-030). Income includes all types of real or personal property, support from parent, stepparent, (~~(presumptive spouse)~~) other nonrelated adult, stocks and bonds, wages, interest in an estate, income from farming, all benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, U.C., gifts and prizes in the form of cash or marketable securities, etc. Its value is used to compute financial need in accordance with the policies herein.

(2) Ownership and use of income and income potentials. The policies in WAC 388-28-300 through ((~~388-28-395~~) 388-28-420) regarding ownership and use of resources also govern the ownership and use of income and income potentials.

(3) Resources and income. WAC 388-28-400 through ((~~388-28-455~~) 388-28-457) contain policies and procedures for considering and using nonexempt resource values to determine financial need. WAC 388-28-475 through 388-28-600 covers policies and procedures used in computing income to determine financial need. The total nonexempt resource values and nonexempt net income values are compared with the appropriate payment level plus authorized additional requirements to determine financial need and, if it exists, the amount of the grant for which the applicant is eligible.

AMENDATORY SECTION (Amending Order 2200, filed 1/30/85)

WAC 388-28-480 USE OF INCOME AND INCOME POTENTIALS—TYPES OF INCOME—EFFECT ON NEED. (1) An applicant or recipient whose nonexempt net income for the month exceeds the monthly payment level plus authorized additional requirements is not eligible to receive assistance whether the income is received weekly, biweekly, or monthly, except as specified in WAC 388-24-250 through 388-24-265.

(2) Treatment of income.

(a) The grant amount for the month the application is approved shall be determined by subtracting all net income, received or reasonably expected to be received during the calendar month, from the payment level plus authorized additional requirements. The remainder shall be prorated for the number of days after grant authorization. This prorated figure is the grant amount for the first month of eligibility.

(b) The grant amount for the month following the month of initial eligibility shall be determined by subtracting all net income, received or reasonably expected to be received during the calendar month, from the payment level plus authorized additional requirements. The remainder is the grant amount for the second month of eligibility.

(c) The grant amount for the third month of assistance and subsequent months shall be based upon income ((~~and circumstances~~) received in the budget/report month). WAC ((~~388-28-483 (2) and (3)~~) 388-33-135 and 388-33-140 (1)(b) and (c) are exceptions) 388-28-483(3) is an exception to this rule.

(3) Irregular income up to five dollars per month received by a general assistance applicant or recipient may be disregarded towards meeting need by the local office if the probability exists that such future income will not be appreciable.

(4) Earned income credit (EIC) payments shall be considered earned income during the month received.

(5) Loans are ((~~not~~) considered income, as defined in RCW ((~~74.04.005(12)~~) 74.04.005(11), ((~~subject to the following restrictions~~)).

(a) Any contractually agreed loan acquired by an applicant or recipient committing all funds for a specific purpose other than current maintenance, and so expended, shall not be taken into account as income. The property used as collateral for the loan shall not be included in determining property reserves. The equity accumulated in the specified property shall be considered toward the resource ceiling.

(b) Any other loan, regardless of the loan's ability to meet current needs, shall not be taken into account as income when it is verified the following conditions are met:

(i) The terms of the loan are stated in a written agreement between the lender and the borrower, and

(ii) The agreement clearly specifies the obligation of the borrower to repay the loan. The agreement must include a repayment plan providing for installments of specified amounts to begin within ninety days of the receipt of the loan and continue thereafter on a regular basis until the loan is fully repaid.

As part of the verification process, the recipient is required to submit loan contract papers or a written agreement setting forth the terms of the loan regarding the loan's amount and the repayment plan. The agreement must be signed by the lender and the recipient as parties to the agreement if obtained and/or used for current maintenance.

(6) Repayments to a recipient of money previously loaned by the recipient to another party shall not be taken into account as income, since the loan represents income or resources already considered in computing need. The facts of the loan must be verified. Consider any interest paid on the loan as newly acquired income.

(7) A gift in-kind, named as follows, supplied on condition ((~~that~~) the gift in-kind be used only in a manner or for a purpose specified in writing by the donor shall not be considered as a resource or as income ((~~which is~~)) available to meet need.

(a) Real or personal property, excluding cash and marketable securities, ((~~which is~~)) exempted for an applicant and ((~~which is~~)) within the ceiling values. Example: A home or a new furnace.

(b) Any item in the department's standards for additional requirements which is not a requirement for the recipient of such a gift. Example: Telephone service.

(c) Needed goods or services not currently included as additional requirements in the department's standards. Example: Repair of house or of household equipment.

(8) WAC 388-28-482 and 388-28-484 cover newly acquired income received by a recipient.

AMENDATORY SECTION (Amending Order 2210, filed 3/6/85)

WAC 388-28-483 RETROSPECTIVE BUDGETING, PROSPECTIVE BUDGETING, AND PROSPECTIVE ELIGIBILITY.

(1) The CSO shall determine eligibility based on the best estimate of income and circumstances which will exist in the month for which the assistance payment is made.

(2) For the first two months of initial eligibility, all income shall be budgeted prospectively. (See subsection (3) of this section for exceptions.) The CSO shall compute the amount of the assistance payment based on the expected income and circumstances which will exist in the month for which the assistance payment is made.

(a) An overpayment shall be established if the income is underestimated.

(b) A corrective payment shall be made if the income is overestimated.

(3) Retrospective budgeting shall be used for the first two months of initial eligibility when:

(a) There has been less than one month's break in assistance (i.e., the applicant received assistance in the preceding month, or would have received assistance except for the prohibition on payments less than ten dollars).

(b) Assistance had been suspended due to an extra ((~~pay day~~) pay day) for the month prior to the month of application, assistance had been terminated at the end of the month of suspension, and the applicant's circumstances for the initial authorization month have not changed significantly from those prior to termination.

(c) A case is reopened as terminated in error.

(4) After the first two months of initial eligibility, all income shall be budgeted retrospectively.

(a) The CSO shall compute the amount of assistance based on the income ((~~and circumstances~~)) which existed in the second month preceding the month for which the payment is made.

(b) All income received during the calendar month of application approval shall be considered for retrospective budgeting purposes.

(c) Nonrecurrent income ((~~which is~~) budgeted prospectively during the first two months of eligibility shall not be budgeted ((~~again when~~) for the first and second payment month for which retrospective budgeting ((begins)) is used.

(d) Definitions:

(i) The calendar month for which payment is made shall be called the payment month.

(ii) The second calendar month preceding the payment month shall be called the budget/report month.

(iii) The calendar month between the budget/report month and the payment month shall be called the process month.

(5) See WAC 388-33-140 for effective date of increase or decrease of the grant. See WAC 388-33-135 for effective dates of ineligibility.

AMENDATORY SECTION (Amending Order 2200, filed 1/30/85)

WAC 388-28-484 TREATMENT OF NEWLY ACQUIRED NONEXEMPT INCOME AND RESOURCES. (1) Income affects the grant amount according to the provisions of WAC 388-28-483.

(2) When the value of the income is taken into account in the assistance payment as specified in WAC 388-28-483, the following rules apply:

(a) If the income value plus any other income amounts to less than the payment standard plus authorized additional requirements and is recurrent or nonrecurrent, assistance is continued in the amount of the difference.

(b) (~~Effective January 1, 1982,~~) For AFDC and refugee assistance, when the assistance unit's nonrecurrent income after applicable disregards exceeds the payment standard, plus authorized additional requirements, the unit shall be ineligible for assistance for the number of full months derived by dividing this total income by the need standard plus authorized additional requirements. A minimum period of ineligibility shall be one month.

(i) Any income remaining after this calculation is treated as income received in the first month following the period of ineligibility.

(ii) The period of ineligibility may be shortened when the following conditions are met:

(A) An event occurs which, had the assistance unit been receiving assistance, would result in an increase in the need standard, or

(B) The income received, or any part thereof, has become unavailable to the members of the assistance unit for reasons beyond their control, or

(C) Members of the assistance unit incur, become responsible for, and pay medical expenses.

(D) Assistance is authorized only after the event in subsection (2)(b)(ii)(A), (B), or (C) of this section has been verified and current eligibility has been established.

(c) If the nonrecurrent income equals or exceeds one month's payment level plus authorized additional requirements for general assistance, but is less than two months' payment level plus authorized additional requirements minus other income, the recipient is ineligible for a grant from the effective date specified in WAC 388-28-483, and his or her grant is suspended. The suspension period is determined exactly, that is, up to the date of the absorption of the income.

(d) If the income is recurrent and equal to or in excess of one month's payment level plus authorized additional requirements minus other income, the recipient is ineligible from the effective date specified in WAC 388-28-483 and the grant is terminated, except for persons in institutions other than nursing homes as provided in WAC 388-34-160.

(e) For general assistance if the income is recurrent or nonrecurrent and its value is in excess of two months' payment level plus authorized additional requirements minus other income, the recipient is ineligible from the effective date specified in WAC 388-28-483 and the grant is terminated. Ineligibility shall continue for two months. The period of ineligibility, however, may be reduced if the applicant has verifiable expenses such as medical care, unforeseen disaster or other changes in circumstances making it impossible for him or her to live on his or her resource for the two-month period of ineligibility. The eligibility of a former recipient reapplying shall be determined on the same basis as a new applicant.

(3) If income is not taken into account in assistance payments but is subsequently discovered, an overpayment shall be established according to chapter 388-44 WAC.

(4) If a general assistance recipient has been determined to be ineligible for a current or future period of time(;) and his or her grant will be suspended or terminated for such period of time(;) due to either newly acquired income, or transfer of property, and is in need during such period of ineligibility, assistance may be granted within the limits of the rule in WAC 388-28-464.

(5) A person acquiring income during suspended status shall be treated as a recipient in terms of eligibility, not as an applicant.

(6) Rules and procedure in chapter 388-44 WAC are followed in respect to overpayment.

(7) An applicant or recipient whose nonexempt gross income exceeds one hundred eighty-five percent of the standard of need for the appropriate household size plus additional requirements authorized for that assistance unit, is not eligible for AFDC or refugee assistance from the date specified in WAC 388-28-483. The income of all members of the

assistance unit and the income of natural, adoptive, or stepparents of children in the assistance unit residing in the same household, shall be considered in this test except for income identified in (~~WAC 388-28-484~~) subsection (7)(a) and (b) of this section.

(a) In determining the total income of the family, the earned income of a child who is a full-time student is excluded for six consecutive months per calendar year.

(b) The first fifty dollars per month of the current monthly support obligation of any child support collected on the family's behalf or received by the family.

(c) Gross income shall be defined as all income not specifically exempted by rule or regulation before applicable program disregards are applied.

(d) Net income shall be defined as gross income less applicable disregards and deductions for which the applicant or recipient is eligible.

(8) Income (~~which has been~~) taken into account in computing financial need according to subsection (2) of this section if retained by a GA-U recipient does not affect his or her eligibility unless the amount retained at the time of the next periodic review exceeds the exempt property holdings permitted for an applicant. In this event the rule on nonexempt resources or income pertaining to an applicant is applied.

AMENDATORY SECTION (Amending Order 2200, filed 1/30/85)

WAC 388-28-500 USE OF INCOME AND INCOME POTENTIALS—COMPUTING AND ALLOCATING INCOME. (1) Living arrangements, family relationships, and categories of assistance also affect the use of income in computing financial need as provided by the rules in this section.

(2) Except as provided in this subsection, the nonexempt net income of a person in his or her own home shall be attributed to the assistance unit of which he or she is a member.

(a) The total nonexempt net community income of a family having two or more eligible assistance units shall be divided equally between the assistance units unless some other division is preferred. An unequal division of the family income is not permitted if it increases the total amount of assistance (excluding medical care) to which the family would be entitled.

(b) Applicant with a nonapplying independent spouse.

(i) If all income is from community property or from community earnings other than wages, not less than one-half the total income shall be considered available to an AFDC applicant living with a nonapplying spouse.

(ii) Net income from wages or from the separate property of the nonapplying spouse shall be considered available to the applicant only to the extent the net income exceeds the amount of the nonapplying spouse's appropriate one-person payment level.

(iii) Wages or income from separate property of the applicant shall be considered as provided in WAC 388-28-365 and 388-28-370.

(iv) When income includes both community income and income from the separate property or from wages of the nonapplying spouse, at least half of the community income shall be considered available to the applicant, plus any residue of the separate income or wages exceeding the amount of the appropriate one-person payment level of the nonapplying spouse.

(v) Retirement benefits shall be treated like wages.

(vi) Income in-kind shall be treated as community income.

(c) Exempted income shall not be used in computing the need of any assistance unit.

(d) For rules on (~~presumptive spouse~~) nonrelated adults in the household, see WAC 388-28-355.

(3) The rules in subsection (2) of this section shall also apply to a person boarding and/or rooming in an adult family home or other nonmedical institution.

(4) The income of a minor parent's nonapplying parent or parents or legal guardian or guardians legally responsible for the support of such minor parent as specified in WAC 388-24-550(5), if residing in the same household and such minor parent is not emancipated according to WAC 388-24-550(3), shall be considered as available to the assistance unit of such minor parent and such minor's child or children to the extent such income exceeds applicable disregards. In counting such income, the following shall be disregarded:

(a) For each employed parent or legal guardian, the following amounts for work expenses depending upon the number of hours worked per month.

<u>Hours worked per month</u>	<u>Work expense disregard</u>
0 - 40	\$ 20.00
41 - 80	\$ 40.00
81 - 120	\$ 60.00
121 or more	\$ 75.00

(b) An amount equal to the need standard as specified in WAC 388-29-100 for a group with the following members:

(i) The parent or parents or legal guardian or guardians living in the home; and

(ii) Any other individuals living in the home not in the assistance unit, but dependents of the parent or parents or legal guardian or guardians;

(iii) The amount paid by the parent or parents or legal guardian or guardians to support individuals outside the home who could be claimed as dependents; and

(iv) Payments by the parent or parents or legal guardian or guardians of child support or alimony to individuals outside the home.

(5) When a person in a medical institution is to receive an AFDC or continuing general assistance grant, family income shall be allocated first to the appropriate payment level of legal dependents computed according to standards in chapter 388-29 WAC and then to the maintenance needs of the individual computed according to WAC 388-34-045, 388-34-085, 388-34-110, 388-34-120, or 388-34-378.

~~((5))~~ When a person in a medical institution is to receive FAMCO, income shall be allocated according to WAC 388-83-045.)

~~(6)~~ ((The income of an individual applying for medical only shall be allocated according to WAC 388-83-045.

~~(7))~~ The income of a person with other living arrangements is first applied to the grant requirements of the applicant and his or her dependents. Any remaining income shall be allocated for medical needs.

AMENDATORY SECTION (Amending Order 2200, filed 1/30/85)

WAC 388-28-515 NET CASH INCOME—DETERMINATION—EMPLOYMENT OR TRAINING EXPENSES—DEDUCTIONS FROM GROSS INCOME. (1) "Gross income" means the total wages, commissions, salary, bonus, in cash or in-kind, currently earned by an individual or income received for the purpose of obtaining remedial education or vocational training.

(a) The thirty dollars monthly incentive payment made by DES to any participant in a WIN program of institutional and work experience training is disregarded in AFDC.

~~(b)~~ ((The incentive payments received by a JTPA participant is disregarded in AFDC. For continuing general assistance, such payments are considered available to meet need.

~~(c))~~ WIN transportation and related ~~((expenses))~~ expense (TRE) payments are training incentive payments paid for the first thirty days of employment and are disregarded for AFDC purposes.

(2) In determining net income for general assistance from a training allowance, applicable expenses in subsections (3)(a) through (5) of this section shall be deducted from the gross training allowance received.

(3) For general assistance, personal and nonpersonal work expenses computed according to subsections (3)(a) through (5) of this section shall be deducted from earnings ~~((according to the method outlined in WAC 388-28-570(8)))~~ after applying the earned income exemptions in WAC 388-37-025.

Work-related expenses other than child care shall be deducted in accordance with the "percentage method" or the "actual method," whichever is chosen by the client.

(a) If the client chooses the "percentage method," twenty percent of the gross income shall be deducted.

(b) If the client chooses the "actual method," the actual cost of each work-related expense shall be deducted. This method shall be used when the client provides written verification of all work-related expenses claimed.

(c) The client shall have the option to change methods whenever he or she reports income to the CSO.

(d) When the client changes methods, the provisions in WAC 388-33-135 and 388-33-140 shall apply.

(4) For general assistance, the following work-related expenses shall be deducted when claimed and verified under the actual method.

(a) Payroll deductions required by law or as a condition of employment in the amounts actually withheld.

(b) The necessary cost for transportation of the recipient to and from the place of employment or training in accordance with the following limitations:

(i) The most economical means of transportation shall be used.

(ii) When public transportation is available near the recipient's regular place of residence and practical for his or her use, the allowance shall be the cost for such transportation from the recipient's home to the stop nearest his or her employment or training. The amount allowed is the actual cost of common carrier, based upon commuter's book of tickets, bus tokens at reduced quantity rate, etc., when available.

(iii) The term "public transportation" includes scheduled intracity and intercity busses, trains, boats, etc., but not "for hire" vehicles, such as taxis and rental cars unless no other means of public transportation is available.

(iv) When public transportation is not available or not practical for his or her use, a recipient showing that he or she uses a vehicle to travel to and from employment or the training facility shall be allowed the actual cost of such transportation provided the recipient furnishes verification of these costs. Shared rides shall be prorated on an equitable basis, depending on the travel plan.

(A) The actual work-related cost of operating the vehicle shall be the total operating cost of the vehicle times the percentage obtained from dividing the actual monthly mileage to and from work by the total miles driven during the month.

(B) The total operating cost of a vehicle shall be limited to gas, oil, and fluids; necessary service and repairs; replacement of worn items such as tires; registration and licensing fees; and depreciation and interest on automobile loans.

(v) When the client ~~((so))~~ chooses, eight cents per mile shall be allowed to cover the work-related costs of gas, oil, fluids, and depreciation.

(c) The cost of tolls and parking required for employment shall be deducted as a work-related expense.

(d) Expenses of employment necessary for continued employment, such as tools, materials, union dues, fees to employment agencies incurred via a legally binding contract, cost of special uniforms and laundering, and transportation to service customers if not furnished by the employer.

(e) The additional cost of clothing provided it is verified such clothing is necessary for continued employment.

(5) For general assistance applicants and recipients enrolled in a remedial education or vocational training course, the actual cost of uniforms and/or special clothing, as priced by the CSO, shall be deducted.

AMENDATORY SECTION (Amending Order 1728, filed 12/4/81)

WAC 388-28-520 INCOME FROM SELF-EMPLOYMENT.

(1) Earned income from self-employment is the amount left after deducting business expenses from gross business income. The applicable program earnings exemptions, and work expense allowances, are further deducted from self-employment earned income to determine the net amount available to meet need. See WAC 388-28-515 ~~((and 388-28-570(8)))~~.

(a) In order to establish eligibility for public assistance, a self-employed person must maintain and make available to the department a record ~~((which))~~ clearly ~~((documents))~~ documenting all claimed business expenses and income.

(b) For general assistance, personal work expenses in the form of self-employment taxes (FICA) and income taxes are deductible when paid.

(2) Expenses for the following items are deductible business expenses in a self-employment enterprise:

(a) Rental of business equipment or property.

(b) Utilities.

(c) Postage.

(d) Telephone.

(e) Office supplies.

(f) Advertising.

(g) Insurance.

(h) Legal, accounting, and other professional fees.

(i) The cost of goods sold, including wages paid to employees producing salable goods, raw materials, stock, and replacement or reasonable accumulation of inventory, provided ~~((that))~~ inventory has been declared exempt on the basis of an agreed plan pursuant to WAC ~~((388-28-430(1)(d). See also subsection (4) of this section))~~ 388-28-439.

(j) Interest on business indebtedness.

(k) Wages and salaries paid to employees not producing salable goods.

(l) Commissions paid to agents and independent contractors.

(m) Transportation essential to the business may be computed according to the actual documented work-related cost of operating the vehicle.

(i) The total operating cost of a vehicle shall be limited to gas, oil, and fluids; necessary services and repairs; replacement of worn items such as tires; registration and licensing fees; and interest on automobile loans.

(ii) When the client (~~so~~) chooses, eight cents per mile shall be allowed to cover the work-related costs of gas, oil, and fluids.

(iii) The cost of tolls and parking related to the business shall be deducted as a business expense.

(iv) If a vehicle is needed for both business and private purposes, the mileage and expenses attributable to the business must be documented in a daily log and is subject to verification by the department.

(v) Transportation to and from the place of business is not a business expense, but is a personal work expense to be treated according to WAC 388-28-515(~~(5)~~)(3) in general assistance and is covered by the seventy-five dollars work expense deduction for AFDC and refugee assistance.

(n) Nonpersonal taxes on the business and business property, including the employer's share of federal Social Security taxes on business employees and state and federal unemployment insurance contributions, if any. The self-employed person's personal income taxes and self-employment taxes (FICA) are not business deductions, but are treated separately according to WAC 388-28-515 (~~and 388-28-570(8)~~).

(o) Repairs to business equipment and property, excluding vehicles. An expenditure (~~(which maintains)~~) to maintain property in its usual working condition is deductible as a repair.

(p) Other expenditures (~~(which are)~~) reasonable and necessary to the efficient and profitable operation of the self-employment enterprise.

(3) Expenses for the following items are not deductible business expenses in a self-employment enterprise:

(a) Capital expenditures. Capital expenditures are those made to acquire or increase the value of fixed assets. Fixed assets are items normally in use for one year or longer, such as land, buildings, vehicles, boats, machinery, tools, office equipment, furniture, and fixtures.

(b) Payments on the principal of loans to the business.

(c) Amounts claimed as depreciation.

(d) Any amount claimed as a net loss sustained in any prior period.

(e) Entertainment expenses.

~~((4) The business assets of a self-employment enterprise, including inventory, are nonexempt resources available to the owner in the amount of their sale value less encumbrances, unless they are generally exempt under the provisions of WAC 388-28-430 or specifically exempted on the basis of an agreed plan pursuant to WAC 388-28-430(1)(d). See also WAC 388-28-420(2)(c).~~

~~(a) Accounts receivable are resources in the amount of their face value, subject to an offering of proof by the self-employed person that their value is less than face value because efforts to collect them have been unsuccessful. In such case, the department shall require that the accounts be turned over to a collection agency. They then have no value until collection is made.~~

~~(b) Good will is an intangible asset. It has no value unless the business is sold, and therefore is not an available resource.))~~

AMENDATORY SECTION (Amending Order 2200, filed 1/30/85)

WAC 388-28-535 NET CASH INCOME—DETERMINATION—DEDUCTIONS FROM GROSS INCOME—INCOME OF CHILD. (1) ~~((A child may receive income paid in his or her behalf to the parent or parents or other needy caretaker relative. Such income includes allotments, retirement, survivors and disability insurance, veterans' benefits, court-ordered support payments, trust fund payments, or other income legally designated for the benefit of an individual child.~~

~~(a) The family shall have the option to:~~

~~(i) Include the child as a member of the assistance unit with all income considered as available to the assistance unit, or~~

~~(ii) Exclude the child from the assistance unit. In this instance, none of the child's income is available to the assistance unit.~~

~~(b) If a child's income includes a portion for his or her caretaker relative, that portion shall be available to meet the need of the assistance unit.~~

~~(c) The child's requirements shall be the difference between the payment level of the assistance unit including the child and the payment level of the assistance unit excluding the child.~~

~~(d) If a child out of school is included in the assistance unit, his or her earnings shall be treated as specified in subsection (3)(f) of this section. Determination of the child's net income is made with the caretaker relative and with the child when indicated.~~

~~(2) If the child is not included in the assistance unit, his or her eligibility for medical assistance shall be determined individually.~~

~~(3)) In determining the amount of a child's earned income available to meet the current need of the assistance unit of which he or she is a member, the following rules apply:~~

~~(a) All earned income of a child in an assistance unit shall be disregarded in determining eligibility for six months when he or she is a full-time student and disregarded in determining payment amount when he or she is a full-time student or a part-time student who is not a full-time employee. ((See subsection (4) of this section for treatment of Job Training Partnership Act (JTPA) moneys.))~~

~~(b) A student is one attending a school, college or university, or a course of vocational or technical training designed to fit him or her for gainful employment, and includes a participant in the job corps program under the Economic Opportunity Act. A full-time student must have a school schedule equal to a full-time curriculum. A part-time student must have a school schedule equal to at least one-half of a full-time curriculum. A student enrolled during the school term just completed and planning to return to school when school reopens shall retain his or her status as a student during the summer vacation.~~

~~(c) A child earning income by working in a sheltered workshop or other training facility for handicapped children shall be considered, for purposes of income exemption, as being at least a part-time student working less than full time.~~

~~(d) To be employed full time, a child must be working thirty-five hours a week or the number of hours considered full time by the industry for which he or she works, whichever is less.~~

~~(e) Summer employment of students shall not be considered as full-time employment due to the temporary nature of such employment, even though the hours worked may exceed thirty-five hours a week.~~

~~(f) In determining the amount of a nonstudent child's earned income available to meet the current needs of the assistance unit, net income shall be computed according to WAC 388-28-570.~~

~~((4) All wages or other income (training allowances, payments for supportive services, etc.) received under the Job Training Partnership Act (JTPA) by a dependent child who is a full-time student, or a part-time student who is not a full-time employee, shall be disregarded both for the one hundred eighty-five percent of need test for six months, if wages, and in computing the family's assistance payment. See WAC 388-28-570 (3) and (4)(d) for treatment of JTPA moneys received by a dependent nonstudent child.))~~

~~(2) A child may receive income paid in his or her behalf to the parent or parents or other needy caretaker relative. Such income includes earned income allotments, retirement, survivors and disability insurance, veterans' benefits, court-ordered support payments, trust fund payments, or other income legally designated for the benefit of an individual child. Such income of a child ineligible to be included as a member of the assistance unit shall be considered as follows:~~

~~(a) If the child is ineligible due to noncooperation with the work incentive or employment and training programs, or with child support enforcement if the child is a minor parent, such child's income shall be considered available to meet the need of the assistance unit to the extent it exceeds a one-person payment level;~~

~~(b) If the child is ineligible due to any other factor of eligibility, none of the child's income shall be considered available to meet the need of the assistance unit.~~

~~(3) A stepchild may receive income as specified in subsection (2) of this section. According to WAC 388-24-050(2), when the assistance unit does not include a stepchild's sibling or half-sibling, the family shall have the option to:~~

~~(a) Include the stepchild as a member of the assistance unit with all of the stepchild's income considered as available to the assistance unit; or~~

~~(b) Exclude the stepchild from the assistance unit, with none of the stepchild's income considered as available to the assistance unit.~~

~~(4) If the income of an ineligible child or stepchild, including a stepchild excluded from the assistance unit as specified in subsection (3) of this section, contains a portion for such child's caretaker relative, that portion shall be considered as available to the assistance unit.~~

AMENDATORY SECTION (Amending Order 1940, filed 1/28/83)

WAC 388-28-560 NET CASH INCOME—INCOME FOR SUPPORT OF LEGAL DEPENDENTS. The income of a parent or ~~((step=parent))~~ stepparent in the assistance unit shall be allocated in the following order:

- (1) To pay court or administratively ordered support for any legal ~~((dependent(s)))~~ dependent or dependents not living in his or her home. Such support is exempt up to the amount of the one-person continuing assistance need standard for each legal dependent. Verification must be obtained that the support payments are being made.
- (2) To meet the requirements of those needy members of the family who are not eligible for AFDC and for whom the parent or ~~((step=parent))~~ stepparent is legally responsible. Such requirements shall be computed according to appropriate payment level.
- (3) To meet the needs of members of the AFDC assistance unit for whom he or she is legally responsible.

AMENDATORY SECTION (Amending Order 2200, filed 1/30/85)

WAC 388-28-570 NET CASH INCOME—EXEMPT EARNED INCOME. (1) For rules on exempting earned income of a full- or part-time student, see WAC 388-28-535. For rules exempting income from training, see WAC 388-28-515. For rules on other income, see WAC 388-28-580.

(2) As used in this section, "earned income" shall mean income in cash or in-kind earned as wages, salary, commissions, or profit from activities in which the individual is engaged as a self-employed person or as an employee. Earned income may be derived from self-employment (such as business enterprise or farming), or derived from wages or salary received as an employee. Earned income also includes earnings over a period of time for which settlement is made at one time, for example, sale of farm crops, livestock, or poultry. Income from rentals is earned income, provided the individual has managerial responsibility for the rental property.

(3) For an AFDC recipient, earned income includes earnings under Title I of the Elementary and Secondary Education Act, all earnings received under the Economic Opportunity Act, wages from WIN on-the-job training, and wages paid under the Job Training Partnership Act (JTPA) ~~((to adults and nonstudent dependent children))~~. See WAC ~~((388-28-535(1)))~~ 388-28-535(2) for treatment of a child excluded from the grant ~~((and WAC 388-28-535(4) for a dependent full-time student receiving JTPA wages.~~

~~(a) For public service employment under the Emergency Assistance Act, the thirty-dollar plus one-third earned income exemption is applicable:~~

~~(b) For public service employment under WIN, the thirty-dollar plus one-third earned income exemption does not apply. If net income after work expenses are deducted does not meet need according to department standards, a supplemental grant may be paid.)~~

(4) The definition of "earned income" excludes:
 (a) Returns from capital investment with respect to which the individual is not himself or herself actively engaged, as in a business. For example, under most circumstances, dividends and interest are excluded from "earned income." See WAC 388-28-580.

(b) Benefits accruing as compensation or reward for service, or as compensation for lack of employment, for example, pensions and benefits from labor organizations, veterans' benefits, unemployment compensation, RSDi etc. See WAC 388-28-580.

(c) Income from WIN incentive payments, and training-related expenses derived from WIN institutional or work experience training.

~~(d) Income received under the Job Training Partnership Act for training allowances, payments for support services, etc. ((Such income shall be treated according to WAC 388-28-535(4) for dependent children who are full-time students. For adults and nonstudent dependent children, disregard all moneys directly related to expenses incurred from participating in the program. Except the remaining amount up to the difference between the need standard and the payment standard. Consider any amount in excess of the need standard as unearned income.))~~

(5)(a) In AFD. d refugee assistance when payment of income earned over a period of more than one month is delayed, the exemption applies only to the period of payment.

(b) In general assistance, the exemption applies to the period during which the exemption was earned rather than the period of payment.

(6) Aid to families with dependent children and refugee assistance.

(a) The following shall be disregarded sequentially from the monthly gross earned income of each individual member of the assistance unit.

(i) Seventy-five dollars for work expenses, regardless of the number of hours worked per month.

(ii) The actual cost not to exceed the following amounts depending upon the number of hours worked per month for the care of each dependent child or incapacitated adult living in the same home and receiving AFDC or refugee assistance. No deduction shall be made for child care provided by a parent or stepparent. The amount paid must be verified by the provider by signature on a receipt form prescribed by the department. The expense must have been paid from the declared earnings to be allowed as a deduction.

Hours worked per month	Child care maximum deductions
0 - 40	\$ 40.00
41 - 80	80.00
81 - 120	120.00
121 or more	160.00

(b) The following shall be disregarded sequentially from the combined gross earned income of nonstudent dependent children and adults included in the AFDC assistance unit.

(i) For individuals found otherwise eligible to receive assistance or having received assistance in one of the four prior months, thirty dollars and one-third of the remainder not already disregarded. The thirty dollars and one-third disregard shall be applied for a maximum of four consecutive months; it cannot be applied again until he or she has been a nonrecipient for twelve consecutive months.

(ii) After expiration of the disregard in subsection (6)(b)(i) of this section, thirty dollars shall be disregarded for a maximum of eight consecutive months, whether or not the recipient has earnings or is receiving assistance; it cannot be applied again until he or she has been a nonrecipient for twelve consecutive months. This provision is effective November 1, 1984.

(c) The exemptions and deductions in subsection (6)(a) and (b) of this section will not be applied for any month if the individual within a period of thirty days preceding the month in which the income was received:

(i) Terminated his or her employment or reduced his or her earned income without good cause; or

(ii) Refused without good cause to accept employment in which he or she is able to engage which is offered through SES, or is otherwise offered by an employer if the offer of such employment is determined by the local office to be a bona fide offer of employment; or

~~((iii))~~ (d) The exemption and deductions in subsection (6)(a) and (b) of this section will not be for any month the recipient failed without good cause as determined by the CSO, to report earnings to the department on or before the eighteenth day of the month following the month in which the income was received, or by the first following work day if the eighteenth day of the month falls on a weekend or holiday. Under these circumstances, the thirty-dollar and one-third exemption shall be counted in the applicable time limits. Any circumstance beyond the control of the recipient shall constitute good cause.

~~((e))~~ (e) If a recipient requests termination in order to break the consecutiveness of the applicable time limits for the thirty-dollar plus one-third exemption, and would have been eligible, the months of voluntary nonreceipt of assistance shall be counted toward the applicable time limits.

~~((f))~~ (f) If a recipient quits work without good cause, the thirty-dollar and one-third exemption shall be deemed to have been received and shall be counted toward the applicable time limits.

~~((g))~~ (g) Months in which the applicant/recipient received the thirty-dollar and one-third exemption in another state shall not apply toward the applicable time limits.

(7) The following conditions when verified shall constitute good cause for refusal of an offer of employment or refusal to continue employment:

(a) Physical, mental, or emotional inability of the individual to satisfactorily perform the work required;

(b) Inability of the individual to get to and from the job without undue cost or hardship to him or her;

(c) The nature of the work would be hazardous to the individual;

(d) The wages do not meet any applicable minimum wage requirements and are not customary for such work in the community;

(e) The job is available because of a labor dispute;

(f) Adequate child care is not available to the ((single parent)) AFDC household.

AMENDATORY SECTION (Amending Order 2200, filed 1/30/85)

WAC 388-28-575 DISREGARD OF INCOME AND RESOURCES. (1) In determining need and the amount of the assistance payment in AFDC, the following shall be disregarded as income and resources:

(a) Any grant or loan to any undergraduate student for educational purposes made or insured under any programs administered by the commissioner of education, U.S. Department of Health and Human Services. The entire amount of such loan or grant is disregarded, irrespective of the use to which the funds are put.

(b) Any per capita judgment funds paid under P.L. 92-254 to members of the Blackfoot Tribe of the Blackfoot Indian Reservation, Montana, and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana.

(c) Any Indian claim settlement funds distributed per capita or held in trust as authorized in section 7 of P.L. 93-134 or section 6 of P.L. 94-114.

(d) The income and resources of an individual receiving benefits under Supplemental Security Income for the period such benefits are received.

(e) Any payments received by Alaska natives under the Alaska Native Claims Settlement Act, to the extent such payments are exempt from taxation under section 21(a) of that act.

(f) From August 1, 1975, to September 30, 1976, forty percent of the first fifty dollars collected by the office of support enforcement in payment on the support obligations for the current month.

~~(g) ((Wages, training allowances, and/or all moneys received under the Job Training Partnership Act (JTPA) by a dependent child who is a full-time student or part-time student who is not a full-time employee shall be disregarded both for the one hundred eighty-five percent of need test for six months, if wages, and in computing the family's assistance payment.~~

~~((h))~~ Retroactive AFDC benefits resulting from a court order modifying a department policy.

~~((i))~~ (h) The part of a Veterans' Administration educational assistance payment for the student's educational expenses, such as, but not limited to, tuition, books, fees, equipment, transportation for school purposes, and child care services necessary for school attendance.

~~((j))~~ (i) HUD community development block grant funds obtained and used under conditions precluding use for current living costs.

~~((k))~~ (j) The first fifty dollars per month of the current monthly support obligation of any child support collected on the family's behalf or received by the family.

(2) In determining need and the amount of the assistance payment in AFDC and GA, the following shall be disregarded as income and resources:

(a) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(b) The value of the coupon allotment under the Food Stamp Act of 1964, as amended.

(c) Any compensation provided to volunteers in ACTION programs established by Titles II and III of P.L. 93-113, the Domestic Volunteer Service Act of 1973.

(d) Any compensation provided volunteers in ACTION programs established by Title I of P.L. 93-113, the Domestic Volunteer Service Act.

(e) Any benefits received under the women, infants and children program (WIC) of the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended.

(f) Payments made under the Community Services Administration's Emergency Energy Conservation Program of 1979.

(g) Energy assistance payments.

WSR 85-13-049
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed June 17, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning AFDC—Eligibility, amending chapter 388-24 WAC;

that the agency will at 2:00 p.m., Thursday, July 25, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 31, 1985.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.12 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 25, 1985.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
 Division of Administration and Personnel
 Department of Social and Health Services
 Mailstop OB 14
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 11, 1985. The meeting site is in a location which is barrier free.

Dated: June 17, 1985

By: David A. Hogan, Director
 Division of Administration and Personnel

STATEMENT OF PURPOSE

Re: Chapter 388-24 WAC.

Purpose of the Rule Change: To implement the Deficit Reduction Act of 1984, comply with federal requirements and settle a court suit in the case of McCoy v. Gibbs.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: WAC 388-24-040 (1)(a), assistance is provided to a pregnant woman with no other children in the third trimester of pregnancy. Assistance is not provided for an unborn. This change is to be in compliance with the Code of Federal Regulations. (45 CFR 233.90(c)(2)(iv)) WAC 388-24-040(3), a parent is a person who acknowledges parentage and meets the criteria in the Uniform Parentage Act. If parentage is contested a court order will be required to determine parentage. This change is necessary to establish parental relationship to be in compliance with federal regulations. WAC 388-24-040(9), amended to comply

with the Deficit Reduction Act of 1984 by providing that an unmarried parent age 18 and under age 19 may be considered a needy child irrespective of the school or training requirement. WAC 388-24-040(10), subsection deleted. Replaced by WAC 388-24-051 which is a new section. WAC 388-24-050, this section is revised to comply with the Deficit Reduction Act of 1984. Revised language specifies that certain individuals, if living in the home, must be included in the single assistance unit and certain individuals are included at the option of the family. Individuals whose inclusion is mandatory are eligible children, including such children's full or half brothers or sisters, and the parents or stepparents of an eligible child, including a minor parent. WAC 388-24-050(1), subsection is changed to specify that certain individuals must be included in an assistance unit. Such individuals include eligible children, including full or half brothers or sisters of eligible children, parents and stepparents, including minor parents. This change is to comply with the Deficit Reduction Act of 1984. WAC 388-24-050(2), subsection is revised to specify that certain individuals subject to specified conditions, may be included in the assistance unit at the option of the family. Such individuals include a needy caretaker relative, stepsiblings of an eligible child, and a parent of a minor parent. This subsection also specifies that, under certain conditions, a parent of a minor parent must be included in the same assistance unit with the minor parent and his or her child. These changes are to comply with the Deficit Reduction Act of 1984. WAC 388-24-050(3), changed to specify that in certain situations a single assistance unit shall be established to include only the child or the caretaker relative. WAC 388-24-050(6)(b), revised to no longer allow establishment of a separate assistance unit for the child of a minor parent if the minor parent resides in the household. This change is to comply with the Deficit Reduction Act of 1984. WAC 388-24-051, a new section to require that an applicant apply for all individuals whose inclusion in the assistance unit is mandatory and to cooperate in providing information and meeting requirements to establish eligibility for such individuals. Specifies that the assistance unit is ineligible when applicants fail to meet this requirement. This subsection also specifies what action the department is required to take when a recipient does not report that an individual required to be in the assistance unit lives in the home. This entire section is added to comply with the Deficit Reduction Act of 1984. WAC 388-24-052(3), an applicant/recipient must apply for a Social Security number to be eligible for assistance. This change is to be in compliance with the Code of Federal Regulations. (45 CFR 233.10(a)(2)) WAC 388-24-052(4), changed to specify that an applicant or recipient refusing to cooperate in applying for a Social Security number for an individual required to be in the assistance unit makes the entire assistance unit ineligible. This is distinguished from the applicant or recipient failing to apply (e.g., attempts to apply, but application is rejected for some reason). Such failure results in the ineligibility of the individual. This change is due to the Deficit Reduction Act of 1984. WAC 388-24-055(1), defines parent as one who acknowledges parentage and meets the

criteria in the Uniform Parentage Act. If parentage is contested, it can only be determined by a court of law. WAC 388-24-055(3), deprivation of a child of unmarried parents is determined on the same basis as a child of married parents. WAC 388-24-055(4), the term assumptive spouse is replaced with "nonrelated adult." There is no change in rule. Reference to court established paternity for unmarried parents deleted. (45 CFR 233.90(a)(1)) WAC 388-24-070(1), changed to incorporate the definition of parent in WAC 388-24-040(3) into rules regarding establishment of deprivation due to continued absence. The purpose of this change is to treat persons whose parentage is based on the Uniform Parentage Act the same as persons whose parentage is based on marriage or court order with respect to establishing deprivation. For example, under this change, if a mother and child reside together with an adult male, deprivation is not established (i.e., absence does not exist) if: Both the mother and adult acknowledge his parentage; and the criteria of the Uniform Parentage Act are met. However, in this example, deprivation is established (i.e., absence exists) at any point either the parent or adult claim such adult is not the parent. In such cases, only the courts can establish parentage. WAC 388-24-070(2), amended to clarify that legal action to separate or dissolve or annul the marriage of the parents does not establish deprivation. Where such legal action has occurred, or is occurring, the criteria for establishing deprivation must still be met (i.e., absence must be verified, etc.). This subsection is amended to comply with settlement of McCoy v. Gibbs. WAC 388-24-070(2)(b), amended to add the word "either" to stress that only one parental function must be interrupted or terminated to establish deprivation. This subsection is amended to comply with settlement of McCoy v. Gibbs. WAC 388-24-070(3), amended to provide that deprivation is assumed to exist when the absence of a parent is verified and such parent does not routinely visit the child. This subsection is amended to comply with settlement of McCoy v. Gibbs. WAC 388-24-070(3)(a) and (b), these subsections are deleted due to settlement of McCoy v. Gibbs. Conditions for considering absence as being continued are no longer applicable. A clear dissociation is not necessary in order to establish deprivation due to absence (i.e., under the new definition, an absent parent may visit the child frequently with no effect on deprivation). A parent need not be absent 30 days to establish deprivation. WAC 388-24-070(3)(c), this subsection is not deleted as a result of the McCoy v. Gibbs settlement. The subsection is deleted because under the new rules, marital status has no bearing on determination of deprivation when paternity has been legally established (i.e., in such situations, absence must be verified and determination must be made whether the absent parent provides maintenance, physical care, and guidance). WAC 388-24-070(d)(i) and (ii), deleted because special rules regarding a parent in an institution or who has been deported are not necessary to establish deprivation. In such cases, deprivation can be just as easily determined by applying the new deprivation criteria. WAC 388-24-070(3)(a), (b) and (c), new subsections providing definitions for maintenance, physical

care, and guidance. Such definitions are provided to determine deprivation when the absent parent routinely visits the child. These new subsections are the result of settlement of McCoy v. Gibbs. WAC 388-24-070(4), new section to specify that, except under certain conditions, deprivation may be established regardless of the reason for or duration of the parent's absence. This subsection incorporates the rules for prospective eligibility determination and effective date of change. This new section is the result of settlement of McCoy v. Gibbs. WAC 388-24-070(5), new section providing that before an applicant's or recipient's benefits are terminated due to prospective eligibility or effective date of change issues, eligibility for other programs must be determined. This subsection also reiterates that such terminations require advance and adequate notice. The new section is the result of settlement of McCoy v. Gibbs. WAC 388-24-070(6), subsection does not change rules regarding establishment of deprivation when a parent convicted of an offense resides in the family home. Change in language is editorial. WAC 388-24-070(8), new section to specify that certain rules are effective October 4, 1984, which is the effective date of the McCoy v. Gibbs settlement. WAC 388-24-074 (6)(a), if the qualifying parent is exempt from WIN for any reason, he or she must be registered with the Department of Employment Security. (45 CFR 233.100(5)(ii) and 233.100(8)(v)) WAC 388-24-074 (6)(b), in non-WIN areas if the qualifying parent is exempt from E&T, he or she must still be registered with the Department of Employment Security. (45 CFR 233.100(5)(i) and 233.100(8)(v)) WAC 388-24-074(11), deleted to remove old effective date for rules in this section. WAC 388-24-125 (1)(b), reference to court established paternity for unmarried parents deleted. WAC 388-24-137, wording rearranged, no rule change. WAC 388-24-265, reference to court ordered paternity eliminated. WAC 388-24-550(3), revised to clarify that a minor applying for himself or herself, in order to be determined eligible, must meet the conditions in WAC 388-24-040 and 388-24-125. WAC 388-24-550(4), subsection is revised to specify that eligibility of an unemancipated minor parent living outside the home of his or her parent cannot be established without determining the minor parent's parents willingness to support. This language is to comply with the Deficit Reduction Act of 1984. Language is also amended to update WAC cross-reference regarding responsibility for medical care and to clarify that subsections (3)(a)(i), (ii) and (iii) are conditions of emancipation of a minor. This is not a rule change. WAC 388-24-550(5), subsection renumbered as part or reorganization of section. This is not a rule change. WAC 388-24-550(6), changed to delete language requiring department to advise juvenile court when a minor applicant's parents are unwilling to assume financial responsibility for such applicant. The agreement between the department and juvenile court is no longer in effect. WAC 388-24-550(7), deleted to remove the language requiring department to contact juvenile court when parents are unwilling to support a minor applicant. The reason for this deletion is the same as above for WAC 388-24-550(6). WAC 388-24-550(7), a new subsection to provide references to rules

regarding how a minor parent's eligibility is established when the minor parent and his or her child live with such minor parent's parents. Specific references are made as to how the assistance unit is established and how the income of the minor parent's parent is treated. This subsection has been added to comply with the Deficit Reduction Act of 1984. WAC 388-24-550(8), a new subsection to provide that the income of a minor parent's legal guardian, who is legally responsible for the support of the minor parent, is treated the same as the income of the minor parent's parent. This subsection has been added to comply with the Deficit Reduction Act of 1984.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule Change: Betty Brinkman and Bill Hosford, Program Managers, Division of Income Assistance, mailstop OB 31C, phone 753-4908/753-1735.

Some of these rules are necessary to comply with federal law. Some are necessary to comply with a state court decision. Some are neither.

AMENDATORY SECTION (Amending Order 2033, filed 11/2/83)

WAC 388-24-040 AID TO FAMILIES WITH DEPENDENT CHILDREN—SUMMARY OF ELIGIBILITY CONDITIONS. Effective (~~August 23, 1983~~) September 1, 1985, AFDC shall be granted in behalf of a needy child:

- (1) Who is under the age of eighteen years;
 - (a) AFDC may be granted (~~on behalf of an unborn child~~) to a pregnant woman with no other children, provided there is medical confirmation the (~~mother~~) pregnant woman is in the third trimester of pregnancy. The third trimester is defined as the three calendar months preceding the expected month of birth. Acceptable source of medical confirmation is a written statement from a licensed medical practitioner confirming pregnancy and the expected date of birth.
 - (b) AFDC shall be continued through the month the child reaches the maximum age.
- (2) Who is a resident of the state of Washington, or who lives with a parent or other relative who is a resident of the state of Washington – see WAC 388-26-055 through 388-26-105;
- (3) Who is deprived of parental care and support because of death, continued absence, unemployment, or incapacity of a parent or stepparent – see WAC 388-24-055 through 388-24-074. A parent is a person acknowledging parentage and meeting the criteria in the Uniform Parentage Act (chapter 26.26 RCW). If parentage is contested, a court order will be required to determine parentage. If unemployment of a parent or stepparent is the basis of deprivation, all provisions of WAC 388-24-074 apply;
- (4) Whose parent or stepparent, if incapacitated, does not refuse available medical treatment without good cause as specified in WAC (~~388-24-065(12)~~) 388-24-065(11);
- (5)(a) Who is living in the home of a relative of specified degree, except for a temporary period, as provided in WAC 388-24-125; or
 - (b) Who, as a result of judicial action, was removed from his or her home and placed in foster care after April 30, 1961, and who meets the conditions specified in WAC 388-24-207;
 - (6) Who is a citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States as described in WAC 388-26-120;
 - (7) Whose parent or stepparent has not transferred property contrary to law or DSHS rules in WAC 388-28-457 through 388-28-465;
 - (8) Who is in financial need – see chapters 388-28 and 388-33 WAC;
 - (9) Who is a child eighteen years of age and under nineteen years of age who is a full-time student reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before the end of the month in which nineteen years of age is reached; except an unmarried parent eighteen years of age and under nineteen years may be considered a needy child irrespective of the school or training requirement when such minor parent and his or her child live in the home of such minor parents;
 - (a) Parent or parents; or

(b) Legal guardian or legal guardians where such guardian is the minor parent's relative as specified in WAC 388-24-125.

