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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

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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

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## STATE MAXIMUM INTEREST RATE

The maximum allowable interest rate applicable for the month of April 1988 pursuant to RCW 19.52.020 is twelve percent (12%).

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

The maximum allowable retail installment contract service charge applicable for calendar year 1988 pursuant to RCW 63.14.130(1)(a) is twelve and one-quarter percent (12¼%).

The maximum allowable retail installment contract service charge for the purchase of a motor vehicle pursuant to RCW 63.14.130(2)(a) is twelve percent (12%) for the second calendar quarter of 1988.

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# WASHINGTON STATE REGISTER

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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 are 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 MATERIAL

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 material is new material;
  - (ii) ~~deleted material 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's office. 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's office 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's office 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.

1987 - 1988

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Action Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
For Inclusion in—	File no later than—			Count 20 days from—	For hearing/adoption on or after
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<sup>1</sup>All documents are due at the code reviser's office by 5:00 p.m. on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

<sup>2</sup>A 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.

<sup>3</sup>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 88-07-001****ATTORNEY GENERAL OPINION****Cite as: AGO 1987 No. 23 Addendum**

[March 2, 1988]

**JUVENILE COURTS—PROCEEDINGS—SHELTER CARE—  
DEPENDENCY—ALTERNATIVE RESIDENTIAL PLACE-  
MENT—REMOVAL OF A CHILD**

A court order for out-of-home placement entered pursuant to RCW 13.34.130(3) necessarily entails a judicial determination that removal of a child from the home is in the best interests of the child.

A court order for out-of-home placement entered pursuant to RCW 13.34.130(3) necessarily requires removal of the child from the home.

**Requested by:**

Honorable Jule E. Sugarman  
Secretary, Department of Social  
and Health Services  
4th Floor, OB-2 Mail Stop OB-44  
Olympia, Washington 98504

**WSR 88-07-002****ADOPTED RULES****STATE BOARD OF EDUCATION**

[Order 7-88—Filed March 3, 1988]

Be it resolved by the State Board of Education, acting at the Westwater Inn, Olympia, Washington, that it does adopt the annexed rules relating to Professional certification—Approved preparation programs by colleges and universities, chapter 180-78 WAC.

This action is taken pursuant to Notice No. WSR 88-03-025 filed with the code reviser on January 13, 1988. 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 28A.70.005 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 January 29, 1988.

By Monica Schmidt  
Secretary

Chapter 180-78 WAC  
**PROFESSIONAL CERTIFICATION—APPROVED  
PREPARATION PROGRAMS ((DEVELOPMENT  
AND APPROVAL)) BY COLLEGES AND UNI-  
VERSITIES**

**NEW SECTION**

WAC 180-78-007 INTENT OF STATE STANDARDS. All state standards prescribed in this chapter for the approval of professional preparation programs are minimal standards for state approval. Colleges or universities may and are encouraged to develop program standards which exceed the minimums herein prescribed.

**NEW SECTION**

WAC 180-78-008 PUBLIC POLICY PURPOSES OF SBE APPROVAL OF PROFESSIONAL PREPARATION PROGRAM. The public policy purposes of state board of education approval of professional preparation programs are:

(1) To ensure that representatives of recognized professional associations and local school districts regularly participate in decisions related to professional preparation programs.

(2) To ensure that responsibilities for the management of the professional preparation program are clearly assigned and that an organizational structure exists that defines the accountability for decision making regarding the professional preparation program by the college or university.

(3) To ensure that the resources necessary to develop and maintain quality professional preparation programs are available and being used appropriately.

(4) To ensure that procedures for selecting and retaining candidates for the professional preparation are consistent with the goals and objectives of the state board of education.

(5) To ensure that all candidates in the professional preparation program complete a planned program and demonstrate the knowledge and skills described in the state board of education's standards.

(6) To ensure that all candidates in the professional preparation program have ongoing opportunities to participate in school-based learning activities throughout their program.

(7) To ensure that the professional preparation program is based on a theoretical and research-based framework, reviewed regularly, and revised on the basis of the evaluation of the program and relevant new knowledge in the field.

**AMENDATORY SECTION** (Amending Order 3-87, filed 4/3/87)

WAC 180-78-010 DEFINITION OF TERMS. The following definitions shall be used in this chapter:

(1) (~~"Accreditation" means a process whereby a preparation program is reviewed and determined by an accrediting agency to meet prespecified standards. Programs may be accredited by states, regional accrediting associations, or national professional organizations such as the national council for accreditation of teacher education (NCATE). Such accreditation shall not replace state board of education program approval in Washington state.~~

(2) ~~"Agency" means those groups, entities, associations, and the like recognized in WAC 180-78-030 as~~

having a legitimate interest in the development of preparation programs:

(3)) "College or university" means any baccalaureate degree granting Washington institution of higher learning or cooperative group of such institutions which has or develops professional programs of preparation in education which are submitted to the state board of education for approval.

((4) "Cooperation" means the act of working together in a participatory mode.

(5)) (2) "Endorsement" means a specification placed on a certificate to indicate the subject area, grade level, and/or specialization for which the individual is prepared to teach or serve as an administrator or educational staff associate.

((6) "General professional organization" means the professional organization determined in accordance with election procedures defined in RCW 41.59.070 or a cooperative group of such employee representative organizations.

(7)) (3) "Interstate compact" means the contractual agreement among several states authorized by RCW 28A.93.010 and 28A.93.020 which facilitates interstate reciprocity.

((8) "Minimum generic standards" means those basic areas of knowledge and skill adopted by the state board of education as essential to a given professional role.

(9)) (4) "Program approval" means the approval by the state board of education of a preparation program within Washington state.

((10) "Program development" means the cooperative process employed to identify program outcomes and experiences essential to program approval.

(11) "Program outcomes" means the explicit objectives of preparation programs stated in terms of knowledge, skill, and performance.

(12) "Program unit" means a group of cooperating agencies in Washington state, the specific membership and form of which shall be established by the participating members. Any such unit must include at least one college/university, one school organization, and one general or specialized professional organization.

(13) "School organization" means any public or approved nonpublic school system or district or cooperative group of such organizations:

(14) "Site visit" means the process of an on-site review of preparation programs conducted pursuant to WAC 180-78-035 and 180-78-040.

(15) "Specialized associations" means the state-wide professional organization(s) recognized by the state board of education as having legitimate interest in the preparation of a respective professional role:))

#### NEW SECTION

WAC 180-78-026 EXISTING APPROVED PROGRAMS. Professional preparation programs approved prior to January 1, 1989, shall continue to be approved until such college or university seeks reapproval pursuant to WAC 180-78-029 which, upon request to the superintendent of public instruction, may be delayed until the 1990-91 academic year.

#### NEW SECTION

WAC 180-78-028 PROCEDURES FOR INITIAL APPROVAL OF A PROFESSIONAL PREPARATION PROGRAM. Each college or university desiring to establish a professional preparation program shall comply with the following:

(1) Advise the superintendent of public instruction of the desire to establish the professional preparation program.

(2) Establish the appropriate professional education advisory board.

(3) Develop, with the assistance of the professional education advisory board and designated officials of the superintendent of public instruction, a written plan which provides timelines for the implementation of all applicable program approval standards during the first year of the professional preparation program and submit such report to the superintendent of public instruction for review and comment and, if requested, resubmit such plan to the superintendent of public instruction.

(4) Present the written plan to the state board of education which shall approve such written plan and grant initial approval status if the state board of education is satisfied that the college or university intends to meet all program approval standards in accordance with reasonable and practical timelines and that the college or university has made the needed commitments, specifically personnel and other resources, to implement the plan: PROVIDED, That prior to making a judgment on the college or university's request for approval, the state board of education shall review, if provided, written and oral evidence presented by the following:

(a) The designated college or university official.

(b) The superintendent of public instruction.

(c) The chair of the applicable professional education advisory board.

(d) Any other official deemed by the state board of education to have a legitimate interest in the approval status of the college or university.

#### NEW SECTION

WAC 180-78-029 ANNUAL REAPPROVAL PROCESS. Colleges and universities with professional preparation programs approved by the state board of education shall request reapproval on an annual basis. Such reapproval shall be granted if the college or university provides the superintendent of public instruction with the following:

(1) An affidavit from the dean or director of the college, school, or other designation of the administrative unit required by WAC 180-78-150(5) that he or she has determined, to the best of his or her knowledge, that the professional preparation program is in compliance with the program approval rules for the professional preparation program or that the college or university has adopted a compliance plan which, in the opinion of the superintendent of public instruction, will bring the program into compliance as soon as reasonably practicable.

(2) The annual report as required by WAC 180-78-045.

(3) PROVIDED, That if the college or university is unable to provide the assurances required in subsection (1) of this section or if the superintendent of public instruction—after notice to the affected college or university and a reasonable opportunity for such college or university to resubmit—notifies the state board of education that the report required by WAC 180-78-045 is not in compliance, such college or university may make its request for reapproval directly to the state board of education. The state board of education shall make its determination regarding approval or disapproval on the basis of written and oral evidence, if provided, presented by the following:

- (a) The designated official of the college or university.
- (b) The superintendent of public instruction.
- (c) The chair of the affected professional education advisory board.
- (d) Any other official deemed by the state board of education to have a legitimate interest in the approval status of the college or university.

#### NEW SECTION

WAC 180-78-033 PROBATIONARY STATUS. Colleges and universities with approved preparation programs shall not lose official approval status until the superintendent of public instruction formally notifies the college or university that the state board of education has taken final action to disapprove the professional preparation program: PROVIDED, That colleges or universities shall be permitted for the current and one additional academic year following receipt of the formal notice of disapproval to continue as an approved professional preparation program on probationary status for the sole purpose of completing the professional preparation program for those candidates for certification currently enrolled in the professional preparation program and who are scheduled to complete such professional preparation program within such academic years and for the purpose, if elected, to regain state board of education approval.

#### NEW SECTION

WAC 180-78-036 SPI COMPLIANCE REVIEW OF PROFESSIONAL PREPARATION PROGRAMS. The superintendent of public instruction, upon receipt of a complaint from any source or upon his or her own initiative, may review all or any part of a professional preparation program for compliance with the provisions of this chapter. Such review is mandatory in the second year of operation of any new professional preparation program. If deviations are found, the superintendent of public instruction is authorized to negotiate with the college or university a compliance agreement which will bring the professional preparation program into compliance as soon as reasonably practicable but no later than the commencement of the succeeding academic year or six calendar months, whichever is later. If a compliance agreement is not negotiated, the superintendent of public instruction shall report such deviations to the state board of education which shall review the approval status of the college or university and make a

determination whether the college or university is in compliance. If noncompliance is found by the state board of education, the professional preparation program shall be placed on probationary status and the probationary status provision of WAC 180-78-033 shall apply: PROVIDED, That prior to making a judgment regarding compliance the state board of education shall review, if provided, written and oral evidence presented by the following:

- (1) The designated college or university official.
- (2) The superintendent of public instruction.
- (3) The chair of the affected professional education advisory board.
- (4) Any other official deemed by the state board of education to have a legitimate interest in the approval status of the college or university.

#### NEW SECTION

WAC 180-78-037 PROCEDURES FOR REESTABLISHMENT OF APPROVAL STATUS FOR A PROFESSIONAL PREPARATION PROGRAM. The procedures for the reestablishment of state board of education approval of a professional preparation program shall be the same as the procedure for initial approval as provided in WAC 180-78-028 except that, if the professional preparation program continues to operate pursuant to the probationary status provision of WAC 180-78-033, the superintendent of public instruction may limit the content of the written plan required by WAC 180-78-028(3) to program standards determined by the superintendent of public instruction to be the cause of the college or university's probationary status.

#### NEW SECTION

WAC 180-78-047 ANNUAL REPORT BY COLLEGES AND UNIVERSITIES. Each college or university offering an approved preparation program shall submit by June 30th of each year, an annual report containing the following:

- (1) The minutes of each professional education advisory board.
- (2) The number of candidates recommended for initial and continuing certificates by type of certificate and endorsement areas.
- (3) Other material related to the professional preparation programs requested by the superintendent of public instruction.

#### AMENDATORY SECTION (Amending Order 6-81, filed 6/1/81)

WAC 180-78-057 APPROVAL OF COURSES OFFERED BY AN OUT-OF-STATE COLLEGE OR UNIVERSITY APPLICABLE TO CERTIFICATION. In order for any course offered by an out-of-state college or university within the state of Washington to be applicable to Washington state certification, prior approval must be obtained by the out-of-state college or university from the state board of education or its designee within the office of the superintendent of public instruction.

A course offered under such circumstances must comply with the following requirements to qualify for approval:

(1) Be offered by a college or university which has met the provisions of chapter 28B.05 RCW or be exempt therefrom;

(2) Be offered by a college or university which is accredited in its respective region by the regional accrediting association and accredited by the Northwest Regional Accrediting Association to offer courses or programs in Washington state;

(3) Be offered by a college or university which is approved in its respective home state for purposes of preparing personnel for certification to serve in the common schools;

(4) Meet the "state board of education standards for off-campus offerings in education;"

(5) File an application and provide evidence to the state board of education that the preceding requirements are met:

(6) PROVIDED, That no college or university within the state of Washington having an approved professional education program shall be required to accept such course work as part of a certificate program: AND PROVIDED FURTHER, That no out-of-state college or university shall offer a program of courses within Washington state for purposes of Washington state certification without meeting all program approval requirements set forth in ((WAC 180-78-050)) this chapter.

AMENDATORY SECTION (Amending Order 12-78, filed 9/1/78)

WAC 180-78-060 PREPARATION OF SUPERINTENDENTS. In accordance with RCW 28B.10.140, the only public institutions authorized to ((provide training)) recommend an endorsement for superintendents ((over and above that required for teachers' or principals' certificates)) shall be the University of Washington and Washington State University.

#### NEW SECTION

WAC 180-78-063 RESPONSIBILITIES OF DEANS, DIRECTORS, OR OTHER DESIGNATED ADMINISTRATOR. Each college or university operating an approved preparation program shall require the dean, director, or other designee of the administrative unit required by WAC 180-78-150(5) to coordinate the following college or university responsibilities:

(1) Formation of professional education advisory boards.

(2) Management of operations and resources for each professional preparation program.

(3) Filing of affidavits and reports required by this chapter and chapter 180-75 WAC.

(4) Dissemination of information relative to certification procedures and requirements.

(5) The application process for professional certification.

#### NEW SECTION

WAC 180-78-065 REQUIRED PROFESSIONAL EDUCATION ADVISORY BOARD. Colleges and universities seeking approval by the state board of education as an approved professional preparation program and in order to maintain such approval status shall establish a professional education advisory board for each of the following program areas for which the college or university seeks approval or maintains an approved preparation program:

(1) Teacher.

(2) Administrator.

(3) Educational staff associate, communication disorder specialist.

(4) Educational staff associate, school counselor.

(5) Educational staff associate, reading resource specialist.

(6) Educational staff associate, school psychologist.

(7) Educational staff associate, school social worker.

(8) Educational staff associate, school nurse.

(9) Educational staff associate, school physical therapist.

(10) Educational staff associate, school occupational therapist.

(11) PROVIDED, That a college or university may combine any or all professional education advisory boards for educational staff associate professional preparation programs as long as the membership thereof consists of the following:

(a) One or more educational staff associates appointed by the president of the respective professional association specified in WAC 180-78-085 through 180-78-120 for each professional preparation program within the college or university and that such membership by educational staff associates constitutes one-half or more of the membership on the combined educational staff associate professional education advisory board.

(b) One or more classroom teachers appointed by the president of the Washington education association.

(c) One or more principals appointed by the president of the association of Washington school principals.

(d) One or more administrators appointed by the president of the Washington association of school administrators.

(e) The chief administrator of each professional preparation program as designated by the college or university president. The college or university president also shall appoint one of such chief administrators as the executive officer of such combined board who shall be responsible for administering all combined board activities, including liaison with the faculty: PROVIDED, That if the college or university elects to have such chief administrators serve as nonvoting members of the combined board, such membership shall not count for the purpose of compliance with (a) of this subsection.

(12) PROVIDED, FURTHER, That the failure of a designated organization, as specified in WAC 180-78-075 through 180-78-120 to make appointments to the designated board, or to make such appointments in a timely manner, shall not cause the approved professional preparation program to lose its approval status.

NEW SECTION

WAC 180-78-068 JOINT PROFESSIONAL EDUCATION ADVISORY BOARD. Any two or more colleges and/or universities may agree to have the same professional education advisory board for their respective professional preparation program at such college or university.

NEW SECTION

WAC 180-78-070 TERMS OF SERVICE FOR PROFESSIONAL EDUCATION ADVISORY BOARD MEMBERS. Terms of service on professional education advisory boards shall be designated in the by-laws of such boards.

NEW SECTION

WAC 180-78-073 QUALIFICATION TO BE APPOINTED TO PROFESSIONAL EDUCATION ADVISORY BOARDS. Except as otherwise provided in WAC 180-78-074, appointees to service on professional education advisory boards from required agencies, other than the designee of the college or university president, at the time of their appointment must be employed in or reside in a school district with which the college or university has a current contract to provide field experiences for students involved in the professional preparation program for which the professional education advisory board has responsibility. The purpose of this section is to ensure that the interest of such districts are considered in the deliberative process of the respective professional education advisory board.

NEW SECTION

WAC 180-78-074 ADDITIONAL MEMBERSHIP ON PROFESSIONAL EDUCATION ADVISORY BOARDS. Once established in accordance with the membership requirements of this chapter, professional education advisory boards may authorize the appointment of additional representatives from other school districts or other public and private agencies as long as one-half or more of the members of the professional education advisory board consist of representatives from the role for which the professional education advisory board has responsibility. If any professional education advisory board receives a written request from other school districts or other public or private agencies for representation on such professional education advisory board, the current members of such professional education advisory board shall vote on such request at the next regular meeting of such board: PROVIDED, That a college or university may elect to add private school representatives to a professional education advisory board without adding to the representation from the role for which the professional education advisory board has responsibility if the professional education advisory board authorizes such action by a majority vote.

NEW SECTION

WAC 180-78-075 PROFESSIONAL EDUCATION ADVISORY BOARD FOR TEACHER PREPARATION PROGRAMS. The professional education advisory board for the teacher preparation program shall consist of the following:

(1) One-half or more of classroom teachers appointed by the president of the Washington education association from nominations submitted by the presidents of local units of the association: PROVIDED, That a private college or university that has placed more than fifty percent of its graduates of the teacher certification program within the previous three academic years in private schools may appoint up to one-half of the classroom teachers required by this subsection from nominations from faculties of private schools in which the college or universities places student teachers or teachers.

(2) One or more principals appointed by the president of the Washington association of school administrators.

(3) One or more administrators appointed by the president of the association of Washington school principals.

(4) One or more college or university faculty or administrators appointed by the college or university president including the chief administrator for the teacher preparation program at the college or university, as designated by the college or university president. Such chief administrator shall serve as the executive officer of the board and shall be responsible for administering all board activities, including liaison with faculty: PROVIDED, That if the college or university elects to have such chief administrator or faculty or administrators serve as a nonvoting member, such membership shall not count for the purpose of compliance with subsection (1) of this section.

NEW SECTION

WAC 180-78-080 PROFESSIONAL EDUCATION ADVISORY BOARD FOR ADMINISTRATOR PREPARATION PROGRAM. The professional education advisory board for the administrator preparation program shall consist of the following:

(1) One-half or more of administrators, one-half appointed by the president of the Washington association of school administrators of which at least one appointee shall be a program administrator and one-half appointed by the president of the association of Washington school principals.

(2) One or more classroom teachers appointed by the president of the Washington education association.

(3) One or more college or university faculty or administrators appointed by the college or university president including the chief administrator for the administrator preparation program at the college or university, as designated by the college or university president. Such chief administrator shall serve as the executive officer of the board and shall be responsible for administering all board activities, including liaison with the faculty: PROVIDED, That if the college or university elects to have such chief administrator or faculty or administrators serve as a nonvoting member, such membership shall not

count for the purpose of compliance with subsection (1) of this section.

#### NEW SECTION

WAC 180-78-085 PROFESSIONAL EDUCATION ADVISORY BOARD FOR ESA, CDS. The professional education advisory board for the educational staff associate professional preparation program for communication disorder specialist shall consist of the following:

(1) One-half or more of communication disorder specialists appointed by the president of the Washington speech and hearing association.

(2) One or more classroom teachers appointed by the president of the Washington education association.

(3) One or more principals appointed by the president of the association of Washington school principals.

(4) One or more administrators appointed by the president of the Washington association of school administrators.

(5) One or more college or university faculty or administrators appointed by the college or university president including the chief administrator of the communication disorder specialist preparation program, as designated by the college or university president. Such chief administrator shall serve as the executive officer of the board and shall be responsible for administering all board activities, including liaison with the faculty: PROVIDED, That if the college or university elects to have such chief administrator or faculty or administrators serve as a nonvoting member, such membership shall not count for the purpose of compliance with subsection (1) of this section.

#### NEW SECTION

WAC 180-78-090 PROFESSIONAL EDUCATION ADVISORY BOARD FOR ESA, SCHOOL COUNSELOR. The professional education advisory board for the educational staff associate professional preparation program for school counselors shall consist of the following:

(1) One-half or more of school counselors appointed by the president of the Washington school counselors association.

(2) One or more classroom teachers appointed by the president of the Washington education association.

(3) One or more principals appointed by the president of the association of Washington school principals.

(4) One or more administrators appointed by the president of the Washington association of school administrators.

(5) One or more college or university faculty or administrators appointed by the college or university president including the chief administrator of the school counselor preparation program, as designated by the college or university president. Such chief administrator shall serve as the executive officer of the board and shall be responsible for administering all board activities, including liaison with the faculty: PROVIDED, That if

the college or university elects to have such chief administrator or faculty or administrators serve as a nonvoting member, such membership shall not count for the purpose of compliance with subsection (1) of this section.

#### NEW SECTION

WAC 180-78-095 PROFESSIONAL EDUCATION ADVISORY BOARD FOR ESA, READING RESOURCE SPECIALIST. The professional education advisory board for the educational staff associate professional preparation program for reading resource specialist shall consist of the following:

(1) One-half or more of reading resource specialists appointed by the president of the Washington chapter of the international reading association.

(2) One or more classroom teachers appointed by the president of the Washington education association.

(3) One or more principals appointed by the president of the association of Washington school principals.

(4) One or more administrators appointed by the president of the Washington association of school administrators.

(5) One or more college or university faculty or administrators appointed by the college or university president including the chief administrator of the reading resource specialist preparation program, as designated by the college or university president. Such chief administrator shall serve as the executive officer of the board and shall be responsible for administering all board activities, including liaison with the faculty: PROVIDED, That if the college or university elects to have such chief administrator or faculty or administrators serve as a nonvoting member, such membership shall not count for the purpose of compliance with subsection (1) of this section.

#### NEW SECTION

WAC 180-78-100 PROFESSIONAL EDUCATION ADVISORY BOARD FOR ESA, SCHOOL PSYCHOLOGIST. The professional education advisory board for the educational staff associate professional preparation program for school psychologist shall consist of the following:

(1) One-half or more of school psychologists appointed by the president of the Washington association of school psychologists.

(2) One or more classroom teachers appointed by the president of the Washington education association.

(3) One or more principals appointed by the president of the association of Washington school principals.

(4) One or more administrators appointed by the president of the Washington association of school administrators.

(5) One or more college or university faculty or administrators appointed by the college or university president including the chief administrator of the school psychologist preparation program, as designated by the college or university president. Such chief administrator shall serve as the executive officer of the board and shall

be responsible for administering all board activities, including liaison with the faculty: PROVIDED, That if the college or university elects to have such chief administrator or faculty or administrators serve as a non-voting member, such membership shall not count for the purpose of compliance with subsection (1) of this section.

#### NEW SECTION

WAC 180-78-105 PROFESSIONAL EDUCATION ADVISORY BOARD FOR ESA, SCHOOL SOCIAL WORKER. The professional education advisory board for the educational staff associate professional preparation program for school social workers shall consist of the following:

(1) One-half or more of school social workers appointed by the president of the Washington association of school social workers.

(2) One or more classroom teachers appointed by the president of the Washington education association.

(3) One or more principals appointed by the president of the association of Washington school principals.

(4) One or more administrators appointed by the president of the Washington association of school administrators.

(5) One or more college or university faculty or administrators appointed by the college or university president including the chief administrator of the school social workers preparation program, as designated by the college or university president. Such chief administrator shall serve as the executive officer of the board and shall be responsible for administering all board activities, including liaison with the faculty: PROVIDED, That if the college or university elects to have such chief administrator or faculty or administrators serve as a non-voting member, such membership shall not count for the purpose of compliance with subsection (1) of this section.

#### NEW SECTION

WAC 180-78-110 PROFESSIONAL EDUCATION ADVISORY BOARD FOR ESA, SCHOOL NURSE. The professional education advisory board for the educational staff associate professional preparation program for school nurses shall consist of the following:

(1) One-half or more of school nurses selected by the president of the school nurses organization of Washington.

(2) One or more classroom teachers appointed by the president of the Washington education association.

(3) One or more principals appointed by the president of the association of Washington school principals.

(4) One or more administrators appointed by the president of the Washington association of school administrators.

(5) One or more college or university faculty or administrators appointed by the college or university president including the chief administrator of the school nurse preparation program, as designated by the college or university president. Such chief administrator shall serve as the executive officer of the board and shall be

responsible for administering all board activities, including liaison with the faculty: PROVIDED, That if the college or university elects to have such chief administrator or faculty or administrators serve as a nonvoting member, such membership shall not count for the purpose of compliance with subsection (1) of this section.

#### NEW SECTION

WAC 180-78-115 PROFESSIONAL EDUCATION ADVISORY BOARD FOR ESA, SCHOOL PHYSICAL THERAPIST. The professional education advisory board for the educational staff associate professional preparation program for school physical therapists shall consist of the following:

(1) One-half or more of school physical therapists appointed by the president of the Washington state physical therapy association.

(2) One or more classroom teachers appointed by the president of the Washington education association.

(3) One or more principals appointed by the president of the association of Washington school principals.

(4) One or more administrators appointed by the president of the Washington association of school administrators.

(5) One or more college or university faculty or administrators appointed by the college or university president including the chief administrator of the school physical therapist preparation program, as designated by the college or university president. Such chief administrator shall serve as the executive officer of the board and shall be responsible for administering all board activities, including liaison with the faculty: PROVIDED, That if the college or university elects to have such chief administrator or faculty or administrators serve as a nonvoting member, such membership shall not count for the purpose of compliance with subsection (1) of this section.

#### NEW SECTION

WAC 180-78-120 PROFESSIONAL EDUCATION ADVISORY BOARD FOR ESA, SCHOOL OCCUPATIONAL THERAPIST. The professional education advisory board for the educational staff associate professional preparation program for school occupational therapists shall consist of the following:

(1) One-half or more of school occupational therapists appointed by the president of the Washington state occupational therapy association.

(2) One or more classroom teachers appointed by the president of the Washington education association.

(3) One or more principals appointed by the president of the association of Washington school principals.

(4) One or more administrators appointed by the president of the Washington association of school administrators.

(5) One or more college or university faculty or administrators appointed by the college or university president including the chief administrator of the school occupational therapist preparation program, as designated by the college or university president. Such chief administrator shall serve as the executive officer of the board

and shall be responsible for administering all board activities, including liaison with the faculty: PROVIDED, That if the college or university elects to have such chief administrator or faculty or administrators serve as a nonvoting member, such membership shall not count for the purpose of compliance with subsection (1) of this section.

NEW SECTION

WAC 180-78-125 RESPONSIBILITIES OF PROFESSIONAL EDUCATION ADVISORY BOARDS. Professional education advisory boards shall perform the following responsibilities:

- (1) Elect a chair of the professional education advisory board.
- (2) Adopt bylaws which are consistent with the provisions of this chapter.
- (3) Meet at the call of the chair of the professional education advisory board or as provided in the bylaws of the professional education advisory board which, in either case, shall be at least four meetings per calendar year.
- (4) Advise the college or university regarding the development, implementation, and revision of the professional preparation program for the area represented by the professional education advisory board.
- (5) Review, evaluate, and make recommendations for each of the specific requirements of WAC 180-78-145 (2)(b).
- (6) Advise the superintendent of public instruction of needed changes in the administrative code affecting the professional preparation program for which the professional education advisory board has responsibility.
- (7) Review each year one or more program approval standards of WAC 180-78-140 and, as needed, formally notify the college or university in writing of changes the professional education advisory board believes are necessary or required to bring the college or university into compliance with the program approval standards for the professional preparation program.
- (8) Advise the quality review team as provided in WAC 180-78-190(3).
- (9) Perform any other function which has the mutual written approval of the college or university and the professional education advisory board.

NEW SECTION

WAC 180-78-130 SUBSTITUTE PAY FOR MEMBERS OF PROFESSIONAL EDUCATION ADVISORY BOARDS. Service on professional education advisory boards by certificated employees is deemed by the state board of education as a committee formed for the purpose of furthering education within the state; and, the superintendent of public instruction, in conformance with the provisions of RCW 28A.41.180, shall make payments to school districts for needed substitutes.

NEW SECTION

WAC 180-78-140 PROGRAM APPROVAL STANDARDS FOR APPROVED PREPARATION

PROGRAMS. The program approval standards for an approved preparation program are as follows:

(1) PROFESSIONAL EDUCATION ADVISORY BOARDS: The college or university, in conformance with the provision of WAC 180-78-145, has established and maintained a professional education advisory board to participate in and cooperate with the college or university on decisions related to the development, implementation, and revision of each professional preparation program—i.e., teacher, administrator, and affected educational staff associates.

(2) SEPARATE ADMINISTRATIVE UNIT: A separate college, school, department, or other administrative unit within the college or university, in conformance with the provision of WAC 180-78-150, has been established and maintained as responsible for professional preparation programs, including development of professional preparation programs, including curriculum, admission standards, and other matters related to the professional preparation programs.

(3) ADEQUATE RESOURCES: Adequate resources, in conformance with the provision of WAC 180-78-155, have been committed and are available to the professional preparation program in the areas of personnel, finance, learning resources, physical facilities, equipment, materials, and supplies that permit the offering of quality professional preparation programs.

(4) CANDIDATE ADMISSION AND RETENTION POLICIES: Policies, in conformance with the provision of WAC 180-78-160, have been established and maintained for admission to and retention in the professional preparation program.

(5) CANDIDATE KNOWLEDGE AND SKILLS POLICIES: Policies, in conformance with the provision of WAC 180-78-165, have been established and maintained requiring all candidates for certification to demonstrate knowledge and skills required in the state's requirements for the particular certificate and areas of endorsement.

(6) CANDIDATE FIELD EXPERIENCE POLICIES: Policies, in conformance with the provision of WAC 180-78-170, have been established and maintained requiring all candidates for certification to complete a field experience required in the state's requirements for the particular certificate.

(7) PROGRAM DEVELOPMENT: The college or university, in conformance with the provision of WAC 180-78-175, has based the components of the professional preparation program on a theoretically sound and research-based framework, has established procedures for the review of such theory and research regularly, and has made a commitment to revise the professional preparation program based on evaluation of the program and relevant new knowledge in the field.

NEW SECTION

WAC 180-78-145 EVIDENCE OF COMPLIANCE WITH PROFESSIONAL EDUCATION ADVISORY BOARD APPROVAL STANDARD. The following evidence shall be evaluated to determine whether each professional preparation program is in compliance with the program board approval standard of WAC 180-78-140(1).

(1) The professional education advisory board has been established in accordance with WAC 180-78-075 through 180-78-120.

(2) The professional education advisory board has carried out its responsibilities under WAC 180-78-125. In determining compliance with this subsection, the following written documentation must be available for review:

(a) Documentation is available that the professional education advisory board has participated in a review of and made recommendations about:

(i) The plan to provide all candidates for certification with field experiences with culturally diverse populations and with special education and highly capable students.

(ii) Revisions in the professional preparation program to reflect local district policies related to changing demographics, curriculum, organization, and federal and state laws, including administrative rules and case law.

(iii) The policies used to develop agreements between the college/universities and agencies providing field sites for field experiences.

(iv) Alternative professional preparation programs, if developed.

(v) The curriculum materials and media collection.

(vi) The evaluation data, including course, field, and follow-up data, on the professional preparation program's effectiveness.

(vii) The extent to which the college or university addresses the state board of education standards.

(viii) Recent professional developments which may impact the design of the professional preparation program.

(b) Written minutes are available for each meeting of each professional education advisory board including: Attendance by individuals and the agencies they represent; agenda items, substantive issues discussed, actions taken, and a list of all recommendations for change.

(c) Documentation from the college or university is available showing that each recommendation from each professional education advisory board during each academic year has been considered and acted upon by faculty committees or administrators—depending upon college or university governance—and, if delayed, modified, or not adopted, a rationale provided to the professional education advisory board as to why a recommendation was delayed, modified, or not adopted. All recommendations from professional education advisory boards shall be forwarded to appropriate faculty committees or administrators within two months of formal receipt by the chief administrator of the professional preparation program.

#### NEW SECTION

WAC 180-78-150 EVIDENCE OF COMPLIANCE WITH SEPARATE ADMINISTRATIVE UNIT PROGRAM APPROVAL STANDARD. The following evidence shall be evaluated to determine whether each professional preparation program is in compliance with the separate administrative unit program approval standard of WAC 180-78-140(2):

(1) The composition and organization of the separate administrative unit is clearly described in writing.

(2) The structure for maintaining effective two-way communications between the separate education unit and other affected departments within the college or university is described in writing.

(3) A clear, well-established, comprehensive set of written policies and procedures related to administration and operations exists and are made available to affected parties.

(4) Policy actions are accurately reported in the written records of the administrative unit. There is evidence that policies are reviewed, revised when necessary, implemented, and enforced.

(5) An officially designated administrator is responsible for the management of operations and resources for each professional preparation program.

(6) Specific staff members are assigned responsibility for and maintain accurate certification records.

(7) The decision-making structure for the separate administrative unit ensures participation of affected professional education advisory boards, faculty, and students.

#### NEW SECTION

WAC 180-78-155 EVIDENCE OF COMPLIANCE WITH ADEQUATE RESOURCES PROGRAM STANDARD. The following evidence shall be evaluated to determine whether each professional preparation program is in compliance with the adequate resources program approval standard of WAC 180-78-140(3):

(1) Personnel assigned teaching and administrative responsibilities have masters or doctoral degrees. With the exception of school occupational therapist and school physical therapist programs, teacher, administrator, and ESA programs have at least one FTE faculty member with a doctoral degree whose primary responsibility is to that specific professional preparation program.

(2) The composition of the faculty shall evidence compliance with affirmative action policies or the college or university must allocate sufficient resources to implement an effective affirmative action program.

(3) Written policies respecting faculty loads in the professional preparation department, division, or school have been established and provide recognition for various types of assignments—e.g., teaching undergraduate or graduate classes, advising, directing seminars, supervising clinical experiences, and directing theses and dissertations. Policies shall exist defining workload equivalents for special faculty assignments, including field experiences.

(4) Financial resources are available for faculty members to support their teaching, advising, writing, research, and other responsibilities. Supporting resources shall include, but not be limited to:

(a) Direct financial assistance for research and professional travel.

(b) Allocated annual budgeted funds for library resources to support course offerings.

(c) Secretarial help and resources such as copying machines, computers, etc.

(5) All faculty who are not full time shall meet the college and university requirements for appointment to

the full-time faculty and, upon initial appointment, shall be given a specially designed orientation to the professional preparation program.

(6) At least seventy-five percent of the required courses offered annually in each professional preparation program must be taught by full-time faculty or by adjunct faculty who are or will be involved annually in offering specific courses in the professional preparation program and who are invited to participate with the full-time faculty in all regular meetings related to the professional preparation program.

(7) The budget for the college and university professional preparation program's administrative unit is available for review. Information pertinent to each of the professional preparation programs is provided, including:

(a) Expenditures for administration, faculty, and support services.

(b) Income derived from tuition and fee charges.

(8) For each professional education program offered, all faculty, including adjunct faculty, have assigned space necessary to prepare for classes, conduct research and write, and meet privately with students.

(9) Facilities are accessible or alternative arrangements have been made for individuals with disabilities or handicaps.

(10) Centralized curriculum materials and media collections containing current examples of school and/or professional texts and supporting curriculum materials are available for student use.

(11) The library budget contains specific allotments for annual purchases to support the professional preparation program.

(12) Library holdings and those holdings readily accessible from other sources are reviewed at least once every five years using, where available, model listings and guidelines of professional organizations in order to maintain an adequate collection of the scope, breadth, and currency to support each professional preparation program.

#### NEW SECTION

WAC 180-78-160 EVIDENCE OF COMPLIANCE WITH CANDIDATE ADMISSION AND RETENTION POLICIES PROGRAM STANDARD. The following evidence shall be evaluated to determine whether each professional preparation program is in compliance with the candidate admission and retention policies program standard of WAC 180-78-140(4):

(1) Incentives and affirmative action procedures have been established to recruit quality candidates from underrepresented groups including those from diverse economic, racial, and cultural backgrounds. Support programs are provided to assist such candidates in successfully completing the professional preparation program.

(2) Admission requirements to the professional preparation programs include:

(a) A minimum 2.5 college or university grade point average.

(b) Evidence that the candidate is competent in the basic skills required for oral and written communication and computation.

(c) A combined score of not less than the state-wide median score for the prior school year scored by all persons taking the Washington Pre-College Test (WPCT) or an equivalent standard score on the comparable portions of the Scholastic Aptitude Test (SAT) American College Test (ACT), or the Graduate Record Examination (GRE). Equivalent standard scores shall be determined by the superintendent of public instruction and affected agencies shall be notified in official bulletins of the superintendent of public instruction.

(d) PROVIDED, That until June 30, 1989, college and universities with approved preparation programs may permit candidates to enter the professional preparation program with a minimum composite score of eighty or more on the verbal and quantitative subtests of the WPCT or an equivalent score on the comparable portion of the SAT, ACT, or GRE.

(e) PROVIDED FURTHER, That a candidate who does not meet one of the criteria within this subsection may be admitted on probationary status if the college or university provides individual tutorial assistance to such candidate and the candidate is required to meet the above stated criteria prior to participation in a field experience and exiting from the approved preparation program.

(3) Criteria for the selection and retention of candidates are relevant to the attainment of program outcomes and available for review by applicants, students, and faculty. These written criteria may include, but not be limited to, faculty recommendations, evidence of demonstrated competency in academic and professional work, and written recommendations from appropriate professionals in the schools.

(4) A written process exists describing the procedures for:

(a) Counseling and advising students about progress and retention in the professional preparation program.

(b) Supervision and evaluation relative to the completion of the professional preparation program.

(c) The appeal process for decisions relative to admission or retention in the professional preparation program.

(d) Providing information to candidates regarding supply and demand conditions in the candidate's field.

(e) Admission and retention of nontraditional candidates, such as midcareer candidates who wish to enter professional preparation programs, if established.

#### NEW SECTION

WAC 180-78-165 EVIDENCE OF COMPLIANCE WITH CANDIDATE KNOWLEDGE AND SKILLS POLICIES PROGRAM APPROVAL STANDARD. The following evidence shall be evaluated to determine whether each professional preparation program is in compliance with the candidate's knowledge and skills policies program approval standard of WAC 180-78-140(5):

(1) The applicable program approval requirements of WAC 180-78-210 through 180-78-300 are incorporated into course and field experience requirements of all candidates in the professional preparation program.

(2) Courses and field experiences addressing the state standards are evaluated by the students as to the extent to which the required state standards have been covered and by the instructor as to the extent to which the candidates achieve and/or demonstrate mastery of the required standards.

(3) Candidates complete the professional preparation program approved by the state board of education.

(4) The programs of study for each endorsement area include the state's minimum essential areas of study. Any additional requirements for an endorsement are developed by using the national association of state directors of teacher education and certification (or other professional association) standards as guidelines.

(5) Examples of test questions and answers, performance assessments, and other forms of evaluations used in courses, practica and other aspects of the program, verify the demonstration of all minimum state standards, including the respective general and role-specific minimum state standards.

(6) The required programs of study in each professional preparation program are designed to provide for individual differences in learner rate and style.

#### NEW SECTION

WAC 180-78-170 EVIDENCE OF COMPLIANCE WITH CANDIDATE FIELD EXPERIENCE POLICIES PROGRAM APPROVAL STANDARD. The following evidence shall be evaluated to determine whether each professional preparation program is in compliance with the candidate field experience policies program approval standard of WAC 180-78-140(6):

(1) Field experiences prior to student teaching, practicum, or internship requirements shall consist of no less than forty hours of structured observation of one or more professionals serving in the role for which the candidate is being prepared.

(2) Agreements exist between the college or university and the agencies providing field sites for field experiences which specify the role of the involved agencies and the responsibilities and contributions each will make to the field program.

(3) Candidates participate in structured experiences with culturally diverse populations and with special education and highly capable students. Such experiences provide opportunities for candidates to understand the unique contributions, similarities, differences, interdependencies, and special needs of students with particular emphasis on those from varying racial, cultural, linguistic, and socio-economic backgrounds.

(4) Field experiences integrate theory and practice and are documented by written records which describe:

(a) Specifications for selecting field sites and field personnel.

(b) Criteria for assigning students to field settings, including provisions for changes in assignments if necessary.

(c) Responsibilities of college and university supervisors and school personnel working with candidates in planning, instruction, observation, evaluation, and/or grading.

(d) Program outcomes, as described in the appropriate state standards.

(5) College or university supervisors and school personnel working with candidates for the required eight weeks field experiences must have had three years experience in the role supervised (i.e., as a teacher, administrator, or ESA), have been oriented to their responsibilities, and have been given training by the college or university and/or school district in their role and responsibilities.

(6) Records of observations are maintained for each candidate in the professional preparation program. Such records shall document at least eight hours of observation by a college or university supervisor.

(7) Standards for evaluating the candidate's successful completion of the required student teaching, practicum, or internship shall include the following categories:

(a) The state's minimum criteria for the evaluation of certificated employees, if applicable to the role.

(b) The state's general and role specific skills.

(c) Current research findings as reported in relevant professional publications.

#### NEW SECTION

WAC 180-78-175 EVIDENCE OF COMPLIANCE WITH PROGRAM DEVELOPMENT APPROVAL STANDARD. The following evidence shall be evaluated to determine whether each professional preparation program is in compliance with the program development approval standard as required by WAC 180-78-140(7):

(1) The program of study and field experiences are based on knowledge of professional practice, theory, and current research.

(2) Specific individuals or groups are assigned the responsibility for follow-up, evaluation, program revision, and long range planning.

(3) Placement records for all graduates are maintained and annual summaries are prepared.

(4) Follow-up studies of graduates, including data from their employers, are used to assess the quality of the professional preparation program and as a basis for revisions and improvements in the professional preparation program. Follow-up data will include information about the competence of graduates during their first year of professional service.

(5) Evaluation data on the professional preparation program, including all external program reviews, are submitted to the appropriate professional education advisory board and faculty and are available for review and analysis.

#### NEW SECTION

WAC 180-78-180 PROGRAM QUALITY REVIEW. Each college or university authorized to conduct one or more approved professional preparation programs shall provide for a quality review of all professional preparation programs during the fourth year of initial

authority to provide one or more such programs and every five years thereafter. Colleges and universities currently operating one or more approved preparation programs shall conduct a quality review prior to 1993. The report of the quality review team shall address each of the mandatory items in WAC 180-78-190 and shall contain recommendations for the improvement of each approved professional preparation program within the college or university. The report of the quality review team shall be presented to the dean or director of the college, school, or other designation of the administrative unit required by WAC 180-78-140, the college or university president, and the governing board of the college or university. Members of the quality review team shall consist of the following:

(1) The superintendent of public instruction or his or her designee who shall serve as chair of the quality review team.

(2) The president of the state board of education or his or her designee from such board.

(3) The chair of the higher education coordinating board or his or her designee from such board.

(4) The chair of the professional education advisory committee, created by WAC 180-78-015, or his or her designee.

(5) The president of the Washington education association or his or her designee.

(6) The president of the Washington school directors' association or his or her designee.

(7) The president of the Washington association of school administrators or his or her designee.

(8) The president of the association of Washington school principals or his or her designee.

(9) The president of the Washington federation of independent schools or his or her designee.

(10) The president of the following organizations or his or her designee if the college or university has an educational staff associate professional preparation program in the respective professional field:

(a) Washington speech and hearing association.

(b) Washington school counselor association.

(c) Washington chapter of the international reading association.

(d) Washington association of school psychologists.

(e) Washington association of school social workers.

(f) School nurses organization of Washington.

(g) Washington state physical therapy association.

(h) Washington state occupational therapy association.

(11) The chair of the Washington council of deans and directors of education or his or her designee.

(12) PROVIDED, That the failure of a designated organization, as specified above, to make appointments, or to make such appointments in a timely manner, shall not cause the approved college or university to lose its approval status and shall not be a reason to impede the formation and operation of the quality review team.

(13) PROVIDED FURTHER, That the designated college or university official may request any of the

above designated officials to reconsider serving or reconsider the designee appointed and such designated official shall reconsider and notify the college or university of his or her decision in writing.

#### NEW SECTION

WAC 180-78-185 ALTERNATIVE QUALITY REVIEW TEAM. As an alternative to the quality review team provided in WAC 180-78-180, the college or university may request the superintendent of public instruction to negotiate with the national council for accreditation of teacher education to conduct the quality review required by WAC 180-78-170. If such negotiations are successful and approved by the state board of education, the college or university may contract with such council to perform the quality review required by WAC 180-78-190. Conditions required for approval by the superintendent of public instruction shall consist of the following:

(1) Representatives on the review team appointed by the national council for accreditation of teacher education from the following:

(a) National or state professional organizations of teachers;

(b) National or state professional organizations of administrators;

(c) National or state professional organizations of higher education faculty;

(d) The designee of the superintendent of public instruction.

(2) An agreement by the national council of accreditation of teacher education to address each of the mandatory items required by WAC 180-78-190.

#### NEW SECTION

WAC 180-78-190 MANDATORY ITEMS FOR REVIEW BY QUALITY REVIEW TEAM. The following items shall be reviewed by the quality review team:

(1) All written policies of the college or university related to the professional preparation programs offered by such college or university.

(2) The current budget and budgets for the preceding four years of the college or university related to the professional preparation programs offered by such college or university.