~~(10) ((The applicant's written statement of application for AFDC must include all children under eighteen years of age living in the home who are full or half brothers or sisters or stepbrothers or stepsisters whether or not financial assistance is being requested for all of the children. Total resources and income available for all such children and their parents or stepparents in the home must be declared by the person applying in behalf of the children.~~

~~((+)) For persons to be included in the AFDC assistance unit, see WAC 388-24-050.~~

AMENDATORY SECTION (Amending Order 2033, filed 11/2/83)

WAC 388-24-050 AID TO FAMILIES WITH DEPENDENT CHILDREN—ASSISTANCE UNIT. Effective ~~((August 23, 1983))~~ September 1, 1985, AFDC is paid to eligible persons on an assistance unit basis. Assistance units shall be composed of groups of ~~((persons))~~ certain individuals residing together ~~((as follows))~~:

(1) The following individuals, if living in the family home, must be included in a single assistance unit ((shall be established)) for determination of eligibility and payment amount; such individuals, except as provided in WAC 388-28-590, shall be included in the assistance unit regardless of their income or resources, and shall be excluded only if ineligible due to factors not related to need:

(a) The ((eligible)) child or children, including all natural or adoptive full or half brothers or half sisters of such child or children; and

((+)) (b) The ((eligible)) natural ((parent)) or ((parents, if married, or paternity has been established by a court order (this includes a paternity and consent affidavit notarized and filed with vital statistics for uncontested cases);) adoptive parent or parents, or stepparent or stepparents((-));. A minor parent must be included in the same assistance unit as such minor parent's eligible child or children.

((+)) (2) ((In lieu of a parent;)) The following individuals, if living in the family home, may be included in a single assistance unit with the eligible child or children at the option of the family:

(a) One needy relative caretaker of specified degree ((with whom the child or children live and)) whose eligibility depends solely on caring for the child or children((-)), if a parent or parents do not reside in the family home;

(b) The ((eligible child or children and one parent, if both natural; unmarried parents are living together, but paternity has not been established by a court order (see subsection (1)(a)(i) of this section)) stepbrothers or stepsisters of a child or children included in the assistance unit; except a stepbrother or stepsister must be included in the assistance unit as specified in subsection (1) of this section if the assistance unit includes such stepchild's natural or adoptive full or half brother or half sister.

(c) The natural or adoptive parent or parents or stepparent or stepparents of a minor parent shall have the option of not being included in the assistance unit of the minor parent and minor parent's eligible child; except a minor parent's parent or stepparent shall be included in a single assistance unit with the minor parent and the minor parent's child when the following conditions are met:

(i) The minor parent's parent or stepparent requests assistance as the needy caretaker relative of the minor parent, or the minor parent's child, or the minor parent's full or half brother or half sister; and

(ii) The minor parent is not emancipated as specified in WAC 388-24-550(4); and

(iii) The minor parent is not eligible to be included in an assistance unit with the other parent of such minor parent's child.

(3) A single assistance unit shall also be established for:

((+)) (a) Only the eligible child or children, including siblings and half-siblings, when:

(i) The child or children's parent or parents ((is)) are not eligible; or
(ii) The child or children live with a nonneedy relative of specified degree not legally responsible for the support of the child or children; or

(iii) The child or children live with a needy ((nonresponsible)) relative of specified degree receiving SSI; or

(iv) The child or children are ((a)) recipients of AFDC-FC.

((+)) (b) Only the eligible parent or parents, or needy caretaker relative of specified degree, when the only child, or all the children, has been deleted from the grant because of receiving income from SSI.

((+)) (c) Only the eligible parent or parents when the only child is unborn.

((+)) (4) Two assistance units are necessary when:

(a) The responsible relative must temporarily reside apart from his or her family to secure training in accordance with an approved plan. Refer to WAC 388-24-125;

(i) One assistance unit is maintained for the family members in the home; and

(ii) A separate assistance unit is established for the relative in training.

(b) The child or children live with a nonresponsible relative of specified degree who is a member of another assistance unit.

((+)) (5) Two or more assistance units are necessary when two or more persons not married to each other each has his or her own child or children, and there is no child in common; a separate assistance unit is established for each parent and his or her eligible child or children.

((+)) (6) When a relative of specified degree is eligible to receive assistance for two or more children for whom he or she is not legally responsible:

(a) One assistance unit is established for each group of children who are siblings; and

(b) A separate assistance unit or units is established for each of the other nonsibling children, except if a nonsibling child is the child of a minor parent and the minor parent lives in the home, such child shall be included in an assistance unit as specified in subsections (1) and (2) of this section.

NEW SECTION

WAC 388-24-051 PROVISION OF INFORMATION REQUIRED TO DETERMINE ELIGIBILITY OF THE ASSISTANCE UNIT. (1) As a condition of eligibility, each applicant must submit a written application covering all individuals required to be in the assistance unit as specified in WAC 388-24-050(1). In addition, each applicant must cooperate in providing information and meeting any other requirements necessary to establish eligibility of such individuals.

(2) Failure of an applicant to submit an application covering all individuals or, except as provided in WAC 388-24-108 and 388-24-109, to cooperate in establishing eligibility of individuals required to be in the assistance unit as required in subsection (1) of this section shall make the entire assistance unit ineligible.

(3) Failure of a recipient to report that an individual required to be in the assistance unit lives in the home shall result in the department determining eligibility and payment amount as follows:

(a) The department shall, upon discovering a recipient's failure to report, inform such recipient of the requirement to apply for assistance for such individual and to cooperate in providing information necessary to establish such individual's eligibility.

(i) If the recipient fails to apply for assistance or cooperate in providing information under the time limits required in WAC 388-38-040(3), the entire assistance unit is ineligible. Such recipient is entitled to advance and adequate notice as provided in chapter 388-33 WAC.

(ii) If the recipient applies for assistance, including cooperating in providing information, eligibility shall be established with the individual included in the assistance unit.

(b) Whether or not the recipient applies for assistance as provided in subsection (3) of this section, if the individual whose presence in the home was not reported has income or resources, the department shall:

(i) Determine eligibility and payment amount of the assistance unit considering the individual's need, income, and resources from the date such individual moved into the home to the date the recipient either applies or the department determines the recipient has failed to apply; and

(ii) Establish an overpayment as necessary according to chapter 388-44 WAC.

AMENDATORY SECTION (Amending Order 1501, filed 5/22/80)

WAC 388-24-052 PROVISION OF SOCIAL SECURITY NUMBERS. (1) As a condition of eligibility each applicant for or recipient of assistance shall be required to:

(a) Furnish a Social Security number for all persons whose needs are considered in determining the amount of assistance, or

(b) Apply for Social Security numbers if they are unknown or have not been issued.

(2) The applicant/recipient has the responsibility to report promptly and accurately any new Social Security number within twenty days of its receipt per WAC 388-38-255.

(3) Assistance will not be denied, delayed, or terminated pending issuance of Social Security numbers if the applicant/recipient provides

verification that ~~((he/she))~~ he or she has met the requirement in ~~((subdivision))~~ subsection (1)(b) ~~((or that he/she has attempted to apply, but the application was refused because he/she could not furnish the verification required by the Social Security administration or recipient))~~ of this section.

(4) If the applicant or recipient fails ~~((or refuses))~~ to comply with the requirement to furnish or apply for Social Security numbers for each person included in the assistance unit, eligibility for such ~~((person(s)))~~ person or persons cannot be determined and they shall be excluded from the assistance unit. If the applicant or recipient refuses to cooperate in complying with the requirement for a person required to be in the assistance unit, the assistance unit is ineligible. See WAC 388-24-051.

(5) The department shall assist the applicant in obtaining a Social Security number by referring him or her to the nearest Social Security office and by furnishing to the client from department records any verification requested by the Social Security administration.

(6) These rules shall be effective ~~((April 1, 1980))~~ September 1, 1985.

AMENDATORY SECTION (Amending Order 2033, filed 11/2/83)

WAC 388-24-055 AID TO FAMILIES WITH DEPENDENT CHILDREN-REGULAR-DEPRIVATION OF PARENTAL SUPPORT OR CARE. Effective ~~((August 23, 1983))~~ September 1, 1985:

(1) "Parent" as used in this and following sections means a natural or adoptive parent or stepparent. A parent-child relationship is considered to exist if the criteria in the Uniform Parentage Act (chapter 26-26 RCW) are met and the parents are acknowledging parentage. If parentage is contested, it can only be determined by a court of law.

(a) An adoptive parent has the same rights and responsibilities as a natural parent in respect to the adopted child.

(b) A stepparent, legally married to a child's parent has the same rights and responsibilities as a natural parent for the care and support of his or her stepchild. See WAC 388-28-350.

(2) A child deprived of parental support or care may or may not be in financial need. Need is a factor to be determined separately.

(3) Deprivation of a child of unmarried parents ~~((when paternity has been established by a court order (see WAC 388-24-050 (1)(a)(i))))~~ is determined on the same basis as a child of married parents.

(4) A child living with a parent and ~~((an individual assuming the role of spouse of the parent))~~ a nonrelated adult is deprived because of the absence or death of the other natural or adoptive parent. The responsibility of the ~~((presumptive spouse))~~ nonrelated adult to support the child is a financial need factor only - see WAC 388-28-355. Also see WAC 388-24-108 through 388-24-114 in respect to support from the absent parent.

AMENDATORY SECTION (Amending Order 2033, filed 11/2/83)

WAC 388-24-070 AID TO FAMILIES WITH DEPENDENT CHILDREN-REGULAR-DEPRIVATION DUE TO CONTINUED ABSENCE FROM HOME. Effective ~~((August 23, 1983))~~ September 1, 1985:

(1) Determination whether a child has been deprived of parental support or care is made in relation to a child's natural parent or parents, ~~((if married, or paternity has been established by a court order))~~ as defined in WAC 388-24-040(3), adoptive parent, or stepparent~~((; and))~~. The term parent as used in this section refers to any of those relationships.

(2) Continued absence of a parent from the home, whether or not the natural parents have taken legal action to separate or to dissolve or annul the marriage, establishes deprivation of parental support or care when:

(a) The parent is living out of the home in which the child resides, and

(b) The nature of the absence interrupts or terminates the parent's functioning as a provider of either maintenance, physical care, or guidance for the child, and

(c) The known or indefinite duration of the absence precludes counting on the parent's performance of his or her function in planning for the present support or care of the child.

(3) ~~((Absence from the home is considered as "being continued" when the situation has, or is likely to have, a degree of permanency in contrast to a purely temporary disruption of family life. The following are examples of situations considered to meet this requirement:~~

(a) Absence as the result of legal action;

(i) The parents are divorced or divorce action has been filed; or the marriage has been annulled; or a petition has been filed requesting dissolution of the marriage because the marriage is irretrievably broken; or a separation contract has been filed with the court containing provisions for maintenance, property disposition, custody of children, support, and visitation; or a written separation contract has been published in a legal newspaper, in lieu of a court decree;

(ii) Absence due to divorce is overcome by remarriage of the child's natural or adoptive parent with whom he or she lives;

(iii) If the natural or adoptive parents, in spite of the legal action, resume living together, there is no longer deprivation on the basis of absence;

(b) Absence due to separation, desertion, or abandonment;

(i) There is a clear disassociation of one or both parents from their normal family relationship;

(ii) If the separation, desertion, or abandonment has existed at least thirty days prior to application and there is no indication the absence will not continue, deprivation is considered established;

(iii) Deprivation may be established if the absence has existed for less than thirty days prior to application only when there is sufficient information as determined by the CSO showing the absence can be expected to continue. The type of information and basis of determination must be documented in the case record)) When the continued absence of a parent as specified in subsection (2)(a) of this section is established, it is assumed that one or more of the elements of parental functioning as specified in subsection (2)(b) of this section are interrupted sufficiently to establish deprivation. The interruption of such parental functioning is assumed even though the parent whose absence is established is in contact with the child due to court ordered visitation, joint custody, or otherwise. The assumption parental functioning is interrupted can be rebutted only if the absent parent routinely visits the child, and there is clear evidence the absent parent provides all elements of parental functioning with no interruption of such functioning attributable to the absence. Documentation of any reduction of one or more of the elements of parental care due to the absence shall establish deprivation. For the purpose of determining whether parental functioning is interrupted due to the absence in such cases, the following definitions apply:

(a) "Maintenance" means either financial support paid directly to the child's household or substantial in-kind contributions of food, clothing, and other necessities, and the value of such support payments or contributions, when considered separately or in any combination, is sufficient to meet the prorated share of the child's monthly need based on the need standard for the number of persons in the child's assistance unit as specified in WAC 388-29-100.

(b) "Physical care" means providing continuous care of the child on a day-to-day basis by performing tasks required in the child's daily life. Such tasks include, but are not limited to, depending upon the age of the child: Providing clean clothing, dressing, preparing meals, feeding, supervising bedtime, and assisting with other personal care needs.

(c) "Guidance" means day-to-day parental participation in and responsibility for the child's physical, emotional, and intellectual development. Such participation includes, but is not limited to, depending upon the age of the child: Accompanying to doctor visits, attending school conferences, disciplining, and participating in decisions concerning the child's well-being and extracurricular activities.

(4) The requirements for establishing deprivation due to continued absence in subsections (2) and (3) of this section are applicable regardless of:

(a) The reason for the parent's absence; except that a parent whose absence is due solely to serving on active duty in the uniformed military services of the United States is not considered absent.

(b) The duration of the parent's absence except:

(i) For applicants, when the department's best estimate based on available evidence is that an absent parent will return to reside in the home at any time within the month of initial grant authorization or the month following the month of initial grant authorization, eligibility is determined prospectively as specified in WAC 388-28-483. If the department's best estimate is that the absent parent will return to the home within the month of initial grant authorization, deprivation does not exist. If the department's best estimate is that the absent parent will return to the home within the month following the month of initial grant authorization, deprivation may or may not exist for the initial month of grant authorization according to the requirements of subsections (2) and (3) of this section, but deprivation does not exist for the month following the month of initial grant authorization.

(ii) For recipients, after the first two months of eligibility, when the department determines an absent parent will be returning to the home, eligibility is determined according to WAC 388-33-135(4), and deprivation ceases the end of the month in which the parent returns to the home.

(5) Applicants or recipients covered under subsection (4)(b) of this section are fully entitled to a redetermination of eligibility for other benefits prior to termination and to advance and adequate notice of termination including a right to hearing as specified in WAC 388-33-376 and 388-33-385.

(6) Deprivation due to continued absence is considered established when a parent convicted of an offense is permitted to reside in the family home but is required by the court to perform unpaid work or unpaid community service.

(a) The needs of the convicted parent will not be included in the determination of eligibility or the payment of financial assistance.

(b) A convicted parent earning income outside of the hours of sentenced unpaid work or community service shall have such earnings treated in accordance with WAC 388-28-500.

~~((f))~~ (7) If application is made by a nonresponsible relative on behalf of a child who has not been placed in his or her custody through a court order, whose parent or parents though able have failed to support the child, apparent abandonment shall be assumed and the policies outlined in WAC 388-24-114 shall apply.

~~((c))~~ Absence of unmarried parents when paternity has been established by a court order (see WAC 388-24-050(1)(a)(i));

If the parents have not maintained a home together, deprivation is established. If the parents have maintained a home together and one parent has left the home, the situation should be evaluated as provided in subsection (3)(b) of this section:

(d) Absence due to other reasons:

(i) Parent confined to an institution and is expected to remain for more than thirty days. A parent who is incarcerated but participating in a work release program is considered to be in an institution.

(ii) Parent has been deported.

(iii) Parent has been convicted of an offense and has been required by the court to perform unpaid work or community service during the workday while being permitted to reside in the family home.

(A) The basis of deprivation will be continued absence, and the needs of the convicted parent will not be included in the determination of eligibility or the payment of the family grant.

(B) A convicted parent earning income outside of the hours of sentenced unpaid work or community service shall have such earnings treated in accordance with WAC 388-28-500.

(4) The rules in this section shall apply to applications which are pending and/or made on or after October 1, 1982, and to recipients when case actions occur or when a periodic desk review is completed on or after October 1, 1982. (8) The rules in subsections (2), (3), (4), and (5) of this section are effective October 4, 1984.

AMENDATORY SECTION (Amending Order 2033, filed 11/2/83)

WAC 388-24-074 AID TO FAMILIES WITH DEPENDENT CHILDREN-EMPLOYABLE-DEPRIVATION DUE TO UNEMPLOYMENT OF A PARENT. Effective ((August 23, 1983)) September 1, 1985, to be eligible for AFDC-E, an applicant shall be a child whose qualifying parent meets the requirements in this section.

(1) The qualifying parent is that parent earning the greater amount of income in the last twenty-four-month period, the last month of which immediately precedes the month in which the application for assistance is filed.

(a) If the client and CSO cannot secure verification of earnings for this period, the CSO shall designate the qualifying parent using the best evidence available.

(b) The earnings of both parents are considered in determining the qualifying parent, regardless of when the relationship began.

(c) The designated qualifying parent remains the qualifying parent for each consecutive month the family remains on assistance based on the current application.

(d) If both parents earned an identical amount of income, the CSO shall designate the qualifying parent.

(2) The child must be deprived of parental care and support because of the unemployment of a natural parent, ((if married or paternity has been established by a court order;)) adoptive parent, or stepparent who satisfies all the requirements in this section to qualify the assistance unit.

A parent or stepparent is considered to be unemployed when:

(a) He or she is employed less than one hundred hours a month, or

(b) He or she exceeds that standard for a particular month if his or her work is intermittent and the excess is of a temporary nature as evidenced by the fact he or she was under the one hundred hour standard for the two prior months and is expected to be under the standard during the next month.

(3) The qualifying parent or stepparent must have been unemployed as defined in subsection (2) of this section for at least thirty days prior to the date AFDC-E is authorized.

When AFDC-E is terminated due to full-time employment of the unemployed parent or stepparent, no additional waiting period is required if the full-time employment ends within thirty days of termination and the individual reapplies and is found otherwise eligible for AFDC-E.

(4) The qualifying parent or stepparent must not have refused a bona fide offer of employment or training for employment or has not voluntarily left a job without good cause during the same thirty-day period.

(5) The child must meet the eligibility conditions specified in WAC 388-24-040 and 388-24-090 through 388-24-125.

(6) The child's qualifying parent or stepparent:

(a) In WIN areas, must be registered for the WIN((E&T)) program unless exempted by WAC 388-24-107. If exempt from WIN registration, must be registered for employment with the local DES office.

(b) In non-WIN areas((:)), must be registered for employment with the local DES office((:)) and ((is registered)) for E&T unless exempted by WAC 388-24-107. If exempt from E&T registration, must still be registered for employment with the local DES office.

(7) The qualifying parent or stepparent, if eligible for unemployment compensation, has not refused to apply for or accept such compensation.

(8) The qualifying parent or stepparent:

(a) Has had six or more quarters of work within any thirteen calendar quarter period ending within one year prior to the application for assistance. A "quarter of work" means a calendar quarter in which he or she earned income of not less than fifty dollars, or in which he or she participated in the work incentive (WIN) program or community work experience program (CWEP). A "calendar quarter" means a period of three consecutive calendar months ending March 31st, June 30th, September 30th, or December 31st, or

(b) Within one year prior to his or her application received or would have been eligible to receive unemployment compensation had he or she applied; or if the employment which he or she had was not covered under the unemployment compensation law of the state or the United States, his or her work history was such that had his or her employment been covered, he or she would have been eligible.

(9) ((The qualifying parent or stepparent:

(a) In non-WIN areas is registered for and accepts an ongoing basis employment and training services;

(b) In WIN areas is registered for and accepts the services defined in subsection (9)(a) of this section if not accepted into a WIN component.

((+)) The child must be living with both natural parents, ((if married or paternity has been established by a court order;)) adoptive parents, or a parent and stepparent except that one may be temporarily absent to search for employment with the expectation of continuing to live with the family.

((+++)) (10) AFDC will not be denied or terminated solely because of an individual's participation in institutional and work experience training or in public service employment under the WIN program.

((+2)) The rules in this section are effective July 1, 1983.))

AMENDATORY SECTION (Amending Order 2033, filed 11/2/83)

WAC 388-24-125 ELIGIBILITY CONDITIONS APPLICABLE TO AFDC-LIVING IN HOME OF RELATIVE OF SPECIFIED DEGREE. Effective ((August 23, 1983)) September 1, 1985:

(1) Relationship of child to relative:

(a) A dependent child to be eligible for AFDC-R must be living with one or more of the following relatives in a place of residence the relative or relatives maintains as his or her own home:

(i) Blood relatives (including those of half-blood); father, mother, brother, sister, uncle, aunt, first cousin, nephew, or niece. Relationships to persons of preceding generations as denoted by the prefixes of grand, great, or great-great are within this definition.

(ii) Stepfather, stepmother, stepbrother, and stepsister. Adoption of a child by a stepparent changes the relationship from stepparent to adoptive parent.

(iii) Persons who legally adopt a child. Relatives of persons who adopt children are included within the definition of "relative" as defined in this section.

(iv) Spouse of any persons named in this section are within the scope of this provision, although the marriage is terminated by death or divorce.

(b) A child eligible for AFDC-E must be living with both natural parents, ~~((if married;))~~ or adoptive parents, or a parent and stepparent. ~~((A child of unmarried parents is included if paternity has been established by a court order (see WAC 388-24-050 (1)(a)(ii)).))~~ In order to determine members of the assistance unit, see WAC 388-24-050 also.

(c) A child eligible for AFDC-FC must live in a licensed family foster home, nonprofit group home, or nonprofit child care institution.

(d) The unborn child is considered to be living with the mother.

(2) Verification of relationships - relative to child and parents to each other.

All relationships shall be verified in accordance with WAC 388-38-200.

(3) Other considerations in determining when child is living in home of relative of specified degree.

(a) "Living in home of relative" means the child is an accepted member of a family unit, and therefore, has a close and direct relationship with a specified relative assuming parental responsibility for the care, guidance, and control of the child.

(b) The "home" is a family setting maintained or in the process of being established for the benefit of the family group. A home exists as long as the responsible relative exercises responsibility for the care and control of the child, even though circumstances may require the temporary absence of either the child or the responsible relative from the customary family setting. Such temporary separations include:

(i) Temporary care of the child or the responsible relative in a hospital or public or private institution when the illness is such that a return to the family can be expected and parental responsibility continues. If the temporary care exceeds ninety days, the monthly grant standard shall be as specified in WAC 388-29-125.

(ii) Attendance of a child in school when the purpose is primarily for obtaining an education or vocational training. The responsible relative retains full responsibility for the child and the child returns home during a year's period, at least for summer vacation. The monthly grant standard for a child attending school away from home shall be as specified in WAC 388-29-145. However, even temporary absence of a child from his or her home for this purpose makes a child ineligible for AFDC unless the attendance at the school is due to:

(A) Need for specialized education and training not available in the child's home community, and such specialized education is recommended by local school authorities, or

(B) Isolation of the child's home making it necessary for him or her to be away from home to attend school.

(C) Enrollment on or after September 1, 1981, in an Indian boarding school administered through the Bureau of Indian Affairs.

(iii) Visits in which the child or responsible relative is away from home for ninety days or less, including visits of a child to a parent residing away from the child's customary family home. If the responsible relative or child leaves the home for more than ninety days, eligibility is redetermined in accordance with the new circumstances.

(iv) Attendance in a vocational training program when attendance is necessary for a responsible relative to reside temporarily apart from his or her family to secure the training. Absence is considered temporary for the period of time required to complete the training program, if the responsible relative retains parental responsibility for the child during the absence and plans to return to the home upon completion of training.

(A) CSO approval is required for the training plan. (See WAC 388-57-028(2).)

(B) A separate assistance unit shall be established for the responsible relative in training away from home.

(v) Temporary placement of the child in foster care while the parent is temporarily receiving care in a residential treatment facility, where such absences do not exceed thirty days.

(c) An AFDC payment can be made for a child who is a ward of the juvenile court, or other agency to whom the court has delegated authority, if all other eligibility factors have been met and the relative of specified degree actually carries out the everyday care, control, and supervision of the child.

(d) An AFDC payment cannot be made if the court, or other agency to whom the court has delegated authority, has physical custody of the

child and carries out the actual day-to-day care, control, and supervision of the child.

(e) An AFDC payment can be made to the caretaker relative in behalf of a child even if the child is in foster care. The caretaker relative can apply for and receive AFDC for himself or herself and the child for thirty days, even though the child is not physically in the custody of the relative if:

(i) The caretaker relative is otherwise eligible,

(ii) The child is returned to the relative's home before the end of the thirty-day assistance period,

(iii) No AFDC payments are being made for the child, either in another relative's home or through AFDC-FC in the same thirty-day period.

AMENDATORY SECTION (Amending Order 2033, filed 11/2/83)

WAC 388-24-137 CONTINUATION OF ASSISTANCE WHEN DEPRIVATION CEASES. Effective ~~((August 23, 1983))~~ September 1, 1985:

(1) When deprivation due to incapacity ~~((or)), absence, or unemployment ceases and the family remains in need, the CSO shall determine if any other basis for deprivation exists.~~

(2) If ~~((there is))~~ no other deprivation ~~((due to death or incapacity after deprivation due to absence ceases))~~ exists, assistance will be discontinued at the end of the calendar month in which deprivation ~~((due to absence ceases unless one of the parents qualifies the assistance unit for AFDC-E))~~ ends.

AMENDATORY SECTION (Amending Order 2033, filed 11/2/83)

WAC 388-24-265 CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)—ELIGIBLE PERSONS. Effective ~~((August 23, 1983))~~ September 1, 1985:

(1) CEAP shall be provided when the child:

(a) Is under eighteen years of age, and

(b) Is living with a parent or other relative as specified in WAC 388-24-125(1)(a)(i), or

(c) Has lived with such relative within the six months prior to the month in which assistance is requested;

(d) Is in emergent need and the need is not due to his or her or such relative's refusal without good cause to accept employment.

(2) The following may be included in the assistance unit:

(a) The child or children under the age of eighteen.

(b) Both parents, if married or if ~~((paternity))~~ paternal relationship has been established ~~((by court order))~~ (see WAC ~~((388-24-050(1)(a)(ii)))~~ 388-24-050(1)(b)). Otherwise, only the mother shall be included.

(c) The needy caretaker relative or relatives with whom the child or children live.

(d) Migrant workers with dependent children.

(e) The married parents of an unborn child when pregnancy is confirmed. If unmarried, only the mother shall be included.

(f) A child under the age of eighteen not currently living in the home of a relative, if he or she qualifies under WAC 388-24-255(3).

(g) Children and families not eligible for assistance because of their alien status.

(3) Emergency assistance:

(a) May be paid to the recipient by warrant or by vendor payment.

(b) Shall be utilized for applicants from another state only when such individuals are:

(i) Detained in Washington for reasons beyond their control and as a result of events which could not have been reasonably anticipated; or

(ii) They have decided to become residents.

AMENDATORY SECTION (Amending Order 1097, filed 2/13/76)

WAC 388-24-550 ASSISTANCE TO MINOR CHILD. (1) A minor is a person under the age of ~~((+8))~~ eighteen.

(2) Under state law (chapter 74.13 RCW, Child Welfare Services) the department is responsible for the protection and care of homeless, dependent, or neglected children or children in danger of becoming delinquent.

(3) If a minor ~~((may apply in his or her own right, including an unmarried minor with a child or an unmarried pregnant minor))~~ applies for assistance for himself or herself, eligibility shall be determined according to WAC 388-24-040 and 388-24-125. If ((the)) an unmarried pregnant minor is requesting an abortion, parental consent is not required. The decision to proceed with an abortion rests solely with the

minor. Involvement and/or consultation with parents in reaching this decision should be a matter of individual case judgment.

(4) Financial eligibility of a minor, including an unemancipated minor parent, living outside the home of such minor's parent or parents cannot be established without a determination of the parent's ability to financially support and willingness to contribute. See WAC ~~((388-83-050(2)))~~ 388-83-130 for responsibility for medical care. Parental contact is not required when the minor applicant:

(a) Is emancipated. A minor is considered emancipated if such minor:

- ~~((a))~~ (i) Is married,
- ~~((b))~~ (ii) Is in the military service((-);),
- ~~((c))~~ (iii) Has been declared emancipated by a court of competent jurisdiction prior to the application for assistance((-);),

(b) Is applying for medical assistance related to pregnancy.
~~((d))~~ (5) The minor's emancipation status is not an eligibility factor. The identification of emancipation status is necessary to determine if there is parental responsibility for support.

~~((d))~~ Is applying for medical assistance related to pregnancy. See WAC 388-82-015 (1)(a)(i) regarding abortion.

~~((e))~~ (6) The minor applicant not emancipated as specified in subsection (4) of this section will be informed ((that)) there will be communication with ((her/his)) his or her parents ((in)) during the period of determination of eligibility((- and that the juvenile court will be advised if her/his parents do not assume financial responsibility.

~~((6))~~ The juvenile court will be advised of all cases in which the parents do not assume financial responsibility).

(7) If a minor parent and his or her child live with such minor's parent or parents, the assistance unit of the minor parent is established according to WAC 388-24-050(1). If the minor parent's parent is not included in the assistance unit of the minor parent, and the minor parent is not emancipated, as specified in subsection (4) of this section, the income of such parent is considered available to meet the needs of the minor parent as specified in WAC 388-28-500(4).

(8) If a minor parent's legal guardian has a court-ordered responsibility for the support of such minor parent, such legal guardian's income, with respect to determining the availability of such income to meet the needs of the minor parent, shall be treated the same as the income of a minor parent's parent as specified in subsection (4) of this section.

of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is harvestable numbers of summer chinook are available.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 17, 1985.

By William R. Wilkerson
 Director

NEW SECTION

WAC 220-57-15500D CLEARWATER RIVER. Notwithstanding the provisions of WAC 220-57-155, effective July 1 through August 31, bag limit A downstream from the mouth of Snahapish River.

NEW SECTION

WAC 220-57-46000M SOLEDUCK RIVER. Notwithstanding the provisions of WAC 220-57-460, effective July 1 through August 31, bag limit A downstream from the pump station at the Soleduck Hatchery to the Highway 101 Bridge.

WSR 85-13-050
 NOTICE OF PUBLIC MEETINGS
 HUMAN RIGHTS COMMISSION
 [Memorandum—June 14, 1985]

The Washington State Human Rights Commission will conduct a special commission meeting to interview candidates for the position of executive secretary of the agency. The interviews will be held on June 25, 1985, at the Port of Seattle, Fourth Floor Conference Room, Pier 66, Seattle, beginning at 6:00 p.m. and on June 26, 1985, at the Red Lion Inn-Sea Tac Mercury I Room, 18740 Pacific Highway South, Seattle, beginning at 6:00 p.m.

WSR 85-13-051
 EMERGENCY RULES
 DEPARTMENT OF FISHERIES
 [Order 85-63—Filed June 17, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation

WSR 85-13-052
 PROPOSED RULES
 DEPARTMENT OF AGRICULTURE
 [Filed June 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Agriculture intends to adopt, amend, or repeal rules concerning use of endrin on orchards, chapter 16-228 WAC;

that the agency will at 1:00 p.m., Wednesday, July 24, 1985, in the Agricultural Service Center Conference Room, 2015 South 1st Street, Yakima, WA 98903, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 2, 1985.

The authority under which these rules are proposed is chapter 17.21 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 24, 1985.

Dated: June 18, 1985
 By: Art Losey
 Assistant Director

STATEMENT OF PURPOSE

Title: WAC 16-228-235, 16-228-245, 16-228-250, 16-228-255, 16-228-260, 16-228-265, 16-228-275, 16-228-240, 16-228-270, 16-228-280, 16-228-285 and 16-228-010.

Description of Purpose: To regulate the use of endrin on orchards.

Statutory Authority: Chapter 17.21 RCW.

Summary of Rules: These rules regulate the use of endrin and set down guidelines on the use of endrin.

Reasons for Supporting Proposed Action: To bring up to date the rules relating to the use of endrin and to prohibit the use of endrin on orchards except for crisis use under the criteria established for crisis use.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Art G. Losey, Assistant Director, Chemical and Plant Division, 406 General Administration Building, AX-41, Olympia, WA 98504, (206) 753-5062.

Persons Proposing Rules: Washington State Department of Agriculture.

Agency Comments: None.

Rules Necessary to Comply with Federal Law: No.

Small Business Economic Impact Statement: None.

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-010 DEFINITIONS. (1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department of agriculture of the state of Washington, or a duly authorized representative.

(3) "Agricultural commodity" means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by humans or animals.

((2)) (4) "Authorized agent" is any person who is authorized to act on behalf of a certified applicator for the purpose of purchasing pesticides.

((3)) (5) "Bait box" for rodenticides is a box constructed of durable metal, wood, plastic, or other treated synthetic material. It shall be designed to hold rodent bait securely, allow rodents to enter and leave, and prevent unauthorized persons and domestic animals from gaining access to the bait. The cover shall be provided with a lock that can be unlocked only by a combination, key, special tool, or forced entry. Fragile materials are unacceptable.

((4)) (6) "Bait station" may be any location where baits are placed to allow target pests to gain access to the bait.

((5)) (7) "Bulk fertilizer" is a commercial fertilizer, agricultural mineral, or lime, distributed in nonpackaged form.

((6)) (8) "Certified applicator" means any individual who is certified by the director to use or supervise the use of any pesticide which is classified by the Environmental Protection Agency (EPA) as a restricted use pesticide or by the state as restricted to use by certified applicators including, but not limited to licensed commercial applicators, licensed commercial operators, licensed public operators, licensed private-commercial applicators, licensed demonstration and research applicators, and certified private applicators.

((7)) (9) "Controlled disposal site" means any place where solid or liquid waste is disposed: PROVIDED, That the area has been designated as a disposal site for waste materials by the appropriate jurisdictional agency: PROVIDED FURTHER, That the site is fenced, barricaded or otherwise enclosed or attended by some person in charge to facilitate control-access of domestic animals, pets, and unauthorized persons.

((8)) (10) "Dry pesticide" is any granular, pelleted, dust or wettable powder pesticide.

((9)) (11) "EPA" means the United States Environmental Protection Agency.

((10)) (12) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

((11)) (13) "Fertilizer" as included in this order means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.

((12)) (14) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended.

((13)) (15) "Floor level" is considered to be the floor upon which people normally walk—not shelves, ledges, overhead beams, tops of stacked materials, surfaces of equipment, or similar places.

((14)) (16) "Food service establishment" means any fixed or mobile restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial-feeding establishment; retail grocery; retail food market; retail meat market; retail bakery; private, public, or nonprofit organization routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

((15)) (17) "Fumigant" means any substance or combination of substances that produce gas, fumes, vapors, or smoke, and is used to kill pests in some kind of enclosure.

((16)) (18) "Highly toxic" for the purpose of this ((order)) chapter, are those pesticides determined to be in the Toxicity Category I and are labeled on the front panel with the signal word "danger." In addition if the product was assigned to Toxicity Category I on the basis of its oral, inhalation or dermal toxicity (as distinct from skin and eye local effects) the word "poison" shall appear in red on a background of distinctly contrasting color and the skull and crossbones shall appear in immediate proximity to the word "poison."

((17)) (19) "Private applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators by the director for the purposes of producing any agricultural commodity on land owned or rented by the private applicator or the private applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

((18)) (20) "Private-commercial applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

((19)) (21) "State restricted use pesticide" means any pesticide determined to be a restricted use pesticide by the director under the authority of chapters 17.21 and 15.58 RCW that are restricted to use only by certified applicators.

((20)) (22) "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

AMENDATORY SECTION (Amending Order 1805, filed 8/1/83)

WAC 16-228-235 PURPOSE OF ((ORDER)) RULES—ENDRIN USE. The purpose(s) of ((this administrative order arc (1) to provide for an orderly two year phase-out in the use of the pesticide endrin for orchard use in the state of Washington, (2) to provide for a public hearing prior to the 1985 application season to determine whether it is necessary to have a crisis permit process for endrin, (3)) the following rules is to prohibit the use of endrin except for crisis use, and to establish criteria for the crisis use ((if any)) of endrin((—and (4) to establish an endrin advisory committee to advise the director regarding the use of endrin)).

AMENDATORY SECTION (Amending Order 1805, filed 8/1/83)

WAC 16-228-245 ENDRIN APPLICATION ((FO))—CRITERIA FOR DETERMINING CRISIS USE ON ORCHARDS. (1) All references to endrin in WAC 16-228-010 through 16-228-230 shall apply: PROVIDED, That when there is a conflict WAC 16-228-235 through ((16-228-290)) 16-228-275 shall prevail.

(2) ~~((Applications of endrin shall not be made to an orchard in the state of Washington until))~~ A crisis permit process for the use of endrin is hereby established which includes but not limited to the following procedures. The department shall not grant a crisis permit unless an applicant establishes the following:

(a) ~~((The orchard has been inspected by))~~ A licensed pest control consultant shall have inspected the orchard and prepared a written recommendation containing information required by WAC 16-228-250 and certifying that the criteria in subsection (3) of this section have been met; ~~((and))~~

(b) The Washington state department of game has been requested and provided an opportunity to have a department representative inspect the orchard and submit a written report to the department stating whether the criteria in subsection (3) of this section have been met. The orchardist shall ~~((contract))~~ contact the department of game and request such an inspection at or about the time the request for inspection is made to the licensed pest control consultant;

(c) Two copies of any reports made by the game representative and the consultant's recommendations shall be given to the grower and one copy shall be sent to the department; and

(d) To apply for a crisis permit, the grower shall submit to the department copies of any reports and recommendations of the game representative and consultant, together with additional information which the department may require, and a request for a crisis permit. If after reviewing the request and supporting documentation, the department concludes that endrin is the only feasible method of controlling meadow voles in the applicants' orchards, that meadow voles pose a substantial threat to the orchard, and that there is a crisis that precludes the option of trying additional alternatives to endrin, the department may issue a crisis permit for the use of endrin to the applicant. The permit shall specify the amount of endrin which may be used and the time and place where it may be applied, and no applicator shall apply a greater amount of endrin than specified in the permit, or apply endrin in a different place or time than is specified in the permit or without meeting the minimum application restrictions of WAC 16-228-260. The department may specify additional restrictions on the permit if it is deemed necessary.

(3) The inspection by the consultant and game representative shall be for the purpose of determining whether there is a need for meadow vole control after the following criteria have been met:

(a) There is proof of meadow vole activity. This ~~((must))~~ shall be measured by some type of population level monitoring technique, i.e., number of meadow voles per tree or amount of visible feeding on apples on ground, or there is documentation indicating there has been a problem of meadow vole populations migrating into the orchard from bordering lands after snowfall;

(b) Alternative rodenticides have been used and have not been effective;

(c) Proper cultural and integrated pest management practices such as mowing of cover crop and weed control around trees have been followed during the past year and have not been effective.

(d) The application shall not become a source of contamination of streams, rivers, ponds or lakes because of close proximity or direct surface drainage to these bodies of water.

(4) No sale, distribution or application of endrin for orchard use in Washington state shall be allowed without a crisis permit from the department of agriculture.

AMENDATORY SECTION (Amending Order 1805, filed 8/1/83)

WAC 16-228-250 ENDRIN—WRITTEN RECOMMENDATION—LICENSED CONSULTANT—GAME REPRESENTATIVE. ~~((++))~~ The game representative may prepare a written recommendation which shall contain documentation of the criteria set forth in WAC 16-228-245(3). The licensed pest control consultant shall prepare a written recommendation which shall contain documentation of the criteria set forth in WAC 16-228-245(3) and, in addition, shall include the following:

- ~~((a))~~ (1) Name and address of the grower;
- ~~((b))~~ (2) Address or location of orchard;
- ~~((c))~~ (3) Number of acres to be treated;
- ~~((d))~~ (4) Number of trees per acre;
- ~~((e))~~ (5) Amount of endrin needed to treat the orchard;
- ~~((f))~~ (6) Rate of application;
- ~~((g))~~ (7) Any special precautions of which the orchardist should be made aware.

~~((2))~~ Two copies of the consultant's recommendation and the game representative's report, if any, must be given to the grower, one copy

~~must be sent to the department of agriculture within seven days after the recommendation or report is made, and one copy must be retained by the consultant.~~

~~((3)) This section shall be valid until December 31, 1984.)~~

AMENDATORY SECTION (Amending Order 1805, filed 8/1/83)

WAC 16-228-255 ENDRIN—DISTRIBUTION—DEALER RECORDS. (1) Endrin shall be distributed for meadow vole control only by a licensed pesticide dealer to certified applicators or their duly authorized representative. A ~~((copy of any written recommendation by the licensed consultant and game representative and, where applicable, a))~~ copy of the crisis permit issued by the department, ~~((must))~~ shall be presented to the dealer before the endrin is delivered and no sale of endrin shall exceed the amount specified in the crisis permit.

(2) Licensed dealers shall keep records on each sale of endrin which shall include the following:

- (a) Name and address of the certified applicator;
 - (b) Applicator or operator certificate or license number;
 - (c) Name of authorized agent;
 - (d) Date of purchase;
 - (e) Brand name and Environmental Protection Agency registration number;
 - (f) Amount sold;
- (3) Pesticide dealers shall keep the ~~((written recommendations or))~~ crisis permits and dealer records for a period of two years from the date of distribution. Pesticide dealers shall submit copies of the sales records to the director within thirty days of the date of each sale.

AMENDATORY SECTION (Amending Order 1805, filed 8/1/83)

WAC 16-228-260 ENDRIN—APPLICATION RESTRICTIONS. (1) The application of endrin shall be restricted to a swath of four feet on each side of the apple tree row. Application shall be made only with ground equipment that is designed to restrict the spray to the four-foot swath with a minimum of drift.

(2) Spray pressure shall not exceed fifty psi: PROVIDED, That when a drift control agent has been added to the spray mixture, the spray pressure shall not exceed four hundred psi. Handgun applications using a spray pressure exceeding seventy-five psi ~~((must))~~ shall be made with the operator walking next to the four-foot application swath and spraying from the tractor seat shall be prohibited.

(3) Applications shall not be made if the wind velocity is more than five miles per hour from any direction.

(4) Endrin shall not be applied to a snow cover.

(5) Recommendations prepared by licensed pest control consultants shall be on a form prepared by the department and shall set forth these restrictions in the recommendation, together with a certification that the applicators and orchardists who are to use the endrin have been informed of and understand the restrictions set forth in WAC 16-228-260 and 16-228-265.

AMENDATORY SECTION (Amending Order 1805, filed 8/1/83)

WAC 16-228-265 ENDRIN—POSTING REQUIREMENTS. (1) Orchards sprayed with endrin ~~((must))~~ shall be posted with signs for a period of not less than thirty days from the date of application with the words "POISON - KEEP OUT" printed in both English and Spanish in letters large enough to be legible at a distance of thirty feet and accompanied by a skull and crossbones symbol. The sign also shall contain the statement "area sprayed with endrin."

(2) The signs shall be posted so as to be readily visible from any point of entry into the orchard.

(3) Workers shall be notified that there shall not be reentry into the orchard for thirty days after the application unless rubber boots are worn.

AMENDATORY SECTION (Amending Order 1805, filed 8/1/83)

WAC 16-228-275 ENDRIN—APPLICATOR RECORDS. (1) The applicator ~~((must))~~ shall keep records on the use of endrin which shall include the following:

- (a) Name and address of grower;
- (b) Location or address of orchard treated;
- (c) Date of application;
- (d) Number of acres treated;
- (e) Amount of endrin used;
- (f) Type of equipment used;
- (g) Meadow vole population threshold criteria used;

- (h) Name of licensed consultant making recommendation;
- (i) Cultural practices and other rodenticides used prior to the use of endrin;
- (j) Name of person or firm who supplied the endrin which was applied;
- (k) Disposal method for empty containers and spray tank residues;
- (l) A certification that all restrictions on application were observed.
- (2) Applicants shall submit a copy of these records to the department within thirty days after the date of application. The applicant shall be required to keep these records for a period of two years.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-228-240 ENDRIN USE IN ORCHARDS—1983 TO 1984.
- WAC 16-228-270 PERMIT.
- WAC 16-228-280 ENDRIN ADVISORY COMMITTEE.
- WAC 16-228-285 ENDRIN USE IN ORCHARDS AFTER DECEMBER 31, 1984—CRISIS PERMITS—PERMIT REQUIREMENTS.

WSR 85-13-053
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Filed June 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning Walla Walla, city of, WAC 173-19-4402;

that the agency will at 2:00 p.m., Tuesday, July 23, 1985, in Room 123, Department of Ecology Headquarters, St. Martin's College Campus, Lacey, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on August 6, 1985.

The authority under which these rules are proposed is chapters 43.21A and 34.04 RCW.

The specific statute these rules are intended to implement is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 1985.

Dated: June 19, 1985

By: Glen H. Fiedler
 Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 173-19-4402 Walla Walla, city of.

Description of Purpose: Adoption of revised shoreline master programs into the state master program, chapter 173-19 WAC.

Statutory Authority: RCW 90.58.120 and 90.58.200.

Summary of Rule: The amendments adopt revisions to the shoreline master program for the city of Walla Walla.

Reasons Supporting Proposed Action: Shoreline master programs and revisions thereto are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Administrative Procedure Act.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jeanne Holloman, WDOE, Mailstop PV-11, Olympia, WA 98504, (206) 459-6768.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Department of Ecology, state government.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: Not applicable.

AMENDATORY SECTION (Amending Order DE 81-21, filed 8/5/81)

WAC 173-19-4402 WALLA WALLA, CITY OF. City of Walla Walla master program approved February 23, 1977. Revision approved July 15, 1981. Revision approved August 6, 1985.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 85-13-054
ADOPTED RULES
DEPARTMENT OF ECOLOGY
 [Order 85-17—Filed June 18, 1985]

I, Glen H. Fiedler, deputy director of the Washington Department of Ecology, do promulgate and adopt at Lacey, Washington, the annexed rules relating to:

- Amd WAC 173-19-250 King County.
- Amd WAC 173-19-2501 Auburn, city of.
- Amd WAC 173-19-2515 Mercer Island, city of.

This action is taken pursuant to Notice No. WSR 85-10-073 filed with the code reviser on May 1, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 18, 1985.

By Glen H. Fiedler
 Deputy Director

AMENDATORY SECTION (Amending Order DE 84-6, filed 3/15/84)

WAC 173-19-250 KING COUNTY. King County master program approved July 8, 1976. Revision approved November 22, 1976. Revision approved June 30, 1978. Revision approved July 5, 1979. Revision approved September 23, 1981. Revision approved February 9, 1982. Revision approved March 14, 1984. Revision approved June 18, 1985.

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-2501 AUBURN, CITY OF. City of Auburn master program approved April 14, 1974. Revision approved June 18, 1985.

Reviser's note: RCW 34.04.058 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 81-11, filed 5/15/81)

WAC 173-19-2515 MERCER ISLAND, CITY OF. City of Mercer Island master program approved September 24, 1974. Revision approved May 14, 1981. Revision approved June 18, 1985.

WSR 85-13-055
EMERGENCY RULES
DEPARTMENT OF NATURAL RESOURCES
(Board of Natural Resources)
[Order 444, Resolution No. 484—Filed June 18, 1985]

Be it resolved by the Board of Natural Resources, acting at the Public Lands Building, Olympia, Washington, that it does adopt the annexed rules relating to management of dredge spoil disposal and disposal fees for Puget Sound and the Straits of Juan de Fuca.

We, the Board of Natural Resources, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is immediate need to recover increased program costs and additional time to respond to public comments received at public meeting.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 79.90.100 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Natural Resources as authorized in RCW 43.30.150.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 13, 1985.

By Brian J. Boyle
Commissioner of Public Lands
Chairman of the Board

AMENDATORY SECTION (Amending Order 343, filed 7/3/80)

WAC 332-30-166 OPEN WATER DISPOSAL SITES. (1) Open water disposal sites are established

primarily for the disposal of dredged material obtained from marine or fresh waters. These sites are generally not available for disposal of material derived from upland or dryland excavation except when such materials would enhance the aquatic habitat.

(2) Material may be disposed of on state owned aquatic land only at approved open water disposal sites and only after authorization has been obtained from the department. Applications for use of any area other than an established site shall be rejected. However, the applicant may appeal to the Interagency Open Water Disposal Site Evaluation Committee for establishment of a new site.

(3) Application for use of an established site must be for dredged material that meets the approval of federal and state agencies and for which there is no practical alternative upland disposal site or beneficial use such as beach enhancement.