(3) All recommendations for improvement of the professional preparation program specifically addressed to the quality review team by one or more of the following:

(a) Faculty and students of the college or university.

(b) Professional education advisory boards.

(c) Professional organizations, including any specialized association of educators.

(d) Any individual that the quality review team determines has a legitimate interest in one or more of the professional preparation programs.

(4) Any item which one-third or more of the members of the quality review team determine to be worthy of investigation and study by the quality review team.

AMENDATORY SECTION (Amending Order 3-87, filed 4/3/87)

WAC 180-78-193 EXIT EXAMINATION REQUIREMENT—MANDATORY TOPICS. The examination shall be divided into ~~((four))~~ three parts as follows:

(1) Part I shall address each of the ~~((initial generic standards))~~ knowledge requirements common to and required in the training of all candidates for professional certification—i.e., teachers, administrators, and educational staff associates.

(2) Part II shall address each of the ~~((initial generic standards))~~ knowledge requirements common to and required in the training of all candidates for teaching certificates.

(3) Part III ~~((shall address each of the initial generic standards common to and required in the training of all candidates for educational staff associate certificates.~~

~~((4) Part IV))~~ shall address each of the ~~((initial generic standards))~~ knowledge requirements common to and required in the training of all candidates for administrative certificates.

AMENDATORY SECTION (Amending Order 3-87, filed 4/3/87)

WAC 180-78-194 EXIT EXAMINATION REQUIREMENTS—MANDATORY PARTS FOR CERTIFICATION. As a condition for recommendation for certification by an institution of higher education, candidates must pass the following parts.

(1) Candidates for teacher, administrator, and educational staff associate certificates must pass Part I.

(2) Candidates for teacher certificates must pass Part II.

(3) ~~((Candidates for educational staff associate certificates must pass Part III.~~

~~((4))~~ Candidates for administrator certificates must pass Part ~~((IV))~~ III.

~~((5))~~ (4) PROVIDED, That candidates who provide satisfactory evidence of passage of one or more of the above noted parts at such or another Washington state college or university shall not be required to retake such part or parts.

AMENDATORY SECTION (Amending Order 3-87, filed 4/3/87)

WAC 180-78-199 UNIFORM ADMISSION TO PRACTICE EXAMINATION. The examination required by WAC 180-78-191 through 180-78-195 is intended by the state board of education to be transitional to the adoption of a uniform admission to practice examination administered by the state board of education. The superintendent of public instruction shall present to the state board of education by January, ~~((1992))~~ 1991, the necessary administrative rules for a uniform state administered admission to practice examination for professional educators which shall commence ~~((in January, 1994))~~ in August, 1993 for candidates applying for initial certificates after August 31, 1993.

NEW SECTION

WAC 180-78-205 PROGRAM APPROVAL REQUIREMENT—GENERAL KNOWLEDGE REQUIRED BY ALL CANDIDATES FOR CERTIFICATION. An approved preparation program shall require all candidates for certification to complete course work that covers the general knowledge required in WAC 180-79-131 for all candidates for certification unless waived pursuant to WAC 180-78-215, 180-78-235, or 180-78-285.

NEW SECTION

WAC 180-78-210 PROGRAM APPROVAL REQUIREMENT—GENERAL SKILLS DEMONSTRATION BY ALL CANDIDATES FOR CERTIFICATION. An approved preparation program shall require all candidates for certification to demonstrate in their field experience their skills in the following areas:

(1) DIVERSE POPULATIONS. Candidate must demonstrate their ability to work effectively with students of various backgrounds, including:

(a) Students with exceptional needs, including those with handicapping conditions and the highly capable.

(b) Students from racial and/or ethnic population other than the candidates.

(2) SCHOOL, HOME, AND COMMUNITY. Candidates must demonstrate their ability to integrate education policies with the school, home, and community by:

(a) Participating in the designing of activities that involve parents in the learning process of their children.

(b) Using home and community resources to enhance the school program.

(c) Working cooperatively with students, parents, colleagues, and community members in a professional manner.

(d) Applying knowledge of school law to practices involving the school, home, and community.

NEW SECTION

WAC 180-78-215 PROGRAM APPROVAL REQUIREMENT—GENERAL KNOWLEDGE REQUIRED BY ALL CANDIDATES FOR CERTIFICATION AS TEACHERS. An approved preparation program for teachers shall include course work, either separate or combination of courses, that cover the general knowledge required in WAC 180-79-131 and 180-79-136 for all candidates for certification as teachers: PROVIDED, That the college or university may waive the required course work for any candidate, based on an individual determination, if the college or university determines that previous work experiences, other course work, or alternative learning experiences have or will provide the candidates with the knowledge and skills otherwise to be gained from the required course work: PROVIDED FURTHER, That in the event the candidate has served as a teacher aide in a public or an approved private school and the candidate so requests and provides appropriate documentation, the college or university must evaluate the candidate pursuant to WAC 180-78-225.

NEW SECTION

WAC 180-78-220 PROGRAM APPROVAL REQUIREMENT—GENERAL SKILLS DEMONSTRATION BY ALL CANDIDATES FOR CERTIFICATION AS TEACHERS. An approved preparation program shall require all candidates for certification as teachers to demonstrate in their field experience their skills in the following areas:

(1) CLASSROOM MANAGEMENT AND DISCIPLINE. Candidates must demonstrate their ability to manage the physical environment and human dynamics of the classroom by demonstrating their ability to:

- (a) Maintain a positive affective environment.
- (b) Maintain instructional momentum.
- (c) Motivate students.
- (d) Handle student disruption quickly and effectively.
- (e) Use questioning skills effectively.
- (f) Handle transition.
- (g) Monitor seatwork.
- (h) Assign homework.

(2) INSTRUCTIONAL METHODOLOGY. Candidates must demonstrate their ability to assist students in the learning process by demonstrating their ability to:

(a) Design alternative instructional activities to meet individual student's needs.

(b) Teach using alternative models of instruction—i.e., information processing and personal, social, and behavioral systems.

(c) Be aware of and understand the various values, life styles, history, and contributions of various identifiable subgroups of society, including the ability to recognize and deal with dehumanizing biases of sexism, racism, prejudice, and discrimination and the impact of such biases on interpersonal relations.

(d) Meet the needs of exceptional students requiring special instruction, making referrals when appropriate for formal assessment, using appropriate methods and materials, and adapting the regular curriculum for such students.

(e) Use audio-visual materials, the computer, and other technological developments for instruction.

(3) TESTING AND EVALUATION. Candidates must demonstrate their ability to use both formative and summative evaluation techniques in order to evaluate, and assess programs, students, and their own teaching by:

- (a) Assessing students' basic skill levels in content areas.
- (b) Assessing student reading levels and identifying content area reading requirements.
- (c) Designing, and evaluating an instructional unit's effectiveness.
- (d) Designing and evaluating a student's performance.
- (e) Designing and evaluating their own teaching effectiveness.

NEW SECTION

WAC 180-78-225 SPECIAL CONSIDERATION FOR CERTAIN FORMER TEACHER AIDES. If a former teacher aide presents evidence to the college or

university that such candidate has served as a teacher aide in public or approved private school within the previous seven calendar years and that at least fifty percent of the candidate's work as a teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for any one school year, the college or university must weigh the following evidence:

(1) The written joint assessment of the candidate performance, required by RCW 28A.04.120 (3)(b), which was prepared and submitted by the supervising teacher and building principal.

(2) Any other information which the college or university determines relevant to its individual determination.

NEW SECTION

WAC 180-78-230 PROGRAM APPROVAL REQUIREMENT—FIELD EXPERIENCE FOR ALL CANDIDATES FOR CERTIFICATION AS TEACHERS. An approved preparation program for teachers shall require a field experience which includes observations and at least eight full weeks or equivalent of practice teaching in an educational setting. For the purpose of this section "eight full weeks" means two hundred forty hours of observation and classroom teaching of which at least one hundred twenty hours shall be actual teaching. The field experience requirement may be waived or reduced in length for any candidate who has served as a classroom teacher, a college or university instructor, or a teacher's aide if the college or university determines the previous experience was substantially equivalent in whole or part to the experience otherwise to be gained in the required field experience. Components of the required field experience shall include:

(1) Demonstration by the candidate that he or she has the general skills required in WAC 180-78-210 of all candidates for certification.

(2) Demonstration by the candidate that he or she possesses the general skills required in WAC 180-78-220 of all candidates for certification as a teacher.

NEW SECTION

WAC 180-78-235 PROGRAM APPROVAL REQUIREMENT—GENERAL KNOWLEDGE REQUIRED BY ALL CANDIDATES FOR CERTIFICATION AS ADMINISTRATORS. An approved preparation program for administrators shall include course work, either separate or combination of courses, that cover the general knowledge required in WAC 180-79-131 and 180-79-140 for all candidates for certification as administrators: PROVIDED, That the college or university may waive the required course work for any candidate, based on an individual determination, if the college or university determines that previous work experiences, other course work, or alternative learning experiences have or will provide the candidates with the knowledge and skills otherwise to be gained from the required course work.

NEW SECTION

WAC 180-78-240 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE REQUIREMENT FOR CERTIFICATION AS ADMINISTRATORS. An approved preparation for endorsement as a program administrator, principal, or superintendent shall require the candidate to demonstrate their specific knowledge requirements as set forth in WAC 180-78-250, 180-78-255, and 180-78-260 in written examinations as part of required course work specifically designed by the college or university for receipt of an endorsement in the specific role or in separate written examinations.

NEW SECTION

WAC 180-78-245 PROGRAM APPROVAL REQUIREMENT—GENERAL SKILLS DEMONSTRATION BY ALL CANDIDATES FOR CERTIFICATION AS ADMINISTRATORS. An approved preparation program shall require all candidates for certification as administrators to demonstrate in their field experience their skills in the following areas:

(1) PUBLIC POLICY ANALYSIS. Candidates must demonstrate their ability to apply organizational theory to policy issues in program management in each of the following areas:

- (a) Personnel management.
- (b) Fiscal management.
- (c) Community relations.

(2) SCHOOL LAW. Candidates must demonstrate their ability to apply knowledge of the legal environment of education systems in each of the following areas:

- (a) Student conduct, discipline, and rights.
- (b) Personnel management.
- (c) Fiscal management.

(d) Program management, including special education and other categorical programs.

- (e) Public information and disclosure.

NEW SECTION

WAC 180-78-250 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE AND SKILLS FOR PROGRAM ADMINISTRATORS. An approved preparation program for program administrators shall require the candidate to demonstrate in their field experience knowledge and skills in the following specific areas:

(1) KNOWLEDGE OF FIELD OR SPECIALIZATION. The candidate shall have depth of knowledge and skill in a specific field or specialization of program administration.

(2) PROGRAM DEVELOPMENT AND MANAGEMENT. The candidate has the knowledge and skill to:

(a) Set goals and objectives relative to a specific program.

(b) Delegate responsibility.

(c) Stimulate subordinates to perform.

(d) Involve those with expertise and interest in development of goals, objectives, and programs.

(3) STAFF DEVELOPMENT. The candidate can design and conduct in-service and continuing education experiences for personnel in a specific field or specialization.

NEW SECTION

WAC 180-78-255 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE AND SKILLS FOR PRINCIPALS. An approved preparation program for principals shall require the candidate to demonstrate in their field experience knowledge and skills in the following specific areas:

(1) CURRICULUM AND INSTRUCTION. The candidate has the knowledge and skill to:

(a) Develop and integrate the scope and sequence of curriculum.

(b) Implement district policies pertaining to textbook and instruction material selection and challenges.

(c) Apply state and district rules and policies regarding mandatory and elective courses to curriculum decisions at the building level.

(d) Administer and supervise, in accordance with statutes, rules, and district policies, categorical programs, including chapter I and II, remediation, vocational education, special education, and gifted.

(2) STUDENT SERVICES. The candidate has the knowledge and skill necessary to:

(a) Maintain attendance and student personnel records.

(b) Utilize support services inside and outside the educational setting.

(c) Implement effective principles of discipline, student control, and student management.

(3) BUILDING ADMINISTRATION AND MANAGEMENT. The candidate has the knowledge and skill necessary to administer accountably in the following areas of assignment:

(a) Alternate patterns of space, time and student/staff groupings.

(b) Policies and procedures that govern the school and develop master and class schedules.

(c) Care and maintenance of the physical environment.

(4) AUXILIARY SERVICES. The candidate has knowledge and skill to coordinate auxiliary services, including:

(a) Computer services.

(b) Food services.

(c) Health services.

(d) Learning resources programs.

(e) Pupil personnel services.

(f) Transportation.

(5) STUDENT ACTIVITIES. The candidate has the knowledge and skill to plan and develop governance policies and supervise and evaluate student activities.

NEW SECTION

WAC 180-78-260 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE AND SKILLS FOR SUPERINTENDENTS. An approved preparation program for superintendents shall require the candidate to demonstrate in their field experience knowledge and skills in the following specific areas:

(1) ORGANIZATIONAL MANAGEMENT AND ACCOUNTABILITY. The candidate has the knowledge and skill to:

(a) Plan, develop, coordinate, and supervise implementation and evaluation of district-wide policies, procedures, and curricular and instructional programs.

(b) Provide leadership relative to management and accountability district-wide.

(2) FACILITY AND RESOURCE MANAGEMENT AND ACQUISITION. The candidate has the knowledge and skill to:

(a) Identify facility and resource needs of the district.

(b) Coordinate procedures essential to maintenance and acquisition of facilities and resources.

(3) FISCAL MANAGEMENT. The candidate has the knowledge and skill necessary to plan, develop, and coordinate district budget preparation, district funding, and fiscal accountability, including application of the accounting manual for public schools to selective budget problems.

(4) LEGISLATIVE PROCESS. The candidate knows how the legislative process works and has the skill to use that process.

(5) LEADERSHIP. The candidate has the knowledge and skill needed to:

(a) Establish and articulate a vision of a quality education for all students.

(b) Help staff and community establish and develop ownership in common educational goals.

(c) Motivate people to work toward district goals.

(6) SCHOOL DIRECTORS POLICY—RELATIONS. The candidate has the knowledge and skill needed to:

(a) Develop a system of two-way communication that satisfies the needs of the board.

(b) Develop trust and confidence between the school directors and superintendent.

(c) Assist the school directors in understanding roles and responsibilities.

(d) Assist the school directors in defining the district's educational vision and priorities, and articulating them.

(e) Develop policies and rules and regulations for consideration and adoption by the local board of directors.

#### NEW SECTION

WAC 180-78-265 PROGRAM APPROVAL REQUIREMENT—FIELD EXPERIENCE FOR ALL ADMINISTRATORS. An approved preparation program for administrators shall require a field experience which includes observations and at least eight full weeks or equivalent of practice as an intern in an education setting serving under the general supervision of a certificated practitioner who is performing in the role for which the endorsement is sought. For the purpose of this section "eight full weeks" means three hundred twenty hours of on-the-job administrative experience. The field experience requirement may be waived or reduced in length for any candidate who has served in a comparable administrative position or who has previously performed a comparable field experience if the college or university determines the previous experience was substantially equivalent in whole or part to the experience otherwise to be gained in the required field experience. Components of the required field experience shall include:

(1) Demonstration by the candidate that he or she has the general skills required in WAC 180-78-210 of all candidates for certification.

(2) Demonstration by the candidate that he or she has the general skills required in WAC 180-78-245 for all candidates for certification as an administrator.

(3) Demonstration by the candidate that he or she has the specific skills required in WAC 180-78-250, 180-78-255, and 180-78-260 for all candidates for an endorsement in the particular role for which an endorsement is sought.

#### NEW SECTION

WAC 180-78-270 PROGRAM APPROVAL REQUIREMENT—GENERAL SKILLS DEMONSTRATION BY ALL CANDIDATES FOR CERTIFICATION AS ESAS. An approved professional preparation program shall require all candidates for certification as education staff associates to demonstrate in their field experience their skills in the following areas:

(1) ASSESSMENT. Candidates must demonstrate their ability to select, administer, and interpret assessments of students in matters related to the specialized area of practice.

(2) PROFESSIONAL PRACTICE. Candidates must demonstrate their ability to apply the knowledge of their specialized area of practice to students in need of their specialized services.

(3) PROFESSIONAL ETHICS. Candidates must demonstrate their ability to recognize ethical problems related to their specialized practice and prescribe ethically acceptable solutions.

#### NEW SECTION

WAC 180-78-275 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE BY ALL CANDIDATES FOR CERTIFICATION AS ESAS. An approved preparation program for educational staff associates shall require candidates to demonstrate their specific knowledge requirements as set forth in WAC 180-78-290 through 180-78-325 in a comprehensive written examination as part of a masters or higher degree or as a separate examination, including the licensure examination by the state of Washington for nurses, physical therapists, or occupational therapists.

#### NEW SECTION

WAC 180-78-280 PROGRAM APPROVAL REQUIREMENT—FIELD EXPERIENCE FOR ALL CANDIDATES FOR CERTIFICATION AS ESAS. An approved preparation program for educational staff associates shall require a field experience which includes observation and at least eight full weeks or equivalent practice under the direct supervision of a certificated practitioner who is performing in the role for which the endorsement is sought. For the purpose of this section "eight full weeks" means two hundred forty hours of on-the-job professional service. The field experience requirement may be waived or reduced in length for any candidate who has served as a licensed practitioner or a

comparable educational position if the college or university determines the previous experience was substantially equivalent in whole or part to the experience otherwise to be gained in the required field experience. Components of the required field experience shall include:

(1) Demonstration by the candidate that he or she has the general skills required by WAC 180-78-210 of all candidates for certification.

(2) Demonstration by the candidate that he or she has the general skills required by WAC 180-78-270 for all candidates for an endorsement as an educational staff associate.

(3) Demonstration by the candidate that he or she has the specific skills required for all candidates for an endorsement as a specialized educational staff associate as set forth in WAC 180-78-290 through 180-78-325.

#### NEW SECTION

WAC 180-78-285 PROGRAM APPROVAL REQUIREMENT—GENERAL KNOWLEDGE REQUIRED FOR ALL CANDIDATES FOR CERTIFICATION AS ESAS. An approved preparation program for educational staff associates shall include course work, either separate or combination of courses, that cover the general knowledge required in WAC 180-79-131 for all candidates for certification: PROVIDED, That the college or university may waive the required course work for any candidate, based on an individual determination, if the college or university determines that previous work experiences, other course work, or alternative learning experiences have or will provide the candidates with the knowledge and skills otherwise to be gained from the required course work.

#### NEW SECTION

WAC 180-78-290 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE AND SKILLS FOR ESA, CDS. An approved preparation program for communication disorder specialists shall require candidates to demonstrate knowledge and skills in the following specific areas:

(1) KNOWLEDGE OF FIELD. The candidate has knowledge about speech, language, and hearing processes, including normal and atypical speech and language development and causes and treatment of disorders.

(2) ASSESSMENT AND DIAGNOSIS. The candidate has the knowledge and skill necessary to:

(a) Select, administer, and interpret assessment instruments relevant to the communication disorders specialist field.

(b) Identify students who exhibit disorders of speech, language and/or hearing; and determine through diagnostic procedures or referral the nature, etiology, and severity of the specific disorders.

(3) PROGRAM DEVELOPMENT. The candidate has the knowledge to develop a program appropriate to his or her professional role specialization and responsibilities.

(4) PROGRAM EVALUATION. The candidate has the knowledge to conduct systematic, evaluative procedures focusing on the improvement of the speech, language, and hearing program within each work setting.

(5) CONSULTATION. The candidate has the knowledge and skill to:

(a) Provide consultative services to parents, school personnel, and others concerned about speech, language, and hearing disorders and programs.

(b) Make referral to nonschool agencies.

(c) Participate in case conferences—e.g., multidisciplinary teams—with other specialists and school personnel.

(6) MANAGEMENT OF SPECIAL AND TECHNICAL ENVIRONMENTS. The candidate has the knowledge and skills to organize the materials, equipment, and environment essential to implement the respective specialized program.

(7) PROGRAM DEVELOPMENT AND MANAGEMENT. The candidate has the skill to:

(a) Plan, develop, implement, and evaluate a program of identification, prevention, instruction, and remediation as appropriate to his or her professional specialization.

(b) Provide information to instructional staff and curriculum decision makers regarding pupil needs, community needs, and resources.

(c) Works consistently to incorporate current ethical, legal, and professional developments into school policy and practice.

#### NEW SECTION

WAC 180-78-295 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE AND SKILLS FOR ESA, SCHOOL COUNSELOR. An approved preparation program for school counselors shall require the candidates to demonstrate knowledge and skills in the following specific areas:

(1) KNOWLEDGE OF THE FIELD. The candidate has the knowledge and skills in relevant fields of study, including:

(a) Individual and group counseling theories, principles, and techniques.

(b) Career development theories, programs, inventories, and materials.

(c) Information services as applied equitably to diverse socioeconomic, cultural ethnic groups and including sexual bias.

(d) Human growth and development.

(e) Social and cultural foundations including socioeconomic trends, changes in human roles, multicultural and pluralistic trends and major societal concerns including stress, person abuse, substance abuse, and discrimination.

(f) Appraisal theory, techniques, and instruments.

(g) Consultation.

(h) Referral resources and processes.

(i) Family dynamics, interaction, and parent education.

(j) Legal and ethical issues related to the practice of school counseling.

(k) Research and evaluation.

(2) INDIVIDUAL AND GROUP COUNSELING. The candidate has the knowledge and skill to:

(a) Plan and use individual and group strategies for remedial, preventive, and developmental needs of students.

(b) Provide educational and career decision-making experiences.

(c) Provide crises intervention.

(d) Assist students in peer helper processes.

(3) CONSULTATION AND REFERRAL. The candidate has the knowledge and skill to:

(a) Provide consultation for parents, teachers, and others with special emphasis on developmental needs, behavioral assessment, and crises needs of students.

(b) Refer to other services within the school and community.

(4) ASSESSMENT AND DIAGNOSIS. The candidate has the knowledge and skill in the following specific areas:

(a) Appraisal techniques and materials.

(b) Knowledge of achievement, aptitude, interest, and attitude testing.

(c) Test interpretation including knowledge of test characteristics, test scores, referencing, and limitations.

(d) Behavioral observations and case studies.

(5) PROGRAM PLANNING, MANAGEMENT, EVALUATION. The candidate has knowledge and skill to:

(a) Conduct needs assessments of students, teachers, and parents to determine the scope and delivery of the guidance program.

(b) Design systems to measure student outcomes related to the guidance and counseling program.

(c) Develop school guidance plans based on student needs that include goals, objectives, resources, and timelines.

(d) Coordinate programs with school psychologists, nurses, social workers, and community service providers.

(e) Prepare programs to alleviate the unique needs of students in areas such as grief, suicide prevention, dropout prevention, changes in family structure, or other such problems which interfere with the student's progress in school.

(f) Prepare programs for parents to improve parenting skills and to positively interact with the school system.

(g) Prepare, interpret, and disseminate findings from guidance program evaluation, and follow-up studies to school personnel, parents, and students.

(h) Provide staff development and supervision.

(6) PROFESSIONALISM. The candidate has the knowledge and skill to apply legal guidelines, professional codes of ethics, and knowledge of general professional standards.

#### NEW SECTION

WAC 180-78-300 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE AND SKILLS ESA, SCHOOL OCCUPATIONAL THERAPIST. An approved preparation program for school occupational therapists shall require the candidates to demonstrate knowledge and skills in the following specific areas:

(1) KNOWLEDGE OF THE FIELD. The candidate has knowledge and skill to apply in an education setting the knowledge and skill required by the state of Washington for licensure as an occupational therapist.

(2) ASSESSMENT. The candidate has the knowledge and skill to select, score, and interpret those assessments instruments and procedures which will assist the team in

determining a student's level of growth and development and the effect of this level on the educational process and life adjustment.

(3) PROGRAM DEVELOPMENT. The candidate has the knowledge and skill to plan and adapt therapeutic activities for various service delivery models (individual, group, consultation, monitoring) and to establish a positive learning environment in order to achieve learning explicit educationally-related goals for the student.

(4) THERAPY INTERVENTION SERVICES. The candidate has the knowledge and skills to provide direct and indirect therapy to meet student needs in an education setting.

(5) PROGRAM RECORDS AND TREATMENT EVALUATION. The candidate has the knowledge and skill to:

(a) Analyze information from assessment, observations, and other contributing sources.

(b) Organize and summarize the data for oral or written reporting.

(c) Develop recommendation.

(d) Formulate educationally-related goals and objectives and maintain records of the child's response to treatment.

#### NEW SECTION

WAC 180-78-305 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE AND SKILLS FOR ESA, SCHOOL PHYSICAL THERAPIST. An approved preparation program for school physical therapists shall require the candidates to demonstrate knowledge and skills in the following specific areas:

(1) KNOWLEDGE OF THE FIELD. The candidate has the knowledge and skill to apply in an education setting the knowledge and skill required by the state of Washington for licensure as a physical therapist.

(2) ASSESSMENT. The candidate has the knowledge and skill needed to select, administer, and interpret physical therapy procedures, instruments, and techniques essential to assessment of the student's disability and its effect on the educational process.

(3) PROGRAM DEVELOPMENT AND EVALUATION. The candidate has the knowledge and skill needed to plan, implement, evaluate, and modify a physical therapy program to achieve specific goals and objectives for students.

(4) THERAPY INTERVENTION SERVICES. The candidate has the knowledge and skill needed to provide direct and indirect individual and group therapy to meet student's needs in the educational setting.

(5) INFORMATIONAL SERVICES. The candidate has the knowledge and skill needed to provide understandable information in oral and written form to parents, school personnel, and medical professionals regarding physical disabilities or disorders and their significance in the educational setting.

(6) ADMINISTRATION. The candidate has the knowledge and skill needed to organize and coordinate the delivery of services within the educational setting including maintenance of adequate records, identification of needed space and equipment, and supervision of physical therapist assistants and other personnel.

NEW SECTION

WAC 180-78-310 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE AND SKILLS FOR ESA, SCHOOL PSYCHOLOGIST. An approved preparation program for school psychologists shall require that candidates demonstrate knowledge and skills in the following specific areas:

(1) KNOWLEDGE OF THE FIELD. The candidate has knowledge and skill in relevant fields of study, including:

- (a) Learning theory.
- (b) Personality theory and development.
- (c) Individual and group testing and assessment.
- (d) Individual and group counseling and interviewing theory and techniques.
- (e) Basic statistics.
- (f) Child development.
- (g) Exceptional children.
- (h) Social and cultural factors.
- (i) Deviant personality.
- (j) Curriculum.
- (k) Research design.
- (l) Physiological and biological factors.

(2) ASSESSMENT AND DIAGNOSIS. The candidate has knowledge and skill necessary to select, administer, score, and interpret instruments and techniques in the following areas:

- (a) Intellectual and cognitive assessment.
- (b) Individual and group academic skills.
- (c) Personality assessment.
- (d) Assessment of perceptual skills.
- (e) Assessment of adaptive behavior; assessment of language skills.

(3) BEHAVIORAL OBSERVATION AND ANALYSIS. The candidate has knowledge and skill in behavior observation, including:

- (a) Data taking.
- (b) Frequency measures.
- (c) Qualitative and quantitative analysis of classroom behavior.

(d) Developmental and personality analysis, including perceptual, cognitive, social, and affective and language development in children.

(4) COUNSELING AND INTERVIEWING. The candidate has the knowledge and skill necessary to:

(a) Provide individual and group counseling to students and parents.

(b) Conduct interviews essential to information collecting from parents, teachers, and other professionals.

(5) PROGRAM DEVELOPMENT. The candidate has the knowledge and skill to make educational prescriptions, including specification of remedial environmental changes, both curricular and behavioral, for a particular student.

(6) CONSULTATION. The candidate has the knowledge and skill to:

(a) Function on multi-disciplinary teams in evaluating and placing students.

(b) Confer with and make recommendations to parents, specialists, teachers, referral personnel, and others relative to student's characteristics and needs in the educational and home environments.

(7) PROGRAM EVALUATION AND RECORDKEEPING. The candidate has the knowledge and skill necessary to develop and implement program evaluation and maintain required records.

(8) PROFESSIONALISM. The candidate has knowledge of professional standards regarding ethical and legal practices relevant to the practice of school psychology. The candidate demonstrates knowledge and skill in written and oral reporting of assessment and remedial recommendations which will meet ethical and legal standards.

(9) RESEARCH. The candidate has knowledge and skill to:

- (a) Evaluate and perform research.
- (b) Apply school-oriented research.
- (c) Construct criterion-referenced instruments with reference to such educational decisions as:
  - (i) Retention in grade.
  - (ii) Acceleration and early entrance.
  - (iii) Early entrance.

NEW SECTION

WAC 180-78-315 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE AND SKILLS FOR ESA, READING RESOURCE SPECIALIST. An approved preparation program for reading resource specialists shall require the candidates to demonstrate knowledge and skills in the following specific areas:

(1) KNOWLEDGE OF THE FIELD. The candidate has knowledge and skill to:

- (a) Describe strategies used in the reading process.
- (b) Evaluate various approaches and techniques used in the teaching of reading.
- (c) Interpret and apply research.
- (d) Interpret and apply psychological principles of cognitive and affective learning.
- (e) Describe and compare various theories of the reading process.

(f) Present a model of the reading process and determine procedures, techniques and materials consistent with selected principles or models.

(2) INSTRUCTIONAL SKILL. The candidate has the knowledge and skill to describe and demonstrate several ways to organize and implement reading instruction for optimal learning.

(3) PROGRAM EVALUATION. The candidate has the knowledge and skill to evaluate gifted/talented, developmental, and remedial reading programs.

(4) ASSESSMENT AND DIAGNOSIS. The candidate has knowledge and skill to:

(a) Assess strengths and limitations of standardized and informal reading tests.

(b) Interpret and apply relevant test data.

(c) Assess reading strengths and weaknesses using a variety of procedures and recommend appropriate techniques, materials, and remediation to teachers, parents and others involved.

(5) PROGRAM DEVELOPMENT. The candidate has the knowledge and skill to plan and implement reading programs for the gifted/talented development and remedial components.

(6) **STAFF DEVELOPMENT AND CONSULTATION.** The candidate has the knowledge and skill to:

- (a) Assist teachers in the improvement of reading instruction.
- (b) Present and interpret research programs, techniques, or materials to teachers, administrators, parents, or others involved.

#### NEW SECTION

**WAC 180-78-320 PROGRAM APPROVAL REQUIREMENT—SPECIFIC KNOWLEDGE AND SKILLS FOR ESA, SCHOOL NURSE.** An approved preparation program for school nurses shall require the candidates to demonstrate knowledge and skills in the following specific areas:

(1) **KNOWLEDGE OF THE FIELD.** The candidate has knowledge and skill to apply in an education setting the knowledge and skill required by the state of Washington for licensure as a registered nurse and, in addition has knowledge of the following areas:

- (a) School health programs.
- (b) Guidance, health counseling, and crisis intervention.
- (c) Health education curriculum.

(2) **ASSESSMENT.** The candidate has the knowledge and skills to:

- (a) Obtain health and developmental history.
- (b) Observe for developmental achievements.
- (c) Perform physical assessments.
- (d) Screen and evaluate for findings of deficits.
- (e) Assess school health programs, environment and safety.

(f) Collaborates in assessing community health needs.

(3) **DIAGNOSIS.** The candidate has the skills to interpret data and formulate a nursing diagnosis.

(4) **PLAN/IMPLEMENTATION.** The candidate has the skills to:

(a) Develop a school health program which assists students, families, and school staff to deal with health problems.

(b) Respond to each student's unique developmental health needs.

(c) Minimize the effect of sudden illness or injury in the school setting.

(d) Provide student's families and school staff with a basis for decision making regarding health which promotes prevention and wellness.

(e) Contribute to a safe and healthy school environment.

(f) Collaborate with community health agencies and professionals.

(g) Ensure that health needs are recognized and planned for in the total school program.

(5) **EVALUATION.** The candidate has the skills to participate in peer review and other means of evaluation to assure quality of nursing care provided for students and to develop and implement school health program evaluation.

(6) **PROFESSIONALISM.** The candidate has the knowledge of professional standards regarding ethical and legal practices relevant to the practice of school nursing and demonstrates such knowledge and skill in written

and oral reporting of assessments and remedial recommendations which will meet ethical and legal standards.

(7) **RESEARCH.** The candidate has the knowledge and skills to:

(a) Evaluate research.

(b) Contribute to nursing and school health through innovations in theory and practice.

(c) Participate in research.

#### NEW SECTION

**WAC 180-78-325 PROGRAM APPROVAL REQUIREMENTS—SPECIFIC KNOWLEDGE AND SKILLS FOR ESA, SCHOOL SOCIAL WORKER.** An approved preparation program for school social workers shall require the candidates to demonstrate knowledge and skills in the following specific areas:

(1) **SERVICE DELIVERY.** The candidate has knowledge and skill in:

(a) Social problem assessment including assessment of behavioral problems, family dysfunction, interpersonal relationship problems, and problems of victimization.

(b) Problems of school refusal, truancy, and poor classroom performance.

(c) Collaboration with teachers and other school personnel on an individual or group basis for the purpose of assessment.

(d) Planning of programs of remediation for individual pupils and their families or in some instances for groups of pupils.

(e) Interviewing and counseling pupils in relation to the social problems adjudged to be impairing the pupils ability to learn.

(f) Consulting and counseling with parents and significant others, including personnel from community agencies and programs.

(g) Developing and utilizing the resources of the community to assist pupils meet various social needs including the needs for; improved nutrition, shelter, protection from sexual and physical abuse, health and social services, and drug and alcohol counseling.

(2) **SOCIAL ENVIRONMENT.** The candidate has knowledge and skill in:

(a) Understanding community theory, social systems theory, organizational theory (e.g., school as a bureaucracy), macrosystem intervention theory (e.g., community organization, social planning, community relations, case management, networking), social disorganization (e.g., poverty, family violence, unemployment), and the changing family.

(b) Providing in-class or individual consultation to teachers with respect to problems of classroom management of students presenting social and behavioral difficulties, including the provision of in-service presentations on the subjects of school social work and social problems and their management.

(3) **RESEARCH AND EVALUATION.** The candidate has the knowledge and skill in:

(a) Designing and conducting, or assisting in the design and conduct of research and evaluation of school social work practice and of causal and remedial approaches to problems of educational and social nature.

(b) Evaluating school and community needs and assisting decision makers in addressing those needs.

(c) Social problems analysis, including design, methodology, implementation, analysis and findings, and utilization.

(4) EDUCATIONAL CONTEXT. The candidate has the knowledge and skill in theories of learning, roles of educational personnel, role of social worker in educational setting, school law, and professional standards.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 180-78-027 APPEAL—GENERAL.
- WAC 180-78-030 AGENCIES TO BE INVOLVED IN PROGRAM DEVELOPMENT.
- WAC 180-78-035 PROGRAM APPROVAL PROCESS.
- WAC 180-78-040 PROGRAM APPROVAL—PROCEDURES FOR SITE VISITS.
- WAC 180-78-050 PROGRAM APPROVAL STANDARDS AND CRITERIA.
- WAC 180-78-055 PROGRAM APPROVAL—LENGTH OF APPROVAL.

**WSR 88-07-003**

**ADOPTED RULES**

**DEPARTMENT OF REVENUE**

[Order PT 88-3—Filed March 3, 1988]

I, William R. Wilkerson, director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Refunds—Rates of interest, amending WAC 458-18-220.

This action is taken pursuant to Notice No. WSR 88-03-016 filed with the code reviser on January 11, 1988. 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 84.69.100 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 84.08.010(2)

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 February 24, 1988.

By Trevor W. Thompson  
Assistant Director

**AMENDATORY SECTION** (Amending Order PT 87-7, filed 9/23/87)

WAC 458-18-220 REFUNDS—RATE OF INTEREST. The following rates of interest shall apply

based upon the date the taxes were paid or the claim for refund was filed, whichever is later:

Prior to July 27, 1987	.0500	(5.00%)
<del>((On and after July 27, 1987</del>	<del>.0596</del>	<del>(5.96%))</del>
July 27, 1987 through December 31, 1987	.0596	(5.96%)
January 1, 1988 through December 31, 1988	.0600	(6.00%)

**WSR 88-07-004**

**ADOPTED RULES**

**DEPARTMENT OF REVENUE**

[Order PT 88-4—Filed March 3, 1988]

I, William R. Wilkerson, director of the Department of Revenue do promulgate and adopt at Olympia, Washington, the annexed rules relating to rates of inflation, amending WAC 458-30-590.

This action is taken pursuant to Notice No. WSR 88-03-017 filed with the code reviser on January 11, 1988. 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 84.34.360 which directs that the Department of Revenue has authority to implement the provisions of RCW 84.34.300 through 84.34.380.

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 February 24, 1988.

By Trevor W. Thompson  
Assistant Director

**AMENDATORY SECTION** (Amending Order PT 87-3, filed 3/10/87)

WAC 458-30-590 RATES OF INFLATION. The rates of inflation to be used for calculating the interest as required by WAC 458-30-550 are as follows:

Year	%	Year	%	Year	%
1976	5.7	1980	10.7	1984	3.8
1977	6.5	1981	9.2	1985	3.5
1978	7.3	1982	5.7	1986	2.1
1979	9.2	1983	4.1	1987	4.0

**WSR 88-07-005**

**ADOPTED RULES**

**DEPARTMENT OF REVENUE**

[Order PT 88-5—Filed March 3, 1988]

I, William R. Wilkerson, director of the Department of Revenue, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

- Amd WAC 458-14-020 Reconvening county boards of equalization—Contents of request.
- Amd WAC 458-14-040 Limitations on reconvening.

Amd WAC 458-14-045 Reconvening upon timely filed petition—  
Limitation.

This action is taken pursuant to Notice No. WSR 87-24-002 filed with the code reviser on November 19, 1987. 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 84.08.070 which directs that the Department of Revenue has authority to implement the provisions of chapter 84.08 RCW.

This rule is promulgated under the general rule-making authority of the Department of Revenue as authorized in RCW 84.08.010.

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 January 25, 1988.

By Trevor W. Thompson  
Assistant Director

AMENDATORY SECTION (Amending Order PT 70-1, filed 4/8/70)

WAC 458-14-020 RECONVENING COUNTY BOARDS OF EQUALIZATION—CONTENTS OF REQUEST. The request shall designate the board to be reconvened, shall specifically set forth the matters such board is to consider, shall contain a brief, definite statement of the facts which demonstrate that action upon the matter so specified would be within the powers of the reconvened board, and shall briefly and definitely state sufficient facts to reasonably demonstrate why the board should be reconvened.

AMENDATORY SECTION (Amending Order PT 85-3, filed 8/12/85)

WAC 458-14-040 LIMITATIONS ON RECONVENING. (1) No order reconvening the July session of the county board of equalization shall be issued subsequent to the 30th day of April immediately following the time the board was in regular session, except where the request for the order alleges sufficient facts to substantiate;

(a) A prima facie showing that there was either actual fraud on the part of the taxpayer or taxing officers(;;); or

(b) That an error occurred because the taxing officers, acting with due diligence, did not have available all of the facts when performing their duties(~~;~~ or ~~except where;~~);

(2) Notwithstanding the provisions of subsection (1) of this section, in cases in which the department orders upon its own initiative the reconvening of a county board, the department has grounds to substantiate a prima facie showing that there was actual fraud on the part of the taxpayer or taxing officers or constructive fraud on the part of taxing officers; (~~nor will a~~)

(3) No board shall be reconvened to act upon or consider ~~((an increase))~~ a change in the valuation of real estate when a bona fide purchaser(~~;~~ encumbrancer) or contract buyer of record has acquired an interest in such real property subsequent to the first ~~((Monday in January next succeeding the date of levy of the taxes))~~ day of July of the assessment year: PROVIDED, That subject to the limitations in subsection (1) of this section, a board may be reconvened to act upon or consider a reduction in the valuation of real estate if the property sold subsequent to the first day of July of the assessment year and the sales price was less than ninety percent of the assessed value.

AMENDATORY SECTION (Amending Order PT 85-3, filed 8/12/85)

WAC 458-14-045 RECONVENING UPON TIMELY FILED PETITION—LIMITATIONS. ~~((+))~~ Notwithstanding the provisions of WAC 458-14-010 through 458-14-040(~~;~~) except for WAC 458-14-040(3):

(1) Any July session of the county board of equalization which has timely received a petition as required by WAC 458-14-120, and which has adjourned in accordance with WAC 458-14-075, shall reconvene upon a date set by the board to consider said timely filed petition.

~~((+ addition;))~~ (2) Any July session of the board may reconvene upon the request of the taxpayer or the assessor to consider a subsequent year(s) value when an order of the county board or the state board of tax appeals adjusting a value is issued after the convening of the July board of the subsequent year(s) and no intervening change of value has occurred and ~~((a petition))~~ the request is filed with the board within thirty days of the order or a notice of a change sent by the assessor.

~~((2))~~ (3) No board shall reconvene later than three years after the adjournment of its regular session.

~~((3))~~ (4) No July session of the county board of equalization shall reconvene to consider any petition not timely filed except upon written order of the department of revenue or as provided in ~~((subsection (1) of))~~ this section.

**WSR 88-07-006**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Filed March 3, 1988]

Notice is hereby given that the Department of Ecology will not take further action under WSR 88-04-091 to amend chapter 173-14 WAC, Permits for developments on shorelines of the state.

This notice is given pursuant to WAC 1-12-033. The Department of Ecology may, at a later date, file a new notice of intent to amend the program.

Phillip C. Johnson  
Deputy Director, Programs

**WSR 88-07-007**  
**ADOPTED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order 87-48—Filed March 3, 1988]

I, Phillip C. Johnson, deputy director of programs, do promulgate and adopt at Lacey, Washington, the annexed rules relating to Steilacoom, city of, amending WAC 173-19-3512.

This action is taken pursuant to Notice No. WSR 88-04-093 filed with the code reviser on February 3, 1988. 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 March 1, 1988.

By Phillip C. Johnson  
 Deputy Director, Programs

**AMENDATORY SECTION** (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-3512 STEILACOOM, TOWN OF. Town of Steilacoom master program approved March 1, 1988.

**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 88-07-008**  
**ADOPTED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order 87-49—Filed March 3, 1988]

I, Phillip C. Johnson, deputy director of programs, do promulgate and adopt at Lacey, Washington, the annexed rules relating to Des Moines, city of, amending WAC 173-19-2507.

This action is taken pursuant to Notice No. WSR 88-04-092 filed with the code reviser on February 3, 1988. 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 March 1, 1988.

By Phillip C. Johnson  
 Deputy Director, Programs

**AMENDATORY SECTION** (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-2507 DES MOINES, CITY OF. City of Des Moines master program approved April 3, 1974. Revision approved March 1, 1988.

**WSR 88-07-009**  
**ADOPTED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order DE 87-51—Filed March 3, 1988]

I, Phillip C. Johnson, deputy director of programs, do promulgate and adopt at Lacey, Washington, the annexed rules relating to Clallam County, amending WAC 173-19-130.

This action is taken pursuant to Notice No. WSR 88-01-119 filed with the code reviser on December 23, 1987. 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 March 1, 1988.

By Phillip C. Johnson  
 Deputy Director, Programs

**AMENDATORY SECTION** (Amending Order DE 86-07, filed 6/4/86)

WAC 173-19-130 CLALLAM COUNTY. Clallam County master program approved August 5, 1976. Revision approved November 16, 1976. Revision approved August 10, 1979. Revision approved January 4, 1983. Revision approved March 27, 1984. Revision approved January 27, 1986. Revision approved June 3, 1986. Revision approved March 1, 1988.

**WSR 88-07-010**  
**ADOPTED RULES**  
**DEPARTMENT OF ECOLOGY**  
 [Order 88-01—Filed March 3, 1988]

I, Phillip C. Johnson, deputy director of programs, do promulgate and adopt at Lacey, Washington, the annexed rules relating to Mason County, amending WAC 173-19-310.

This action is taken pursuant to Notice No. WSR 88-02-054 filed with the code reviser on January 5, 1988. 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 90.58.120 [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 March 1, 1988.

By Phillip C. Johnson  
Deputy Director, Programs

**AMENDATORY SECTION** (Amending Order 84-29, filed 11/7/84)

WAC 173-19-310 MASON COUNTY. Mason County master program approved August 6, 1975. Revision approved December 18, 1975. Revision approved February 22, 1980. Revision approved June 23, 1982. Revision approved October 16, 1984. Revision approved March 1, 1988.

**WSR 88-07-011**  
**ADOPTED RULES**  
**BOARD OF PHARMACY**  
[Order 209—Filed March 3, 1988]

Be it resolved by the Washington State Board of Pharmacy, acting at Seattle, Washington, that it does adopt the annexed rules relating to the fees charged by the Board of Pharmacy.

This action is taken pursuant to Notice No. WSR 88-03-066 filed with the code reviser on January 20, 1988. 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 Washington State Board of Pharmacy as authorized in RCW 18.64.005.

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 February 24, 1988.

By Joseph M. Honda  
Chair

**AMENDATORY SECTION** (Amending Order 207, filed 9/2/87)

WAC 360-18-020 FEES. The following fees shall be charged by the board of pharmacy:

- (a) PHARMACY LOCATION (~~& CSA~~)
  - Original pharmacy fee \$165.00
  - Original pharmacy assistant utilization fee 35.00
  - Renewal pharmacy fee 85.00

- Renewal pharmacy assistant utilization fee 35.00
- Penalty pharmacy fee 165.00
- (b) VENDOR
  - Original fee 40.00
  - Renewal fee 40.00
  - Penalty fee 40.00
- (c) PHARMACIST
  - Exam fee (full exam) 125.00
  - Reexamination fee (jurisprudence portion) 25.00
  - Original license fee 75.00
  - Renewal fee, active and inactive license 60.00
  - Penalty fee 60.00
  - Reciprocity fee 250.00
  - Certification of license status to other states 10.00
- (d) SHOPKEEPER
  - (i) SHOPKEEPER – sixteen or more drugs
    - Original fee 10.00
    - Renewal fee 10.00
    - Penalty fee 5.00
  - (ii) SHOPKEEPER – with differential hours
    - Original fee 10.00
    - Renewal fee 10.00
    - Penalty fee 5.00
- (e) DRUG MANUFACTURER
  - Original fee 250.00
  - Renewal fee 250.00
  - Penalty fee 250.00
- (f) DRUG WHOLESALER – full line
  - Original fee 250.00
  - Renewal fee 250.00
  - Penalty fee 250.00
- (g) DRUG WHOLESALER – OTC only
  - Original fee 150.00
  - Renewal fee 150.00
  - Penalty fee 150.00
- (h) DRUG WHOLESALER – export
  - Original fee 250.00
  - Renewal fee 250.00
  - Penalty 250.00
- (i) PHARMACY ASSISTANT – Level "A"
  - Original fee 30.00
  - Renewal fee 20.00
- (j) PHARMACY INTERN
  - Original registration fee 15.00
  - Renewal registration fee 15.00
- (k) CONTROLLED SUBSTANCES ACT (CSA) REGISTRATIONS
  - Dispensing registration fee (i.e. pharmacies) 35.00
  - Dispensing renewal fee (i.e. pharmacies) 30.00
  - Distributors registration fee (i.e. wholesalers) 50.00
  - Distributors renewal fee (i.e. wholesalers) 50.00

Manufacturers registration fee	50.00
Manufacturers renewal fee	50.00
Physician assistant registration fee	15.00
Physician assistant renewal fee	10.00
ARNP with prescriptive authorization registration fee	15.00
ARNP with prescriptive authorization renewal fee	10.00
Sodium pentobarbital for animal euthanization registration fee	20.00
Sodium pentobarbital for animal euthanization renewal fee	15.00
(l) LEGEND DRUG SAMPLE – distributor registration fees	
Original fee	125.00
Renewal fee	85.00
(m) POISON MANUFACTURER/SELLER – license fees	
Original fee	20.00
Renewal fee	20.00
(n) Facility inspection fee	100.00

### NEW SECTION

WAC 360-18-025 FEE PAYMENT. (1) A licensed pharmacist, wholesaler, or manufacturer shall pay a facility inspection fee in lieu of the original license fee when there is only a change of facility location within the premises identified by the license address. Any change of location to a different address shall require a new application and payment of the original license fee.

(2) An original license fee shall be paid whenever there is any change in ownership, including change in business structure or organizational structure such as a change from sole proprietorship to a corporation, or a change of more than fifty percent ownership in a corporation.

(3) All fees are charged on an annual basis and will not be prorated.

**WSR 88-07-012**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2606—Filed March 4, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to support enforcement, amending chapter 388-14 WAC.

This action is taken pursuant to Notice No. WSR 88-02-055 filed with the code reviser on January 5, 1988. 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 74.08.090 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 74.09 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 March 4, 1988.

By Leslie F. James, Director  
 Administrative Services

### AMENDATORY SECTION (Amending Order 2340, filed 2/12/86)

WAC 388-14-010 OFFICE OF SUPPORT ENFORCEMENT AS THE TITLE IV-D AGENCY. (1) ~~((Pursuant to chapters 74.20 and 74.20A RCW;))~~ The department of social and health services of the state of Washington through the office of support enforcement establishes the following provisions as the state plan for the child support ~~((pursuant to))~~ enforcement program. Authority for this plan is under Title IV-D of the Social Security Act and chapters 74.20 and 74.20A RCW. The plan shall be in effect statewide.

(2) The office ~~((of support enforcement))~~ is ~~((designated and established as))~~ the designated, single, and separate organizational unit within the state of Washington to administer the plan ~~((which shall be in effect in all political subdivisions of the state of Washington))~~.

(3) The office ~~((of support enforcement))~~ is the ~~((operating))~~ agency referred to in federal ~~((rules and regulations))~~ law as the Title IV-D agency. The office ~~((of support enforcement is authorized to assume any and))~~ shall perform all ~~((responsibilities))~~ duties assigned to the Title IV-D agency.

(4) The office ~~((of support enforcement is authorized to))~~ may enter into ~~((agreements as required or authorized))~~ contracts for support enforcement and related services with ~~((other states and the secretary, Department of Health and Human Services;))~~:

(a) Other state agencies;  
 (b) ~~((To contract with))~~ Other states or foreign countries for ~~((the referral of cases))~~ action under the Uniform Reciprocal Enforcement of Support Act and other ~~((cases where enforcement or collection of))~~ laws to enforce or collect child support ~~((location of))~~, locate absent parents, or ~~((establishment of))~~ establish paternity ~~((are appropriate))~~. These contracts may include ~~((in such agreements))~~ the procedures for:

(i) Making referrals~~((;))~~;  
 (ii) Assigning ~~((debt, distributing incentive payments, and))~~ debts;  
 (iii) Reporting actions and activities ~~((on the part of this state for another, or another state for this state and))~~;

(iv) Coordination of activities ~~((pursuant to))~~ under and ensuring compliance with the Uniform Reciprocal Enforcement of Support Act.

~~((b))~~ (c) Private parties;  
 (d) ~~((To contract))~~ With the secretary, Department of Health and Human Services ~~((and maintain liaison for))~~ to refer and certify cases:

(i) ~~((Referral))~~ To the federal parent locator service ~~((including amount and collection of fees;))~~;

~~(ii) ((Certification and referral of cases as appropriate for the collection of support delinquencies by)) To the secretary of the treasury((-)) for action to collect support debts;~~

~~(iii) ((Certification and referral of cases as appropriate for utilization of)) For action to enforce support debts in the U.S. district courts.~~

~~(5) The office ((of support enforcement is responsible for administration of)) shall manage the Title IV-D plan ((including supervisory authority for any and)). The office shall:~~

~~(a) Oversee all activities ((necessary to meet)) under the plan to ensure the standards for an efficient and effective program ((including formal evaluation of)) are met;~~

~~(b) Evaluate the quality((, efficiency, effectiveness,)) and scope of services provided under the plan((-);~~

~~(c) ((The office will take necessary measures to meet)) Ensure that federal and state requirements for records management, accounting, and fiscal control((-, ensuring location)) are met;~~

~~(d) Provide all services under the plan in appropriate cases, including action to locate parents, ((establishment of)) establish paternity, and ((establishment)) establish, ((enforcement)) enforce, and ((collection of)) collect support ((functions are carried out effectively and efficiently:)) moneys;~~

~~(e) ((The office of support enforcement is also responsible to)) Assure that referrals and other communications with the Title IV-A agency meet the requirements of the Title IV-D and Title IV-A state plans.~~

~~(6) Under chapter 26.23 RCW, the office is designated as the agency responsible for administering the Washington state support registry.~~

~~(7) The office ((of support enforcement)) is responsible for the state-wide administration of wage withholding ((pursuant to federal statutes and regulations)) under Title IV-D.~~

#### AMENDATORY SECTION (Amending Order 2340, filed 2/12/86)

WAC 388-14-020 DEFINITIONS. The definitions contained in WAC 388-11-011 are incorporated into and made a part of this chapter.

~~(1) ((The terms "applicant/recipient," "applicant," or "recipient" include the caretaker relative, the children, and any other individual whose needs are considered in determining the amount of assistance. See also WAC 388-22-030.~~

~~(2) The term "applicant/custodian" shall designate the individual who is the physical custodian of any dependent child or children on whose behalf a request for nonassistance support enforcement services has been made to the office of support enforcement pursuant to RCW 74.20.040 and 42 U.S.C. 654(6) or 42 U.S.C. 657(C).~~

~~(3)) The term "absent parent" ((shall designate)) means that person who:~~

~~(a) Is not the physical custodian of the child; and~~

~~(b) Is a natural, or adoptive parent, or a stepparent owing a legal duty to support said child or children on~~

whose behalf an application has been made for payment of public assistance, or ((application has been made)) for whom the office is providing nonassistance support enforcement services.

~~((4) "Putative father" as used in this section shall include any and all men who may possibly be the father of the child or children on whose behalf the application for assistance or support enforcement services may be made. See also WAC 388-14-200 (2)(c).))~~

~~((5)) (2) "Aid" or "public assistance" means aid to families with dependent children or AFDC foster care and includes family independence program services to families as an alternative to AFDC.~~

~~((6) "Title IV-D" refers to Title IV-D of the Social Security Act established under Title XX of the social security amendments and as incorporated in 42 U.S.C. (602).~~

~~(7) "Title IV-D plan" refers to a plan established under the conditions of Title IV-D approved by the secretary, Department of Health and Human Services.~~

~~(8) The "required support obligation for the current month" is defined as the amount of a superior court order for support or the periodic future support amount determined pursuant to chapter 388-11 WAC which is or will be owing for the current month.~~

~~(9) "Incentive payments" are payments distributed pursuant to WAC 388-14-370 to prosecuting attorneys or other political subdivision on the basis of enforcement and collection of support payments.~~

~~(10) "Secretary" means the secretary of the department of social and health services, his or her designee or authorized representative, which for all purposes as used in chapter 74.20A RCW shall mean the designee of the secretary, the chief, office of support enforcement or his or her designee, except as is provided for in WAC 388-11-011(5) wherein for purposes of RCW 74.20A.055 "secretary" has another meaning.~~

~~(11) "Family" shall mean the person or persons on behalf of whom support is sought which unit may include a custodial parent or other person and one or more children or a child or children in foster care placement.~~

~~(12) "Residential care" means foster care as defined in WAC 388-70-012.~~

~~(13) "Head of household" means the responsible parent or parents with whom the dependent child or children were residing at the time of placement in foster care.~~

~~(14) The term "resident" shall include persons physically present in the state of Washington intending to make their home in this state. Temporary absence from the state does not destroy residence once established))~~

~~(3) The term "applicant/custodian" means the person who is the physical custodian of any dependent child or children on whose behalf nonassistance support enforcement services are being provided by the office of support enforcement under RCW 74.20.040, chapter 26.23 RCW, and 42 U.S.C. 654(6) or 42 U.S.C. 657(C).~~

~~(4) The terms "applicant/recipient," "applicant," or "recipient" include the caretaker relative, the children, and any other person whose needs are considered in determining the amount of public assistance. See also WAC 388-22-030.~~

(5) The term "disposable earnings" means that part of earnings of an individual remaining after the deduction of amounts required by law to be withheld.

(6) The term "earnings" means compensation paid or payable for personal services.

(a) Earnings include:

(i) Wages or salary;

(ii) Commissions and bonuses;

(iii) Periodic payments under pension plans, retirement programs, and insurance policies of any type;

(iv) Disability payments under Title 51 RCW;

(v) Unemployment compensation as provided for in RCW 50.40.020 and 50.40.050, and Title 74 RCW;

(vi) Gains from capital, labor, or from both combined; and

(vii) The fair value of nonmonetary compensation received in exchange for personal services.

(b) Earnings do not include profit gained through the sale or conversion of capital assets.

(7) The term "employee" means a person in employment to whom an employer is paying, owes, or anticipates paying earnings as the result of services performed.

(8) The term "employer" means any person or organization having any person in employment. It includes:

(a) Partnerships and associations;

(b) Trusts and estates;

(c) Joint stock companies and insurance companies;

(d) Domestic and foreign corporations;

(e) The receiver or trustee in bankruptcy;

(f) The trustee or the legal representative of a deceased person.

(9) The term "employment" means personal services of whatever nature, including service in interstate commerce, performed for earnings or under any contract for personal services. The contract may be written or oral, express or implied.

(10) "Family" means the person or persons on behalf of whom support is sought which unit may include a custodial parent or other person and one or more children or a child or children in foster care placement.

(11) "Head of household" means the responsible parent or parents with whom the dependent child or children were residing at the time of placement in foster care.

(12) The term "income" includes:

(a) All appreciable gains in real or personal property;

(b) Net proceeds from the sale or exchange of real and personal property; and

(c) Earnings.

(13) The term "income withholding action" includes all withholding action the office is authorized to take. The term includes, but is not limited to actions to:

(a) Assert liens under RCW 74.20A.060;

(b) Issue orders to withhold and deliver under RCW 74.20A.080, and notice of payroll deduction under chapter 26.23 RCW;

(c) Obtain wage assignment orders under RCW 26.18.080.

(14) The term "office" means the office of support enforcement.

(15) The term "physical custodian" means the natural or adoptive parent, or other person, with whom a dependent child resides a majority of the time. The physical custodian may be either an applicant/recipient or applicant/custodian.

(16) "Putative father" includes all men who may possibly be the father of the child or children on whose behalf the application for assistance or support enforcement services may be made. See also WAC 388-14-200 (2)(c).

(17) The "required support obligation for the current month" means the amount of a superior court order for support or the periodic future support amount that is or will be owing for the current month determined under chapter 388-11 WAC.

(18) The term "resident" means persons physically present in the state of Washington who intend to make their home in this state. Temporary absence from the state does not destroy residence once established.

(19) "Residential care" means foster care as defined in WAC 388-70-012.

(20) The term "support enforcement services" includes all action the office is required to perform under Title IV-D and state law. This includes, but is not limited to, action to establish, enforce, and collect child, spousal, and medical support obligations, and distribution support moneys.

(21) "Secretary" means the secretary of the department of social and health services, his or her designee, or authorized representative. For all purposes in chapter 74.20A RCW, secretary shall mean the designee of the secretary, the director, revenue division, or his or her designee, except as is provided for in WAC 388-11-011(5) where for purposes of RCW 74.20A.055 "secretary" has another meaning.

(22) "Title IV-D" means Title IV-D of the Social Security Act established under Title XX of the social security amendments and as incorporated in 42 U.S.C. (602).

(23) "Title IV-D plan" means the plan established under the conditions of Title IV-D approved by the secretary, department of health and human services.

**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 1054, filed 9/25/75)

**WAC 388-14-030 CONFIDENTIALITY.** ((The department shall not give out any information to the absent parent concerning the recipient in the conduct of activities associated with this chapter except as authorized in chapter 388-48 WAC))

(1) Under RCW 26.23.120, all information and records, concerning persons who owe a support obligation or for whom the office provides support enforcement services, are private and confidential. The office shall disclose information and records only as follows:

(a) The office shall disclose information and records only to:

(i) Persons or entities listed and for the specific purpose or purposes stated in federal law;

(ii) The person who is the subject of the information or records, unless the information or records is exempt under RCW 42.17.310;

(iii) Local, state, and federal government agencies for support enforcement and related purposes;

(iv) A party to a judicial proceeding or a hearing under chapter 34.04 RCW, if the presiding officer enters an order to disclose. The order shall be based upon a written finding that the need for the information outweighs any reason for maintaining privacy and confidentiality;

(v) Parties under contract, if disclosure will allow them to assist in the management or operation of the program;

(vi) To persons or entities when necessary to the administration of the program or the performance of functions and duties as set forth in state and federal law. The office may publish information about responsible parents for locate and enforcement purposes;

(vii) Persons, representatives, or entities if the person who is the subject of the information and records consents, in writing, to disclosure;

(viii) The office of hearings for administration of the hearing process under chapter 34.04 RCW; PROVIDED HOWEVER, That the office of hearings shall not include the address of the physical custodian in an administrative support order. The support order shall state that the address is known by the Washington state support registry and inform the parties they may obtain the address by submitting a request for disclosure to the office of support enforcement under this section.

(b) The last known address of, or employment information about, a party to a court or administrative order for, or a proceeding involving, child support may be given to another party to the order. This information may only be used to establish, enforce, or modify a support order. Disclosure of this information is subject to other limitations listed in this section;

(c) The last known address of natural or adoptive children may be given to a parent, who has a court order granting him or her visitation rights with, legal custody of or residential time with their natural or adoptive children. This information may only be used to enforce the terms of the court order;

(d) The Social Security number or numbers of the dependent child or children may be disclosed to the absent parent to enable the parent to claim the dependency exemption or exemptions as authorized by the Internal Revenue Service.

(2) The rules and procedures set forth in chapter 388-320 WAC, relating to the process for requesting and disclosing information and records, are applicable to requests for disclosure under this section.

(3) The office shall take timely action on requests for disclosure. The office shall respond in writing within ten working days of receipt of the request, unless the request is for disclosure of the address of the physical custodian or the dependent children. The office shall respond to requests for addresses within ten days of the date the

thirty-day notice period, provided for in subsection (5) of this section, expires.

(4) The following provisions apply to requests for disclosure of the address of the physical custodian or dependent children under subsection (1)(b) and (c) of this section:

(a) The office shall not release the address if:

(i) The department has determined, under WAC 388-24-111, that the physical custodian has good cause for refusing to cooperate;

(ii) The order, upon which the request is based, restricts or limits a requesting party's right to contact or visit the other party or the children by imposing conditions to protect the physical custodian or the children from harm.

(b) Persons shall submit requests for disclosure in writing and in person, with satisfactory evidence of identity, at any office of the office of support enforcement;

(c) If the request is made by the person's attorney, the office shall waive the provisions regarding submission in person with satisfactory evidence of identity;

(d) If the person resides outside the state of Washington, the office shall waive the provision requiring submission in person if the person submits a notarized request for disclosure and complies with the requirements of subsection (4)(e) of this section;

(e) The requester shall attach the following to a request for disclosure of an address:

(i) A copy of the superior court or administrative order upon which the request is based. The office shall waive this provision if the office has a true copy of the order on file;

(ii) A sworn statement by the individual that the order has not been modified;

(iii) A statement explaining the purpose of the request and how the information will be used.

(5) Prior to disclosing an address, the office shall mail a notice to the last known address of the party whose address has been requested, except as provided in subsection (6) of this section. The notice shall advise the party that:

(a) A request for disclosure has been made; and

(b) The office will disclose the address, to a person under subsections (1)(b) and (c) of this section, after thirty days from the date of the notice, unless the office receives a copy of a court order which:

(i) Enjoins disclosure; or

(ii) Restricts the requesting party's right to contact or visit the other party or the children by imposing conditions to protect the physical custodian or the children from harm, including, but not limited to, temporary orders for protection under chapter 26.50 RCW.

(6) The office will not mail a notice prior to disclosure:

(a) If the requesting party can show the other party will likely flee and that:

(i) A court of competent jurisdiction of this state or another state has entered an order giving legal and physical custody of the child or children to the requesting party; and

(ii) The custody order has not been altered, changed, modified, superseded, or dismissed; and

(iii) The child or children were taken or enticed from the physical custody of the requesting party without the requesting party's consent; and

(iv) The requesting party has not subsequently assented to being deprived of physical custody of the children; and

(v) The requesting party is making reasonable efforts to regain physical custody of the child or children; or

(b) When the child or children are receiving foster care services under chapter 74.13 RCW.

(7) If the child or children are receiving foster care services, parties shall contact their local community services office for disclosure of address information.

(8) The rules of confidentiality and penalties for misuse of information and reports that apply to employees of the department also apply to persons who receive information under this section.

(9) Nothing in these rules shall be construed:

(a) To prevent the office from disclosing information and records when such disclosure is necessary to the performance of its duties and functions as provided by state and federal law;

(b) To require the office to disclose information and records obtained from a confidential source.

AMENDATORY SECTION (Amending Order 2288, filed 10/1/85)

WAC 388-14-200 ELIGIBILITY—ASSIGNMENT OF SUPPORT RIGHTS—COOPERATION WITH OFFICE OF SUPPORT ENFORCEMENT—EFFECT OF NONCOOPERATION. This section establishes the initial and continuing requirements which affect eligibility for aid to families with dependent children. These requirements also affect eligibility for family independence program services.

(1) Beginning August 1, 1975, as a condition of eligibility for assistance, each applicant/recipient shall make assignment to the office ((of support enforcement)) of any and all right, title, and interest in any support obligation the applicant/recipient may have ((in his or her own behalf or in behalf)). This includes support rights of any other family member for whom the applicant/recipient is applying for or receiving financial assistance ((including)). It also includes rights to support which have accrued at the time such assignment is executed. Through this assignment, the applicant/recipient authorizes the office to provide services for the family, and to continue to provide services after the family stops receiving assistance, until services are terminated under this chapter.

(2) When subsection (1) of this section is satisfied, cooperation is further required as a continuing condition of eligibility for assistance unless the CSO determines the applicant/recipient has good cause not to cooperate under WAC 388-24-111. Cooperation includes ((identifying and locating absent parents including possible putative fathers, and in establishing paternity of a child or children, and/or in obtaining support payments or any other payments or property due the applicant/recipient

or child or children as follows)), but is not limited to, assisting the office in or by doing the following:

(a) ((Cooperation in)) Identifying and locating absent parents ((including putative fathers includes, but is not limited to)) by:

(i) Providing all known ((relevant)) information about the absent parent, such as the absent parent's name ((including)), known aliases, address, telephone ((or message)) number((;)) or numbers, Social Security number, employment history, and physical description((; and));

(ii) Providing data regarding the date and place of marriage, separation, divorce, or dissolution ((including)), and copies of any documents and any court orders establishing paternity and/or support obligations((;));

(iii) Providing information to establish the amount of the support debt accrued prior to the application. Applicants shall give information ((must be given)) at the time of application and/or at a later time, if requested by the office ((of support enforcement)),<sub>2</sub> to supplement existing information((;)).

((;)) (b) ((Providing notice to)) Notifying the office ((of support enforcement of any and all necessary)) when there are changes in information concerning the absent parent ((or parents, including all putative fathers of a child on whose behalf the recipient applied for or receives public assistance, and also providing notice of changes in the information and/or notice of new information as available.));

((;)) (c) ((Cooperation in)) Establishing the paternity of a child ((or children including, but not limited to: Taking));

(i) The applicant shall take all reasonable action ((in cooperation with)) requested by the office ((of support enforcement)), the prosecuting attorneys, the attorney general, private attorneys compensated under RCW 74.20.350, courts,<sub>2</sub> or other agencies((;)) in:

(A) Administrative hearings((;)); or ((in))

(B) Actions to prosecute or maintain any legal action or remedy for the establishment of paternity;<sub>2</sub> or ((in))

(C) Investigations preparatory to or supplementary to such hearings or actions((; and to develop)).

(ii) The applicant shall assist in the development of medical and anthropological evidence relating to the alleged father's paternity based upon tests performed by experts on the mother and the child.

((;)) (c) When a custodial mother has informed the department that a particular man is the father of her child, the department shall make no further inquiry into her personal life unless the man so identified has denied that he is the father of such child.))

(d) ((Cooperation in)) Establishing and collecting support and/or in obtaining support payments or any other payments or property due the applicant/recipient or ((child or children includes taking)) a dependent child. The applicant shall take all reasonable action ((in cooperation with)) requested by the office ((of support enforcement)), the prosecuting attorneys, the attorney general, private attorneys compensated under RCW 74.20.350, courts or other agencies in:

(i) Administrative hearings;<sub>2</sub> or ((in))

(ii) Actions to prosecute or maintain any legal action or remedy for the establishment or collection of support obligations; or ~~((in))~~

(iii) Investigations preparatory to or supplementary to such hearings or actions.

~~(e) ((Cooperation in the obtaining of support payments further includes but is not limited to:~~

~~(i) Providing of specific information at the time of application to establish the amount of the support debt accrued to the applicant/recipient prior to application for assistance.~~

~~(ii) Remittance of))~~ Remitting all support payments ~~((received by the applicant/recipient))~~ the applicant/recipient receives, from any person or agency, to the office of support enforcement within eight days of receipt of said payments~~((:))~~;

~~((iii)) (f) ((Execution of))~~ Executing a repayment agreement and ~~((the repayment of))~~ repaying retained support moneys ~~((in accordance with such an))~~ under the agreement.

(3) If the applicant/recipient fails to cooperate as defined in this section, the applicant/recipient shall be ineligible to receive assistance. The department shall provide any assistance for which the children may be eligible ~~((shall be provided))~~ as specified in WAC 388-33-453. The ~~((determination of))~~ department shall compute requirements for the child or children ~~((shall be computed))~~ without regard to the requirements of the applicant/recipient.

(4) If the applicant/recipient does not remit support moneys ~~((are not remitted))~~ within eight days of receipt ~~((by the applicant/recipient))~~ as required under WAC 388-14-200 (2)(e)(ii) and the applicant/recipient is currently receiving an AFDC grant, or cash benefits under the family independence program, the office of support enforcement shall:

(a) Document the applicant/recipient has, in fact, received and retained support moneys and the amount of said money~~((:))~~;

(b) Issue a notice of debt as provided in WAC 388-13-020 to the applicant/recipient to recover the payments, which notice includes the following information:

(i) An explanation of the applicant/recipient's responsibility to cooperate by turning over the support moneys as a condition of eligibility for AFDC, and the sanction for failure to cooperate;

(ii) A list of the support moneys retained, including the dates and amounts as well as copies of any documentary evidence (such as copies of checks, front and back), the office of support enforcement possesses;

(iii) A proposed repayment agreement ~~((which))~~ that may include a provision for a voluntary grant deduction;

(iv) An explanation that repaying retained support moneys according to a repayment agreement is a condition of cooperation~~((:))~~;

(v) A notice that the recipient may request an informal meeting with OSE, within twenty days of the date of service of the notice of debt, to clarify the recipient's responsibilities for cooperation and to attempt to resolve any differences regarding the existence or amount of the claim for unremitted support moneys and/or the proposed repayment agreement~~((:))~~;

(vi) A notice that the recipient has the right to request a hearing pursuant to WAC 388-13-060 to contest the department's claim of ownership of the support money identified in the notice and/or the reasonableness of the proposed repayment agreement~~((:))~~;

(vii) A statement that the office of support enforcement will notify the CSO the recipient has failed to cooperate unless the recipient, within twenty days of the date of service of the notice of debt, executes the proposed repayment agreement, requests an informal meeting or requests an administrative hearing.

(5) The repayment agreement ~~((must))~~ shall be reasonably related to:

(a) The applicant/recipient's total income and resources including the AFDC grant; and

(b) The total amount of retained support moneys~~((:))~~; ~~((e))~~ (6) The monthly amount of the repayment ~~((must))~~ shall not exceed ten percent of:

(a) The grant payment standard during any month the applicant/recipient remains in public assistance status, or

(b) The cash benefits paid under the family independence program.

~~((6))~~ (7) If an applicant/recipient has retained support moneys but is no longer an active recipient of public assistance money, the office of support enforcement shall proceed pursuant to RCW 74.20A.270 and chapter 388-13 WAC, without reference to the procedural requirements of WAC 388-14-200(4).

~~((7))~~ (8) The office of support enforcement shall notify the CSO that the recipient has failed to cooperate if:

(a) The recipient fails to sign a repayment agreement for the amount of retained support moneys claimed by OSE in the notice of debt or as determined by an administrative law judge if a hearing is requested pursuant to WAC 388-13-060;

(b) The recipient enters into a repayment agreement but subsequently fails to make a payment under the terms of the agreement, or fails to comply with the decision of the administrative law judge.

~~((8))~~ (9) The office of support enforcement shall promptly notify the CSO when either of the following changes in circumstances occurs:

(a) The recipient failing to enter into a repayment agreement consents to do so and signs a repayment agreement;

(b) The recipient defaulting on an agreement or an administrative decision makes a regularly scheduled payment according to the agreement or decision.

~~((9))~~ (10) Nothing in these rules shall be construed to make an otherwise eligible child ineligible for public assistance because of the failure of applicant/recipient to cooperate as defined in this section.

AMENDATORY SECTION (Amending Order 2340, filed 2/12/86)

WAC 388-14-205 RESPONSIBILITIES OF THE OFFICE OF SUPPORT ENFORCEMENT. (1) The office ~~((of support enforcement))~~ shall ~~((undertake))~~ provide services, until such services are terminated under this chapter, when:

(a) The department pays public assistance ((is paid;)) or provides foster care services;

(b) A former recipient of public assistance is eligible for services under WAC 388-14-302 (a) or (b);

(c) An applicant/custodian requests nonassistance support enforcement services ((are requested, or support enforcement services are requested by)) under RCW 74.20.040 and WAC 388-14-302.

(d) A support order or wage assignment order under chapter 26.18 RCW directs that support payments are to be made through the Washington state support registry;

(e) A support order under which there is a current support obligation for the dependent children, is submitted to the Washington state support registry;

(f) A former custodial parent requests services to collect a support debt that has been reduced to a sum certain judgment by the court or agency of competent jurisdiction; and

(g) A child support enforcement agency in another state ((to:

(a) Establish paternity of any child born out of wedlock; and

(b) Secure support for a child from any person legally liable for such)) or foreign country under reciprocal agreement requests support enforcement services.

(2) Whenever possible and/or appropriate under the circumstances, the office ((of support enforcement)) shall ((initiate)) take action under chapter 74.20A RCW to establish, enforce, and collect the child support obligation. The office may refer appropriate cases to the county prosecuting attorney or attorney general's office when judicial action is required.

((2)) (3) The office ((of support enforcement with)) shall not act to establish paternity or secure child support in any case for which it has received notice that the CSO has determined that there has been a finding of good cause under WAC 388-24-111.

(a) The office ((of support enforcement with)) shall request that all activities under Title IV-D to establish paternity or secure child support ((involving activities of agencies acting under cooperative agreements are)) be suspended ((when OSE receives notice from)) until the CSO ((that)) notifies the office of its final determination regarding an applicant or recipient who has claimed good cause ((until notified of the final determination of the CSO)). Any agency acting under a cooperative agreement who fails or refuses to comply with the request to suspend activities shall not be entitled to financial participation under the Title IV-D cooperative agreement as to said case or cases upon which the request is made.

(b) A child support obligation continues while enforcement and/or collection action is suspended pending a final determination of good cause and will be subject to collection when a decision is made that good cause for refusal to cooperate no longer exists.

((b)) (c) The office ((of support enforcement with)) shall review and comment on the findings and basis for the proposed determination by the CSO.

((c)) (d) The office ((of support enforcement with)) shall be a party to any hearing requested as a result of

an applicant's or recipient's appeal of any agency action under WAC 388-24-111.

(4) The office shall:

(a) Establish, maintain, retain, and dispose of case records in accordance with the department's records management and retention policies and procedures adopted pursuant to chapter 40.14 RCW.

(b) Establish, maintain, and monitor support payment records; and

(c) Receive, account for, and distribute child support payments required under superior court and administrative orders for support.

(5) The office shall prepare a notice of satisfaction of judgment and file it with the clerk of the superior court in which the order was entered, when the support obligation under the order has been terminated, and any support debt under the order has been satisfied or is no longer enforceable.

AMENDATORY SECTION (Amending Order 1465, filed 12/14/79)

WAC 388-14-210 SUPPORT PAYMENTS TO OFFICE OF SUPPORT ENFORCEMENT. (1) ((AH)) Persons paying support moneys ((paid)) to satisfy a support obligation assigned to the department or which the department has been authorized to enforce and collect shall ((be routed)) route such payments to the office ((of support enforcement)). See RCW 74.20.101.

(2) ((AH)) Recipients of public assistance or other persons or agencies receiving support moneys ((routed directly to a recipient of public assistance, or to another)) on behalf of a recipient of public assistance((, by any person or agency other than the office of support enforcement)) shall ((be remitted by the recipient or other person or agency)) remit all such moneys to the office ((of support enforcement)) within eight days of receipt of the payment.

(3) Persons paying support moneys to satisfy a support obligation under a superior court or administrative order for support, directing the responsible parent to make payments to the Washington state child support registry, shall route all such moneys to the office.

(4) After a responsible parent has been ordered or notified to make payments to the office or the Washington state child support registry, the office will not credit the parent for payments made to any other person or agency: PROVIDED HOWEVER, That credit may be granted if:

(a) The department determines that there is no prejudice to the custodial parent or other person or agency entitled to receive the support payments, or to the children, and that there are special circumstances of an equitable nature which justify credit for such payments; or

(b) A court of competent jurisdiction determines that credit should be granted after a hearing at which all interested parties were given an opportunity to be heard.

(5) The burden of providing that credit should be given is on the parent claiming credit for the payments.

AMENDATORY SECTION (Amending Order 1605, filed 2/11/81)

WAC 388-14-220 SUBPOENA POWER. The ~~((chief, of the office of support enforcement))~~ secretary or ~~((his))~~ secretary's designee is a duly appointed officer empowered to issue subpoena of witnesses, books, records, etc., pursuant to RCW 74.04.290 and chapters 388-11 and 388-14 WAC as to matters ~~((he deems))~~ deemed relevant to the performance of ~~((his))~~ the secretary's duties.

AMENDATORY SECTION (Amending Order 2340, filed 2/12/86)

WAC 388-14-270 DISTRIBUTION OF SUPPORT PAYMENTS—PUBLIC ASSISTANCE. ~~((All payments collected as support on behalf of persons receiving public assistance in the state of Washington for whom an assignment is made shall be distributed under the following conditions:))~~

(1) When the office provides support enforcement services, the office shall distribute all support money collected by the office, or received by the office in its capacity, as the Washington state support registry:

(a) In accordance with federal law, if public assistance, or cash benefits under the family independence program, is being or has been provided for the support of the family unit;

(b) To the family or person to whom the support money is owed if public assistance funds have not been provided for the support of the family; and/or

(c) To the child support enforcement agency in another state or foreign country which submitted a request for support enforcement services.

(2) If the location of the family or person to whom the support money is owed is unknown, the office shall exercise reasonable efforts to locate the family or person. If the office is unable to locate and disburse the money to the family or person, the office shall handle the money in accordance with an agreement with the department of revenue and as required by state law.

(3) The following ~~((provisions))~~ rules shall apply to ~~((this section))~~ the distribution of support money:

(a) The office shall record all payments ~~((will be))~~ reported in exact amounts without rounding.

(b) The date of collection shall be the date on which the payment is received by the office ~~((of support enforcement or the political subdivision making the collection under agreement and on behalf of the office of support enforcement))~~. For interstate collections, the date of collection shall be the date on which the payment is received by the IV-D agency of the state in which the family ~~((is))~~ receiving aid)) support enforcement services, resides.

(c) The ~~((amounts collected as support during periods of time when aid is being provided, shall, for the purposes of this distribution section only, be treated first as payment on the required support obligation for the month in which support was collected))~~ office shall apply all payments:

(i) To satisfy the support obligation for the month in which the payments are received and, then;

(ii) To any support debt or debts owed to:

(A) The family;

(B) A person for whom services are being provided;

(C) The department; or

(D) A child support agency in another state or foreign country.

(d) If the responsible parent owes a current support obligation to more than one family and does not pay enough money during the month to satisfy these current support obligations in full, the office shall distribute the money collected based on the proportionate share of the obligation owed to each family;

(e) If the support payment or payments received during a month exceeds the amount required to satisfy the current support obligation or obligations for that month and the responsible parent owes more than one support debt, the office shall apply the excess amount to the support debts based on the proportionate share of the debt owed to each: PROVIDED HOWEVER, That the office may apply amounts distributed under this subsection to a single support debt rather than make a proportionate distribution in the following circumstances:

(i) If a portion of the support debt will be lost due to the running of the statute of limitations; or

(ii) If proportionate distribution is administratively inefficient; or

(iii) If the collection resulted from the sale or disposition of a specific piece of property in which the applicant/recipient or applicant/custodian has a judgment lien for child support.

(f) The office shall convert amounts collected which are paid more frequently than once a month ~~((shall be converted))~~ to an amount ~~((which))~~ that represents payment on the required support obligation for the current month. The office of support enforcement is directed to distribute payments periodically to give effect to efficient administration.

~~((f))~~ (g) The office shall report any amounts distributed to ~~((the))~~ a family ~~((will be reported))~~, receiving public assistance, to the community service office identifying whether or not the payment is available to meet the need. This requirement shall not relieve the recipient of the duty to report receipt of any support moneys.

~~((f))~~ Any amounts collected which represent support shall be used to reduce dollar for dollar the amount of the support obligation as defined in WAC 388-14-100.

(2) The amounts collected as support by the IV-D agency pursuant to the state plan for children who are current recipients of aid under the state's Title IV-A plan by the office of support enforcement and for whom assignment under WAC 388-24-108 and 388-14-200 is effective shall be distributed as follows:

(a) The first fifty dollars of any amount that is collected in a month which represents payment of the required support obligation for that month shall be paid to the family. This payment may not be used in determining the amount paid, if any, to the family in subsection (2)(c) of this section. If the amount collected includes payment of the required support obligation for a previous month or months, the family shall only receive the

first fifty dollars of the amount which represents the required support obligation for the month in which support was collected. If amounts are collected for one family which represents support payments from two or more absent parents, only the first fifty dollars of the amount collected which represents the total required support obligation for the month in which the support was collected shall be paid to the family under this subsection. No payment shall be made to a family under this subsection for a month in which no child support collection is received. The requirements of this subsection shall be applicable commencing October 1, 1984.

(b) Any amount that is collected in a month which represents payment on the required support obligation for that month and is in excess of the amount paid to the family under subsection (2)(a) of this section shall be retained by the state to reimburse, in whole or in part, the assistance payment for the month in which the child support was collected or the next month. Of the amount retained by the state as reimbursement for that month's assistance payment, the office of support enforcement shall determine the federal government's share of the amount so retained so the IV-A agency may reimburse the federal government to the extent of its participation in the financing of the assistance payment. From the federal government's share, the office of support enforcement shall deduct and pay the incentive payments, if any, prescribed in WAC 388-14-370.

(c) If the amount collected is in excess of the amount required to be distributed under subsection (2)(a) and (b) of this section, the family shall be paid such excess up to the difference between the assistance payment for the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the state's Title IV-A plan and the court-ordered amount for that month. This payment shall be made in the month following the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the state's Title IV-A plan. If such court-ordered amount is less than such assistance payment, no amount shall be paid to the family under this subsection. In cases in which there is no court order, the family shall not be paid any amount under this subsection.

(d) If the amount collected is in excess of the amounts required to be distributed under subsection (2)(a), (b), and (c) of this section, any such excess shall be retained by the state as reimbursement for past assistance payments made to the family for which the state has not been reimbursed. The state may apply the amount retained to any sequence of months for which it has not yet been reimbursed. Of the amount retained by the state as reimbursement of past assistance payments, the office of support enforcement shall determine the federal government's share of the amount so retained so the IV-A agency may reimburse the federal government to the extent of its participation in the financing of the assistance payments. From the federal government's share, the office of support enforcement shall deduct and pay the incentive payment, if any, prescribed in WAC 388-14-370. If past assistance payments are greater than the

total support obligation owed, the maximum amount the state may retain as reimbursement for such assistance payments is the amount of such obligation, unless amounts are collected which represent the required support obligation for periods prior to the first month in which the family received assistance under the state's Title IV-A plan, in which case such amounts shall be retained by the state to reimburse the difference between such support obligation and such assistance payments.

(e) If the amount collected is in excess of the amounts required to be distributed under subsection (2)(a), (b), (c), and (d) of this section, such excess shall be paid to the family. This payment shall be made in the month following the month in which the amount of the collection was used to redetermine eligibility for an assistance payment under the state's Title IV-A plan.)

((3)) (4) If an amount collected as child support represents payment on the required support obligation for future months, the office shall apply the amount ((shall be applied)) to such future months. However, ((no)) the office shall not apply such amounts ((shall be applied)) to future months unless amounts have been collected which fully satisfy the support ((obligation assigned under WAC 388-24-108 and 388-14-200 for the current month and all past months)) debt.

((4)) (5) ((Any amount paid under subsection (2)(a), (c), or (e) of this section shall be identified as not being an assistance payment)) The office may recover support money distributed to a person or to the family in error, after receipt of a check which is later dishonored, or the office is later required to refund or return the support payment, as follows:

(a) If the person or family to whom the money was distributed is receiving nonassistance support enforcement services, the office may deduct and retain, from subsequent support payments received on behalf of the person or family, any amounts collected on a support debt and up to ten percent of amounts collected as current support. The office shall send a notice to the last known address of the person or family prior to taking action to recover such payments. The notice shall identify the payments the office will recover and inform the person or family of the amounts that will be deducted from future collections; and

(b) If person or family is no longer receiving support enforcement services, the office of support enforcement may take action under RCW 74.20A.270 to recover the money.

((5)) (6) ((Whenever the office of support enforcement is making collections on delinquent support assigned to the department pursuant to WAC 388-24-108 and 388-14-200, the office of support enforcement may pay to the family pursuant to WAC 388-14-250 from said collections an amount equal to the monthly amount owed for current support as established by either the superior court order for support or the administrative order or final determination entered pursuant to chapter 388-11 WAC.

Payments to the family pursuant to this subsection may be made only during the five months following the last month in which aid was paid and thereafter if the

former recipient authorizes the office of support enforcement to continue to provide support enforcement services)) If the family is receiving public assistance and the applicant/recipient fails to remit support payments to the office as required, the office shall use the process set forth in WAC 388-14-200 to recover such support payments.

AMENDATORY SECTION (Amending Order 2340, filed 2/12/86)

WAC 388-14-302 NONASSISTANCE SUPPORT ENFORCEMENT—PERSONS ELIGIBLE.

(1) The office of support enforcement shall provide support enforcement services to:

(a) Any resident of the state of Washington who is a physical custodian of a dependent child who is a resident of the state of Washington and who is not a recipient of public assistance ((may request nonassistance support enforcement services to establish, enforce, or collect an obligation for support including accrued arrears. PROVIDED, That the office of support enforcement may also act to establish paternity where it is a necessary part of establishing support obligations for nonassistance clients));

(b) A former custodial parent, who is not currently receiving support enforcement services, to collect a support debt that has been reduced to a sum certain judgment by a court or agency of competent jurisdiction; or

(c) A responsible parent who submits a support order to the Washington state support registry.

(2) If a person other than the applicant has legal custody of the dependent child by order of a court, the applicant shall affirm that the legal custodian has not been wrongfully deprived of custody by the applicant and would not be excused from making support payments in accordance with WAC 388-11-065(10), in order to be eligible for support enforcement services.

~~((2))~~(3) If a request for nonassistance support enforcement services is denied, the office shall send a written notice of the denial ((shall be sent)) by regular mail and shall include a statement of the reasons for the denial and a statement that the applicant may request an administrative hearing to contest the denial.

~~((3))~~(4) Any person who has been provided support enforcement services as a result of an approved application for public assistance may also request nonassistance support enforcement services effective with the date of termination of public assistance. A request made prior to termination shall not be effective until the first of the month following termination from assistance. Support enforcement services may be continued by the office of support enforcement for a period of time not to exceed five months following the last month in which public assistance was paid as a continuation of actions maintained as a result of an assignment pursuant to WAC 388-24-108 and 388-14-200 or by operation of law under RCW 74.20A.030. If support enforcement services on behalf of a public assistance recipient have resulted in the collection of support payments, the office of support enforcement shall continue, if appropriate, to provide support enforcement services during this five-month period, and thereafter, if authorized to do so by the former

recipient. All support moneys collected, during the five-month period, except those collected to satisfy arrears assigned to the department under RCW 74.20.320, 74.20.330, 42 U.S.C. 602 (a)(26)(A), RCW 74.20A.250, and/or 74.20A.030 shall be remitted to the children's custodian.))

AMENDATORY SECTION (Amending Order 2340, filed 2/12/86)

WAC 388-14-305 NONASSISTANCE SUPPORT ENFORCEMENT—APPLICATION. (1) A person desiring nonassistance support enforcement services shall complete the appropriate forms requesting the the services unless:

(a) The superior court or administrative order directs that support payments shall be paid through the Washington state support registry, or

(b) The Clerk of Court submits an order under RCW 26.23.050(5), or

(c) The office is continuing to provide services to a former recipient of public assistance.

(2) If the support order, or wage assignment under chapter 26.18 RCW, directs payments through the registry, or the order was submitted to the registry by the clerk, the person entitled to receive support payments under the order shall be deemed to:

(a) Have made a request for services, and

(b) Have authorized the office to take appropriate action to enforce and collect support and perform related and necessary functions.

(3) The person desiring nonassistance services shall complete the necessary forms ((must be completed)) in full, ((dated, signed)) date, sign, and ((forwarded)) forward them to the district office of support enforcement. The applicant shall supply copies of divorce or dissolution decrees, support orders and modifications thereof, and any allied or related documents ((which)) that reflect the marital and support status((, shall be supplied by the applicant)).

~~((2))~~(4) The applicant shall also include or attach a statement of the amount of accrued arrears and list by date and amount all support payments received during the period of time when the arrears accrued. The office of support enforcement may require this statement to be by affidavit. The applicant may also be required to submit a written statement affirming the legal custodian has not been wrongfully deprived of custody of the dependent child or children, or affirming the applicant is and will continue to be a resident of this state even though the applicant is or will be temporarily absent from the state. The office shall deny requests on which statements are incomplete, unclear, or inconsistent ((will be denied and no service will be provided)) until such time as the request for services is presented in acceptable form.

~~((3))~~(5) The department shall make the appropriate forms ((will be)) available at any community service office of the department of social and health services or at any district office of the office of support enforcement. Applicants may request the forms ((may be requested)) by phone, mail, or ((obtained personally)) in person.

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 2340, filed 2/12/86)

WAC 388-14-310 NONASSISTANCE SUPPORT ENFORCEMENT—APPLICANT/CUSTODIAN'S AUTHORIZATION. (1) The applicant shall submit a written request for support enforcement services and authorize the office of support enforcement to ~~((initiate appropriate action to establish, enforce, and collect the support obligation))~~ provide support enforcement services, unless the applicant has or is deemed to have authorized the office to provide such services under WAC 388-14-200(1) or WAC 388-14-305(2).

(2) The applicant/custodian shall:

(a) Give consent to the office ~~((of support enforcement))~~ to take an assignment of earnings from the person owing a duty to pay support;

(b) Agree to remit, within eight days of receipt, to the office ~~((of support enforcement))~~ support moneys received directly from the person owing a duty to pay support ~~((during the period of time support enforcement services are maintained:)); and~~

~~((3))~~(c) ~~((The applicant/custodian, during the time support enforcement services are in effect, must send or deliver all support income received from the person owing a duty to pay support to the office of support enforcement providing the service and))~~ Agree to direct any payor or forwarding agent of support moneys to remit directly to office ~~((of support enforcement))~~.

(3) If the applicant/custodian fails to forward and/or fails to provide adequate documentation of ~~((such))~~ direct payment as requested, the office ~~((of support enforcement))~~ may discontinue providing support enforcement services or decline to provide certain services as provided for in this chapter.

(4) The applicant/custodian shall not hire an attorney or collection agency to collect the support obligation or support debt without notifying the office. After receipt of such notice, the office shall send a written statement to the applicant/custodian, and the attorney or collection agency, which shall include a directive that all support payments must continue to be made through the Washington state support registry, and a statement that the office may discontinue certain support enforcement services if the support payments are not made through the registry, or action taken by the attorney or agency conflicts with action the office would otherwise take to establish, enforce, or collect a support obligation.