(4) Authorization for use of the site will only be issued after certification by the environmental protection agency and the department of ecology that disposal of the material at the site will not have a significant adverse impact on the environment. In addition, all necessary federal, state, and local government permits shall be acquired before DNR grants permission to use the site, and any use authorization granted by DNR shall be subject to the terms and conditions of such permits. DNR may suspend or terminate any authorization to use a site upon the expiration of any required permit.

(5) All leases for use of a designated site must require notification to DNR in Olympia twenty-four hours prior to each use. DNR Olympia must be notified five working days prior to the first use to permit an on-site visit to confirm with dump operator the site location.

~~((5))~~ (6) Pipeline disposal of material to an established disposal site will require special consideration.

~~((6-A))~~ (7) An application and a lease fee will be charged at a rate sufficient to cover all departmental costs associated with management of the sites. Fees will be reviewed and adjusted annually or more often as needed. A penalty fee may be charged for unauthorized dumping or dumping beyond the lease site. Army Corps of Engineers navigation channel maintenance projects are exempt from this fee schedule.

FEES

(a) Application fee

(i) Puget Sound and Strait of Juan De Fuca: \$.15 per cubic yard (c.y.) for the first 200,000 c.y.; Negotiated fee for project volumes exceeding 200,000 c.y.: Minimum fee \$2,000.00

(ii) Grays Harbor/Willapa Harbor: Minimum fee \$300.00

(b) Lease fee - \$100.00 all sites

(c) Penalty fee - \$5.00/cubic yard

~~((7))~~ (8) Open water disposal site selection. Sites are selected and managed by the department with the advice of the interagency open water disposal site evaluation committee (a technical committee of the aquatic resources advisory committee). The committee is composed of representatives of the state departments of ecology, fisheries, game, and natural resources as well as

the Federal Army Corps of Engineers, National Marine Fisheries Service, Environmental Protection Agency, and Fish and Wildlife Service. The department chairs the committee. Meetings are irregular. The committee has developed a series of guidelines to be used in selecting disposal sites. The objectives of the site selection guidelines are to reduce damage to living resources known to utilize the area, and to minimize the disruption of normal human activity that is known to occur in the area. The guidelines are as follows:

(a) Select areas of common or usual natural characteristics. Avoid areas with uncommon or unusual characteristics.

(b) Select areas, where possible, of minimal dispersal of material rather than maximum widespread dispersal.

(c) Sites subject to high velocity currents will be limited to sandy or coarse material whenever feasible.

(d) When possible, use disposal sites that have substrate similar to the material being dumped.

(e) Select areas close to dredge sources to insure use of the sites.

(f) Protect known fish nursery, fishery harvest areas, fish migration routes, and aquaculture installations.

(g) Areas proposed for dredged material disposal may require an investigation of the biological and physical systems which exist in the area.

(h) Current velocity, particle size, bottom slope and method of disposal must be considered.

(i) Projects transporting dredged material by pipeline will require individual review.

(j) Placement of temporary site marking buoys may be required.

(k) The department will assure disposal occurs in accordance with permit conditions. Compliance measures may include, but are not limited to, visual or electronic surveillance, marking of sites with buoys, requiring submittal of operator reports and bottom sampling or inspection.

(l) Special consideration should be given to placing material at a site where it will enhance the habitat for living resources.

((#)) (m) Locate sites where surveillance is effective and can easily be found by tugboat operators.

((#)) (9) The department shall conduct such subtidal surveys as are necessary for siting and managing the disposal sites.

WSR 85-13-056
EMERGENCY RULES
INSURANCE COMMISSIONER
[Order R 85-2—Filed June 18, 1985]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the termination of homeowners insurance because the insured is operating a day-care center.

I, Dick Marquardt, Insurance Commissioner, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is insurers are terminating substantial numbers of homeowners insurance policies, primarily because insureds are operating day-care centers in conformity with law. Such terminations are not justified, deprive insureds of essential insurance, are causing the wholesale closure of such centers, and are irreparably disruptive of the state's economy and well-being.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 48.02.060 (3)(a) which directs that the Insurance Commissioner has authority to implement the provisions of RCW 48.01.030 and 48.30.010.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 17, 1985.

By Dick Marquardt
Insurance Commissioner

NEW SECTION

WAC 284-30-700 RESTRICTIONS AS TO TERMINATION OF HOMEOWNERS INSURANCE AFFECTED BY DAY-CARE CENTERS. (1) To effectuate RCW 48.01.030, beginning June 19, 1985, no insurer transacting homeowners insurance shall terminate any homeowners insurance policy covering a dwelling located in this state, whether by cancellation or nonrenewal, for the primary reason that an insured thereunder is engaged in the operation of a day-care center, pursuant to chapter 74.15 RCW, at the insured location, unless there has been a material misrepresentation of fact or unless the risk has changed substantially since the policy was issued.

(2) Beginning August 1, 1985, pursuant to RCW 48.30.010, it shall be an unfair practice for any insurer transacting homeowners insurance to deny homeowners insurance to an applicant therefor or to terminate any homeowners insurance policy covering a dwelling located in this state whether by cancellation or nonrenewal, for the primary reason that an insured under such policy is engaged in the operation of a day-care center, pursuant to chapter 74.15 RCW, at the insured location.

(3) This rule does not prevent an insurer from excluding coverage with respect to liability arising out of an insured's business pursuits, and does not prevent an insurer from excluding coverage for losses to structures, other than the dwelling used principally as a private residence, or from excluding coverage for personal property losses to business property.

WSR 85-13-057
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed June 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning:

- Amd WAC 388-82-115 Special categories eligible for medical assistance.
 Amd WAC 388-83-028 Eligibility factors for special categories.

It is the intention of the secretary to adopt these rules on an emergency basis on or about June 17, 1985;

that the agency will at 10:00 a.m., Thursday, July 25, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 31, 1985.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.09 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 25, 1985.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
 Division of Administration and Personnel
 Department of Social and Health Services
 Mailstop OB 14
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 11, 1985. The meeting site is in a location which is barrier free.

Dated: June 17, 1985

By: David A. Hogan, Director
 Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-82-115 and 388-83-028.

Purpose of the Rule Change: To implement HCFA Medicaid Action Transmittals No. 84-10 and No. 84-16; and to protect Medicaid eligibility of individuals affected by changes in regulations on deeming of income of alien sponsors.

Reason the Rule is Necessary: A change in federal regulations (above action transmittals) and a change in alien sponsorship regulations (WAC 388-28-590, WSR 84-24-049).

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: WAC 388-82-115(4) and 388-83-028(4) changes the "solely" test to the "but

for" test in determining eligibility of current Title II recipients for Medicaid. This is to protect categorical eligibility of individuals who would be eligible for SSI but for Title II cost of living increases received since they last were eligible for and received concurrently SSI and Title II benefits. WAC 388-82-115(13) is a new subsection to protect the categorical eligibility of individuals denied AFDC or SSI cash assistance solely because of deeming of income of alien sponsors per WAC 388-28-590, WSR 84-24-049.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, mailstop HB-41, phone 753-7316.

These rules are necessary as a result of a change of federal law, see 42 CFR 435.

AMENDATORY SECTION (Amending Order 2231, filed 5/15/85)

WAC 388-82-115 SPECIAL CATEGORIES ELIGIBLE FOR MEDICAL ASSISTANCE. (1) Persons who, in August 1972, received OAA, AB, AFDC, or APTD, and also received RSDI benefits, and who became ineligible for OAA, AB, AFDC or APTD solely because of the twenty percent increase in Social Security benefits under Public Law 92-336, shall be eligible for medicaid as categorically needy. The provision applies to both current cash applicants and recipients.

(2) Applicants for SSI or AFDC who were entitled to RSDI benefits in August 1972, and would have been ineligible solely because of the Social Security benefits under Public Law 92-336 shall have the twenty percent increase disregarded in determining financial eligibility.

(3) An AFDC family unit which becomes ineligible solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

- (a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility.
- (b) A member of such family continues to be employed, and
- (c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment.
- (d) Earned income tax credits (EITC) must be considered as income for purposes of this subsection.

(4) Current recipients of Title II, SSA benefits who (~~become~~):

- (a) ~~Were concurrent recipients of Title II and SSI benefits; and~~
- (b) ~~Became ineligible for SSI benefits and/or state supplementary payments after April 1, 1977, ((solely because of OASDI)); and~~

(c) ~~Would be eligible for SSI benefits but for Title II cost-of-living benefit increases under Public Law 94-566, section 503, shall ((remain)) be categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care. ((This disregard does not apply to:~~

(a) ~~New applicants (i.e., who were not receiving SSI/SSP prior to increase);~~

(b) ~~Persons who were not actually receiving SSI/SSP payments for some other reason;~~

(c) ~~Persons who would have received SSI/SSP if they had applied.~~

(d) ~~Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility;))~~

(5) Certain recipients of SSI, after January 1, 1981, will continue to be eligible for medical assistance (MA) under Public Law 96-265.

(6) Pregnant women, with no other eligible children, ineligible for AFDC cash assistance solely because they have not reached the sixth month of pregnancy shall be eligible for Medicaid as categorically needy.

(7) Individuals who are denied AFDC cash payments solely by reason of recovery of overpayment shall be eligible for Medicaid as categorically needy.

(8) A child under five years of age, born after September 30, 1983, and who meets the income and resource requirements of AFDC financial assistance shall be eligible for Medicaid as categorically needy.

(9) Family units which are terminated from AFDC financial assistance solely because of the loss of the thirty dollars plus one-third or

the thirty-dollar income exemptions shall remain categorically eligible for medical assistance for nine calendar months beginning with the month of ineligibility for AFDC provided that:

- (a) The family unit was terminated on or after October 1, 1984.
- (b) Family units terminated prior to October 1, 1984, may be eligible for nine months of medical assistance beginning with the month of application if they meet the following conditions:
 - (i) The family unit must apply for medical assistance.
 - (ii) The family unit must demonstrate that, if the income exemptions had been applied, the family unit would have been eligible for each month for AFDC from the time of termination of AFDC to the time of application for medical assistance.
 - (iii) The family unit must disclose any health insurance coverage in effect for members of the assistance unit.

(10) A child born to a woman eligible for and receiving medical assistance on the date of the child's birth, shall be eligible for medical assistance on the date of birth and shall remain eligible for a period of one year if:

- (a) The child remains a member of the mother's household; and
- (b) The mother remains eligible for medical assistance; and
- (c) The child was born on or after October 1, 1984.

(11) Family units which become ineligible for AFDC financial assistance as a result (wholly or partly) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of such ineligibility; provided that the family unit:

- (a) Received AFDC financial assistance in at least three of the six months immediately preceding the month of such ineligibility; and
- (b) Became ineligible for AFDC during or after the month of August 1984 and prior to October 1, 1988.

(12) Other pregnant women who meet the income and resource requirements of AFDC financial assistance shall be eligible for medical assistance as categorically needy.

(13) Individuals denied AFDC or SSI cash assistance solely because of deeming of income of alien sponsors.

AMENDATORY SECTION (Amending Order 2074, filed 2/1/84)

WAC 388-83-028 ELIGIBILITY FACTORS FOR SPECIAL CATEGORIES. (1) Cash recipients of OAA, AB or APTD who became ineligible because of the twenty percent increase in RSDI benefits in August 1972, must have that increase disregarded in determining current eligibility. If the sole reason for their income exceeding the cash standard is the August 1972, increase, then they are categorically eligible for Medicaid. Medicaid eligibility determinations for this group must include this factor.

(2) Persons who were eligible under federal cash assistance programs (AFDC, OAA, AB or APTD) but were not receiving assistance, and would have been ineligible solely because of the August 1972, RSDI twenty percent increase shall have the twenty percent increase disregarded in determining financial eligibility.

(3) An AFDC family unit which becomes ineligible solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

- (a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility,
 - (b) A member of such family continues to be employed, and
 - (c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment.
- (d) Earned income tax credits (EITC) must be considered as income for purposes of this subsection.

(4) Current recipients of Title II, SSA benefits who ~~((become))~~:
(a) Were concurrent recipients of Title II and SSI benefits; and
(b) Became ineligible for SSI benefits and/or state supplementary payments ((solely because of OASDI cost-of-living benefit increases received)) after April 1977((:)); and

(c) Would be eligible for SSI benefits but for Title II cost-of-living benefit increases under Public Law 94-566, section 503, shall ((remain)) be categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care. ((This disregard does not apply to:

- (a) New applicants (i.e., who were not receiving SSI/SSP prior to increase);
- (b) Persons who were not actually receiving SSI/SSP payments for some other reason.

~~(c) Persons who would have received SSI/SSP if they had applied;~~
~~(d) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility, etc.))~~

(5) Persons who were "grandfathered" into SSI January 1, 1974, and continue to meet the definition in chapter 388-80 WAC are eligible for medical assistance. Termination and reapplication does not reinstate the "grandfathered" status. Program and eligibility factors are described in chapter 388-93 WAC.

WSR 85-13-058
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
 [Filed June 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Food stamps—Income—Eligibility, amending WAC 388-54-730.

It is the intention of the secretary to adopt these rules on an emergency basis on July 1, 1985;

that the agency will at 10:00 a.m., Thursday, July 25, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 31, 1985.

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 25, 1985.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
 Division of Administration and Personnel
 Department of Social and Health Services
 Mailstop OB 14
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 11, 1985. The meeting site is in a location which is barrier free.

Dated: June 17, 1985

By: David A. Hogan, Director
 Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amending WAC 388-54-730 (1)(2).

Changes income maximum—Food stamp program.

Purpose of this Rule Change: To raise the income maximums effective July 1, 1985, of the gross monthly income standards, the net monthly income standards,

and the maximum gross monthly income elderly and disabled separate household standards.

This rule will be amended to agree with changes in federal regulations.

Statutory Authority: RCW 74.04.510.

Summary of this Rule Change: Gross and net monthly income eligibility standards and elderly and disabled separate household income eligibility standards will be raised effective July 1, 1985. Eligibility will be determined on the basis of these amended tables.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule Change: Dave Monfort, Program Manager, Division of Income Assistance, mailstop OB 31C, phone 753-0426.

These rules are necessary as a result of federal law, amendments to 7 CFR 273.9(a).

AMENDATORY SECTION (Amending Order 2140, filed 8/15/84)

WAC 388-54-730 INCOME—ELIGIBILITY STANDARDS. (~~Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting the household to obtain a more nutritious diet.~~)

(1) Eligibility shall be determined on the basis of gross income and net food stamp income, except those households containing a member sixty years of age or over, or a member receiving Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, or disability and blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act, or is a veteran or a surviving disabled spouse or a surviving disabled child as defined by WAC 388-54-665(2)(b).

The gross income eligibility standards shall be one hundred thirty percent of the office of management and budget's (OMB) nonfarm income poverty guidelines.

Effective July 1, ~~((1984))~~ 1985,
Gross Monthly Income Eligibility Standards Table

Household Size	Monthly Standards
1	\$ ((540)) 569
2	((728)) 764
3	((917)) 959
4	((1,105)) 1,154
5	((1,294)) 1,349
6	((1,482)) 1,544
7	((1,671)) 1,739
8	((1,859)) 1,934
Each additional person	+ ((189)) 195

Effective July 1, ~~((1984))~~ 1985,
Net Monthly Income Eligibility Standards Table

Household Size	Maximum Allowable Net Income
1	\$ ((415)) 438
2	((560)) 588
3	((705)) 738
4	((850)) 888
5	((995)) 1,038
6	((1,140)) 1,188
7	((1,285)) 1,338
8	((1,430)) 1,488
Each additional member	+ ((145)) 150

(2) Disabled individuals, sixty years of age or older, residing with others, must have the other members meet the following monthly income eligibility standard table. For definition of elderly and disabled, refer to WAC 388-54-665(1)(d).

Effective July 1, ~~((1984))~~ 1985,
Elderly(~~(f))~~ and Disabled Separate Household Income Eligibility Standards Table

Household Size	Maximum Gross Monthly Income Elderly((f)) and Disabled Separate Household
1	\$ ((685)) 722
2	((924)) 970
3	((1,164)) 1,217
4	((1,403)) 1,465
5	((1,642)) 1,712
6	((1,881)) 1,960
7	((2,121)) 2,207
8	((2,360)) 2,455
Each additional member	+ ((240)) 248

WSR 85-13-059
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2239—Filed June 18, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to adult protective services, amending WAC 388-15-120.

This action is taken pursuant to Notice No. WSR 85-10-041 filed with the code reviser on April 29, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 13, 1985.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2141, filed 8/15/84)

WAC 388-15-120 ADULT PROTECTIVE SERVICES. (1) Adult protective services are those services provided to prevent, correct, improve, or remedy the situations of dependent adults eighteen years of age or older, vulnerable adults sixty years of age or older, or other adults similarly unable to protect interests vital to their safety and well-being. Requests for protection may come from the person at risk or others concerned for his or her welfare.

(2) To qualify for protective services, ~~((there))~~ elements must exist ~~((elements))~~ of abuse, neglect, exploitation, or living conditions or life style constituting a

danger to mental or physical health or safety of the client or others, and there must be no one willing and able to assist the adult responsibly.

(3) Definitions(():);

(a) ~~((A "dependent adult" is a person over the age of eighteen years who has been found to be legally incompetent pursuant to chapter 11.88 RCW or found so disabled under that chapter as to be unable to provide for his or her own protection through the criminal justice system))~~ "Abuse" means an act of physical or mental mistreatment or injury which harms or threatens a person through action or inaction by another individual.

(b) ~~((A "vulnerable adult" is a person sixty years of age or older having [the functional, mental, or physical inability to care for himself or herself.]))~~ "Adult dependent person" means a person over the age of eighteen years who has been found legally incompetent pursuant to chapter 11.88 RCW or found disabled to such a degree pursuant to said chapter that such protection is indicated.

(c) ~~((("Abuse" is an act of physical or mental mistreatment or injury harming or threatening a person with harm through action or inaction by another individual))~~ "Exploitation" means the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage.

(d) "Neglect" ~~((is an act or omission by another individual constituting a clear and present danger to a person's physical or mental welfare and safety))~~ means a pattern of conduct resulting in deprivation of care necessary to maintain minimum physical and mental health.

(e) ~~((("Exploitation" is an act of making illegal or improper use of another person or his or her resources for one's own advantage or profit, or in a fashion not benefiting the client))~~ "Vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself.

~~((("Living conditions or life style constituting a danger to mental or physical health or safety of the client or others" means adults living in a condition or life style in which they are endangering their own physical or mental health or safety, or that of others.))~~

(4) Any social worker, employee of the department, or health care practitioner licensed under Title 18 RCW, including, but not limited to doctors, nurses, psychologists, and pharmacists, having reasonable cause to believe a vulnerable adult has suffered abuse, exploitation, neglect, or abandonment shall make an immediate oral report to the department followed by a written report to be mailed within five working days. Persons making oral reports must be advised of this written report requirement by the adult protective worker when the initial oral report is received. The department shall respond to all reports, from any source, of abuse, neglect, exploitation, and abandonment of dependent or vulnerable adults. Responsibility for the adult protective service investigation lies with the CSO service worker who ((with)) shall determine if a valid adult protective situation exists.

(5) Adult protective service cases are normally of an emergency nature and remain adult protective cases only until the emergency situation is stabilized, usually ninety days or less.

(a) Any individual may receive adult protective services regardless of his or her recipient status or level of gross income.

(b) ~~((Supportive))~~ Support services ((such as)) including, but not limited to, chore may be provided without regard to income only when the services are essential to, and a subordinate part of, the adult protective services plan((, and cannot)). Support services shall not be provided if the only basis of the inclusion in a care plan is prevention of future exploitation or danger.

(c) Authorization to extend adult protective services is required if, in the judgment of the service worker, it is essential to provide the service beyond ninety days. If supportive services are also necessary during the extended period, such services may be continued as long as the services are an integral part of the adult protective services plan.

(d) If continuation of ~~((supportive))~~ support services such as chore is needed after adult protective services are terminated, these services ~~((could))~~ may be continued if the client qualifies under the usual eligibility requirements for the service.

(6) Services may include but are not limited to the following:

(a) Provision of counseling to the client or other individuals, and taking necessary actions to alleviate the immediate problem.

(b) Assisting in locating and obtaining medical care and mental health services.

(c) Assisting in locating necessary legal services.

(d) Arranging for support services to resolve the problem without relocating the client so the client is able to remain in his or her present abode.

(e) Assisting with relocation, including help to locate suitable housing.

(f) Seeking help of law enforcement officials in situations of grave danger to the client.

(g) Acting as advocate for adults whose civil rights and financial entitlements are at risk.

(7) A person may receive protective services, provided the person requests or affirmatively consents to receive the services. If the person withdraws or refuses consent, services shall not be provided. The department may bring an action under chapter 11.88 RCW if the department determines a vulnerable adult lacks the ability or capacity to consent.

(8) The department may seek an injunction to prevent interference with an investigation concerning an allegation of abuse, neglect, exploitation, or abandonment of a vulnerable adult.

(9) Goals for adult protective services shall be limited to those specified in WAC 388-15-010 (1)(c), (d)₂ and (e). Also see WAC 388-15-010(2).

WSR 85-13-060
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2240—Filed June 18, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-96-010 Nursing homes—Terms.
Amd WAC 388-96-224 Nursing homes—Final settlement.

This action is taken pursuant to Notice No. WSR 85-10-017 filed with the code reviser on April 22, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.09.120 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 74.46.800 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 74.46 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 13, 1985.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2172, filed 12/4/84)

WAC 388-96-010 TERMS. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accounting" – Activities providing information, usually quantitative and often expressed in monetary units, for decision-making, planning, evaluating performance, controlling resources and operations, and external financial reporting to investors, creditors, regulatory authorities, and the public.

(2) "Accrual method of accounting" – A method of accounting in which revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period in which incurred, regardless of when paid.

(3) "Administration and management" – Activities employed to maintain, control, and evaluate the efforts and resources of an organization for the accomplishment of the objectives and policies of that organization.

(4) "Allowable costs" – See WAC 388-96-501.

(5) "Ancillary care" – Services required by the individual, comprehensive plan of care provided by qualified therapists or by support personnel under their supervision.

(6) ~~("Appraisal" – The process of establishing the fair market value or reconstructing the historical cost of~~

~~an asset acquired in a past period as performed by an individual professionally designated either by the American Institute of Real Estate appraisers as a member, appraisal institute (MAI), or by the Society of Real Estate Appraisers as a senior real estate analyst (SREA) or a senior real property appraiser (SRPA). Appraisal includes a systematic, analytic determination, the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.~~

(7)) "Arm's-length transaction" – A transaction resulting from good-faith bargaining between a buyer and seller who have adverse bargaining positions in the marketplace. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

((8)) (7) "Assets" – Economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. "Assets" also include certain deferred charges which are not resources but which are recognized and measured in accordance with generally accepted accounting principles.

((9)) (8) "Bad debts" – Amounts considered to be uncollectable from accounts and notes receivable.

((10)) (9) "Beds" – Unless otherwise specified, the number of set-up beds in the nursing home, not to exceed the number of licensed beds.

((11)) (10) "Beneficial owner" – Any person who:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest, or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection (4) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except that, any person who acquires an ownership interest or power specified in subsection ~~((11))~~ (10)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power.

(d) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised: PROVIDED, That

(i) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection ~~((11))~~ (10)(b) of this section; and

(ii) The pledge agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or direct ~~((or to direct))~~ the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power or powers pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

~~((12))~~ (11) "Capitalization" – The recording of an expenditure as an asset.

~~((13))~~ (12) "Capitalized lease" – A lease which is required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

~~((14))~~ (13) "Cash method of accounting" – A method of accounting in which revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for those expenditures and assets.

~~((15))~~ (14) "Change of ownership" – A change in the individual or legal organization which is responsible for the daily operation of a nursing home.

(a) Events which change ownership include but are not limited to the following:

(i) The form of legal organization of the contractor is changed (e.g., a sole proprietor forms a partnership or corporation);

(ii) Title to the nursing home enterprise is transferred by the contractor to another party;

(iii) The nursing home enterprise is leased, or an existing lease is terminated;

(iv) Where the contractor is a partnership, any event occurs which dissolves the partnership;

(v) Where the contractor is a corporation, the corporation is dissolved, merges with another corporation

which is the survivor, or consolidates with one or more other corporations to form a new corporation.

(b) Ownership does not change when the following, without more, occur:

(i) A party contracts with the contractor to manage the enterprise as the contractor's agent, i.e., subject to the contractor's general approval of daily operating decisions;

(ii) If the contractor is a corporation, some or all of its stock is transferred.

~~((16))~~ (15) "Charity allowances" – Reductions in charges made by the contractor because of the indigence or medical indigence of a patient.

~~((17))~~ (16) "Contract" – A contract between the department and a contractor for the delivery of SNF or ICF services to medical care recipients.

~~((18))~~ (17) "Contractor" – An entity which contracts with the department to deliver care services to medical care recipients in a facility and which entity is responsible for operational decisions.

~~((19))~~ (18) "Courtesy allowances" – Reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

~~((20))~~ (19) "CSO" – The local community services office of the department.

~~((21))~~ (20) "Department" – The department of social and health services (DSHS) and employees.

~~((22))~~ (21) "Depreciation" – The systematic distribution of the cost or other base of tangible assets, less salvage, over the estimated useful life of the assets.

~~((23))~~ (22) "Donated asset" – An asset which the contractor acquired without making any payment for the asset in the form of cash, property, or services. An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset. An asset purchased using donated funds is not a donated asset.

~~((24))~~ (23) "Entity" – An individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

~~((25))~~ (24) "Equity capital" – Total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

~~((26))~~ (25) "Exceptional care recipient" – A medical care recipient determined by the department to require exceptionally heavy care.

~~((27))~~ (26) "Facility" – A nursing home licensed in accordance with chapter 18.51 RCW, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

~~((28))~~ (27) "Fair market value" – Prior to January 1, 1985, the price for which an asset would have been purchased on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell. Beginning January 1, 1985, the replacement cost of an asset, less observed physical depreciation, on the date the fair market value is being determined.

~~((29))~~ (28) "Financial statements" – Statements prepared and presented in conformity with generally accepted accounting principles and the provisions of chapter 74.46 RCW and this chapter including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

~~((30))~~ (29) "Fiscal year" – The operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods.

~~((31))~~ (30) "Generally accepted accounting principles" – Accounting principles approved by the financial accounting standards board (FASB).

~~((32))~~ (31) "Generally accepted auditing standards" – Auditing standards approved by the American institute of certified public accountants (AICPA).

~~((33))~~ (32) "Goodwill" – The excess of the price paid for a business over the fair market value of all other identifiable, tangible, and intangible assets acquired. Also, the excess of the price paid for an asset over the fair market value of the asset.

~~((34))~~ (33) "Historical cost" – The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

~~((35))~~ (34) "ICF" – When referring to a nursing home, an intermediate care facility. When referring to a level of care, intermediate care. When referring to a patient, a patient requiring intermediate care.

~~((36))~~ (35) "Imprest fund" – A fund which is regularly replenished in exactly the amount expended from it.

~~((37))~~ (36) "Interest" – The cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

~~((38))~~ (37) "Intermediate care facility" – A licensed facility certified to deliver intermediate care services to medical care recipients.

~~((39))~~ (38) "Joint facility costs" – Any costs representing expenses incurred which benefit more than one facility, or one facility and any other entity.

~~((40))~~ (39) "Lease agreement" – A contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee shall not be considered modification of a lease term.

~~((41))~~ (40) "Levels of care" – The classification of types of services provided to patients by a contractor, e.g., skilled nursing care or intermediate care.

~~((42))~~ (41) "Medical care program" – Medical assistance provided under RCW 74.09.500 or authorized state medical care services.

~~((43))~~ (42) "Medical care recipient" – An individual determined eligible by the department for the services provided in chapter 74.09 RCW.

~~((44))~~ (43) "Multiservice facility" – A facility at which two or more types of health or related care are delivered, e.g., a hospital and SNF and/or ICF, or a boarding home and SNF and/or ICF. A combined SNF/ICF or ICF/IMR is not considered a multiservice facility.

~~((45))~~ (44) "Net book value" – The historical cost of an asset less accumulated depreciation.

~~((46))~~ (45) "Net invested funds" – The net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles, plus an allowance for working capital which shall be five percent of the allowable costs of each contractor for the previous calendar year. Assets associated with central or home offices or otherwise not on the nursing home premises are not included in net invested funds.

~~((47))~~ (46) "Nonallowable costs" – Same as "unallowable costs."

~~((48))~~ (47) "Nonrestricted funds" – Funds which are not restricted to a specific use by the donor, e.g., general operating funds.

~~((49))~~ (48) "Nursing home" – A home, place, or institution, licensed in accordance with chapter 18.51 RCW, in which skilled nursing and/or intermediate care services are delivered.

~~((50))~~ (49) "Operating lease" – A lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

~~((51))~~ (50) "Owner" – A sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

~~((52))~~ (51) "Ownership interest" – All interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

~~((53))~~ (52) "Patient day" – A calendar day of patient care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the patient was admitted on the same day. A patient is admitted for purposes of this definition when he or she is assigned a bed and a patient medical record is opened.

~~((54))~~ (53) "Per diem (per patient day) costs" – Total allowable costs for a fiscal period divided by total patient days for the same period.

~~((55))~~ (54) "Professionally designated real estate appraiser" – An individual regularly engaged in the business of providing real estate valuation services for a fee, and deemed qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the writing of real estate valuation reports as well as the

passing of written examination on valuation practice and theory, and, by virtue of membership in such organization, required to subscribe and adhere to certain standards of professional practice as such organization prescribes.

~~((56))~~ (55) "Prospective daily payment rate" – The rate assigned by the department to a contractor for providing service to medical care recipients. The rate is used to compute the maximum participation of the department in the contractor's costs.

~~((57))~~ (56) "Qualified therapist":

(a) An activities specialist having specialized education, training, or at least one year's experience in organizing and conducting structured or group activities;

(b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience;

(c) A mental health professional as defined by chapter 71.05 RCW;

(d) A mental retardation professional, either a qualified therapist or a therapist, approved by the department having specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

(e) A social worker graduated from a school of social work;

(f) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience;

(g) A physical therapist as defined by chapter 18.74 RCW; or

(h) An occupational therapist graduated from a program in occupational therapy, or having the equivalent of such education or training, and meeting all requirements of state law.

~~((58))~~ (57) "Recipient" – A medical care recipient.

~~((59))~~ (58) "Records" – Those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, invoices, schedules, summaries, and transaction documentation, however such data are maintained.

~~((60))~~ (59) "Regression analysis" – A statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

~~((61))~~ (60) "Related care" – Includes the director of nursing services, activities and social services programs, medical and medical records specialists, and consultation provided by medical directors, pharmacists, occupational, physical, speech, and other therapists, and mental health professionals as defined in law and regulation.

~~((62))~~ (61) "Related organization" – An entity under common ownership and/or control with, or which has control of or is controlled by, the contractor. Common ownership exists if an entity has a five percent or greater beneficial ownership interest in the contractor and any other entity. Control exists if an entity has the power, directly or indirectly, to significantly influence or

direct the actions or policies of an organization or institution, whether or not the power is legally enforceable and however exercisable or exercised.

~~((63))~~ (62) "Relative" – Spouse; natural parent, child, or sibling; adopted child or adoptive parent; step-parent, stepchild, stepbrother, stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law; grandparent or grandchild; uncle, aunt, nephew, niece, or cousin.

~~((64))~~ (63) "Restricted fund" – A fund for which the use of the principal and/or income is restricted by agreement with or direction by the donor to a specific purpose, in contrast to a fund over which the contractor has complete control. These generally fall into three categories:

(a) Funds restricted by the donor to specific operating purposes;

(b) Funds restricted by the donor for additions to property, plant, and equipment; and

(c) Endowment funds.

~~((65))~~ (64) "Secretary" – The secretary of the department of social and health services (DSHS).

~~((66))~~ (65) "Skilled nursing facility" – A licensed facility certified to deliver skilled nursing care services to medical care recipients.

~~((67))~~ (66) "SNF" – When referring to a facility, a skilled nursing facility. When referring to a level of care, skilled nursing care. When referring to a patient, a patient requiring skilled nursing care.

~~((68))~~ (67) "Start-up costs" – The one-time pre-opening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, training costs, etc. Start-up costs do not include expenditures for capital assets.

~~((69))~~ (68) "Title XIX" – The 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

~~((70))~~ (69) "Unallowable costs" – Costs which do not meet every test of an allowable cost.

~~((71))~~ (70) "Uniform chart of accounts" – A list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

~~((72))~~ (71) "Vendor number" – A number assigned to each contractor delivering care services to medical care recipients.

~~((73))~~ (72) "Working capital" – Total current assets necessary, ordinary, and related to patient care from the most recent cost report minus total current liabilities necessary, ordinary, and related to patient care from the most recent cost report.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-224 FINAL SETTLEMENT. (1) If an audit is conducted, the department shall issue a final settlement report to the contractor after completion of the audit process, including exhaustion or mutual termination of reviews and appeals of audit findings or determinations. The final settlement shall be by cost center and shall fully substantiate disallowed costs, refunds,

underpayments, or adjustments to the cost report and financial statements, reports, and schedules submitted by the contractor. The final settlement report shall compare the prospective rate at which the contractor was paid during the report period, weighted by the number of patient days reported for the period each rate was in effect as verified by audit, to the contractor's audited allowable costs for the reporting period. All authorized shifting, cost savings, and upper limits to rates shall be taken into account on a cost center basis. If the contractor is pursuing an administrative or judicial review or appeal in good faith regarding audit findings or determinations, the department may issue a partial final settlement report in order to recover overpayments based on audit findings or determinations not in dispute on review or appeal.

(2) For the 1981 cost report period, the department shall issue one settlement for the year which shall be composed of two parts: One relating to January 1, 1981, through June 30, 1981, and one relating to July 1, 1981, through December 31, 1981. For the first six months of 1981, the settlement shall be computed taking into account the court order and agreement between the department and Medicaid contractors for the UNH II and III period (January 1, 1978, through June 30, 1981). For the second six months of 1981, the settlement shall be computed in accordance with principles and instructions contained in regulations applicable to 1981 settlements, except for the requirement that a settlement cover an entire cost report year.

(3) A contractor shall have thirty days after receipt of a final settlement report to contest such report pursuant to WAC 388-96-901 and 388-96-904. Upon expiration of the thirty-day period, a final settlement report shall not be subject to review.

~~((3))~~ (4) If no audit is conducted by the department, the preliminary settlement report shall become the final settlement report.

~~((4))~~ (5) A final settlement will be reopened by the department if necessary to make adjustments based upon findings resulting from an audit performed pursuant to ~~(section 5(4), chapter 67, Laws of 1983 1st ex. sess)~~ RCW 74.46.105. A final settlement may also be reopened to recover an industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to a contractor's medical care recipients, pursuant to RCW 74.46.180(5).

WSR 85-13-061
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2241—Filed June 18, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-86-050 Inpatient hospital care.

Amd WAC 388-87-012 Conditions of payment—Consultant's and specialist's service fees.

This action is taken pursuant to Notice No. WSR 85-10-042 filed with the code reviser on April 29, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 13, 1985.

By David A. Hogan, Director
 Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2157, filed 10/3/84)

WAC 388-86-050 INPATIENT HOSPITAL CARE. (1) The department will provide hospitalization for recipients under age sixty-five and for recipients sixty-five and over who have exhausted Medicare benefits. With exceptions and limitations the recipient will have free choice of hospitalization.

(2) Certain hospitalization services covered by the program require approval of the medical consultant.

(a) Prior approval for nonemergent hospital admissions;

(b) Retroactive certification and out-of-state care including bordering cities.

(3) The division of medical assistance will certify hospital admission, length of stay and/or services for all recipients.

(4) Department authorization for inpatient hospital care for eligible individuals shall be limited to the number of days established at the 50th percentile in the ~~((1981))~~ 1983 edition of the publication Length of Stay in PAS Hospitals, by Diagnosis United States Western Region, unless prior contractual arrangements are made by the department for a specified length of stay. When hospitalization of a recipient exceeds the number of days as limited by this subsection, the hospital shall submit to the local medical consultant a request with adequate justification and signed by the attending physician within sixty days of final service for approval of the extension.

(a) Eligible recipients are covered for involuntary admissions for acute psychiatric conditions up to a maximum of seventeen days under the Involuntary Treatment Act in hospitals certified as evaluation and treatment facilities. If an involuntarily committed recipient reverts to voluntary status, PAS days are computed from day of admission and applied to any period exceeding the mandatory seventeen days. If PAS days are less than seventeen, the maximum of seventeen days will prevail.

(b) No payment will be made for care in a private psychiatric hospital that has not been certified under Title XVIII. Authorization for admission of an eligible individual to a private psychiatric hospital shall be under

the same conditions and program limitations as for treatment of psychiatric conditions in a general hospital.

(c) Medicaid payment will be made for care in a state mental institution for categorically needy and medically needy individuals under age twenty-one and age sixty-five and older.

(d) Medicaid payments will be made for care in an approved psychiatric facility for categorically needy and medically needy individuals under age twenty-one.

(5) Hospitalization for the treatment of acute and chronic renal failure shall be provided, except that the department shall pay only deductibles and coinsurance for a recipient who is a Medicare beneficiary and who is hospitalized for such treatment or for kidney transplant.

(6) Nonemergent hospital admissions shall not be made on Friday or Saturday for scheduled surgery on Monday. The attending physician may admit the recipient on Sunday to accomplish the necessary preoperative work-up.

(7) Approval for hospitalization of a recipient shall be based on the recipient's need for semi-private accommodations and reimbursement made at the multiple occupancy rate regardless of accommodations provided by the hospital. Special rates may be established for recipients covered by the Involuntary Treatment Act. Semi-private accommodations shall mean not less than two nor more than a four-bed room.

(8) The department covers medically necessary services provided in a hospital in connection with the care or treatment of teeth, jaws, or structures directly supporting the teeth if the procedure requires hospitalization in connection with the provision of such services. Services covered under this subsection must be furnished under the direction of a physician or dentist.

AMENDATORY SECTION (Amending Order 1684, filed 7/29/81)

WAC 388-87-012 CONDITIONS OF PAYMENT—CONSULTANT'S AND SPECIALIST'S SERVICES AND FEES. (1) When services of a consultant or specialist are required, whether the patient has been referred by a physician or is being treated by the specialist as the attending physician, the approval of the medical consultant is not necessary. This rule applies to consultation or treatment in the home, office, or medical institution.

(2) A copy of the consultation report may be requested.

(3) When a specialist treats a patient for minor conditions or for chronic conditions of long duration, the fee for initial and subsequent office calls is reimbursed at the department rate.

(4) Consultant's fees shall not be paid when the consulting physician specialist or other provider subsequently performs surgery or renders treatment for which flat fees are applicable, see WAC 388-86-095.

(5) If more than one specialist is called in to examine a patient during a spell of illness, billings are subject to review ~~((and approval by the chief of the office of medical policy and procedure)).~~ ~~((See WAC 388-87-025.))~~

(6) Payment ~~((will be made))~~ for a psychological evaluation ~~((only when a physician has obtained the~~

~~necessary approval to refer an eligible patient, whom he is treating, for such evaluation))~~ requires prior approval of the local medical consultant. Treatment by a psychologist is not provided.

WSR 85-13-062
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2242—Filed June 18, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to foster care, amending chapter 388-70 WAC.

This action is taken pursuant to Notice No. WSR 85-10-046 filed with the code reviser on April 30, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 13, 1985.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1634, filed 4/15/81)

WAC 388-70-042 PAYMENT STANDARDS—REGULAR FOSTER FAMILY CARE. Effective ~~((July 1, 1980))~~ July 1, 1984, foster care payment standards shall be as follows~~((:)).~~ Effective May 1, 1985, exceptions to the standards may be approved by a DCFS administrator or designee.

(1) The board payment for foster care of a child in a family foster home is one hundred ~~((and fourteen))~~ thirty dollars and ~~((fifty))~~ forty-four cents per month for a child less than six years of age, one hundred ~~((and forty-eight))~~ sixty-nine dollars and ~~((seventy-five))~~ forty-five cents per month for children six through eleven years of age, and ~~((one))~~ two hundred ~~((and seventy-eight))~~ three dollars and ~~((seventy))~~ fifty-seven cents per month for a child twelve and over. For the purposes of determining the payment for board, the child's birthdate is considered to be the first of the month in which his or her birthday occurs.

(2) Foster parents shall be provided ~~((seventeen))~~ eighteen dollars and ~~((sixty-eight))~~ sixty-seven cents per month for personal incidentals including school supplies. A monthly clothing allowance of ~~((fourteen))~~ twenty dollars and ~~((eighty-two))~~ thirty-eight cents is paid for children under twelve years, while ~~((seventeen))~~ twenty-

four dollars and ~~((sixty=seven))~~ twenty-three cents is paid for children twelve years and older.

(3) An initial clothing allowance for children placed in foster care is provided to supplement a child's clothing supply, where necessary, at the time a child is placed in foster care. This allowance may not exceed one hundred dollars unless otherwise authorized by a ~~((regional office))~~ DCFS administrator.

(4) Additional individual child-specific amounts may be authorized by a DCFS administrator or his or her designee.

AMENDATORY SECTION (Amending Order 1634, filed 4/15/81)

WAC 388-70-044 PAYMENT STANDARDS—RECEIVING HOME CARE—STANDARDS FOR USING. (1) The purpose and/or use of a receiving home is to allow the department or private agency to care for a child in a foster family home on a temporary, emergent, or interim basis in order that there be sufficient time for the development of a plan ~~((which includes))~~ including the involvement of the child whenever possible.

(2) ~~((The))~~ There are two types of ((placements in)) receiving homes ((are emergency and regular. Placements under the conditions described in WAC 388-70-047 are classified as "emergency." All others are classified as "regular.")):

(a) Regular receiving homes for children age zero through seventeen, and

(b) Specialized receiving homes for children age twelve through seventeen who are runaways or in conflict with their parents.

(3) Receiving homes supported by the department shall be limited to the number the ~~((CSO))~~ DCFS administrator determines necessary in his or her geographical area. The criteria to be followed are:

(a) Each ~~((department))~~ DCFS office or private agency shall document ~~((its))~~ need for a receiving home and present the request in writing, giving the specifics, to the ~~((CSO administrator or to the regional director when more than one CSO administrator is involved))~~ DCFS administrator.

(b) All receiving homes shall be licensed as foster family homes.

(c) ~~((Receiving homes are developed to provide care up to thirty days.~~

~~((d))~~ The need for a receiving ((home(s))) home or homes must carry a direct relationship to the department's or private agency's type of program and service responsibilities.

~~((e))~~ (d) The intent of the service is to allow the department or private agency to develop and carry out a suitable plan for the child.

(4) Length of stay guidelines for receiving homes are as follows:

(a) Regular receiving homes provide care up to thirty days;

(b) Specialized receiving homes provide care up to fifteen days.

~~((4))~~ (5) Every six months the ((CSO)) DCFS administrator shall receive a written report on each receiving home, resubstantiating ((its)) continued use and need.

~~((5))~~ (6) Foster family homes ((which)) regularly ((provide)) providing care for children on a temporary, emergent, or interim basis and are available for placement twenty-four hours per day shall be designated as regular or specialized receiving homes.

(a) ((These)) Regular receiving homes shall be paid ((twenty-eight)) thirty-two dollars and ((forty)) thirty-five cents per month for each bed ((which is kept)) available for the emergency placement of children. In addition, the daily rate for receiving home care shall be ((nine)) eleven dollars and ((ninety-five)) thirty-four cents per day per child.

(b) Specialized receiving homes shall be paid sixty-five dollars and twenty-one cents per month for each bed available for the emergency placement of children. In addition, the daily rate for specialized receiving home care shall be fifteen dollars and sixty-seven cents per day per child.

(7) Other foster homes ((which)) occasionally ((provide)) providing temporary, emergent, or interim care shall not be designated as receiving homes nor receive the retainer fee, but shall be reimbursed for such care at the receiving home rate of ((nine)) eleven dollars and ((ninety-five)) thirty-four cents per day per child.

(c) Payments in excess of the standards in subsection (6)(a) and (b) of this section may be authorized by the DCFS administrator or his or her designee for individual, child-specific situations.

~~((6))~~ (8) Temporary or emergency care for a child shall not exceed thirty days. After thirty days, the rate for children ((who remain)) remaining in care in a receiving home shall be that for regular full-time foster care except as authorized by the ((regional director)) DCFS administrator. Clothing and personal incidentals are purchased for the child in receiving home care as needed.

~~((7))~~ (9) Private group care facilities may, at the discretion of the ((CSO)) DCFS administrator, be utilized to provide interim care for children and youths requiring care in a group setting. Unless ((otherwise)) an alternate agreement is made, contracted group care facilities shall be paid for providing interim care at their established daily rate.

AMENDATORY SECTION (Amending Order 1634, filed 4/15/81)

WAC 388-70-048 PAYMENT STANDARDS—SPECIALIZED RATE FOSTER FAMILY CARE—CHILD WITH SPECIAL NEEDS. In addition to the basic rate for regular foster family home care specified in this chapter, an additional amount may be paid for the specialized care of a child with special needs as determined by the department. The additional amounts are:

(1) Children with behavior problems	\$((+9.85)) 136.53 per month
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the child under emergency family assistance should be made.

(b) In the event the other state's ~~((CWS))~~ children and family services section refuses to take action, the parent's ability to pay the cost is determined by applying the department's standards in WAC 388-11-190. If parents are unable to pay, an exception ~~((to policy))~~ request may be submitted ~~((per chapter 388-20 WAC))~~.

(7) Transportation costs for children residing in receiving/foster/group care in addition to those payable in subsections (1) through (6) of this section may be authorized by a center administrator or designee when:

(a) The transportation is consistent with the child's individual service plan, and

(b) There is no other available resource.

(8) Transportation costs for parents, relatives, or other potential permanent placement resources may be authorized by a DCFS administrator when:

(a) The transportation is consistent with the child's individual service plan, and

(b) The potential placement resource is unable to meet the transportation expense, and

(c) The child currently resides in foster/group care.

AMENDATORY SECTION (Amending Order 1495, filed 3/21/80)

WAC 388-70-058 REIMBURSEMENT FOR DAMAGE OR LOSS CAUSED BY CHILD IN FOSTER FAMILY CARE. (1) Within the limits of the ~~((sixty-nine thousand dollars))~~ amount allotted for this purpose ~~((for the 79-81 biennium))~~, the department may reimburse foster family providers caring for children ~~((, for whom this department is making payment))~~ in DCFS-approved placements, for some damages or losses incurred by the provider and caused by children in their care. Unless an exception is granted by the DCFS administrator, claims shall be limited to three hundred dollars per ~~((claim))~~ item or one thousand dollars aggregate per occurrence no matter what type of coverable loss is incurred. Claims must be submitted to the department within thirty days of their occurrence. Determination of the payability of claims will be made by the department's ~~((regional office))~~ DCFS administrator. Exceptions to the limit may be made by the DCFS administrator. Reimbursement will be based upon documentation of the cost of replacement and of the cause of the loss.

(2) The sole recourse for an appeal of an award, or failure to make an award, shall be to request a re-review by the ~~((regional director's office))~~ DCFS administrator.

AMENDATORY SECTION (Amending Order 1335, filed 9/1/78)

WAC 388-70-066 FOSTER CARE OUT-OF-STATE—AUTHORIZATION—PAYMENT. (1) With the consent of the ~~((state office))~~ interstate compact program manager, foster parents may be permitted to remove from the state a child ~~((who is))~~ in a permanent foster home. If the child is subject to court order, permission from the court must also be obtained. When the foster family moves to another state, arrangements

with another social agency for supervision of the foster home placement are required. Such arrangements for supervision are not required when the family leaves the state during a vacation. Payments are continued at the department's current rates.

(2) When a child ~~((who is))~~, legally a resident of the state of Washington, is placed in foster care in another state by the welfare department of that state, foster care payments are made at the rate requested by the state, providing ~~((it))~~ payment does not exceed the department's current rates ~~((if it is the best plan for the child to remain there))~~.

(3) State office approval of out-of-state placement is required before payment is made.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-70-047 EMERGENCY FOSTER CARE ASSISTANCE.

WAC 388-70-053 PAYMENT STANDARDS—INCENTIVE PLAN.

WSR 85-13-063

ADOPTED RULES

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Order 2243—Filed June 18, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-83-200 Community options program entry systems (COPES) project.

Amd WAC 388-83-210 Community alternatives program (CAP) project.