AMENDATORY SECTION (Amending Order 1465, filed 12/14/79)

WAC 388-14-370 COOPERATIVE ARRANGEMENTS WITH COURTS AND LAW ENFORCEMENT OFFICIALS. (1) The office of support enforcement is ~~((herewith))~~ authorized to enter into cooperative arrangements, and written agreements including financial arrangements with appropriate courts and law enforcement officials to assist the office ~~((of support enforcement in administering))~~ to administer the state plan

for support enforcement in order to assure optimum results under such program. These cooperative arrangements and written agreements also include entering into financial arrangements or agreements with such agencies and officials to provide for the investigation and prosecution of fraud directly related to paternity, child support, and other matters of common concern.

(2) The office of support enforcement shall receive and distribute funds made available as payments to states to administer this plan (42 U.S.C. 655). ~~((The office of support enforcement shall also administer and distribute incentive payments to localities (42 U.S.C. 658:))~~) No payments may be made to any political subdivision, court or law enforcement official of the state of Washington under these provisions except in compliance with the requirements of agreements made between the office of support enforcement and the political subdivision, court or law enforcement official pursuant to this section. ~~((No incentive payments to localities may be made except for enforcement and collection of support rights assigned pursuant to WAC 388-24-108:))~~

(3) In order to qualify for payments ~~((to states or incentive payments to localities))~~, a political subdivision, court or law enforcement official of the state of Washington ~~((must))~~ shall obtain referral of the case or cases involved from the office of support enforcement and pay all support payments made subsequent to referral ~~((shall be paid))~~ to the office of support enforcement. In the case of actions under the Uniform Reciprocal Enforcement of Support Act initiated in another state, a political subdivision or law enforcement official of the state of Washington may obtain referral status by submitting documents as determined by agreement, to the office of support enforcement for acceptance under this plan.

~~((4))~~ When a political subdivision of the state of Washington acting in compliance with the terms of an agreement entered into with the office of support enforcement or when a IV=D agency of another state under an approved Title IV=D plan or a political subdivision of another state pursuant to the approved Title IV=D plan makes the enforcement and collection of the support rights assigned under 42 U.S.C. 602 (a)(26)(A); or sections 17 and 22, chapter 171, Laws of 1979 ~~ex. sess. RCW [74.20.320] [74.20.330]~~, the office of support enforcement is authorized to pay to such political subdivision or other IV=D agency the following amounts from the amounts which would otherwise represent the share of the moneys to be reimbursed to the federal government:

(a) An amount equal to 15 percent of any amount collected and retained by the state of Washington to reduce or repay assistance payments which represent payment on the required support obligation;

(b) When more than one agency or jurisdiction within the state of Washington or more than one state is involved in enforcement or collection the amount of incentive stated above shall be allocated among such jurisdiction in a manner prescribed by instructions issued by the office of child support enforcement of the department of health, education, and welfare:))

AMENDATORY SECTION (Amending Order 2340, filed 2/12/86)

WAC 388-14-385 CONFERENCE BOARD. (1) A conference board is herewith established to ~~((make inquiry))~~ inquire into, determine facts, and attempt to resolve matters in which a responsible parent, custodial parent, or other person feels aggrieved by actions taken by the office of support enforcement pursuant to chapters 74.20, 74.20A RCW, or Title IV-D of the Social Security Act (Title 42 U.S.C.).

(a) The intent and purpose of the conference board is to facilitate the informal speedy resolution of grievances ~~((by))~~ of responsible parents, custodial parents, or other persons. An applicant for a conference board proceeding ~~((must))~~ shall have made a reasonable attempt and have failed to resolve the grievance or issue with the workers before a conference board may act to attempt to resolve the issue.

(b) The ~~((chief, office of support enforcement))~~ director, revenue division, or ((his or her)) director's designee may assemble a conference board on application of the aggrieved person or on ~~((his or her))~~ the director's own motion to investigate, find facts, and state or apply policy or law to the end of resolving grievances.

(c) The director or the director's designee may take such action, as deemed appropriate, and may individually exercise any of the authority provided for in this regulation, if:

(i) The grievance or issue presented in an application for conference board does not involve a factual dispute, or

(ii) ~~((if))~~ The disputed fact or facts even if resolved in favor of the applicant would not provide a basis upon which relief could be granted to the applicant by a conference board acting in accordance with the standards provided for ((herein, the chief or his or her designee may take such action as he or she deems appropriate and to that end he or she may individually exercise any of the authority provided for in this regulation)) in this section.

(d) If an apparent factual dispute exists(;;):

(i) The director or director's designee shall assemble a conference board ((shall be)) composed of the ((chief)) director or ((his or her)) director's designee, who shall serve as chairman, and two staff members, if deemed necessary((, appointed by the chief or his or her designee. The conference board shall dissolve upon issuance of decisions on matters for which it was appointed)).

(ii) The chairman of the conference board shall mail a notice, to the applicant and any other person or agency who is a party in interest to the proceeding, that a conference board has been convened and inform the parties of the time and place of the conference board at least seven days prior to the date the conference board is scheduled.

~~((d))~~(e) The chairman of the conference board is herewith authorized as a duly appointed officer empowered to issue subpoena of witnesses, books, records, etc., as provided for in RCW 74.04.290 and shall have power to subpoena witnesses, administer oaths, take testimony,

and compel the production of such papers, books, records, and documents ~~((as he or she deems))~~ deemed relevant to the resolution of the grievance under consideration. Additional evidence may be taken by affidavit or other written submission when necessary or practicable together with written or oral argument. The director may designate persons having specific familiarity with the matter at issue or technical expertise with the subject ((may be designated)) to advise the board as required.

~~((e))~~(f) The conference board's jurisdiction shall include but shall not be limited to the following areas:

(i) Complaints as to the conduct of individual staff members while acting in the scope of their duties. The decision of the board shall be directed to the first line supervisor for action as appropriate;

(ii) Review of denial of application for or termination of nonassistance support enforcement services;

(iii) Review of allegations of error as to the distribution of support moneys;

(iv) Resolution of amounts of arrears claimed due and rate of repayments;

(v) Requests to release or refund moneys taken pursuant to RCW 74.20A.080 to provide for the reasonable necessities of responsible parent or parents and minor children in their home;

(vi) Requests for deferral of support enforcement action;

(vii) Requests for partial or total charge-off of support arrears pursuant to RCW 74.20A.220 or declination to collect support arrears pursuant to RCW 74.20.040 on nonassistance cases;

(viii) Requests to waive interest pursuant to RCW 74.20A.190;

(ix) Requests to waive or defer the nonassistance support enforcement fee pursuant to RCW 74.20.040;

(x) Any other matter requiring explanation of or application of policy or law to an issue in a specific case or clarification of facts in said case.

(xi) Requests for administrative review of cases submitted to the IRS for offset of a tax refund in accordance with federal statutes and regulations.

(2) The conference board shall dissolve upon issuance of decisions on matters for which it was appointed.

(3) The board's decision, including a decision to deny a request for a conference board, shall be in accordance with applicable statutes, case law, department of social and health services rules and regulations, published office of support enforcement manuals, support enforcement policy bulletins and the exercise of reasonable administrative discretion. The decision shall be in writing and shall find the facts, applicable law, policies applied, and clearly state the decision. If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. The director shall vacate decisions inconsistent with the standards in this section ~~((shall be vacated by the chief of the office of support enforcement))~~ and ~~((remanded))~~ remand them for issuance of a new decision in compliance with the standards.

~~((3))~~(4) The office shall establish a file of pertinent documents ((shall be established)) for each case and

distribute a copy of the decision, signed by the chairman, ~~((shall be distributed))~~ to the ~~((petitioning party))~~ applicant and other parties in interest, the appropriate office of support enforcement district field office for action consistent with the decision of the board, and the ~~((chief, office of support enforcement))~~ director.

~~((4))~~(5) The board shall base decisions under RCW 74.20A.220 to grant partial or total charge-off ~~((pursuant to RCW 74.20A.220))~~ of arrears owed to the department of social and health services under RCW 74.20A.030, 74.20A.250, 74.20.320, 74.20.330, or 42 U.S.C. 602 (a)(26)(A) ~~((shall be based))~~ on the following considerations ~~((which))~~ and shall ~~((be found and stated))~~ state them in the written decision of the conference board fully justifying the action taken:

(a) Error in law or bona fide legal defects ~~((which))~~ that materially diminish chances of collection; or

(b) Substantial hardship to minor children in the household of the responsible parent or other minor children for whom the responsible parent actually provides support which hardship is to be measured against income standards for public assistance and consideration of all available income, property, and resources of the responsible parent and the necessity to apportion the income and resources of the responsible parent on an equitable basis with the children for whom the arrears accrued; or

(c) Costs of collection action in the future ~~((which))~~ that are greater than the amount to be charged off; or

(d) Settlement from lump-sum cash payment ~~((which))~~ that is beneficial to the state considering future costs of collection and likelihood of collection.

~~((5))~~ (6) The considerations and decision of the conference board shall not be a contested case subject to review by the superior court and shall not be a substitute for any constitutionally or statutorily permitted hearing. Aggrieved parties may be represented before the board by a person of their choice but the department ~~((will))~~ shall not be responsible for any costs incurred by the aggrieved person in connection with the conference.

#### AMENDATORY SECTION (Amending Order 2340, filed 2/12/86)

WAC 388-14-405 ORDER TO WITHHOLD AND DELIVER—RESPONSIBILITIES OF EMPLOYER. (1) Where money is due and owing to the debtor under any contract of employment, the notice of payroll deduction or the order to withhold and deliver shall direct the employer to begin withholding the disposable earnings of the debtor immediately upon receipt of the order and to remit any such earnings withheld after the expiration of the twenty-day answer period. The notice or order shall direct the employer to remit earnings that are withheld subsequently within ten days of the date the earnings are due and owing to the debtor. The notice or order shall also provide the employer may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars for the first remittance to the office of support enforcement and one dollar for each subsequent remittance.

(2) If the employer is required to withhold and deliver the disposable earnings of two or more debtors, the employer may combine the amounts withheld and remit a single check to the office of support enforcement. The employer shall clearly and separately identify the portions of the check which is attributable to each debtor and is required to remit the check within the time frames set forth in subsection (1) of this section.

(3) The notice of payroll deduction or order to withhold and deliver shall direct the employer to notify the office of support enforcement promptly when the debtor terminates employment and to provide the debtor's last known address and the name of the debtor's new employer if known.

#### AMENDATORY SECTION (Amending Order 2340, filed 2/12/86)

WAC 388-14-415 NOTICE OF SUPPORT DEBT. (1) The notice of support debt issued, ~~((b-pursuant to))~~ under RCW 74.20A.040, shall ~~((contain a provision))~~ state that:

(a) ~~((appropriate collection action, including the issuance of an))~~ The office is providing support enforcement services on behalf of the responsible parent's dependent children.

(b) Twenty-one days after service of the notice, the office will take action to collect the responsible parent's support obligation. The office shall take collection action without further notice if a support payment is more than fifteen days past due in an amount equal to the support payable for one month. Collection action includes issuing orders to withhold and deliver ~~((against the earnings or property of the debtor, may be taken by the office of support enforcement without further notice after twenty days from the date of service of the notice if the debtor is delinquent in his or her support obligation in an amount equal to the support payable for one month))~~ and notices of payroll deduction, or taking other income withholding action.

(c) After service of the notice, the responsible parent must make all support payments through the Washington state support registry.

(d) The responsible parent will not receive credit for payments made to a person or agency other than the support registry under RCW 26.23.050(7) and RCW 74.20.101.

(2) The notice shall be served on the responsible parent like a summons in a civil action, or shall be mailed to his or her last known address by certified mail, return receipt requested.

(3) The notice of support debt shall contain:

(a) The current monthly amount for support under a court or administrative order;

(b) An initial finding of the current support amount if there is no fixed dollar amount in the order, and the basis, rationale, or formula used to make the initial finding;

(c) The amount of any support debt, including medical support, owed by the responsible parent;

(d) A statement that the responsible parent has twenty days after service of the notice to contest the initial finding for current support or support debt amount by either:

(i) Making a written request for an administrative hearing to be held under chapter 34.04 RCW; or

(ii) Filing an action in superior court.

(4) The office may make the initial finding based upon:

(a) The factors stated in the order; and

(b) The responsible parent's earnings, if known; or

(c) The responsible parent's ability to earn if the actual earnings are unknown; or

(d) The needs of the dependent child(ren) if the responsible parent's earnings and ability to earn are unknown.

(5) If the responsible parent does not request a hearing or start an action in superior court the office shall:

(a) Issue a default order stating the notice amounts if the notice contained an initial finding of the amount for current support;

(b) Mail a copy of the order to the last known address of the responsible parent. A copy of the order shall also be mailed to the person to whom support is payable under the support order;

(c) Collect the amounts stated in the notice without further notice.

(6) If the responsible parent requests a hearing under this section, the department shall issue a notice of hearing. The notice shall direct the responsible parent to appear and show why the current support amount and/or the support debt amount is wrong. A copy of the notice of hearing shall also be mailed to the person to whom the support is payable under the support order.

(7) The responsible parent shall:

(a) List the defenses to liability and/or state the reasons why support should not be set as stated in the notice in the request for a hearing;

(b) Attach an office approved financial affidavit;

(c) Serve the request for a hearing on the office by certified mail, return receipt requested, or like a summons in a civil action.

(8) If the responsible parent requests a hearing within twenty days, the office shall stay collection action pending the outcome of the hearing, except as provided in subsection (9) of this section.

(9) The office may take action to collect:

(a) Temporary support if the administrative law judge issues an order for temporary support;

(b) Any part of the support debt that the responsible parent fails to allege is not owed;

(c) A fixed or minimum dollar amount for current support stated in the court order;

(d) Any part of a support debt that has been reduced to a sum certain judgment by a proper court or agency.

(10) The responsible parent shall prove defenses to the initial finding for current support and/or the amount of the support debt.

(11) The following WAC provisions are incorporated by reference and apply to the hearing process under this section if and when relevant:

WAC 388-11-011, 388-11-065, 388-11-070, 388-11-100, 388-11-105, 388-11-115, 388-11-120, 388-11-130, 388-11-135, 388-11-140, 388-11-145, 388-11-150, 388-11-155, 388-11-170, 388-11-180, 388-11-185, 388-11-190, and chapter 10-08 WAC.

(12) After evidence has been presented at a hearing, the hearing examiner shall, within twenty days:

(a) Find the amount current support payable under the order;

(b) Find the amount of the support debt, including medical support, accrued prior to the date of service of the notice;

(c) Issue findings of fact, conclusions of law, and initial decision and order.

(13) The hearing examiner's order shall also provide that either the office or the responsible parent may request a yearly review of the support order.

(14) The hearing examiner in the initial decision, and the secretary or designee in review of the proposed decision, shall be limited to:

(a) Interpretation of the court order for support only. The hearing examiner shall have no authority to change or defer the support amount owed except to:

(i) Find the amount of monthly support as a fixed dollar amount; and

(ii) Find any arrears accrued prior to service of the notice of support debt.

(b) Correct mathematical computation of the stated debt;

(c) Superior court orders which have modified the superior court order in issue. Contempt orders and orders entered under chapters 26.21 or 26.20 RCW shall not be construed as modifications.

(15) If the debtor fails to appear at the hearing, the hearing examiner shall, after proof of proper service, enter a decision and order declaring the support debt subject to collection action.

(16) The hearing examiner shall file the original of the initial decision and order with the secretary or the secretary's designee.

(17) The hearing examiner shall mail copies of the decision and order to:

(a) The office;

(b) The last known address of the responsible parent by certified mail;

(c) The last known address of the person to whom support is payable under the support order.

(18) The responsible parent or the office may request review of the initial decision within thirty days of receipt of the initial decision. Review shall be as set forth under WAC 388-11-105.

(19) Informal disposition of any hearing is favored where possible and not precluded by law. The office may dispose of cases by an agreed settlement, or consent order. The administrative law judge shall approve any consent order unless it is contrary to law.

(20) A support order issued under this section shall:

(a) Contain the notice and information listed in RCW 26.23.050(4), and

(b) Be filed with the clerk of the court that has jurisdiction over the court order.

(21) The office is not required to serve a notice of support debt on the responsible parent prior to collection action if:

(a) The office is providing services on behalf of the responsible parent's dependent children, and

(b) A superior court or administrative order directs the responsible parent to make support payments through the office or the Washington state support registry.

(22) The responsible parent may request a hearing under this section if the responsible parent claims credit for payments under WAC 388-14-210(4). When the department issues a notice of hearing to the responsible parent, the department shall mail a copy of the notice to the last known address of the person to whom support is payable under the order.

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 388-14-420 TERMINATION OF SUPPORT ENFORCEMENT SERVICES. (1) After the office begins providing services under chapter 74.20 RCW, chapter 26.23 RCW, and this chapter, the office may terminate services as follows:

(a) If the support order was entered in the state of Washington, the office shall provide appropriate services until:

(i) The support obligation under the order ends and any support debt is paid or cannot be enforced under the laws of the state of Washington, or

(ii) The office receives proof that the responsible parent is dead and there is no available estate; or

(iii) A court of competent jurisdiction orders the office to terminate its services, based on an approved alternate payment plan or finding that it is not in the best interests of the child(ren) for the office to continue providing services.

(b) If the support order was entered in another state, the office shall provide appropriate services until:

(i) The person or agency withdraws the request for services;

(ii) The support obligation under the order ends and any support debt is paid or cannot be enforced; or

(iii) The physical custodian and the dependent child(ren) moves to and resides in another state or country. The office may provide services for no longer than five months from the date of the move; or

(iv) The office receives proof that the responsible parent is dead and there is no available estate; or

(v) The office receives no support payment for three years, despite reasonable collection efforts, and future collections are not foreseeable; or

(vi) The office makes reasonable efforts to locate the responsible parent, using local, state, and federal locate sources, and does not find any new locate information for three years; or

(vii) The physical custodian fails or refuses to cooperate with the office and the office cannot or should not proceed without such cooperation; or

(viii) The physical custodian hires a lawyer or collection agency to collect the support obligation or support debt without notice to and consent from the office, and fails or refuses to cooperate with the office's request to have support payments made through the support registry.

(c) If the office concludes that a support order cannot be obtained because:

(i) There is not enough information to identify or locate the responsible parent, and the office has made reasonable efforts to locate the parent;

(ii) There is not enough proof to establish the support obligation; or

(iii) The office has exhausted legal remedies.

(2) If the office is not authorized to terminate services under subsection (1) of this section, the office may discontinue or decline to provide certain services when:

(a) The physical custodian fails or refuses to cooperate with the office and the office cannot provide services without such cooperation; or

(b) The department or a court of competent jurisdiction finds that the person receiving services has wrongfully deprived the responsible parent of physical custody of the dependent child(ren) under the standards in WAC 388-11-065(10); or

(c) The support order was entered in the state of Washington and either:

(i) The office receives no support payment for three years, despite reasonable collection efforts, and future collections are not foreseeable; or

(ii) The office makes reasonable efforts to locate the responsible parent, using local, state, and federal locate sources, and does not discover new locate information for three years.

(d) The office finds that it is either not advisable or not proper to provide and/or continue certain services; or

(e) The department or a court of competent jurisdiction finds that action to pursue a support obligation is reasonably likely to result in harm to the child(ren) or the child(ren)'s custodian.

(3) When the office terminates its services, the office shall mail a notice to the physical custodian. The office shall:

(a) Send the notice by regular mail to the last known address of the physical custodian;

(b) Include in the notice the reason(s) for terminating services; and

(c) State in the notice that the physical custodian may ask for a hearing to contest the office's decision to terminate services.

(4) A physical custodian who receives nonassistance services as of December 31, 1987, may ask the office to terminate those services up to one year from that date.

(5) The office may terminate support enforcement services when the department terminates foster care under Title 13 RCW.

(6) After the office terminates support enforcement services, the office shall return any moneys the office receives to the payor with instructions to send all support moneys directly to the applicant/custodian, court, or other forwarding agent.

### NEW SECTION

WAC 388-14-425 PAYROLL DEDUCTION—NOTICE AND ORDER—ISSUANCE AND TERMINATION. (1) Under RCW 26.23.050 and RCW 26.23.060, the office may issue and serve a notice of payroll

deduction upon the employer of a responsible parent. The office shall issue this notice:

(a) If a support payment, owed under a superior court or administrative order for support, is more than fifteen days past due in an amount equal to or greater than the support payable for one month; and

(b) When the office identifies the responsible parent's earnings.

(2) The notice of payroll deduction shall remain in effect until:

(a) The payroll deduction is quashed, modified, or terminated by the superior court pursuant to a motion filed by the support debtor; or

(b) The office determines, as a result of a conference board convened under WAC 388-14-385, to release the payroll deduction after the support debtor proves by competent evidence that:

(i) The support obligation was not delinquent at the time the notice of payroll deduction was issued; or

(ii) The payroll deduction causes extreme hardship or substantial injustice.

NEW SECTION

WAC 388-14-430 INCOME WITHHOLDING ACTION. The office may take income withholding action as defined in this chapter if:

(1) A support order contains the notice set forth in RCW 26.23.050(1) or (2), or the office served a notice on the responsible parent under RCW 26.23.050(3) or RCW 74.20A.040; and

(2) A support payment is more than fifteen days past due in an amount equal to or greater than the support payable for one month.

If the support order contains the notice set forth in RCW 26.23.050(1) or (2), the office may take such action, without further notice to the responsible parent, even though another provision of law states that some other form of notice should be given before the office takes collection action.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-14-320 NONASSISTANCE SUPPORT ENFORCEMENT—DISTRIBUTION.

WAC 388-14-325 NONASSISTANCE SUPPORT ENFORCEMENT—TERMINATION OF SERVICES.

**WSR 88-07-013**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
[Order 88-07—Filed March 4, 1988]

I, Joseph R. Blum, director of the Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use rules.

I, Joseph R. Blum, 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 a harvestable surplus of razor clams is 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 March 2, 1988.

By Judith Merchant  
for Joseph R. Blum  
Director

NEW SECTION

WAC 220-56-36000P RAZOR CLAMS—AREAS AND SEASONS. It is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3 except as provided for in this section:

(1) Razor clam digging is allowed from 12:01 a.m. through 11:59 a.m. March 19 through May 7, 1988.

(2) Razor clam digging is allowed on odd-numbered days only.

(3) It is unlawful to dig for razor clams at any time in the Long Beach or Copalis Beach Razor Clam Sanctuaries defined in WAC 220-56-372.

**WSR 88-07-014**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
[Order 88-08—Filed March 4, 1988]

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

I, Joseph R. Blum, 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 sturgeon and salmon are available, and these rules are adopted at the recommendation of the Columbia River Compact.

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 March 4, 1988.

By Judith Merchant  
for Joseph R. Blum  
Director

### NEW SECTION

**WAC 220-32-03000P COLUMBIA RIVER SALMON SEASONS BELOW BONNEVILLE.** (1) Notwithstanding the provisions of WAC 220-32-030, WAC 220-32-031 and WAC 220-32-032, it is unlawful for a person to take or possess salmon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E, except as provided for in this section:

(a)(i) Open Areas – Areas 1A, 1B, 1C and that portion of 1D downstream from a line perpendicular to the thread of the river from Kelley Point, east bank of Willamette River.

(ii) Legal gear – Drift gill nets with 8 inch minimum mesh.

(iii) Open periods –

Immediately to 6:00 p.m. March 4, 1988.

(b)(i) Open Areas – Areas 1A, 1B, and that portion of Area 1C downstream from the Longview Bridge.

(ii) Legal Gear – Drift gill nets with 8 inch minimum mesh.

(iii) Open periods –

Immediately to 6:00 p.m. March 6, 1988.

(2) It is unlawful to fish for salmon with monofilament gill net webbing or to have on the boat monofilament gill net webbing while fishing for salmon in Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E.

(3) Notwithstanding the provisions of WAC 220-32-036 the closed river mouth areas within Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D and 1E are:

(a) All tributaries flowing into the Columbia River.

(b) Cowlitz River – those waters between points one mile below and one-half mile above the mouth of the Cowlitz River and lying within one-quarter mile of the Washington shore.

(c) Kalama River – those waters between points one mile downstream and one-half mile upstream of the mouth of the Kalama River and lying within one-quarter mile of the Washington shore.

(d) Lewis River – those waters between points one mile downstream and one-half mile upstream of the mouth of the Lewis River and lying within one-quarter mile of the Washington shore.

(e) Elokomina River – those waters of Elokomina Slough, Steamboat Slough and the Columbia River lying inside, northerly and easterly of a straight line, from group flashing white light "35" located on Price Island to flashing green light "39" located on Hunting Island, and northly and easterly of a line between flashing light

"33" on Price Island to quick flashing green light "31" on the Washington shore.

(f) Washougal River – those waters of the Columbia River Slough lying upstream from a line projected true north from the most western tip of Lady Island to the Mainland.

(g) Sandy River – those waters of the Columbia River lying within one-quarter mile from shore between a point one mile below the mouth of the Sandy River and a point at the upper easterly bank at the mouth of the Sandy River.

(h) Big Creek – those waters at the mouth of Big Creek from the Oregon Bank across Knappa Slough to Karlson Island about one-quarter mile above the easterly bank of Big Creek, at the Gnat Creek deadline downstream to the east end of Minaker Island which is about 3/4 mile below the west bank at the mouth of Big Creek.

**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.

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

### REPEALER

The following section of the Washington Administrative Code is repealed:

**WAC 220-32-03000N COLUMBIA RIVER SALMON SEASONS BELOW BONNEVILLE.** (88-05)

### **WSR 88-07-015**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF FISHERIES**

[Order 88-09—Filed March 4, 1988]

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

I, Joseph R. Blum, 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 sturgeon and salmon are available, and these rules are adopted at the recommendation of the Columbia River Compact.

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 March 4, 1988.

By Judith Merchant  
for Joseph R. Blum  
Director

### NEW SECTION

**WAC 220-32-05100A COLUMBIA RIVER SALMON SEASONS ABOVE BONNEVILLE.** (1) Notwithstanding the provisions of WAC 220-32-051 and WAC 220-32-052, effective immediately, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1F, 1G or 1H, except that those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla and Nez Perce treaties may:

(a) fish for salmon immediately until 6:00 p.m. March 21, 1988.

(b) fish for sturgeon using set line gear only from 6:00 p.m. March 21 to noon April 30, 1988.

(2) During the seasons specified in subsection 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 72 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300

(3) Notwithstanding the provisions of WAC 220-32-058, closed area at the mouth of:

(a) Hood River is those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between approximately 0.8 miles downriver from the west bank at the end of the breakwall at the west end of the port of Hood River to 1/2 mile upriver from the east bank.

(b) Herman Creek is those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of of the boat ramp.

(c) Deschutes River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(d) Umatilla River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(e) Big White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

(f) Wind River is those waters of the Columbia River extending to midstream at right angles to the thread of

the Columbia River between points one-half mile upstream from the eastern shoreline to one and one-half mile downstream from the western shoreline.

(g) Klickitat River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to one and one-half mile downstream from the western shoreline.

(h) Little White Salmon River is those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points one-half mile upstream from the eastern shoreline to three-quarters mile downstream from the western shoreline.

(4) Notwithstanding the provisions of WAC 220-22-010, during the open periods in subsection (1):

(a) Area 1F (Bonneville Pool) shall include those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G shall include those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John Day Dam.

(c) Area 1H shall include those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John Day River, Oregon, to a fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

### REPEALER

The following section of the Washington Administrative Code is repealed:

**WAC 220-32-05100Z COLUMBIA RIVER SALMON SEASONS ABOVE BONNEVILLE (88-04)**

**WSR 88-07-016**

**ADOPTED RULES**

**DEPARTMENT OF AGRICULTURE**

**(Noxious Weed Control Board)**

[Order 22, Resolution No. 22—Filed March 7, 1988]

Be it resolved by the State Noxious Weed Control Board, acting at Ellensburg, Washington, that it does adopt the annexed rules relating to the state noxious weed list and a schedule of monetary penalties, amending chapter 16-750 WAC.

This action is taken pursuant to Notice No. WSR 88-03-057 filed with the code reviser on January 20, 1988. 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 17.10.080 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 March 4, 1988.

By Arlie Clinkenbeard  
Chairman

NEW SECTION

WAC 16-750-001 STATE NOXIOUS WEED LIST—PURPOSE. In accordance with RCW 17.10.080 a state noxious weed list comprising the names of those plants which the state noxious weed control board finds to be highly destructive, competitive, or difficult to control by cultural or chemical practices is hereby adopted in this chapter.

NEW SECTION

WAC 16-750-005 STATE NOXIOUS WEED LIST—CLASS A NOXIOUS WEEDS. Class A noxious weeds are as follows:

(1) All those weeds which have not been reported in the state of Washington as of January 1, 1984, and whose introduction to the state of Washington was not intentional, or whose intentional introduction poses a serious threat to the state for which no control is assured and which is included in one or more of the following publications:

(a) "A Checklist of Names for 3000 Vascular Plants of Economic Importance," by Edward E. Terrell, Steven R. Hill, John H. Wiersema and William E. Rice. USDA-ARS Ag. handbook number 505, revised October 1986;

(b) "A Geographical Atlas of World Weeds," by LeRoy Holm, Juan V. Pancho, James P. Herberger and Donald L. Plucknett. John Wiley and Sons, New York, 1979;

(c) "The World's Worst Weeds, Distribution and Biology," by LeRoy G. Holm, Donald L. Plucknett, Juan V. Pancho and James P. Herberger. University Press of Hawaii, Honolulu, 1977;

(d) "Economically Important Foreign Weeds—Potential Problems in the United States," by Clyde F. Reed, USDA-ARS Ag. handbook number 498, 1977;

(e) The federal noxious weed list, 7.360.200 CFR;

(f) The state noxious weed list of any state; and

(2)

COMMON NAME	SCIENTIFIC NAME
blueweed, Texas	<i>Helianthus ciliaris</i>
buffalobur	<i>Solanum rostratum</i>
crupina, common	<i>Crupina vulgaris</i>
garden rocket	<i>Eruca vesicaria</i> spp. sativa
hedgearsley	<i>Torilis arvensis</i>
johnsongrass	<i>Sorghum halepense</i>
knapweed, bighead	<i>Centaurea macrocephala</i>
knapweed, featherhead	<i>Centaurea trichocephala</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>
mallow, Venice	<i>Hibiscus trionum</i>
nightshade, silverleaf	<i>Solanum elaeagnifolium</i>
rupturewort	<i>Herniaria cineria</i>
snaptail, dwarf	<i>Chaenorhizum minus</i>

COMMON NAME	SCIENTIFIC NAME
unicorn-plant	<i>Proboscidea louisianica</i>
velvetleaf	<i>Abutilon theophrasti</i>
woad, dyers	<i>Isatis tinctoria</i>

NEW SECTION

WAC 16-750-011 STATE NOXIOUS WEED LIST—CLASS B NOXIOUS WEEDS. Class B noxious weeds are as follows:

COMMON NAME	SCIENTIFIC NAME
apera, interrupted	<i>Apera interrupta</i>
blueweed	<i>Echium vulgare</i>
broom, Scotch	<i>Cytisus scoparius</i>
bryony, white	<i>Bryonia alba</i>
bugloss, common	<i>Anchusa officinalis</i>
camelthorn	<i>Alhagi pseudalhagi</i>
catsear, spotted	<i>Hypochaeris radicata</i>
daisy, oxeeye	<i>Chrysanthemum leucanthemum</i>
dogtailgrass, hedgehog	<i>Cynosurus echinatus</i>
foxtail, slender	<i>Alopecurus myosuroides</i>
goatgrass, jointed	<i>Aegilops cylindrica</i>
gorse	<i>Ulex europaeus</i>
hawkweed, orange	<i>Hieracium aurantiacum</i>
hawkweed, yellow	<i>Hieracium pratense</i>
indigobush	<i>Amorpha fruticosa</i>
knapweed, black	<i>Centaurea nigra</i>
knapweed, brown	<i>Centaurea jacea</i>
knapweed, diffuse	<i>Centaurea diffusa</i>
knapweed, meadow	<i>Centaurea jacea</i> X <i>nigra</i>
knapweed, Russian	<i>Centaurea repens</i>
knapweed, spotted	<i>Centaurea maculosa</i>
lepyrodiclis	<i>Lepyrodictis holosteoides</i>
lythrum, purple	<i>Lythrum salicaria</i>
medusahead	<i>Taeniatherum caput-medusae</i>
nutsedge, yellow	<i>Cyperus esculentus</i>
oxtongue, hawkweed	<i>Picris hieracioides</i>
peaweed, Austrian	<i>Sphaerophysa salsula</i>
pepperweed, perennial	<i>Lepidium latifolium</i>
ragwort, tansy	<i>Senecio jacobaea</i>
sage, Mediterranean	<i>Salvia aethiopsis</i>
sandbur, longspine	<i>Cenchrus longispinus</i>
skeletonweed, rush	<i>Chondrilla juncea</i>
sowthistle, perennial	<i>Sonchus arvensis</i>
spurge, leafy	<i>Euphorbia esula</i>
starthistle, yellow	<i>Centaurea solstitialis</i>
thistle, musk	<i>Carduus nutans</i>
thistle, plumeless	<i>Carduus acanthoides</i>
thistle, Scotch	<i>Onopordum acanthium</i>
toadflax, Dalmatian	<i>Linaria genistifolia</i> spp. dalmatica
ventenata	<i>Ventenata dubia</i>
watermilfoil, Eurasian	<i>Myriophyllum spicatum</i>

NEW SECTION

WAC 16-750-015 STATE NOXIOUS WEED LIST—CLASS C NOXIOUS WEEDS. Class C noxious weeds are as follows:

COMMON NAME	SCIENTIFIC NAME
babysbreath	<i>Gypsophila paniculata</i>
bindweed, field	<i>Convolvulus arvensis</i>
carrot, wild	<i>Daucus carota</i>
cocklebur, spiny	<i>Xanthium spinosum</i>
cress, hoary	<i>Cardaria draba</i>
dodder	<i>Cuscuta</i> spp.
henbane, black	<i>Hyoscyamus niger</i>
houndstongue	<i>Cynoglossum officinale</i>
jimsonweed	<i>Datura stramonium</i>
kochia	<i>Kochia scoparia</i>
mullein, common	<i>Verbascum thapsus</i>
nightshade, bitter	<i>Solanum dulcamara</i>
poison-hemlock	<i>Conium maculatum</i>

COMMON NAME	SCIENTIFIC NAME
puncturevine	Tribulus terrestris
quackgrass	Agropyron repens
rye, cereal	Secale cereale
St. Johnswort, common	Hypericum perforatum
tansy, common	Tanacetum vulgare
toadflax, yellow	Linaria vulgaris
thistle, bull	Cirsium vulgare
thistle, Canada	Cirsium arvense
whiteweed, hairy	Cardaria pubescens
wormwood, absinth	Artemisia absinthium

**WSR 88-07-017**  
**PROPOSED RULES**  
**CENTRAL WASHINGTON UNIVERSITY**  
 [Filed March 7, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Central Washington University intends to adopt, amend, or repeal rules concerning parking and traffic regulations, chapter 106-116 WAC;

that the institution will at 1:30 p.m., Tuesday, April 26, 1988, in the Kachess Room, Samuelson Union Building, Room 103, 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 28B.19.030 and 28B.35.120(12).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before April 25, 1988.

Dated: March 2, 1988  
 By: Donald L. Garrity  
 President

**NEW SECTION**

**WAC 16-750-900 NOXIOUS WEEDS—CIVIL INFRACTIONS—SCHEDULE OF MONETARY PENALTIES.** Civil infractions under chapter 17.10 RCW shall be assessed a monetary penalty according to the following schedule:

(1) Any owner knowing of the existence of any noxious weeds on the owner's land who fails to control such weeds in accordance with chapter 17.10 RCW and the rules and regulations in force pursuant thereto shall be assessed as follows:

- (a) Any class A noxious weed:
 

1st offense within five years	\$ 750
2nd and any subsequent offense	1,000

(b) Any class B designate noxious weed in the noxious weed control region in which the land lies:

- |                                |        |
|--------------------------------|--------|
| 1st offense within five years  | \$ 500 |
| 2nd offense                    | 750    |
| 3rd and any subsequent offense | 1,000  |

(c) Any class B nondesignate noxious weed in the noxious weed control region in which the land lies; or any class C noxious weed:

- |                                |        |
|--------------------------------|--------|
| 1st offense within five years  | \$ 250 |
| 2nd offense                    | 500    |
| 3rd offense                    | 750    |
| 4th and any subsequent offense | 1,000  |

(2) Any person who enters upon any land in violation of an order in force pursuant to RCW 17.10.210 shall be assessed as follows:

- |                                |        |
|--------------------------------|--------|
| 1st offense within five years  | \$ 500 |
| 2nd offense                    | 750    |
| 3rd and any subsequent offense | 1,000  |

(3) Any person who interferes with the carrying out of the provisions of chapter 17.10 RCW shall be assessed as follows:

- |                                |        |
|--------------------------------|--------|
| 1st offense within five years  | \$ 500 |
| 2nd offense                    | 750    |
| 3rd and any subsequent offense | 1,000  |

**REPEALER**

The following section of the Washington Administrative Code is repealed:

**WAC 16-750-010 PROPOSED NOXIOUS WEED LIST.**

**STATEMENT OF PURPOSE**

Title and Number of Affected Chapters: Chapter 106-116 WAC, Parking and traffic regulations.

Statutory Authority: RCW 28B.19.050 and 28B.35.120(12).

Summary of Rules: Prohibit use of skateboards on the Central Washington University campus and regulate bicycle traffic in congested areas.

Description of the Purpose of the Rule Changes: Improve pedestrian safety; eliminate campus accidents involving skateboards and reduce state liability; and reduce wear and tear on campus facilities from skateboards.

Reasons Supporting the Proposed Rules: Many people have voiced complaints that the use of bicycles on campus malls between class periods poses a hazard for pedestrians. Prohibiting riding of bicycles during these times in the malls where pedestrian traffic is heaviest should reduce danger to pedestrians. The broad sidewalks and malls on the university campus have attracted skateboarders. This activity has resulted in damage to sidewalks, benches, stairways, and other campus facilities and poses a liability problem for the university.

Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rules: Alfred J. Teeples, Chief of Campus Safety, Central Washington University, Ellensburg, WA 98926, scan 453-2958.

Name of Organization Proposing Rules: Central Washington University parking/safety committee.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to These Rules: None.

**NEW SECTION**

**WAC 106-116-850 PURPOSE.** The purposes of WAC 106-116-850 through 106-116-859 are: (1) to protect and control pedestrian traffic and traffic of persons using skateboards.

(2) To protect wooden and concrete benches, ramps for the disabled, brick and paved walkways, stairs, steps, loading ramps, and plazas from physical damage and more than ordinary wear caused by use of skateboards.

#### NEW SECTION

WAC 106-116-853 DEFINITIONS. As used in WAC 106-116-850 through 106-116-859 "skateboard" means a device made of wood, plastic, metal or components thereof, with wheels, ridden, as down an incline, usually in a standing position. It may or may not be motorized.

#### NEW SECTION

WAC 106-116-856 SKATEBOARD REGULATIONS. Skateboards may not be used on campus.

#### NEW SECTION

WAC 106-116-859 ENFORCEMENT. A skateboard user who refuses to abide by these regulations will be asked to leave the campus. Refusal to obey will subject the person to being cited for trespass under the provisions of chapter 9A.52 RCW.

If the user is a student, the student will be asked to remove the skateboard from use on campus. If the student refuses, a proceeding may be initiated under chapter 106-120 WAC, the Student Judicial Code.

#### AMENDATORY SECTION (Amending Order 47, filed 11/3/81)

WAC 106-116-901 BICYCLE PARKING AND TRAFFIC REGULATIONS. (1) The primary aim of the bicycle control program is safety, and this aim will be achieved by keeping bicycles out of buildings, away from building exits, and parking them off paths and sidewalks. Bicycles must never be parked in stairwells, hallways, or any place which will be a safety hazard or hinder exit from buildings.

(2) Bicycles must be parked in racks. At times, rack space may not be available and parking near the racks is permitted provided the parked bicycles do not interfere with pedestrian traffic.

(3) The following specific regulations must be observed while operating bicycles on campus:

(a) Do not ride bicycles inside buildings at any time.

(b) Do not lean or park bicycles near or against windows.

(c) Pedestrians have the right of way on all malls and sidewalk areas of the university. During change of class time, bicyclists must walk their bicycles on Walnut Mall between the intersection south of North Hall and the "Y" section north of the computer center (Wildcat Shop). At all other times and places of congested pedestrian traffic, the bicycle rider must ((walk the bicycle)) go slowly and yield to pedestrians. A violation of this provision shall constitute a moving violation and shall be referred directly to the court of the judge of the Lower Kittitas County district court.

(d) Bicyclists must observe 5 m.p.h. speed limits on malls and service drives.

(e) Bicyclists must ride in designated lanes where they exist.

(4) Impoundment policy:

(a) Bicycles parked on paths, sidewalks, in buildings or near building exits may be impounded, except in areas adjacent to residence halls, or as otherwise permitted and designated by the director of housing as bike storage rooms. Bicycles left over 72 hours may be impounded.

(b) Impounded bicycles will be stored in a location determined by the chief of campus safety. Bicycles will be released at specific times and upon presentation of proof of ownership. Owners of impounded bicycles, if identifiable, will be notified immediately upon impoundment and must reclaim the bicycle within seven days.

(c) Abandoned, lost or found bicycles that have been impounded shall be subject to sale in accordance with the laws of the state of Washington.

**Reviser's note:** RCW 28B.19.077 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 88-07-018

#### ADOPTED RULES

#### DEPARTMENT OF AGRICULTURE

[Order 1967—Filed March 7, 1988]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to apiary inspection fees and standards for colony strength, chapter 16-602 WAC.

This action is taken pursuant to Notice No. WSR 88-03-058 filed with the code reviser on January 20, 1988. 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 chapter 15.60 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 March 7, 1988.

By Michael V. Schwisow  
Deputy Director

#### NEW SECTION

WAC 16-602-005 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Director" means the director of agriculture of the state of Washington;

(2) "Department" means the department of agriculture of the state of Washington;

(3) "Apiary" includes bees, hives, and appliances, wherever they are kept, located, or found;

(4) "Apiarist" means any person who owns bees or is a keeper of bees;

(5) "Appliances" means any implements or devices used in the manipulating of bees or their brood or hives, which may be used in any apiary or any extracting or packing equipment;

(6) "Bees" means honey producing insects of the species *apis mellifera* and include the adults, eggs, larvae, pupae, or other immature stages thereof, together with such materials as are deposited into hives by their adults, except honey and beeswax in rendered form;

(7) "Colony" or "colonies of bees" refers to any natural group of bees having a queen;

(8) "Hive" means any receptacle or container made or prepared for the use of bees, or box or similar container taken possession of by bees;

(9) "Location" means any premises upon which an apiary is located.

#### AMENDATORY SECTION (Amending Order 1551, filed 3/31/78)

WAC 16-602-010 APIARY BOARD, AREA BOUNDARIES. The following are the geographical divisions of the beekeeping industry of Washington state

which are represented by members of the apiary board as provided for in RCW 15.60.025:

(1) Area 1. Area 1 shall include the counties of Whatcom, San Juan, Island, Skagit, Snohomish and King.

(2) Area 2. Area 2 shall include the counties of Pierce, Kitsap, Clallam, Jefferson, Grays Harbor, Mason, Thurston, Pacific, Lewis, Wahkiakum, Cowlitz, Clark and Skamania.

(3) Area 3. Area 3 shall include the counties of Kittitas, Yakima, Klickitat and Benton.

(4) Area 4. Area 4 shall include the counties of Okanogan, Chelan and Douglas.

(5) Area 5. Area 5 shall include the counties of Grant, Adams, Franklin, Walla Walla, Columbia, Garfield, Asotin and Whitman.

(6) Area 6. Area 6 shall include the counties of Spokane, Lincoln, Ferry, Stevens and Pend Oreille.

AMENDATORY SECTION (Amending Order 1582, filed 9/27/78)

WAC 16-602-020 APIARY INSPECTION FEES.  
Fees for inspection of honeybees are as follows:

(1) Certification of honeybees for out-of-state movement - ~~(\$12.00)~~ \$18.00 per hour.

(2) Colony strength inspection - ~~(\$12.00)~~ \$18.00 per hour.

(3) All other inspections or services requested by persons or those performed by the department as required by chapter 15.60 RCW - ~~(\$12.00)~~ \$18.00 per hour.

~~((2))~~ (4) For all inspection services performed after 5:00 p.m. or on Saturdays, or Sundays, or state legal holidays, an hourly ~~(charge)~~ rate equivalent of ~~(\$18.00)~~ \$27.00 per hour for actual hours spent in performance of duties ~~((must be made))~~ shall be charged by the department.

~~((3))~~ (5) The following state legal holidays will be observed: New Year's Day, Veterans Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day following Thanksgiving Day, Christmas Day, ~~((Lincoln's Birthday and Washington's Birthday))~~ President's Day, and Martin Luther King, Jr.'s Birthday. NO SERVICE will be performed on Thanksgiving Day, Christmas Day or New Years Day, beginning at 5:00 p.m. on the previous day.

~~((4))~~ (6) Mileage. ~~((Whenever necessary,))~~ Mileage ~~((with))~~ shall be charged at the rate established by the state office of financial management.

AMENDATORY SECTION (Amending Order 1582, filed 9/27/78)

WAC 16-602-030 COLONY STRENGTH. The official minimum standards required for honeybee colony strength certification in the state of Washington shall be ~~((six))~~:

(1) A honeybee colony to be used in agricultural crop pollination shall have a laying queen (be "queen right").

(2) Colonies shall consist of at least six frames, two-thirds covered with bees at a temperature of 65° Fahrenheit for orchard, berry, seed, and legume pollination.

~~((t))~~ (3) Hives shall consist of frames of drawn comb.

(4) The official minimum standards shall remain ~~((at this strength))~~ as stated in subsection (2) of this section continuously ~~((from year to year))~~ unless ~~((, in a given year,))~~ the director by his own motion or upon the advice of the apiary advisory board determines that a new standard may need to be established, in which case ~~((he with))~~ the director shall hold a hearing on this issue in accordance with chapter 34.04 RCW.

(5) The department may conduct any requested inspections to determine colony strength against the official minimum standards in subsection (2) of this section, or against specifications provided in signed contracts between the grower and beekeeper.

WSR 88-07-019

ADOPTED RULES

WALLA WALLA COMMUNITY COLLEGE

[Resolution No. 88-3—Filed March 7, 1988]

Be it resolved by the board of trustees of Community College District No. 20, Walla Walla Community College acting, at 500 Tausick Way, Walla Walla, WA, that it does adopt the annexed rules relating to definition of professional improvement units, WAC 132T-05-060.