This action is taken pursuant to Notice No. WSR 85-10-064 filed with the code reviser on May 1, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 13, 1985.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2103, filed 5/30/84)

WAC 388-83-200 COMMUNITY OPTIONS PROGRAM ENTRY SYSTEM (COPES) PROJECT. (See WAC 388-15-600.) (1) Eligible persons for the

COPES project are individuals age eighteen and over who:

(a) Meet the Title XIX categorically needy eligibility requirements for SSI related institutionalized individuals. See chapter 388-95 WAC. Income and resources of parents or spouses will not be considered available when determining eligibility or participation for a COPES applicant or recipient;

(b) Are assessed by the department to require the level of care provided in a skilled nursing facility, intermediate care facility or an intermediate care facility for the mentally retarded;

(c) Have a plan of care approved by the department and the total cost for this plan of care including the MNIL for one person, is less than ninety percent of the department's state-wide average nursing home rate; and

(d) Are able and choose to live at home with community support services, or in a congregate care facility, or in a licensed adult family home.

~~(2) ((Income disregarded in determining eligibility is not available for participation in COPES services.~~

~~(3)) Available income of the COPES participant living at home shall be allocated as follows:~~

~~(a) An amount equal to the medically needy income level for one person shall be protected for the maintenance needs of the recipient; and~~

~~(b) For the maintenance needs of the participant's spouse or family at home, an additional amount shall be protected equal to the medically needy income level for the number of dependents in the home less the income of the dependents;~~

~~(c) Amounts for incurred medical expenses not subject to third party payment shall be protected, including:~~

~~(i) Medicare and other health insurance premiums, deductibles, or coinsurance charges; and~~

~~(ii) Necessary medical care recognized under state law but not covered under Medicaid;~~

~~(d) Income remaining after deductions in ((subsections ~~(3))~~(a), ~~((3))~~(b), and ~~((3))~~(c) of this ((section)) subsection will be the participation amount for COPES services. (See WAC 388-15-620.)~~

~~((4)) (3) Income of a COPES participant living in an adult family home or congregate care facility shall be allocated as for other eligible categorically needy persons in similar living situations.~~

AMENDATORY SECTION (Amending Order 2071, filed 2/1/84)

WAC 388-83-210 COMMUNITY ALTERNATIVES PROGRAM (CAP) PROJECT. (1) Eligible persons for the CAP project are individuals who:

(a) Meet the requirements and are eligible for services of the division of developmental disabilities and are disabled according to SSI rules.

(b) Meet the Title XIX categorically needy eligibility requirements for SSI related institutionalized individuals. See chapter 388-95 WAC. Income and resources of parents or spouses will not be considered available when determining eligibility or participation for a CAP applicant or recipient.

(c) Are assessed by the department to require the level of care provided in an intermediate care facility for the mentally retarded (IMR).

(d) Have a plan of care approved by the department and the total cost for this plan of care including the medically needy income level for one person is eighty percent or less than the cost of IMR care as demonstrated in the client's services budget.

(e) Are able and choose to live in the community with community support services according to a CAP service plan.

~~(2) ((Income disregarded in determining eligibility is not available for participation in CAP services.~~

~~(3)) Available income ((total income less amounts disregarded in determining eligibility)) of a CAP participant shall be allocated as follows:~~

~~(a) An amount equal to the medically needy income level for one person shall be protected for the maintenance needs of the recipient; or~~

~~(b) For an individual with a spouse or dependent children at home, an amount shall be protected equal to the medically needy income level adjusted for the appropriate family size;~~

~~(c) Amounts for incurred medical expenses not subject to third party payment shall be protected, including:~~

~~(i) Medicare and other health insurance premiums, deductibles, or coinsurance charges; and~~

~~(ii) Necessary medical care recognized under state law but not covered under Medicaid;~~

~~(d) Income remaining after deductions in (a), (b), and (c) of this subsection will be the participation amount for CAP services.~~

~~((4)) (3) Income of a CAP participant living in an adult family home shall be allocated as for other eligible categorically needy persons in similar living situations.~~

WSR 85-13-064
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2244—Filed June 18, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Reporting of circumstantial changes—Child care agencies, amending WAC 388-73-057.

This action is taken pursuant to Notice No. WSR 85-10-053 filed with the code reviser on May 1, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.15.030 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 13, 1985.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 1336, filed 9/8/78)

WAC 388-73-057 REPORTING OF CIRCUMSTANTIAL CHANGES. Agencies shall report to the department changes in circumstances which might constitute grounds for reclassification of agency as to category of license or continued eligibility for license and major changes in staff or program, including the following:

(1) Changes in agency's address or location and phone number (license is valid only for address indicated on the license).

(2) Changes in the maximum number, age ranges, and sex of persons licensee wishes to serve as compared to specifications in the license.

(3) Changes in number and qualifications of agency's staffing pattern, change of agency's chief executive, and the death, retirement, or incapacity of a licensee. (A license is valid only for the person or organization named on the license.)

(4) Occurrence of a fire on licensed premises, major structural changes, or damage to premises from any causes and plans for major remodeling of facility.

(5) Change in name of a licensed corporation, or name by which a facility is commonly known, and changes in agency's articles of incorporation and bylaws.

(6) Marriage or divorce of a foster parent or other change in household composition (~~which affect~~) affecting eligibility for license or number of persons that may be served.

(7) The hiring of any new staff person who might have contact with the children in care or the addition of any new volunteer who might have contact with the children in care.

WSR 85-13-065
ADOPTED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2245—Filed June 18, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-96-020 Nursing homes—Prospective cost-related reimbursement.
Amd WAC 388-96-773 Nursing homes—Adjustment to prospective rates.

This action is taken pursuant to Notice No. WSR 85-10-016 filed with the code reviser on April 22, 1985.

These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.09.120 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 74.46.800 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 74.46 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 14, 1985.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-020 PROSPECTIVE COST-RELATED REIMBURSEMENT. The prospective cost-related reimbursement system is the system used by the department to pay for skilled nursing facility services and intermediate care facility services provided to medical care recipients. Reimbursement rates for such services will be determined in accordance with the principles, methods, and standards contained in this chapter and in chapter 74.46 RCW as set forth in this chapter.

AMENDATORY SECTION (Amending Order 2025, filed 9/16/83)

WAC 388-96-773 ~~((REVISIONS OF))~~ ADJUSTMENTS TO PROSPECTIVE RATES. (1) Prospective rates ~~((are intended as))~~ shall be maximum payment rates for contractors for the periods to which they apply, except as otherwise provided in this section. Rate adjustments shall not be granted for cost increases which are or were subject to management control or negotiation including, ((cost increases which can reasonably be expected to be met from a contractor's existing or available resources)) but not limited to, all lease cost increases, or for cost increases ((attributable to reasons)) not expressly authorized in subsections (2), (3), and (4) of this section ((and in chapter 74.46 RCW)).

(2) Adjustments to prospective rates ~~((may))~~ shall be granted by the department for the following ~~((reasons))~~:

(a) The facility's average debility score for the latest available twelve-month period differs from the score employed in establishing the facility's preceding July 1st rate by ten percent or more;

(b) Changes in staffing levels required by the department; or

(c) ~~((Other reasons deemed sufficient by the department which are established and documented by a contractor in the course of an administrative review conducted pursuant to WAC 388-96-901 and 388-96-904.~~

~~(3) Adjustments to prospective rates shall be granted by the department for))~~ Capital additions, improvements, or replacements made as a condition of survey, licensure, or certification.

(3) The department may grant a prospective rate increase to meet the costs of eliminating circumstances or conditions particular to a facility which are beyond the control of the contractor and which threaten the health or safety of patients. Rate adjustments granted pursuant to this subsection shall cover only that portion of the cost which cannot be met from the contractor's existing or available resources. Existing or available resources shall include all funds in all components of the contractor's Medicaid rate, including return on equity or investment.

~~(4) ((Contractors requesting an adjustment to a prospective rate shall:~~

~~(a) Provide a detailed written explanation of the reasons the adjustment is necessary;~~

~~(b) A financial analysis which sufficiently demonstrates the increased costs cannot be funded from existing resources available to the contractor; and~~

~~(c) An estimate of the rate and adjustment computed according to allowable methods, necessary to fund the increased costs.~~

~~(5) Adjustments requested pursuant to subsection (2) of this section shall not be granted unless the department determines the contractor will incur substantial hardship as determined by applicable facts and circumstances; provided that, hardship shall not be deemed to exist by the department unless the increased costs are expected to equal or exceed ten cents per patient day.~~

~~(6))~~ Adjustments for economic trends and conditions shall be provided exclusively by means of inflation adjustments ~~((pursuant to WAC 388-96-719))~~ as authorized by the legislature. Economic trends and conditions include, but are not limited to, increases in the following: Municipal, county, state, or federal taxes and assessments; insurance premiums whether paid to a public agency or private carrier; interest rates; utility costs whether paid to a public or private supplier; and prices of goods or services.

(5) Contractors requesting an adjustment pursuant to this section must submit:

(a) A financial analysis which sufficiently discloses the increased costs and an estimate of the cost and rate increase, computed according to allowable methods, necessary to fund the costs;

(b) A detailed written justification for granting the adjustment; and

(c) For a request made under subsection (3) of this section, a financial analysis which sufficiently demonstrates the increased costs cannot be funded from existing resources and which demonstrates the extent of such underfunding.

~~((7))~~ (6) The department shall inform a contractor of the disposition of a rate adjustment request within sixty days after its receipt by the department if the request is adequately documented and meets the conditions set forth in ((subsection (4) of)) this section. Unless otherwise specified, a ((revised)) rate adjustment

shall be effective on the first day of the month in which it is issued by the department.

(7) This section shall apply to requests for prospective rate adjustments or for periods prior to May 20, 1985.

WSR 85-13-066
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2246—Filed June 18, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-82-115 Special categories eligible for medical assistance.

Amd WAC 388-83-028 Eligibility factors for special categories.

I, David A. Hogan, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are necessary to put the department in compliance with 42 CFR 435, sections 113, 122 and 135.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 17, 1985.

By David A. Hogan, Director
Division of Administration and Personnel

AMENDATORY SECTION (Amending Order 2231, filed 5/15/85)

WAC 388-82-115 SPECIAL CATEGORIES ELIGIBLE FOR MEDICAL ASSISTANCE. (1) Persons who, in August 1972, received OAA, AB, AFDC, or APTD, and also received RSDI benefits, and who became ineligible for OAA, AB, AFDC or APTD solely because of the twenty percent increase in Social Security benefits under Public Law 92-336, shall be eligible for medicaid as categorically needy. The provision applies to both current cash applicants and recipients.

(2) Applicants for SSI or AFDC who were entitled to RSDI benefits in August 1972, and would have been ineligible solely because of the Social Security benefits under Public Law 92-336 shall have the twenty percent increase disregarded in determining financial eligibility.

(3) An AFDC family unit which becomes ineligible solely because of increased hours or increased income from employment shall remain categorically eligible for

medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility.

(b) A member of such family continues to be employed, and

(c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment.

(d) Earned income tax credits (EITC) must be considered as income for purposes of this subsection.

(4) Current recipients of Title II, SSA benefits who ~~((become))~~:

(a) Were concurrent recipients of Title II and SSI benefits; and

(b) Became ineligible for SSI benefits and/or state supplementary payments after April 1, 1977, ((solely because of OASDI)); and

(c) Would be eligible for SSI benefits but for Title II cost-of-living benefit increases under Public Law 94-566, section 503, shall ((remain)) be categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care. ((This disregard does not apply to:

~~(a) New applicants (i.e., who were not receiving SSI/SSP prior to increase);~~

~~(b) Persons who were not actually receiving SSI/SSP payments for some other reason;~~

~~(c) Persons who would have received SSI/SSP if they had applied;~~

~~(d) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility.))~~

(5) Certain recipients of SSI, after January 1, 1981, will continue to be eligible for medical assistance (MA) under Public Law 96-265.

(6) Pregnant women, with no other eligible children, ineligible for AFDC cash assistance solely because they have not reached the sixth month of pregnancy shall be eligible for Medicaid as categorically needy.

(7) Individuals who are denied AFDC cash payments solely by reason of recovery of overpayment shall be eligible for Medicaid as categorically needy.

(8) A child under five years of age, born after September 30, 1983, and who meets the income and resource requirements of AFDC financial assistance shall be eligible for Medicaid as categorically needy.

(9) Family units which are terminated from AFDC financial assistance solely because of the loss of the thirty dollars plus one-third or the thirty-dollar income exemptions shall remain categorically eligible for medical assistance for nine calendar months beginning with the month of ineligibility for AFDC provided that:

(a) The family unit was terminated on or after October 1, 1984.

(b) Family units terminated prior to October 1, 1984, may be eligible for nine months of medicaid beginning with the month of application if they meet the following conditions:

(i) The family unit must apply for medical assistance.

(ii) The family unit must demonstrate that, if the income exemptions had been applied, the family unit would have been eligible for each month for AFDC from the time of termination of AFDC to the time of application for medical assistance.

(iii) The family unit must disclose any health insurance coverage in effect for members of the assistance unit.

(10) A child born to a woman eligible for and receiving medical assistance on the date of the child's birth, shall be eligible for medical assistance on the date of birth and shall remain eligible for a period of one year if:

(a) The child remains a member of the mothers household; and

(b) The mother remains eligible for medical assistance; and

(c) The child was born on or after October 1, 1984.

(11) Family units which become ineligible for AFDC financial assistance as a result (wholly or partly) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of such ineligibility, provided that the family unit:

(a) Received AFDC financial assistance in at least three of the six months immediately preceding the month of such ineligibility; and

(b) Became ineligible for AFDC during or after the month of August 1984 and prior to October 1, 1988.

(12) Other pregnant women who meet the income and resource requirements of AFDC financial assistance shall be eligible for medical assistance as categorically needy.

(13) Individuals denied AFDC or SSI cash assistance solely because of deeming of income of alien sponsors.

AMENDATORY SECTION (Amending Order 2074, filed 2/1/84)

WAC 388-83-028 ELIGIBILITY FACTORS FOR SPECIAL CATEGORIES. (1) Cash recipients of OAA, AB or APTD who became ineligible because of the twenty percent increase in RSDI benefits in August 1972, must have that increase disregarded in determining current eligibility. If the sole reason for their income exceeding the cash standard is the August 1972, increase, then they are categorically eligible for Medicaid. Medicaid eligibility determinations for this group must include this factor.

(2) Persons who were eligible under federal cash assistance programs (AFDC, OAA, AB or APTD) but were not receiving assistance, and would have been ineligible solely because of the August 1972, RSDI twenty percent increase shall have the twenty percent increase disregarded in determining financial eligibility.

(3) An AFDC family unit which becomes ineligible solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility,

(b) A member of such family continues to be employed, and

(c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment.

(d) Earned income tax credits (EITC) must be considered as income for purposes of this subsection.

(4) Current recipients of Title II, SSA benefits who ~~((become))~~:

(a) Were concurrent recipients of Title II and SSI benefits, and

(b) Became ineligible for SSI benefits and/or state supplementary payments ~~((solely because of OASDI cost-of-living benefit increases received))~~ after April 1977(;;); and

(c) Would be eligible for SSI benefits but for Title II cost-of-living benefit increases under Public Law 94-566, section 503, shall ~~((remain))~~ be categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit increase shall be disregarded for eligibility. For institutionalized recipients, the amount subsequently is considered in the cost of institutional care. ~~((This disregard does not apply to:~~

(a) ~~New applicants (i.e., who were not receiving SSI/SSP prior to increase);~~

(b) ~~Persons who were not actually receiving SSI/SSP payments for some other reason;~~

(c) ~~Persons who would have received SSI/SSP if they had applied;~~

(d) ~~Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility, etc.)~~

(5) Persons who were "grandfathered" into SSI January 1, 1974, and continue to meet the definition in chapter 388-80 WAC are eligible for medical assistance. Termination and reapplication does not reinstate the "grandfathered" status. Program and eligibility factors are described in chapter 388-93 WAC.

WSR 85-13-067
ADOPTED RULES
OLYMPIC COLLEGE

[Order 24, Resolution No. 52-0585—Filed June 18, 1985]

Be it resolved by the board of trustees, Community College District #3, of Olympic College, acting at the Art Lecture Room, A-103, Olympic College, 16th and Chester, Bremerton, Washington, that it does adopt the annexed rules relating to student conduct code, chapter 132C-120 WAC.

This action is taken pursuant to Notice No. WSR 85-07-051 filed with the code reviser on March 20, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated under the general rule-making authority of Olympic College as authorized in chapter 28B.50 RCW.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED May 28, 1985.

By Donna M. Allen
 Dean of Administrative Services

Chapter 132C-120 WAC
STUDENT CONDUCT CODE

- WAC
- 132C-120-010 ~~((Evaluation))~~ Preamble.
- 132C-120-015 ~~((Protection of))~~ Freedom of expression.
- 132C-120-020 ~~((Protection against improper academic evaluation))~~ Freedom of association and organization.
- 132C-120-025 ~~((Protection against improper disclosure))~~ Student participation in college governance.
- 132C-120-030 ~~((Freedom of association))~~ Student records.
- 132C-120-035 ~~((Freedom of inquiry and expression))~~ Student publications.
- 132C-120-040 ~~((Student participation in institutional government))~~ Distribution of printed material on campus.
- 132C-120-045 ~~((Student publications))~~ Commercial activities.
- 132C-120-050 ~~((Exercise of rights of citizenship))~~ Authority to prohibit trespass.
- 132C-120-055 ~~((Institutional authority and civil penalties))~~ Emergency procedures.
- 132C-120-060 ~~((Procedural standards in disciplinary proceedings))~~ Right to demand identification.
- 132C-120-065 ~~((Standards of conduct expected of students))~~ Violations.
- 132C-120-100 ~~((Commercial activities))~~ Jurisdiction.
- 132C-120-105 ~~((Noncollege speakers))~~ Procedural standards in disciplinary proceedings.
- 132C-120-110 ~~((Trespass))~~ Disciplinary proceedings.
- 132C-120-115 ~~((Distribution of printed material on campus))~~ Appeals.
- 132C-120-120 ~~((Purpose of disciplinary actions))~~ Composition of the student conduct board.
- 132C-120-125 ~~((Initiation of prosecution))~~ Procedures for student conduct board hearing.
- 132C-120-130 ~~((Initial disciplinary proceedings))~~ Conduct of disciplinary hearings.
- 132C-120-135 ~~((Appeals))~~ Decision by the student conduct board.

- 132C-120-140 ~~((Composition of student conduct board))~~ Final decision on disciplinary appeals.
- 132C-120-145 ~~((Procedures for hearing before the student conduct board))~~ Disciplinary actions.
- 132C-120-150 ~~((Conduct of disciplinary hearings))~~ Readmission after dismissal.
- 132C-120-200 ~~((Decision by dean of students))~~ Summary suspension rules.
- 132C-120-205 ~~((Notice of findings))~~ Initiation of summary suspension proceedings.
- 132C-120-210 ~~((Suspension for failure to appear))~~ Notice of summary suspension.
- 132C-120-215 ~~((Appeal))~~ Permission to enter or remain on campus.
- 132C-120-220 ~~((Summary suspension proceedings not duplicitous))~~ Procedures for summary suspension hearing.
- 132C-120-225 ~~((Reporting, recording and maintenance of records))~~ Decision by dean of students.
- 132C-120-230 Failure to appear for summary suspension hearing.
- 132C-120-235 Summary suspension proceedings not duplicitous.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-010 ~~((EVALUATION))~~ **PREAMBLE.** ~~((The instructor in the classroom and in conferences shall encourage free discussion, inquiry and expression. Student performance shall be evaluated solely on an academic basis, not on opinions of conduct in matters unrelated to academic standards.))~~ Olympic College, as a state supported institution of higher education, has a mission of providing excellence of instruction, responsiveness to community and individual needs, and open communication in a collegiate atmosphere to citizens of Kitsap and Mason counties. Sharing responsibility for this common mission, students and college personnel are joined in a voluntary college community.

Olympic College students are both citizens and members of the college community. As citizens, students shall enjoy the same freedoms that other citizens enjoy. As members of the college community, they are subject to those responsibilities which accrue to them by virtue of this membership.

Admission to Olympic College carries with it the expectation that students will conduct themselves as responsible members of the college community, that they will comply with established rules and regulations of the college, maintain high standards of honesty and integrity, and respect the rights, privileges, and property of other members of the college community.

Olympic College expects that students will conform to the laws of the greater society and regulations established to assure the orderly conduct of the affairs of the college.

The student is at once a member of the community at large and the college community. As such, the student is

subject to the rights, responsibilities, laws, and regulations of each community and accountable to both.

To accomplish these purposes the college is governed by rules, regulations, and procedures designed to safeguard its functions and protect the rights and freedoms of all members of the college community.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-015 ~~((PROTECTION OF))~~ **FREEDOM OF EXPRESSION.** ~~((Students shall be free to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study for which they are enrolled.))~~ Fundamental to the democratic process are the rights of free speech and peaceful assembly. Students and student organizations shall be free to examine and to discuss all questions of interest to them and to express opinions publicly and privately. They shall always be free to support causes by orderly means which do not disrupt the regular and essential operation of the institution. At the same time, it should be made clear to the academic and the larger community that in their public expressions, students or student organizations speak only for themselves.

Any recognized student organization may invite to the campus any speaker a group wishes to hear, providing suitable space is available and there is no interference with the regular scheduled program of the college and officially sanctioned procedure is followed. It is understood that the appearance of such speakers on the campus implies neither approval nor disapproval of them or their viewpoints by this college, its students, its employees, or the board of trustees. In the case of speakers who are candidates for political office, equal opportunities shall be available to opposing candidates if desired by them. Speakers are subject to normal considerations for law and order and to the specific limitations imposed by the Washington State Constitution which prohibits religious worship, exercise, or instruction on state property.

In order to insure an atmosphere of open exchange and to insure that the educational objectives of the college are not obscured, the president may prescribe reasonable time, place and manner restrictions for the conduct of the meeting, such as requiring a designated member of the faculty as chairman, or requiring permission for comments and questions from the floor. Likewise, the president may encourage the appearance of one or more additional speakers at the meeting in question or at a subsequent meeting so that other points of view may be expressed.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-020 ~~((PROTECTION AGAINST IMPROPER ACADEMIC EVALUATION))~~ **FREEDOM OF ASSOCIATION AND ORGANIZATION.** ~~((Students shall have protection through orderly procedures against prejudiced or capricious academic evaluation. At the same time they are~~

responsible for maintaining standards of academic performance established for each course in which they are enrolled.) Students bring to the college a variety of interests previously acquired and develop new interests as members of the college community. They are free to organize and join associations to promote any legal purpose or common interest.

Student organizations must be granted a charter by the college student government before they may be officially recognized. Prior to becoming chartered, a student organization must submit to the student government a statement of purpose, criteria for membership, a statement of operating rules or procedures, the name of a faculty member who has agreed to serve as advisor, and otherwise meet all student government requirements for charter. All student organizations must also submit to the student government a list of officers and renew a granted charter as required. In order to qualify for issuance of a charter, membership in a student organization must be open to all students. Affiliation with a noncollege organization shall not be grounds for denial of charter provided that other conditions for charter issuance have been met. The charter of a student organization may be withdrawn by the student government for nonconformity to provisions of its charter, the student conduct code, or student government requirements.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-025 ((PROTECTION AGAINST IMPROPER DISCLOSURE)) STUDENT PARTICIPATION IN COLLEGE GOVERNANCE. ((Information about student views, beliefs and political associations which faculty and staff acquire in the course of their work as instructors, advisers and counselors shall be considered confidential. Protection against improper disclosure is a serious professional obligation. Judgments of ability and character may be provided under appropriate circumstances, normally with the knowledge or consent of the student.)) 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 constitution of the associated students of Olympic College and the college's administrative procedures provide clear channels for student participation in the formulation and application of institutional policy.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-030 ((FREEDOM OF ASSOCIATION)) STUDENT RECORDS. ((Students bring to the campus a variety of interests previously acquired and develop many new interests as members of the academic community. They shall be free to organize and join associations to promote their common interests.

(1) Affiliation with an extramural organization shall not of itself disqualify a student organization from institutional recognition.

(2) Each organization shall have a campus advisor chosen by the membership of the organization with the

approval of the director of student programs and activities. Campus advisors may advise organizations in the area of responsibility, but they shall not have the authority to control the policy of such organizations.

(3) In order to be officially recognized, a student organization must maintain a club charter with the associated students of Olympic College.

(4) Campus organizations, including those affiliated with an extramural organization, shall be open to all students without respect to race, religion or national origin.) The board of trustees of Olympic College has adopted policies and procedures in compliance with the Family Educational Rights and Privacy Act of 1974 - Public Law 93-380.

Under the policies adopted, directory information will be released unless a student files a "Request to prevent disclosure of public information" available in the office of admissions and records.

Olympic College personnel will not release any other information concerning a student to any agency, parent, spouse, or friend without written permission of the student in question. For example, transcripts are sent only upon written request from the student (telephone calls are not acceptable).

Only appropriate employees of Olympic College have access to a student's records and only with the permission of the administrator in charge of the records.

Further information concerning the Law is available at the office of admissions and records.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-035 ((FREEDOM OF INQUIRY AND EXPRESSION)) STUDENT PUBLICATIONS. ((Students and student organizations shall be free to examine and to discuss all questions of interest to them and to express opinions publicly and privately. They shall always be free to support causes by orderly means which do not disrupt the regular and essential operation of the institution. At the same time it should be made clear to the academic and the larger community that in their public expressions or demonstrations, students or student organizations speak only for themselves.

Recognized student groups shall be allowed to invite and to hear any person of their own choosing, subject only to procedural rules relating to noncollege speakers.

These rules are designed to insure that there is orderly scheduling of facilities and adequate preparation for the event, and that the occasion is conducted in a manner appropriate to an academic community. The institutional control of campus facilities shall not be used as a device for censorship. It shall be made clear to the academic and larger community that sponsorship for guest speakers does not necessarily imply approval or endorsement of the views expressed either by the sponsoring group or the institution.) Student publications and the student press are a valuable aid in establishing and maintaining an atmosphere of free and responsible discussion and of intellectual exploration on the campus. They are a means of bringing student concerns to the attention of

the faculty and institutional authorities and of formulating student opinion on various issues on the campus and in the world at large. Financial and legal autonomy is not possible, therefore, Olympic College, as the publisher of student publications, may have to bear the legal responsibility for the contents of the publications. In the delegation of editorial responsibility to students, the institution must provide sufficient editorial freedom and financial autonomy for student publications to maintain their integrity of purpose as vehicles for free inquiry and free expression in an academic community. At the same time, the editorial freedom of student editors and managers entails corollary responsibilities to be governed by the canons of responsibilities such as the avoidance of libel, indecency, undocumented allegations, attacks on personal integrity, and the techniques of harassment and innuendo. As safeguards for the editorial freedom of student publications, the following provisions are necessary:

(1) The student press should be free of censorship and advance approval of copy, and its editors and managers shall be free to develop their own editorial policies and news coverage consistent with Canons of Journalism.

(2) Editors and managers of student publications shall be protected from arbitrary suspension and removal because of student, faculty, administration, or public disapproval of editorial policy or content. Only for proper and stated causes should editors and managers be subject to removal and then by orderly and prescribed procedures of the publishing organization.

(3) It is expected that campus student publications shall have a written editorial policy consistent with the above.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-040 ((STUDENT PARTICIPATION IN INSTITUTIONAL GOVERNMENT)) DISTRIBUTION OF PRINTED MATERIAL ON CAMPUS. ((As constituents of the academic community, students are free, individually and collectively, to express their views on issues of institutional policy and on matters of general interest to the student body. The student body shall have clearly defined means to participate in the formation and application of institutional policy affecting academic and student activities.)) Publications, handbills, leaflets, statements, and similar materials except those which are commercial, obscene, or unlawful in character may be distributed without review or approval by any enrolled student or recognized group of students enrolled at Olympic College. It is to be understood that such materials do not necessarily represent the views of the college or the board of trustees. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs.

All such materials shall indicate the name of the sponsor. Distribution of any printed materials by persons not members of the college community shall be prohibited unless approved in advance by the dean of students or designee.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-045 ((STUDENT PUBLICATIONS)) COMMERCIAL ACTIVITIES. ((Student publications and the student press are a valuable aid in establishing and maintaining an atmosphere of free and responsible discussion and of intellectual exploration on the campus. They are a means of bringing student concerns to the attention of the faculty and the institutional authorities and of formulating student opinion on various issues on the campus and in the world at large. Financial and legal autonomy is not possible, therefore, Olympic College, as the publisher of student publications, may have to bear the legal responsibility for the contents of the publications. In the delegation of editorial responsibility to students, the institution must provide sufficient editorial freedom and financial autonomy for the student publications to maintain their integrity of purpose as vehicles for free inquiry and free expression in an academic community. At the same time the editorial freedom of student editors and managers entails corollary responsibilities to be governed by the canons of responsibilities such as the avoidance of libel, indecency, undocumented allegations, attacks on personal integrity, and the techniques of harassment and innuendo. As safeguards for the editorial freedom of student publications, the following provisions are necessary:

(1) The student press should be free of censorship and advance approval of copy, and its editors and managers should be free to develop their own editorial policies and news coverage consistent with Canons of Journalism.

(2) Editors and managers of student publications should be protected from arbitrary suspension and removal because of student, faculty, administration or public disapproval of editorial policy or content. Only for proper and stated causes should editors and managers be subject to removal and then by orderly and prescribed procedures. The agency responsible for the appointment of editors and managers should be the agency responsible for their removal.

(3) It is expected that campus student publications will have a written editorial policy consistent with the above.)) College facilities will not be used for commercial solicitation, advertising, or promotional activities except when such activities clearly serve Olympic College 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 at the request of a college division or the office of student programs and activities of the college, provided that such solicitation does not interfere with or operate to the detriment of the conduct of college affairs.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

~~WAC 132C-120-050 ((EXERCISE OF RIGHTS OF CITIZENSHIP)) AUTHORITY TO PROHIBIT TRESPASS. ((Olympic College students are both citizens and members of the academic community. As citizens, students shall enjoy the same freedom of speech, peaceful assembly, and right of petition that other citizens enjoy and, as members of the academic community, they are subject to the obligations which accrue to them by virtue of this membership. Faculty members and administrative officials shall insure that institutional powers are not employed to inhibit such intellectual and personal development of students as is often promoted by their exercise of the rights of citizenship both on and off campus.))~~ In the instance of any event that is deemed to impede the movement of persons or vehicles or which is deemed to disrupt or threatens to immediately disrupt the ingress and/or egress of persons from college facilities, the president or designee, acting through the dean of students or such other designated person shall have authority and power to:

(1) 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 a college facility; or

(2) Give notice against trespass 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 a college facility; or

(3) Order any person, persons, or group of persons to leave or vacate all or any portion of a college facility.

Any student or person who shall disobey a lawful order given by the college president or designee pursuant to the requirements of this rule shall be subject to disciplinary and/or legal action.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

~~WAC 132C-120-055 ((INSTITUTIONAL AUTHORITY AND CIVIL PENALTIES)) EMERGENCY PROCEDURES. ((Activities of students may upon occasion result in violation of law. In such case institutional officials shall be prepared to apprise students of sources of legal counsel and may offer other assistance. Students who violate the law may incur penalties prescribed by civil authorities, but institutional authority shall never be used merely to duplicate the function of general laws. Only where the institution's interests as an academic community are distinct and clearly involved should the special authority of the institution be asserted. The student who incidently violates institutional regulations in the course of his/her off-campus activity such as those relating to class attendance, shall be subject to no greater penalty than would normally be imposed. Institutional action should be independent of community pressure.))~~ In the event of activities or situations which interfere with the orderly operation of the college, the dean of students or college president or their

designees shall determine the course of action which appears to offer the best possibility for resolution of the problem. The emergency procedures outlined below will be followed if deemed essential:

(1) Inform those involved in such activities that they are in violation of college and/or civil regulations.

(2) Inform them that they should cease and desist.

(3) If they do not respond within a reasonable time, call the civil authorities.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

~~WAC 132C-120-060 ((PROCEDURAL STANDARDS IN DISCIPLINARY PROCEEDINGS)) RIGHT TO DEMAND IDENTIFICATION. ((In developing responsible student conduct, disciplinary proceedings play a role substantially secondary to example, counseling, guidance and admonition. At the same time Olympic College has a duty and the corollary disciplinary powers to protect its educational purpose through the setting of standards of scholarship and conduct for the students who attend and through the regulation of the use of institutional facilities. In the exceptional circumstances when the preferred means fail to resolve problems of student conduct, prior procedural safeguards shall be observed to protect the student from the unfair imposition of serious penalties:~~

~~The administration of discipline shall guarantee procedural fairness to an accused student. Practices in disciplinary cases may vary in formality with the gravity of the offense and the sanctions which may be applied. They shall also take into account the presence or absence of an honor code and the degree to which the institutional officials have direct acquaintance with student life in general and the involved student and the circumstances of the case in particular. The jurisdictions of faculty or student judicial bodies, the disciplinary responsibilities of institutional officials and the regular disciplinary procedures, including the student's rights to appeal a decision shall be clearly formulated and communicated in advance. Minor penalties may be assessed informally under prescribed procedures.~~

~~In all situations procedural fair play requires that the student be informed of the nature of the charges against him/her, that he/she be given a fair opportunity to refute them, that the situation not be arbitrary in its actions, and that there be provision for appeal of a decision. The following are recommended as proper safeguards in such proceedings when there are no honor codes offering comparable guarantees.))~~ For the purpose of determining the identity of a person as a student, where identification as a student is a prerequisite to admission or the charge for admission to any college activity, or where identification as a student is required in a case of alleged violation of this code, any college employee may demand that any person on college property or at a college activity produce evidence of student enrollment at the college. Tender of the student identification card will satisfy this requirement. Refusal by a student to produce identification as required shall subject the student to disciplinary action.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-065 ((STANDARDS OF CONDUCT EXPECTED OF STUDENTS)) VIOLATIONS. ((The institution has an obligation to clarify those standards of behavior which it considers essential to its educational mission and its community life. These general behavior expectations and the resultant specific regulations should represent a reasonable regulation of student conduct, but the student shall be as free as possible from imposed limitations that have no direct relevance to his/her education. Offenses should be as clearly defined as possible and interpreted in a manner consistent with the aforementioned principles of relevancy and reasonableness. Disciplinary proceedings shall be instituted, only for violations of standards of conduct formulated with significant student participation and published in advance through such means as a student handbook as a generally available body of institutional regulations.)) Any student shall be subject to immediate disciplinary action provided for in this student conduct code who, either as a principal actor or aider or abettor:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

(2) Violates any provision of the student conduct code;

(3) Commits any of the following acts which are hereby prohibited:

(a) All forms of dishonesty including cheating, plagiarism, knowingly furnishing false information to the college, and forgery, alteration or use of college documents or instruments of identification with intent to defraud.

(b) Failure to comply with lawful directions of faculty, administrators, and other regularly employed personnel acting in performance of their lawful duties.

(c) Conduct which intentionally and substantially obstructs or disrupts freedom of movement, teaching, administration, disciplinary proceedings, or other lawful activities of the college.

(d) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(e) Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.

(f) Refusal to comply with any lawful order to leave the college campus or any portion thereof.

(g) Possession or use of firearms, explosives, dangerous chemicals, or other dangerous weapons or instruments on the college campus, except for authorized college purposes; unless prior written approval has been obtained from the dean of students, or any other person designated by the college president.

(h) Intentionally inciting others to engage in imminent lawless activity, including any conduct prohibited herein.

(i) Possessing, consuming, or furnishing of alcoholic beverages on college-owned or controlled property or at college-sponsored or supervised functions where prohibited.

(j) Disorderly conduct, including disorderly conduct resulting from drunkenness.

(k) Engaging in lewd, indecent, or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(l) Using, possessing, furnishing, or selling any controlled substance as defined in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by a licensed health care professional.

(m) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(n) Theft or conversion of college property or private property.

(o) Entering any administrative 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 thereof.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-100 ((COMMERCIAL ACTIVITIES)) JURISDICTION. ((College facilities will not be used for commercial solicitation, advertising or promotional activities except when such activities clearly serve Olympic College 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 of, at the request of a college division of the office of student activities 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.)) Admission to the college carries with it the expectation that the student will obey the law, comply with rules and regulations of the college, and is accountable for his/her conduct.

All rules herein adopted shall apply to every student on any college property or engaged in any college related activity or function. Sanctions for violation of the rules of student conduct herein adopted will be administered by the college in the manner provided by said rules. When violations of the laws of the state of Washington and/or the United States are involved, the college may in addition refer such matters to civil authorities. In the case of minors such conduct may be referred to parents or guardians.

This code is applicable in all matters of discipline, and any disciplinary action imposed upon a student shall be taken in accordance with this code, unless the disciplinary action was imposed according to separate college policy which the student contractually accepted as a condition to participation in a particular course of study.

Disciplinary action, including dismissal from the college, may be imposed on a student for failure to abide by rules of conduct contained herein. The form of disciplinary action imposed will determine whether and under what conditions a violator may continue as a student at the college. Practices in disciplinary cases may vary in formality according to the severity of the case.

Faculty members shall have the authority to take such actions as may be necessary to maintain order and proper conduct in the classroom to insure the cooperation of students in the accomplishment of the objectives of the course of instruction. Such actions may be appealed to the dean of students within five instructional days of such action.

College administrative officers may deny admission to a prospective student or reregistration to a current student if, in their judgment, the student would not be competent to profit from the curricular offerings of the college, or would, by the student's presence or conduct, create a disruptive atmosphere within the college inconsistent with the purpose of the institution.

When reference in this document is made to a college official, that reference shall be read to include the specified college official or designee.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-105 ((NONCOLLEGE SPEAKERS)) PROCEDURAL STANDARDS IN DISCIPLINARY PROCEEDINGS. ((The trustees, the administration, and the faculty of Olympic College subscribe to the proposition that an important aspect of the education of college students is the opportunity to listen to speakers representing a wide variety of opinions and beliefs on important public issues. Because of the confidence reposed in Olympic College students' capacity to listen critically and to judge intelligently the statements made by advocates of varying ideologies, beliefs, and theories, and in conformity with American traditions of free speech and free inquiry, the following policies are established governing the appearance on campus of speakers not themselves members of the college community:

Any recognized student organization may invite to the campus any speaker a group wishes to hear, providing suitable space is available and there is no interference with the regular scheduled program of the college and officially sanctioned procedure is followed. It is understood that the appearance of such speakers on the campus implies neither approval nor disapproval of them or their viewpoints by this college, its faculty, its administration or the board of trustees. In the case of speakers who are candidates for political office, equal opportunities shall be available to opposing candidates if desired by them. Speakers are subject to the normal considerations for law and order and to the specific limitations imposed by the Washington State Constitution which prohibits religious worship, exercise, or instruction on state property.

In order to insure an atmosphere of open exchange and to insure that the educational objectives of the college are not obscured, the President, in a case attended

by extreme emotional feeling, may prescribe conditions for the conduct of the meeting, such as requiring a designated member of the faculty as chairman, or requiring permission for comments and questions from the floor. Likewise, the president may encourage the appearance of one or more additional speakers at the meeting in question or at a subsequent meeting so that other points of view may be expressed.)) In developing responsible student conduct, disciplinary proceedings play a role substantially secondary to example, counseling, and admonition. At the same time, Olympic College has a duty and the corollary disciplinary powers to protect its educational purpose through the setting of standards of scholarship and conduct for students who attend and through regulation of the use of institutional facilities. In circumstances when preferred means fail to resolve problems of student conduct, prior procedural safeguards shall be observed to protect the student from unfair imposition of serious disciplinary penalties.

The administration of discipline shall guarantee procedural fairness to an accused student. Practices in disciplinary cases may vary in formality with the gravity of the offense and sanctions which may be applied. The jurisdictions, responsibilities, and procedures of the college disciplinary structure shall be clearly established and published.

In all situations procedural due process requires that the student be informed of the nature of charges against him/her, be given a fair opportunity to refute them, that disciplinary actions not be arbitrary, and that there be provision for appeal of disciplinary actions. Students charged with violation of the student code of conduct shall be informed of their right to due process.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-110 ((TRESPASS)) DISCIPLINARY PROCEEDINGS. ((The president of the college, or in such president's absence the acting president, in the instance of any event that the president deems to be disruptive of order, or which the president deems impedes the movement of persons or vehicles, or which the president deems to disrupt or threatens to disrupt the ingress and/or egress of persons from college facilities, and the president acting through the dean of students or such other person designated by the president shall have power and authority to:

(1) 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 a college facility; or

(2) Give notice against trespass by any manner specified in section 2, chapter 7, Laws of 1969, to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who has been prohibited from entering onto or remaining upon all or any portion of a college facility; or

(3) Order any person, persons, or group of persons to leave or vacate all or any portion of a college facility.

Any student who shall disobey a lawful order given by the president or his/her designee pursuant to the requirements of subsection 1 of this rule shall be subject to

~~disciplinary action.)) Any person shall have the right to request sanctions for violations of the student conduct code.~~

~~All disciplinary proceedings will be initiated by the dean of students who may also establish advisory panels to advise or act for the office in disciplinary proceedings.~~

~~Any student accused of violating any provision of the rules of student conduct will be called for an initial conference with the dean of students and will be informed of what provision or provisions of the code of student conduct he/she is charged with violating and what appears to be the range of penalties which might result from consideration of the disciplinary proceeding.~~

~~After considering the evidence in the case and interviewing the accused, the dean of students may take any of the following actions:~~

~~(1) Terminate the proceeding, exonerating the accused;~~

~~(2) Dismiss the case after whatever counseling and advice may be appropriate;~~

~~(3) Impose minor sanctions directly such as warning, reprimand, restitution, and/or disciplinary probation;~~

~~(4) Refer the matter to the student conduct board for a recommendation to the president of the college as to appropriate action;~~

~~(5) Recommend to the president of the college that the accused be dismissed.~~

~~A student accused of violating any provision of the code of student conduct shall be given written notification of the dean of students' action.~~

~~Disciplinary action recommended by the dean of students is final unless the accused exercises his/her right of appeal within five instructional days as provided in WAC 132C-120-115.~~

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

~~WAC 132C-120-115 ((DISTRIBUTION OF PRINTED MATERIAL ON CAMPUS)) APPEALS. ((Publications, handbills, leaflets, statements, and similar materials except those which are commercial, obscene or unlawful in character may be distributed without review or approval by any regularly enrolled student, faculty or staff member, or recognized group of students enrolled at Olympic College. It is to be understood that such materials do not necessarily represent the views of the college, its faculty, student body, or staff. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs.~~

~~All such materials shall indicate the name of the sponsor. Distribution of any printed materials by persons not members of the college community shall be prohibited unless approved in advance by the dean of students or his/her designee.~~

~~Any student who violates any provision of this rule relating to the distribution and sale of handbills, leaflets, newspapers, or related materials shall be subject to disciplinary action.~~

~~Any distribution of the materials in this section shall not be construed as approval of the same by the college or by the board of trustees.)) Any disciplinary action may be appealed as provided. Action by the dean of students may be appealed to the student conduct board. Action taken by the student conduct board may be appealed to the president. Action taken by the president shall be final. All appeals by a student must be made in writing and presented to the college president within five instructional days of the disciplinary action/recommendation or the right to appeal is waived and the disciplinary action/recommendation is automatically imposed. Decisions on appeals will be rendered in writing within three instructional days following conclusion of the appeal process.~~

~~Time periods referenced in the code may be altered or waived on written agreement of the accused and dean of students.~~

~~An appeal of a disciplinary action stays enforcement of the action until the appeal process is exhausted or a final decision reached.~~

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

~~WAC 132C-120-120 ((PURPOSE OF DISCIPLINARY ACTIONS)) COMPOSITION OF THE STUDENT CONDUCT BOARD. ((Disciplinary action, up to and including dismissal from the college, may be imposed upon a student for failure to abide by the rules of student conduct herein adopted. The form of disciplinary action imposed upon the nonabiding student will determine whether and under what conditions the violator may continue as a student at the college. Practices in disciplinary cases may vary in formality according to the severity of the case.)) The student conduct board shall be composed of seven members on an ad hoc basis as needed. Members shall be selected as follows:~~

~~(1) The college president shall appoint three members and an alternate from the faculty.~~

~~(2) The president shall appoint one member from the college administration and an alternate.~~

~~(3) Three student members and an alternate appointed by the president of the associated students of Olympic College.~~

~~(4) The president of the college shall designate a chairman from the membership who shall preside at all meetings and hearings. The chairman shall not vote except to break a tie vote.~~

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

~~WAC 132C-120-125 ((INITIATION OF PROSECUTION)) PROCEDURES FOR STUDENT CONDUCT BOARD HEARING. ((Any person shall have the right to request sanctions for violations of the code of student conduct.~~

~~Faculty members shall have the authority to take such actions as may be necessary to maintain order and proper conduct in the classroom in order to assure the effective cooperation of students in the accomplishment of objectives of the course of instruction. Such actions may~~

be appealed to the dean of students or his/her designee at any time before the end of the next succeeding quarter in which the student is enrolled:)) The student conduct board will hear and make recommendations to the president of the college on all disciplinary cases referred/appealed to it.

The accused has a right to a fair and impartial hearing before the student conduct board on any charge of violating rules of student conduct. The accused's failure to cooperate with hearing procedures shall not prevent the student conduct board from making its findings of fact, conclusions, and recommendations. Failure by the accused to cooperate may be taken into consideration by the student conduct board in recommending appropriate disciplinary action to the president.

The accused shall be given written notice of the time and place of the hearing before the student conduct board and afforded not less than five instructional days notice thereof. Said notice shall contain:

(1) A statement of the time, place, and nature of the disciplinary hearing.

(2) A statement of allegations and reference to relevant sections of the student conduct code involved.

The accused shall be entitled to hear and examine evidence against him/her and be informed of the identity of its source, shall be entitled to present evidence or witnesses in his/her own behalf and cross-examine adverse witnesses as to relevant factual matters.

Only those matters presented at the hearing in the presence of the accused will be considered by the student conduct board in determining whether there is sufficient evidence to cause it to believe the accused violated the student conduct code.

The student may be represented by counsel of choice at the disciplinary hearing. If the student elects to choose a duly licensed attorney admitted to practice in any state as counsel, he/she may do so provided that not less than three instructional days notice of the same is given the dean of students.

In all disciplinary proceedings, the college may be represented by the dean of students, designee, and/or assistant attorney general who shall present the college's case against the student accused of violating rules of the student conduct code.

The chairman of the student conduct board shall preside at the disciplinary hearing and may establish organizational or operational procedures necessary to the conduct of the hearing. The chairman may rule on all questions before the student conduct board and may limit repetitious testimony and exclude immaterial or irrelevant evidence. Strict rules of evidence shall not be applied.

The proceedings of the hearing shall be recorded and copies of presented materials retained. Such shall be kept in the dean of students office after use by the student conduct board.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-130 ((INITIAL DISCIPLINARY PROCEEDINGS)) CONDUCT OF DISCIPLINARY HEARINGS. ((All disciplinary proceedings

will be initiated by the dean of students or his/her designated representative who may also establish advisory panels to advise or act for the office in disciplinary proceedings.

Any student accused of violating any provision of the rules of student conduct will be called for an initial conference with the dean of students or his/her designated representative and will be informed of what provision or provisions of the code of student conduct he/she is charged with violating and what appears to be the maximum penalties which might result from consideration of the disciplinary proceeding.

After considering the evidence in the case and interviewing the student or students accused of violating the code of student conduct, the dean of students or his/her designated representative may take any of the following actions:

(1) Terminate the proceeding, exonerating the student or students providing both parties agree;

(2) Dismiss the case after whatever counseling and advice may be appropriate, provided both parties (accused and accuser) agree;

(3) Impose minor sanctions directly (warning, reprimand, or disciplinary probation) subject to the student's right of appeal described in WAC 132C-120-135;

(4) Refer the matter to the student conduct board for a recommendation to the president of the college as to appropriate action. The student shall be notified in writing when such a recommendation is made;

(5) Recommend to the president of the college that the student be dismissed, if the student agrees to waive a hearing and agrees to the dismissal.

A student accused of violating any provision of the code of student conduct shall be given written notification within five calendar days of any disciplinary action recommended by the dean of students or his/her designated representative.

No disciplinary action recommended by the dean of students or his/her designated representative is final unless the student fails to exercise his/her right of appeal as provided in WAC 132C-120-135 and the president of the college or his/her designated representative, after reviewing of the case including any statement the student may file with the president, shall either express written approval of the recommendation of the dean of students or give written direction as to what lesser disciplinary action, if any, is to be taken:)) Hearings conducted by the student conduct board will be held in closed session except when the accused requests that students and staff other than those directly involved be invited to attend. If at any time during the conduct of a hearing invited guests are disruptive of the proceedings, the chairman of the student conduct board may exclude such persons from the hearing room.

Any student or staff member attending the student conduct board hearing as an invited guest who continues to disrupt said proceedings after the chairman of the student conduct board has asked him/her to cease and desist therefrom shall be subject to disciplinary action.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-135 ((APPEALS)) DECISION BY THE STUDENT CONDUCT BOARD. ((Any disciplinary action taken may be appealed. Action taken by the dean of students may be appealed to the student conduct board. Action taken by the student conduct board may be appealed to the president or his/her designee. Action taken by the president shall be final. All appeals by a student must be made in writing and presented to the appropriate agency within five instructional days after the original action was taken. Decisions on appeals will be made by the appropriate agency within five instructional days.)) Upon conclusion of the disciplinary hearing, the student conduct board shall in closed session consider the evidence therein presented. By majority the board shall reach its conclusions and recommended disciplinary action. The board shall issue in written form its conclusions and recommended disciplinary action within three instructional days of the conclusion of the hearing to the student, the dean of students, and the president. The disciplinary recommendations of the board shall be limited to the following:

(1) That the student or students be exonerated and the proceedings terminated.

(2) That any disciplinary action provided in WAC 132C-120-145 be imposed on the student or students.

Disciplinary action recommended by the student conduct board shall be automatically imposed unless the accused exercises his/her right of appeal to the president as provided in WAC 132C-120-115.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-140 ((COMPOSITION OF STUDENT CONDUCT BOARD)) FINAL DECISION ON DISCIPLINARY APPEALS. ((Olympic College shall have a student conduct board composed of seven members, who should be chosen on an ad hoc basis as needed. The member shall be selected as follows:

(1) The Olympic College president or his/her designee shall appoint three members and an alternate who are teaching on the appropriate campus; such members shall serve at his/her pleasure.

(2) The college president or his/her designee shall appoint one member from the college administration who shall serve at his/her pleasure.

(3) Three student members shall be designated by the president of the associated students of Olympic College subject to the approval of the executive council. Student membership must include a male and female student and two alternates.

(4) The chairman shall be chosen from the membership. The chairman shall preside at all meetings and hearings and shall be designated by the president of the college or his/her designee provided that no person who personally participates in any disciplinary action reviewed by the disciplinary committee may serve. The chairman shall not vote except in case of tie vote.)) The president of the college or any representative designated except the dean of students shall on appeal review the

record of the proceedings, the recommended action of the student conduct board, and any written statements of appeal filed by the accused student. Following review of all submitted materials, the president or designee will, within three instructional days, issue in writing to the accused, student conduct board, and dean of students approval of the recommendations of the student conduct board or shall specify what other action shall be taken.

No hearing shall be held at this stage and the decision of the president shall be final.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-145 ((PROCEDURES FOR HEARING BEFORE THE STUDENT CONDUCT BOARD)) DISCIPLINARY ACTIONS. ((The student conduct board will hear, de novo, and make recommendations to the president of the college on all disciplinary cases referred to it by the dean of students or his/her designee:

The student has a right to a fair and impartial hearing before the student conduct board on any charge of violating the rules of student conduct. The student's failure to cooperate with the hearing procedures hereinafter outlined, however, shall not preclude the student conduct board from making its findings of fact, conclusions, and recommendations as provided below. Failure by the student to cooperate may be taken into consideration by the committee in recommending to the president the appropriate disciplinary action.

The student shall be given written notice of the time and place of his/her hearing before the student conduct board and be afforded not less than ten days notice thereof. Said notice shall contain:

(1) A statement of the time, place, and nature of the disciplinary proceeding;

(2) A statement of the charges against him/her including reference to the particular sections of the code of student conduct involved;

The student shall be entitled to hear and examine the evidence against him/her and be informed of the identity of its source; he/she shall be entitled to present evidence in his/her own behalf and cross examine witnesses testifying against him/her as to factual matters. The student shall have all authority possessed by the college to obtain information he/she specifically describes in writing and renders to the dean of students no later than three days prior to the hearings, or to request the presence of witnesses or the production of other evidence relevant to the issue of the hearings.

The student may be represented by counsel of his/her choice at the disciplinary hearing. If the student elects to choose a duly licensed attorney admitted to practice in any state in the United States as his/her counsel, he/she must render three days notice thereof to the dean of students.

In all disciplinary proceedings the college may be represented by a designee appointed by the dean of students; said designee may then present the college's case against the student accused of violating the code of student conduct provided that in those cases in which the student elects to be represented by a licensed attorney

the dean of students may elect to have the college represented by an assistant attorney general.

An adequate summary of all the evidence and facts presented to the disciplinary committee during the course of the proceedings will be taken. A copy thereof shall be available at the office of the dean of students for distribution.

The chairman of the student conduct board, as defined by the student conduct code, shall preside at the disciplinary hearing.)) The following disciplinary actions are hereby established and shall be usual sanctions imposed upon violators of the code of student conduct:

Disciplinary warnings: Notice to a student either verbally or in writing that he/she has been in violation of the rules of student conduct or has otherwise failed to satisfy the college's expectations regarding conduct. Such warnings imply that continuation or repetition of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described below.

Reprimand: Formal action censuring a student for violation of the rules of student conduct. Reprimands are always made in writing. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described below.

Disciplinary probation: Formal action placing conditions upon the student's continued attendance for violation of the code of student conduct. The action will specify, in writing, the period of probation and any conditions such as limiting the student's participation in extracurricular activities. Disciplinary probation may be for a specified term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college.

Dismissal: Termination of student status for violation of the code of student conduct. A student may be dismissed only with the approval of the president of the college. Dismissal may be for a stated or for an indefinite period. The notification dismissing a student will indicate, in writing, the term of the dismissal and any special conditions which must be met before readmission. There is no refund of tuition and fees for the quarter in which action is taken but tuition and fees paid in advance for a subsequent quarter are to be refunded.

Restitution: The college may demand restitution from individual students for destruction or damage of property. Failure to make arrangements for restitution promptly will result in the cancellation of the student's registration and will prevent the student from reregistration.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-150 ((CONDUCT OF DISCIPLINARY HEARINGS)) READMISSION AFTER DISMISSAL. ((Hearings conducted by the student conduct board generally will be held in closed session except when the accused requests that student and faculty other than those directly involved be invited to attend. If at any time during the conduct of a hearing invited guests are disruptive of the proceedings, the chairman of the

committee may exclude such persons from the hearing room.

Any student or faculty member attending the student conduct board hearing as an invited guest who continues to disrupt said proceedings after the chairman of the committee has asked him/her to cease and desist therefrom shall be subject to disciplinary action.)) Any student dismissed from the college for disciplinary reasons may be readmitted only on written petition to the dean of students. 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, the president shall approve readmission of any student who has been formerly dismissed from the college for disciplinary reasons.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-200 ((DECISION BY DEAN OF STUDENTS)) SUMMARY SUSPENSION RULES. ((If the dean of students, following the conclusion of the summary suspension proceeding, is still of the opinion that there is probable cause to believe:

(1) The student against whom specific violations of the law or of the code of student conduct are alleged has committed one or more such violations upon any college facility or college sponsored activity; and

(2) That summary suspension of said student is necessary to attain peace and order on the campus; and

(3) Such violation or violations of the law or of the code of student conduct constitute grounds for disciplinary probation or dismissal pursuant to WAC 132C-120-200, then the dean of students may, with written approval of the president, continue suspension of such student from college for maximum of ten days.)) The board of trustees of Olympic College recognizes the need to provide the administration with a summary system of student discipline which can swiftly and fairly respond to immediate disorder. Summary suspension rules are not to be construed to supplant provisions of the student conduct code or usual disciplinary procedures, but rather to supplement the student conduct code by providing an emergency method of suspension during the pendency of investigation and prosecution of student violations that will subsequently be heard on their merits consistent with student conduct code procedures.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

WAC 132C-120-205 ((NOTICE OF FINDINGS)) INITIATION OF SUMMARY SUSPENSION PROCEEDINGS. ((If a student is suspended pursuant to the above rules, said student will be provided with a written copy of the dean of students findings of fact and conclusions, as expressly concurred in by the president, as to whether said dean had probable cause to believe that the conditions for summary suspension outlined in WAC 132C-120-200 exists and whether immediate suspension of said student should issue.

~~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 registered mail. Notice by mail shall be sent to said student's last known address:))~~ The college president or designee may suspend any student for not more than ten instructional days pending investigation, action, or prosecution on charges of an alleged student conduct code violation if the president or designee has reason to believe the student's physical or emotional safety and well-being, or the safety and well-being of other college community members, or the safety and well-being of the college or its functioning renders the normal disciplinary process ineffectual and commands such suspension.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

~~WAC 132C-120-210 ((SUSPENSION FOR FAILURE TO APPEAR)) NOTICE OF SUMMARY SUSPENSION. ((If the student against whom specific violations of the rules of student conduct or law have been alleged has been served pursuant to the notice required in WAC 132C-120-190 wilfully fails to appear at the time designated for the summary suspension proceeding, the dean of students may, with the written concurrence of the president, suspend the student from college for a maximum of ten days:))~~ If the college president or designee desires to exercise the authority to summarily suspend a student, the president or designee shall cause notice thereof to be served on that student by registered or certified mail at the student's last known address, or by personal service of such notice to the student. The notice shall be entitled Notice of Summary Suspension and shall state:

(1) The charges against the student including reference to provisions of the student conduct code and/or law.

(2) That the student charged must appear before the dean of students for a summary suspension hearing at a time specified in the notice.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

~~WAC 132C-120-215 ((APPEAL)) PERMISSION TO ENTER OR REMAIN ON CAMPUS. ((Any student aggrieved by an order issued at the summary suspension proceeding may appeal the same to the president or his/her designee. No such appeal shall be entertained, however, unless written notice of the appeal specifically describing alleged errors in the findings of the dean of students is tendered at the office of the president within 72 hours following the date notice of summary suspension was served or mailed to the student.~~

~~The president shall, as soon as reasonably possible, examine the allegations contained within the notice of appeal, along with the findings of the dean, the record of the summary suspension proceedings and determine therefrom whether the summary suspension is justified. Following such examination, the president may, at his/her discretion, suspend the summary suspension~~

~~pending determination of the merits of the disciplinary proceeding pursuant to the code of student conduct.~~

~~The president shall notify the appealing student within 48 hours following its consideration of the notice of appeal as to whether the summary suspension shall be maintained or stayed pending disposition of the disciplinary proceeding pursuant to the code of student conduct.~~

~~The appellant shall have the right to appear personally before the president and, conversely, the president may require the appellant to appear personally.~~

~~A student's academic standing shall not be jeopardized in the event of his/her exoneration:))~~ During the period of summary suspension, the student shall not enter any college property or attend any college function other than to meet with the dean of students or attend a summary suspension hearing. However, the dean of students may grant the student special permission to enter the campus for express purposes such as meeting with staff or students in preparation for a hearing.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

~~WAC 132C-120-220 ((SUMMARY SUSPENSION PROCEEDINGS NOT DUPLICITOUS)) PROCEDURES FOR SUMMARY SUSPENSION HEARING. ((As indicated, the summary suspension proceeding shall in no way substitute for the disciplinary proceedings provided for in the code of student conduct. At the end of the suspension, the student suspended shall be reinstated to his/her full rights and privileges as a student, subject to whatever sanctions may have been or may be in the future imposed pursuant to the code of student conduct or these rules of summary suspension.~~

~~Any disciplinary proceeding initiated against the student because of violations alleged against any student in the course of the summary suspension proceeding provided for herein shall be de novo provided that the records made and evidence presented during the course of any facet of a summary suspension proceeding brought against the student shall be available for the use of the student and of the college in a disciplinary proceeding initiated under the code of student conduct:))~~ At the summary suspension hearing, the student against whom the violation or violations are alleged shall have the opportunity of proving to the dean of students that there is no cause to believe that the violations cited on the notice of summary suspension did occur, and that summary suspension is not necessary or justifiable pursuant to WAC 132C-120-200 through 132C-120-220.

The student may offer oral testimony, present witnesses, submit any statement or affidavit, examine any affidavit or cross-examine any witness who may appear against him/her and submit any matter in extenuation or mitigation of the offense or offenses charged.

The dean of students shall at the time of the summary suspension hearing determine whether there is probable cause to believe that a violation of law or of the code of student conduct has occurred and whether there is cause to believe summary suspension continues to be necessary pursuant to WAC 132C-120-200 through 132C-120-220. In the course of making such decisions the dean

may consider only the affidavits and oral testimony of persons who alleged that the student charged has committed a violation of law or the student conduct code and the oral testimony and affidavits submitted by the student charged.

AMENDATORY SECTION (Amending Order 21, Resolution 49-0280, filed 4/4/80)

~~WAC 132C-120-225 ((REPORTING, RECORDING AND MAINTENANCE OF RECORDS)) DECISION BY DEAN OF STUDENTS. ((Records of all disciplinary cases and summary suspension proceedings which result in sanctions shall be kept in the office of the dean of students. To minimize the risk of improper disclosure, academic and disciplinary records shall be kept separately. Except in proceedings where the student is exonerated, all documentary or other physical evidence produced or considered and all recorded testimony shall be preserved no longer than five years. No record of proceedings wherein the student is exonerated, other than the fact of exoneration, shall be maintained after the date of the student's graduation (maximum two years).~~

~~All disciplinary actions shall be entered on the student's disciplinary record and may be removed at the time of graduation or earlier at the discretion of the dean of students, however, all records must be destroyed within five years.~~

~~In any case in which a student summarily suspended pursuant to these rules is subsequently exonerated in the course of disciplinary proceedings provided for in the code of student conduct, all records related to the summary suspension of the student shall be removed from the student's disciplinary record. The dean of students shall be responsible for such removal.~~

~~Any failure by the college to remove records of disciplinary action pursuant to this section may be corrected by request of the student.~~

~~Information from disciplinary or student record files shall not be available to unauthorized persons on campus or to any person off campus without the consent of the student, except under legal compulsion or in cases where the safety of persons or property is involved. Persons who may be authorized are the dean of students, director of counseling, testing and student information analysis, chairman student conduct board, or others designated by the dean of students or president.~~

~~No records shall be kept which reflect the political activities or beliefs of the student.~~

~~All parties shall maintain full confidentiality with respect to such hearings.)) On conclusion of the summary suspension hearing and review of evidence and testimony presented therein, the dean of students or designee may exercise a range of actions including but not limited to the following:~~

~~(1) Sustain the summary suspension for its duration or portion thereof, subject to disciplinary actions which may be brought under the code of student conduct rules following the suspension.~~

~~(2) Stay the summary suspension and impose any disciplinary action(s) enumerated in WAC 132C-120-110 Disciplinary proceedings of the code of student conduct.~~

Following the summary suspension hearing, the student shall be provided written notification of findings, conclusions, and disciplinary actions, if any. Notification and any attendant instructions or information will be provided through personal service or sent the student by registered or certified mail at the student's last known address.

NEW SECTION

WAC 132C-120-230 FAILURE TO APPEAR FOR SUMMARY SUSPENSION HEARING. If a student who has been summarily suspended fails to appear for a summary suspension hearing with the dean of students as required by WAC 132C-120-210, the suspension will automatically stand for its specified duration, after which the dean of students or designee may initiate further disciplinary proceedings against the student as provided in the code of student conduct.

NEW SECTION

WAC 132C-120-235 SUMMARY SUSPENSION PROCEEDINGS NOT DUPLICITOUS. As indicated, the summary suspension proceedings shall not substitute for disciplinary proceedings provided for in the code of student conduct. At the end of the suspension, the student suspended shall be reinstated to full rights and privileges as a student, subject to whatever sanctions may have been or may be in the future imposed pursuant to the code of student conduct or these rules of summary suspension.

Records and evidence presented during the course of any facet of a summary suspension proceeding brought against the student shall be available for use by the student and the college in disciplinary proceeding initiated under the code of student conduct.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132C-120-070 INVESTIGATION OF STUDENT CONDUCT.

WAC 132C-120-075 STATUS OF STUDENT PENDING FINAL ACTION.

WAC 132C-120-080 PURPOSE OF ADOPTION OF STUDENT CONDUCT CODE.

WAC 132C-120-085 DEFINITIONS.

WAC 132C-120-090 JURISDICTION.

WAC 132C-120-095 RIGHT OF ASSEMBLY.

WAC 132C-120-155 EVIDENCE ADMISSIBLE IN HEARINGS.

WAC 132C-120-160 DECISION BY THE STUDENT CONDUCT BOARD.

WAC 132C-120-165 FINAL DECISION REGARDING DISCIPLINARY ACTION.

WAC 132C-120-170 DISCIPLINARY ACTION.

WAC 132C-120-175 READMISSION AFTER DISMISSAL.

WAC 132C-120-180 SUMMARY SUSPENSION RULES.

WAC 132C-120-185 INITIATION OF SUMMARY SUSPENSION PROCEEDINGS.

WAC 132C-120-190 NOTICE OF SUMMARY PROCEEDINGS.

WAC 132C-120-195 PROCEDURES OF SUMMARY SUSPENSION HEARING.

WSR 85-13-068
PROPOSED RULES
OFFICE OF
FINANCIAL MANAGEMENT
[Filed June 19, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Financial Management intends to adopt, amend, or repeal rules concerning this notice proposes to amend WAC 82-50-021, official lagged, semi-monthly paydates established, in the following ways: Deleting from the section the official semi-monthly paydates used in calendar year 1984; and adding to the section the official semi-monthly paydates to be used in calendar year 1986. The end result will have the WAC section displaying the official lagged semi-monthly paydates for calendar years 1985 and 1986;

that the agency will at 9:00 a.m., Tuesday, July 23, 1985, in the 4th Floor Conference Room, Insurance Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on Friday, July 26, 1985.

The authority under which these rules are proposed is RCW 42.16.010(1) and 42.16.017.

The specific statute these rules are intended to implement is RCW 42.16.010(1) and 42.16.017.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before Friday, July 19, 1985.

The agency reserves the right to modify the text of these proposed rules before the hearing or in response to written or oral comments received before or during the hearing.

The agency may need to change the date for hearing or adoption on short notice. To ascertain that the hearing or adoption will take place as stated in this notice, an interested person may contact the person named below.

Correspondence relating to this notice and the proposed rules should be addressed to:

Mr. Collum C. Liska
Accounting and Fiscal Services Division
4th Floor, Insurance Building
Mailstop AQ-44
Olympia, Washington 98504
(206) 753-8538
scan 234-8538

Dated: June 19, 1985
By: Orin C. Smith
Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): Chapter 82-50 WAC, Paydates for state employees, consisting of the following amendment to WAC 82-50-021 Official lagged, semi-monthly paydates established.

Statutory Authority: RCW 42.16.010(1) and 42.16.017.

Specific Statute that the Rule is Intended to Implement: RCW 42.16.010(1) and 42.16.017.

Summary of the Rules: This notice proposes to make the following changes to WAC 82-50-021: First, it deletes from the section the calendar year 1984 official lagged, semi-monthly paydates, that now are merely historical and of no further use. Second it adds to the section the calendar year 1986 official lagged, semi-monthly paydates. The calendar year 1985 official lagged, semi-monthly paydates are retained in the section. Therefore, the end result of this amendment is to have WAC 82-50-021 contain and display the official lagged, semi-monthly paydates for calendar years 1985 and 1986.

Reasons Supporting the Proposed Rules: Needed to ensure compliance with the legislative directive to annually update and publish the official, lagged semi-monthly paydates for the current and ensuing calendar years through the administrative hearing process.

Involved Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mr. Collum C. Liska, Senior Policy Coordinator, Accounting and Fiscal Services Division, Office of Financial Management, 4th Floor, Insurance Building, MS AQ-44, Olympia, Washington 98504, phone (206) 753-8538.

Name of Involved Agency Proposing the Rules: Office of Financial Management.

Agency Comments: None.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Other Information: None.

Small Business Economic Impact Statement: Not attached since these proposed rules are not applicable to the Regulatory Fairness Act.

AMENDATORY SECTION (Amending Order 84-61, filed 6/29/84)

WAC 82-50-021 OFFICIAL LAGGED, SEMIMONTHLY PAY DATES ESTABLISHED. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees ((shall be)) are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1) that ((begin)) began on January 1, 1984. The following are the official lagged, semimonthly pay dates for calendar years ((1984 and 1985)) 1985 and 1986:

Table with 2 columns: ((CALENDAR YEAR 1984)) and CALENDAR YEAR 1985. Rows list dates from Wednesday, January 25, 1984 to Friday, August 24, 1984 on the left, and Thursday, January 10, 1985 to Friday, August 9, 1985 on the right.

Monday, September 10, 1984	Monday, August 26, 1985
Tuesday, September 25, 1984	Tuesday, September 10, 1985
Wednesday, October 10, 1984	Wednesday, September 25, 1985
Thursday, October 25, 1984	Thursday, October 10, 1985
Friday, November 9, 1984	Friday, October 25, 1985
Monday, November 26, 1984	Friday, November 8, 1985
Monday, December 10, 1984	Monday, November 25, 1985
Monday, December 24, 1984	Tuesday, December 10, 1985
	Tuesday, December 24, 1985

CALENDAR YEAR 1985	CALENDAR YEAR 1986
Thursday, January 10, 1985	Friday, January 10, 1986
Friday, January 25, 1985	Friday, January 24, 1986
Monday, February 11, 1985	Monday, February 10, 1986
Monday, February 25, 1985	Tuesday, February 25, 1986
Monday, March 11, 1985	Monday, March 10, 1986
Monday, March 25, 1985	Tuesday, March 25, 1986
Wednesday, April 10, 1985	Thursday, April 10, 1986
Thursday, April 25, 1985	Friday, April 25, 1986
Friday, May 10, 1985	Friday, May 9, 1986
Friday, May 24, 1985	Friday, May 23, 1986
Monday, June 10, 1985	Tuesday, June 10, 1986
Tuesday, June 25, 1985	Wednesday, June 25, 1986
Wednesday, July 10, 1985	Thursday, July 10, 1986
Thursday, July 25, 1985	Friday, July 25, 1986
Friday, August 9, 1985	Monday, August 11, 1986
Monday, August 26, 1985	Monday, August 25, 1986
Tuesday, September 10, 1985	Wednesday, September 10, 1986
Wednesday, September 25, 1985	Thursday, September 25, 1986
Thursday, October 10, 1985	Friday, October 10, 1986
Friday, October 25, 1985	Friday, October 24, 1986
Friday, November 8, 1985	Monday, November 10, 1986
Monday, November 25, 1985	Tuesday, November 25, 1986
Tuesday, December 10, 1985	Wednesday, December 10, 1986
Tuesday, December 24, 1985	Wednesday, December 24, 1986

General Purpose of Rules: The rules are issued pursuant to RCW 42.18.250, "the Executive Conflict of Interest Act," and Executive Order 80-16 for the guidance of the commissioners and employees of the Washington State Housing Finance Commission (the "commission"). The commission was established by chapter 161, Laws of 1983, now codified as chapter 43.180 RCW to assist in making affordable and decent housing available throughout the state. Pursuant to RCW 43.180.040(2), the legislature directed that certain members of the commission be chosen by the governor because of their expertise in housing, real estate, finance, energy efficiency and construction. The proposed rules are intended to insure that decisions of the commission are fairly and legally made based on the expertise and unbiased judgment of the commissioners, and not on their self-interest.

The proposed rules govern what services or goods commissioners or employees may accept, decisions in which a commissioner or employee may not participate, disclosure of confidential information, and activities involving the commission after the termination or service or employment of a commissioner or employee.

Statutory Authority: RCW 42.18.250.

Responsible Commission Personnel: The chair and general counsel of the commission are responsible for the drafting, implementation and enforcement of these rules. The general counsel of the commission is Jay A. Reich of Preston, Thorgrimson, Ellis and Holman, 2000 IBM Building, Seattle, Washington 98101, (206) 623-7580.

The rules are not required as a result of federal or state law or court action.

Small Business Economic Impact Statement: N/A.

TITLE 262 WAC

WASHINGTON STATE HOUSING FINANCE COMMISSION

CHAPTER 262-02 WAC

RULES RELATING TO THE EXECUTIVE CONFLICT OF INTEREST ACT

NEW SECTION

WAC 262-02-010 PROMULGATION (This promulgation relates to WAC 262-02-010 through 262-02-030).

I, James L. Kirschbaum, Chair, Washington State Housing Finance Commission, P.O. Box 2665, Spokane, Washington 99550, by virtue of the authority vested in me under chapter 42.18 RCW and Executive Order 80-16, after due notice as provided under chapters 42.32 and 34.04 RCW, and a public hearing held in, Washington on, 1985, do hereby promulgate the following regulations relating to conflict of interest appropriate to the specific needs of the Washington State Housing Finance Commission.

NEW SECTION

WAC 262-02-020 PURPOSE. 1. As provided in RCW 42.18-.250, "The Executive Conflict of Interest Act," the chair of the Washington State Housing Finance Commission (the "Commission") may promulgate, for the guidance of its commissioners and employees, regulations relating to conflict of interest which are appropriate to the specific needs of the Commission.

2. The legislature intended that commissioners appointed to the Washington State Housing Finance Commission have experience with and expertise in housing matters, including housing construction and finance, and that they represent various industry and consumer groups. RCW 42.180.040(2). The Commission intends that its commissioners actively participate in and lend their expertise to the deliberations of

WSR 85-13-069

PROPOSED RULES

HOUSING FINANCE COMMISSION

[Filed June 19, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Housing Finance Commission intends to adopt, amend, or repeal rules concerning the Executive Conflict of Interest Act as applied to the Washington State Housing Finance Commission;

that the agency will at 3:00 p.m., Wednesday, July 24, 1985, in the Offices of Preston, Thorgrimson, Ellis and Holman, 2000 IBM Building, Seattle, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 42.18.250.

The specific statute these rules are intended to implement is chapter 42.18 RCW (the Executive Conflict of Interest Act).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 23, 1985.

Dated: June 19, 1985

By: James L. Kirschbaum
Chairman

STATEMENT OF PURPOSE

Name of Agency: Washington State Housing Finance Commission.

Title of Proposed Rules: Rules relating to the Executive Conflict of Interest Act.

the Commission. These regulations are intended to insure that decisions of the Commission are based on the expertise and unbiased judgment of these commissioners and not on their self-interest.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

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

NEW SECTION

WAC 262-02-030 RULES OF CONDUCT. 1. For any matter connected with, or related to, the discharge of official duties for the Commission, no commissioner or employee shall, directly or indirectly, solicit or accept any gift or loan of money, goods, or services (other than compensation from the state), or other thing of economic value for the personal benefit of any person, which gift or loan would be considered as an inducement to neglect or improperly perform official duties or to influence official judgment. A commissioner or employee may accept services such as food and lodging when such services are provided to support and further Commission business, and when such services cannot reasonably be construed to influence the substance or manner of Commission decisions. A commissioner may accept unsolicited advertising or promotional material or items of nominal value such as mementos commemorating the issuance of Commission bonds.

Example. Underwriter X, who is under contract to provide underwriting and financial services to the Commission, hosts a seminar for a subcommittee of commissioners to discuss the structuring of future bond issues. Underwriter X rents a room to hold the seminar and pays for a meal served prior to the seminar. The commissioners may accept such a meal and use such meeting room so long as the process for the selection of underwriters pursuant to RCW 43.180.100 is not in progress. Such expenditures by X while the selection process is underway might give rise to an appearance that such services were provided to influence the selection of underwriters.

2. For any matter connected with, or related to, the discharge of official duties for the Commission, no commissioner or employee shall grant special treatment or favors to any person doing business with, or associated with a person doing business with, the Commission, for the purpose of obtaining personal gain. A commissioner or Commission employee shall not use his or her status of employment and position with the Commission to gain a personal advantage for himself or any other individual in any personal financial transaction.

3. A commissioner or Commission employee shall not participate in any Commission decision or transaction in which the commissioner or employee, or a family member, may directly or indirectly profit, except to the extent that such commissioner or employee benefits as a member of the general public or as a member of a specific interest group related to housing construction or finance and receives the same treatment as all similarly situated persons. A commissioner may participate in a Commission decision with respect to a general method or system of financing for housing which could benefit an industry with which the commissioner has a direct or indirect financial or personal interest. A commissioner may not vote to approve a contract between the Commission and a company with which the commissioner has a financial or personal interest, but may participate in preliminary discussions or decisions with respect to which such company will be treated like all other similarly situated companies. If a commissioner does not vote under such circumstances, he shall announce for the record his reason for not voting.

The Commission may not contract with a company in which a commissioner has a personal or financial interest unless (1) that company is the only company able to provide the services required by the Commission, or (2)(a) other similarly situated and qualified companies have had the opportunity to enter into a contract with the same terms and conditions as the contract between the Commission and the commissioner's company, (b) the decision to approve the contract does not involve a discretionary decision by the Commission to choose among qualified companies, and (c) the relationship of the commissioner to such company is disclosed at the time the contract is approved by the Commission.

Example. Commissioner A is an experienced mortgage lender and is the vice president of Mortgage Lending Company X. The Commission is considering a multi-family financing program which will probably involve many lenders throughout the state, including Company X.

Commissioner A may participate fully in the structuring of the financing program so long as the terms and conditions of the program apply equally to all of the eligible lending institutions in the State. Ultimately, three qualified lenders, including Company X, seek to participate in the program and agree to sign identical contracts. Commissioner A may not vote to approve the contract with Company X because the commissioner would directly benefit and may not vote to approve the contract with the other two lenders because the commissioner may indirectly benefit from the decision. The commissioner must identify for the record that he has a potential conflict. The Commission may proceed to approve all three contracts.

4. A commissioner or Commission employee shall not disclose confidential information or use confidential information gained by reason of service or employment for the Commission to further any private financial transaction.

5. The Commission shall not make any decision involving housing financing with respect to which a commissioner has been disqualified from participation because of a conflict of interest if the Commission believes that such decision will be inappropriately influenced by the fact that the nonparticipating commissioner is involved with the housing financing decision.

6. Within two years after the termination of service or employment, no commissioner or Commission employee shall request that the Commission take discretionary action with respect to a specific person. This provision does not prohibit a former Commissioner from becoming involved in a transaction with the Commission if he is a member of the general public or a specific interest group related to the housing construction or finance, and receives the same treatment as all similarly situated persons. At no time following the termination of service or employment may a commissioner or Commission employee receive compensation for any services rendered on behalf of any person in relation to any case, proceeding, or application with respect to which the commissioner voted or employee personally participated during the period of the service or employment.

Example. The term of Commissioner X expires on June 1, 1985. On October 15, 1985 the Commission is requested to adopt "official action" resolutions with respect to 10 multifamily rental projects, one of which is being developed by former Commissioner X. The policy of the Commission is to adopt all "official action" resolutions requested, so it may adopt the resolution benefitting former Commissioner X. On March 1, 1986 former Commissioner X requests that the Commission engage his underwriting company to be one of four underwriters from a pool of 10 applicant underwriters. Since this request is within 2 years of his tenure as a commissioner and such Commission action requires a discretionary decision by the Commission to choose among competing underwriters, former Commissioner X must withdraw his request.

Reviser's note: Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

WSR 85-13-070
PROPOSED RULES
GAMBLING COMMISSION
[Filed June 19, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning amendatory section WAC 230-04-201;

that the agency will at 10:00 a.m., Friday, August 9, 1985, in the Ridpath Hotel, West 515 Sprague, Spokane, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 9.46.070 (1), (2), (4), (5), (6), (11), (14) and (17).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before August 9, 1985.

Dated: June 19, 1985
 By: Ronald O. Bailey
 Deputy Director

STATEMENT OF PURPOSE

Title: Amendatory section WAC 230-04-201 Fees.

Description of Purpose: Amends rule to establish licensing fee for punchboard/pull tab operators, distributors and manufacturers; authorizes mah-jongg to be played in class B card rooms.

Statutory Authority: RCW 9.46.070 (1), (2), (4), (5), (6), (11), (14) and (17).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-04-201, established fee schedule for authorized licensable gambling activities, adds mah-

jongg to list of games that can be played under a class B card room.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Keith Kisor, Director, 234-0865 scan, 753-0865 comm, and Ronald O. Bailey, Deputy Director, 234-1075 scan, 753-1075 comm, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504.

Proponents and Opponents: Gambling Commission staff proposes these rule amendments and new rules.

Agency Comments: The agency believes the proposed rules are self-explanatory and need no further comment.

These rules were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small businesses in the state of Washington by the adoption of these amendments or new rules.

AMENDATORY SECTION (Amending Order 140 [142], filed 6/15/84 [1/9/85])

WAC 230-04-201 FEES. Tables 1 and 2 contain the fees that shall be paid to the commission for gambling licenses, permits, miscellaneous changes, and special investigative and inspection services.

Table 1. (For bona fide nonprofit/charitable organizations)

LICENSE TYPE	DEFINITION	FEE
1. AMUSEMENT GAMES ((GAMES))	(Fee based on annual net receipts)	
Class A	\$500 or less	\$ 35
Class B	\$501 - 1,000	50
Class C	\$1,001 - 5,000	75
Class D	\$5,001 - 15,000	250
Class E	over \$15,000	350
2. BINGO	(Fee based on annual gross receipts)	
Class A	Up to \$10,000	\$ 50
Class B	\$ 10,001 to 50,000	150
Class C	\$ 50,001 to 100,000	500
Class D	\$ 100,001 to 300,000	800
Class E	\$ 300,001 to 500,000	1,500
Class F	\$ 500,001 to 1,000,000	3,000
Class G	\$1,000,001 to 1,500,000	4,000
Class H	\$1,500,001 to 2,000,000	5,000
Class I	\$2,000,001 to 2,500,000	6,000
Class J	\$2,500,001 to 3,000,000	7,000
Class K	\$3,000,001 to 3,500,000	8,000
3. BINGO GAME MANAGER	Original Renewal	\$ 150 75
4. CARD GAMES		
Class A	General (fee to play charged)	\$ 500
Class B	Limited card games - to hearts, rummy, mah-jongg, pitch, pinochle, coon-can and/or cribbage - (fee to play charged)	150
Class C	Tournament only - no more than ten consec. days per tournament	50
Class D	General (no fee to play charged)	50
Class R	Primarily for recreation (WAC 230-04-199)	25
5. CHANGES		
NAME	(See WAC 230-04-310)	\$ 25
LOCATION	(See WAC 230-04-320)	25
FRE	(Reno Nite date(s)/time(s)) (See WAC 230-04-325)	25
LICENSE CLASS ((CLASS))	(See WAC 230-04-260) New class fee, less previous fee paid, plus	25
DUPLICATE LICENSE	(See WAC 230-04-290)	25

REPLACEMENT IDENTIFICATION STAMPS		(See WAC 230-30-016)	25
6.	FUND RAISING EVENT Class A Class B Class C	One event not more than 24 consec. hrs. One event not more than 72 consec. hrs. Additional participant in joint event (not lead organization)	\$ 300 500 150
7.	PERMITS Class A (Class B)	Agricultural Fair/Special Property Bingo One location and event only (See WAC 230-04-191) Annual permit for specified different events and locations (See WAC 230-04-193)	\$ 25 (+50))
8.	PUNCHBOARDS/PULL TABS (Class A Class B Class C Class D Class E Class F Class A Class B Class C Class D Class E Class F Class G Class H Class I Class J Class K	(Fee based on annual gross receipts) Up to \$50,000 \$ 50,001 to 100,000 \$100,001 to 200,000 \$200,001 to 300,000 \$300,001 to 500,000 Over \$500,000 Up to \$ 10,000 Up to \$ 50,000 Up to \$100,000 Up to \$200,000 Up to \$300,000 Up to \$400,000 Up to \$500,000 Up to \$600,000 Up to \$700,000 Up to \$800,000 Over \$800,000	\$-450 950 1,350 1,750 2,150 3,000)) \$ 300 475 960 1,560 2,360 3,150 3,775 4,350 4,825 5,225 5,900
9.	RAFFLES Class C Class D Class E Class F	(Fee based on annual net receipts) \$500 or less \$501 - 5,000 \$5,001 - 15,000 Over \$15,000	\$ 50 100 400 600
10.	SEPARATE PREMISES BINGO RAFFLES	Occasion (see WAC 230-04-300) (See WAC 230-04-197)	\$ 25 25
11.	SPECIAL FEES INVESTIGATION IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-04-240) (See WAC 230-30-015 and 230-30-030)	As required As required

Table 2. (For commercial stimulant/profit seeking organizations)

LICENSE TYPE	DEFINITION	FEE
1. CARD GAMES Class B	(Fee to play charged) limited card games - to hearts, rummy, pitch, pinochle, mah-jongg, coon-can and/or cribbage	\$ 150
Class C	Tournament only, no more than ten consec. days per tournament	150
Class D	General (no fee to play charged)	50
Class E	General (fee to play charged)	
E-1	One table only	350
E-2	Up to two tables	600
E-3	Up to three tables	1,000
E-4	Up to four tables	2,000
E-5	Up to five tables	3,000
2. CHANGES NAME LOCATION BUSINESS CLASSIFICATION	(See WAC 230-04-310) (See WAC 230-04-320) (Same owners - see WAC 230-04-340(3))	\$ 25 25 50

LICENSE CLASS ((CLASS))	(See WAC 230-04-260) New class fee, less previous fee paid, plus	25
DUPLICATE LICENSE	(See WAC 230-04-290)	25
OWNERSHIP OF STOCK	(See WAC 230-04-340(1))	50
REPLACEMENT IDENTIFICATION STAMPS	(See WAC 230-30-016)	25
LICENSE TRANSFERS	(See WAC 230-04-125, 230-04-340 and 230-04-350)	50
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3. DISTRIBUTOR	((Original Renewal (Fee based on annual gross receipts for sale of punchboards, pull tabs, pull tab dispensing devices and sale/lease of fund raising event equipment.)	\$2,500 1,250))
		<u>Original Renewal</u>
Class A	up to \$600,000	\$2,750 \$1,250
Class B	over \$600,000	\$2,750 \$1,700
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4. DISTRIBUTOR'S REPRESENTATIVE	Original Renewal	((200)) \$220 ((100)) 110
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5. MANUFACTURER	Original Renewal	((53,000)) \$3,300 ((1,500)) 1,650
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6. MANUFACTURER'S REPRESENTATIVE	Original Renewal	((200)) 220 ((100)) 110
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7. PERMITS Class A Class B	Agricultural fair/special property bingo One location and event only (See WAC 230-04-191) Annual permit for specified different events and locations (See WAC 230-04-193)	\$ 25 150
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8. PUBLIC CARD ROOM EMPLOYEE	Original Renewal	\$ 150 75
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9. PUNCHBOARDS/PULL TABS ((Class A Class B Class C Class D Class E Class F Class A Class B Class C Class D Class E Class F Class G Class H Class I Class J Class K	(Fee based on annual gross receipts) Up to \$50,000 \$ 50,001 to 100,000 \$100,001 to 200,000 \$200,001 to 300,000 \$300,001 to 500,000 Over \$500,000 Up to \$ 10,000 Up to \$ 50,000 Up to \$100,000 Up to \$200,000 Up to \$300,000 Up to \$400,000 Up to \$500,000 Up to \$600,000 Up to \$700,000 Up to \$800,000 Over \$800,000	\$ 450 950 1,350 1,750 2,150 3,000)) \$ 300 475 960 1,560 2,360 3,150 3,775 4,350 4,825 5,225 5,900
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10. SPECIAL FEES INVESTIGATION IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-04-240) (See WAC 230-30-015 and 230-30-030)	As required As required
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11. SPECIAL LOCATION ((LOCATION)) AMUSEMENT GAMES Class A	(Fee based on annual net receipts) One event per year lasting no longer than 12 consecutive days	\$ 500

Class B	\$ 25,000 or less	500
Class C	\$ 25,001 - \$100,000	1,500
Class D	\$100,001 - \$500,000	3,000
Class E	Over \$500,000	5,000

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

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**WSR 85-13-071
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed June 19, 1985]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning Finance—Educational service district budgeting, chapter 392-125 WAC;

that the agency will at 2:00 p.m., Tuesday, July 23, 1985, in the Old Capitol Building, Washington and Legion, Wanamaker Conference Room, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 24, 1985.

The authority under which these rules are proposed is RCW 28A.21.135.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 23, 1985.

Dated: June 19, 1985

By: Frank B. Brouillet
Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-125 WAC, Finance—Educational service district budgeting.

Rule Section(s): WAC 392-125-012 Definitions; 392-125-015 Budgets required; 392-125-020 Budget preparation; 392-125-030 Time schedule; 392-125-035 Budget content; 392-125-036 Core services funding; 392-125-045 Balanced budget; 392-125-065 Content of the monthly budget; and deleting 392-125-075.

Statutory Authority: RCW 28A.21.135.

Purpose of the Rule(s): To establish budgeting procedures for educational service districts.

Summary of the New Rule(s) and/or Amendments: WAC 392-125-075, delete, this language is out-of-date by approximately ten years; 392-125-012, definitions are reworded and new definitions added to add clarity to terms used in budget and accounting system; 392-125-015, recognizes that budgets in most cases are not prepared on SPI forms but rather in formats prescribed on SPI forms; 392-125-020, delete word "immediately." Budget can be prepared weeks or months before adoption. Timeline for notice is already in this section. Word

"immediate" is misleading; 392-125-030, changes number of copies filed to conform with chapter 28A.65 RCW; 392-125-035, update terminology to conform with chapter 28A.65 RCW; 392-125-036, correction of word "basis" and update to reflect current core formula; 392-125-045, added language to clarify that loans cannot be used to balance budgets; and 392-125-065, eliminates unnecessary requirement that budget status reports be signed by ESD superintendent.

Reasons Which Support the Proposed Action(s): Clarify code and agency policy.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Mel Collart, SPI, 3-3584; and Enforcement: Perry Keithley, SPI, 3-6742.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 84-12, filed 6/13/84)

WAC 392-125-012 DEFINITIONS—REVENUE, ACCRUAL BASIS EXPENDITURES, CASH BASIS EXPENDITURES, APPROPRIATION, AND DISBURSEMENTS. As used in this chapter, the term:

(1) "Revenue" shall mean an addition to assets of a fund of an educational service district during a fiscal period that is available to finance the funds' expenditures during the fiscal period. Revenue does not accompany the increase of liabilities or represent refunds of previous disbursements. Revenue may be in the form of cash, or in the form of noncash assets such as donated commodities. Revenue is limited to amounts received in cash or noncash donations, plus or minus adjustments for revenue accruals.

(2) "Cash basis revenue" shall mean the actual receipt of revenue not adjusted for revenue accruals.

(3) "Revenue accruals" shall mean those revenues which are (a) anticipated to be received in cash after the close of the fiscal period and (b) represent reimbursement for expenditures incurred by the end of the fiscal period. In order for revenue to be included in revenue accruals, it must meet the above tests.

Revenue accruals, if they meet both tests include: Reimbursements on categorical grants for which expenditures have been made but payment has not been received; payments from school districts that are due, but are not collected by the end of the fiscal period; and rental or lease payments that are currently due, and there is reasonable assurance of payment.

(4) "Expenditures" shall mean the decrease in assets with no corresponding decrease in liabilities, or the increase in liabilities with no corresponding increase in assets.

(5) "Expenditure refunds" shall mean the increase in assets with a corresponding decrease in expenditures.

(6) "Revenue refunds" shall mean the increase in liabilities with a corresponding decrease in revenues.

(7) "Liabilities" shall mean debt or other legal obligations arising out of transactions in the past which are payable but not necessarily due.

(8) "Accrual basis expenditures" shall mean expenditures incurred during a given fiscal period, whether paid or unpaid.

((~~7~~)) (9) "Cash basis expenditures" shall mean ((~~actual~~)) the disbursement(~~s~~) of cash for expenditures during a given fiscal period

regardless of when liabilities are incurred (~~or the period of incurrence of expenditures~~), and the disbursement of inventory.
~~((6))~~ (10) "Appropriation" shall mean the maximum authorization during a given fiscal period to incur expenditures.
~~((7))~~ (11) "Disbursements" shall mean payments in cash, including (~~but not limited to~~) the issuance of warrants, and the issuance of inventory.

AMENDATORY SECTION (Amending Order 81-19, filed 9/4/81)

WAC 392-125-015 BUDGETS REQUIRED. Each educational service district shall prepare in accordance with this chapter and instructions from the superintendent of public instruction a complete budget for each fiscal year of operation. An incomplete budget shall be considered null and void and shall not be an appropriation. The fiscal year for educational service districts commences on July 1st of one year and extends through June 30th of the following year. The annual budget shall be prepared (~~on forms provided~~) in the format prescribed by the superintendent of public instruction which will reflect the approved core funding formula pursuant to WAC 392-125-036, and shall receive all necessary approvals, and shall be filed with the proper officials in order to constitute an official budget and appropriation for the subject fiscal year. The superintendent may require a second or revised budget at any time the financial situation is deemed to warrant a revised budget.

AMENDATORY SECTION (Amending Order 84-12, filed 6/13/84)

WAC 392-125-020 BUDGET PREPARATION, HEARING AND ADOPTION. On or before the 1st day of May, each educational service district shall prepare a budget for the operation of the educational service district for the ensuing fiscal year and (~~immediately~~) following completion of the budget, shall publish a notice stating that the budget is completed and placed on file in the district headquarters office with copies available for any interested person or organization. The notice shall state the date, time, and place the educational service district board will meet for the purpose of fixing and adopting the budget of the district for the ensuing fiscal year. Said meeting shall occur on or before the third Friday in May. The notice shall also state that any person may appear during the meeting and be heard for or against any part of such budget. The notice shall be published once each week for two consecutive weeks (~~immediately~~) following the completion of the budget in a newspaper of general circulation in the district.

An educational service district board shall secure the signature of the chairman of the superintendents' advisory committee as an indication that the budget has been reviewed by the committee. At the conclusion of the hearing which shall not exceed two days, the board of directors shall adopt the budget by resolution. After the budget has been adopted by the board at the public hearing, two certified copies shall be forwarded to the superintendent of public instruction on or before the fourth Monday in May in order that the superintendent may revise and fix the budget according to statute.

AMENDATORY SECTION (Amending Order 84-12, filed 6/13/84)

WAC 392-125-030 TIME SCHEDULE FOR BUDGET PROCESS. The time schedule for preparation of the annual budget of an educational service district follows: If the superintendent of public instruction deems it necessary to request a second and revised budget, the timing of the process shall be similar and shall be outlined specifically in the request.

ON OR BEFORE REQUIREMENT

May 1	Final date for board to prepare budget. Immediately thereafter publish notice of the completion of the budget as provided in WAC 392-125-020.
2 weeks preceding public hearing	Copies of budget made available to interested citizens.
3rd Friday in May	Final date for board in public hearing to fix and adopt the budget. (The maximum time for this hearing is two days.)

ON OR BEFORE REQUIREMENT

Conclusion of hearing	Board resolution to adopt budget (obtain signature of chairman of superintendents' advisory committee).
4th Monday in May	Forward two properly signed copies of budget to superintendent of public instruction.
June	Superintendent revises, fixes and approves budget and returns (two copies) <u>one copy</u> to the district ((one for county auditor of headquarters county)).

AMENDATORY SECTION (Amending Order 84-12, filed 6/13/84)

WAC 392-125-035 BUDGET CONTENT. (1) The budget prepared by an educational service district shall set forth the complete financial program and consider all activities of the district for the ensuing fiscal year in detailed expenditures by program and the sources of revenue from which it is to be financed.

(2) The revenue section of a budget shall set forth the estimated revenue from all sources for the ensuing fiscal year, the estimated revenue for the fiscal year current at the time of the budget preparation, the actual revenue for the last completed fiscal year, and (~~the probable net cash and investments available for ensuing fiscal year disbursements at the close of the said current fiscal year~~) the reserved and unreserved fund balances. The estimated ((receipts)) revenues from all sources for the ensuing fiscal year shall not include any revenue ((which cannot reasonably be)) not anticipated to be ((received in cash)) available during that fiscal year.