This action is taken pursuant to Notice No. WSR 88-03-045 filed with the code reviser on January 19, 1988. 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 Community College District No. 20, Walla Walla Community College, as authorized in chapters 34.04, 34.08 and 28B.19 RCW and chapter 1-13 WAC.

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 March 2, 1988.

By Steven L. VanAusdle  
Secretary

Chapter 132T-05 WAC  
FACULTY QUALIFICATIONS

- WAC 132T-05-020 General standards of qualifications for community college personnel.
- 132T-05-030 Additional qualifications in areas of specialization.
- 132T-05-040 Maintaining and improving occupational and teaching competencies for vocational administrators, instructors and counselors.
- 132T-05-050 Types of vocational education certificates.

- 132T-05-060 Definition of professional improvement units.
- 132T-05-070 Safety and occupational health practices standards.

**AMENDATORY SECTION** (Amending Resolution No. 82-5, filed 3/8/82)

WAC 132T-05-060 DEFINITION OF PROFESSIONAL IMPROVEMENT UNITS. The following standards shall be used in the determination of professional improvement unit values for vocational certification by Community College District No. 20.

(1) Each forty hours of planned, preapproved paid work experience shall be equal to one professional improvement unit.

(2) One credit on the quarter system or two-thirds credit on the semester system earned in accredited programs at colleges or universities shall be equal to one professional improvement unit, provided it is in compliance with the professional improvement plan.

(3) Each (~~full day~~) accumulated twenty hours of preplanned participation in conferences and seminars shall be equal to (~~.20 of a~~) one professional improvement unit, provided that such activities are in addition to those covered by the normal contractual obligations.

(4) Each day of preplanned experience in either domestic or foreign travel related to the individual's instructional area shall be equal to .20 of a professional improvement unit.

(5) Additional professional improvement units may be granted as approved in the individual improvement plan on the basis of independent research and development activities in excess of the normal contractual obligations of the instructor, counselor, or administrator.

(6) The vocational director shall be responsible for the approval of professional improvement plans, equivalencies, and units as stated in WAC 132T-05-040, 132T-05-050, and 132T-05-060.

**WSR 88-07-020**

**ADOPTED RULES**

**WALLA WALLA COMMUNITY COLLEGE**

[Resolution No. 88-4—Filed March 7, 1988]

Be it resolved by the board of trustees of Community College District No. 20, Walla Walla Community College, acting at 500 Tausick Way, Walla Walla, WA, that it does adopt the annexed rules relating to reduction in force for classified personnel, chapter 132T-128 WAC

This action is taken pursuant to Notice No. WSR 88-03-046 filed with the code reviser on January 19, 1988. 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 Community College District No. 20, Walla Walla Community College, as authorized in chapters 34.04, 34.08, 28B.16 and 28B.19 RCW, RCW 28B.50.140 and chapter 1-13 WAC.

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 March 2, 1988.

By Steven L. VanAusdle  
Secretary

**REPEAL OF  
CHAPTER 132T-128 WAC  
REDUCTION IN FORCE FOR CLASSIFIED  
PERSONNEL**

**WAC**

- 132T-128-010 Purpose of Rules
- 132T-128-020 Definitions
- 132T-128-030 Initial Procedures for Reduction in Force
- 132T-128-040 Initial Order of Layoff
- 132T-128-050 Options in Lieu of Layoff
- 132T-128-060 Procedures for Establishing Order of Layoff and Notice of Requirements
- 132T-128-070 Distribution of Layoff Notice
- 132T-128-080 Reemployment Rights of Laid Off Employees
- 132T-128-090 Special Employment Programs

**REPEALER**

The following sections of the Washington Administrative Code are each repealed:

- (1) WAC 132T-128-010 PURPOSE OF RULES
- (2) WAC 132T-128-020 DEFINITIONS
- (3) WAC 132T-128-030 INITIAL PROCEDURES FOR REDUCTION IN FORCE
- (4) WAC 132T-128-040 INITIAL ORDER OF LAYOFF
- (5) WAC 132T-128-050 OPTIONS IN LIEU OF LAYOFF
- (6) WAC 132T-128-060 PROCEDURES FOR ESTABLISHING ORDER OF LAYOFF AND NOTICE OF REQUIREMENTS
- (7) WAC 132T-128-070 DISTRIBUTION OF LAYOFF NOTICE
- (8) WAC 132T-128-080 REEMPLOYMENT RIGHTS OF LAID OFF EMPLOYEES
- (9) WAC 132T-128-090 SPECIAL EMPLOYMENT PROGRAMS

**WSR 88-07-021**

**NOTICE OF PUBLIC MEETINGS  
HIGHER EDUCATION PERSONNEL BOARD**

[Memorandum—March 8, 1988]

BOARD MEETING - 1988

DATE	LOCATION
January 15	The Evergreen State College Olympia, Washington

February 19 Highline Community College  
240th and Pacific Way  
Midway, Washington

March 18 Lower Columbia College  
1600 Maple Street  
Longview, Washington

April 15 Olympic College  
16th and Chester  
Bremerton, Washington

May 20 University of Washington  
Seattle, Washington

June 17 Edmonds Community College  
20000 68th Avenue West  
Lynnwood, Washington

July 7 University of Washington  
Seattle, Washington

August 4 Peninsula College  
1502 East Lauridsen Boulevard  
Port Angeles, Washington

September 1 University of Washington  
Seattle, Washington

October 6 Eastern Washington University  
Cheney, Washington

November 3 University of Washington  
Seattle, Washington

December 1 Western Washington University  
Bellingham, Washington

21, 1988. The meeting schedule, locations and starting times are listed below:

March 16, 1988  
Silverdale Scout Hall  
9161 Washington Avenue  
Silverdale  
9:30 a.m.

April 20, 1988  
Hearing Room A  
Skagit County Courthouse  
Second and Kincaid  
Mt. Vernon  
9:30 a.m.

April 21, 1988  
Market Room  
Pike Place Market  
93 Pike Street  
Seattle  
1:00 p.m.

May 18 and 19, 1988  
Community Hall  
Phinney Neighborhood Center  
6615 Dayton Avenue North  
Seattle  
9:30 a.m.

June 15, 1988  
Orcas Island

July 20, 1988  
Edmonds

August 23 and 24, 1988  
Olympia

September 21, 1988  
Seattle

October 19, 1988  
Renton

November 16, 1988  
Tacoma

December 21, 1988  
Shelton

**WSR 88-07-022**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE CENTER**  
[Memorandum—March 7, 1988]

Following is the 1988 revised regular meeting schedule of the Washington State Convention and Trade Center board of directors. Meetings will continue to be held at 3:00 p.m., at the Plymouth Congregational Church, 1217 Sixth Avenue, Seattle, Washington.

April 6  
May 4  
June 1  
July 6  
September 7  
October 5  
November 2  
December 7

The board of directors established a 1988 regular meeting schedule which resulted in conflicts for some directors; desires to revise the meeting schedule to eliminate scheduling conflicts, and has determined that meeting on the first Wednesday of each month at 3:00 p.m. would accomplish this; and desires to change its regular meeting date to the first Wednesday of each month, except August, at 3:00 p.m.

**WSR 88-07-023**  
**NOTICE OF PUBLIC MEETINGS**  
**PUGET SOUND**  
**WATER QUALITY AUTHORITY**  
[Memorandum—March 5, 1988]

Since the last memorandum of December 19, 1987, the authority has scheduled an additional meeting for April

**WSR 88-07-024**  
**ADOPTED RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Order 1968—Filed March 8, 1988]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to certification program for producers of organic food and chapter 15.86 RCW.

This action is taken pursuant to Notice No. WSR 88-04-073 filed with the code reviser on February 3, 1988. 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 chapter 15.86 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 March 8, 1988.

By Michael V. Schwisow  
Deputy Director

## Chapter 16-156 WAC ORGANIC PRODUCER CERTIFICATION

### WAC

16-156-001	Application.
16-156-005	Standards for certification.
16-156-010	Sampling.
16-156-020	Inspection.
16-156-030	Certification.
16-156-040	Certified producer number.
16-156-050	Application for certification.
16-156-060	Fee schedule.

### NEW SECTION

WAC 16-156-001 **APPLICATION.** Organic food producers who wish certification under this chapter must submit an application and pay prescribed fees to the department on an annual basis. This application must include a sworn statement that they have over the past year, and will continue throughout the year for which the application is made, fully comply with the statute and rules for production of organic food.

### NEW SECTION

WAC 16-156-005 **STANDARDS FOR CERTIFICATION.** Standards for organic producer certification shall be as set forth in RCW 15.86.030 and WAC 16-154-010 and 16-154-020.

### NEW SECTION

WAC 16-156-010 **SAMPLING.** At least one sample representative of a crop grown by each organic producer under the organic food certification program shall be tested for pesticide residues by the state chemist annually. These samples shall be collected by the department of agriculture in a representative manner at the producer's farm.

It shall be the producer's responsibility to arrange for and bear the costs for any additional testing which is deemed necessary by the director for certification.

### NEW SECTION

WAC 16-156-020 **INSPECTION.** The department of agriculture shall make at least one announced visit and one unannounced visit to each organic producer under the organic food certification program each year for the purpose of inspection for compliance with the standards for certification which are chapter 15.86 RCW

(Organic food products) and chapter 16-154 WAC (Rules pertaining to sale of organic foods).

This inspection may entail survey of required records, examination of crops and fields, and any other information deemed necessary to the requirements of this chapter.

It shall be the producer's responsibility to arrange for and bear the costs for any additional inspections which are deemed necessary by the director for certification.

### NEW SECTION

WAC 16-156-030 **CERTIFICATION.** Washington state department of agriculture certification of organic food producers means that analysis of the representative sample taken by the department of agriculture showed no illegal pesticide usage and inspection of the producer by the department of agriculture showed no illegal practices being followed.

Organic food producers who apply under this program will be able to use the words, "produced under Washington state department of agriculture organic food certification program" in their labeling as long as their practices comply with this chapter and chapters 15.86 RCW and 16-154 WAC.

Food produced under this organic food certification program may be identified by the use of the attached logo. This logo shall only be used for food produced under the Washington state department of agriculture organic food certification program.

The logo to identify organic food produced under this certification program shall not be changed except for increases or decreases in size, as appropriate.

### NEW SECTION

WAC 16-156-040 **CERTIFIED PRODUCER NUMBER.** Organic food producers who make application to the certification program shall be assigned a grower identification number by the department of agriculture. All sales from the producer to the first handler shall include the grower number on the invoice and/or other sales document.

### NEW SECTION

WAC 16-156-050 **APPLICATION FOR CERTIFICATION.** Organic food producers who wish to apply for the producer inspection program must apply to the department by April 1, 1988, and thereafter by January 15 of each year. The application and fees shall be forwarded to the department on forms furnished by the department.

Applications made after the set deadline shall be processed as the department can schedule the initial inspections, provided that the producer may still conduct business as provided in RCW 15.86.050.

### NEW SECTION

WAC 16-156-060 **FEE SCHEDULE.** (1) The cost per application shall be based on a sliding scale of gross dollar volume. The fee shall accompany the application.

Information on gross dollar volume shall not be disclosed to unauthorized persons.

Gross Dollar Volume	Fee
\$ 0 - \$ 10,000	\$150.00
\$ 10,000 - \$ 25,000	\$185.00
\$ 25,000 - \$ 50,000	\$350.00
\$ 50,000 - \$ 100,000	\$525.00
\$100,000 and Over	\$600.00

(2) Additional inspections (in addition to two inspections provided for), if required for certification by the director, shall be at \$20/Hr. + 21¢/Mile from the inspector's assigned duty station.

(3) Additional samples (in addition to one sample provided for), if required for certification by the director, shall cost an additional lab fee of one hundred ten dollars. If an additional visit must be arranged, it shall be at \$20/Hr. + 21¢/Mile from the inspector's assigned station.

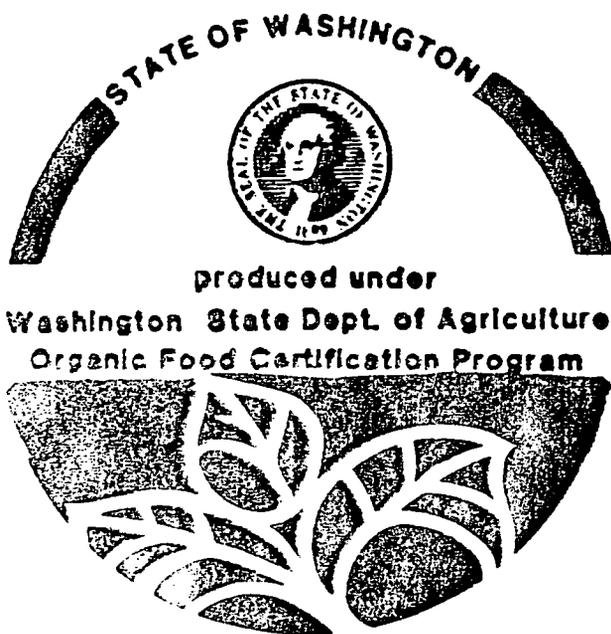
- Amd WAC 314-36-080 ((Permit)) Authorization for private liquor storage warehouse.
- Amd WAC 314-36-090 Liquor shall be stores in original packages.
- Amd WAC 314-36-100 Removal of liquor.
- Amd WAC 314-36-110 Release of liquor.
- Amd WAC 314-36-130 Complete records kept.
- Rep WAC 314-36-120 Perpetual inventory—Copy to board.

This action is taken pursuant to Notice No. WSR 88-04-087 filed with the code reviser on February 3, 1988. 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 Washington State Liquor Control Board as authorized in RCW 66.08.030.

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 March 9, 1988.  
By L. H. Pedersen  
Chairman



**WSR 88-07-025**

**ADOPTED RULES**

**LIQUOR CONTROL BOARD**

[Order 238, Resolution No. 247—Filed March 9, 1988]

Be it resolved by the Washington State Liquor Control Board, acting at the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to:

- Amd WAC 314-36-010 Sales between liquor importers.
- Amd WAC 314-36-020 Liquor importation—General.
- Amd WAC 314-36-030 Importation by licensed liquor importer.
- Amd WAC 314-36-040 Principal office—Record.
- Amd WAC 314-36-050 Customs bonded locker.
- Amd WAC 314-36-060 Public storage warehouse.
- Amd WAC 314-36-070 Storage of liquor.

AMENDATORY SECTION (Amending Rule 88, filed 6/13/63)

WAC 314-36-010 SALES BETWEEN LIQUOR IMPORTERS. One licensed liquor importer may sell to, or purchase from, or exchange with, another licensed liquor importer, intoxicating liquor for purposes of export only.

AMENDATORY SECTION (Amending Order 214, Resolution No. 223, filed 3/10/87)

WAC 314-36-020 LIQUOR IMPORTATION—GENERAL. No liquor shall be imported into this state unless such liquor be consigned to the Washington state liquor control board; or unless such liquor be consigned to a holder of a liquor, beer or wine importer's license and delivered at a public storage warehouse authorized by the Washington state liquor control board to store liquor, or at the warehouse of the holder of the liquor, beer or wine importer's license in those cases where the board has authorized storage at such warehouse. No carrier shall accept or deliver liquor except in accordance with this regulation(~~(-PROVIDED, HOWEVER, That this regulation shall not apply to importations of beer by the holder of a beer importer's license made under such license, nor to importations of alcohol, malt and other materials containing alcohol made by a manufacturer under the special permit authorized by RCW 66.20.010(2), nor to importations of wine by the holder of a wine importer's license made under such license).~~)).

AMENDATORY SECTION (Amending Rule 90, filed 6/13/63)

WAC 314-36-030 IMPORTATION BY LICENSED LIQUOR IMPORTER. Spirituos liquor imported by the holder of a liquor importer's license may be transferred direct from the importing carrier to an

exporting carrier if the consent of the board is first obtained.

AMENDATORY SECTION (Amending Rule 91, filed 6/13/63)

WAC 314-36-040 **PRINCIPAL OFFICE—RECORD.** Each liquor, beer or wine importer shall establish and maintain a principal office within the state at which shall be kept full and complete records of all importations, storage, removals, and exportations of liquor, such records to be kept in such manner and in such form as the board shall from time to time prescribe. Each liquor, beer or wine importer shall keep the board informed at all times of the location of such principal office.

AMENDATORY SECTION (Amending Order 5, filed 8/7/69, effective 9/8/69)

WAC 314-36-050 **CUSTOMS BONDED LOCKER.** Any public storage warehouse, having a customs bonded locker, and which wishes to accept liquor, (~~except~~) including beer or wine, for storage must furnish to the Washington state liquor control board a bond in the penal sum of not less than five thousand dollars in form prescribed by the board, conditioned upon faithful performance and compliance with the Washington State Liquor Act and rules and regulations thereunder, and shall apply for a (~~permit~~) letter of authorization so to do.

AMENDATORY SECTION (Amending Order 5, filed 8/7/69, effective 9/8/69)

WAC 314-36-060 **PUBLIC STORAGE WAREHOUSES.** No public storage warehouse shall receive or store or otherwise handle any liquor, (~~except~~) including beer or wine, without first obtaining from the Washington state liquor control board a (~~permit~~) letter of authorization so to do.

AMENDATORY SECTION (Amending Order 5, filed 8/7/69, effective 9/8/69)

WAC 314-36-070 **STORAGE OF LIQUOR.** No public storage warehouse shall accept or store any liquor, (~~except~~) including beer or wine, except upon the order of a licensed liquor, beer or wine importer or the Washington state liquor control board.

AMENDATORY SECTION (Amending Rule 95, filed 6/13/63)

WAC 314-36-080 (~~PERMIT~~) **AUTHORIZATION FOR PRIVATE LIQUOR STORAGE WAREHOUSE.** Any holder of a liquor, beer or wine importer's license, who maintains a storage warehouse exclusively for the storage of goods, wares or merchandise belonging to such holder, and who desires to store liquor imported under such liquor, beer or wine importer's license, shall apply to the board for a (~~permit~~) letter of authorization so to do. Such (~~permit~~) authorization shall be

granted only upon such terms and conditions as the board shall from time to time prescribe. If such (~~per-~~mit) authorization be granted, such warehouse shall thereafter be known as a private liquor storage warehouse.

AMENDATORY SECTION (Amending Order 5, filed 8/7/69, effective 9/8/69)

WAC 314-36-090 **LIQUOR SHALL BE STORED IN ORIGINAL PACKAGES.** No shipments of liquor(~~(, except beer or wine,))~~) shall be accepted or stored in a private or public storage warehouse except in original packages or combinations of original packages as authorized by the board.

AMENDATORY SECTION (Amending Order 214, Resolution No. 223, filed 3/10/87)

WAC 314-36-100 **REMOVAL OF LIQUOR.** No liquor (~~((except beer and wine)))~~) shall be removed from any storage warehouse, either public or private, except for sale and delivery to the board or for export from the state, or for delivery to persons, firms or corporations (~~((holding manufacturer's importation permits authorized by RCW 66.20.010(5)))~~) authorized by Title 66 RCW to receive such liquor products: PROVIDED, HOWEVER, That liquor may be removed from an authorized private liquor storage warehouse to a public storage warehouse, or may be removed from one authorized public storage warehouse to another authorized public storage warehouse, or may be removed from an authorized public storage warehouse to the authorized private liquor storage warehouse of the owner of the liquor. Liquor, beer or wine importers may remove liquor for sample purposes only, but only after permission thereto has been specifically granted by the board or its accredited representatives. Any and all removals of liquor must be made in full compliance with the Washington state liquor laws, Title 66 RCW (Alcoholic beverage control), and the rules and regulations of the board.

AMENDATORY SECTION (Amending Order 214, Resolution No. 223, filed 3/10/87)

WAC 314-36-110 **RELEASE OF LIQUOR.** No public storage warehouse shall release any liquor(~~(, except beer or wine,))~~) for delivery to anyone other than the Washington state liquor control board or for shipment to a consignee outside the state of Washington, or for delivery to another authorized public storage warehouse, or to the authorized private liquor storage warehouse of the owner of the liquor, or to persons, firms or corporations (~~((holding manufacturer's importation permits authorized by RCW 66.20.010(5)))~~) authorized by Title 66 RCW to receive such liquor products: PROVIDED, HOWEVER, That liquor may be delivered to liquor, beer or wine importers for sample purposes under such conditions as the board may from time to time prescribe, and may be delivered to holders of liquor importer's licenses for export under WAC 314-36-010.

AMENDATORY SECTION (Amending Rule 100, filed 6/13/63)

WAC 314-36-130 COMPLETE RECORDS KEPT. Each public storage warehouse shall keep full and complete records showing all liquor received for storage, together with all removals and exportations thereof, such records to be kept in such manner and in such form as the board shall prescribe, and in case of removal, releases or shipments, shall preserve for two years, subject to the order of the board, all bills of lading or certified copies thereof, and all authorizations of the board for withdrawals of samples.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-36-120 PERPETUAL INVENTORY—COPY TO BOARD.

**WSR 88-07-026**  
ADOPTED RULES  
**LIQUOR CONTROL BOARD**  
[Order 242, Resolution No. 251—Filed March 9, 1988]

Be it resolved by the Washington State Liquor Control Board, acting at the Offices of the Liquor Control Board, Capital Plaza Building, 5th Floor, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to Advertising by retail licensees, offering for sale, or selling beer, wine or spirituous liquor at less than cost—Prohibited—Exceptions, amending WAC 314-52-114.

This action is taken pursuant to Notice No. WSR 88-04-060 filed with the code reviser on February 1, 1988. 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 Washington State Liquor Control Board as authorized in RCW 66.08.030.

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 March 9, 1988.

By L. H. Pedersen  
Chairman

AMENDATORY SECTION (Amending Order 213, Resolution No. 222, filed 1/29/87)

WAC 314-52-114 ADVERTISING BY RETAIL LICENSEES, OFFERING FOR SALE, OR SELLING BEER, WINE OR SPIRITUOUS LIQUOR AT LESS THAN COST—PROHIBITED—EXCEPTIONS. (1) Beer, wine, or spirituous liquor shall not be advertised, offered for sale or sold by retail licensees at

less than acquisition cost ((~~plus ten percent of acquisition cost~~)).

(2) The provisions of this section shall not apply to any sale made:

(a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing his trade in any such article or product and in the case of the sale of seasonal goods or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation: PROVIDED, Notice is given to the public thereof;

(b) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof;

(c) By an officer acting under the orders of any court;

(d) In an endeavor made in good faith to meet the prices of a competitor selling the same article or product in the same locality or trade area and in the ordinary channels of trade.

**WSR 88-07-027**  
PROPOSED RULES  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**  
[Filed March 9, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to telecommunications companies, WAC 480-120-056. The proposed amendatory section is shown below as Appendix A, Cause No. U-87-1611-R. Written and/or oral submissions may also contain data, views and arguments concerning the effect of the proposed amendment on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00 a.m., Wednesday, April 27, 1988, in the Commission's Hearing Room, Second Floor, 1300 South Evergreen Park Drive S.W., 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 May 4, 1988.

The authority under which these rules are proposed is RCW 80.01.040 and 80.36.460.

The specific statute these rules are intended to implement is RCW 80.36.460.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 15, 1988.

Dated: March 8, 1988  
By: Paul Curl  
Acting Secretary

**STATEMENT OF PURPOSE**

In the matter of amending WAC 480-120-056 relating to telecommunications companies.

The rules proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 80.36.460 which direct

that the commission has authority to implement the provisions of chapter 80.36 RCW.

The rules proposed by the Washington Utilities and Transportation Commission are designed to amend existing rules pertaining to customer deposits to conform with and implement the requirements of section 7, chapter 229, Laws of 1987, as codified in RCW 80.36.460.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, Washington, phone (206) 753-6451 and members of his staff were responsible for the drafting of the proposed rules and will be responsible for implementation and enforcement of the proposed rules.

The proponent of the rules is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040 and 80.36.460.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

#### APPENDIX "A"

#### AMENDATORY SECTION (Amending Order R-242, Cause No. U-85-56, filed 11/7/85)

WAC 480-120-056 DEPOSITS. (1) ~~((Establishment of credit— Residential. An applicant for residential service may establish credit by demonstrating to the utility any one of the following subparagraphs (a), (b), or (c), subject to the provisions of subsection (3) of this section:~~

~~(a) Prior service with the utility in question of at least twelve months duration, ending no longer than one year prior to the date of application if service was not disconnected for failure to pay and no more than two delinquency notices were served upon the customer, or~~

~~(b) Prior service with a utility of the same type as that of which service is sought for at least twelve consecutive months with a satisfactory payment record as demonstrated in (1)(a) of this subsection: PROVIDED, That the reference may be quickly and easily checked, and the necessary information is provided; or~~

~~(c) Demonstrate three of the credit factors from the following factors:~~

~~(i) Full-time consecutive employment, with no more than two employers, or a regular source of income during the entire twenty-four months prior to the application for service, and the applicant is currently employed or has a regular source of income; or the applicant has a permanent, regular source of income;~~

~~(ii) Ownership of the premises to be served;~~

~~(iii) Has a savings account;~~

~~(iv) Has been issued a major charge card;~~

~~(v) Has been issued a major oil charge card;~~

~~(vi) Has been issued a local charge card;~~

~~(2) Establishment of credit—) Nonresidential deposit requirements. An applicant for nonresidential service may be required to demonstrate satisfactory credit by reasonable means appropriate under the circumstances.~~

~~((3)) (2) Residential deposit requirements. A deposit may be required under the following circumstances:~~

~~(a) ((Where the applicant has failed to establish a satisfactory credit history as outlined above:~~

~~(b) In any event,)) A deposit may be required when, within the twelve months prior to the application, the applicant's service of a~~

similar type has been disconnected for failure to pay amounts owing, when due; where applicant has an unpaid, overdue balance owing for service from the ~~((utility)) telecommunications company~~ to which application is being made or any other telecommunications company; or where ~~((three)) four~~ or more delinquency notices have been served upon the applicant by any other telecommunications company during the twelve months previous to the application for service. A telecommunications company shall provide written notice to the subscriber that a deposit may be required upon issuance of the fourth delinquency notice.

~~((c)) (b) Installation or continuation of service to a residence where a prior subscriber still resides and where any balance for such service to that prior subscriber is past due or owing.~~

~~((d)) (c) When a subscriber (i) is initially provided service without a deposit on the basis of ~~((credit))~~ information supplied to the ~~((utility)) telecommunications company~~ by the subscriber which is incorrect ~~((or cannot be verified by the utility))~~ and the subscriber would have otherwise been required to make a deposit; or (ii) ~~((has on two or more occasions in the previous twelve months tendered payment of due amounts with checks which have been dishonored; or (iii))~~ has an unpaid, overdue balance owing for the same class of ~~((telephone))~~ service from the ~~((utility)) telecommunications company~~ providing that service, or any other telecommunications company, which becomes known to the serving ~~((utility)) telecommunications company~~ after current service has been provided; ~~((or (iv) has given the utility cause to disconnect for nonpayment, but the utility has elected not to disconnect service;))~~ or ~~((v)) (iii)~~ has incurred excessive toll charges as defined in subsection ~~((4)) (3)(b)~~ of this section and the subscriber has elected not to make full payment of all proper toll charges as provided in subsection ~~((4)) (3)(b)~~ of this section.~~

~~((e)) (d) Any new or additional deposit required under authority of these rules, except as may be provided for elsewhere in these rules, is due and payable on the sixth business day after written notice of the deposit requirement is mailed to the subscriber, or, if personal service is elected, by 5 p.m. of the first business day following notification.~~

~~((f)) (3) Amount of deposit.~~

~~(a) In instances where a deposit may be required by the ~~((utility)) telecommunications company~~, the deposit shall not exceed:~~

~~(i) For nonresidential service, two-twelfths of estimated annual billings;~~

~~(ii) For residential service, two months customary utilization for applicants or subscribers with previous verifiable service ~~((or two months new line billings for all other residential subscribers in a reasonable amount established in the tariffs of the utility, based upon data presented for commission review))~~.~~

~~(b) Subscribers whose toll charges exceed ~~((the estimated amount by twenty dollars or by twenty percent, whichever is greater))~~ thirty dollars, or whose toll charges exceed customary utilization over the previous six months by ~~((a like amount when no estimate has been taken, or whose estimated toll or customary utilization is not available and the toll charges exceed fifty percent of the two months new line billing for all utility subscribers of the same class of service as established in the tariffs of the utility))~~ twenty dollars or by twenty percent, whichever is greater, may be required, upon written or verbal notice to the subscriber, to make payment of either of the following in the subscriber's election, before the close of the next business day following receipt of the notice:~~

~~(i) Full payment of outstanding toll charges specified in said notice; or all toll charges accrued to the time of payment providing the subscriber has been notified that he or she is liable for toll charges in addition to those charges specified in the notice which come to the attention of the ~~((utility)) telecommunications company~~ between the time of notice and of payment.~~

~~(ii) Payment of a new or additional deposit in light of the subscriber's actual use based upon two months customary utilization.~~

~~(c) If the notice herein described is mailed, receipt may be presumed open the ~~((forth)) fourth~~ business day following date of mailing.~~

~~(d) At the time application is made for service, the ~~((utility)) telecommunications company~~ may request an estimate of the applicant's greatest monthly toll usage during the ensuing twelve months. When such an estimate is asked and given, the applicant for service shall be advised that if the estimate is exceeded by twenty dollars or twenty percent, whichever is greater, immediate payment may be required, a deposit or additional deposit may be required, or service may be disconnected.~~

~~(5) ((Application of deposits. When the account of a subscriber is delinquent any amount on deposit on that account may be applied by~~

~~the utility towards satisfaction of the past due amount before disconnection is effected. Written notice of such application of the deposit shall be promptly furnished to the subscriber. If an amount on deposit is applied toward satisfaction of any past due amount, the utility may require of the subscriber an additional deposit in the amount so applied and, if applicable, payment of any past due amounts still owing after application of the deposit. Application of a deposit as provided for herein shall not prevent disconnection of service for failure by a subscriber to pay any past due amount which may remain outstanding.~~

~~(6))~~ Transfer of deposit. Where a subscriber of whom a deposit is required transfers ~~(his)~~ service to a new location within the same utility's service area, the deposit, less any outstanding balance, shall be transferable and applicable to the new service location.

~~((7))~~ (6) Interest on deposits. Interest on deposits held shall be accrued at a rate based upon a simple average of the effective interest rate for new issues of one year treasury bills, computed from December 1 of each year, continuing through November 30 of the following year. Deposits would earn that interest rate during January 1 through December 31 of the subsequent year. Interest shall be computed from the time of deposit to the time of refund or total application of the deposit and shall be compounded annually.

~~((8))~~ (7) Extended payment on deposit. Where a subscriber or applicant for service of whom a deposit is required is unable to pay the entire amount of the deposit in advance of installation or continuation of service, the subscriber or applicant shall be allowed to pay fifty percent of the deposit amount prior to installation or continuation of service, with the remaining amount payable in equal amounts on the ~~(utility's)~~ telecommunications company's ordinary billing cycle during the following two months of service. A subscriber or applicant for service unable to meet this deposit requirement shall have the opportunity to receive service under subsection ~~((9))~~ (8), alternative to deposit, of this section.

~~((9))~~ (8) Alternative to deposit. A residential subscriber or applicant for residential service of whom a deposit is required, but who is unable to make a deposit, shall be allowed, as an alternative to the making of a deposit, to furnish a satisfactory guarantor to secure payment of bills for service requested in a specified amount not to exceed the amount of deposit which may be required.

~~((10))~~ (9) Receipt. Where payment is made by cash, a receipt shall be furnished to each applicant or subscriber for the amount deposited.

~~((11))~~ (10) Refund of deposit. Deposits shall be refunded under the following circumstances in the following form:

(a) Satisfactory payment. Where the subscriber has for twelve consecutive months paid for service ~~((when))~~ in a prompt and satisfactory manner as evidenced by the following:

(i) The ~~(utility)~~ telecommunications company has not initiated disconnection proceedings against the subscriber.

(ii) No more than ~~((two))~~ three notices of delinquency have been made to the subscriber by the ~~(utility)~~ telecommunications company.

(b) Termination of service. Upon termination of service, the ~~(utility)~~ telecommunications company shall return to the subscriber the amount then on deposit plus accrued interest, less any amounts due the ~~(utility)~~ telecommunications company by the subscriber for service rendered.

(c) Refunds - how made. Any deposit, plus accrued interest, shall be refunded to the subscriber either in the form of a check issued and mailed to the subscriber no longer than fifteen days following completion of twelve months' satisfactory payment as described above, or applied to the subscriber's bill for service in the thirteenth and, if appropriate, subsequent months, in accordance with the preference as to ~~((of))~~ refund indicated by the subscriber at the time of deposit, or as thereafter modified.

~~((12))~~ (11) Should a larger or new deposit be required, the reasons therefor shall be specified in writing to the subscriber. Any requirement for a new or larger deposit shall be in conformity with the standards set forth in this ~~((rate))~~ section.

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

4/1/88  
S. J. ...

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**WSR 88-07-028**  
**ATTORNEY GENERAL OPINION**  
**Cite as: AGO 1988 No. 5**  
[March 8, 1988]

**CHILDREN—CHILD ABUSE—CRIMES—SCHOOLS**  
**TEACHERS**

1. State law authorizes but does not require the Department of Social and Health Services (Child Protective Services) to investigate complaints of child abuse allegedly perpetrated by third parties (that is, persons not the parent or guardian of the child and not standing in loco parentis to the child).
2. State law authorizes but does not require the Department of Social and Health Services (Child Protective Services) to investigate complaints alleging physical or sexual abuse committed by a teacher against a child.
3. State law authorizes but does not require the Department of Social and Health Services (Child Protective Services) to investigate complaints alleging physical or sexual abuse committed by a neighbor against a child.
4. Although the Department of Social and Health Services is ordinarily not legally obligated to investigate complaints alleging physical or sexual abuse against a child by third parties, an obligation to investigate might arise where the abuse by the third party is directly related to neglect or abuse by the child's parent or guardian or by a person standing in loco parentis to the child.

Requested by:

Honorable Phil Talmadge  
State Senator, 34th District  
1725 S.W. Roxbury, No. 5  
Seattle, WA 98106

**WSR 88-07-029**  
**PROPOSED RULES**  
**WHATCOM COMMUNITY COLLEGE**  
[Filed March 9, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Whatcom Community College intends to adopt, amend, or repeal rules concerning:

New	ch. 132U-104	WAC	Meetings of board of trustees.
New	ch. 132U-120	WAC	Student rights and responsibilities.
New	ch. 132U-122	WAC	Withholding services for outstanding debts.
New	ch. 132U-140	WAC	Use of facilities.
New	ch. 132U-276	WAC	Access to public records.
New	ch. 132U-280	WAC	Family Educational Rights and Privacy Act.
New	ch. 132U-300	WAC	Grievances—Discrimination.
New	ch. 132U-325	WAC	State Environmental Policy Act.
Rep	ch. 132U-04	WAC	Board of trustees—Bylaws.
Rep	ch. 132U-10	WAC	Access to public records and documents at Whatcom Community College.

Rep ch. 132U-36 WAC Environmental Policy Act rules.  
 Rep ch. 132U-40 WAC Grievance rules.  
 Rep ch. 132U-80 WAC Faculty employment;

that the institution will at 10 a.m., Tuesday, May 10, 1988, in the Board Room, Laidlaw Center, Whatcom Community College, 273 West Kellogg Road, Bellingham, WA 98226, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 10, 1988, at 2 p.m.

The authority under which these rules are proposed is RCW 28B.50.130 and [28B.50].140.

The specific statute these rules are intended to implement is RCW 28B.50.140 (10) and (14).

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before May 9, 1988.

Dated: March 8, 1988

By: Wendy K. Bohlke  
 Assistant Attorney General

#### STATEMENT OF PURPOSE

Title and Number of Rule Chapters: Chapter 132U-104 WAC, Meetings of board of trustees; chapter 132U-120 WAC, Student rights and responsibilities; chapter 132U-122 WAC, Withholding services for outstanding debts; chapter 132U-140 WAC, Use of facilities; chapter 132U-276 WAC, Access to public records; chapter 132U-280 WAC, Family Educational Rights and Privacy Act; chapter 132U-300 WAC, Grievances—Discrimination; and chapter 132U-325 WAC, State Environmental Policy Act rules.

Statutory Authority: RCW 28B.50.130 and [28B.50].140.

Specific Statutes that Rules are Intended to Implement: Chapter 132U-104 WAC, RCW 28B.50.100 and [28B.50].130; chapter 132U-120 WAC, RCW 28B.50.140(13); chapter 132U-122 WAC, RCW 28B.50.130 and [28B.50].140(13); chapter 132U-140 WAC, RCW 28B.50.130 and [28B.50].140 (7) and (13); chapter 132U-276 WAC, RCW 28B.50.130, [28B.50].140(13) and 42.17.250, et seq.; chapter 132U-280 WAC, RCW 28B.50.130 and [28B.50].140(13) and 42 U.S.C. 1232(g); chapter 132U-300 WAC, RCW 28B.50.130 and [28B.50].140(13); and chapter 132U-325 WAC, RCW 28B.50.130 and [28B.50].140(13) and chapter 43.21C RCW.

Summary of the Rules: Chapter 132U-104 WAC, establishes the meeting frequency of the board of trustees and those regulations the board deems necessary for its government; chapter 132U-120 WAC, establishes a system for student discipline and administrative due process of student rights; chapter 132U-122 WAC, regulates which services may be withheld when students fail to pay debts owing at the college; chapter 132U-140 WAC, establishes a means by which the college regulates its physical facilities and provides access to those facilities by noncollege users; chapter 132U-276 WAC, regulates access to public records as required by chapter 43.17 RCW; chapter 132U-280 WAC, regulates access to student records and otherwise implements the Federal

Family Education Rights and Privacy Act, 42 U.S.C. 132(g); chapter 132U-300 WAC, establishes a grievance procedure for students and employees of the college to channel complaints about discrimination for reasons of sexual harassment, disability, and other prohibited bases of discrimination; and chapter 132U-325 WAC, requires that the State Environmental Policy Act be complied with by the college.

Reasons Supporting the Proposed Rules: All of the rules are being adopted to provide the greater public with actual notice of regulations which the college is required to or otherwise finds necessary to adopt in order to better carry out its mission.

Chapter 132U-104 WAC, to give the public notice about the frequency of the meetings of the board and general governance rules; chapter 132U-120 WAC, to provide notice to students of the college of the system by which they may be disciplined and the due process rights of the students that accompany the procedure; chapter 132U-122 WAC, to provide notice to students and other persons of the college services that may be withheld if debts remain outstanding; chapter 132U-140 WAC, to provide information to the noncollege public as to the process by which individuals or groups may apply to use college facilities and the regulations that affect such use; chapter 132U-276 WAC, to provide notice to the public of the means by which access may be obtained of records at the college; chapter 132U-280 WAC, to provide notice to the public of the means by which student records may be disclosed and the limitations to such disclosure, in keeping with the "Buckley Amendment," the Family Educational Rights and Privacy Act which was adopted in 1974, available at 42 U.S.C. 1232(g); chapter 132U-300 WAC, to provide notice to the public of the procedures that may be used by individuals who feel that they have been discriminated against the college by reason of sex, sexual harassment, and other prohibited bases; and chapter 132U-325 WAC, to provide notice of the fact that the college intends to follow the State Environmental Policy Act in certain decision-making processes.

Agency Personnel Responsible for Drafting: Wendy Bohlke, Assistant Attorney General, Old Main 465, W.W.U., Bellingham, WA 98225, (206) 676-3117; Implementation: Kirk Flanders, Whatcom Community College, 237 West Kellogg Road, Bellingham, WA 98226, (206) 676-2170; and Enforcement: President of Whatcom Community College or his designee.

Name of Person/Organization Proposing the Rule: Whatcom Community College, Community College District No. 21.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None at this time.

The only rule being adopted which is being adopted to comply with a federal law is the regulation on student records, which is being adopted in order to comply with 42 U.S.C. 1232(g).

Any Other Information that may be of Assistance in Identifying the Rules or Their Purpose: None.

REPEALER

The following sections of the Washington Administrative Code are each repealed:

- (1) WAC 132U-04 BOARD OF TRUSTEES—BYLAWS
- (2) WAC 132U-10 ACCESS TO PUBLIC RECORDS AND DOCUMENTS AT WHATCOM COMMUNITY COLLEGE
- (3) WAC 132U-36 ENVIRONMENTAL POLICY ACT RULES
- (4) WAC 132U-40 GRIEVANCE RULES
- (5) WAC 132U-80 FACULTY EMPLOYMENT

Chapter 132U-104  
Board of Trustees—Bylaws—Meetings

NEW SECTION

WAC 132U-104-010 BYLAWS. The board of trustees may adopt bylaws to govern its operations. A record of these bylaws shall be maintained in the office of the president.

[Statutory authority: RCW 28B.50.100 and 28B.50.130]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 132U-104-020 RESTRICTIONS OF INDIVIDUAL AUTHORITY—QUORUM (1) Legal authority is vested in the board of trustees and may be exercised only by formal action of the board taken in a regular or special meeting. No individual member of the board may act on behalf of the board unless specifically instructed by action of the board.

(2) Three members shall constitute a quorum, and no action may be taken with less than a quorum present.

[Statutory authority: RCW 28B.50.130 and 42.30.020]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 132U-104-030 MEETINGS OF THE BOARD OF TRUSTEES. The board customarily holds monthly meetings on the second Tuesday of each month at such place as it may designate. Notices of the time and place of all regular and special meetings shall be governed by the requirements of RCW 42.30 Open Public Meetings Act.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

REPEALER

The following sections of the Washington Administrative Code are each repealed:

- (1) WAC 132U-04-100 BY LAWS
- (2) WAC 132U-04-110 RESTRICTIONS OF INDIVIDUAL AUTHORITY

Chapter 132U-120  
Student Rights and Responsibilities

NEW SECTION

WAC 132U-120-010 TITLE. This chapter shall be known as the Code of Student Rights and Responsibilities of Whatcom Community College.

[Statutory authority: RCW 28B.50.140(13).]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 132U-120-020 DEFINITIONS. As used in this chapter, the following words and phrases shall be defined as follows:

(1) "Academic dishonesty" shall mean plagiarism, cheating on examinations, fraudulent representation of student work product or other similar act of academic dishonesty.

(2) "Alcoholic beverages" shall mean the definition of liquor as contained within RCW 66.04.010(15) as now law or hereafter amended.

(3) "Assembly" shall mean any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any person, persons or group of persons.

(4) "ASWCC" shall mean the Associated Students of Whatcom Community College as defined in the Constitution of that body.

(5) "Board" shall mean the Board of Trustees of Community College District No. 21, State of Washington.

(6) "President" shall mean the president of Whatcom Community College and president of Community College District No. 21, State of Washington.

(7) "College" shall mean Whatcom Community College, and any other community college centers or facilities established within Community College District No. 21.

(8) "College facilities" shall mean and include any and all personal property and real property including all buildings and appurtenances affixed thereon or attached thereto District-wide.

(9) "Demonstrations" shall mean any overt activity engaged in by one or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons, or group of persons.

(10) "Disciplinary action" shall mean and include a warning, reprimand, probation, suspension, or dismissal of any student by a Dean or the President issued pursuant to this chapter where that student has violated any designated rule or regulation of the rules of conduct for which a student is subject to disciplinary action.

(11) "Controlled substance" shall mean and include any drug or substance as defined in Chapter 69.50 RCW as now law or hereafter amended.

(12) "Faculty" shall mean any full-time or part-time academic employee of the District whose assignment is one of a combination of instruction, counseling or library services.

(13) "Rules of conduct" shall mean those rules contained within this chapter as now exist or which may be hereafter amended, the violation of which subjects a student to disciplinary action.

(14) "Student," unless otherwise qualified, shall mean and include any person who is registered for classes at the college.

(15) "Petition Review Committee" shall mean the judicial body provided in this chapter.

(16) "Trespass" shall mean the definition of trespass as contained within Chapter 9A.52 RCW, as now law or hereafter amended.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

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

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

NEW SECTION

WAC 132U-120-030 JURISDICTION. (1) All rules herein adopted shall apply to every student whenever said student is present upon or in any college facility and whenever said student is present at or engaged in any college-sponsored activity which is held on or in non-college facilities.

(2) Faculty members, other college employees, students, and members of the public who breach or aid or abet another in the breach of any provision of this chapter shall be subject to (a) possible prosecution under the state criminal law; (b) any other civil or criminal remedies available to the public; or (c) appropriate disciplinary action pursuant to the state of Washington Higher Education Personnel Board Rules or the district's policies and regulations.

(3) Statutory authority of the Revised Code of Washington cited in this document is on file and available in the Administrative Office.  
[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 132U-120-040 STUDENT RIGHTS.** The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

- (1) Academic freedom.
    - (a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.
    - (b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs and services, subject to the limitations of RCW 28B.50.090 (3)(b).
    - (c) Students shall be protected from academic evaluation which is arbitrary, prejudiced or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.
    - (d) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.
  - (2) Due process.
    - (a) The rights of students to be secure in their persons, quarters, papers and effects against unreasonable searches and seizures is guaranteed.
    - (b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.
    - (c) A student accused of violating this code of student rights and responsibilities is entitled, upon request, to procedural due process as set forth in this chapter.
    - (3) Distribution and posting. Students may distribute or post printed or published material subject to official procedures printed and available in the Administrative Office.
    - (4) Off-Campus speakers. Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding, and compliance with the college procedures available in the Administrative Office.
- [Statutory authority: RCW 28B.50.140(13)]

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#### NEW SECTION

**WAC 132U-120-050 STUDENT RESPONSIBILITIES.** Any student shall be subject to disciplinary action as provided for in this chapter who, either as a principle actor, aider, abettor or accomplice as defined in RCW 9A.08.020, interferes with the personal rights or privileges of others or the educational process of the college; violates any provision of this chapter; or commits any of the following personal, property or status offenses which are hereby prohibited:

- (1) Personal offenses. (a) Assault, reckless endangerment, intimidation or interference upon another person in the manner set forth in RCW 9A.36.010, 9A.36.020, 9A.36.030, 9A.36.040, 9A.36.050 or 28B.10.570 through 28B.10.572 as now or hereafter amended.
- (b) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior which interferes with the rights of others or which obstructs or disrupts teaching, research, or administrative functions.
- (c) Failure to follow instructions. Inattentiveness, inability, or failure of student to follow instructor's instructions, thereby infringing upon the rights and privileges of other students.
- (d) Illegal assembly, obstruction or disruption. Any assembly or other act which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the private rights and privileges of others.
- (e) False complaint. Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(f) False alarms. 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.