(3) The expenditure section of the budget shall set forth budgeted expenditures for the ensuing fiscal year, budgeted expenditures for the current fiscal year, and the actual expenditures for the last completed fiscal year. Expenditures shall be (~~broken out~~) displayed by program, activity, and object of expenditure. Total salary amounts, full-time equivalents and the high, low, and average annual salaries shall be displayed by each job classification within each activity within each program. If individual salaries within each position title are not displayed, districts shall provide individual salaries together with the position title of the recipient and the total salary amounts budgeted for each program upon request. Salary schedules shall be displayed. In districts where negotiations have not been completed, the district may budget the salaries at the current year's rate and restrict fund balance for the amount of anticipated increase in salaries, so long as an explanation shall be attached to the budget on such restriction of fund balance.

The salary exhibits shall be divided into two major groupings with subtotals which agree with the object of expenditure detail in the budget. The two groupings are (~~professional~~) certificated and classified.

(4) All pertinent items on the budget form shall be completed correctly before the budget is presented for hearing, review, and approval. Information pertaining to budget development which is not available at the time of budget preparation shall be estimated using the most current and reliable information available.

AMENDATORY SECTION (Amending Order 1-79, filed 6/7/79)

WAC 392-125-036 CORE SERVICES FUNDING FORMULA. (1) The superintendent of public instruction shall biennially review and adopt the core services funding formula for educational service districts based upon RCW 28A.21.136, 28A.21.137 and the considerations set forth in this section.

(2) The core services funding formula shall be established to identify basic, uniform services to be provided to school districts and to the superintendent of public instruction by educational service districts.

(3) The core funding formula provides for the equalization of services by educational service districts based on geographical features, number and size of districts served, and facility requirements.

(4) All educational service districts shall be allocated the following positions without regard to size:

- (a) Superintendent;
- (b) Executive secretary;
- (c) Receptionist;
- (d) Internal accountant;
- (e) (~~Grants manager;~~)
- (f) Secretary; and

~~((g))~~ (f) Certification clerk.

(5) All other positions in addition to those specified in subsection (4) of this section, both professional and clerical, shall be allocated on the basis of workload, e.g., total number of school districts, number of second-class school districts, number of on-line computer reports required. These positions shall be allocated to the educational service districts in the following manner:

(a) To provide fiscal office support to school districts most in need, allocations shall be based on the number of second-class school districts served.

(b) In the case of terminal operators, allocation shall be on a workload basis associated with the amount of hours required to process state reports.

~~(c) ((The allocation of assistant superintendent positions shall be based on the number of second-class school districts served.~~

~~(d))~~ The level of curriculum and instruction services provided by educational service districts shall be based on the number of school districts served, regardless of district enrollment.

(6) Travel expenses shall be based on a mileage factor calculated for each educational service district. The factor shall be calculated by measuring the distance between each school district headquarters and the respective educational service district headquarters and obtaining the total mileage for the educational service district. The total mileage shall be multiplied by the number of professional staff allocated to the respective educational service district. The product shall then be multiplied by a standard dollar amount to be determined by the superintendent of public instruction after consultation with the Educational Service District Superintendents' Association.

(7) The expenses of board members shall be provided for in the formula by allocating a dollar amount to be determined by the superintendent of public instruction after consultation with the Educational Service District Superintendents' Association for each educational service district board member.

(8) Maintenance and operation expenditures shall be provided in the formula by allocating a dollar amount to be determined by the superintendent of public instruction after consultation with the Educational Service District Superintendents' Association for each core staff position.

(9) The annual housing costs for each educational service district shall be agreed upon by the educational service district superintendents and approved by the superintendent of public instruction or his or her designee.

(10) Total compensation of core positions shall be allocated in accordance with the state biennial appropriations act.

(11) Unique situations may dictate exceptions to the formula which shall be recommended by the Educational Service District Superintendents' Association and approved by the superintendent of public instruction or his or her designee.

(12) The elements set forth in subsections (1) through (11) of this section shall:

(a) Serve as ~~((bases))~~ basis for preparing biennial budget requests to the regular sessions of the Washington state legislature; and

(b) Be considered in the approval or disapproval of the annual budgets of the educational service districts by the superintendent of public instruction.

AMENDATORY SECTION (Amending Order 84-12, filed 6/13/84)

WAC 392-125-045 A BALANCED BUDGET. The estimated expenditures for the ensuing fiscal year shall not be greater than the total of the estimated revenues for the ensuing fiscal year plus the probable (for the initial budget) or actual ~~((or))~~ for budgets developed after fund balance is known) fund balance at the close of the fiscal year preceding the ensuing fiscal year. A budget is considered a balanced budget if the above requirement is met. The proceeds of any loan must not be used to balance the budget.

AMENDATORY SECTION (Amending Order 84-12, filed 6/13/84)

WAC 392-125-065 CONTENT OF THE MONTHLY BUDGET STATUS. The monthly budget status report shall contain the most current approved budget amounts by summary level accounts and the fund balance at the beginning and end of the period being analyzed. Encumbrances also shall be reflected in the report. The report shall display activity on a fiscal year-to-date basis on both revenues and expenditures and the "as of" date shall be indicated at the top of the report. ~~((The report shall be signed by the educational service district superintendent:))~~

WSR 85-13-072
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed June 19, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Superintendent of Public Instruction intends to adopt, amend, or repeal rules concerning Finance—School district budgeting, chapter 392-123 WAC;

that the agency will at 2:00 p.m., Tuesday, July 23, 1985, in the Old Capitol Building, Washington and Legion, Wanamaker Conference Room, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 24, 1985.

The authority under which these rules are proposed is RCW 28A.65.465, 28A.41.170 and 28A.41.055.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 23, 1985.

Dated: June 19, 1985

By: Frank B. Brouillet

Superintendent of Public Instruction

STATEMENT OF PURPOSE

Rule: Chapter 392-123 WAC, Finance—School district budgeting.

Rule Section(s): WAC 392-123-047 Definitions; 392-123-054 Time schedule; 392-123-072 Budget extensions; 392-123-076 Identification of balanced budget; 392-123-078 Review of first-class school district budget; 392-123-079 Review of second-class district budget; 392-123-115 Monthly budget status; and 392-123-125 Personnel budget.

Statutory Authority: RCW 28A.65.465, 28A.41.170 and 28A.41.055.

Purpose of the Rule(s): To establish budgeting procedures for school districts.

Summary of the New Rule(s) and/or Amendments: WAC 392-123-047, definitions are reworded and new definitions added to add clarity to terms used in budget and accounting system; 392-123-054 and 392-123-072, change in number of copies of budget filed. To bring into conformance with chapter 28A.65 RCW; 392-123-076, word "interfund" deleted to clarify that any loan cannot be used to generate budget capacity. This brings this section of WAC into conformance with definition of revenue in WAC 392-123-047; 392-123-078 and 392-123-079, deletes language that appears to limit review of budgets to data entry and edit. Edits are more comprehensive than just the computer process; 392-123-115, deletes reference to investments because investments no longer appear on the budget status report; and 392-123-125, minor change for clarity.

Reasons Which Support the Proposed Action(s): Clarify rules and agency policy.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Mel Collart, SPI, 3-3584; and Enforcement: Perry Keithley, SPI, 3-6742.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: No.

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

AMENDATORY SECTION (Amending Order 83-12, filed 10/10/83)

WAC 392-123-047 DEFINITIONS-REVENUE, ACCRUAL BASIS EXPENDITURES, CASH BASIS EXPENDITURES, APPROPRIATION, AND DISBURSEMENTS. As used in this chapter, the term:

(1) "Revenue" shall mean an addition to assets of a fund of a school district during a fiscal period that is available to finance the funds' expenditures during the fiscal period. Revenue does not accompany the increase of liabilities or represent refunds of previous disbursements. Revenue may be in the form of cash, or in the form of noncash assets such as donated commodities. Revenue for accrual basis expenditure funds is limited to amounts received in cash or noncash donations, plus or minus adjustments for revenue accruals.

(2) "Cash basis revenue" shall mean the actual receipt of revenue not adjusted for revenue accruals.

(3) "Revenue accruals" shall mean those revenues which are (a) anticipated to be received in cash after the close of the fiscal period and (b) represent reimbursement for expenditures incurred by the end of the fiscal period. In order for revenue to be included in revenue accruals, it must meet the above tests.

Revenue accruals, if they meet both tests include: Reimbursements on categorical grants for which expenditures have been made but payment has not been received; payments from other school districts that are due, but are not collected by the end of the fiscal period; deferrals of apportionment payments by the state when a deferral occurs because of district request or state mandate, and the revenue is due to the district; and rental or lease payments that are currently due, and there is reasonable assurance of payment.

Revenue that cannot be accrued because it does not meet the above tests includes: Collection of excess levies not expected to be received until after the end of the fiscal period and PL 874 funds that are to be received in cash in the following fiscal period, i.e. the twenty-five percent payment that is received after the end of the fiscal period.

(4) "Expenditures" shall mean the decrease in assets with no corresponding decrease in liabilities, or the increase in liabilities with no corresponding increase in assets.

(5) "Expenditure refunds" shall mean the increase in assets with a corresponding decrease in expenditures.

(6) "Revenue refunds" shall mean the increase in liabilities with a corresponding decrease in revenues.

(7) "Liabilities" shall mean debt or other legal obligations arising out of transactions in the past which are payable but not necessarily due.

(8) "Accrual basis expenditures" shall mean expenditures incurred during a given fiscal period, whether paid or unpaid.

~~((5))~~ (9) "Cash basis expenditures" shall mean ~~((actual))~~ the disbursement~~((s))~~ of cash for expenditures during a given fiscal period regardless of when liabilities are incurred ~~((or the period of incurrence of expenditures. "Cash basis expenditures" includes the consumption of donated commodities))~~, and the disbursement of inventory.

~~((6))~~ (10) "Appropriation" shall mean the maximum authorization during a given fiscal period to incur expenditures.

~~((7))~~ (11) "Disbursements" shall mean payments in cash, including ~~((but not limited to))~~ the issuance of warrants, and the disbursement of inventory.

AMENDATORY SECTION (Amending Order 84-11, filed 6/13/84)

WAC 392-123-054 TIME SCHEDULE FOR BUDGET. The time schedule for preparation, adoption and filing of the annual budget is as follows:

Final Date For Action	First-Class Districts	Second-Class Districts
July 10	Final date for district to prepare budget. Upon completion of their budgets, every school district shall publish a notice stating that the district has completed the budget and placed the same on file in the school district administration office, that a copy thereof will be furnished any person who will call upon the district for it, and that the board of directors will meet for the purpose of fixing and adopting the budget of the district for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting. The notice shall also state that any person may appear thereat and be heard for or against any part of such budget. Said notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the district, or, if there be none, in a newspaper of general circulation in the county or counties in which such district is a part. The last notice shall be published no later than seven days immediately prior to the hearing.	Same as first-class.
July 15		Final date to have sufficient number of copies of budget to meet reasonable demands of public. Also, final date to submit one copy of budget to educational service district for review and comment.
July 20	Final date to have sufficient copies of budget to meet reasonable demands of public. Also, final date to submit one copy of budget to educational service district for review and comment.	
July 25		Final date for educational service district to notify districts of problems noted in review.

Final Date For Action	First-Class Districts	Second-Class Districts	Final Date For Action	First-Class Districts	Second-Class Districts
August 1		<p>Final date for board directors to meet in public hearing and fix and adopt said budget.</p> <p>Such hearing may be continued not to exceed a total two days: PROVIDED, That the budget must be adopted no later than August 1st.</p> <p>Upon conclusion of the hearing the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board.</p>			<p>local board of directors or a representative thereof and a representative of the superintendent of public instruction.</p>
			September 3	Final date for district to file ((three)) two copies of said adopted budget with their educational service district.	
			September 10	Last date for educational service district to file a copy of said adopted budgets with the superintendent of public instruction. One copy will be retained by educational service district.	Same as first-class except one copy of adopted and approved budget must be returned to local school district ((by)) .
August 3		Last date to forward ((four)) three copies of said adopted budget to educational service district for review, alteration and approval.			
August 10	Final date for educational service district to notify districts of review problems noted in review.				
August 31	Final date for board of directors to meet in public hearing and fix and adopt said budget. Such hearing may be continued not to exceed a total of two days: PROVIDED , That the budget must be adopted no later than August 31st. Upon conclusion of the hearing, the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board.	<p>Last date for the budget review committee to fix and approve the amount of the appropriation from each fund of the budget. No budget review committee shall knowingly approve any budget or appropriation that is in violation of state law or rules and regulations adopted by the superintendent of public instruction. ((A copy of said budget shall be returned to the local school districts no later than September 10th.))</p> <p>Members of the budget review committee as referred to in this section shall consist of the educational service district superintendent or a representative thereof, a member of the</p>			

AMENDATORY SECTION (Amending Order 84-11, filed 6/13/84)

WAC 392-123-072 BUDGET EXTENSIONS—SECOND-CLASS SCHOOL DISTRICTS. If a second-class school district needs to increase the amount of the appropriation from any fund the school district board of directors before incurring expenditures in excess of appropriations shall obtain approval from the superintendent of public instruction in the following manner: The school district board of directors shall adopt a resolution stating the specific reason(s) for extending the budget, the estimated amount of additional appropriation needed and the source(s) of funds.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided by WAC 392-123-054. Introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Upon passage of the appropriation resolution the school district shall petition the superintendent of public instruction for approval to increase the amount of its appropriations. Such petition to be made in the format prescribed by the superintendent of public instruction. Three copies of the request for budget extension shall be prepared in accordance with current instructions contained in bulletins now or hereafter published by the superintendent of public instruction and attached to each copy shall be a copy of the latest budget status report and a copy of the board resolution.

The request for budget extension shall be forwarded to the educational service district for approval by the educational service district superintendent.

If approved, all three copies of the request for budget extension shall be forwarded by the educational service district to the superintendent of public instruction for final approval. Except for requests for budget extensions for emergencies as defined in WAC 392-123-071, the superintendent of public instruction shall not approve requests for budget extensions received after the close of business on June 30 or the last business day prior to June 30 if June 30 occurs on a nonbusiness day. The final date for receiving requests for budget extensions for emergencies defined in WAC 392-123-071 shall be the close of business on August 31 or the last business day prior to August 31 if August 31 occurs on a nonbusiness day.

Any request for budget extension shall not be approved by the educational service district or the superintendent of public instruction to the extent that the current appropriation has been exceeded prior to the request for budget extension.

~~((A copy))~~ Two copies of all appropriation resolutions approved by the superintendent of public instruction shall be ~~((filed))~~ returned by the superintendent of public instruction ~~((with))~~ to the educational service district. The educational service district shall return one copy to the school district. The other copy shall be retained by the educational service district.

AMENDATORY SECTION (Amending Order 83-12, filed 10/10/83)

WAC 392-123-076 IDENTIFICATION OF BALANCED BUDGET. For each fund contained in the school district budget the estimated expenditures for the budgeted fiscal period must not be greater than the total of the estimated revenues for the budgeted fiscal period, plus the estimated fund balance at the beginning of the budgeted fiscal period, less the estimated reserved fund balance at the end of the budgeted fiscal period and the projected revenue from receivables collectible in future periods as approved by the superintendent of public instruction for inclusion in the budget.

The proceeds of any ((interfund)) loan must not be used to balance the budget of the borrowing fund.

AMENDATORY SECTION (Amending Order 83-12, filed 10/10/83)

WAC 392-123-078 REVIEW OF FIRST-CLASS SCHOOL DISTRICT BUDGETS AND BUDGET EXTENSIONS. Budgets of first-class school districts shall be reviewed by the educational service district prior to adoption by the school district board of directors. First-class school districts shall submit a copy of their budgets to their educational service district for review at least fourteen days prior to budget adoption but not later than July 20.

The educational service district shall notify each of its first-class school districts of any problems noted during the review prior to adoption of the budget by the school district.

~~((The review shall include data entry and edit of the school district budget in the manner prescribed by the superintendent of public instruction.))~~

Budgets and budget extensions adopted by first-class school districts shall be reviewed by the educational service district prior to filing these documents with the superintendent of public instruction.

Said reviews shall include but ((is)) not be limited to completion of data entry and edit, review of revenues and reserved and unreserved fund balances for accuracy, appropriateness of expenditures and determination of whether or not the budget of budget extension is in compliance with this chapter, state statutory law and budget instructions issued by the superintendent of public instruction.

The educational service district shall notify the district of all problems noted in the review and the due date for correction of the problems. Should the school district fail to meet the due date for correction, the educational service district shall notify the superintendent of public instruction. The superintendent of public instruction shall proceed in the manner prescribed in WAC 392-123-080 through 392-123-105.

AMENDATORY SECTION (Amending Order 83-12, filed 10/10/83)

WAC 392-123-079 REVIEW OF SECOND-CLASS DISTRICT BUDGETS AND BUDGET EXTENSIONS. Budgets of second-class school districts shall be reviewed by the educational service district prior to adoption by the school district board of directors. Second-class school districts shall submit a copy of their budget to their educational service district for review at least fourteen days prior to adoption, but not later than July 15.

Educational service districts shall notify each of its second-class school districts of any problems noted during the review prior to adoption of the budget by the board of directors.

~~((The review shall include data entry and edit of the school district in the manner prescribed by the superintendent of public instruction.))~~

Review of second-class school district adopted budgets shall be performed by the educational service districts. Said reviews shall include, but ((is)) not be limited to, completion of data entry and edit, review of revenues and reserved and unreserved fund balances for accuracy, appropriateness of expenditures and determination of whether or not the budget is in compliance with this chapter, state statutory law, and budget instructions issued by the superintendent of public instruction.

The educational service district will notify the district of all problems noted during the review. The educational service district shall attempt to have the problems corrected prior to submission of the budget to the superintendent of public instruction.

The superintendent of public instruction shall conduct meetings with representatives of the educational service district and/or school district as deemed necessary to correct problems and to fix and approve the

amount of appropriation from each fund of the budget as prescribed in RCW 28A.65.430 and WAC 392-123-054.

Review of budget extensions shall consist of data entry and edit, review of revenues and reserved and unreserved fund balances for accuracy, appropriateness of expenditures, and determination of whether or not the budget extension is in compliance with this chapter, state statutory law, and budget instructions issued by the superintendent of public instruction. Approval of budget extensions shall be in accordance with WAC 392-123-072.

AMENDATORY SECTION (Amending Order 83-12, filed 10/10/83)

WAC 392-123-115 MONTHLY BUDGET STATUS REPORTS. A monthly budget status report for each fund shall be prepared by the administration of each school district; and a copy of the most current budget status reports shall be provided to each member of the board of directors of the district at the board's regular monthly meeting. The report shall contain the most current approved budget amounts by summary level accounts and the fund balance at the beginning and end of the period being analyzed. State Form F-198, which is entitled "The budget status report" and also is found in the state Form F-196, is an example of the type and level of information necessary for this report. Also, as a part of the budget status report, the administration shall provide each member of the board of directors with a brief written explanation of any significant deviations in revenue and/or expenditure projections that may affect the financial status of the district. ~~((A section of the budget status report for the general fund shall indicate an analysis of any change in the amount of investments of general fund moneys and shall display investment earnings and the fund to which they are credited.))~~ If deemed necessary by the superintendent of public instruction, and upon written notice to the district by the superintendent of public instruction, a monthly budget status report for one or more funds along with other financial information shall be filed with either the educational service district superintendent or the superintendent of public instruction or both for the period of time set forth in such notice.

AMENDATORY SECTION (Amending Order 81-18, filed 9/24/81)

WAC 392-123-125 PERSONNEL BUDGET STATUS REPORT. Each school district shall maintain the capability to prepare a monthly personnel status report according to the schedule set forth for monthly budget status reports in WAC 392-123-115. This report shall display the combined responsibilities of the district's administrative staff for personnel management and budget control and shall indicate the status of expenditures and commitments for salaries and wages. The report shall also indicate the number of certificated and classified positions planned in the budget and the amount of funds budgeted for those positions, summarized by program and/or responsibility area. The number of positions actually filled and the amount of funds actually expended ~~((or))~~ and encumbered in support of these positions shall also be displayed in a manner that can be compared with budget. Any significant variance between budgeted positions and actual should be ~~((analyzed))~~ explained. The personnel budget status report shall be provided to the superintendent of public instruction or the board of directors of the district within ten days from the date of such request from either the superintendent or board. A district's board of directors may use the personnel status report in conjunction with a monthly budget status report and the statement of financial condition to manage the financial position of the district.

WSR 85-13-073**ADOPTED RULES****DEPARTMENT OF FISHERIES**

[Order 85-64—Filed June 19, 1985]

I, William R. Wilkerson, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing rules.

This action is taken pursuant to Notice No. WSR 85-10-060 filed with the code reviser on May 1, 1985.

These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 12, 1985.

By Russell W. Cahill
for William R. Wilkerson
Director

AMENDATORY SECTION (Amending Order 84-66, filed 7/6/84)

WAC 220-36-021 SALMON FISHING AREAS—GILL NET—SEASONS. It is unlawful to take, fish for or possess salmon for commercial purposes with gill net gear in the following Grays Harbor fishing areas except during the seasons provided for hereinafter in each respective fishing area:

Area 2A

Closed during ~~((+1984))~~ 1985 season.

Area 2B -

6:00 p.m. July 5 to 6:00 p.m. August 15, ~~((+1984))~~ 1985, in those waters east of a line drawn true north-south through lighted piling Number 16 (F1.R.4 sec. 15 ft.) on Whitcomb Flats.

~~((8:00 a.m.))~~ 4:00 p.m. October ((28)) 10 to ((8:00 p.m.)) 6:00 a.m. October ((28, 1984, except that it is unlawful to fail to submit to a hold inspection before beginning to fish and upon completion of fishing in the waters of the Westport Boat Basin on October 28, 1984)) 11, 1985.

5:30 a.m. October 27, to 5:30 p.m. October 27, 1985

6:00 a.m. October 28, to 6:00 p.m. October 28, 1985.

Areas 2C and 2D -

6:00 p.m. July 5 to 6:00 p.m. August 15, ~~((+1984))~~ 1985.

4:00 p.m. October 10, to 6:00 a.m. October 11, 1985.

AMENDATORY SECTION (Amending Order 84-66, filed 7/6/84)

WAC 220-36-022 SALMON FISHING AREAS—WEEKLY PERIODS. It is unlawful to take, fish for or possess salmon taken with gill net gear except during the weekly open periods hereinafter designated in the following Grays Harbor fishing areas:

Area 2A

Closed during ~~((+1984))~~ 1985 season.

Areas 2B, 2C and 2D

~~((6:00 p.m. July 5 to 6:00 p.m. August 15, 1984. Open continuously;~~

~~8:00 a.m. October 28 to 8:00 p.m. October 28, 1984.))~~ Open continuously.

AMENDATORY SECTION (Amending Order 84-66, filed 7/6/84)

WAC 220-36-024 SALMON FISHING AREAS—MESH SIZES—GEAR. (1) It is unlawful to take, fish for or possess salmon with gill net gear containing mesh smaller than the minimum sizes or larger than the maximum size stretch measure as hereinafter designated in the following Grays Harbor fishing areas:

Areas 2B, 2C and 2D

For the period July 5 to August 15, ~~((+1984))~~ 1985: ((8)) 9-inch minimum mesh.

For the period October 10 to October 11, 1985: 6 1/2 inch maximum mesh.

For the period October 27 to October 29, 1985: No mesh restriction.

(2) It is unlawful to fish in Grays Harbor with gill net gear containing meshes less than 5 inches stretch measure or longer than 1,500 feet in length.

AMENDATORY SECTION (Amending Order 84-66, filed 7/6/84)

WAC 220-40-021 WILLAPA HARBOR—GILL NET—SEASONS. It is unlawful to take, fish for or possess salmon for commercial purposes with gill net gear in the following Willapa Harbor fishing areas, except during the seasons provided for hereinafter in each respective fishing area and except as otherwise provided:

Area 2G—6:00 p.m. July 5 to 6:00 p.m. August ~~((20))~~ 15 in those waters east of a line from Toke Point to Goose Point and south of a line from Leadbetter Point to Goose Point; ~~((6:00 p.m. September 23 to 6:00 p.m. October 14))~~ 6:00 p.m. September 14 to 6:00 p.m. September 28 in those waters west of a line drawn true north and south through Willapa River Channel Light 10 and north of a line drawn true east and west through Nahcotta Channel Light 10 ~~((and));~~ 6:00 p.m. September ((30)) 28 to 6:00 p.m. October 14((, in those waters east of a line drawn true north and south through Willapa River Channel Light 10 and south of a line drawn true east and west through Nahcotta Channel Light 10)); 6:00 p.m. October 21 to 6:00 p.m. October 22; 5:30 a.m. October 27 to 6:30 p.m. October 28; 6:00 p.m. November 1 to 11:59 p.m. November 30, ((+1984)) 1985.

Area 2H—6:00 p.m. September 28 to 6:00 p.m. October 14; 6:00 p.m. October 21 to 6:00 p.m. October 22; 5:30 a.m. October 27 to 6:30 p.m. October 28; 6:00 p.m. November 1 to 11:59 p.m. November 30, ((+1984)) 1985.

Areas 2J and 2K—6:00 p.m. July 5 to 6:00 p.m. August ((20)) 15; ((6:00 p.m. September 28 to 6:00 p.m. October 14, or)) 6:00 p.m. September ((30)) 28 to 6:00 p.m. October 14; 6:00 p.m. October 21 to 6:00 p.m. October 22; 5:30 a.m. October 27 to 6:30 p.m. October 28; 6:00 p.m. November 1 to 11:59 p.m. November 30, ((1984)) 1985.

Area 2M—6:00 p.m. July 5 to 6:00 p.m. July 31; 6:00 p.m. September 28 to 6:00 p.m. October 14; 6:00 p.m. October 21 to 6:00 p.m. October 22; 5:30 a.m. October 27 to 6:30 p.m. October 28; 6:00 p.m. November 1 to 11:59 p.m. November 30, ((1984)) 1985.

AMENDATORY SECTION (Amending Order 84-66, filed 7/6/84)

WAC 220-40-022 WILLAPA HARBOR—WEEKLY PERIODS. It is unlawful to take, fish for or possess salmon taken with gill net gear, except during the weekly open periods hereafter designated in the following Willapa Harbor fishing areas:

Areas 2G, 2H, 2M—Open continuously.

((AH)) Areas 2J and 2K—Open continuously, except for period September 28 to October 14, during which open 6:00 p.m. Monday to 6:00 p.m. Tuesday and 6:00 p.m. Thursday to 6:00 p.m. Friday only.

AMENDATORY SECTION (Amending Order 84-66, filed 7/6/84)

WAC 220-40-024 WILLAPA HARBOR—MESH SIZES—GEAR. (1) It is unlawful to take, fish for or possess salmon with gill net gear containing mesh smaller than the minimum or larger than the maximum size stretch measure as hereinafter designated in the following Willapa Harbor fishing areas:

Areas 2G, 2H, 2J, 2K, and 2M

For the period July 5 to August ((20)) 15, ((1984)) 1985: ((8)) 9-inch minimum mesh. For the period September ((23)) 14, to ((October 14)) 11:59 p.m. November 18, ((1984)) 1985: 5-inch minimum to 6-1/2 inch maximum mesh.

For the period 12:01 a.m. November 19 to 11:59 p.m. November 30, ((1984)) 1985: 7-1/2-inch minimum mesh.

(2) It is unlawful to fish in Willapa Harbor with gill net gear containing meshes less than 5 inches stretch measure or longer than 1,500 feet in length.

WSR 85-13-074

**NOTICE OF PUBLIC MEETINGS
COMMUNITY COLLEGE
DISTRICT TWELVE**

[Memorandum—June 17, 1985]

The July meeting (previously scheduled for July 11 at South Puget Sound Community College) will be held on July 18 at Centralia College. The August meeting (previously scheduled for August 8) has been changed to August 22. The August meeting will be at South Puget Sound Community College as previously scheduled. Both meetings will begin at 7:00 p.m.

WSR 85-13-075

**ADOPTED RULES
SEATTLE COMMUNITY
COLLEGE DISTRICT**

[Order 46, Resolution No. 1985-16—Filed June 19, 1985]

Be it resolved by the board of trustees of the Seattle Community College District, acting at Seattle Central Community College, 1701 Broadway, Seattle, WA 98122, that it does adopt the annexed rules relating to sexual harassment, chapter 132F-419 WAC.

This action is taken pursuant to Notice No. WSR 85-07-056 filed with the code reviser on March 20, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to chapter 28B.50 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 10, 1985.

By Tomio Moriguchi
Chairman, Board of Trustees

Chapter 132F-419 WAC

SEXUAL HARASSMENT

WAC

132F-419-010	Sexual Harassment Policy
132F-419-020	Procedural Guidelines
132F-419-030	Informal Complaint Procedures
132F-419-040	Formal Complaint Procedures
132F-419-050	Non-District Options
132F-419-060	Appropriate Disciplinary Action
132F-419-070	Repeated Offenses

NEW SECTION

WAC 132F-419-010 SEXUAL HARASSMENT POLICY. Sexual harassment is an illegal activity and will not be tolerated in the Seattle Community College District. Students, faculty, and all other employees of the district shall be made aware that management will

investigate all sexual harassment complaints. Awareness activities made available to all college groups will include appropriate training, workshops, and written materials providing information about sexual harassment, its prevention, and complaint procedures. Any employee or student who feels that she/he has been sexually harassed is encouraged to deal with the situation as outlined in the appropriate procedures.

In recognition of the fact that sex discrimination in the form of sexual harassment is a violation of section 703, Title VII of the Civil Rights Act of 1964 and chapter 49.60 RCW, which prohibits discrimination on the basis of race, color, religion, national origin, or sex, Seattle Community College District hereby declares that sexual harassment of students and/or staff by any member of the district community will not be tolerated.

For purposes of this policy, sexual harassment will be defined as any behavior or action, either physical or verbal, which is sexual in nature and is uninvited, unwanted, or non-reciprocal, and:

- (1) submission to it is either an implicit or explicit condition of employment or educational opportunity; or
- (2) submission to, or rejection of it is used as a basis for employment or educational decisions; or
- (3) it has the purpose or effect of negatively interfering with the individual's work or educational performance or creating an intimidating, hostile, or offensive work or educational environment.

It may include, but is not limited to the following:

- (1) unwelcome and/or repeated sexual advances.
- (2) offensive, disparaging remarks about one's gender or appearance.
- (3) remarks about one's physical appearance which implies sexual interest.
- (4) subtle pressure for sexual activity.
- (5) unnecessary offensive brushes or touches.
- (6) offensive sexual graffiti.
- (7) physical aggression such as pinching, patting, or grabbing.
- (8) sexual innuendos.
- (9) written communications with sexual overtones.
- (10) sexually offensive remarks disguised as humor.
- (11) obscene gestures.

NEW SECTION

WAC 132F-419-020 PROCEDURAL GUIDELINES. (1) Students or district employees who feel they have been victims of sexual harassment by a district employee or student are encouraged to file an informal complaint through the designated college official. The college will carry out any investigation in such a way as to protect the rights of both the complainant and the respondent.

(2) Designated college officials:

- (a) The affirmative action officer of the campus or unit is responsible for immediately initiating the investigative process for alleged infractions of this policy when the complainant is an employee of the District or when a student is complaining against an employee.

(b) The dean of students is responsible for immediately initiating the investigative process for alleged infractions of this policy where a student is complaining against another student.

(3) Immediate and appropriate investigative action should be taken regarding alleged acts of sexual harassment involving:

(a) the conduct of a faculty member in a faculty-student relationship.

(b) the conduct of an individual in the paid employment of the District who may grant or withhold benefits to students and employees.

(c) the conduct of any college supervisory employee.

(d) the conduct between fellow employees of the college.

(e) the conduct of college agents.

(f) the conduct of non-employees when it occurs related to college-sanctioned activities and hampers the educational or college work environment.

(g) the conduct of students in daily classes and activities.

NEW SECTION

WAC 132F-419-030 INFORMAL COMPLAINT PROCEDURES. When a person believes that she/he has been sexually harassed, the complainant may contact one of the designated college officials for informal assistance. This person will provide the complainant with procedures and suggestions to enable him/her to resolve the problem or to initiate the appropriate complaint process. Complainants will be informed that they may choose an advocate from an available list or of their own choosing to assist with the process.

The designated college official will discuss the complaint with the respondent with the intent that the complaint may be resolved in an informal manner based on consent of the parties concerned. Anonymity of the complainant will be protected where appropriate. In the event the severity of the case merits other intervention or is not resolved to the satisfaction of the complainant, the following procedures will be followed:

(a) The complainant shall file a written complaint with the designated college official stating the times, dates, places, and circumstances surrounding the allegations.

(b) The designated college official will notify the appropriate supervisor who will speak informally with the respondent and provide a copy of the written complaint in an effort to resolve the complaint.

NEW SECTION

WAC 132F-419-040 FORMAL COMPLAINT PROCEDURES. If no satisfactory resolution can be achieved at the informal level, the complainant may file a formal written complaint according to the Seattle Community College District affirmative action plan formal complaint procedures.

NEW SECTION

WAC 132F-419-050 NON-DISTRICT OPTIONS. At any point during these proceedings, the

complainant may choose to file sexual harassment complaints concurrently with the Washington State Human Rights Commission, Seattle Human Rights Department, Equal Employment Opportunity Commission, Office of Federal Contract Compliance, or the Office of Civil Rights. However, complainants are encouraged to use the internal complaint procedures to resolve complaints.

NEW SECTION

WAC 132F-419-060 **APPROPRIATE DISCIPLINARY ACTION.** Findings of discrimination in the form of sexual harassment will result in immediate and appropriate disciplinary action, which may include but is not limited to the following:

- (1) findings placed in employee's file
- (2) reprimand
- (3) suspension
- (4) dismissal

In cases of suspension or employment termination, existing procedures for administrative, academic or classified staff shall be followed.

NEW SECTION

WAC 132F-419-070 **REPEATED OFFENSES.** When a complaint is made against someone who has been found in the past to have been in violation of the sexual harassment policy, the person receiving the complaint may determine whether the complaint should be filed initially as a formal complaint or grievance. The disciplinary measure chosen for repeating offenders should take into account the repeated lack of compliance by the offender and should be more severe/extreme.

**WSR 85-13-076
ADOPTED RULES
SEATTLE COMMUNITY
COLLEGE DISTRICT**

[Order 47, Resolution No. 1985-17—Filed June 19, 1985]

Be it resolved by the board of trustees of the Seattle Community College District, acting at Seattle Central Community College, 1701 Broadway, Seattle, WA 98122, that it does adopt the annexed rules relating to affirmative action program, chapter 132F-148 WAC.

This action is taken pursuant to Notice No. WSR 85-09-057 filed with the code reviser on April 17, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 28B.19.050(2).

This rule is promulgated pursuant to chapter 28B.50 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that the institution has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 10, 1985.

By Tomio Moriguchi
Chairman, Board of Trustees

Chapter 132F-148 WAC

AFFIRMATIVE ACTION PROGRAM

WAC

- 132F-148-010 ~~((Affirmative action program))~~ Policy statement.
- 132F-148-020 ~~((Policy summary))~~ Action plan.
- 132F-148-030 ~~((Procedure Compliance))~~ Responsibility for program implementation.
- 132F-148-040 ~~((Procedure))~~ Recruitment plan.
- 132F-148-050 ~~((Coordination))~~ Goals and procedure for implementation.
- 132F-148-060 Personnel policies relative to affirmative action ((goal)).
- 132F-148-070 Formal complaint ((of discrimination—Grievance)) procedure.

Reviser's note: The typographical errors in the above digest occurred in the copy filed by the agency and appears herein pursuant to RCW 34.08.040.

AMENDATORY SECTION (Amending Order 5, filed 11/13/72)

WAC 132F-148-010 ~~((AFFIRMATIVE ACTION PROGRAM))~~ POLICY STATEMENT. ((WAC 132F-148-010 through 132F-148-070 shall be known as the affirmative action program of Seattle Community College District VI.)) The policy of Seattle Community College District (SCCD) is to provide equal opportunity to all its employees and applicants for employment, and to assure that there is no discrimination against any persons on the grounds of race, color, religion, handicap, national origin, age, sex, marital status, or the presence of any physical, sensory, or mental handicap, in accordance with state and federal laws. This policy extends to all areas of employment and to all relations with employees including recruitment, selection and placement, compensation, promotion and transfer, disciplinary measures, demotions, layoffs and terminations, testing and training, daily working conditions, awards and benefits, and other terms and conditions of employment.

The importance of fulfilling this policy is given top priority consideration in the day-to-day operations of the SCCD. All employees have been, and will continue to be, made aware that any violations of this policy by an employee shall result in appropriate disciplinary action, including termination, if warranted.

Affirmative action is a priority in the district because it insures equal employment opportunities for all applicants, while also assisting in ways to hire underrepresented groups in the district's labor force.

The successful implementation of this policy will depend upon a cooperative spirit and commitment to achieve the goals set forth. The district will work with the district minority task forces and the greater Seattle communities in seeing that the SCCD affirmative action plan/program, which is updated annually and included in the appendices of this manual, is implemented in a responsible and conscientious manner.

AMENDATORY SECTION (Amending Order 5, filed 11/13/72)

~~WAC 132F-148-020 ((POLICY SUMMARY:)) ACTION PLAN. ((Seattle Community College requires that its faculty, administration, staff, and all agencies, persons, vendors and other organizations who contract to do business with the college, comply with the spirit of equal opportunity and with the letter of all applicable federal and state statutes and regulations. Compliance in this sense requires that these individuals and groups shall not discriminate in their personnel policies and that they take affirmative action of offering opportunities for equal employment, job promotions, soliciting of bids for goods and services, and other activities to all persons regardless of race, color, religion, sex or national origin. The college, to the extent it can enforce this policy, expects and will determine compliance as a condition of engaging in business for or with the institution or group. The policy applies to all groups and individuals so engaged regardless of where located or the form of service performed.~~

It is the specific intent of this policy to open job and program opportunities to all minorities and women and to prevent discrimination in any form as it relates to recruitment, selection, employment and promotion.

In carrying out the provisions of this policy, the college may require the submission of detailed reports on the types of result-oriented affirmative action programs carried on by groups and individuals with which it does business. Positive performance in this area will be one of the major considerations in the award of contracts for goods and/or services.

The college pledges to deal fairly with those affected by this policy and to avoid harassment or burdensome administrative detail. At the same time, those to whom this policy applies may expect firmness since the college expects its full and impartial implementation.

The college recognized the necessity of close working relationships to provide equal opportunities and eliminate discrimination in all associated campus programs and earnestly solicits full cooperation and support of the public and campus community in this endeavor.)) The SCCD affirmative action plan calls for the following actions which are designed to insure equal employment opportunity.

(1) Internal dissemination of the affirmative action policy and plan.

(a) The SCCD affirmative action plan will be updated annually. Campus presidents will insure that all personnel are aware of the policy and plan. Also, employees must be advised that they may review and/or request a copy of the entire plan.

(b) The equal employment/affirmative action policy will be an integral part of the new employee orientation.

(c) The SCCFT and the campus-wide bargaining unit will be provided with a copy of the annual SCCD affirmative action plan.

(d) The plan will be published in the district newsletter, Pacer, which is distributed to all employees and made available to student publications.

(e) It will be available in the library of each campus and in the president's office on each campus, as well as in the chancellor's office and the district personnel office.

(f) A copy of the SCCD affirmative action plan will be distributed to each administrator.

(2) External dissemination of the affirmative action policy and plan.

(a) Each interested agency, public and private, in the Seattle community.

(b) Each designated bargaining agent.

(c) Suppliers, contractors, and vendors with whom the district does business.

(d) Potential vendors with all requests for bids.

(e) The state board for community college education.

(f) The higher education personnel board.

(g) All recruiting sources, together with a letter encouraging them to actively recruit and refer minorities, women, handicapped persons, Vietnam era and disabled veterans.

AMENDATORY SECTION (Amending Order 5, filed 11/13/72)

~~WAC 132F-148-030 ((PROCEDURE=COMPLIANCE:)) RESPONSIBILITY FOR PROGRAM IMPLEMENTATION. ((In order to insure compliance with the affirmative action policy, a copy of this affirmative action program will be issued to all current and new employees. In addition, any individual or group with which the college does business will be made aware of this program and the expectations placed on that individual or group by the college as a requisite for continuing to do business with the college.~~

Any contract entered into between the college and an individual or group will include the appropriate language from state and/or federal guidelines which require non-discrimination in employment.)) Responsibility for the implementation of the affirmative action program rests with the chancellor for the district as a whole and with the president of each campus.

(1) The chancellor's responsibilities are to:

(a) Review the SCCD affirmative action plan with each president as part of the performance evaluation process.

(b) Carry out the responsibilities for implementation of the affirmative action plan for the district office as described below for each president.

(2) The president's responsibilities are to:

(a) Insure that all campus administrators and supervisors are aware of the affirmative action policy and plan and take it into consideration in day-to-day operations.

(b) Insure that hiring and promotion patterns are monitored so that protected group members are given full consideration.

(c) Insure that facilities are comparable for both sexes and are accessible to handicapped persons.

(d) Insure that protected group members are afforded full opportunity and are encouraged to participate in college-sponsored education and training programs.

(e) Designate a specific individual to be responsible for the supervision and monitoring of affirmative action efforts in that organizational unit. These designates are:

north campus – dean of students, central campus – affirmative action officer/director of graphics, south campus – executive assistant to the president.

(f) Insure adequate representation of protected group members on selection committees.

(3) The director of personnel/executive assistant to the chancellor responsibilities are to:

(a) Design and implement audit and reporting systems that will: (i) Measure the effectiveness of the program, (ii) indicate need for corrective action, and (iii) determine degree to which goals and objectives have been attained.

(b) Develop policies and procedures related to equal employment opportunity and affirmative action for review, approval, and action by the chancellor's cabinet and board of trustees.

(c) Serve as liaison between the district and compliance agencies, organizations for minority, women, Vietnam veterans, disabled veterans, handicapped persons, and with other such community and municipal action programs.

(d) Keep management informed of current developments in areas related to affirmative action and equal employment opportunity.

(e) Develop and maintain internal and external communication systems.

(f) Assist in the identification of problem areas.

AMENDATORY SECTION (Amending Order 5, filed 11/13/72)

WAC 132F-148-040 ((~~PROCEDURE~~)) RECRUITMENT PLAN. ((Any individual within the college community who has the responsibility for employing faculty or staff members or admitting students to the institution will be responsible for insuring that their recruiting activities include affirmative efforts to include members of minority groups. Appropriate administrative officers will be required to submit reports indicating the extent to which new faculty, staff members or students are representatives of such minority groups.)) (1) Recruitment for minority, female, and handicapped applicants for SCCD employment is the primary responsibility of each campus and the district personnel department as indicated below:

(2) The district personnel department can assist campuses in the recruitment process by:

(a) Providing possible recruitment sources, and providing copies of the district mailing list;

(b) Contacting employment sources with which the SCCD affirmative action plan has a referral arrangement;

(c) Participating in campus recruitment efforts;

(d) Advertising in minority newspapers.

Reviser's note: RCW 34.04.058 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 5, filed 11/13/72)

WAC 132F-148-050 ((~~COORDINATION~~)) GOALS AND PROCEDURE FOR IMPLEMENTATION. ((~~(1) District employee relations director. To insure that the policies and procedures as defined herein are coordinated toward attaining the institution's affirmative action goal, a district employee relations director shall be appointed by the chief executive officer. This official shall be charged with the responsibility of evaluating the affirmative action program and to make any necessary recommendations regarding changes in policy or procedure to continually insure the effectiveness of the program and will coordinate the activities of the campus equal employment officers. The district employee relations director will report directly to the chief executive officer.~~)

(2) Each campus president shall appoint at least one EEOC officer who will report directly to the president and who will be responsible for coordinating his campus' affirmative action program with the district employee relations director. The campus EEOC officer shall be responsible for all reports, outside contacts and other matters concerning that campus and its affirmative action program. He shall also be available to provide counsel and direction to employing supervisors in such matters.)) The goals/availability percentages are converted into realistic projections of the number of underrepresented groups' members the campuses seek to hire given the vacancies, availability, and affirmative action efforts they are willing to undertake. Under this system of numerical goal setting, a campus is never required to hire persons who do not have the qualifications needed to perform in preference to another applicant who is qualified. Goals recognize that persons are to be judged on individual ability and, therefore, are consistent with the principles of equal employment opportunity.

When a vacancy occurs, the district personnel office and/or campus affirmative action officers will review the utilization analysis tables. Specifically, the underutilization FTEs portion of the table will indicate the number of FTEs required to achieve yearly goals. These tables will be revised by the district personnel department on a monthly basis to reflect new hires, terminations and promotions. Selective certification will be utilized for underrepresented groups when classified employee groups are involved. Recruitment and outreach efforts should also be employed to correct underutilization in faculty and administrators.

The district has an affirmative action plan that has realistic goals that are attainable. It is the intent of this plan that the district personnel department and each campus will carefully monitor hiring practices to insure that every effort is made towards responsibly reaching the goals.

Reviser's note: RCW 34.04.058 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 5, filed 11/13/72)

WAC 132F-148-060 PERSONNEL POLICIES RELATIVE TO AFFIRMATIVE ACTION ((GOAL)). ((To insure that the affirmative action program is continually operating toward attaining and/or maintaining a fair representation of minority members within the college community, specific affirmative action goals shall be established. These goals represent a minimum against which affirmative action effort will be directed and will not represent a quota to be considered an absolute.)) (1) Age discrimination. Seattle Community College District will provide equal opportunity for all persons without regard to age. The district does not discriminate on the basis of age in any employment practices including hiring, promotion, demotion, transfer, recruitment, layoff and return from layoff, termination, fringe benefits, selection for training, and other terms of employment.

Further, the district does not specify a minimum or maximum age requirement on its advertisements for employees except upon the basis of a bona fide occupational qualification, retirement plan, or statutory requirement.

(2) Employment of Vietnam era veterans and disabled veterans. Seattle Community College District does not discriminate against Vietnam era veterans or disabled veterans in any employment practices including but not limited to hiring, promotion, demotion, transfer, compensation, layoff, fringe benefits, selection for training, and other terms and conditions of employment. Advertisements for positions are sent to all relevant offices and agencies.

(3) Employment of disabled persons. Seattle Community College District does not discriminate against any employee or applicant for employment because of a disability with regard to any position for which the employee or applicant is qualified. Further, the district does not discriminate against disabled persons with regard to promotion, demotion, transfer, layoff or return from layoff, termination, compensation, fringe benefits, training opportunities, and other terms and conditions of employment.

The district will make reasonable accommodations within budgetary limits for those who are disabled to allow them to perform the duties of the jobs for which they are qualified.

Several on-going efforts are aimed at insuring nondiscrimination for disabled persons:

(a) Evaluation of physical accommodations to assure that they are accessible.

(b) Review of faculty and administrative job requirements to assure that they are job-related and do not screen out qualified disabled applicants.

(c) Review of administrative job descriptions to assure that they are accurate and are not written to exclude qualified disabled applicants.

(d) Periodic articles in district publications related to legal and other aspects of the employment of disabled persons.

AMENDATORY SECTION (Amending Order 5, filed 11/13/72)

WAC 132F-148-070 FORMAL COMPLAINT ((OF DISCRIMINATION=GRIEVANCE)) PROCEDURE. (((1) Any individual who feels he has been discriminated against either by the college or by individual members of the college community may file a complaint. If the complainant is a member of the college community he should first file a written complaint with his immediate supervisor. If it is not resolved at this level to the complainant's satisfaction within ten working days he should file a written complaint with the EEOC officer or, for district employees, with the district employee relations director. All written complaints must be responded to in writing with copies forwarded to the appropriate president, instructional dean or chief administrative officer. The officer will have the authority to hear and recommend corrective action, if necessary, on behalf of the college.

(2) If the complainant is not a member of the college community he should file his complaint with either the campus EEOC officer at which the complaint is directed or with the district employee relations director. All such complaints should be in written form.)) Any individual who feels she/he has been discriminated against on the basis of race, color, religion, handicap, national origin, age or sex either by the district or by an individual employee of the district may file a formal complaint. Such a complaint may be filed through existing grievance procedures (where applicable), directly with the individual responsible for affirmative action in each organizational unit or with the district personnel director. A formal complaint may be filed either following or instead of any informal attempt at resolution. Individuals with complaints are encouraged to follow the procedures outlined herein prior to contacting any outside enforcement agency.

The complainant should be advised of his/her right to file a complaint with the Washington State Human Rights Commission, Seattle Human Rights Department, Equal Employment Opportunity Commission, Office of Federal Contract Compliance, or the Office of Civil Rights. However, complainants are encouraged to use the internal grievance procedures to resolve complaints.

Complaints filed with persons responsible for affirmative action shall be processed as follows:

(1) Complaints shall be in writing, shall contain specific information and shall be promptly investigated by the appropriate administrator.

(2) Response shall be made to the complainant in writing, within 15 working days of receipt of the complaint.

(3) Copies of both the complaint and the response shall be forwarded to the relevant appointing authority.

(4) The appointing authority will respond in writing to the complainant within 15 working days.

(5) Written appeal may be made to the appointing authority within 15 working days after the complainant receives the response.

(6) The appeal will be investigated and final response made by the appointing authority within 15 working days.

(7) Written appeal may be made to the chancellor (if the appointing authority is not the chancellor) who shall then investigate and respond to the complainant within 15 working days of receipt of the written request.

WSR 85-13-077
PROPOSED RULES
LOTTERY COMMISSION
 [Filed June 19, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Lottery Commission intends to adopt, amend, or repeal rules concerning:

Rep	WAC 315-04-100	License renewals.
Amd	WAC 315-04-200	Denial, suspension or revocation of a license.
Amd	WAC 315-06-120	Payment of prizes—General provisions.
Amd	WAC 315-10-030	Instant games criteria.
Amd	WAC 315-10-070	Ticket validation requirements.
Amd	WAC 315-30-030	On-line games criteria;

that the agency will at 1:00 p.m., Friday, July 26, 1985, in the Community Room, Clark County Public Utilities District Building, 1200 Fort Vancouver Way, Vancouver, WA 98661, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 26, 1985.

Dated: June 19, 1985
 By: Duane Kovacevich
 Deputy Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 315-04-200 Denial, suspension or revocation of a license; 315-06-120 Payment of prizes—General provisions; 315-10-030 Instant games criteria; 315-10-070 Ticket validation requirements; and 315-30-030 On-line games criteria.

Statutory Authority: RCW 67.70.040.

Specific Statute that Rules are Intended to Implement: RCW 67.70.040.

Summary of the Rule(s): WAC 315-04-200 clarifies that misrepresentation of or failure to disclose criminal history is grounds for denial, suspension or revocation of a license; 315-06-120 sets forth procedures and conditions for submittal of claims based on reconstructed instant tickets; 315-10-030 establishes criteria for submittal of claims and payment of prizes based on reconstructed instant tickets; 315-10-070 sets forth the

requirements and procedures for the validation of reconstructed instant tickets and payment of those prizes; and 315-30-030 clarifies on-line games criteria.

Reasons Supporting the Proposed Rule(s): WAC 315-04-200, required to provide notice to licensed agents and applicants for licensure that misrepresentation of or failure to disclose criminal history is grounds for denial, suspension or revocation of a license; 315-06-120, 315-10-030 and 315-10-070, necessary to authorize reconstruction of instant tickets and to establish procedures for the submittal of claims and payment of prizes for such tickets; and 315-30-030, the criteria for on-line games required clarification.

Agency Personnel Responsible for Drafting: Frank Edmondson, Contracts Specialist 2, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 754-1088; Implementation and Enforcement: Washington State Lottery Commission, P.O. Box 9770, Olympia, WA 98504, (206) 753-1412, Mary G. Faulk, Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3330, Duane Kovacevich, Deputy Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3334, Jerald F. Long, Assistant Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 754-1065, and Scott S. Milne, Acting Assistant Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3384.

Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing this Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding the Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with federal law or a federal [or] state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement: The Office of the Director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses large and small, which voluntarily apply to be licensed agents for the sale of lottery tickets or contractors who provide other services to the Office of the Director, Washington State Lottery or who voluntarily interact with the Office of the Director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to or interact with the Office of the Director, Washington State Lottery.

AMENDATORY SECTION (Amending Order 72, filed 4/5/85)

WAC 315-04-200 DENIAL, SUSPENSION OR REVOCATION OF A LICENSE. The director may deny an application for or suspend or revoke any license issued pursuant to these rules for one or more of the following reasons:

(1) Failure to meet or maintain the eligibility criteria for license application and issuance established by chapter 7, Laws of 1982 2nd sess., or these rules;

(2) Failure to account for lottery tickets received or the proceeds of the sale of tickets or to post a bond if required by the director or to comply with the instructions of the director concerning the licensed activity;

(3) Failure to pay to the lottery any obligation when due;

(4) Violating any of the provisions of chapter 7, Laws of 1982 2nd ex. sess., or these rules;

(5) Failure to file any return or report or to keep records required by the director or by these rules;

(6) Failure to pay any federal, state or local tax or indebtedness;

(7) Fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the lottery;

(8) If public convenience is adequately served by other licensees;

(9) Failure to sell a sufficient number of tickets to meet administrative costs;

(10) If there is a history of thefts or other forms of losses of tickets or revenue therefrom;

(11) If there is a delay in accounting or depositing in the designated depository the revenues from the ticket sales;

(12) Has violated, failed or refused to comply with any of the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW (Gambling Act), or chapter 7, Laws of 1982 2nd ex. sess., or when a violation of any provisions of chapter 7, Laws of 1982 2nd ex. sess., has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(13) Knowingly causes, aids, abets or conspires with another to cause any person to violate any of the laws of this state;

(14) Has obtained a license by fraud, misrepresentation, concealment or through inadvertence or mistake;

(15) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor, involving any gambling activity or physical harm to individuals or involving moral turpitude;

(16) Makes a misrepresentation of, or fails to disclose, a material fact to the commission or director on any report, record, application form or questionnaire required to be submitted to the commission or director. Misrepresentation of, or failure to disclose criminal history shall be considered a material fact for purposes of this section;

(17) Denies the commission or director or their authorized representatives, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted, or fails to promptly produce for inspection or audit any book, record, document or item required by law or these rules;

(18) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses indicated under subsection (15) of this section: **PROVIDED**, That at the request of an applicant for an original license, the director may defer decision upon the application during the pendency of such prosecution or appeal;

(19) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in lottery or gambling or related activities would be inimical to the proper operation of an authorized lottery or gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

(20) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the policy of this state or to the proper operation of the authorized lottery or gambling or related activities in this state. For the purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders;

(21) Failure to follow the instructions of the director for the conduct of any particular game or special event;

(22) Failure to follow security procedures of the director for the handling of tickets or for the conduct of any particular game or special event; or

(23) Makes a misrepresentation of fact to the purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 315-04-100 LICENSE RENEWALS.

AMENDATORY SECTION (Amending Order 64, filed 9/17/84)

WAC 315-06-120 PAYMENT OF PRIZES—GENERAL PROVISIONS. (1) The director may designate claim centers for the filing of prize claims, and the location of such centers shall be publicized from time to time by the director.

(2) A claim shall be entered in the name of a single legal entity as claimant, either one individual or one organization. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) as issued by the internal revenue service and such number is shown on the claim form. Groups, family units, organizations, clubs, or other organizations which are not a legal entity, or do not possess a federal employer's identification number, shall designate one individual in whose name the claim is to be entered.

(3) Unless otherwise provided in the rules for a specific type of game, a claimant shall sign the back of the ticket and/or complete and sign a claim form approved by the director. The claimant shall submit the claim form and/or claimant's ticket to the lottery in accordance with the director's instructions as stated in the players' manual and/or on the back of the ticket or submit a request for reconstruction of an alleged winning ticket and sufficient evidence to enable reconstruction and that the claimant had submitted a claim for the prize, if any, for that ticket. The claimant, by submitting the claim or request for reconstruction, agrees to the following provisions:

(a) The discharge of the state, its officials, officers, and employees of all further liability upon payment of the prize; and

(b) The authorization to use the claimant's name for publicity purposes upon award of the prize.

(4) A prize must be claimed within the time limits prescribed by the director in the instructions for the conduct of a specific game, but in no case shall a prize be claimed later than 180 days after the official end of that instant game or the on-line game drawing for which that on-line ticket was purchased.

(5) The director may deny awarding a prize to a claimant if:

(a) The ticket was not legally issued initially;

(b) The ticket was stolen from the commission, director, its employees or agents, or from a licensed agent; or

(c) The ticket has been altered or forged, or has otherwise been mutilated such that the authenticity of the ticket cannot be reasonably assured by the director.

(6) No person entitled to a prize may assign his or her right to claim it except:

(a) That payment of a prize may be made to any court appointed legal representative, including, but not limited to, guardians, executors, administrators, receivers, or other court appointed assignees; or

(b) For the purposes of paying federal, state or local tax.

(7) In the event that there is a dispute or it appears that a dispute may occur relative to any prize, the director may refrain from making payment of the prize pending a final determination by the director or by a court of competent jurisdiction relative to the same.

(8) A ticket that has been legally issued by a licensed agent is a bearer instrument until signed. The person who signs the ticket is considered the bearer of the ticket. Payment of any prize may be made to the bearer, and all liability of the state, its officials, officers, and employees and of the commission, director and employees of the commission terminates upon payment.

(9) All prizes shall be paid within a reasonable time after the claims are ~~(verified)~~ validated by the director and a winner is determined. Provided, prizes paid for claims validated pursuant to WAC 315-10-070(2) shall not be paid prior to one hundred eighty-one days after the official end of that instant game. The date of the first installment payment of each prize to be paid in installment payments shall be the date the claim is validated. Subsequent installment payments shall be made as follows:

(a) If the prize was awarded as the result of a drawing conducted by the lottery, installment payments shall be made weekly, monthly, or

annually from the date of the drawing in accordance with the type of prize awarded; or

(b) If the prize was awarded in a manner other than a drawing conducted by the lottery, installment payments shall be made weekly, monthly, or annually from the date the claim is validated in accordance with the type of prize awarded.

(10) The director may, at any time, delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim or any other matter that may have come to his or her attention. All delayed payments shall be brought up to date immediately upon the director's confirmation and continue to be paid on each originally scheduled payment date thereafter.

(11) If any prize is payable for the life of the claimant, only a natural person may claim such a prize and, if claiming on behalf of a group, corporation or the like, the life of such natural person claiming the prize shall be the measuring life.

(12) The director's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from the payment or awarding of prizes shall be final and binding upon all participants in the lottery.

(13) Each licensed agent shall pay all prizes authorized to be paid by the licensed agent by these rules during its normal business hours at the location designated on its license.

(14) In the event a dispute between the director and the claimant occurs as to whether the ticket is a winning ticket, and if the ticket prize is not paid, the director may, solely at his or her option, replace the disputed ticket with an unplayed ticket (or tickets of equivalent sales price from any game). This shall be the sole and exclusive remedy of the claimant.

AMENDATORY SECTION (Amending Order 72, filed 4/5/85)

WAC 315-10-030 INSTANT GAMES CRITERIA. (1) The price of an instant game ticket shall not be less than \$1.00 and not more than \$5.00.

(2) Winners of an instant game are determined by the matching or specified alignment of the play numbers on the tickets. The ticket bearer must notify the lottery of the win and submit the winning ticket to the lottery as specified by the director. The winning ticket must be validated by the lottery through use of the validation number and/or any other means as specified by the director.

(3) The total of all prizes available to be won in an instant game shall not be less than forty-five percent of the instant game's projected revenue.

(4) The instant game shall pay out both lower tier prizes and higher tier prizes. Lower tier prizes are of less than \$25.00. Higher tier prizes are of \$25.00 or more. The director shall determine the number of lower and higher tier prizes.

(5) The length of operation of an instant game shall not exceed fifteen weeks. The start date and closing date of the instant game shall be publicly announced. Licensed agents shall not sell any tickets prior to the start date of a game unless expressly authorized by the director. Licensed agents may continue to sell tickets for each instant game for up to fourteen days after the official end of game as authorized by WAC 315-10-060.

(6) There is no required frequency of drawing or method of selection of a winner in an instant game.

(7) At the director's discretion, an instant game may include a grand prize drawing(s). The criteria for the grand prize drawing shall be as follows:

(a) Finalists for a grand prize drawing shall be selected in an elimination drawing(s) from redeemed tickets meeting the criteria stated in specific game rules as determined by the director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the director on or before a date to be announced by the director. The director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into an elimination drawing of a subsequent instant game, and the determination of the director shall be final.

(b) The number of prizes and the amount of each prize in the grand prize drawing(s) shall be determined by the director to correspond with the size and length of the instant game and to comply with subsection (3) of this section.

(c) The dates and times as well as the procedures for conducting the elimination drawing and grand prize drawing shall be determined by the director.

(8) Procedures for claiming instant game prizes are as follows:

(a) To claim an instant game prize of less than \$25.00, the claimant shall present the apparent winning ticket to the licensed agent from whom the ticket was purchased. The licensed agent shall verify the claim and, if acceptable, make payment of the amount due the claimant. In the event the licensed agent cannot verify the claim, the claimant shall fill out a claim form, as provided in WAC 315-06-120, which shall be obtained from the licensed agent and present the completed form, together with the disputed ticket to the director. If the claim is validated by the director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(b) To claim an instant prize of \$25.00 or more, the claimant shall complete a claim form, as provided in WAC 315-06-120, which is obtained from the licensed agent or the director and mail the completed form together with the winning ticket to the director. Upon validation by the director, a check shall be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. In the event that the claim is not validated by the director, the claim shall be denied and the claimant shall be promptly notified.

(c) To claim an instant prize pursuant to WAC 315-10-070(2), the claimant shall notify the lottery of the claim and request reconstruction of the ticket not later than one hundred eighty days after the official end of that instant game. If the director authorizes reconstruction, the ticket shall not be validated nor the prize paid prior to the one hundred eighty-first day following the official end of that instant game. A ticket(s) validated pursuant to WAC 315-10-070(2) shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

(d) Any ticket not passing all the validation checks specified by the director is invalid and ineligible for any prize and shall not be paid. However, the director may, solely at his or her option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

AMENDATORY SECTION (Amending Order 68, filed 11/7/84)

WAC 315-10-070 TICKET VALIDATION REQUIREMENTS. (1) To be a valid Washington state lottery instant game ticket, a ticket must meet all of the following validation requirements.

(a) The ticket must have been issued by the director in an authorized manner.

(b) The ticket must not be altered, unreadable, reconstructed, or tampered with in any manner.

(c) The ticket must not be counterfeit in whole or in part.

(d) The ticket must not be stolen nor appear on any list of omitted tickets on file with the lottery.

(e) The ticket must be complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error.

(f) The ticket must have exactly one play symbol and exactly one caption under each of the rub-off spots, exactly one pack-ticket number, exactly one agent verification code, and exactly one validation number. They must be present in their entirety, legible, right-side up, and not reversed in any manner.

(g) The validation number of an apparent winning ticket shall appear on the lottery's official list of validation numbers of winning tickets; and a ticket with that validation number shall not have been previously paid.

(h) The ticket must pass all additional confidential validation requirements established by the director.

(2) The director may authorize reconstruction of an alleged winning ticket which was not received and/or cannot be located by the lottery. Provided, the person requesting reconstruction submits to the lottery sufficient evidence to enable reconstruction and that they have submitted a claim for the prize, if any, for that ticket. If the reconstructed ticket is a winning ticket and meets the validation requirements contained in subsection (1) of this section and the specific validation requirements contained in the rules for its specific game, the director may authorize payment of the prize. Provided, the ticket shall not be validated nor the prize paid prior to the one hundred eighty-first day following the official end of that instant game. A ticket(s) validated pursuant to this subsection shall not entitle the claimant entry into the grand prize drawing, if any, for that or any subsequent instant game.

(3) Any ticket not passing all the validation requirements in subsection (1) of this section and the specific validation requirements contained in the rules for its specific game is invalid and ineligible for any prize.

((3)) (4) The director may replace any invalid ticket with an unplayed ticket of equivalent sales price from any current instant game. In the event a defective ticket is purchased, the only responsibility or liability of the lottery shall be the replacement of the defective ticket with an unplayed ticket of equivalent sales price from any current instant game, or issue a refund of the sales price. However, if the ticket is partially mutilated or if the ticket is not intact but it still can be validated by other validation tests, the director may pay the prize for that ticket.

AMENDATORY SECTION (Amending Order 64, filed 9/17/84)

WAC 315-30-030 ON-LINE GAMES CRITERIA. (1) The base price of an on-line ticket shall not be less than \$.50 and not more than \$5.00.

(2) On the average the total of all prizes available to be won in an on-line game shall not be less than forty-five percent of the on-line game's projected revenue.

(3) The manner and frequency of drawings may vary with the type of on-line game.

(4) The times, locations, and drawing procedures shall be determined by the director.

(5) A ticket bearer (~~(entitled to)~~) claiming a prize shall submit the apparent winning ticket as specified by the director. The (~~(winning)~~) ticket must be validated pursuant to WAC 315-30-050 by the lottery or an on-line agent through use of the validation number and any other means as specified by the director.

(6) Procedures for claiming on-line prizes are as follows:

(a) To claim an on-line game prize of \$600.00 or less within thirty days of the drawing, the claimant shall present the winning on-line ticket to any on-line agent or to the lottery.

(i) If the claim is presented to an on-line agent, the on-line agent shall validate the claim and, if determined to be a winning ticket, make payment of the amount due the claimant. If the on-line agent cannot validate the claim, the claimant may obtain and complete a claim form, as provided in WAC 315-06-120, and submit it with the disputed ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(ii) If the claim is presented to the lottery, the claimant shall complete a claim form, as provided in WAC 315-06-120, and submit it with the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

(b) To claim an on-line prize of more than \$600.00, or any prize more than thirty days after the date of the drawing, the claimant shall obtain and complete a claim form, as provided in WAC 315-06-120, and submit it with the apparent winning ticket to the lottery by mail or in person. Upon determination that the ticket is a winning ticket, the lottery shall present or mail a check to the claimant in payment of the amount due, less the withholding required by the Internal Revenue Code. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Nonwinning tickets will not be returned to the claimant.

WSR 85-13-078

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed June 19, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State

Department of Licensing intends to adopt, amend, or repeal rules concerning Appointment of director—Agency documents, amending WAC 308-04-001;

that the agency will at 2:00 p.m., Wednesday, July 24, 1985, in Conference Room 4A, 4th Floor, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 46.01.110 and 43.17.060.

Dated: June 13, 1985

By: T. A. Aragon

Director

STATEMENT OF PURPOSE

Title: Appointment of director—Agency documents.

Summary of Rule: Provides that documents issued in the ordinary course of business in the name of the director of the Department of Licensing after the date of the appointment of a new director shall be valid even though they may bear the preprinted name of the former director. The amendment simply inserts the new director's name and makes other ministerial changes.

Purpose of Rule Amendment: To eliminate any question of the validity of the thousands of preprinted forms used by the Department of Licensing which are in inventory at the time of the appointment of the new director.

Statutory Authority: RCW 46.01.110 and 43.17.060. See also RCW 46.01.160 and 43.24.040.

Responsible Agency Personnel: Theresa Anna Aragon, Director, Department of Licensing, Fourth Floor, Highways-Licenses Building, Olympia, WA 98504, phone (206) 753-5029; James McCarron, Senior Assistant Director, Department of Licensing, Fourth Floor, Highways-Licenses Building, Olympia, WA 98504, phone (206) 753-2349; and Chris Spaulding, Management Analysis, Department of Licensing, Fifth Floor, Highways-Licenses Building, Olympia, WA 98504, phone (206) 754-1332.

Persons Proposing Rule Amendment: Department of Licensing.

Federal Law or Court Action: This amendment was not made necessary by federal law or state or federal court action.

Small Business Economic Impact: No small business economic impact statement is required because there will be no economic impact upon any industry caused by the rule amendment.

AMENDATORY SECTION (Amending Order DOL 622, filed 3/16/81)

WAC 308-04-001 APPOINTMENT OF DIRECTOR—AGENCY DOCUMENTS. (~~(John Gonzalez)~~) Theresa Anna Aragon was appointed director of the department of licensing on January (~~(14, 1981)~~) 16, 1984. All documents issued after that date in the name of the director in the disposition and performance of the official business of the department of licensing shall be considered to have been issued by (~~(him)~~) her or at (~~(his)~~) her direction whether (~~(his)~~) her name, or the name of the former director, appears on the document.

This rule is adopted to ratify the use of thousands of forms now in the department's inventory which have been preprinted with the

((name of the)) former director's name, the replacement of which would result in the unnecessary expenditure of state funds.

WSR 85-13-079
PROPOSED RULES
DEPARTMENT OF LICENSING
(Optometry Board)
 [Filed June 19, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Optometry Board intends to adopt, amend, or repeal rules concerning:

Rep	WAC 308-53-160	Recordation of credit.
Amd	WAC 308-53-165	Certification for continuing education.
Amd	WAC 308-53-270	Employed doctors of optometry.
Rep	WAC 308-53-290	Uniform Disciplinary Act.

A copy of the proposed rules is shown below, however, changes may be made at the hearing;

that the agency will at 7:00 p.m., Tuesday, July 23, 1985, in the University Tower Hotel, Denny Room, 4507 Brooklyn N.E., Seattle, WA, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 18.54.070(5) and 18.54.075.

The specific statute these rules are intended to implement is RCW 18.54.070(5) and 18.54.075.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 23, 1985.

Dated: June 19, 1985
 By: Joanne Redmond
 Assistant Administrator

STATEMENT OF PURPOSE

Name of Agency: Washington State Board of Optometry.

Purpose of Proposed Rules: To amend and repeal rules concerning evidence demonstrating compliance with continuing education requirements; amend the rule concerning optometrists' responsibilities to include franchise situations; and to repeal the rule concerning the adoption of the Uniform Disciplinary Act.

Statutory Authority: RCW 18.54.070(5) and 18.54.075.

Summary of the Rule: WAC 308-53-160 Recordation of credit; 308-53-165 Certification for continuing education; 308-53-270 Employed doctors of optometry; and 308-53-290 Uniform Disciplinary Act.

Reasons for Proposed Rules: To amend WAC 308-53-165 and 308-53-270, and to repeal WAC 308-53-160 and 308-53-290.

Responsible Personnel: The Washington State Board of Optometry and the executive secretary for the board have the responsibility for drafting, implementing and enforcing these rules. The executive secretary is Sydney W. Beckett, 1300 Quince Street S.E., Olympia, Washington 98504, phone (206) 753-3873 comm, 234-3873 scan.

Proponents of the Proposed Rule: These amendments and repealers have been proposed by the Washington State Optometry Board.

Federal Law or Federal or State Court Requirements: The proposed amendments and repealers are not necessitated as the result of federal or state court action.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined in RCW 43.31.920.

AMENDATORY SECTION (Amending Order PL 326, filed 12/28/79)

WAC 308-53-165 CERTIFICATION FOR CONTINUING EDUCATION COURSE. ~~((All courses for which continuing education credit is requested shall be accompanied by proof of attendance at such courses and shall include: Date(s), sponsor(s), location(s); subject(s) and hours attended with signed proof of attendance. If this is not possible, for good cause as claimant certifying his attendance at the course(s), the date(s), sponsor(s), location(s), subject(s), and hours attended shall be submitted to the Department of Licensing, Professional Licensing Division, in Olympia.))~~ (1) In conjunction with the application for renewal of licensure, a licensee shall submit, on a form provided by the board, an affidavit of compliance with the continuing education requirement of WAC 308-53-100.

(2) Upon request of the board, a licensee shall submit evidence in addition to the affidavit to substantiate compliance with the continuing education requirement. Accordingly, it shall be the responsibility of the licensee to maintain evidence and documentation of such compliance on a form provided by the board.

(3) It is the responsibility of the licensee to seek prior approval of the board for any continuing education credit to be submitted where such credit is granted under the board's discretion on a case by case basis or otherwise, or where the licensee has any doubt as to its acceptability.

Reviser's note: RCW 34.04.058 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.

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

AMENDATORY SECTION (Amending Order PL 326, filed 12/28/79)

WAC 308-53-270 EMPLOYED DOCTORS OF OPTOMETRY, FRANCHISES AND EQUIPMENT USE AGREEMENTS. The salary, bonus or other remuneration of a doctor of optometry who is employed for professional optometric services, shall not be dependent upon the percentage or number of patients who obtain visual examinations or who have prescriptions filled. The employed optometrist, acting in the capacity of consultant, advisor or staff doctor of optometry, the optometrist who has acquired a franchise relating to the practice of optometry, and the optometrist who has a professional equipment use agreement/contract, shall at all times remain cognizant of his or her professional responsibilities and with demeanor, decorum and determination retain his or her right of independent professional judgment and title in all situations and circumstances ~~((as he would in his own office)).~~ If at any time the right of independent professional judgment or title is abridged ~~((by the party or parties engaging the optometrist's services.))~~ it shall be incumbent upon the optometrist to resign or correct his or her position as consultant, advisor or staff doctor of optometry, or to resign from or correct a franchise and/or equipment use agreement/contract relationship.

Reviser's note: RCW 34.04.058 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.

REPEALER

The following sections of the Washington Administrative Code are each repealed:

WAC 308-53-160 RECORDATION OF CREDIT.
WAC 308-53-290 UNIFORM DISCIPLINARY ACT.

WSR 85-13-080
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed June 19, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the state of Washington, Department of Licensing, intends to adopt, amend, or repeal rules concerning:

Amd WAC 308-99-010 Applications.
Amd WAC 308-99-020 Definitions.
Amd WAC 308-99-040 Restrictions and conditions.
New WAC 308-99-025 Registration required;

that the agency will at 10:00 a.m., Friday, July 26, 1985, in the Fourth Floor Conference Room, Highways-Licenses Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The adoption, amendment, or repeal of the rules will take place immediately following the hearing.

The authority under which these rules are proposed is RCW 46.85.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 24, 1985.

Dated: June 19, 1985

By: Donna Stringer
Assistant Director
Vehicle Services

STATEMENT OF PURPOSE

Name of Agency: Washington State Department of Licensing.

Purpose: To amend WAC 308-99-010, 308-99-020 and 308-99-040 so that they will comply with the provisions enacted by the legislature in chapter 353, Laws of 1985.

Summary: WAC 308-99-010 contains information regarding applications to operate vehicles in the state of Washington; 308-99-020 contains definitions that are used in chapter 308-99 WAC; and 308-99-040 contains restrictions and conditions which apply to vehicles properly registered in another jurisdiction.

Statutory Authority: RCW 46.85.060.

Reason Proposed: The amendments to chapter 308-99 WAC are proposed in order to bring that chapter of the Washington Administrative Code into compliance with chapter 353, Laws of 1985.

Responsible Department Personnel: In addition to the director of the Department of Licensing, the following individuals have knowledge of and responsibility for drafting, implementing and enforcing these rules: Donna Stringer, Assistant Director, Vehicle Services, Second Floor, Highways-Licenses Building, Olympia, Washington, phone (206) 753-6914 comm, or (206) 234-6914 scan.

Proponents: Washington State Department of Licensing.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

AMENDATORY SECTION (Amending Order 729-DOL, filed 9/9/83)

WAC 308-99-010 APPLICATIONS. In the absence of a written agreement between the state of Washington and another jurisdiction these rules, in conjunction with chapter 353, laws of 1985, shall apply to the operation of vehicles which are not licensed or registered in this state.

AMENDATORY SECTION (Amending Order 729-DOL, filed 9/9/83)

WAC 308-99-020 DEFINITIONS. (1) For the purposes of vehicle license registration, a resident is a person who:

(a) Owns a vehicle (~~(which)~~) that is licensable under the provisions of chapter 46.16 RCW and (~~(which)~~) that is physically present in the state of Washington (~~(in excess of)~~) more than six months in any (~~(one))~~ continuous twelve-month period; or

(b) Resides in this state (~~(for a period in excess of)~~) more than six months in any (~~(one))~~ continuous twelve-month period; or

(c) Becomes a registered voter in this state; or

~~((d)) Places children in a public school without paying nonresident tuition fees; or)~~

~~((e))~~ (d) Receives benefits under one of the Washington public assistance programs; or

~~((f))~~ (e) Declares himself to be a resident for the purpose of obtaining a state license or tuition fees at resident rates; or

~~((g))~~ (f) Is permanently employed in this state.

(2) "Military personnel" means active members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, commissioned officers of the Public Health Service, and members of foreign military organizations assigned to this state on official duty.

(3) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or a state or province of a country.

AMENDATORY SECTION (Amending Order 729-DOL, filed 9/9/83)

WAC 308-99-040 RESTRICTIONS AND CONDITIONS. A vehicle properly licensed or registered in another jurisdiction may be operated in Washington without further registration requirements subject to the following conditions and restrictions:

(1) Nonresident tourists: Length of stay cannot exceed (~~(six months))~~ one hundred eighty days in (~~(any one continuous twelve month period))~~ a calendar year.

(2) Nonresident students: The student must be in full-time attendance at an institution of higher learning accredited by the Northwest Association of Schools and Colleges and maintain their legal home of record at a location outside the state of Washington. Students' vehicles must be registered in their name or the name of their parent or legal guardian in the resident state of record. The student must carry documentation issued by the institution in the vehicle which readily establishes the nonresident status. Employment incidental to the full-time student status is permitted. The spouse of a nonresident student has the same licensing privilege as long as the vehicle is registered to the student or jointly to the student and spouse, regardless of the spouse's legal residence or employment.

(3) Nonresident military personnel: Vehicles must be currently registered in the name of the military person at (~~(his))~~ their official home of record. A vehicle licensed at the last duty station may be operated until expiration of the registration at which time it must be licensed in the home of record or in Washington. The spouse of a nonresident military person has the same licensing privilege as long as the vehicle is registered to the military person or jointly to the military person and spouse, regardless of the spouse's legal residence or employment.

~~((4)) Foreign tourists: Tourists from foreign countries are permitted to operate a vehicle which is currently licensed in their country of residence for up to one year from the date of entry of the vehicle into the United States.)~~

~~((5))~~ (4) Temporary employment: Nonresident persons engaged in employment of a temporary nature may operate a vehicle in this state which is currently licensed in another jurisdiction for a period not to

exceed (~~six months~~) one hundred eighty days in a calendar year. Proof of the temporary nature of the employment may be required.

~~((6))~~ (5) Borrowed vehicle: A borrowed vehicle currently licensed in another jurisdiction may be operated by a Washington resident for a period not to exceed ten days in any one calendar year. If the period of use exceeds ten days the vehicle must be registered and licensed in Washington. This provision does not apply to business vehicles.

~~((7-Salesmen))~~ (6) Salespersons: Nonresident (~~salesmen~~) salespersons based at a location outside Washington are permitted to operate vehicles not to exceed 12,000 pounds registered gross vehicle weight licensed in another jurisdiction in this state without registration.

~~((8))~~ (7) Business vehicle: A vehicle or a combination of vehicles, not exceeding a registered gross or combined gross vehicle weight of 12,000 pounds, which is properly base licensed in another jurisdiction, and used for business purposes in this state is not required to obtain Washington vehicle license registration except when such vehicle is owned or operated by a business or branch office of a business located in Washington (~~or when such vehicle is in the overnight custody of a Washington resident~~).

~~((9))~~ (8) Nonresident employed in Washington: A nonresident employed in Washington for more than one hundred eighty days in a calendar year may (~~May~~) operate a vehicle licensed in another jurisdiction as long as no permanent, temporary, or part-time residence is maintained in this state.

~~((10) New resident. New Washington residents shall be allowed sixty days from the date of establishing residency to procure Washington registration for their vehicle.)~~

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

NEW SECTION

WAC 308-99-025 REGISTRATION REQUIRED. A resident of this state shall register under chapter 46.12 and 46.16 RCW a motor vehicle to be operated on the highways of the state. It is a misdemeanor, pursuant to section 1, chapter 353, laws of 1985, for a person to violate this section.

WSR 85-13-081

ADOPTED RULES

CHIROPRACTIC EXAMINING BOARD

[Order PL 533—Filed June 19, 1985]

Be it resolved by the Washington State Chiropractic Examining Board, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

- New WAC 114-12-125 Examinations—National board partial waiver.
- Rep WAC 114-12-005 Uniform Disciplinary Act.
- Rep WAC 114-12-121 Examinations—National board.

This action is taken pursuant to Notice No. WSR 85-10-068 filed with the code reviser on May 1, 1985. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.25.017 which directs that the Washington State Chiropractic Examining Board has authority to implement the provisions of chapter 18.25 RCW.

The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

APPROVED AND ADOPTED June 13, 1985.

By Michael R. Davenport
Chairman

NEW SECTION

WAC 114-12-125 EXAMINATIONS—NATIONAL BOARD PARTIAL WAIVER. (1) An applicant who has passed the following subjects on the National Board of Chiropractors Examiners examination will be considered to have satisfied the statutory requirement for examination in the equivalent subjects:

<u>Washington Examination Subject</u>	<u>National Board Equivalent</u>
Anatomy	Anatomy
Physiology	Physiology
Hygiene	Microbiology—Public Health
Neurology	Spinal Anatomy
Symptomatology	General Diagnosis
Spinal Pathology	Neuromuscular Skeletal Diagnosis

(2) In addition to any subjects waived, all applicants will be required to pass an examination by the Washington State Board of Chiropractic Examiners in the subjects of Principles of Chiropractic, x-ray and adjuvative technique. Each applicant must correctly answer seventy-five percent of all questions asked and seventy percent of the questions on any branch of examination given by the Washington State Board in order to be eligible for licensure.

REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

WAC 114-12-005 UNIFORM DISCIPLINARY ACT

WAC 114-12-121 EXAMINATIONS—NATIONAL BOARD

WSR 85-13-082

PROPOSED RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed June 19, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning the administration of vocational rehabilitation services pursuant to RCW 51.32.095;

that the agency will at 10:00 a.m., Tuesday, July 23, 1985, in the General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 24, 1985.

The authority under which these rules are proposed is RCW 51.04.020.

The specific statute these rules are intended to implement is RCW 51.32.095.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 22, 1985.

Dated: June 19, 1985
By: Richard A. Davis
Director

STATEMENT OF PURPOSE

The purpose of the proposed rules are to implement chapter 339, Laws of 1985, that revised the statutes relating to vocational rehabilitation for injured workers.

The following sections of the Washington Administrative Code are repealed: WAC 296-18-010 General information; 296-18-020 Vocational rehabilitation advisory committee; 296-18-040 Definitions; 296-18-070 Application of certain timetables; 296-18-080 Referral and initial contact; 296-18-090 Initial evaluation; 296-18-100 Rehabilitation plans; 296-18-110 Modification to the rehabilitation plan; 296-18-120 Plan completion; 296-18-130 Application of certain timetables (self-insured claims); 296-18-140 Return to work summary report (self-insured claims); 296-18-160 Progress reports (self-insured claims); 296-18-170 Return to work (self-insured claims); 296-18-180 Vocational rehabilitation plan; 296-18-190 Responsibility of the injured worker; 296-18-200 Failure to meet responsibilities; 296-18-210 Resolution of vocational rehabilitation disputes; 296-18-300 Registration of vocational rehabilitation counselors; 296-18-310 Qualifications for registration of vocational rehabilitation counselors; 296-18-320 Qualifications for the registration of vocational rehabilitation firms; 296-18-330 Availability of the register; 296-18-340 Immediate deregistration; 296-18-350 Performance evaluations and deregistration; 296-18-360 Petition for reconsideration of the intent to remove; 296-18-370 Period of deregistration; 296-18-400 Job modification assistance; 296-23-940 Vocational service providers; 296-23-9401 Reasons for holding provider ineligible for referral; 296-23-9403 Services requiring authorization; 296-23-9409 Vocational services; and 296-23-9410 Retraining service.

The department proposes to adopt the following administrative code sections: WAC 296-18-410 Policy; 296-18-420 Definitions; 296-18-430 Department organization; 296-18-440 Reports; 296-18-445 Self-insured reports; 296-18-450 Vocational rehabilitation plan; 296-18-460 Performance criteria; 296-18-470 Disputes; 296-18-480 Responsibilities; 296-18-490 Billing for vocational services; 296-18-500 Self-insurers; 296-18-510 Vocational rehabilitation counselor qualifications; and 296-18-520 Job modification assistance.

Statutory Authority: "RCW 51.04.020 Departmental functions, generally. The director shall: (1) Establish and promulgate rules governing the administration . . ." of the industrial insurance program.

Specific Statute that the Rules are Intended to Implement: Chapter 339, Laws of 1985.

Summary of Rules: The rules declare it to be the policy of the department to provide injured workers vocational rehabilitation services in a cost effective manner. They set out a variety of definitions, including those for "employable" and "gainful" employment, that are necessary to the construction of the rules and their interpretation. The Office of Rehabilitation Services (ORS) is created separately from the Division of Industrial Insurance. ORS will be responsible for collecting and analyzing the data to evaluate the performance of vocational rehabilitation counselors, and to publish a list of vocational rehabilitation counselors who may be used to provide services. The eligibility of injured workers for vocational rehabilitation services will be determined within the Industrial Insurance Division. Vocational counselors will be required to file a variety of reports: An initial contact report, a preplan approval report, progress reports, and a closing report. Firms that are self-insured will be required to provide reports that indicate the level of vocational rehabilitation service being provided. The rules provide for the content of the vocational rehabilitation plan and the criteria by which vocational rehabilitation counselors will be judged. A shortened process of disputes resolution is provided for. Responsibilities for the progress of a vocational rehabilitation are assigned to the attending physician, the claims unit within the department, the employer, the injured worker, and the vocational rehabilitation provider, respectively. The rules stipulate the relative rates for vocational rehabilitation services. Selection of an appropriate provider of vocational services is the sole discretion of the referral source; however, the vocational rehabilitation provider must meet specified minimum qualifications. The department may continue to pay for job modification at the discretion of the supervisor of Industrial Insurance.

Reasons for Supporting the Proposed Rules: These rules are designed to implement recently enacted legislation in vocational rehabilitation. The department was experiencing considerable cost increases, without much benefit, because the vocational rehabilitation services were virtually unlimited in scope. Both the recently enacted legislation and the proposed rules are designed to provide necessary and effective vocational rehabilitation services to those injured workers who will benefit from such services. The rules will assist the department in reducing the rate of increase in industrial insurance premiums. It is expected that the increase should be less than one-half what would otherwise be expected.

Agency Personnel Responsible for Drafting: Mr. Mark Dynan, Assistant Attorney General, Mailstop AX-31g, Department of Labor and Industries, General Administration Building, Olympia, Washington 98504, phone (206) 459-6563; Implementation and Enforcement: Mr. Joe Dear, Deputy Director, Mailstop AX-31, Department of Labor and Industries, General Administration Building, Olympia, Washington 98504, phone (206) 753-6308.

These rule changes are proposed by the Department of Labor and Industries, an agency of the state of Washington.

These rules are absolutely essential to reducing the costs of vocational rehabilitation services to injured workers.

These rules are not necessary to comply with a federal law or a federal or state court decision.

Small Business Economic Impact Statement: The proposed change in the Washington Administrative Code for the delivery of vocational services to injured workers is the consequence of chapter 339, the Laws of 1985. The statutes were changed at the request of the department in order for the department to gain control over the ever increasing cost of vocational services. The proposed changes will effect virtually every firm in the business of delivering vocational services to injured workers. This effect, however, is not in terms of increased costs of doing business, but is rather in terms of reduced revenues as departmental expenditures for vocational rehabilitation services are reduced. The proposed rules are neutral with regard to the size of the firm. There is no reason to expect the revenues to small firms to be reduced proportionally to any greater extent than the revenues to large firms. The rules have a performance monitoring feature. This means that the department will refer claimants to the different vocational rehabilitation firms to the extent to which they are effective and perform needed services at a reasonable cost. To the extent that the department can contain the costs for services, employers will experience a reduction in the rate of increase of their industrial insurance premiums, at the very least; and potentially, an actual decline in rates. The rules should have a beneficial effect on small businesses insured with the state fund.

NEW SECTION

WAC 296-18-410 **POLICY.** The statutory provisions and these rules shall be implemented and all parties shall operate under these provisions and rules, with due regard to minimize costs while assisting the injured worker to become employable under RCW 51.32.095, while recognizing that the policy of RCW 51.12.010 is to reduce to a minimum the suffering and loss arising from injuries occurring in the course of employment. This economic consideration is to be measured not only by opportunity for immediate income, but also by opportunity for future income.

NEW SECTION

WAC 296-18-420 **DEFINITIONS.** (1) "Employable" means having the skills and training that are commonly and currently necessary in the labor market to be gainfully employed on a reasonably continuous basis when considering the worker's: Age, education, experience, and physical and mental capabilities after the industrial injury or subsequent reopening.

(2) "Gainful employment" means any occupation, not to exclude self-employment, which allows a worker to be compensated with wages or other earnings considering RCW 51.12.010.

(3) "Formal program" means an approved rehabilitation plan and the contents thereof as described in WAC 296-18-440 that provides services necessary and likely to enable the injured worker to be employable at gainful employment.

(4) "Vocational rehabilitation counselor" means those persons determined by the department to have met the requirements of these rules regarding experience and training which qualify them to aid the injured workers to become employable at gainful employment.

(5) "Vocational rehabilitation provider" means any vocational rehabilitation counselor or firm that has a vendor number to bill for services the Washington department of labor and industries.

(6) "Vocational rehabilitation firm" means any entity comprised of vocational rehabilitation counselors that has a vendor number whether sole proprietorship, partnership, or corporation.

(7) "Vocational rehabilitation services" means services that are designed to enable the injured worker to become employable at gainful employment. The services may include, but not be limited to vocational evaluation, vocational counseling, job analysis, job modification, on-the-job training, or short-term training programs with job placement services provided.

NEW SECTION

WAC 296-18-430 **DEPARTMENTAL ORGANIZATION.** (1) There is created within the department, independent of the industrial insurance division, the office of rehabilitation services. This office shall: Collect and analyze data on vocational rehabilitation services provided to injured workers; evaluate the performance of vocational rehabilitation counselors according to criteria set forth in these rules; maintain and publish a list of vocational rehabilitation counselors who may be used to provide services based on the results of the performance criteria; assist the director in resolving disputes arising under RCW 51.32.095 and 51.32.110 and WAC 296-18-410 through 296-18-520; and perform audits as described in WAC 296-18-460.

(2) Data collection. A unit within the department's office of rehabilitation services shall: Accumulate and collect data for the purposes of monitoring the appropriateness and effectiveness of vocational rehabilitation services including date of referral, length of vocational rehabilitation services provided and claim outcome, document by vocational rehabilitation provider costs incurred by the medical aid fund; identify by injured worker the costs incurred by the accident fund or the second injury fund; and compile information provided by self-insurers to the department on vocational rehabilitation services furnished to injured workers.

(3) Within the industrial insurance division of the department and the workers' benefit section thereof, there shall be a supervisor's designee which will: Determine eligibility of the injured worker for vocational rehabilitation services and/or further evaluation; make the referral of an eligible injured worker to a vocational rehabilitation provider based on the list provided by the office of rehabilitation service. In addition, there shall be a rehabilitation reviewer in each of the claims units. The unit will review a claim file after seventy-five days and one hundred twenty days of continuous time loss to consider whether or not the injured worker should be sent for further evaluation or referred for vocational services to a vocational rehabilitation provider.

(4) Vocational rehabilitation section shall include the eligibility assessment program to identify possible injured workers who may possibly be eligible for vocational rehabilitation services. This section will also include the department rehabilitation counselors.

NEW SECTION

WAC 296-18-440 **REPORTS.** The following reports are required from the vocational rehabilitation provider for state fund referrals.

(1) Initial contact report. Initial contact with the injured worker shall be reported to the department or self-insurer within twenty-one calendar days of the date the referral was sent to the provider. Notification of contact shall be on a department provided form.

(2) Pre-plan approval report. When a vocational provider proposes to submit a rehabilitation plan exceeding one hundred eighty days in length, a pre-plan approval report must be submitted requesting approval to proceed with plan development. The referral source will act on the report within fifteen working days of receipt.

A proposal for retraining over one hundred eighty days shall include an objective assessment which concludes the necessity of extended training, identification of the specific vocational goals and the supporting documentation which indicates the injured worker can be successful in completing the training program and be employable after completion of the training.

(3) Progress reports. A progress report will be made upon request from the referral source on a department approved format. The referral source is to be notified immediately of factors affecting plan completion or changes of status or changes in plan costs.

(4) Closing report. Upon completion of the formal program, a closing report to the referral source shall be submitted by the vocational rehabilitation provider. That report shall contain at least the following:

(a) Assessment of the injured worker's employability status at the time of completion of vocational services;

(b) Whether or not the injured worker has returned to work;

(c) Any remaining barriers to the injured worker becoming employable at gainful employment.

NEW SECTION

WAC 296-18-445 SELF-INSURED REPORTS. The following reports are required from the self-insurer to be sent to the self-insured section.

(1) Self-insured rehabilitation referral. A form to be submitted no later than after paying ninety continuous days of time loss if a referral has been made. If more time is necessary, an extension may be requested on this form. The format for this form will be supplied by the department.

(2) Eligibility assessment report. If a vocational referral is not being made and an extension of time is not necessary, this form must be completed and submitted to the self-insured section no later than after paying ninety continuous days of time loss.

(3) Vocational rehabilitation plan shall be submitted by the self-insurer after being signed by the injured worker, vocational rehabilitation provider and the employer.

(4) Rehabilitation outcome report. This form is to be submitted when all vocational rehabilitation services have been completed. The format for this form will be supplied by the department.

NEW SECTION

WAC 296-18-450 VOCATIONAL REHABILITATION PLAN. (1) A vocational rehabilitation plan shall be approved by the referral source prior to its implementation. The plan shall be sent to all individuals with responsibilities under it. The plan shall contain the following:

(a) Assessment of the skills and abilities, including the physical and mental capabilities of the injured worker;

(b) The services necessary to enable the injured worker to become employable at gainful employment;

(c) Labor market information indicating the feasibility of the injured worker's ability to obtain gainful employment at plan completion;

(d) An estimate of the cost and the time necessary for the completion of the plan;

(e) A direct comparison of the injured worker's skills with potential types of employment to demonstrate a likelihood of success;

(f) Any other information that will significantly effect the plan;

And, if necessary, a job analysis of the injured worker's previous occupation, including earnings, may be included.

(2) The following priorities shall be addressed and justification given to why each preceding priority was not used.

(a) Return to the previous job with the same employer;

(b) Modification of the previous job with the same employer including transitional return to work;

(c) A new job with the same employer in keeping with any limitations or restrictions;

(d) Modification of the previous job with a new employer;

(e) A new job with a new employer or self-employment based upon transferable skills;

(f) A new job with a new employer or self-employment involving on-the-job training; and

(g) Short-term retraining and job placement.

(3) Each plan shall be signed by the vocational rehabilitation counselor and the injured worker. In state fund cases, a copy will be sent to the employer, attending physician, department, injured worker and any parties with responsibilities within the plan by the vocational rehabilitation counselor. The following statement shall be printed above the signatures:

I have read the above plan and discussed its contents with the other individuals involved. By signing this plan I agree with its contents and will faithfully execute my responsibilities described in it.

(4) If the plan is interrupted for good cause this case will be returned to the department at the discretion of the supervisor or supervisor's designee. At the end of such interruption, the department may re-refer the case to the original vocational provider to resume the plan or its preparation.

NEW SECTION

WAC 296-18-460 PERFORMANCE CRITERIA. (1) Vocational rehabilitation providers offering services under RCW 51.32.095 for state fund referrals shall be selected by the department, at the department's sole discretion, based upon providers' performance according to the following criteria.

(2) There shall be objective evaluation by the departments office of rehabilitation services, which shall address:

(a) Cost to medical aid fund including fees paid to vocational providers or other providers at the request of the vocational rehabilitation counselor;

(b) Cost to accident fund including time loss compensation, paid after vocational rehabilitation services begin less interruptions for medical instability, loss of earning power payments, and "training" costs pursuant to RCW 51.32.095(3);

(c) Cost to second injury fund due to approved job site modifications;

(d) Length of services provided, from time of referral to date of issuance of closing report;

(e) Ratio of referrals to completed plans;

(f) The outcome of the claim at the time of closure of vocational rehabilitation services which identifies the injured worker as (i) employable; (ii) returned to work; or (iii) other.

(3) The office of rehabilitation services shall also weigh the various objective criteria listed above by addressing the following subjective criteria:

(a) The case difficulty utilizing a screening tool developed by the office of rehabilitation services;

(b) The ability of the vocational rehabilitation counselor to comply with the rules contained in chapter 296-18 WAC and the law as contained in RCW 51.32.095;

(c) The adequacy of the vocational rehabilitation providers facilities shall also be considered.

(4) Audits. In order to ensure compliance with the above listed criteria, every vocational rehabilitation provider used by the department shall be subject to an audit of their facilities and files. Audits may be conducted upon petition or upon the department's own initiative. Audits may be for cause or at random and may consist of, but not be limited to, an on-site evaluation of each provider's facilities, files and records, including the accuracy of the records and the accuracy of billing for services. The vocational rehabilitation provider shall receive written notice at least forty-eight hours in advance of such audit.