(g) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(2) Property offenses. (a) Theft and Robbery. Theft of the property of the district or of another as defined in the RCW 9A.56.010—9A.56.050 and 9A.56.100 as now law or hereafter amended.

(b) Malicious mischief. Intentional or negligent damage to or destruction of any college facility or other public or private real or personal property.

(c) Unauthorized use of college equipment and supplies. Converting of college equipment or supplies for personal gain or use without proper authority.

(3) Status offenses. (a) Cheating and plagiarism. Submitting to a faculty member any work product that the student fraudulently represents to the faculty member as the student's work product for the purpose of fulfilling or partially fulfilling any assignment or task required by the faculty member as part of the student's program of instruction.

(b) Forgery or alteration of records. Forging or tendering any forged records or instruments, as defined in RCW 9A.60.010—9A.60.020 as now law or hereafter amended, of any district record or instrument to an employee or agent of the district acting in his official capacity as such.

(c) Refusal to provide identification in appropriate circumstances. Refusal to provide positive identification (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.

(d) Illegal entry. Entering any administrative or other employee office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(e) Smoking. Smoking in any classroom or laboratory, the library, or in any college facility or office posted "no smoking" or any other smoking not in compliance with RCW 70.160.

(f) Controlled substances. Using, possessing, being demonstrably under the influence of, or selling any narcotic or controlled substance as defined in Chapter 69.50 RCW as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.50.410 as now law or hereafter amended.

(g) Alcoholic beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of alcoholic beverage on college property, with the exception of sanctioned events, approved by the president or his or her designee and in compliance with state law.

(h) Weapons, explosives, and dangerous chemicals. Illegal or unauthorized use or possession of any device or substance which can be used to inflict bodily harm or to damage real or personal property.

[Statutory authority: RCW 28B.50.140(13)]

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#### NEW SECTION

**WAC 132U-120-060 TRESPASS.** The President or his or her designee(s) shall have the authority and power to prohibit the entry or withdraw the license or privilege of any person or group of persons to enter into or remain in any college property or facility. Such power and authority may be exercised to halt any event which is deemed to be unreasonably disruptive of order or impedes the movement of persons or vehicles or which disrupts or threatens to disrupt the ingress and/or egress of persons from facilities owned and/or operated by the college. Any individual who disobeys a lawful order given by the president, or his or her designee(s), shall be subject to disciplinary action and/or charges of criminal trespass.

[Statutory authority: RCW 28B.50.140(13)]

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#### NEW SECTION

**WAC 132U-120-070 DELEGATION OF DISCIPLINARY AUTHORITY.** The President or his or her designee(s) shall have authority to administer the disciplinary action prescribed in this chapter. The president shall be informed of all student dismissals, suspensions or probation proceedings by the person conducting those proceedings, or his or her designee(s).

[Statutory authority: RCW 28B.50.140(13)]

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#### NEW SECTION

**WAC 132U-120-080 DISCIPLINARY ACTION.** The following disciplinary actions are hereby established and shall be imposed upon violators of the rules of conduct enumerated in this chapter, and pursuant to the right of appeal as outlined in this chapter.

(1) Disciplinary warning. Verbal notice to a student by a dean or his or her designee(s) that s/he has violated the rules of conduct as outlined in this chapter or has otherwise failed to satisfy the College's expectations regarding conduct shall be considered a disciplinary warning. Such warnings imply that continuing or repeating the specific violation or engaging in other misconduct will result in one of the more serious disciplinary actions described below. Formal files or records will not be kept on informal verbal warnings.

(2) Disciplinary reprimand. Formal action censuring a student for violating the rules of conduct as outlined in 132U-120-050. Reprimands shall be made in writing to the student by the president, or his or her designee(s), with copies placed on file in the Administrative Office. A reprimand shall indicate to the student that continuing or repeating the specific violation involved will result in one of the more serious disciplinary actions described below.

(3) Disciplinary probation. Formal action by the president or his or her designee(s) placing conditions upon the student's continued attendance for violation of WAC 132U-120-050. Notice shall be made in writing and shall specify the period of probation and the conditions, such as limiting the student's participation in extracurricular activities. Disciplinary probation may be for a specific term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the College.

(4) Limited dismissal. Temporary dismissal from the College and termination of the person's student status for violation of WAC 132U-120-050. Notice shall be made in writing and specify the duration of the dismissal and any special conditions which must be met before readmission.

(5) Expulsion. Permanent termination of a student's status for violation of WAC 132U-120-050. Notice must be given in writing. There shall be no refund of fees for the quarter in which the action is taken but fees paid in advance for a subsequent quarter will be refunded.

[Statutory authority: RCW 28B.50.140(13)]

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#### NEW SECTION

**WAC 132U-120-090 INITIAL DISCIPLINARY PROCEEDINGS.** (1) All disciplinary proceedings will be initiated by the appropriate dean or his or her designated representative. The student may be placed on suspension pending commencement of disciplinary action, pursuant to the conditions set forth in WAC 132U-120-190 and -200.

(2) Any student accused of violating any provision of the rules of conduct shall be called for an initial meeting with the appropriate dean or his or her designated representative. The student will be informed of what provision or provisions of the rules of conduct he/she is charged with violating, and what appears to be the range of penalties, if any, which might result from initiation of disciplinary proceedings.

(3) After considering the evidence in the case and interviewing the accused student, if the accused student has appeared at the scheduled conference, the dean may take any of the following actions: (a) terminate the proceeding, exonerating the student or students; (b) dismiss

the case after whatever counseling and advice the dean deems appropriate; (c) impose verbal warning to student directly, not subject to the student's right of appeal as provided in this chapter; (d) impose additional sanctions of reprimand, probation, limited dismissal or expulsion, subject to the student's right of appeal as provided in the following provisions.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 132U-120-100 APPEALS—GENERALLY** (1) Appeals contesting any disciplinary action may be made by the student(s) involved. Such appeals shall be made in the following order:

(a) Disciplinary action taken by the dean or his or her designee(s) may be appealed to the petition review committee, which may, at the request of the student(s), hear the case de novo.

(b) Disciplinary recommendations made by the petition review committee may be appealed by the student to the president of the college. The president shall review the record of the proceedings which gave rise to the appeal, as well as the recommendations made by the dean and the petition review committee. The president's decision shall be final.

(2) Any appeal by a student receiving a disciplinary sanction must meet the following conditions: (a) the appeal must be in writing and must clearly state errors in fact or matters in extenuation or mitigation which justify the appeal; and (b) the appeal must be filed within ten (10) working days from the date on which the student was notified that disciplinary action was being taken.

(3) All decisions shall be sent from the office of the assistant to the president. Written decisions shall include the signature of the petition review committee chairperson. Copies shall be sent to the president of the college and the student involved in the proceeding.

[Statutory authority: RCW 28B.50.140(13)]

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#### NEW SECTION

**WAC 132U-120-110 COMPOSITION AND STRUCTURE OF THE PETITION REVIEW COMMITTEE.** (1) The petition review committee shall be composed of a chairperson and four members. The chairperson shall be that dean who did not handle the initial disciplinary proceedings and the members shall be chosen as follows:

(a) Two members shall be students in good academic standing appointed by the ASWCC president for a one-year term; and (b) one member shall be a faculty member appointed by the president of the college for a three-year term; and

(c) one member shall be an administrator appointed by the president for a two-year term.

(d) Members of the petition review committee shall be chosen by no later than October 15 of each academic year.

(e) Petition review committee members shall serve during their term of office as set forth above and until their successors are appointed or elected.

(2) If any member of the petition review committee is unable to consider a particular disciplinary proceeding for any reason (including but not limited to conflict of interest, matters of conscience or related reasons), such members shall abstain from considering the issues. If the chairperson abstains for any of the above reasons, the president shall appoint a temporary chairperson who will preside over the committee.

(3) The chairperson shall preside over all proceedings in cases relating to student violation of the rules of conduct established by this chapter. He or she shall exercise the powers and duties usually granted to the presiding officer of a judicial body including but not limited to the power to make rulings on all evidentiary and procedural matters heard in the course of the disciplinary hearing. The chairperson shall be responsible for (a) maintaining a record of the proceedings, (b) drafting findings of fact, conclusions of law and recommendations at

the conclusion of the hearing, (c) issuing subpoenas, (d) administering oaths and affirmations and (e) examining witnesses; provided, that no person shall be forced to divulge information which he could not be forced to divulge in a court of law.

(4) A quorum for all proceedings of the petition review committee shall consist of a chairperson and at least three members; provided, that one student, one faculty member and one administrator are present.

[Statutory authority: RCW 28B.19.110, 28B.19.120, 28B.50.140]

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#### NEW SECTION

WAC 132U-120-120 HEARING PROCEDURES BEFORE THE PETITION REVIEW COMMITTEE. (1) The petition review committee shall conduct a hearing within fourteen (14) working days after disciplinary action has been referred to it.

(2) Where a person is charged with an offense punishable by suspension, limited dismissal, or termination of his or her relationship with the institution, and where the person (a) waives the opportunity for an informal hearing, or (b) by his conduct in the judgement of the hearing officer makes it impossible to conduct an informal hearing, or (c) is dissatisfied with the results of the informal hearing; that person is entitled to a formal hearing according to the provisions of RCW 28B.19.110 and the guidelines of this chapter. Where a formal hearing is neither required by law nor requested by the student or the college, the matter may be resolved informally. Informal hearings before the petition review committee shall be conducted in any manner which will bring about a prompt, fair resolution of the matter.

(3) The student has a right to a fair and impartial hearing before the petition review committee on any charge of violating the rules of conduct. However, the student's failure to cooperate with the committee's hearing procedures shall not preclude the petition review committee from making its findings of fact, conclusions and recommendations.

(4) Written notice of the time and place of the hearing before the petition review committee shall be given to the student by personal service or registered mail. Service will be regarded as complete upon deposit with the United States postal service. Such notice shall be afforded not less than ten (10) calendar days in advance of the hearing and shall be issued by the committee chairperson. The notice shall include:

(a) A statement of time, place and nature of the disciplinary proceedings; and

(b) A statement of the specific charges against him or her including reference to the particular sections of the rules of conduct involved; and

(c) To the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the hearing.

(5) The committee has the power to issue subpoenas on its own motion or the motion of a party according to the provisions of RCW 28B.19.130.

(6) The student shall be entitled to:

(a) hear and examine the evidence against him or her and be informed of the identity of its source; and

(b) present evidence in his or her own behalf and cross-examine witnesses testifying on behalf of the college as to factual matters; and

(c) take depositions upon oral examination or written interrogatories. Discovery shall be done according to the rules of civil procedure or by a less formal method where all parties agree.

(7) The student may be represented by counsel of his or her choice at the disciplinary hearing. If the student elects to choose a duly licensed attorney admitted to practice in the state of Washington as counsel, notice thereof must be tendered by the student to the chairperson at least five working days prior to the hearing.

(8) In all disciplinary proceedings, the college may be represented by a designee appointed by the committee chairperson. That designee

will then present the college's case against the student accused of violating the rules of conduct; provided, that in those cases in which the student elects to be represented by a licensed attorney, the committee chairperson may elect to have the college represented by an assistant attorney general.

(9) The chairperson shall designate a recorder to take notes during the hearing and to prepare a written summary of all evidence, facts, and testimony presented to the petition review committee during the course of the hearing. The proceedings of the hearing shall also be electronically recorded.

(10) The record in a formal hearing shall contain: (a) all documents, motions, and intermediate rulings; (b) evidence received and considered; (c) a statement of matters officially noticed; and (d) questions and offers of proof, objections, and rulings thereon.

(11) All records of disciplinary proceedings shall be maintained in the Administrative Office and shall be available only during the course of the disciplinary proceedings to the petition review committee, the student and his/her attorney, and any other college official designated by the president.

(12) Following the conclusion of the disciplinary proceeding, access to records of the case and the hearing files will be limited to those designated by the college president.

(13) Following final disposition of the case and any appeals therefrom, the president may direct the destruction of any records of any disciplinary proceedings, provided that such destruction is in conformance with the requirements of Chapter 40.14 RCW.

(14) The time of the hearing may be advanced by the petition review committee at the request of the student or continued for good cause.

(15) Hearings conducted by the petition review committee generally will be held in closed session; provided, the accused student may request the hearing to be held in open session.

(16) If at any time during the hearing a visitor disrupts the proceedings, the chairperson of the petition review committee may exclude that person from the hearing room.

(17) Any student of the college attending the disciplinary hearing who continues to disrupt the proceedings after the presiding officer has asked him/her to cease or to leave the hearing room, shall be subject to disciplinary action.

[Statutory authority: RCW 28B.50.140(13), 28B.19.110, 28B.19.120, 28B.19.130, 28B.19.130]

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#### NEW SECTION

WAC 132U-120-130 EVIDENCE ADMISSIBLE IN HEARINGS. (1) Only those matters presented at the hearing, in the presence of the accused student (except where the student fails to attend after receipt of proper notice) will be considered in determining whether the petition review committee has sufficient cause to believe that the accused student is guilty of violating the rules he or she is charged with having violated. Hearsay evidence is admissible in the hearing.

(2) The presiding officer of the petition review committee shall, in the course of presiding at the disciplinary hearing, give effect to the rules of privilege recognized by law and exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

(3) Evidence or testimony to be offered by or on behalf of the student in extenuation or mitigation shall not be presented or considered until all substantive evidence or testimony has been presented.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 132U-120-140 DECISION BY THE PETITION REVIEW COMMITTEE. (1) Upon conclusion of the disciplinary hearing, the petition review committee shall consider all the evidence therein presented and decide by majority vote whether to uphold the initial disciplinary action or to recommend institution of any of the following actions:

(a) That the college terminate the proceedings and exonerate the student; or

(b) That the college impose any of the disciplinary actions as provided in this chapter.

(2) The committee's written decision shall include findings of fact, conclusions of law and recommendations for final disposal of the matter at issue.

(3) Within seven (7) working days of the conclusion of the hearing, the student will be provided with a copy of the committee's findings of fact and conclusions regarding what occurred and whether the student did violate any rule or rules of the code of conduct. The copy shall be dated and contain a statement advising the student of his or her right, within seven calendar days, to submit a written statement to the president of the college appealing the recommendation of the petition review committee.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 132U-120-150 FINAL APPEAL. (1) Any student feeling aggrieved by the findings or conclusions of an appeal to the petition review committee may appeal the same in writing to the president within seven (7) calendar days following notification of the student of the action taken by the committee. The president may, at his or her discretion, suspend any disciplinary action pending determination of the merits of the findings, conclusions and disciplinary actions imposed. In the consideration of such an appeal, the president shall base his findings and decision only on the official written record of the case and on any reports or recommendations of the petition review committee and/or of the dean who conducted the original hearing.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 132U-120-160 EFFECTIVE DATE OF THE RULES OF CONDUCT. The rules contained within chapter 132U-120 shall become effective thirty days after filing with the Code Reviser.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 132U-120-170 PRIOR RULES. The rules contained within chapter 132U-120 WAC supercede all former rules for which a student was subject to disciplinary action as defined by WAC 132U-120-020.

[Statutory authority: RCW 28B.50.140(13)]

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NEW SECTION

WAC 132U-120-180 SEVERABILITY. If any provisions of chapter 132U-120 WAC is adjudged by a court to be unconstitutional, the remaining provisions of chapter 132U-120 shall continue in effect.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 132U-120-190 SUMMARY SUSPENSION PROCEEDINGS. (1) If a dean or his or her designee(s) has cause to believe that any student (a) has committed a felony; or (b) has violated any provision of this chapter; and (c) presents an imminent danger either to himself or herself, other persons on the college campus or to the educational process; that student shall be summarily suspended and shall be notified by certified and regular mail at the student's last known address, or shall be personally served. Summary suspension is appropriate only where (c) can be shown, either alone or in conjunction with (a) or (b).

(2) The notice shall be entitled "Notice of Summary Suspension Proceedings" and shall state: (a) the charges against the student including reference to the provisions of WAC 132U-120-050 or statutory law involved; and (b) that the student charged must appear before the appropriate dean or his or her designee at a time specified in the notice for a hearing. The hearing shall be held as soon as practical after the summary suspension.

[Statutory authority: RCW 28B.50.140(13)]

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NEW SECTION

WAC 132U-120-200 PROCEDURES OF SUMMARY SUSPENSION HEARING. (1) The summary suspension hearing shall be considered an informal hearing. The hearing must be conducted as soon as possible and the appropriate dean will preside over the meeting.

(2) The Dean shall, at summary suspension proceeding, determine whether there is probable cause to believe that continued suspension is necessary and/or whether some other disciplinary action is appropriate.

[Statutory authority: RCW 28B.0.140(13)]

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NEW SECTION

WAC 132U-120-210 DECISION BY THE DEAN. If the Dean, following the conclusion of the summary suspension hearing, finds that there is probable cause to believe that: (1) the student against whom specific violations are alleged has actually committed one or more such violations; and (2) summary suspension of said student is necessary for the safety of the student, other students or persons on college facilities, the educational process of the institution, or to restore order to the campus; and (3) such violation or violations constitute grounds for disciplinary action as provided for in WAC 132U-120-050; then the Dean may continue to enforce the suspension of the student from college and may impose any other disciplinary action appropriate.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 132U-120-220 NOTICE OF SUSPENSION. (1) If a student's summary suspension is upheld or if the student is otherwise disciplined, the student will be provided with a written notice including the Dean's findings of fact and conclusions which lead the Dean to believe that the summary suspension of the student should continue.

(2) The student suspended pursuant to the authority of this rule shall be served a copy of the notice of suspension by personal service or by certified and regular mail at the student's last known address within three working days following the conclusion of the hearing with the dean.

(3) The notice of suspension shall stipulate the duration of the suspension or nature of the disciplinary action and conditions under which the suspension may be terminated.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-120-230 **SUSPENSION FOR FAILURE TO APPEAR.** The Dean is authorized to enforce the suspension of the summarily suspended student in the event the student has been served pursuant to the notice requirement and fails to appear at the time designated for the summary suspension proceeding.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-120-240 **APPEALS FROM SUMMARY SUSPENSION HEARING.** Any student aggrieved by an order issued at the summary suspension proceeding may appeal to the petition review committee. No such appeal shall be entertained, however, unless (a) the student has first appeared before the appropriate dean at the hearing called for in the WAC 132U-120-200; (b) the student has been officially notified of the outcome of that hearing; (c) summary suspension or another disciplinary sanction has been upheld; and (d) the appeal conforms to the standards set forth in WAC 132U-120-100(2).

(2) The petition review committee shall, within five (5) working days, conduct a formal hearing in the manner described in WAC 132U-120-120.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-120-250 **FINAL DECISION.** The president or his or her designee(s) shall review the findings and conclusions of the dean in conjunction with the recommendations of the petition review committee and will issue a final decision within three days.

[Statutory authority: RCW 28B.50.140]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-120-260 **STUDENT GRIEVANCES.** The purpose of this section through section -320 is to protect each student's freedom of expression in the classroom; to protect each student from improper, arbitrary or capricious academic evaluation as evidenced by the student's final course grade; and to afford each student reasonable protection against arbitrary or capricious actions taken outside the classroom by other members of the college community.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-120-270 **GRIEVANCES EXCLUDED.** (1) A student may not use the provisions of these sections as the basis for filing a grievance based on the outcome of summary or other disciplinary proceedings described in earlier sections of this student rights and responsibilities code.

(2) Federal and state laws, rules and regulations, in addition to policies, regulations and procedures adopted by the state board for community college education or the board of trustees of Community College District No. 21 shall not be grievable matters.

(3) Students shall use chapter 132U-300 WAC for grievances pertaining to sexual or handicapped discrimination.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-120-280 **GRIEVANCE PROCEDURES.** (1) If a student believes he or she has been unfairly treated by an officer of the college, faculty member or a member of the college staff, the student shall first discuss the matter with the individual toward whom the grievance is directed. The purpose of this discussion should be to clarify the perceived problem and request specific action. The request for specific action should be written, dated, and submitted to the faculty or staff member within sixty (60) days of the incident which gave rise to the grievance. The person to whom the request was submitted shall reply in writing within five (5) working days of the date on which the request was received.

(2) If, within ten (10) instructional days following the student's attempt to resolve the grievance in the manner described above, the student feels a satisfactory resolution has not been achieved, the student shall file a formal grievance with the appropriate dean.

(3) The grievant shall present his or her grievance in writing to the appropriate dean and shall include a statement specifying the nature of the grievance, a summary of actions taken by the student to resolve the grievance up to that point, and any proposed solution the grievant wishes to offer.

(4) The appropriate dean will attempt to resolve the problem within ten (10) working days by:

(a) serving as an intermediary between the student and the faculty of staff member and bringing about a resolution that is satisfactory to all concerned parties; or

(b) reviewing the facts of the situation and making a decision. The decision shall be communicated in writing to all concerned parties.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-120-290 **APPEALS.** If the hearing with the dean does not resolve the grievance to the student's satisfaction, he or she may appeal to the petition review committee by submitting a written petition to the chairperson of that committee within ten (10) instructional days of receiving the written decision of the dean. The petition review committee may call any witnesses and hear any testimony needed to reach a prompt, fair resolution of the grievance. The committee shall be constructed as provided in WAC 132U-120-110. The hearing before the petition review committee shall not be considered a formal hearing. Where requested by the student and approved by the president of the college, a formal hearing (to be conducted according to the provisions of WAC 132U-120-120) may be granted. Within twenty days of receiving the appeal, the committee shall make a recommendation to the president.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

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

#### NEW SECTION

WAC 132U-120-300 **FINAL DECISION REGARDING STUDENT GRIEVANCES.** (1) The president, after reviewing the record of the case prepared by the appropriate dean, together with any appeal

statement filed by any party to the grievance, shall issue either a written acceptance of the recommendations of the dean, or written directions regarding alternative courses of action.

(2) The president shall notify all parties to the grievance of the decision within seventy-two hours by certified mail.

(3) The decision of the president shall be final.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-120-310 NATURE OF GRIEVANCE PROCEEDINGS. All hearings growing out of a student-initiated grievance, including appeals to the office of the president, shall remain closed unless all parties to the grievance agree on an open hearing.

[Statutory Authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-120-320 WITHDRAWAL OF GRIEVANCE. (1) At any time during the grievance procedure, the grievant may officially withdraw the grievance in writing. Further, any appeal of the operational dean's decision forwarded to the office of the president may be officially withdrawn in writing at any time by the appellant.

(2) In the event the grievant or appellant fails to appear for any scheduled hearing without prior notification or evidence of extenuating circumstances, this shall be considered to constitute withdrawal of the grievance or appeal.

[Statutory Authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-120-330 ADMINISTRATIVE, FACULTY AND STAFF GRIEVANCES. Any administrator, faculty member or staff member who is the subject of a student's grievance and who is dissatisfied with the results of the student grievance proceedings shall file a grievance under the appropriate grievance procedure established by Whatcom Community College.

[Statutory authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

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

#### Chapter 132U-122 WAC

#### WITHHOLDING SERVICES FOR OUTSTANDING DEBTS

#### WAC

132U-122-010 Statement of policy.

132U-122-020 Withholding services for outstanding debts.

#### NEW SECTION

WAC 132U-122-010 STATEMENT OF POLICY. The college expects that students who receive services for which a financial obligation is incurred will exercise responsibility in meeting these obligations. Appropriate college staff are empowered to act in accordance with regularly adopted procedures to carry out the intent of this policy, and if necessary to initiate legal action to insure that collection matters are brought to a timely and satisfactory conclusion.

Admission to or registration with the college, conferring of degrees and issuance of academic transcripts may be withheld for failure to meet financial obligations to the college.

#### NEW SECTION

WAC 132U-122-020 WITHHOLDING SERVICES FOR OUTSTANDING DEBTS. Upon receipt of a request for services where there is an outstanding debt due the institution from the requesting person, the institution shall notify the person, in writing, that the services will not be provided since there is an outstanding debt due the institution, and further that until that debt is satisfied, no such services will be provided the individual.

Notification that services will be withheld shall also inform the individual that he or she has a right to a hearing before a person designated by the president of the institution if he or she believes that no debt is owed. Notification shall also indicate that the request for the hearing must be made within ten days from the date of the notification.

Upon receipt of a timely request for a hearing, the person designated by the president shall have the records and files of the institution available for review and, at that time, shall hold an informal hearing concerning whether the individual owes or owed any outstanding debts to the institution. After the informal hearing, a decision shall be rendered by the president's designee indicating whether the institution is correct in withholding services and/or applying off set for the outstanding debt. If the outstanding debt is found to be owed by the individual involved, no further services shall be provided. Notification of this shall be sent to the individual within five days after the hearing.

Chapter 132U-140 WAC  
Policy on the Use of College Facilities

#### NEW SECTION

WAC 132U-140-010 USE OF COLLEGE FACILITIES. Community College District No. 21 serves Whatcom County by providing continued educational opportunity for its citizens. In keeping with this general purpose, the college believes that facilities should be available for a variety of uses which are of benefit to the general public, provided; that such general uses do not interfere with the educational mission of the college. However, a state agency is under no obligation to make its public facilities available to the community for private purposes.

[Statutory Authority: RCW 28B.50.140]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-140-020 LIMITATION OF USE TO SCHOOL ACTIVITIES. When allocating use of college facilities, top priority shall always be given to activities specifically related to the college's mission. No arrangements shall be made that may interfere with or operate to the detriment of, the college's own teaching, research, or public service programs. In particular, the college buildings, properties, and facilities (including those assigned to student programs) shall be used primarily for:

(1) The regularly established teaching, research, or public service activities of the college and its departments or related agencies.

(2) Cultural, educational, or recreational activities of the students, faculty or staff.

(3) Short courses, conferences, seminars, or similar events, conducted either in the public service or for the advancement of specific departmental professional interests, when arranged under the sponsorship of the college or its departments.

(4) Public events of a cultural or professional nature brought to the campus at the request of college departments or committees and presented with their active sponsorship and active participation.

(5) Activities or programs sponsored by educational institutions, by state or federal agencies, by charitable agencies or civic or community organizations whose activities are of widespread public service and of a character appropriate to the college.

(6) College facilities shall be assigned to student organizations for regular business meetings, social functions and for programs open to the public. Any recognized campus student organization may invite speakers from outside the college community. In conformance with state guidelines, the appearance of an invited speaker on campus does not represent an endorsement by the college, its students, faculty, administration, or the board of trustees, whether implicit or explicit, of the speaker's views.

(7) Reasonable conditions may be imposed to regulate the timeliness of requests, to determine the appropriateness of space assigned, time of use, and to insure the proper maintenance of the facilities. Subject to

the same limitations, college facilities shall be made available for assignment to individuals or groups within the college community. Arrangements by both organizations and individuals must be made through the designated administrative officer. Allocation of space shall be made in accordance with college regulations and on the basis of time, space, priority of request and the demonstrated needs of the applicant.

(8) The college may restrict an individual or group's use of college facilities if that person or group has, in the past, physically abused college facilities. Charges may be imposed for rental, damage, or for any other unusual costs for the use of facilities. The individual, group or organization requesting space will be required to state in advance the general purpose of any meeting. If any charge or collection of funds is contemplated, advance permission from the party giving authority for space allocations will be required.

[Statutory Authority: RCW 28B.50.140(13)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-140-030 STATEMENT OF INTENTIONS. The college neither intends nor desires to compete with any local agency or private enterprise in making its facilities available to the community. Privately operated facilities exist which are well qualified to best meet many community needs. The college encourages the community to patronize local businesses or agencies. With this approach, the college hopes to work cooperatively with local private enterprise to the mutual benefit of all concerned.

[Statutory Authority: 28B.50.140]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-140-040 GENERAL POLICIES LIMITING USE.

(1) College facilities may not be used for purposes of political campaigning by or for candidates who have filed for public office except for student-sponsored activities.

(2) Religious groups shall not, under any circumstances, use the college facilities as a permanent meeting place. Use shall be intermittent only.

(3) The college reserves the right to prohibit the use of college facilities by groups which restrict membership or participation in a manner inconsistent with the college's commitment to non-discrimination as set forth in its written policies and commitments.

(4) The college may designate areas in its facilities and times for use by commercial entities on a space-available basis. The college may establish procedures for allocating such space and time to assure equal opportunity for access to different commercial enterprises. Such designation shall be made in keeping with other college policies.

(5) Activities of a political or commercial nature may be approved providing they do not involve the use of promotional signs or posters on buildings, trees, walls, or bulletin boards, or the distribution of samples outside the rooms or facilities to which access has been granted.

(6) These general policies shall apply to recognized student groups using college facilities.

(7) Handbills, leaflets, and similar materials except those which are commercial, obscene, or unlawful may be distributed only in designated areas on the campus where, and at times when, such distribution shall not interfere with the orderly administration of the college affairs or the free flow of traffic. Any distribution of materials as authorized by the designated administrative officer and regulated by established guidelines shall not be construed as support or approval of the content by the college community or the board of trustees.

(8) Use of audio amplifying equipment is permitted only in locations and at times that will not interfere with the normal conduct of college affairs as determined by the appropriate administrative officer.

(9) No person or group may use or enter onto college facilities having in their possession firearms, even if licensed to do so, except commissioned police officers as prescribed by law.

(10) The right of peaceful dissent within the college community shall be preserved. The college retains the right to insure the safety of

individuals, the continuity of the educational process, and the protection of property. While peaceful dissent is acceptable, violence or disruptive behavior is an illegitimate means of dissent. Should any person, group or organization attempt to resolve differences by means of violence, the college and its officials need not negotiate while such methods are employed.

(11) Orderly picketing and other forms of peaceful dissent are protected activities on and about the college premises. However, interference with free passage through areas where members of the college community have a right to be, interference with ingress and egress to college facilities, interruption of classes, injury to persons, or damage to property exceeds permissible limits.

(12) Where college space is used for an authorized function (such as a class or a public or private meeting under approved sponsorship, administrative functions or service related activities) groups must obey or comply with directions of the designated administrative officer or individual in charge of the meeting.

(13) If a college facility abuts a public area or street, and if student activity, although on public property, unreasonably interferes with ingress and egress to college buildings, the college may choose to impose its own sanctions although remedies might be available through local law enforcement agencies.

[Statutory Authority: RCW 28B.50.140]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-140-050 ADMINISTRATIVE CONTROL. The board hereby delegates to the president or his or her designee(s), authority to set up administrative procedures for proper review of the use of college facilities; to establish, within the framework of these policies, regulations governing such use; and to establish rental schedules where appropriate.

[Statutory Authority: RCW 28B.50.140]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-140-060 TRESPASS. (1) Individuals who are not students or members of the faculty or staff and who violate these regulations will be advised of the specific nature of the violation, and if they persist in the violation, they will be requested by the president, or his or her designee, to leave the college property. Such a request prohibits the entry of and withdraws the license or privilege to enter onto or remain upon any portion of the college facilities by the person or group of persons requested to leave. Such persons shall be subject to arrest under the provisions of Chapter 9A.52 RCW.

(2) Members of the college community (students, faculty, and staff) who do not comply with these regulations will be reported to the appropriate college office or agency for action in accord with established college policies.

(3) Persons who violate a district policy may have their license or privilege to be on district property revoked and be ordered to withdraw from and refrain from entering upon any district property. Remaining on or reentering district property after one's license or privilege to be on that property has been revoked shall constitute trespass and such individual shall be subject to arrest for criminal trespass.

[Statutory Authority: RCW 28B.50.140]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

WAC 132U-140-070 PROHIBITED CONDUCT AT COLLEGE FACILITIES. (1) State law relative to public institutions governs the use or possession of intoxicants on campus or at college functions. The use or possession of unlawful drugs or narcotics, not medically prescribed, on college property or at college functions, is prohibited. Students obviously under the influence of intoxicants, unlawful drugs or narcotics while in college facilities shall be subject to disciplinary action.

(2) The use of tobacco is restricted by law and by regulations of the fire marshal to designated smoking areas.

(3) Destruction of property is also prohibited by state law in reference to public institutions.

[Statutory Authority: RCW 28B.50.140]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institution and appear herein pursuant to the requirements of RCW 34.08.040.

Chapter 132U-276 WAC  
ACCESS TO PUBLIC RECORDS AND DOCUMENTS AT  
WHATCOM COMMUNITY COLLEGE

WAC

132U-276-100	Purpose.
132U-276-110	Definitions.
132U-276-120	Description of organization.
132U-276-130	Operations and procedures.
132U-276-140	Substantive rules and policies of general applicability.
132U-276-150	Public records available.
132U-276-160	Public records officer.
132U-276-170	Office hours.
132U-276-180	Requests for public records.
132U-276-190	Copying.
132U-276-200	Determination regarding exempt records.
132U-276-210	Review of denials of public record requests.
132U-276-220	Protection of public records.
132U-276-230	Records index.
132U-276-240	Adoption of form.

NEW SECTION

WAC 132U-276-100 **PURPOSE.** The purpose of this chapter shall be to ensure compliance by Community College District No. 21 with the provisions of chapter 42.17 RCW, Disclosure—Campaign finances—Lobbying—Records; and in particular sections 250-340 of that act, dealing with public records.

NEW SECTION

WAC 132U-276-110 **DEFINITIONS.** (1) Public records. "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics; provided, however, that the personal and other records cited in RCW 42.17.310 are exempt from the definition of public record.

(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 or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

NEW SECTION

WAC 132U-276-120 **DESCRIPTION OF ORGANIZATION.** (1) Community College District No. 21 is a state agency established and organized under the authority of chapter 28B.50 RCW for the purpose of implementing the educational goals established by the legislature in RCW 28B.50.020. The administrative office of the district is located at 237 - West Kellogg Rd., Whatcom County, Washington. The college service center comprises the central headquarters for all operations of the district.

(2) The district is operated under the supervision and control of a board of trustees. The board of trustees consists of five members appointed by the governor. The board of trustees normally meets twice each month, as provided in WAC 132U-104-030. The board of trustees employs a president, an administrative staff, members of the faculty and other employees. The board of trustees takes such actions and promulgates such rules, regulations, and policies in harmony with the rules and regulations established by the state board for community college education, as are necessary to the administration and operation of the district.

(3) The president of the district is responsible to the board of trustees for the operation and administration of the district. A detailed description of the administrative organization of the district is contained

within the Policies and Procedures Manual for Community College District No. 21, a current copy of which is available for inspection at the administrative office of the district.

NEW SECTION

WAC 132U-276-130 **OPERATIONS AND PROCEDURES.** (1) Formal decision-making procedures are established by the board of trustees through rules promulgated in accordance with the requirements of chapter 28B.19 RCW, the State Higher Education Administrative Procedure Act (HEAPA).

(2) Informal decision-making procedures at the college, as established by the board of trustees, are set forth in the Policies and Procedures Manual of Community College District No. 21, a current copy of which is available for inspection at the administrative office of the district.

NEW SECTION

WAC 132U-276-140 **SUBSTANTIVE RULES AND POLICIES OF GENERAL APPLICABILITY.** (1) Except as provided in subsection (2) of this section, all of the district's substantive rules and policies of general applicability.

(a) The violation of which subject an individual to a penalty or administrative sanction; or

(b) Which establish, alter, or revoke any procedures, practice, or requirement relating to institutional hearings; or

(c) Which establish, alter, or revoke any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law, are promulgated by the board of trustees in accordance with the requirements of chapter 28B.19 RCW, and are contained within Title 132U of the Washington Administrative Code.

(2) Those of the district's substantive rules and policies of general applicability which relate primarily to the following subjects are not promulgated by the board of trustees in accordance with the requirements of chapter 28B.19 RCW and are not contained within Title 132U WAC, but rather are adopted by resolution of the board of trustees or by action of the president and are contained within the Policies and Procedures Manual of Community College District No. 21, a current copy of which is available for inspection at the administrative office of the district: Standards for admission; academic advancement, academic credits, graduation and the granting of degrees; tuition and fees, scholarships, financial aid, and similar academic matters; employment relationships; fiscal processes; and matters concerning only the internal management of the district and not affecting private rights or procedures available to the general public.

NEW SECTION

WAC 132U-276-150 **PUBLIC RECORDS AVAILABLE.** All public records of the district, as defined in WAC 132U-276-110, are deemed to be available for public inspection and copying pursuant to this chapter, except as otherwise provided by RCW 42.17.310 and WAC 132U-276-190.

NEW SECTION

WAC 132U-276-160 **PUBLIC RECORDS OFFICER.** The district's public records shall be in the charge of the public records officer designated by the chief administrative officer of the district. The person so designated shall be located in the district administrative office as set forth in WAC 132U-276-120. The public records officer shall be responsible for the following: Implementation of the district's rules and regulations regarding release of public records, coordinating the district employees in this regard, and generally insuring compliance by district employees with the public records disclosure requirements of chapter 42.17 RCW.

NEW SECTION

WAC 132U-276-170 **OFFICE HOURS.** Public records shall be available for inspection and copying during the customary office hours of the district. For purposes of this chapter, the customary office hours shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays and holidays established by the college calendar.

NEW SECTION

WAC 132U-276-180 REQUESTS FOR PUBLIC RECORDS. In accordance with the requirement 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 are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the district which shall be available at the district administrative office. The form shall be presented to the public records officer or, if the public records officer is not available, to any member of the district's staff at the district administrative office during customary office hours. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

(2) 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 person to whom the request is made, to assist the member of the public in succinctly identifying the public record requested.

NEW SECTION

WAC 132U-276-190 COPYING. No fee shall be charged for the inspection of public records. The district may impose a reasonable charge for providing copies of public records and for the use by any person of agency equipment to copy public records; such charges shall not exceed the amount necessary to reimburse the district for its actual costs incident to such copying. No person shall be released a record so copied until and unless the person requesting the copied public record has tendered payment for such copying to the appropriate district official. All charges must be paid by money order, cashier's check or cash in advance.

NEW SECTION

WAC 132U-276-200 DETERMINATION REGARDING EXEMPT RECORDS. (1) The district reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 132U-276-180 is exempt pursuant to the provisions set forth in RCW 42.17.310. Such determination may be made in consultation with the public records officer, president of the college district, or an assistant attorney general assigned to the district.

(2) Pursuant to RCW 42.17.260, the district reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy; provided, however, in each case, the justification for the deletion shall be explained fully in writing.

(3) Response to requests for a public record must be made promptly. For the purposes of this section, a prompt response occurs if the person requesting the public record is notified within two business days as to whether his request for a public record will be honored.

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

NEW SECTION

WAC 132U-276-210 REVIEW OF DENIALS OF PUBLIC RECORD 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 a review of such denial. The written request shall specifically refer to the written statement which constituted or accompanied the denial.

(2) The written request by a person demanding prompt review of a decision denying a public record shall be submitted to the president of the district, or his designee.

(3) Within two business days after receiving the written request by a person petitioning for prompt review of a decision denying a public record, the president of the district, or his or her designee, shall complete such review.

(4) During the course of the informal hearing the president or his or her designee shall consider the obligations of the district fully to comply with the intent of chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider both the exemptions provided in RCW 42.17.310 and the provisions of the statute which require the district to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and prevent any unreasonable invasion of personal privacy by deleting identifying details.

NEW SECTION

WAC 132U-276-220 PROTECTION OF PUBLIC RECORDS. Requests for public records shall be made at the administrative office of the district at Whatcom County, Washington. Public records and a facility for their inspection will be provided by the public records officer. Such records shall not be removed from the place designated for their inspection. Copies of such records may be arranged according to the provisions of WAC 132U-276-190.

NEW SECTION

WAC 132U-276-230 RECORDS INDEX. (1) The district has available for the use of all persons a current index which provides identifying information as to the following records issued, adopted, or promulgated by the district after June 30, 1972:

- (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; and
- (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 is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party.

(2) The current index maintained by the district 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 132U-276-240 ADOPTION OF FORM. The district hereby adopts for use by all persons requesting inspection and/or copying or copies of its records the following form:

REQUEST FOR PUBLIC RECORD TO  
COMMUNITY COLLEGE DISTRICT NO. 21

(a) .....  
Name (please print) ..... Signature .....  
.....  
Name of Organization, if applicable .....  
.....  
Mailing Address of applicant ..... Phone .....  
.....

(b) .....  
Date Request made ..... Time of Day Request made .....  
.....

(c) Nature of Request .....  
.....

(d) Identification Reference on current index (please describe)  
.....  
.....

(c) Description of record, or matter, requested if not identifiable by reference to the Community College District 21

.....  
.....

Request: Approved ... Denied ... Date .....

By .....  
Name Title

Reasons for Denial: .....

.....  
.....

Referred to ..... Date .....

Chapter 132U-280 WAC  
FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

WAC

- 132U-280-010 Confidentiality of student records.
- 132U-280-015 Definition of a student.
- 132U-280-020 Education records—Student's right to inspect.
- 132U-280-025 Requests and appeal procedures.
- 132U-280-030 Release of personally-identifiable records.
- 132U-280-035 College records.

NEW SECTION

WAC 132U-280-010 CONFIDENTIALITY OF STUDENT RECORDS. The college continually receives requests from outside sources for information about students, both past and present. The staff and faculty of the college are reminded that 20 U.S.C. 1232(g) the Family Educational Rights and Privacy Act of 1974 directs the college to adopt a policy on student education records to insure that information contained in such records is treated in a responsible manner with due regard to the personal nature of the information contained in those records. In order to prevent embarrassment or possible legal involvement of the college and its employees because of improper disclosure of information, it is important that college policy be implemented in the release of such information.

NEW SECTION

WAC 132U-280-015 DEFINITION OF A STUDENT. A student is defined as any person who is or has been officially registered at Whatcom Community College and with respect to whom the college maintains education records or personally-identifiable information.

NEW SECTION

WAC 132U-280-020 EDUCATION RECORDS—STUDENT'S RIGHT TO INSPECT. (1) A student has the right to inspect and review his or her education records.

(a) For purposes of this section the term "education records" means those records, files, documents, and other materials which contain information directly related to a student.

(b) The term "education records" does not include:  
(i) Records of instructional, supervisory and administrative personnel which exist solely for the use of the maker and which are not accessible or revealed to any other person except a substitute.

(ii) In the case of persons who are employed by an educational institution but who are not attending that institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for any other use.

(iii) Records on a student which are created or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity and which are created, maintained or used only in connection with the treatment of the student, and are not available to anyone other than persons providing such treatment; provided, however, that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(2)(a) Recommendations, evaluations or comments concerning a student that are provided in confidence, either expressed or implied, as between the author and the recipient, shall be made available to the student, except as provided in (b), (c), and (d) of this subsection.

(b) The student may specifically release his right to review where the information consists only of confidential recommendations respecting:

- (i) Admission to any educational institution; or
- (ii) An application for employment; or
- (iii) Receipt of an honor or honorary recognition.

(c) A student's waiver of his or her right of access to confidential statements shall apply only if:

- (i) The student is, upon request, notified of the names of all persons making confidential statements concerning him, and
- (ii) Such confidential statements are used solely for the purpose for which they were originally intended, and
- (iii) Such waivers are not required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from the college.

(d) Recommendations, evaluations or comments concerning a student that have been provided in confidence, either expressed or implied, as between the author and the recipient, prior to January 1, 1975, shall not be subject to release under (a) of this subsection. Such records shall remain confidential and shall be released only with the consent of the author. Such records shall be used by the institution only for the purpose for which they were originally intended.

(3) Where requested records or data include information on more than one student, the student shall be entitled to receive or be informed of only that part of the record or data that pertains to the student.

(4) Students have the right to obtain copies of their education records. Charges for the copies shall not exceed the cost normally charged by the college (except in cases where charges have previously been approved by the boards of trustees' action for certain specified services, such as transcripts and grade sheets).

(5) The college registrar is the official custodian of academic records and therefore is the only official who may issue a transcript of the student's official academic record.

(6) Student education records may be destroyed in accordance with a department's routine retention schedule. In no case will any record which is requested by a student for review in accordance with this section and WAC 132U-280-025 be removed or destroyed prior to providing the student access.

NEW SECTION

WAC 132U-280-025 REQUESTS AND APPEAL PROCEDURES. (1) A request by a student for review of information should be made in writing to the college individual or office having custody of the particular record.

(2) An individual or office must respond to a request for education records within a reasonable period of time, but in no case more than thirty days after the request has been made. A college individual or office which is unable to comply with a student's request within the above-state time period shall inform the student of that fact and the reasons in writing.

(3)(a) A student who feels that his or her request has not been properly answered by a particular individual or office or who feels that the information contained in those records is incorrect should contact the appropriate dean responsible for the individual or office for mediation.

(b) In cases where a student remains dissatisfied after consulting with the appropriate dean the student may then request a hearing by the president or his or her designee(s). Following the hearing the hearing officer shall render his or her decision within a reasonable period of time. In all cases the decision of the hearing officer shall be final.

(c) In no case shall any request for review by a student be considered by the college which has not been filed with that body in writing within ninety days from the date of the initial request to the custodian of the record.

(d) The college shall not review any matter regarding the appropriateness of official academic grades beyond that provided for in WAC 132U-120-200, et seq.

NEW SECTION

WAC 132U-280-030 RELEASE OF PERSONALLY-IDENTIFIABLE RECORDS. (1) The college shall not permit access to or the release of education records or personally-identifiable information contained therein, other than "directory information" without the written consent of the student, to any party other than the following:

(a) College staff, faculty and students when officially appointed to a faculty council or administrative committee, when the information is

required for a legitimate educational interest within the performance of their responsibilities to the college, with the understanding that its use will be strictly limited to the performance of those responsibilities.

(b) Federal and state officials requiring access to education records in connection with the audit and evaluation or a federally or state-supported education program or in connection with the enforcement of the federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parents to other than those officials and such personally-identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements.

(c) Agencies or individuals requesting information in connection with a student's application for, or receipt of financial aid.

(d) Organizations conducting studies for or on behalf of the college for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purposes for which it was provided.

(e) Accrediting organizations in order to carry out their accrediting functions.

(f) Any person or entity designated by judicial order or lawfully-issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of the compliance therewith. Any college individual(s) or office(s) receiving a subpoena or judicial order for education records should immediately notify the attorney general.

(2) Where the consent of a student is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:

(a) A specification of the records to be released;

(b) The reasons for such release; and

(c) The names of the parties to whom such records will be released.