NEW SECTION

WAC 296-18-470 DISPUTES. (1) In order to avoid unnecessary delay in the vocational rehabilitation process and to allow resolution of disputes between the injured workers, employers and the referral source, a dispute resolution process is provided. The time limits in this section may be extended by the office of rehabilitation services when good cause is shown.

(2) The director must receive a written request for reconsideration of the eligibility or ineligibility determination or formal plan, within fifteen calendar days from receipt of notification to the worker or employer. The request must include reasons for the dispute. The director, at his or her sole discretion, may initiate an investigation to determine further action on the request.

(3) If necessary, and at the discretion of the director, the office of rehabilitation services will communicate with the aggrieved parties to attempt to resolve the dispute. If the dispute is not resolved, the director in his or her sole discretion may take such other action that he or she considers appropriate to protect the rights of the parties. The director shall inform the aggrieved parties of what action, if any was taken within thirty calendar days of receipt of the request from the aggrieved party.

NEW SECTION

WAC 296-18-480 RESPONSIBILITIES. All parties will have the following responsibilities in assisting the injured worker to become employable at gainful employment:

(1) The attending physician shall maintain open communication with the injured worker's assigned vocational rehabilitation counselor and the referral source. The attending physician shall respond to any requests for information in a timely fashion and will do all that is possible to expedite the vocational rehabilitation process, including a definitive appraisal of physical capacities. The attending physician may review the vocational plan, and if the attending physician feels that the injured worker is not physically capable of carrying out the plan or the plan is unnecessary, based on current physical capacities, shall notify the referral source immediately of this opinion with the reasons for such opinion.

(2) The claims unit within the department shall maintain control over the injured worker's claim file and ensure that progress is being

made by the injured worker, the vocational rehabilitation counselor, and all other responsible individuals under the formal program. Upon opening the claim, the worker will be evaluated by the claim unit for the potential necessity of vocational services. The claims unit shall maintain open lines of communication with all participating individuals and coordinate all services and activities and monitor the case to ensure that rehabilitation services do not go beyond a necessary period of time, nor become over burdensome to the injured worker or too costly to the department. Further, the claims unit will ensure that all copies of all plans or reports are provided to the performance criteria unit of the office of rehabilitation services and notify the employer of the referral to a vocational rehabilitation provider. The claims unit shall give written notice to an injured worker if a complaint of noncooperation has been made.

(3) The employer shall assist the vocational rehabilitation counselor in any way necessary to collect data regarding the former gainful employment of the injured worker. Further, the employer will assist the vocational rehabilitation counselor and attending physician to determine whether or not a modified job could be made available for employment of the injured worker.

(4) The injured worker shall cooperate with all reasonable requests from all responsible individuals in determining disability, developing and implementing the rehabilitation process. Should the injured worker fail to be cooperative, the sanctions as set out in RCW 51.32.110 will be utilized against that individual.

(5) The vocational rehabilitation provider shall comply with all the rules in chapter 296-18 WAC and Title 51 RCW, whether the injured worker is referred by the department or a self-insurer; develop a formal program to assist the eligible injured worker to become employable at gainful employment; maintain accurate records that will be periodically reviewed by the office of rehabilitation services; notify the claims unit of noncooperative behavior on the part of the injured worker; keep all parties informed of the progress and development of the formal program. In assisting the injured worker to become employable at gainful employment, the provider is to follow the priorities as set out in RCW 51.32.095. Vocational rehabilitation providers actually assisting the injured worker shall have the burden of showing that they meet the qualifications to be a vocational rehabilitation counselor as set out in these rules.

NEW SECTION

WAC 296-18-490 BILLING FOR VOCATIONAL SERVICES.

(1) Vocational rehabilitation providers must comply with the rules contained in chapter 296-20 WAC as they pertain.

(2) Vocational rehabilitation providers must carry general liability insurance, automobile liability insurance, and errors and omission/malpractice insurance.

(3) All vocational services must be prior authorized by the referral source, except immediate job placement.

(4) Charges for the following are considered overhead and will not be paid:

- (a) Typing of reports and copies of reports;
- (b) Long distance phone call charges and unanswered phone calls;
- (c) In-house staffing time;
- (d) Postage.

(5) All bills must be itemized on referral source approved bill forms. The billed charges must be justified and consistent with written reports. Any exception to these rules must be thoroughly documented. If charges are not documented, or justified, or consistent, payment will be reduced or denied.

(6) Vocational services must be billed using the following procedure codes. Time units of service are to be stated in tenth of hour blocks or six minutes per time unit. Mileage units of service are to be stated in total miles for the round trip to the nearest mile. Unless otherwise specifically noted, reimbursement rates are achieved by multiplying the total units of service by the relative value unit for the procedure code and then multiplying the total by the current conversion factor for medicine (WAC 296-20-135).

CODE	DESCRIPTION	RELATIVE VALUE UNITS
VO205	Job modification consultant.	4.1
VO210	Consult with doctor, attorney, employer, persons other than the claimant.	4.1
VO212	Review case claim file.	4.1

CODE	DESCRIPTION	RELATIVE VALUE UNITS
VO222	Vocational exploration (services provided in conjunction with the injured worker).	4.1
VO223	Vocational counseling (i.e., plan development, placement, etc.).	4.1
VO225	Job analysis (on-site survey of a specific job).	4.1
VO226	Identify and analyze past work skills for transferability.	4.1
VO227	Labor market survey (determination of jobs available in geographic location).	4.1
VO228	Work evaluation - individual.	4.1
VO229	Work evaluation - group, up to a group of five persons.	1.8
VO231	Vocational test administration and scoring for other than listed tests.	4.1
VO233	Interpretation of vocational testing and work evaluation.	4.1
VO238	Job placement/job development services to individual injured workers.	4.1
VO239	Job seeking skills instruction-groups (motivation and personal skills training to a group of injured workers) (2-10 workers, Maximum 40 billing hours per worker).	1.8
VO242	Monitor, approved rehabilitation plan.	4.1
VO245	Coordinations of services with (specify) job station, work evaluation, vocational testing, ancillary service.	4.1
VO251	Report Preparation: Initial Contact Report.	Flat Fee \$5
VO252	Progress Report.	Flat Fee \$25
VO253	Report Preparation for reports other than VO251, 252, 258 and 259.	4.1
VO258	Eligibility Statement form with Initial Evaluation completed.	4.1 up to max. of \$150
VO259	Eligibility Statement form without Initial Evaluation completed.	4.1 up to max. of \$450
VO260	Travel/wait time (waiting time is limited to one hour). If more than one client is being served in the area, travel time must be split among all clients.	1.8
VO261	Bridge and ferry tolls.	Reimbursement
VO262	Mileage per mile. If more than one client is being served in the area, mileage must be split among clients.	18¢ per mile
VO263	Provide and monitor a "job station" (a work activity program designed to evaluate or increase an individuals vocational abilities).	4.1
VO264	Work behavior modification.	4.1
VO274	Conducting a job club - maximum 40 billable hours. (A structured search for work programs for groups of injured workers.)	1.8
VO280	Placement by evaluation (placement agencies only) maximum of two hours assessment of placement potential, includes report to department or VRC.	2.9
VO282	Placement made (employment agencies) flat fee paid on placement.	\$300 Fixed Fee
RETRAINING SERVICE (Fees vary by specific plans)		
RO310	Tuition and training fee	
RO312	Training supplies	
RO315	Training equipment	
RO320	Examination and license fees	
RO330	Transportation/mileage	
RO332	Parking	Reimbursement
RO334	Bridge and Ferry Tolls	Reimbursement
RO336	Commercial Fares	Reimbursement
RO340	Books	
RO350	Other	
RO360	Board	
RO370	Room	
RO380	Job modification	

CODE	DESCRIPTION	RELATIVE VALUE UNITS
RO390	Child care/licensed day center. Hourly rate per child six hours or less	1.1
RO392	Child care/licensed day center. Daily rate per child seven to nine hours	7.5
RO395	Child care/nonlicensed provider. Hourly rate per child six hours or less	0.9
RO397	Child care/nonlicensed provider. Daily rate per child seven to nine hours	6.4

The department or self-insurer will authorize child care as part of a department or self-insurer approved formal program. Payment for child care services will be made to licensed day care providers or family members other than the injured worker or his/her spouse.

NEW SECTION

WAC 296-18-500 SELF-INSURERS. (1) Self-insurers shall report to the self-insurance section after paying ninety continuous days of time loss as to whether or not vocational rehabilitation services are necessary and likely to enable the injured worker to become employable at gainful employment. Each of these cases will be reviewed by the self-insured section. Within twenty calendar days of receipt the supervisor's designee within the self-insured section will inform the self-insurer and the injured worker as to whether or not self-insurers determination is approved. The criteria to determine eligibility or ineligibility will be the same as for the state fund. If the injured worker is determined ineligible, the self-insurer will submit an eligibility assessment form which contains objective reasons why the injured worker is ineligible. If an eligibility determination cannot be made due to medical instability, the self-insured shall notify the self-insurance section of when the injured worker's condition improves and a determination can be made. If the request for extension is not approved, notice will be sent within fifteen calendar days of receipt.

(2) The supervisor's designee within the self-insurance section of the department will receive from the self-insurer the vocational rehabilitation plan signed by the injured worker and employer. A review of the vocational rehabilitation plan by the supervisor's designee may be initiated either by the employer or the injured worker. If the plan is not approved, notice will be sent within fifteen calendar days of receipt.

At the completion of each case, the self-insurer shall provide the self-insurance section and the office of rehabilitation services a rehabilitation outcome report on a form prescribed by the department.

NEW SECTION

WAC 296-18-510 VOCATIONAL REHABILITATION COUNSELOR QUALIFICATIONS. (1) All vocational rehabilitation counselors who were registered by the department prior to the effective date of Substitute House Bill No. 1084, will remain on the list and be eligible to receive referrals. The department is not obligated to make referrals to anyone on this list.

(2) When it is determined an injured worker is eligible for vocational rehabilitation services, the referral source shall authorize such services. Selection of the appropriate provider of vocational services is at the sole discretion of the referral source. Selected vocational rehabilitation counselors must meet one or more of the following categories of experience and education:

(a) A doctorate or masters degree in rehabilitation counseling, psychology, counseling and guidance, social work, or educational psychology; and a minimum of one year of experience in vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services with industrially injured workers;

(b) A masters degree with twenty-four credit hours in a combination of rehabilitation philosophy, rehabilitation history, rehabilitation ethics, medical aspects of disability, psychological aspects of disability, job placement, occupational information, counseling theory, personal and vocational adjustment, work evaluation, practicum in subjects listed in this subsection, or coursework relating to counseling and subjects listed in this subsection; and a minimum of two years of experience in vocational counseling, job placement, vocational assessment, or

other documented areas of vocational rehabilitation services with industrially injured workers;

(c) A bachelors degree in rehabilitation counseling, psychology, counseling and guidance, social work, or educational psychology; and a minimum of two years of experience in vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services with industrially injured workers; or

(d) A bachelors degree with twenty-four credit hours in a combination of rehabilitation philosophy, rehabilitation history, rehabilitation ethics, medical aspects of disability, psychological aspects of disability, job placement, occupational information, counseling theory, personal and vocational adjustment, work evaluation, practicum in subjects listed in this subsection, or coursework relating to counseling and subjects listed in this subsection; and a minimum of three years of experience in vocational counseling, job placement, vocational assessment, or other documented areas of vocational rehabilitation services; with industrially injured workers;

(e) Has been a registered vocational counselor in Washington state.

(3) An intern is an individual who meets the minimum educational requirements as set forth in subsection (2)(a) through (e) of this section, but not the experience requirements. When the intern is employed, the vocational rehabilitation provider shall provide the name of the intern's supervisor. The intern supervisor will be responsible for all rehabilitation work done by the intern. The intern supervisor will co-sign all reports submitted by the intern. The intern must be designated as such on all reports.

(4) In order to receive or maintain a provider account number, the provider shall submit certified copies of each counselor's college transcript showing the degree last obtained. A statement of each counselor's past experience in counseling of industrially injured workers must also be submitted. The statement must include the names of former and current vocational counselors and firms the individual was employed by.

(5) It is the responsibility of the vocational counselor to be familiar with the industrial insurance rules and laws of the state of Washington. The vocational counselor must act in a professional manner and comply with the code of professional ethics for vocational rehabilitation counselors.

NEW SECTION

WAC 296-18-520 JOB MODIFICATION ASSISTANCE. (1) As provided for in section 13, chapter 63, Laws of 1982 (RCW 51.32-.250), the supervisor in his or her discretion may pay job modification costs in an amount not to exceed five thousand dollars from the department per worker per job modification. This payment is intended to be a cooperative participation with the employer and funds shall be taken from the appropriate account within the second injury fund. The employer may add to this amount with their own contribution. These moneys are available to an injured worker who is otherwise eligible for vocational benefits.

(2) An employer requesting job modification assistance must submit to the department a job modification assistance application.

(3) The job modification assistance application shall include, but not be limited to:

- (a) A document supporting the need for job modification;
- (b) A description of the job modification; and
- (c) An itemized account of each expense to be incurred in the job modification. Job modification assistance applications shall be submitted on a form prescribed by the department.

(4) The supervisor shall accept, reject, or modify the job modification application within thirty days of receipt. Notification of the supervisor's acceptance, rejection, or modification shall be in writing.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-18-010 GENERAL INFORMATION.
- WAC 296-18-020 VOCATIONAL REHABILITATION ADVISORY COMMITTEE.
- WAC 296-18-040 DEFINITIONS.
- WAC 296-18-070 APPLICATION OF CERTAIN TIMETABLES.
- WAC 296-18-080 REFERRAL AND INITIAL CONTACT.
- WAC 296-18-090 INITIAL EVALUATIONS.
- WAC 296-18-100 REHABILITATION PLANS.

- WAC 296-18-110 MODIFICATION TO THE REHABILITATION PLAN.
- WAC 296-18-120 PLAN COMPLETION.
- WAC 296-18-130 APPLICATION OF CERTAIN TIMETABLES (SELF-INSURED CLAIMS).
- WAC 296-18-140 RETURN TO WORK SUMMARY REPORT (SELF-INSURED CLAIMS).
- WAC 296-18-160 PROGRESS REPORTS (SELF-INSURED CLAIMS).
- WAC 296-18-170 RETURN TO WORK (SELF-INSURED CLAIMS).
- WAC 296-18-180 VOCATIONAL REHABILITATION PLAN.
- WAC 296-18-190 RESPONSIBILITY OF THE INJURED WORKER.
- WAC 296-18-200 FAILURE TO MEET RESPONSIBILITIES.
- WAC 296-18-210 RESOLUTION OF VOCATIONAL REHABILITATION DISPUTES.
- WAC 296-18-300 REGISTRATION OF VOCATIONAL REHABILITATION COUNSELORS.
- WAC 296-18-310 QUALIFICATIONS FOR REGISTRATION OF VOCATIONAL REHABILITATION COUNSELORS.
- WAC 296-18-320 QUALIFICATIONS FOR THE REGISTRATION OF VOCATIONAL REHABILITATION FIRMS.
- WAC 296-18-330 AVAILABILITY OF THE REGISTER.
- WAC 296-18-340 IMMEDIATE DEREGISTRATION.
- WAC 296-18-350 PERFORMANCE EVALUATIONS AND DEREGISTRATION.
- WAC 296-18-360 PETITION FOR RECONSIDERATION OF THE INTENT TO REMOVE.
- WAC 296-18-370 PERIOD OF DEREGISTRATION.
- WAC 296-18-400 JOB MODIFICATION ASSISTANCE.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-23-940 VOCATIONAL SERVICE PROVIDERS.
- WAC 296-23-9401 REASONS FOR HOLDING PROVIDER INELIGIBLE FOR REFERRAL.
- WAC 296-23-9403 SERVICES REQUIRING AUTHORIZATION.
- WAC 296-23-9409 VOCATIONAL SERVICES.
- WAC 296-23-9410 RETRAINING SERVICE.

**WSR 85-13-083
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 19, 1985]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Standards of assistance—Basic requirements, amending WAC 388-29-100.

It is the intention of the secretary to adopt these rules on an emergency basis on July 1, 1985;

that the agency will at 10:00 a.m., Thursday, July 25, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on July 31, 1985.

The authority under which these rules are proposed is RCW 74.08.090.

The specific statute these rules are intended to implement is chapter 74.08 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before July 25, 1985.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director
Division of Administration and Personnel
Department of Social and Health Services
Mailstop OB 14
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, at State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by July 11, 1985. The meeting site is in a location which is barrier free.

Dated: June 19, 1985

By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: WAC 388-29-100.

Purpose of the Rule Change: To update monthly need standards for basic requirements effective July 1, 1985.

These Rules are Necessary: To effect the annual update of need standards.

Statutory Authority: RCW 74.08.090.

Summary: The rules are being changed to update monthly need standards for basic requirements. Need standards are being increased 1.1 percent thereby increasing the rateable reduction on payment standards from 37.9 percent to 38.6 percent.

Person Responsible for Drafting, Implementation and Enforcement of the Rule Change: Jay Emry, Program Manager, Division of Income Assistance, mailstop OB-31C, phone 753-4910.

These rules are not necessary as a result of federal law, federal court decision, or state court decision.

AMENDATORY SECTION (Amending Order 2215, filed 3/13/85)

WAC 388-29-100 STANDARDS OF ASSISTANCE—BASIC REQUIREMENTS. (1) Effective (~~July 1, 1984~~) July 1, 1985, the state-wide monthly need standards for basic requirements are:

(a) Household with shelter costs.

Recipients in Household	Need Standard
1	\$((49)) <u>497</u>
2	((62)) <u>628</u>
3	((76)) <u>777</u>
4	((90)) <u>914</u>
5	((104)) <u>1,053</u>
6	((118)) <u>1,195</u>
7	((136)) <u>1,381</u>
8	((151)) <u>1,528</u>
9	((165)) <u>1,678</u>
10 or more	((180)) <u>1,823</u>

(b) Household with supplied shelter.

The monthly standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, household maintenance, and transportation.

Recipients in Household	Need Standard	Recipients in Household	Payment Standard
1	\$ 181	4	433
2	263	5	518
3	348	6	603
4	433	7	688
5	518	8	773
6	603	9	858
7	688	10 or more	943
8	773		
9	858		
10 or more	943		

(2) Effective ~~((November 1, 1984))~~ July 1, 1985, one hundred eighty-five percent of the state-wide monthly need standard for basic requirements is:

(a) Household with shelter costs.

Recipients in Household	185% of Need Standard
1	\$ ((908)) 919
2	((1,149)) 1,162
3	((1,421)) 1,437
4	((1,672)) 1,691
5	((1,926)) 1,948
6	((2,187)) 2,211
7	((2,525)) 2,555
8	((2,795)) 2,827
9	((3,069)) 3,104
10 or more	((3,336)) 3,373

(b) Household with supplied shelter.

Recipients in Household	185% of Need Standard
1	\$ 335
2	487
3	644
4	801
5	958
6	1,116
7	1,273
8	1,430
9	1,587
10 or more	1,745

(3) Effective ~~((July 1, 1984))~~ July 1, 1985, the state-wide monthly payment standard ~~((reflecting a ratable reduction of 37.9 percent of the need standards))~~ shall be:

(a) Payment standards for households with shelter costs reflecting a ratable reduction of 38.6 percent of need standards.

Recipients in Household	Payment Standard
1	\$ 304
2	385
3	476
4	561
5	646
6	731
7	847
8	936
9	1,028
10 or more	1,117

(b) Payment standards for households with supplied shelter reflecting the need standard.

The monthly payment standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, transportation, and household maintenance.

Recipients in Household	Payment Standard
1	\$ 181
2	263
3	348

Table of WAC Sections Affected

KEY TO TABLE

Symbols:

- AMD = Amendment of existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- RE-AD = Readoption of existing section
- REP = Repeal of existing section
- REAFF = Order assuming and reaffirming rules
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule
- STMT = Statement regarding previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

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.

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 show the sequence of the document within the issue.

WAC #	AMD	WSR #	WAC #	AMD	WSR #	WAC #	AMD	WSR #
4-25-040	AMD-P	85-02-066	16-228-270	REP-P	85-13-052	16-316-950	NEW-P	85-07-058
4-25-040	AMD-C	85-06-008	16-228-275	AMD-P	85-13-052	16-316-950	NEW	85-11-002
4-25-040	AMD-C	85-06-054	16-228-280	REP-P	85-13-052	16-316-955	NEW-P	85-07-058
4-25-140	AMD-P	85-02-066	16-228-285	REP-P	85-13-052	16-316-955	NEW	85-11-002
4-25-140	AMD-C	85-06-008	16-230-190	AMD-P	85-07-062	16-316-960	NEW-P	85-07-058
4-25-140	AMD-C	85-06-054	16-230-190	AMD-C	85-10-057	16-316-960	NEW	85-11-002
4-25-140	AMD	85-11-013	16-230-190	AMD-C	85-11-052	16-322-010	AMD-P	85-11-082
4-25-260	REP-P	85-02-066	16-230-190	AMD	85-12-012	16-322-012	AMD-P	85-11-082
4-25-260	REP-C	85-06-008	16-231	AMD-C	85-06-042	16-322-015	AMD-P	85-11-082
4-25-260	REP-C	85-06-054	16-231-413	NEW-P	85-03-101	16-322-020	REP-P	85-11-082
10-04-020	AMD-P	85-13-003	16-231-413	NEW	85-07-029	16-322-025	AMD-P	85-11-082
10-08-040	AMD-P	85-13-003	16-231-613	NEW-P	85-03-101	16-322-035	AMD-P	85-11-082
10-08-150	NEW-P	85-13-003	16-231-613	NEW	85-07-029	16-322-040	AMD-P	85-11-082
10-18-160	AMD-P	85-13-003	16-231-615	AMD-P	85-03-101	16-322-045	AMD-P	85-11-082
16-42	AMD-C	85-03-061	16-231-615	AMD	85-07-029	16-354-005	AMD-P	85-11-079
16-42	AMD-C	85-12-025	16-304-040	AMD-P	85-06-051	16-354-010	AMD-P	85-11-079
16-42	AMD-C	85-13-047	16-304-040	AMD	85-11-003	16-354-020	AMD-P	85-11-079
16-42-00101	REP-P	85-09-061	16-316-0601	AMD-P	85-06-052	16-354-030	AMD-P	85-11-079
16-42-005	NEW-P	85-09-061	16-316-0601	AMD	85-11-004	16-354-040	AMD-P	85-11-079
16-42-01001	REP-P	85-09-061	16-316-215	AMD-P	85-06-052	16-354-050	AMD-P	85-11-079
16-42-015	AMD-P	85-09-061	16-316-215	AMD	85-11-004	16-354-070	AMD-P	85-11-079
16-42-017	NEW-P	85-09-061	16-316-230	AMD-P	85-06-052	16-354-080	REP-P	85-11-079
16-42-02001	REP-P	85-09-061	16-316-230	AMD	85-11-004	16-354-090	NEW-P	85-11-079
16-42-022	NEW-P	85-09-061	16-316-270	AMD-P	85-06-052	16-354-100	NEW-P	85-11-079
16-42-025	AMD-P	85-09-061	16-316-270	AMD	85-11-004	16-400-007	NEW	85-06-029
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16-42-04001	REP-P	85-09-061	16-316-327	AMD	85-11-004	16-400-015	AMD-P	85-03-090
16-42-045	REP-P	85-09-061	16-316-350	AMD-P	85-06-052	16-409-015	AMD	85-07-028
16-42-05001	REP-P	85-09-061	16-316-350	AMD	85-11-004	16-409-020	AMD-P	85-03-090
16-42-060	NEW-P	85-09-061	16-316-440	AMD-P	85-06-052	16-409-020	AMD	85-07-028
16-42-00101	REP-W	85-10-020	16-316-440	AMD	85-11-004	16-409-030	AMD-P	85-03-090
16-42-005	NEW-W	85-10-020	16-316-474	AMD-P	85-06-052	16-409-030	AMD	85-07-028
16-42-01001	REP-W	85-10-020	16-316-474	AMD	85-11-004	16-409-035	AMD-P	85-03-090
16-42-015	AMD-W	85-10-020	16-316-635	AMD-P	85-11-081	16-409-035	AMD	85-07-028
16-42-017	NEW-W	85-10-020	16-316-660	AMD-P	85-06-052	16-409-060	AMD-P	85-03-090
16-42-02001	REP-W	85-10-020	16-316-660	AMD	85-11-004	16-409-060	AMD	85-07-028
16-42-022	NEW-W	85-10-020	16-316-724	AMD-P	85-06-052	16-409-065	AMD-P	85-03-090
16-42-025	AMD-W	85-10-020	16-316-724	AMD	85-11-004	16-409-065	AMD	85-07-028
16-42-03001	REP-W	85-10-020	16-316-800	AMD-P	85-06-052	16-409-070	AMD-P	85-03-090
16-42-035	AMD-W	85-10-020	16-316-800	AMD	85-11-004	16-409-070	AMD	85-07-028
16-42-04001	REP-W	85-10-020	16-316-820	AMD-P	85-06-052	16-409-075	AMD-P	85-03-090
16-42-045	REP-W	85-10-020	16-316-820	AMD	85-11-004	16-409-075	AMD	85-07-028
16-42-05001	REP-W	85-10-020	16-316-830	AMD-P	85-06-052	16-409-085	AMD-P	85-03-090
16-42-060	NEW-W	85-10-020	16-316-830	AMD	85-11-004	16-409-085	AMD	85-07-028
16-228-010	AMD-P	85-13-052	16-316-830	AMD	85-11-004	16-409-120	REP-P	85-03-090
16-228-235	AMD-P	85-13-052	16-316-906	AMD-P	85-07-058	16-409-120	REP	85-07-028
16-228-240	REP-P	85-13-052	16-316-906	AMD	85-11-002	16-426-001	REP-P	85-11-080
16-228-245	AMD-P	85-13-052	16-316-911	AMD-P	85-07-058	16-426-005	REP-P	85-11-080
16-228-250	AMD-P	85-13-052	16-316-911	AMD	85-11-002	16-426-010	REP-P	85-11-080
16-228-255	AMD-P	85-13-052	16-316-921	AMD-P	85-07-058	16-426-015	REP-P	85-11-080
16-228-255	AMD-P	85-13-052	16-316-921	AMD	85-11-002	16-426-020	REP-P	85-11-080
16-228-260	AMD-P	85-13-052	16-316-945	NEW-P	85-07-058			
16-228-265	AMD-P	85-13-052	16-316-945	NEW	85-11-002			

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16-470-010	AMD-E	85-11-087	82-50-021	AMD-P	85-13-068	106-120-056	REP-P	85-03-086
16-470-015	AMD-P	85-11-084	100-100-010	NEW	85-03-011	106-120-056	REP	85-07-032
16-470-015	AMD-E	85-11-087	100-100-020	NEW	85-03-011	106-120-057	REP-P	85-03-086
16-470-100	AMD-P	85-11-084	100-100-030	NEW	85-03-011	106-120-057	REP	85-07-032
16-470-100	AMD-E	85-11-087	100-100-040	NEW	85-03-011	106-120-058	REP-P	85-03-086
16-470-110	AMD-P	85-11-084	100-100-050	NEW	85-03-011	106-120-058	REP	85-07-032
16-470-110	AMD-E	85-11-087	100-100-060	NEW	85-03-011	106-120-060	REP-P	85-03-086
16-470-120	AMD-P	85-11-084	100-100-070	NEW	85-03-011	106-120-060	REP	85-07-032
16-470-120	AMD-E	85-11-087	100-100-070	AMD-P	85-04-063	106-120-061	REP-P	85-03-086
16-470-200	NEW-P	85-11-083	100-100-070	AMD	85-09-027	106-120-061	REP	85-07-032
16-470-200	NEW-E	85-11-088	100-100-075	NEW	85-09-027	106-120-062	REP-P	85-03-086
16-470-210	NEW-P	85-11-083	100-100-080	NEW	85-03-011	106-120-062	REP	85-07-032
16-470-210	NEW-E	85-11-088	100-100-090	NEW	85-03-011	106-120-064	REP-P	85-03-086
16-470-220	NEW-P	85-11-083	100-100-100	NEW	85-03-011	106-120-064	REP	85-07-032
16-470-220	NEW-E	85-11-088	100-100-100	AMD-P	85-04-063	106-120-066	REP-P	85-03-086
16-470-230	NEW-P	85-11-083	106-120	AMD-P	85-03-086	106-120-066	REP	85-07-032
16-470-230	NEW-E	85-11-088	106-120	AMD	85-07-032	106-120-131	NEW-P	85-03-086
16-470-300	NEW-P	85-11-085	106-120-001	REP-P	85-03-086	106-120-131	NEW	85-07-032
16-470-310	NEW-P	85-11-085	106-120-001	REP	85-07-032	106-120-132	NEW-P	85-03-086
16-470-320	NEW-P	85-11-085	106-120-003	NEW-P	85-03-086	106-120-132	NEW	85-07-032
16-470-330	NEW-P	85-11-085	106-120-003	NEW	85-07-032	106-120-143	NEW-P	85-03-086
16-470-340	NEW-P	85-11-085	106-120-004	NEW-P	85-03-086	106-120-143	NEW	85-07-032
16-529-030	AMD	85-10-015	106-120-004	NEW	85-07-032	106-120-200	REP-P	85-03-086
16-530-010	NEW	85-11-089	106-120-005	NEW-P	85-03-086	106-120-200	REP	85-07-032
16-530-020	NEW	85-11-089	106-120-005	NEW	85-07-032	106-120-210	REP-P	85-03-086
16-530-030	NEW	85-11-089	106-120-006	NEW-P	85-03-086	106-120-210	REP	85-07-032
16-530-040	NEW	85-11-089	106-120-006	NEW	85-07-032	106-120-220	REP-P	85-03-086
16-530-050	NEW	85-11-089	106-120-007	NEW-P	85-03-086	106-120-220	REP	85-07-032
16-530-060	NEW	85-11-089	106-120-007	NEW	85-07-032	106-120-230	REP-P	85-03-086
16-555-010	NEW-P	85-05-038	106-120-010	REP-P	85-03-086	106-120-230	REP	85-07-032
16-555-010	NEW	85-11-030	106-120-010	REP	85-07-032	106-120-240	REP-P	85-03-086
16-555-020	NEW-P	85-05-038	106-120-011	REP-P	85-03-086	106-120-240	REP	85-07-032
16-555-020	NEW	85-11-030	106-120-011	REP	85-07-032	106-120-250	REP-P	85-03-086
16-555-030	NEW-P	85-05-038	106-120-013	REP-P	85-03-086	106-120-250	REP	85-07-032
16-555-030	NEW	85-11-030	106-120-013	REP	85-07-032	106-120-700	REP-P	85-03-086
16-555-040	NEW-P	85-05-038	106-120-020	REP-P	85-03-086	106-120-700	REP	85-07-032
16-555-040	NEW	85-11-030	106-120-020	REP	85-07-032	106-120-800	REP-P	85-03-086
16-555-041	NEW-P	85-05-038	106-120-021	NEW-P	85-03-086	106-120-800	REP	85-07-032
16-555-041	NEW	85-11-030	106-120-021	NEW	85-07-032	106-120-900	REP-P	85-03-086
16-555-050	NEW-P	85-05-038	106-120-022	NEW-P	85-03-086	106-120-900	REP	85-07-032
16-555-050	NEW	85-11-030	106-120-022	NEW	85-07-032	114-12-005	REP-P	85-10-068
16-555-060	NEW-P	85-05-038	106-120-023	NEW-P	85-03-086	114-12-005	REP	85-13-081
16-555-060	NEW	85-11-030	106-120-023	NEW	85-07-032	114-12-121	REP-P	85-10-068
16-555-070	NEW-P	85-05-038	106-120-024	NEW-P	85-03-086	114-12-121	REP	85-13-081
16-555-070	NEW	85-11-030	106-120-024	NEW	85-07-032	114-12-125	NEW-P	85-10-068
16-555-080	NEW-P	85-05-038	106-120-025	NEW-P	85-03-086	114-12-125	NEW	85-13-081
16-555-080	NEW	85-11-030	106-120-025	NEW	85-07-032	120-04-010	REP-P	85-11-041
16-560-06001	AMD-P	85-02-054	106-120-026	NEW-P	85-03-086	120-04-030	REP-P	85-11-041
16-560-06001	AMD	85-10-005	106-120-026	NEW	85-07-032	120-04-050	REP-P	85-11-041
16-565-010	AMD-P	85-11-078	106-120-027	NEW-P	85-03-086	120-06-010	REP-P	85-11-041
16-565-020	AMD-P	85-11-078	106-120-027	NEW	85-07-032	120-06-020	REP-P	85-11-041
16-666-140	NEW-P	85-10-051	106-120-028	NEW-P	85-03-086	120-06-030	REP-P	85-11-041
16-666-140	NEW-W	85-12-053	106-120-028	NEW	85-07-032	120-06-040	REP-P	85-11-041
16-750-010	AMD-P	85-03-102	106-120-030	REP-P	85-03-086	120-06-050	REP-P	85-11-041
16-750-010	AMD	85-07-003	106-120-030	REP	85-07-032	120-06-060	REP-P	85-11-041
51-10	AMD-P	85-02-055	106-120-031	REP-P	85-03-086	120-06-070	REP-P	85-11-041
51-10	AMD	85-03-095	106-120-031	REP	85-07-032	120-06-080	REP-P	85-11-041
51-10	AMD	85-07-036	106-120-032	REP-P	85-03-086	120-06-090	REP-P	85-11-041
67-25-005	AMD-P	85-03-081	106-120-032	REP	85-07-032	120-06-100	REP-P	85-11-041
67-25-005	AMD	85-06-030	106-120-033	NEW-P	85-03-086	120-06-110	REP-P	85-11-041
67-25-180	REP-E	85-13-023	106-120-033	NEW	85-07-032	120-06-120	REP-P	85-11-041
67-25-185	REP-E	85-13-023	106-120-040	REP-P	85-03-086	120-08-010	REP-P	85-11-041
67-25-190	REP-E	85-13-023	106-120-040	REP	85-07-032	120-52-010	REP-P	85-11-041
67-25-200	REP-E	85-13-023	106-120-041	REP-P	85-03-086	120-52-030	REP-P	85-11-041
67-25-257	NEW-P	85-03-081	106-120-041	REP	85-07-032	120-52-050	REP-P	85-11-041
67-25-257	NEW	85-06-030	106-120-042	REP-P	85-03-086	120-52-070	REP-P	85-11-041
67-25-420	AMD-P	85-03-081	106-120-042	REP	85-07-032	120-52-090	REP-P	85-11-041
67-25-420	AMD	85-06-030	106-120-043	REP-P	85-03-086	132B-122-010	NEW-P	85-04-051
67-45-010	REP-E	85-09-039	106-120-043	REP	85-07-032	132B-122-010	NEW	85-08-025
67-45-020	REP-E	85-09-039	106-120-050	REP-P	85-03-086	132C-104-060	AMD-P	85-07-050
67-45-030	REP-E	85-09-039	106-120-050	REP	85-07-032	132C-104-060	AMD	85-13-024
67-45-040	REP-E	85-09-039	106-120-051	REP-P	85-03-086	132C-120-010	AMD-P	85-07-051
67-45-045	REP-E	85-09-039	106-120-051	REP	85-07-032	132C-120-010	AMD	85-13-067
67-45-050	REP-E	85-09-039	106-120-053	REP-P	85-03-086	132C-120-015	AMD-P	85-07-051
67-45-060	REP-E	85-09-039	106-120-053	REP	85-07-032	132C-120-015	AMD	85-13-067
67-45-070	REP-E	85-09-039	106-120-055	REP-P	85-03-086	132C-120-020	AMD-P	85-07-051

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137-60-020	AMD	85-04-015	140-08-030	REP	85-03-004	173-19-3701	AMD-P	85-06-065
137-70-040	AMD-P	85-09-056	140-08-040	REP	85-03-004	173-19-3701	AMD	85-09-043
137-70-040	AMD	85-12-020	140-08-050	REP	85-03-004	173-19-3903	AMD-P	85-06-065
137-70-060	AMD-P	85-03-103	140-08-060	REP	85-03-004	173-19-3903	AMD	85-09-043
137-70-060	AMD	85-07-017	140-08-070	REP	85-03-004	173-19-4402	AMD-P	85-13-053
137-70-070	AMD-P	85-03-103	140-08-080	REP	85-03-004	173-19-450	AMD-C	85-03-046
137-70-070	AMD	85-07-017	140-08-090	REP	85-03-004	173-19-450	AMD	85-04-040
139-04-010	AMD-P	85-03-076	140-08-100	REP	85-03-004	173-20-120	AMD-P	85-06-065
139-04-010	AMD	85-08-010	140-08-110	REP	85-03-004	173-20-120	AMD	85-09-043
139-08-005	AMD-P	85-03-077	140-09-010	NEW	85-03-004	173-20-130	AMD-P	85-06-065
139-08-005	AMD	85-08-011	140-09-020	NEW	85-03-004	173-20-130	AMD	85-09-043
139-08-010	REP-P	85-03-077	140-09-030	NEW	85-03-004	173-20-550	AMD-P	85-06-065
139-08-010	REP	85-08-011	140-09-040	NEW	85-03-004	173-20-550	AMD	85-09-043
139-08-014	NEW-W	85-07-039	140-09-050	NEW	85-03-004	173-20-700	AMD-P	85-06-065
139-08-020	REP-P	85-03-077	140-09-058	NEW	85-03-004	173-20-700	AMD	85-09-043
139-08-020	REP	85-08-011	140-09-065	NEW	85-03-004	173-22-040	AMD-P	85-06-065
139-08-030	REP-P	85-03-077	140-09-080	NEW	85-03-004	173-22-040	AMD	85-09-043
139-08-030	REP	85-08-011	140-09-090	NEW	85-03-004	173-22-060	AMD-P	85-06-065
139-08-040	AMD-P	85-03-077	140-09-100	NEW	85-03-004	173-22-060	AMD	85-09-043
139-08-040	AMD	85-08-011	140-09-110	NEW	85-03-004	173-22-060	AMD-P	85-09-066
139-08-060	REP-P	85-03-077	140-09-120	NEW	85-03-004	173-22-060	AMD-C	85-13-029
139-08-060	REP	85-08-011	140-09-128	NEW	85-03-004	173-144-010	NEW-E	85-03-075
139-08-090	AMD-P	85-03-077	140-09-130	NEW	85-03-004	173-144-010	NEW-E	85-09-067
139-08-090	AMD	85-08-011	140-09-140	NEW	85-03-004	173-144-020	NEW-E	85-03-075
139-08-130	AMD-P	85-03-077	140-09-150	NEW	85-03-004	173-144-020	NEW-E	85-09-067
139-08-130	AMD	85-08-011	140-09-155	NEW	85-03-004	173-144-030	NEW-E	85-03-075
139-08-150	AMD-P	85-03-077	140-09-160	NEW	85-03-004	173-144-030	NEW-E	85-09-067
139-08-150	AMD	85-08-011	140-09-173	NEW	85-03-004	173-144-040	NEW-E	85-03-075
139-08-240	AMD-P	85-03-077	140-09-175	NEW	85-03-004	173-144-040	NEW-E	85-09-067
139-08-240	AMD	85-08-011	140-09-180	NEW	85-03-004	173-144-050	NEW-E	85-03-075
139-08-270	AMD-P	85-03-077	140-09-185	NEW	85-03-004	173-144-050	NEW-E	85-09-067
139-08-270	AMD	85-08-011	140-09-200	NEW	85-03-004	173-144-060	NEW-E	85-03-075
139-08-280	AMD-P	85-03-077	140-09-220	NEW	85-03-004	173-144-060	NEW-E	85-09-067
139-08-280	AMD	85-08-011	140-09-230	NEW	85-03-004	173-144-070	NEW-E	85-03-075
139-08-290	AMD-P	85-03-077	142-30-010	AMD-E	85-08-014	173-144-070	NEW-E	85-09-067
139-08-290	AMD	85-08-011	142-30-010	AMD-P	85-11-071	173-144-080	NEW-E	85-03-075
139-08-320	AMD-P	85-03-077	173-14-040	AMD-P	85-06-065	173-144-080	NEW-E	85-09-067
139-08-320	AMD	85-08-011	173-14-040	AMD	85-09-043	173-144-090	NEW-E	85-03-075
139-08-330	AMD-P	85-03-077	173-14-064	AMD-P	85-06-065	173-144-090	NEW-E	85-09-067
139-08-330	AMD	85-08-011	173-14-064	AMD	85-09-043	173-145-010	NEW-P	85-10-071
139-08-350	AMD-P	85-03-077	173-14-090	AMD-P	85-06-065	173-145-020	NEW-P	85-10-071
139-08-350	AMD	85-08-011	173-14-090	AMD	85-09-043	173-145-030	NEW-P	85-10-071
139-08-360	AMD-P	85-03-077	173-14-110	AMD-P	85-06-065	173-145-040	NEW-P	85-10-071
139-08-360	AMD	85-08-011	173-14-115	AMD-P	85-06-065	173-145-050	NEW-P	85-10-071
139-08-370	AMD-P	85-03-077	173-14-115	AMD	85-09-043	173-145-060	NEW-P	85-10-071
139-08-370	AMD	85-08-011	173-14-130	AMD-P	85-06-065	173-145-070	NEW-P	85-10-071
139-08-390	REP-P	85-03-077	173-14-130	AMD	85-09-043	173-145-080	NEW-P	85-10-071
139-08-390	REP	85-08-011	173-16-030	AMD-P	85-06-065	173-145-090	NEW-P	85-10-071
139-08-400	REP-P	85-03-077	173-16-030	AMD	85-09-043	173-145-100	NEW-P	85-10-071
139-08-400	REP	85-08-011	173-16-070	AMD-P	85-06-065	173-145-110	NEW-P	85-10-071
139-08-410	REP-P	85-03-077	173-16-070	AMD	85-09-043	173-145-120	NEW-P	85-10-071
139-08-410	REP	85-08-011	173-18-380	AMD-P	85-06-065	173-145-130	NEW-P	85-10-071
139-08-420	REP-P	85-03-077	173-18-380	AMD	85-09-043	173-145-140	NEW-P	85-10-071
139-08-420	REP	85-08-011	173-19-130	AMD-P	85-12-049	173-145-150	NEW-P	85-10-071
139-08-430	REP-P	85-03-077	173-19-2204	AMD-P	85-07-061	173-150	NEW-C	85-08-032
139-08-430	REP	85-08-011	173-19-2204	AMD	85-10-030	173-150-010	NEW	85-12-017
139-08-440	REP-P	85-03-077	173-19-230	AMD-P	85-10-072	173-150-020	NEW	85-12-017
139-08-440	REP	85-08-011	173-19-230	AMD	85-12-051	173-150-030	NEW	85-12-017
139-08-450	REP-P	85-03-077	173-19-240	AMD-P	85-06-065	173-150-040	NEW	85-12-017
139-08-450	REP	85-08-011	173-19-240	AMD	85-09-043	173-150-050	NEW	85-12-017
139-08-460	REP-P	85-03-077	173-19-250	AMD-P	85-10-073	173-150-060	NEW	85-12-017
139-08-460	REP	85-08-011	173-19-250	AMD	85-13-054	173-150-070	NEW	85-12-017
139-08-470	REP-P	85-03-077	173-19-2501	AMD-P	85-10-073	173-150-080	NEW	85-12-017
139-08-470	REP	85-08-011	173-19-2501	AMD	85-13-054	173-150-090	NEW	85-12-017
139-08-480	REP-P	85-03-077	173-19-2511	AMD-P	85-06-065	173-150-100	NEW	85-12-017
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220-57-52000F	REP-E	85-03-074	220-57-52000F	REP-E	85-03-074
220-57-52500F	REP-E	85-03-074	220-57-52500F	REP-E	85-03-074
220-57A-00100B	NEW-E	85-08-005	220-57A-00100B	NEW-E	85-08-005
220-57A-010	AMD-P	85-03-110	220-57A-010	AMD-P	85-03-110
220-57A-010	AMD-C	85-09-016	220-57A-010	AMD-C	85-09-016
220-57A-010	AMD	85-09-017	220-57A-010	AMD	85-09-017
220-57A-012	AMD-P	85-03-110	220-57A-012	AMD-P	85-03-110
220-57A-012	AMD-C	85-09-016	220-57A-012	AMD-C	85-09-016
220-57A-012	AMD	85-09-017	220-57A-012	AMD	85-09-017
220-57A-037	AMD-P	85-03-110	220-57A-037	AMD-P	85-03-110
220-57A-037	AMD-C	85-09-016	220-57A-037	AMD-C	85-09-016
220-57A-037	AMD	85-09-017	220-57A-037	AMD	85-09-017
220-57A-040	AMD-P	85-03-110	220-57A-040	AMD-P	85-03-110
220-57A-040	AMD-C	85-09-016	220-57A-040	AMD-C	85-09-016
220-57A-040	AMD	85-09-017	220-57A-040	AMD	85-09-017
220-57A-080	AMD-P	85-03-110	220-57A-080	AMD-P	85-03-110
220-57A-080	AMD-C	85-09-016	220-57A-080	AMD-C	85-09-016
220-57A-080	AMD	85-09-017	220-57A-080	AMD	85-09-017
220-57A-112	AMD-P	85-03-110	220-57A-112	AMD-P	85-03-110
220-57A-112	AMD-C	85-09-016	220-57A-112	AMD-C	85-09-016
220-57A-112	AMD	85-09-017	220-57A-112	AMD	85-09-017
220-57A-152	AMD-P	85-03-110	220-57A-152	AMD-P	85-03-110
220-57A-152	AMD-C	85-09-016	220-57A-152	AMD-C	85-09-016
220-57A-152	AMD	85-09-017	220-57A-152	AMD	85-09-017
220-57A-185	AMD-P	85-03-110	220-57A-185	AMD-P	85-03-110
220-57A-185	AMD-C	85-09-016	220-57A-185	AMD-C	85-09-016
220-57A-185	AMD	85-09-017	220-57A-185	AMD	85-09-017
220-57A-190	AMD-P	85-03-110	220-57A-190	AMD-P	85-03-110
220-57A-190	AMD-C	85-09-016	220-57A-190	AMD-C	85-09-016
220-57A-190	AMD	85-09-017	220-57A-190	AMD	85-09-017
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220-95-021	AMD 85-11-011	230-46-050	NEW-P 85-06-003	248-19-310	AMD-P 85-07-044
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248-63-080	AMD-P	85-06-006	261-20	AMD-P	85-13-045	275-35-030	NEW-P	85-05-031
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248-63-150	AMD-P	85-06-006	261-20-090	AMD	85-04-026	275-35-040	NEW-P	85-05-031
248-63-160	AMD-P	85-06-006	261-40-170	NEW-P	85-13-021	275-35-040	NEW	85-09-003
248-63-170	AMD-P	85-06-006	261-40-170	NEW-W	85-13-039	275-35-050	NEW-P	85-05-031
248-63-180	AMD-P	85-06-006	261-40-170	NEW-P	85-13-040	275-35-050	NEW	85-09-003
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248-100-163	AMD-P	85-03-062	275-32-005	REP	85-09-003	275-35-080	NEW-P	85-05-031
248-100-163	RESCIND	85-07-027	275-32-010	REP-P	85-05-031	275-35-080	NEW	85-09-003
248-100-164	AMD-E	85-03-055	275-32-010	REP	85-09-003	275-35-090	NEW-P	85-05-031
248-100-164	AMD-P	85-03-062	275-32-015	REP-P	85-05-031	275-35-090	NEW	85-09-003
248-100-164	RESCIND	85-07-027	275-32-015	REP	85-09-003	275-35-100	NEW-P	85-05-031
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250-44-050	AMD-P	85-06-058	275-32-035	REP-P	85-05-031	275-37-010	NEW	85-09-003
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250-44-110	AMD-P	85-06-058	275-32-045	REP-P	85-05-031	275-37-020	NEW	85-09-003
250-44-110	AMD	85-10-022	275-32-045	REP	85-09-003	275-38-001	AMD-P	85-03-006
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250-44-120	AMD	85-10-022	275-32-060	REP	85-09-003	275-38-001	AMD	85-06-063
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250-44-130	AMD	85-10-022	275-32-065	REP	85-09-003	275-38-745	AMD-E	85-03-007
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251-09-090	AMD-P	85-06-067	275-32-115	REP	85-09-003	275-38-860	AMD-E	85-03-007
251-09-092	NEW-P	85-06-067	275-32-135	REP-P	85-05-031	275-38-860	AMD	85-06-063
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