(3) In cases where records are made available without student release as permitted by subsection (1)(b), (c), (d), (e) and (f) of this section, the college shall maintain a record kept with the education record released which will indicate the parties which have requested or obtained access to a student's records maintained by the college and which will indicate the legitimate interest of the investigating party. Releases in accordance with subsection (1)(a) of this section need not be recorded.

(4) Personally-identifiable education records released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally-identifiable form to any other parties without obtaining consent of the student.

(5) The term "directory information" used in subsection (1) of this section is defined as student's name, address, telephone number, dates of attendance, and degrees and awards received. Students may request that the college withhold directory information except through written notice to the registration office.

(6) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person(s).

#### NEW SECTION

WAC 132U-280-035 COLLEGE RECORDS. All college individuals or offices having custody of education records will develop procedures in accord with WAC 132U-280-010 through 132U-280-040. Any supplementary regulations found necessary by departments will be filed with the college which will be responsible for periodic review of policy and procedures.

No records shall be kept that reflect a student's political or ideological beliefs or associations.

#### Chapter 132U-300 WAC GRIEVANCES—DISCRIMINATION

#### WAC

132U-300-010 Statement of policy.

132U-300-020 Grievance procedure—Sexual harassment, sex discrimination, handicapped discrimination.

#### NEW SECTION

WAC 132U-300-010 STATEMENT OF POLICY. Whatcom Community College is covered by Title IX of the Education Amendments of 1972 prohibiting sex discrimination in education and Section 504 of the Rehabilitation Act of 1973 prohibiting discrimination on the basis of handicap. It is the policy of Whatcom Community College to ensure equal opportunity without regard to sex or handicap status in all areas of admission, education, application for employment, and employment. It is also the policy of Whatcom Community College to provide an environment in which members of the college community can work or study free from sexual harassment or sexual intimidation. Sexual harassment is a form of sex discrimination. As such it is a violation of the 1964 Civil Rights Act and Title IX of the 1972 Education Amendments.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:

(1) Submission to the conduct is either explicitly or implicitly made a term or condition of an individual's academic or career advancement; and/or

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting that individual; and/or

(3) Such conduct has the effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment.

A grievance procedure is required by Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973.

#### NEW SECTION

WAC 132U-300-020 GRIEVANCE PROCEDURE—SEXUAL HARASSMENT, SEX DISCRIMINATION, HANDICAPPED DISCRIMINATION. (1) Any applicant for admission, enrolled student, applicant for employment or employee of Whatcom Community College who believes he/she has been discriminated against on the basis of sex or on the basis of a handicap may lodge a formal institutional grievance according to the following procedures:

(a) Step 1: Informal meeting. The complainant may request an informal meeting with the individual believed to have committed the discriminatory act in an attempt to informally resolve the concern.

(b) Step 2: Official hearing. If not satisfied by the results of the informal meeting, or if he or she has waived rights to an informal meeting, the complainant may request a meeting with the college designated grievance officer.

(i) The request for an official hearing must be made in writing and must stipulate the specific grievance(s) the complainant wishes to raise.

(ii) Within thirty calendar days of receiving the written request, the college designated grievance officer shall arrange a meeting to hear the complaint. It shall be at the discretion of the complainant to determine whether the officer will meet with the complainant and the person to whom the complaint has been directed separately or in a single meeting. If the complainant requests a single meeting, the meeting shall be attended by the complainant, the person to whom the complaint is directed, and the college officer, who will chair the meeting.

(iii) Following the hearing and within thirty calendar days of receiving the written request, the college officer will report his/her findings in writing to both the complainant and the person to whom the complaint has been directed.

(c) Step 3: Presidential appeal. If the complaint is not resolved as a result of the hearing conducted by the college designated grievance officer, either the complainant or the person to whom the complaint is directed may request an appeal to the college president.

(i) The request must be made in writing within ten days after receipt of the written results of the official hearing.

(ii) Within fifteen days after receiving the request, the college president or the president's designee will conduct the presidential appeal hearing and report the findings in writing to both the complainant and the person to whom the complaint is directed.

(iii) Attendance at the presidential appeal hearing shall be limited to the college president or designee, the designated grievance officer, the complainant, and the person to whom the complaint is directed unless otherwise mutually agreed by the parties. The college president or presidential designee shall preside.

(iv) Either the complainant or the person to whom the complaint is directed may call witnesses at the discretion of the person presiding.

(v) The written findings of the presidential appeal will be considered final. No further intra-institutional appeal exists.

(2) If desired, inquiries or appeals beyond the institutional level may be directed to:

(a) Regional Director, Office of Civil Rights, Department of Education, HEW, 2901-3rd Avenue, M.S. 106, Seattle, Washington 98101.

(b) The Equal Opportunity Commission, 1321-2nd Avenue, 7th Floor, Arcade Plaza, Seattle, Washington 98101.

(c) The Human Rights Commission, 402 Evergreen Plaza Building, Mailstop FJ-41, 711 S. Capitol Way, Olympia, Washington 98502.

Chapter 132U-325 WAC  
ENVIRONMENTAL POLICY ACT RULES

WAC

132U-325-010 Implementation of State Environmental Policy Act.

NEW SECTION

WAC 132U-325-010 IMPLEMENTATION OF STATE ENVIRONMENTAL POLICY ACT. (1) It shall be the policy of Community College District No. 21 that all actions taken by the district shall comply with the provisions of chapter 43.21C RCW (State Environmental Policy, chapters 197-10 and 131-24 WAC, as presently enacted or hereafter amended).

(2) The president of Community College District No. 21 shall be responsible for administering and implementing this policy.

**WSR 88-07-030**

**NOTICE OF PUBLIC MEETINGS  
COUNCIL ON VOCATIONAL EDUCATION**

[Memorandum—March 9, 1988]

Westwater Inn – Room 202  
Olympia, Washington  
March 18, 1988

The meeting site is barrier free. Interpreters for people with hearing impairments and braille or taped information for people with visual impairments can be provided. Please contact the Council on Vocational Education, 120 East Union, Room 220, EK-21, Olympia, WA 98504, (206) 753-3715 by March 14, 1988.

**WSR 88-07-031**

**ADOPTED RULES  
DEPARTMENT OF LICENSING**

[Order PM 713—Filed March 9, 1988]

Be it resolved by the Washington State Department of Licensing, acting at Seattle, Washington, that it does adopt the annexed rules relating to the practice and licensure of acupuncture.

This action is taken pursuant to Notice No. WSR 88-02-061 filed with the code reviser on January 6, 1988. 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 18.06.160 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 18.06 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 March 1, 1988.

By Theresa Anna Aragon  
Director

AMENDATORY SECTION (Amending Order PL 592, filed 5/5/86)

WAC 308-180-120 LICENSE RENEWAL REGISTRATION DATE AND FEE. (1) The annual license renewal date will coincide with the licensee's birth anniversary date.

(2) ~~((The original application/examination fee of \$500.00 will include the license fee for one year from the date of issuance and will require a prorated fee based upon \$500.00 to convert the issue date to))~~ Upon successfully completing the examination, a license will be issued to expire one year from the date of issuance at which time the current renewal fee will be prorated to convert the expiration date to the licensee's next birth anniversary date. The prorated fee((s)) will be submitted on or before the licensee's birth anniversary date ((following initial licensure)).

(3) Licensees who fail to pay the license renewal fee within thirty days of the license expiration date will be subject to the late penalty fee as set forth in RCW 18.06.120 and established in WAC 308-180-100.

AMENDATORY SECTION (Amending Order PM 641, filed 3/4/87)

WAC 308-180-210 EXAMINATIONS. (1) A written and practical examination in English shall be given twice yearly for qualified applicants at a time and place determined by the director.

(2) All applicants must have successfully completed the written portion of the examination prior to being eligible for the practical examination.

(3) Applications and fees for examination or reexamination must be received by the department forty-five days in advance of the scheduled examination date.

(4) The passing score for the written examination is a converted score of seventy-five.

(5) The practical examination will consist of separate segments designed to test the applicant's knowledge of diagnostic methods, acupuncture treatment and aseptic techniques.

(6) To pass the practical examination, candidates must successfully complete each segment of the examination.

(7) Applicants who fail either the written or the practical portion of the examination shall submit an appropriate fee for re-examination.

((6)) (8) Applicants who fail more than fifty percent of the segments of the practical examination will be required to be reexamined on all segments of the practical examination.

(9) Applicants who fail fifty percent or less of the segments of the practical examination will be reexamined only on the segments that did not receive a passing score. This provision applies only to the next regularly scheduled practical examination administration.

(10) If an applicant fails to successfully complete the practical examination within two years of passing the written examination, the director may require the applicant to retake the written examination.

(11) Application fees are nonrefundable.

**AMENDATORY SECTION** (Amending Order PM 641, filed 3/4/87)

**WAC 308-180-220 CONSULTATION PLAN.** Every certified acupuncturist shall develop a written plan for consultation, emergency transfer, and referral (~~(including)~~). The written consultation plan must be kept on file at the practitioner's place of business and be available on request by the department or its representative. The written consultation plan must include:

(1) The name, address, and telephone numbers of two consulting physicians;

(2) The name, address, and a telephone number of the nearest emergency room facility;

(3) An emergency transport mechanism (i.e., ambulance) with the name, address, and telephone number of the dispatcher nearest to the location of practice; and

(4) Confirmation from the physicians listed as to their agreement to consult with and accept referred patients from the applicant upon becoming a certified acupuncturist and establishing a place of practice.

**AMENDATORY SECTION** (Amending Order PM 641, filed 3/4/87)

**WAC 308-180-250 APPLICATION EXHIBITS REQUIRED.** Every application shall be accompanied by:

(1) The application fee;

(2) Verification of academic or educational study and training at a school or college which may include the following:

(a) Photostatic copy of diploma, certificate, or other certified documents and original copy of school transcript from a school or college evidencing completion of a program and a copy of the curriculum in the areas of study involved in the school or college forwarded directly from the issuing agency/organization; or

(b) Notarized affidavit or statement bearing the official school seal and signed by an officer of the school or training program certifying the applicant's satisfactory completion of the academic and clinical training and designating the subjects and hours; or

(c) If, for good cause shown, the school is no longer existent, an applicant may submit a sworn affidavit so stating and shall name the school, its address, dates of enrollment and curriculum completed, and such other information and documents as the department may deem necessary; or

(d) Certified copies of licenses issued by the applicants jurisdiction which must be forwarded directly to the department of licensing from the issuing licensing and/or translation agency rather than the applicant.

(3) Verification of clinical training. The applicant shall submit a certification signed by the instructor(s) under oath that the applicant completed a course of clinical training under the direction of the instructor which shall include:

(a) The location of the training site.

(b) The inclusive dates of training.

(c) That the supervised practice included a minimum of four hundred patient treatments involving a minimum of one hundred different patients.

(d) One hundred hours of observation including case presentation and discussion.

**NEW SECTION**

**WAC 308-180-270 ADVERTISING.** (1) A person certified under chapter 18.06 RCW shall use the title Certified Acupuncturist or C.A. following their name in all forms of advertising, professional literature and billings. A certified acupuncturist may not represent that he or she holds a degree from an acupuncture school other than that degree which appears on his or her application for certification which has been verified in accordance with the director's requirements, unless the additional degree has also been verified in accordance with WAC 308-180-140.

(2) A certified acupuncturist may not use the title "Doctor," "Dr.," or "Ph.D." on any advertising or other printed material unless the nature of the degree is clearly stated.

(3) A certified acupuncturist shall not engage in false, deceptive, or misleading advertising including but not limited to the following:

(a) Advertising which misrepresents the potential of acupuncture.

(b) Advertising of any service, technique, or procedure that is outside the scope of the certified acupuncturist as provided in RCW 18.06.010.

**NEW SECTION**

**WAC 308-180-280 EXAMINATION APPEAL PROCEDURES.** (1) Any candidate who takes the state written examination for licensure and does not pass may request informal review by the director of his or her examination results. This request must be in writing and must be received by the department of licensing, professional program management division within thirty days of the postmark on the notification of the examination results. The director will not set aside the examination results unless the candidate proves the challenged score was the result of fraud, coercion, arbitrariness, or manifest unfairness. The director will not consider any challenges to examination scores unless the total revised score could result in a passing score.

(2) The procedure for filing an informal review is as follows:

(a) Contact in writing the department of licensing office in Olympia for an appointment to appear personally to review incorrect answers on failed examinations.

(b) Candidate will be provided a form to complete in the department of licensing office in Olympia in defense of examination answers.

(c) The candidate must state the specific reason or reasons why the candidate feels the results of the examination should be changed.

(d) Candidate will be identified only by candidate number for the purpose of this review. Letters of reference or requests for special consideration will not be read or considered by the department.

(e) Candidate may not bring in any resource materials for use while completing the informal review form.

(f) Candidate will not be allowed to remove any notes or materials from the office upon leaving.

(g) The following procedure apply to an appeal of the results of the practical examination.

(i) In addition to the written request required in (a) of this subsection, the candidate must, within thirty days of the date on the notification of examination results, request in writing a breakdown of the candidate's scores in the various areas of the examination.

(ii) The candidate will be sent the breakdown and will also be provided a form to complete in defense of the candidate's examination performance. The candidate must complete the form and specifically identify the challenged portion(s) of the examination and must state the specific reason(s) why the candidate believes the results should be modified. This form must be returned to the department within fifteen days of the date on the breakdown sent to the candidate.

(h) The acupuncture advisory committee will review and evaluate the comments submitted by the candidate on the forms provided for the informal review and make its recommendations to the director.

(i) The candidate will be notified in writing of the director's decision by the department.

(3) Any candidate who is not satisfied with the result of the examination review may request a formal hearing to be held before an administrative law judge pursuant to the Administrative Procedure Act. Such hearing must be requested within thirty days of the postmark of the result of the committee's review of the examination results. The request must state the specific reason or reasons why the candidate feels the results of the examination should be changed. The prior determination will not be set aside unless the candidate proves the challenged score was the result of fraud, coercion, arbitrariness, or manifest unfairness. The director will not consider any challenges to examination scores unless the total revised score could result in a passing score.

(4) The hearing will not be scheduled until after the candidate and the state's attorney have appeared before an administrative law judge for a prehearing conference to consider the following:

(a) The simplification of issues;

(b) The necessity of amendments to the notice of specific reasons for examination result change;

(c) The possibility of obtaining stipulations, admissions of fact, and documents;

(d) The limitation of the number of expert witnesses;

(e) A schedule for completion of all discovery; and

(f) Such other matters as may aid in the disposition of the proceeding.

(5) The administrative law judge shall enter an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements. Such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order of the director.

(6) Candidates seeking formal appeal will receive at least twenty days advance notice of the time and place of the formal hearing. The hearing will be restricted to the specific reasons the candidate has identified as the basis for a change in the examination score.

### WSR 88-07-032

#### ADOPTED RULES

#### CEMETERY BOARD

[Order PM 714—Filed March 9, 1988]

Be it resolved by the Washington State Cemetery Board, acting at Spokane, Washington, that it does adopt the annexed rules relating to:

New WAC 98-11-005 Definition—Section.  
Amd WAC 98-40-050 Cremation of human remains.

This action is taken pursuant to Notice No. WSR 88-03-062 filed with the code reviser on January 20, 1988. 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 68.05.105(1) which directs that the Washington State Cemetery Board has authority to implement the provisions of Title 68 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 February 29, 1988.

By B. David Daly  
Chairman

#### AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-050 CREMATION OF HUMAN REMAINS. (1) Cremation will not take place until the necessary permits and consents are issued by the health department and/or coroner or prosecuting attorney. (See RCW 68.08.108 and 70.58.230)

(2) Immediately prior to being placed within the cremation chamber, the identification of the human remains

shall be verified by the crematory authority and identification of the human remains being cremated shall be placed near the cremation chamber control panel where it shall remain in place until the cremation process is complete.

(3) The unauthorized simultaneous cremation of more than one human remains within the same cremation chamber is specifically forbidden. It may be done only when authorized as provided in WAC 98-40-050(4) and (5).

(4) A crematory authority may simultaneously cremate more than one human remains within the same cremation chamber only upon having received written authorization to do so from the authorizing agent of each human remains to be cremated. A written authorization shall exempt the crematory authority from all liability for comingling of the products of the cremation process.

(5) Simultaneous cremation of more than one human remains within the same cremation chamber may be made without the authorizations required in WAC 98-40-050 (3) and (4) if equipment, techniques, or other devices are employed that keep the human remains separate and distinct before and during, and recoverable cremated remains separated and distinct after the cremation process.

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

#### NEW SECTION

WAC 98-11-005 DEFINITION—SECTION. For the purposes of RCW 68.40.025, "section" shall mean cemetery land, either dedicated or undedicated, that was not available for sale prior to the effective date of RCW 68.40.025. A section shall have at least one of the following characteristics: (1) Area that is distinguishable as a unit of unsold graves not comingled with units of graves in which sales have occurred prior to the effective date of RCW 68.40.025.

(2) Areas owned by cremeteries for future development.

(3) Areas acquired by cemeteries for development after the effective date of RCW 68.40.025.

(4) Areas consisting of groups of graves or lots identified by the cemetery with title or number as to create the appearance of a distinguishable group.

(5) Mausoleums, columbariums, crypts or niches constructed after the effective date of RCW 68.40.025.

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

**WSR 88-07-033**

**EMERGENCY RULES**

**DEPARTMENT OF AGRICULTURE**

[Order 1969—Filed March 10, 1988]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at

Olympia, Washington, the annexed rules relating to use of dinoseb on dry peas, chickpeas, lentils, snap beans, cucurbits and caneberries in chapter 16-228 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 in the fall of 1986, the United States Environmental Protection Agency suspended all uses of the herbicide dinoseb. EPA has granted a Section 18 allowing the use of dinoseb under strict restrictions and the Honorable James A. Redden of the 9th District Court granted a preliminary injunction allowing the use of dinoseb on certain crops under the same restrictions.

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

This rule is promulgated pursuant to chapters 15.58 and 17.21 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 March 10, 1988.

By Michael V. Schwisow  
Deputy Director

#### NEW SECTION

WAC 16-228-400 DINOSEB—RESTRICTED USE PESTICIDE. *Dinoseb is hereby declared to be a restricted use pesticide. The use or application of any formulation of dinoseb shall be limited to peas (green or dry), lentils, chickpeas, snap beans, cucurbits, and caneberries. Only dinoseb products labeled for use on peas, lentils, chickpeas, snap beans, or cucurbit crops may be distributed for use or used on these crops. Only dinoseb products labeled for use on a caneberry crop may be distributed for use or used on caneberries and only for vegetative cane control as a low-pressure directed spray.*

#### NEW SECTION

WAC 16-228-410 DINOSEB—LABELING. *Applicators of dinoseb shall possess warning labeling specifying that:*

(1) *No women of childbearing age may use, mix or load this product;*

(2) *The product poses a possible hazard to unborn children and all reasonable efforts should be made to minimize indirect exposures to women of childbearing age;*

(3) *The product also poses hazards to male reproduction;*

(4) *It is acutely toxic;*

(5) *The product shall be applied only by certified applicators.*

NEW SECTION

WAC 16-228-420 **DINOSEB—DISTRIBUTION.** (1) Distribution of dinoseb shall be only by pesticide dealers who are currently licensed with the Washington state department of agriculture and who have obtained a permit from the department to distribute dinoseb.

(2) Dealers shall keep records of every distribution of dinoseb, which shall, at a minimum, contain the following information.

(a) Purchaser's name, address, and dinoseb license number. If the purchaser is a commercial applicator or another person other than the grower, the name and address of the grower shall also be recorded;

(b) Number of acres and crop to be treated;

(c) Product name(s) and EPA registration number(s);

(d) Quantity of dinoseb distributed;

(e) Quantity of dinoseb already in the grower's possession;

(f) Name, address and dinoseb license numbers of the certified applicator(s) to apply the dinoseb and any person(s) who will mix or load the dinoseb.

(3) Dealers shall send a copy of the dinoseb distribution records specified in subsection (2) of this section within five days following distribution to the:

(a) Washington State Department of Agriculture  
Chemical and Plant Division  
406 General Administration Building, AX-41  
Olympia, Washington 98504; and

(b) Environmental Protection Agency  
Attention: Lyn Frandsen (AT-093)  
Region X  
1200 Sixth Avenue  
Seattle, Washington 98101

(4) Dealers shall retain a copy of dinoseb distribution records specified in subsection (2) of this section for a period of three years and shall furnish a copy immediately upon request to the department.

(5) Dinoseb may be distributed to growers of peas, lentils, chickpeas, snap beans, cucurbits and caneberries in quantities not to exceed that required to treat the grower's acreage of the crop(s) at the maximum application rate stated in WAC 16-228-480.

NEW SECTION

WAC 16-228-430 **DINOSEB—APPLICATOR RECORDS.** (1) Certified applicators applying dinoseb shall keep the following records:

(a) Name, address, and certification number;

(b) Name and address of grower;

(c) Date of application;

(d) Type of crop and number of acres treated;

(e) Number of gallons of dinoseb formulation applied;

(f) EPA registration number of product(s) applied.

(2) This information shall be retained by the certified applicator and the grower for three years. It shall be furnished to the department immediately upon request.

NEW SECTION

WAC 16-228-440 **DINOSEB—AERIAL APPLICATION.** Aerial application of dinoseb is prohibited.

NEW SECTION

WAC 16-228-450 **DINOSEB—MIXING/LOADING OF DINOSEB.** (1) The mixing and/or loading of dinoseb is prohibited except from closed systems.

(2) No person shall mix and/or load in one day more than the quantity of dinoseb required to treat eighty acres of peas, lentils, chickpeas, snap beans, and cucurbits or to treat twenty acres of caneberries at the maximum application rate permitted in WAC 16-228-480.

NEW SECTION

WAC 16-228-460 **DINOSEB—GROUND APPLICATION.** Ground application is prohibited except by "barrel sucker"/ground boom/tractor system. Tractor cabs shall be closed and equipped with positive pressure ventilation systems: **PROVIDED**, That spraying of caneberries may be done by open tractor if operators wear chemically resistant disposable coveralls (i.e., Tyvek suits) and chemically resistant gloves and boots: **PROVIDED FURTHER**, That application with backpack sprayers or hand held hoses is specifically prohibited.

NEW SECTION

WAC 16-228-470 **DINOSEB—PROTECTIVE EQUIPMENT.** Mixer/loaders and applicators shall wear chemically resistant, disposable coveralls (i.e., Tyvek suits) and chemically resistant gloves and boots when mixing or loading dinoseb, while adjusting or repairing dinoseb application equipment, and during application of dinoseb from open tractors to caneberries. Applicators or other personnel may remove such protective clothing immediately before entering the tractor cab to avoid contamination, but shall carry an unused set of gloves and coveralls in the cab, to be used in the event of spraying equipment malfunction and repair during application.

NEW SECTION

WAC 16-228-480 **DINOSEB—APPLICATION RATES.** The maximum application rates for dinoseb are:

(1) One and one-half pounds a.i./acre for lentils;

(2) Two and one-half pounds a.i./acre for caneberries;

(3) Three pounds a.i./acre for peas and chickpeas;

(4) Four and one-half pounds a.i./acre for snap beans and cucurbits.

NEW SECTION

WAC 16-228-490 **DINOSEB—MAXIMUM ACREAGE.** No certified applicator may apply dinoseb to more than eighty acres of peas, lentils, chickpeas, snap beans, and cucurbits per day or to more than than twenty acres of caneberries per day.

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

**NEW SECTION**

**WAC 16-228-500 DINOSEB—CERTIFICATION.** *Persons applying, loading, and/or mixing dinoseb are required to be specially certified by attending specific training in the use of dinoseb or passing an examination demonstrating knowledge of the permitted uses, safe handling, and disposal of dinoseb. No person shall apply, load, or mix dinoseb without a currently valid dinoseb certification. Women of childbearing age (i.e., below the age of 45) shall not be certified to handle or apply dinoseb.*

**NEW SECTION**

**WAC 16-228-510 DINOSEB—REENTRY.** *No person shall enter any field treated with dinoseb within one week of application unless that person is within a closed cab, or is wearing chemically resistant coveralls and chemically resistant gloves and boots. Any person permitted or required to enter a field treated with dinoseb within one week of application shall be notified that the field was treated with dinoseb and advised to avoid dermal contact with treated foliage and soil.*

**NEW SECTION**

**WAC 16-228-520 DINOSEB—WEATHER CONDITIONS.** *Ground application is prohibited when wind conditions exceed ten miles per hour: PROVIDED, That the spraying of caneberries by open tractor shall occur during conditions which will prevent any drift of dinoseb.*

**WSR 88-07-034  
EMERGENCY RULES  
DEPARTMENT OF FISHERIES**  
[Order 88-10—Filed March 11, 1988]

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

I, Joseph R. Blum, 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 amounts of whiting 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 March 10, 1988.

By R. Kahler Martinson  
for Joseph R. Blum  
Director

**NEW SECTION**

**WAC 220-48-01500B BEAM TRAWL—SEASONS.** *Notwithstanding the provisions of WAC 220-48-015, effective immediately until further notice it is unlawful to fish for or possess pacific whiting taken for commercial purposes from Marine Fish-Shellfish Management and Catch Reporting Areas 24B, 24C, or 26A except as provided for in this section:*

*Areas 24B and 26A - Open 6:00 a.m. to 4:00 p.m., March 15, 1988.*

**WSR 88-07-035  
NOTICE OF PUBLIC MEETINGS  
WHATCOM COMMUNITY COLLEGE**  
[Memorandum—March 9, 1988]

The board of trustees of Whatcom Community College, District Number Twenty-one, will hold a special meeting on March 19, 1988, 9:00 a.m., WWU, Lakewood Facility.

**WSR 88-07-036  
ADOPTED RULES  
BELLEVUE COMMUNITY COLLEGE**  
[Order 95, Resolution No. 177—Filed March 11, 1988]

Be it resolved by the board of trustees of Community College District VIII, Bellevue Community College, acting at 3000 Landerholm Circle S.E., Bellevue, WA 98007, that it does adopt the annexed rules relating to Commercial activity policy—General operating policies of Community College District VIII.

This action is taken pursuant to Notice No. WSR 88-04-059 filed with the code reviser on February 1, 1988. 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 Community College District VIII, Bellevue Community College, as authorized in RCW 28B.50.140.

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 March 8, 1988.

By Paul N. Thompson  
President

**NEW SECTION**

**WAC 132H-200-200 COMMERCIAL ACTIVITY POLICY.** The mission of Community College District VIII, Bellevue Community College, is to provide comprehensive educational programs of the highest quality as provided for in the Community College Act of 1967. These programs will be responsive to the changing needs of the communities and the students served by our District and will be accessible to all those seeking to continue their education.

To promote the mission of Bellevue Community College it is often necessary to engage in commercial activities that provide goods and services that meet special needs of students, faculty, staff and members of the public participating in College activities and events.

Chapter 97 of the Washington Laws of 1987 establishes standards for institutions of higher education to follow in conducting commercial activities. The purpose of these laws is to require institutions of higher education to define the legitimate purposes under which commercial activities may be approved by a college or university and to establish mechanisms for review of such activities. The purposes of the policy statement and standards that follow are to assure that Bellevue Community College pursues commercial activities in compliance with Chapter 97, Laws of 1987 and that all commercial activities of the College serve the mission of the College. (1) **POLICY STATEMENT.** Bellevue Community College may engage in the providing of goods, services, or facilities for a fee only when such are directly and substantially related to the educational mission of the College. Fees charged for goods, services and facilities shall reflect their full direct and indirect costs, including overhead. They shall also take into account the price of such items in the private marketplace.

(2) **APPROVAL AND REVIEW OF COMMERCIAL ACTIVITIES.** The Dean of Administrative Services shall be responsible for the approval of new commercial activities and the periodic review of existing ones. It shall be the responsibility of this officer to assure that each commercial activity meets the criteria established for commercial activities of the College. Proposals for new or altered services shall be approved by the Dean of Administrative Services prior to implementation.

(3) **CRITERIA FOR COMMERCIAL ACTIVITIES SERVING MEMBERS OF THE CAMPUS COMMUNITY.** Each of the following criteria shall be used in assessing the validity of providing goods or services to members of the campus community: (a) The goods or services are substantially and directly related to the mission of the College.

(b) Provision of the goods, services or facilities on campus represents a special convenience to the campus community or facilitates extracurricular activities.

(c) Fees charged for the goods, services, or facilities shall take into account the full direct and indirect costs, including overhead. They shall also reflect the costs of such items in the private marketplace.

(d) Procedures adequate to the circumstances shall be observed to ensure that the goods and services are provided only to persons who are students, faculty, staff, or invited guests.

(4) **CRITERIA FOR PROVIDING COMMERCIAL ACTIVITIES TO THE EXTERNAL COMMUNITY.** (a) The goods or services provided relate substantially to the mission of the College and are not commonly available or otherwise easily accessible in the private marketplace and for which there is a demand from external community.

(b) Fees charged for the goods, services, or facilities shall take into account the full direct and indirect costs, including overhead. They shall also reflect the price of such items in the private marketplace.

(5) **DEFINITIONS AND LIMITATIONS.** "Commercial activity" means an activity which provides a product or service for a fee which could be obtained from a commercial source.

This definition shall be used to determine which activities shall be governed by this policy except as follows: (a) This policy shall not apply to the initiation of or changes in academic or vocational programs of instruction in the College's regular, extension, evening, or continuing education programs;

(b) Or the fees therefor;

(c) Fees for services provided in the practicum aspects of instruction;

(d) Or in extracurricular programs, including food services, athletic and recreational programs, and performing arts programs.

**Reviser's note:** Errors of punctuation in the above section occurred in the copy filed by the agency and appears herein pursuant to the requirements of RCW 34.08.040.

**WSR 88-07-037****ATTORNEY GENERAL OPINION****Cite as: AGO 1988 No. 6**

[March 10, 1988]

**PUBLIC ASSISTANCE—SOCIAL AND HEALTH SERVICES—  
FAMILY ASSISTANCE PLAN**

Chapter 74.21 RCW does not authorize the random assignment of new applicants for public assistance between the new family independence program and the existing assistance program.

Requested by:

Honorable Jule M. Sugarman  
Secretary  
Department of Social and Health Services  
OB-44  
Olympia, Washington 98504-0095

**WSR 88-07-038****EMERGENCY RULES****DEPARTMENT OF AGRICULTURE**

[Order 1966—Filed March 11, 1988]

I, C. Alan Pettibone, director of the Washington State Department of Agriculture, do promulgate and adopt at

Olympia, Washington, the annexed rules relating to restricted use herbicides in chapters 16-230, 16-231 and 16-232 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 recent adopted changes to these sections make it necessary to make some changes in other sections relating to the ones amended which are effective March 13, 1988.

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

This rule is promulgated pursuant to chapters 15.58 and 17.21 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 March 11, 1988.

By Michael V. Schwisow  
Deputy Director

#### NEW SECTION

WAC 16-230-475 RESTRICTED USE HERBICIDES—DISTRIBUTION, USE, AND APPLICATION. The distribution, use, and application of restricted use herbicides in counties east of the crest of the Cascade Mountains shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to restricted use herbicides in WAC 16-230-600 through 16-230-675.

#### AMENDATORY SECTION (Amending Order 1676, filed 2/20/80)

WAC 16-231-130 RESTRICTED USE HERBICIDES—FRANKLIN COUNTY—AREA 3. (1) Area 3 description. (Dry land area south and east of Connell.) An area beginning at the northeast corner of Section 3, T14N, R33E and the Reeder Road; thence south along the Reeder Road to and along the Black Road to the Swanson Road; thence east and south along the Swanson Road to state Highway 260; thence southerly along state Highway 260 to the Munt Road; thence south along the Munt Road to the Largent Road; thence east along the Largent Road to the Pasco-Kahlotus Highway to the Walker Road; thence southerly along the Walker Road to the Snake River; thence southerly along the Snake River to the east boundary line of Area 2; thence northerly along the east boundary line of Area 2 and Area 1A to the Franklin-Adams County line; thence east fifteen miles more or less along the county line to the point of beginning.

(2) Area 3 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides shall be prohibited on and after May 16 through October 31 of each year.

(b) On and after May 1 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.

(c) On and after May 1 through October 31, aircraft applications of restricted use herbicides shall be made using the caution area restrictions (see WAC 16-230-675).

#### AMENDATORY SECTION (Amending Order 1950, filed 9/1/87)

WAC 16-231-145 RESTRICTED USE HERBICIDES—FRANKLIN COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 1, 1A, 2, 3, and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year: **PROVIDED**, That such applications shall be prohibited in Area 1 on and after April 1 through October 31 when the mean sustained wind velocity is over ten miles per hour: **PROVIDED FURTHER**, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

#### NEW SECTION

WAC 16-231-950 RESTRICTED USE HERBICIDES—DISTRIBUTION, USE, AND APPLICATION. The distribution, use, and application of restricted use herbicides in counties east of the crest of the Cascade Mountains shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to restricted use herbicides in WAC 16-230-600 through 16-230-675.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-231-035 DISTRIBUTION, USE AND APPLICATION.

WAC 16-231-150 DISTRIBUTION, USE AND APPLICATION.

WAC 16-231-240 DISTRIBUTION, USE AND APPLICATION.

WAC 16-231-345 DISTRIBUTION, USE AND APPLICATION.

WAC 16-231-430 DISTRIBUTION, USE AND APPLICATION.

WAC 16-231-535 DISTRIBUTION, USE AND APPLICATION.

WAC 16-231-625 DISTRIBUTION, USE AND APPLICATION.

WAC 16-231-730 DISTRIBUTION, USE AND APPLICATION.

WAC 16-231-845 DISTRIBUTION, USE AND APPLICATION.

WAC 16-231-940 DISTRIBUTION, USE AND APPLICATION.

AMENDATORY SECTION (Amending Order 1923, filed 4/6/87)

WAC 16-232-035 RESTRICTED USE HERBICIDES—WALLA WALLA COUNTY—WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 1, 2, 2A ((and)), 3, and 3A when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That such applications shall be prohibited in Areas 1 and 2 on and after April 1 through October 31 when the mean sustained wind velocity is over seven miles per hour: PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

NEW SECTION

WAC 16-232-950 RESTRICTED USE HERBICIDES—DISTRIBUTION, USE, AND APPLICATION. The distribution, use, and application of restricted use herbicides in counties east of the crest of the Cascade Mountains shall comply with rules relating to the use of pesticides in chapter 16-228 WAC, and rules relating to restricted use herbicides in WAC 16-230-600 through 16-230-675.

REPEALER

The following sections of the Washington Administrative Code are repealed:

16-232-040 DISTRIBUTION, USE AND APPLICATION.

16-232-130 DISTRIBUTION, USE AND APPLICATION.

16-232-230 DISTRIBUTION, USE AND APPLICATION.

16-232-320 DISTRIBUTION, USE AND APPLICATION.

**WSR 88-07-039**

**ADOPTED RULES**

**DEPARTMENT OF ECOLOGY**

[Order 87-37—Filed March 11, 1988]

I, Phillip C. Johnson, deputy director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, Washington, the annexed rules relating to the siting of dangerous waste management facilities.

This action is taken pursuant to Notice No. WSR 87-24-099 filed with the code reviser on December 2, 1987. 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 chapter 70.105 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 March 10, 1988.

By Phillip C. Johnson  
Deputy Director

AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-120 RECYCLED, RECLAIMED, AND RECOVERED WASTES. (1) This section describes the requirements for persons who recycle materials that are solid wastes and dangerous. Except as provided in subsections (2) and (3) of this section, dangerous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsection (4) of this section. Dangerous wastes that are recycled will be known as "recyclable materials."

(2)(a) The following recyclable materials are solid wastes and sometimes are dangerous wastes. However, they are subject only to the requirements of (b) of this subsection, WAC 173-303-050, 173-303-145 and 173-303-960:

- (i) Industrial ethyl alcohol that is reclaimed;
- (ii) Used batteries (or used battery cells) returned to a battery manufacturer for regeneration;
- (iii) Used oil that exhibits one or more of the characteristics or criteria of dangerous waste and is recycled in some manner other than:
  - (A) Being burned for energy recovery; or
  - (B) Being used in a manner constituting disposal, except when such use is by the generator on his own property;
- (iv) Scrap metal;
- (v) Fuels produced from the refining of oil-bearing dangerous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices;
- (vi) Oil reclaimed from dangerous waste resulting from normal petroleum refining, production, and transportation practices, which oil is to be refined along with normal process streams at a petroleum refining facility;
- (vii) Coke and coal tar from the iron and steel industry that contains dangerous waste from the iron and steel production process;
- (viii)(A) Dangerous waste fuel produced from oil-bearing dangerous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such dangerous wastes, where such dangerous wastes are reintroduced into a process that does not use distillation or does not produce products from

crude oil so long as the resulting fuel meets the used oil specification under WAC 173-303-515 (1)(d) and so long as no other dangerous wastes are used to produce the dangerous waste fuel;

(B) Dangerous waste fuel produced from oil-bearing dangerous waste from petroleum refining production, and transportation practices, where such dangerous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under WAC 173-303-515 (1)(e); and

(C) Oil reclaimed from oil-bearing dangerous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under WAC 173-303-515 (1)(e); and

(ix) Petroleum coke produced from petroleum refinery dangerous wastes containing oil at the same facility at which such wastes were generated, unless the resulting coke product exhibits one or more of the characteristics of dangerous waste in WAC 173-303-090.

(b) Any recyclable material listed in (a) of this subsection will be subject to the applicable requirements listed in subsection (4) of this section if the department determines, on a case-by-case basis, that:

(i) It is being accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or

(ii) Due to the dangerous constituent(s) in it, any use or reuse would pose a threat to public health or the environment. Such recyclable material will be listed in WAC 173-303-016(6).

(3) The following recyclable materials are not subject to the requirements of this section but are subject to the requirements of WAC 173-303-070 through 173-303-110, 173-303-160, 173-303-500 through 173-303-525, and all applicable provisions of WAC 173-303-800 through 173-303-840:

(a) Recycling requirements for state-only dangerous wastes (see WAC 173-303-500);

(b) Recyclable materials used in a manner constituting disposal (see WAC 173-303-505);

(c) Dangerous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670 (see WAC 173-303-510);

(d) Used oil that is burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, if such used oil:

(i) Exhibits one or more of the characteristics of a dangerous waste; or

(ii) Is designated as DW solely through WAC 173-303-084 or 173-303-101 through 173-303-103; or

(iii) Is designated solely as W001, (see WAC 173-303-515);

(e) Spent lead-acid batteries that are being reclaimed (see WAC 173-303-520);

(f) Recyclable materials from which precious metals are reclaimed (see WAC 173-303-525).

(4) Those recycling processes not specifically discussed in subsections (2) and (3) of this section are generally subject to regulation only up to and including storage prior to recycling.

The recycling process itself is generally exempt from regulation unless the department determines, on a case-by-case basis, that the recycling process poses a threat to public health or the environment.

Unless specified otherwise in subsections (2) and (3) of this section:

(a) Generators of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-170 through 173-303-230;

(b) Transporters of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-240 through 173-303-270;

(c) Owners or operators of facilities that receive recyclable materials from off-site and recycle these recyclable materials without storing them before they are recycled are subject to the following requirements:

(i) WAC 173-303-060, and

(ii) WAC 173-303-370;

(d) Owners or operators of facilities that store recyclable materials before they are recycled are subject to the following requirements including, but not limited to:

(i) For all recyclers, the applicable provisions of:

(A) WAC 173-303-280 through 173-303-395,

(B) ~~(WAC 173-303-420 through 173-303-440;~~

~~(C))~~ WAC 173-303-800 through 173-303-840;

(ii) For recyclers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iii) For recyclers with final facility permits, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650, and

(B) WAC 173-303-660.

## NEW SECTION

WAC 173-303-284 NOTICE OF INTENT. (1) Purpose. The purpose of this section is to provide notification to the department, local communities and the public that the siting of a dangerous waste management facility is being considered. Also, to provide general information about the proposed facility owner/operator, the type of facility, the type of wastes to be managed and compliance with the location standards.

(2) Applicability. This section applies to owners and operators of proposed facilities. This section also applies to owners and operators of existing facilities with interim or final status for which the department receives an application for expansion. As used in this section:

(a) "Proposed facility" means a facility that does not have interim or final status on the effective date of this section, and for which the owner/operator applies for an interim or final status permit, under WAC 173-303-805 or 173-303-806, after the effective date of this section;

(b) "Existing facility" means a facility for which an interim or final status permit has been issued by the department pursuant to WAC 173-303-805 or 173-303-806; and

(c) "Expansion" means the enlargement of the land surface area of an existing facility from that described in an interim status permit, the addition of a new dangerous waste management process, or an increase in the overall design capacity of existing dangerous waste management processes at a facility. However, a process or equipment change within the existing handling code (not to include "other") as defined under WAC 173-303-380 (2)(d) will not be considered a new dangerous waste management process.

This section does not apply to owners/operators of facilities or portions of facilities applying for research, development and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65. In addition, this section does not apply to mobile facilities for on-site cleanup at treatment, storage or disposal facilities undergoing closure, facilities operating under an emergency permit pursuant to WAC 173-303-804, or facilities for on-site cleanup of sites under the Comprehensive Environmental Response Compensation and Liability Act, or chapters 70.105, 70.105B, and 90.48 RCW.

(3) Notice of intent to file for a dangerous waste permit.

(a) The notice of intent to be prepared by the owners/operators of the applicable facilities shall consist of:

(i) The name, address, and telephone number of the owner, operator, and corporate officers;

(ii) The location of the proposed facility or expansion on a topographic map with specifications as detailed in WAC 173-303-806 (4)(a)(xviii);

(iii) A brief description of the types and amounts of wastes to be managed annually;

(iv) A brief description of the major equipment items proposed, if any, and the waste management activities requiring a permit or revision of an existing permit;

(v) An environmental checklist from the State Environmental Policy Act rules, chapter 197-11 WAC;

(vi) Documentation that the proposed facility or expansion site meets the prohibition and setback requirements (not to include ground water or drinking water prohibitions or setbacks that require geohydrologic testing for verification) of WAC 173-303-285, Location standards. Preliminary ground water characterization based on available data shall also be provided;

(vii) For informational purposes a complete summary of compliance violations of permit conditions at hazardous waste management facilities owned or operated by the applicant, or its parent company, during the ten calendar years preceding the permit application. Along with the summary of compliance violations, as issued by appropriate state or federal regulatory agencies, the applicant shall also submit responses to past violations and any written correspondence with regulatory agencies regarding compliance status of any hazardous waste management facility owned or operated by the applicant or parent company of the owner or operator. A more detailed compliance record must be provided upon request by the department;

(viii) For informational purposes the need for the proposed facility or expansion shall be demonstrated by one of the following methods:

(A) Current overall capacity within Washington is inadequate for dangerous wastes generated in Washington as determined by regional or state dangerous waste management plans; or

(B) The facility is a higher priority management method, as described in RCW 70.105.150, than is currently in place or practical and available for the types of waste proposed to be managed; or

(C) The facility will add to the types of technology available or will reduce cost impacts (not to include transportation costs) to Washington generators for disposal of dangerous wastes; and

(ix) For informational purposes it shall be shown how the capacity of the proposed facility or expansion will affect the overall capacity within the state, in conjunction with existing facilities in Washington.

(b) The notice of intent shall be filed with the department, and copies shall be made available for public review, no less than one hundred fifty days prior to filing an application for a permit or permit revision. Public notification of the notice of intent to file shall be given at the time of filing by announcement in a daily newspaper within the area of the proposed facility or expansion for a minimum of fourteen consecutive days.

(c) Reserved.

#### NEW SECTION

##### WAC 173-303-285 LOCATION STANDARDS.

(1) Purpose. The purpose of this section is to address location standards for dangerous waste management facilities requiring permits pursuant to WAC 173-303-805 or 173-303-806. These regulations are intended to minimize to the extent practical the short-term and long-term risks and costs that may result from dangerous waste management facilities. These regulations supersede the interim siting standards for preempted facilities adopted January 9, 1987.

Nothing in the location standards shall be construed to require the department to issue a permit if it determines that the site meets the requirements of the standards. All applications are also subject to review under the dangerous waste permit process where mitigation standards will be addressed.

For the purpose of ensuring compliance with this section the department may also require additional detailed facility location information in the dangerous waste permit process pursuant to WAC 173-303-806 (4)(a)(xi)(G) and (H) or in the interim status permit process pursuant to WAC 173-303-805 (7)(g) and (h). Under the conditions specified in WAC 173-303-805 and 173-303-806 the additional facility location information will be used by the department to determine if extraordinary preventative or mitigative measures are necessary to protect public health and the environment for facilities proposed to be located near sensitive resources.

(2) Applicability. This section applies to proposed facilities and facilities for which interim or final status permit applications have been submitted to the department as of the effective date of this section. This section also applies to existing facilities with interim or final status for which the department receives an application

for expansion. This section applies only to the expanded portion of existing facilities. As used in this section:

(a) "Proposed facility" means a facility that does not have interim or final status on the effective date of this section, or a facility for which the owner/operator applies for an interim or final status permit, under WAC 173-303-805 or 173-303-806, after the effective date of this section;

(b) "Existing facility" means a facility for which an interim or final status permit has been issued by the department, under WAC 173-303-805 or 173-303-806; and

(c) "Expansion" means the enlargement of the land surface area of an existing facility from that described in an interim status permit or, the addition of a new dangerous waste management process or, the increase in overall design capacity of existing dangerous waste management processes or, the increase in capacity of existing waste volumes at an existing facility. However, a process or equipment change within the existing handling code (not to include "other") as defined under WAC 173-303-380 (2)(d) will not be considered a new dangerous waste management process.

This section does not apply to facilities or portions of facilities whose owners or operators are applying for research, development and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65. In addition, this section does not apply to mobile facilities for on-site cleanup at treatment, storage or disposal facilities undergoing closure, facilities operating under an emergency permit pursuant to WAC 173-303-804, or facilities for on-site cleanup of contaminated sites under the Comprehensive Environmental Response Compensation and Liability Act, or chapters 70.105, 70.105B, and 90.48 RCW.

Additionally, this section does not apply to existing facilities applying for final status or any permit change other than an expansion as defined in this subsection.

For the purposes of this section, land treatment units, waste piles and surface impoundments will be considered facilities to be closed as landfills. All land treatment, waste pile and surface impoundment facilities must meet the location standards for those types of facilities.

(3) Implementation. Owners/operators of facilities to which the location standards of this section apply must include in (or amend the existing) TSD facility application, submitted pursuant to WAC 173-303-805 or 173-303-806, information that demonstrates consideration and compliance with the location standards. A permit application for an expansion of an existing facility shall be required to comply with the location standards. However, under no circumstances will the location standards prevent the continued operation of existing facilities at or below the present permitted level of waste management activity.

It is the intent that the location standards be used as a screen for applications to the dangerous waste permit process. Applications for facilities that do not meet the prohibitions or setback requirements specified in these

standards will be rejected by the department. The department may place additional restrictions and conditions on a facility permit (including interim status) pursuant to its authority under chapter 173-303 WAC, Dangerous waste regulations, chapter 43.21C RCW, State Environmental Policy Act or chapter 173-403 WAC, Implementation of regulations for air contaminant sources.

Any industrial or manufacturing plant proposing to utilize dangerous waste as an energy source will be subject to the location standards as a new dangerous waste management facility.

(4) Definitions. Any terms used in this section that are not defined below or upon use shall have the meanings provided in WAC 173-303-040. For the purposes of this section, the following terms shall have the described meanings:

(a) "Buffer zone" means the area surrounding a facility starting at the facility boundary and extending outward in all directions for two hundred feet. In this zone no dangerous waste management activities have occurred in the past or will occur in the future. The buffer zone must not extend beyond the facility property line. Unless otherwise indicated all setback distances specified in this section will be measured horizontally from the outer edge of the buffer zone or from the facility boundary for treatment and storage facilities without a buffer zone.

(b) "Consideration" means that a location standard must be addressed through the State Environmental Policy Act and all applicable local, state and federal regulations must be complied with.

(c) "Facility boundary" means the projected line enclosing the area of all structures and lands on which dangerous waste management activities occur, have occurred in the past or will occur in the future.

(d) "Incineration" means the practice of using an enclosed device for controlled flame combustion to burn or reduce dangerous waste.

(e) "Mitigation" means that a location standard must be considered in siting and engineering practices may be used to meet the objective of a location standard. Compensation for impacts or in-kind replacement of resources will not be considered to be mitigation. All mitigative measures must be approved by the department.

(f) "Residence" means any dwelling including private homes, rental homes, boarding houses, apartments, motels, or hotels.

(g) "Unit" means a specific type of dangerous waste management practice, device, or structure.

(h) "Waste pile" means any noncontainerized accumulation of solid, nonflowing dangerous waste that is used for treatment or storage of those wastes.

(5) Location standards.

(a) STRUCTURAL STABILITY – Intent. To prevent the release of dangerous waste into the environment because of structural damage to management facilities subject to the hazards identified below. The applicant shall provide supportive geologic, geotechnical, soils, and flood hazard information.

(i) Holocene earthquake fault.

(A) To prevent structural damage directly due to fault displacement the facility boundary for all facilities must be located at least two hundred feet, measured horizontally, from a fault which has had displacement in Holocene times, and pursuant to WAC 173-303-806 (4)(a)(xi)(A) and (B) all faults within three thousand feet of a facility must be identified and evaluated.

(B) As used in (i) of this subsection:

(I) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present (approximately eleven thousand years).

(II) "Fault" means a fracture along which rocks or soils on one side have been displaced with respect to those on the other side.

(III) "Displacement" means the relative movement of any two sides of a fault measured in any direction.

(ii) Soils stability.

(A) To ensure structural stability under all conditions, including during seismic events, all surface impoundments, landfills and waste piles are prohibited from locating where weak or unstable soils or conditions exist within the proposed facility boundary. The following soils or conditions are defined as weak or unstable in the February 1985 EPA Permit Writer's Guidance Manual for Hazardous Waste Land Storage and Disposal Facilities Phase I: Organic soils, expansive soils, liquefaction sands, soft clays, sensitive clays, loess and quick conditions.

(B) Treatment, storage and incineration facilities locating where weak or unstable soils or conditions occur within the facility boundary must be designed, constructed and maintained to mitigate any impacts due to those conditions during the life of the facility.

(iii) Subsidence.

(A) To prevent structural damage due to the subsidence of the land surface, all facilities are prohibited where known subsidence exists within the facility boundary of the proposed site.

(B) As used in (iii) of this subsection: "Subsidence" means a sinking of the land surface due to the removal of solid mineral matter or fluids from the subsurface.

(iv) Unstable slopes.

(A) To prevent structural damage due to unstable slopes, all landfill, surface impoundment, waste pile, and land treatment facilities are prohibited from locating in an area where unstable slopes may impact the waste management unit.

(B) Treatment, storage and incineration facilities locating in an area of unstable slopes must be designed, constructed and maintained to withstand any impacts due to unstable slopes during the life of the facility.

(C) As used in (iv) of this subsection: "Unstable slopes" means any area where the mass movement of earth materials called landslides, rockfalls, mud slides, slumps, earth flows or debris flows are likely to occur.

(v) Coastal flooding. To prevent structural damage due to coastal flooding, all facilities are prohibited from locating in areas subject to coastal flooding, including tsunamis or storm surges, consistent with the regulations

and, where available, maps of the National Flood Insurance Program of the Federal Emergency Management Agency.

(b) SURFACE WATER QUALITY PROTECTION – Intent. To maintain the water quality standards of the state's surface waters and to protect them from contamination due to dangerous waste management.

(i) Surface water.

(A) To prevent contamination of the surface waters of the state and related beneficial uses, all landfill, land treatment, surface impoundment, incineration and waste pile facilities are prohibited from locating such that the facility buffer zone is within one-quarter mile, measured horizontally, of the ordinary high water mark of any perennial surface water body. This restriction also applies to intermittent streams or rivers providing important habitat for fish as determined by the department of fisheries and the department of wildlife.

(B) Treatment or storage facilities may locate such that the facility boundary is within one-quarter mile of a surface water body except as noted under the 100-year flood plain criterion. These facilities must be designed, constructed, operated and maintained to prevent surface water contamination due to worst case accidental spills, contaminated runoff or other discharges. A treatment or storage facility proposed for location within the jurisdiction of the Shoreline Management Act may be sited when consistent with a state approved shoreline master program.

(C) As used in (i) of this subsection: "Perennial surface water bodies" are normally continuous with natural flows throughout the year or annually recurring bodies of water including lakes, rivers, ponds, irrigation canals, streams, reservoirs, inland waters, saltwaters, and all other waters of the state (not to include manmade lagoons or impoundments for waste treatment, storage or disposal) within the jurisdiction of the state of Washington as defined by chapter 90.48 RCW, Water Pollution Control Act.

(D) Applications for expansions at existing facilities, or for proposed facilities for on-site waste management, may be exempt from this surface water location standard upon case-by-case review and approval by the department. Exemptions will be considered where:

(I) The expansion or proposed facility constitutes a higher priority waste management method, as described in RCW 70.105.150, than is currently in use;

(II) The expansion or proposed facility would only manage wastes generated on-site;

(III) A proposed facility would manage the wastes of a generator in operation on or before the effective date of this regulation; and

(IV) The owner/operator of an existing facility is practicing maximum practical waste reduction and recycling or a proposed facility's owner/operator is committed to a program of maximum practical waste reduction and recycling.

Any exemption approved by the department will include only those wastes for which the expansion or proposed facility would provide a higher priority waste management method.

(ii) Shorelines of state-wide significance.

(A) To prevent contamination of the state's major surface water bodies all landfill, land treatment, surface impoundment, waste pile and incineration facilities are prohibited from locating such that the facility buffer zone is within one mile, measured horizontally, of the ordinary high water mark of a shoreline of state-wide significance as defined in chapter 90.58 RCW, the Shoreline Management Act.

(B) Treatment and storage facilities may locate within one mile of a shoreline of state-wide significance when designed, constructed, operated and maintained to prevent surface water contamination due to worst case accidental spills, contaminated runoff or other discharges.

(C) Applications for expansions at existing facilities or for proposed facilities submitted to the department prior to January 1, 1988, are exempt from this shoreline of state-wide significance standard. Additionally, such applications received after January 1, 1988, may be exempt from this shoreline of state-wide significance standard upon case-by-case review and approval by the department where:

(I) The expansion or proposed facility constitutes a higher priority waste management method, as described in RCW 70.105.150, than is currently in use;

(II) The expansion or proposed facility would only manage wastes generated on-site;

(III) A proposed facility would manage the wastes of a generator in operation on or before the effective date of this regulation; and

(IV) The owner/operator of an existing facility is practicing maximum practical waste reduction and recycling or a proposed facility's owner/operator is committed to a program of maximum practical waste reduction and recycling.

(iii) Flood protection.

(A) To prevent dangerous waste from contaminating surface waters and to ensure structural stability during flooding, all landfill, land treatment, surface impoundment and waste pile facilities are prohibited from locating in a 100-year flood plain.

(B) Treatment, storage and incineration facilities may locate in a 100-year flood plain if they are engineered for flood proofing to protect against a washout of any waste by the 100-year flood plus three feet.

(C) A contingency plan for the removal of wastes off-site in the event of a flood will not be considered to be engineered flood proofing.

(D) As used in (iii) of this subsection: "100-year flood" means a flood that has a one percent chance of being equalled or exceeded in any given year.

(c) GROUND WATER PROTECTION – Intent. To protect the ground waters of the state from contamination due to dangerous waste management. The applicant shall submit the necessary geohydrologic data pursuant to WAC 173-303-806 (4)(a)(xx)(B) for all surface impoundment, waste pile, landfill and land treatment units.

(i) Regional aquifer.

(A) To prevent the degradation of the state's ground waters, all landfill, land treatment, surface impoundment and waste pile facilities are prohibited from locating where the depth to the seasonal high water level of the regional aquifer of beneficial use is less than fifty feet,

measured from the lowest point of the proposed waste management unit(s).

(B) In addition to the fifty-foot minimum separation, all landfill, land treatment, surface impoundment and waste pile facilities must include in that minimum separation a twenty-foot stratum of a material with a saturated vertical hydraulic conductivity of no greater than  $1.0 \times 10^{-6}$  centimeters per second (1.03 ft/yr) unless:

(I) A thicker interval of more permeable material is present which provides equivalent retardation to ground water movement; or

(II) The mean annual potential evapotranspiration exceeds the sum of the mean annual precipitation and the potential annual liquid loading from the wastes at the proposed facility site.

(C) Treatment, storage and incineration facilities may locate where the depth to the regional aquifer is less than fifty feet, but it must be shown that the aquifer will be protected from contamination due to normal operation or accidental spills and ground water monitoring may be required.

(D) The regional aquifer will be determined by the department on a site-by-site basis with the necessary information to be provided by the facility proponent. In making its determination the department will consider, but will not be limited to the following sources of information taken from private industry as well as federal, state and local governments: Regional and local geologic, geohydrologic, and geotechnical publications and reports, soil survey maps, topographic maps, aerial photographs, on-site and off-site water-supply reports, climatological data and unpublished geologic mapping.

(E) As used in (i) of this subsection: "Beneficial use" means the water uses as defined by the water resources management program established pursuant to the Water Resources Act of 1971 and chapter 173-500 WAC.

(ii) Regional aquifer recharge.

(A) To protect those areas of principal recharge to the state's regional aquifers from contamination by dangerous wastes, all landfill, land treatment, surface impoundment and waste pile facilities are prohibited from locating in a regional aquifer recharge area.

(B) Treatment, storage and incineration facilities locating in a known or suspected recharge area will provide for spill containment to preclude migration of contaminants to ground water from worst case spills, leaks or discharges and ground water monitoring may be required.

(C) As used in (ii) of this subsection: "Regional aquifer recharge area" means a region of principal recharge to a regional aquifer.

(iii) Ground water travel time.

(A) To allow time for on-site cleanup of contaminated ground water all landfill, land treatment, surface impoundment and waste pile facilities are prohibited from locating in an area where the ground water travel time is less than five years to the facility property line. The ground water travel time shall be calculated using the horizontal distance from the facility boundary to the facility property line and parallel to the ground water flow direction.

(B) Treatment, storage and incineration facilities may locate where the ground water travel time is less than five years if:

(I) There is adequate time for a ground water monitoring system to detect contamination and time for on-site cleanup; or

(II) Other mitigative measures are taken to prevent ground water contamination due to spills, leaks or discharges.

(d) PROTECTION OF DOMESTIC WATER – Intent. To ensure safe domestic water supplies for the people of the state.

(i) Public water supply watersheds. No facility of any type shall locate within the boundaries of a designated municipal watershed for public water systems utilizing surface water as governed by WAC 248-54-225, Watershed control.

(ii) Sole source aquifer.

(A) All landfill, land treatment, surface impoundment and waste pile facilities are prohibited from locating over a sole source aquifer.

(B) Treatment, storage and incineration facilities may locate over a sole source aquifer if spill containment and ground water monitoring measures are implemented to protect the aquifer from contamination due to worst case accidental spills or other discharges.

(C) As used in (ii) of this subsection: "Sole source aquifer" means an aquifer which supplies fifty percent or more of the drinking water for an area and other sources are not reasonably/economically available. Sole source includes any aquifer designated as sole or principal by the state or under Section 1424(e) of the Federal Safe Drinking Water Act (P.L. 93-523).

(iii) Ground water intake.

(A) For all landfill, land treatment, surface impoundment, incineration and waste pile facilities there must be a minimum of one-quarter mile, measured horizontally, from the facility buffer zone to the nearest ground water intake for domestic water.

(B) For treatment and storage facilities there must be a minimum of one-quarter mile, measured horizontally, from the facility boundary to the nearest ground water intake for domestic water.

(C) As used in (iii) of this subsection: "Domestic water" means any water used for human consumption, other domestic activities or livestock watering for which a water right has been granted.

(iv) Wellhead protection.

(A) To protect from contamination the area surrounding and affected by the pumping of drinking water wells, all landfill, land treatment, surface impoundment and waste pile facilities are prohibited from locating in a wellhead protection area. The facility may not locate such that the area of influence of a well or well field would extend into the facility property line. This requirement is limited to wells or well fields supplying potable water to a public water system for use outside of the facility property line.

(B) Treatment, storage and incineration facilities may locate in such an area if accidental spill prevention and detection measures are used and the requirements of WAC 248-54-125, Source protection, are met.

(C) As used in (iv) of this subsection:

(I) "Wellhead protection area" is as defined by the Safe Drinking Water Act amendments of 1986 and means the surface and subsurface area surrounding a water well or well field, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or well field.

(II) "Area of influence" means the area surrounding a well(s) within which changes in the potentiometric surface have been measured due to pumping of that well(s).

(III) A "public water system" has at least fifteen service connections or regularly serves at least twenty-five individuals.

(e) AIR QUALITY PROTECTION – Intent. For the purpose of maintaining the ambient air quality standards of the state.

(i) Ambient air quality. All facilities will comply with the applicable state or local air quality standards and regulations. On a case-by-case basis, an evaluation of the air quality impacts shall be conducted for each dangerous waste management facility application. The evaluation shall be conducted in accordance with chapter 173-400 WAC, General regulations for air pollution sources, chapter 173-403 WAC, Implementation of regulations for air contaminant sources and, if applicable, chapter 173-434 WAC, Solid waste incinerator facilities. An application for an incinerator will be required to meet prevention of significant deterioration permit requirements as referenced under WAC 173-403-080.

(ii) The maximum ambient air concentration for toxic air contaminant emissions at or beyond the facility property boundaries, as estimated by dispersion modeling, shall not exceed an acceptable ambient level to be determined by the department using health data as the basis for determination.

(f) SENSITIVE AREA PROTECTION – Intent. To protect and preserve environmentally sensitive areas and recreational resources of the state.

(i) Threatened or endangered species.

(A) All facilities are prohibited from locating in an area that would result in the taking of species or the direct elimination of critical habitat for federal or state listed threatened or endangered species.

(B) As used in (i) of this subsection: "Critical habitat" is as defined by the Endangered Species Act of 1973 (P.L. 93-205).

(ii) Wetlands.

All facilities are prohibited from locating in a wetland as defined by the United States Fish and Wildlife Service (Cowardin et al. 1979).

(iii) Shorelines.

(A) All landfill, land treatment, surface impoundment and waste pile facilities are prohibited from locating in an area designated as a shoreline of the state under the jurisdiction of the Shoreline Management Act.

(B) Treatment, storage and incineration facilities may site in a shoreline area when authorized as a conditional use as provided under a state-approved shoreline master program.

(iv) Wilderness areas.

(A) All landfill, land treatment, surface impoundment, waste pile and incineration facilities are prohibited

from locating such that the facility buffer zone is within one-quarter mile of an area classified as a wilderness area as defined by the Wilderness Act of 1964 (P.L. 88-577).

(B) Treatment and storage facilities associated with mining activities allowed by the Wilderness Act may locate in a wilderness area.

(v) State and federal wildlife refuges.

(A) All landfill, land treatment, surface impoundment, waste pile and incineration facilities are prohibited from locating such that the facility buffer zone is within one-quarter mile of a state or federally designated wildlife refuge or a game farm.

(B) Treatment and storage facilities associated with mining activities allowed in wildlife refuges may locate in a wildlife refuge or a game farm.

(vi) Parks and national monuments.

(A) All landfill, land treatment, surface impoundment, waste pile and incineration facilities are prohibited from locating such that the facility buffer zone is within one-quarter mile of a state or federally designated park or national monument.

(B) Treatment and storage facilities are prohibited from locating within an area with state or federal designation as a park.

(C) All facilities are prohibited from locating within an area with city or county designation as a park.

(vii) Recreation areas and natural area preserves.

All facilities are prohibited from locating in an area with city, county, state or federal designation as a recreation area or any area provided for under chapter 79.70 RCW, Natural area preserves.

(viii) Archaeological and historic areas. All facilities are prohibited from locating in an area with city, county, state or federal designation as an archaeological or historic area.

(g) TRANSPORTATION ROUTES – Intent. To ensure the safe transportation of dangerous waste to management facilities and minimize public exposure to dangerous waste transport vehicles.

(i) Traffic flow and capacity. To minimize impacts to traffic flow and capacity, existing or proposed roadways in the immediate area leading to a facility will be of design and construction to accommodate the projected increase in traffic (truck and auto) due to the facility. Peak hour impacts at intersections and traffic control points may require mitigative measures.

(ii) Safety standards for transport routes. To reduce accident risks during transport of dangerous waste, both major and minor roadways and railways leading to the facility site will be constructed and/or maintained to be free of obstructions and meet minimum sight distance requirements. All roadways must be capable of handling the increase in truck traffic due to the facility, maintain safety standards, and access in the immediate vicinity of the facility must not traverse zoned residential neighborhoods.

(h) ADJACENT LAND USE – Intent. To protect the population of the state from significant adverse impact due to dangerous waste management.

(i) Buffer zone.

(A) To provide added protection to adjacent land uses or resources of beneficial use, all landfill, land treatment, surface impoundment, waste pile and incineration facilities must maintain at least a two hundred-foot buffer zone between the facility boundary and the nearest point of the facility property line.

(B) Treatment and storage facilities must maintain a fifty-foot buffer zone between the facility boundary and the nearest point of the facility property line or mitigative measures must be provided where the buffer zone is less than fifty feet.

(ii) Residences.

(A) To minimize the exposure of the people of the state to dangerous wastes, all landfill, land treatment, surface impoundment, waste pile and incineration facilities are prohibited from locating such that the facility buffer zone is within one-half mile of a residential zone. These facilities are also prohibited from locating such that the facility buffer zone is within five hundred feet of a residence not located in a residential zone.

(B) Treatment and storage facilities are prohibited from locations such that the facility boundary is within one hundred feet of a residence. Those facilities which treat or store reactive wastes must provide protection through mitigative measures equivalent with the Uniform Fire Code's "American Table of Distances for Storage of Explosives," Table 77-201, 1985 Edition.

(iii) Public gathering places.

(A) To protect the people of the state from exposure to dangerous waste in public gathering places, all landfill, land treatment, surface impoundment, waste pile and incineration facilities are prohibited from locating such that the facility buffer zone is within one-half mile of any public or private school, college, university, hospital, health care facility, church, retail shopping center, stadium or auditorium, or building with free public access that is operated by a local, state or federal government.

(B) Treatment and storage facilities are prohibited from locating such that the facility boundary is within one hundred feet of a public gathering place as listed above.

(C) Any facility owned or operated by a school, college or university is exempt from this standard with regard to that school, college or university.

(iv) Agricultural lands. To provide protection for food crops or food production activities, all facilities locating in or near agricultural use areas must eliminate or mitigate potential adverse impacts to agricultural activities due to waste management facilities, including but not limited to the effects of fumes or other emissions into the atmosphere.

(i) HOST COMMUNITY CONSIDERATIONS – Intent. For the purpose of providing consideration of the impacts of dangerous waste management facilities on the public services of the host community.

(ii) Utilities and public services. The availability of utilities and public services must be considered when siting a facility, and if an extension or upgrade of any public service or utility system is necessitated for facility use, that cost will be incurred by the facility proponent.

(ii) Costs for emergency services. An increase in the need for host community emergency services (e.g., fire and hospital) created by the siting of a facility will be provided for by the facility proponent.

(j) OTHER CONSIDERATIONS – Climatic factors. No facility will be located in an area that has a history of severe climatic factors without engineered protection to

mitigate those factors. Severe climatic factors include, but are not limited to, high annual rainfall, extreme temperatures (high or low), and high winds.

LOCATION STANDARDS FOR SITING DANGEROUS WASTE MANAGEMENT FACILITIES IN WASHINGTON

STANDARDS	LANDFILL	LAND TREATMENT	SURFACE IMPOUNDMENT	WASTE PILE	INCINERATION	TREATMENT/STORAGE
<b>STRUCTURAL STABILITY</b>						
Distance to holocene earthquake fault	200 ft.	200 ft.	200 ft.	200 ft.	200 ft.	200 ft.
Soils stability	X	M	X	X	M	M
Subsidence	X	X	X	X	X	X
Unstable slopes	X	X	X	X	M	M
Coastal flooding	X	X	X	X	X	X
<b>SURFACE WATER QUALITY PROTECTION</b>						
Proximity to nearest surface water	1/4 mi.	1/4 mi.	1/4 mi.	1/4 mi.	1/4 mi.	M
Shorelines of state-wide significance	1 mi.	1 mi.	1 mi.	1 mi.	1 mi.	M
Flood protection	X	X	X	X	M	M
<b>GROUND WATER PROTECTION</b>						
Minimum depth to regional aquifer	50 ft.	50 ft.	50 ft.	50 ft.	M	M
Regional aquifer recharge areas	X	X	X	X	M	M
Minimum travel time to property line	5 yr.	5 yr.	5 yr.	5 yr.	M	M
<b>PROTECTION OF DOMESTIC WATER</b>						
Watersheds	X	X	X	X	X	X
Sole source aquifer (federal or state)	X	X	X	X	M	M
Distance to ground water intake	1/4 mi.	1/4 mi.	1/4 mi.	1/4 mi.	1/4 mi.	1/4 mi.
Wellhead protection areas	X	X	X	X	M	M
<b>AIR QUALITY PROTECTION</b>						
Ambient air quality	C	C	C	C	C	C
<b>SENSITIVE AREA PROTECTION</b>						
Threatened or endangered species	X	X	X	X	X	X
Wetlands	X	X	X	X	X	X
State shorelines	X	X	X	X	C	C
Wilderness areas	1/4 mi.	1/4 mi.	1/4 mi.	1/4 mi.	1/4 mi.	M
State and federal wildlife refuges	1/4 mi.	1/4 mi.	1/4 mi.	1/4 mi.	1/4 mi.	M
Parks and national monuments	1/4 mi.	1/4 mi.	1/4 mi.	1/4 mi.	1/4 mi.	X
Recreation areas and natural preserves	X	X	X	X	X	X
Archaeological and historic areas	X	X	X	X	X	X
<b>TRANSPORTATION ROUTES</b>						
Traffic flow and capacity	M	M	M	M	M	M
Safety standards for transport routes	C	C	C	C	C	C

STANDARDS	LAND	SURFACE	WASTE	TREATMENT/		
	LANDFILL	TREATMENT	IMPOUNDMENT	PILE	INCINERATION	STORAGE
<b>ADJACENT LAND USE</b>						
Buffer zone	200 ft.	M				
Residential zones/residences	1/2 mi./ 500 ft.	100 ft.				
Public gathering places	1/2 mi.	100 ft.				
Agricultural lands	M	M	M	M	M	M
<b>HOST COMMUNITY CONSIDERATIONS</b>						
Utilities and public services	C	C	C	C	C	C
Costs for emergency services	C	C	C	C	C	C
<b>OTHER CONSIDERATIONS</b>						
Climatic factors	M	M	M	M	M	M

X - Excluded from siting in this area  
M - Mitigative measures required to site in this area  
C - Consideration to be addressed in siting

For detailed definitions of these terms, see subsection (4) of this section.

**NEW SECTION**

**WAC 173-303-286 PERFORMANCE STANDARDS.** (1) Purpose. This section provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities.

(2) Applicability. This section applies to all dangerous waste facilities permitted under WAC 173-303-800 through 173-303-840. These general performance standards shall be used to determine whether more stringent facility standards should be applied than those spelled out in WAC 173-303-280, 173-303-290 through 173-303-400 and 173-303-600 through 173-303-670.

(3) Performance standards. Unless authorized by state, local, or federal laws, or unless otherwise authorized in this regulation, the owner/operator shall design, construct, operate, or maintain a dangerous waste facility that to the maximum extent practical given the limits of technology prevents:

- (a) Degradation of ground water quality;
- (b) Degradation of air quality by open burning or other activities;
- (c) Degradation of surface water quality;
- (d) Destruction or impairment of flora and fauna outside the active portion of the facility;
- (e) Excessive noise;
- (f) Conditions that constitute a negative aesthetic impact for the public using rights of ways, or public lands, or for landowners of adjacent properties;
- (g) Unstable hillsides or soils as a result of trenches, impoundments, excavations, etc.;
- (h) The use of processes that do not treat, detoxify, recycle, reclaim, and recover waste material to the extent economically feasible; and
- (i) Endangerment of the health of employees, or the public near the facility.

**AMENDATORY SECTION** (Amending Order DE-87-4, filed 6/26/87)

~~WAC 173-303-420 ((SITING STANDARDS. (1) Purpose. This section provides criteria for the siting of~~

~~dangerous waste facilities. The criteria are to be viewed as standards which a facility owner/operator shall meet in siting his facility.~~

~~(2) Applicability. These siting standards will apply to all facilities which require a permit under WAC 173-303-805 and 173-303-806, or as otherwise limited in each of the applicable paragraphs of this section.~~

~~(3) Earthquake fault criteria:~~

~~(a) Active portions of new TSD facilities will not be located within two hundred feet of a fault which has had displacement in Holocene times. For facilities managing special waste only, engineering efforts, as approved by the department, may be substituted for the two hundred-foot buffer zone.~~

~~(b) As used in (a) of this subsection:~~

~~(i) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side;~~

~~(ii) "Displacement" means the relative movement of any two sides of a fault measured in any direction; and~~  
~~(iii) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.~~

~~(c) Facilities which are located in counties other than those listed below are assumed to be in compliance with this subsection:~~

Chelan	Grant	Lewis	Skagit
Clallam	Grays Harbor	Mason	Skamania
Clark	Jefferson	Okanogan	Snohomish
Cowlitz	King	Pacific	Thurston
Douglas	Kitsap	Pierce	Wahkiakum
Ferry	Kittitas	San Juan	Whatcom Yakima

~~(4) Floodplain criteria:~~

~~(a) A facility located in a one hundred-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any dangerous waste by a one hundred-year flood, unless, in the case of facilities which manage DW only, the owner or operator has included in his contingency plan (WAC 173-303-350) procedures which will cause the waste to be removed~~

safely, before floodwaters can reach the facility, to a location where the wastes will not be vulnerable to floodwaters. The location to which wastes will be removed must be a facility permitted according to this chapter.

(b) For facilities which manage EHW, a facility located in a one hundred-year floodplain must be designed, constructed, operated, and maintained to prevent washout of any EHW by a one hundred-year flood. Contingency procedures for removal of EHW will not be deemed equivalent to engineered flood proofing.

(c) As used in (a) and (b) of this subsection:

(i) "One hundred-year floodplain" means any land area which is subject to one percent or greater chance of flooding in any given year from any source;

(ii) "Washout" means the movement of dangerous waste from the active portion of the facility as a result of flooding; and

(iii) "One hundred-year flood" means a flood that has a one percent chance of being equalled or exceeded in any given year.

(5) The siting of facilities in areas under the jurisdiction of the 1971 Shoreline Management Act (chapter 90.58 RCW):

(a) Areas defined as "wetlands" under RCW 90.58-.030 (2)(f) (those areas under jurisdiction of the Shoreline Management Act) shall not be considered or used for the disposal of dangerous waste.

(b) Dangerous waste storage and treatment facilities, where such facilities have either historically located in areas under jurisdiction of the Shoreline Management Act, or where such facilities require a waterfront or harbor area location, shall be limited to those locations where the local shoreline management master program permits industrial, navigation, manufacturing, or similar activities. Areas classified natural, conservancy, rural, or residential shall not be considered for the location of a dangerous waste facility.

(6) Sole source aquifer criteria. No new facility shall dispose of dangerous waste over a sole source aquifer designated pursuant to section 1424(e) of the Safe Drinking Water Act (Public Law 93-523):

(7) Interim siting standards:

(a) Purpose. The purpose of this subsection is to establish interim siting considerations and criteria for preempted facilities requiring permits pursuant to WAC 173-303-805 or 173-303-806. These interim siting standards are to be used until superseded by final siting regulations adopted pursuant to RCW 70.105.200 through 70.105.270.

(b) Applicability. The interim siting standards described in this subsection apply to owners and operators of any preempted facilities for which:

(i) Interim or final status permits have been issued by the department, pursuant to WAC 173-303-805 or 173-303-806; or

(ii) Interim or final status permit applications that will be or have been submitted to the department, pursuant to WAC 173-303-805 or 173-303-806. This subsection does not apply to owners or operators of facilities who prior to July 28, 1985, manage wastes in landfills, land treatment, surface impoundments, or waste piles to

be closed as landfills, or through incineration. In addition, this subsection does not apply to owners/operators of facilities or portions of facilities applying for research, development, and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65.

(c) Implementation. Owners/operators of preempted facilities to which the interim siting standards of this subsection apply must include in (or amend the existing) TSD facility application, submitted pursuant to WAC 173-303-805 or 173-303-806, information that demonstrates consideration of and compliance with the interim siting standards of this subsection:

(i) Applications for facilities that do not meet prohibitions or set back requirements specified in this subsection will be rejected by the department.

(ii) The department may place additional restrictions and conditions on a facility permit (including interim status) pursuant to its authority under this chapter and the State Environmental Policy Act, chapter 43.21C RCW.

(d) Definitions. Any terms used in this subsection that are not defined below shall have the meanings provided in WAC 173-303-040. For the purposes of this subsection, the following terms shall have the described meanings:

(i) "Preempted facility" means any facility that includes as a significant part of its activities the following operations: (A) Landfill, (B) incineration, (C) land treatment, (D) surface impoundment to be closed as a landfill, or (E) waste pile to be closed as a landfill.

(ii) "Perennial surface water body" means any lake, river, pond, canal, stream, reservoir, inland water, salt-water, and other surface waters under the jurisdiction of the state of Washington that normally has continuous flow throughout the year. This does not include man-made lagoons, or impoundments associated with a facility:

(iii) "Area of influence" means the area surface and subsurface area surrounding a well(s) within which the potentiometric surface has been changed due to ground water withdrawal:

(iv) "Residences" means any dwelling, including private homes, rental homes, boarding houses, apartments, motels, and hotels:

(v) "Institution" means any public or private:

(A) School, college, university, hospital, health care facility, church;

(B) Retail shopping center;

(C) Stadium and auditorium; and

(D) Building with free public access that is operated by a local, state, or federal government.

(e) Structural stability:

(i) Proximity to Holocene earthquake fault - All provisions of subsection (3) of this section shall apply.

(ii) Subsidence. Consideration shall be given to any sinking of the land surface within the facility boundaries due to the removal of solid mineral matter or fluids from the subsurface:

(iii) Unstable slopes. Consideration shall be given to any steeply sloping areas within facility boundaries

where the rapid mass movement of earth materials is likely to occur.

(iv) Soils stability. Consideration shall be given to any weak or unstable soils within the facility boundaries. Weak or unstable soils or conditions include, but are not limited to, organic soils, expansive soils, sands subject to liquefaction during seismic events, soft clays, sensitive clays, loess and quick conditions.

(v) Tsunami/storm surge. Consideration shall be given to shoreline areas bordering the Pacific Ocean and the Straits of Juan De Fuca that may flood because of tsunamis or storm surges.

(f) Surface water quality protection.

(i) One hundred-year floodplain. All requirements of subsection (4) of this section shall apply.

(ii) Proximity to surface water. No preempted facility shall be located within five hundred feet of a perennial surface water body. Five hundred feet shall be measured horizontally from the ordinary high water mark of the perennial surface water body to the nearest portion of the facility.

(g) Ground water protection.

(i) Minimum depth to regional aquifer. Consideration shall be given to the depth from any portion of the facility to the regional aquifer. Regional aquifer shall be determined by the department.

(ii) Regional aquifer recharge areas. Consideration shall be given to the areas that provide principal recharge to regional aquifers. Such areas shall be determined by the department.

(iii) Ground water travel time. Consideration shall be given to the rate of ground water movement in all directions from the facility to the facility property boundary.

(h) Drinking water protection.

(i) Public water supply watersheds. No facility shall be located within the boundaries of a designated public water supply watershed.

(ii) Sole source aquifer. All provisions of subsection (6) of this section shall apply.

(iii) Proximity to drinking water intakes. No preempted facilities shall be located within:

(A) Five hundred feet, measured horizontally from the nearest portion of the facility, of a surface or ground water intake for public or private drinking water if the facility is located up gradient from such an intake, or

(B) Two hundred fifty feet, measured horizontally from the nearest point of the facility boundary, of a surface or ground water intake for public or private drinking water if the facility is located down gradient or cross gradient from such an intake.

(iv) Wellhead protection areas. No preempted facility shall be located within the area of influence surrounding a water well or wellfield that is supplying potable water to a domestic water supply system for use outside the facility boundaries.

(i) Sensitive area protection. Preempted facilities shall be subject to the following locational standards for sensitive areas:

(i) Threatened and endangered species. No preempted facility shall locate in an area that would result in the

taking of individuals of a species, or the direct elimination of habitat of species that are on the federal list of threatened and endangered species;

(ii) Shorelines and wetlands. All provisions of subsection (5) of this section shall apply;

(iii) Wilderness areas. No preempted facility shall locate in a wilderness area as so designated under the Wilderness Protection Act;

(iv) State and federal wildlife refuges. No preempted facility shall locate in a state or federal refuge as so designated under state and federal laws and regulations;

(v) Parks, scenic and recreational areas. No preempted facility shall be located in a city, county, state, or federally designated park, scenic area, or recreational area; and

(vi) Archeological and historic areas, national monuments. No preempted facility shall be located within any area designated by a city, county, state, or federal agency as an archeological or historic area or a national monument.

(j) Air quality protection. Evaluation shall be made of air impacts considering the effect of local meteorology; control technology and facility operation and maintenance on air emissions. The maximum ambient air concentration for toxic air contaminant emissions at or beyond the facility property boundaries, as estimated by dispersion modeling, shall not exceed an acceptable ambient level as determined by the department.

(k) Transportation routes.

(i) Traffic flow and capacity. Consideration shall be given to the traffic flow and capacity of existing or proposed roadways in the immediate area leading to a facility.

(ii) Safety standards for transport routes. Consideration shall be given to safety factors of primary and secondary access routes to a facility, including road, rail, and marine, as appropriate. Such factors shall include freedom from obstructions, sight distance, traffic flow and capacity at critical intersections, and such other traffic safety requirements designed to minimize public exposure to transport vehicles.

(l) Adjacent land use considerations.

(i) Proximity to residences. No preempted facility shall be located within:

(A) Two thousand feet from the nearest point of the facility property boundary to the boundary of an area zoned for residential uses by local governments. For the purposes of this subsection, the department shall consider local zoning in place as of July 28, 1985, and

(B) For areas not zoned for residential purposes, five hundred feet from the nearest point of the facility property boundary to the nearest property boundary of a residence.

(ii) Proximity to institutions. Consideration shall be given to a facility's proximity to institutions, as defined in (d) of this subsection. No preempted facility shall be located within two thousand feet from the nearest point of the facility property boundary to the nearest property boundary of an institution.

(iii) Proximity to agricultural lands. Consideration shall be given to a facility's proximity to lands used for

raising agricultural crops or livestock. Such consideration shall include emissions to the air, water, and soils due to operation that may cause known adverse impacts to agricultural crops or livestock.

(m) ~~Host community considerations.~~

(i) ~~Utilities and public services.~~ The availability of utilities and public services (such as water, gas, electricity, sewage, and refuse collection), and the costs for necessary increases in capacity shall be considered when siting any preempted facility.

(ii) ~~Emergency services.~~ The availability of emergency responses services (such as police, fire departments, and hospitals), and costs for necessary increases in capacity shall be considered when siting any preempted facility.)) (Reserved.)

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-430 ((~~PERFORMANCE STANDARDS.~~ (1) Purpose. This section provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities.

(2) ~~Applicability.~~ This section applies to all dangerous waste facilities permitted under WAC 173-303-800 through 173-303-840. These general performance standards shall be used to determine whether more stringent facility standards should be applied than those spelled out in WAC 173-303-280 through 173-303-400 and 173-303-600 through 173-303-670.

(3) ~~Performance standards.~~ Unless authorized by state, local, or federal laws, or unless otherwise authorized in this regulation, the owner/operator shall design, construct, operate, or maintain a dangerous waste facility that to the maximum extent practical given the limits of technology prevents:

- (a) ~~Degradation of ground water quality;~~
- (b) ~~Degradation of air quality by open burning or other activities;~~
- (c) ~~Degradation of surface water quality;~~
- (d) ~~Destruction or impairment of flora and fauna outside the active portion of the facility;~~
- (e) ~~Excessive noise;~~
- (f) ~~Conditions that constitute a negative aesthetic impact for the public using rights of ways, or public lands, or for landowners of adjacent properties;~~
- (g) ~~Unstable hillsides or soils as a result of trenches, impoundments, excavations, etc.;~~
- (h) ~~The use of processes that do not treat, detoxify, recycle, reclaim, and recover waste material to the extent economically feasible; and~~
- (i) ~~Endangerment of the health of employees, or the public near the facility.)) (Reserved.)~~

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-440 ((~~BUFFER MONITORING ZONES.~~ (1) Buffer zones:

(a) ~~The owner/operator of a dangerous waste facility which treats or stores ignitable or reactive waste, except for those reactive wastes with buffer zones specified in (b) of this subsection in covered tanks must treat or~~

store his ignitable waste in a manner equivalent with the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of The Flammable and Combustible Liquids Code-1981.

(b) ~~The owner/operator of a dangerous waste facility which treats or stores reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must provide a buffer zone for his reactive waste equivalent with the Uniform Fire Code's American Table of Distances for Storage of Explosives, Table 77-201, 1979 edition. Where this requirement conflicts with the buffer zone of (a) of this subsection, the larger of the two buffer zones determined under (a) and (b) of this subsection must be used.~~

(c) ~~Within the practical limits of the best available management technology, the owner/operator of a new dangerous waste impoundment, pile, landfarm, or landfill should attempt to locate his facility so that the travel time (as defined in WAC 173-303-040) from the active portion of the facility to the nearest downstream well or surface water used for drinking purposes is at least:~~

- (i) ~~Three years, for DW; and~~
- (ii) ~~Ten years, for EHW.~~

(2) ~~Monitoring zones:~~

(a) ~~The owner/operator of a new dangerous waste facility handling DW only may at his discretion provide a monitoring zone around surface impoundment, waste pile, land treatment, and landfill areas as follows:~~

$$D = \frac{wv}{N} \text{ (ft)}$$

Where

- D = the minimum width of the monitoring zone
- w = 3, a constant
- v = velocity of surface soil migration, ft/yr
- N = number of times the surface soil is sampled at one spot in a year.

Samples shall be taken a distance of

$$S = \frac{D}{w} \text{ (ft) from the active portion of the facility}$$

Where

- D = the monitoring zone width in feet and
- w = 3.

(b) ~~The same monitoring zone determinations may be made for new facilities handling EHW, except that the value W = 10 shall be used.~~

(c) ~~Additional information and assistance on choosing monitoring zones is available from the department.)) (Reserved.)~~

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-510 SPECIAL REQUIREMENTS FOR DANGEROUS WASTES BURNED FOR ENERGY RECOVERY. (1) Applicability.

(a) This section applies to dangerous wastes that are burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40

CFR Part 265 or WAC 173-303-670, except as provided by (b) of this subsection. Such dangerous wastes burned for energy recovery are termed "dangerous waste fuel." Fuel produced from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel. (These regulations do not apply, however, to gas recovered from dangerous waste management activities when such gas is burned for energy recovery.)

(b) The following dangerous wastes are not subject to regulation under this section:

(i) Used oil burned for energy recovery if it is a dangerous waste because it:

(A) Exhibits a characteristic of dangerous waste identified in WAC 173-303-090; or

(B) Is designated as DW only through the criteria of WAC 173-303-101 through 173-303-103; or

(C) Is a dangerous waste designated solely as W001.

Such used oil is subject to regulation under WAC 173-303-515 rather than this section.

Note: Used oil burned for energy recovery containing a listed waste (unless such listed waste is only state source W001) or a waste designated as EHW through the criteria of WAC 173-303-101 through 173-303-103 is subject to this section.

(ii) (Reserved.)

(2) Prohibitions.

(a) A person may market dangerous waste fuel only:

(i) To persons who have notified the department of their dangerous waste fuel activities under WAC 173-303-060 and have an EPA/state identification number; and

(ii) If the fuel is burned, to persons who burn the fuel in boilers or industrial furnaces identified in (b) of this subsection.

(b) Dangerous waste fuel may be burned for energy recovery in only the following devices;

(i) Industrial furnaces identified in WAC 173-303-040;

(ii) Boilers, as defined in WAC 173-303-040, that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(c) No fuel which contains any dangerous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations under this chapter that are applicable to incinerators.

(3) Standards applicable to generators of dangerous waste fuel.

(a) Generators of dangerous waste that is used as a fuel or used to produce a fuel are subject to WAC 173-303-170 through 173-303-230.

(b) Generators who market dangerous waste fuel to a burner also are subject to subsection (5) of this section.

(c) Generators who are burners also are subject to subsection (6) of this section.

(4) Standards applicable to transporters of dangerous waste fuel. Transporters of dangerous waste fuel (and dangerous waste that is used to produce a fuel) are subject to the requirements of WAC 173-303-240 through 173-303-270.

(5) Standards applicable to marketers of dangerous waste fuel.

Persons who market dangerous waste fuel are termed "marketers," and are subject to the following requirements. Marketers include generators who market dangerous waste fuel directly to a burner, persons who receive dangerous waste from generators and produce, process, or blend dangerous waste fuel from these dangerous wastes, and persons who distribute but do not process or blend dangerous waste fuel.

(a) Prohibitions. The prohibitions under subsection (2) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Even if a marketer has previously notified the department of his dangerous waste management activities and obtained an EPA/state identification number, he must renotify to identify his dangerous waste fuel activities.

(c) Storage.

(i) For short term accumulation by generators who are marketers of dangerous waste fuel, the applicable provisions of WAC 173-303-200 or 173-303-201;

(ii) For all marketers who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-280 through 173-303-395; and

(B) ((WAC 173-303-420 through 173-303-440;

~~(C))~~ WAC 173-303-800 through 173-303-840;

(iii) For marketers with interim status permits who store dangerous waste fuel, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iv) For marketers with final status permits who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650; and

(B) WAC 173-303-660.

(d) Off-site shipment. The standards for generators in WAC 173-303-170 through 173-303-230 when a marketer initiates a shipment of dangerous waste fuel;

(e) Required notices.

(i) Before a marketer initiates the first shipment of dangerous waste fuel to a burner or another marketer, he must obtain a one-time written and signed notice from the burner or marketer certifying that:

(A) The burner or marketer has notified the department under WAC 173-303-060 and identified his waste-as-fuel activities; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (2)(b) of this section.

(ii) Before a marketer accepts the first shipment of dangerous waste fuel from another marketer, he must provide the other marketer with a one-time written and signed certification that he has notified the department

under WAC 173-303-060 and identified his dangerous waste fuel activities; and

(f) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-210 and 173-303-380, a marketer must keep a copy of each certification notice he receives or sends for three years from the date he last engages in a dangerous waste fuel marketing transaction with the person who sends or receives the certification notice.

(6) Standards applicable to burners of dangerous waste fuel.

Owners and operators of industrial furnaces and boilers identified in subsection (2)(b) of this section that burn dangerous fuel are "burners" and are subject to the following requirements:

(a) Prohibitions. The prohibitions under subsection (2)(b) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Even if a burner has previously notified the department of his dangerous waste management activities and obtained an EPA/state identification number, he must renotify to identify his dangerous waste fuel activities.

(c) Storage.

(i) For short term accumulation by generators who burn their dangerous waste fuel on site, the applicable provisions of WAC 173-303-200 or 173-303-201.

(ii) For all burners who store dangerous waste fuel, the applicable provisions of:

(A) WAC 173-303-280 through 173-303-395; and

(B) (~~WAC 173-303-420 through 173-303-440, and~~ ~~(C)~~) WAC 173-303-800 through 173-303-840;

(iii) For burners under interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iv) For burners with final facility permits, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650; and

(B) WAC 173-303-660.

(d) Required notices. Before a burner accepts the first shipment of dangerous waste fuel from a marketer, he must provide the marketer a one-time written and signed notice certifying that:

(i) He has notified the department under WAC 173-303-060 and identified his waste-as-fuel activities; and

(ii) He will burn the fuel only in a boiler or furnace identified in subsection (2)(b) of this section.

(e) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-380, a burner must keep a copy of each certification notice that he sends to a marketer for three years from the date he last receives dangerous waste fuel from that marketer.

(f) Local requirements. Any person who burns dangerous waste for energy recovery must comply with air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-520 SPECIAL REQUIREMENTS FOR RECLAIMING SPENT LEAD ACID BATTERY WASTES. This section applies to persons who reclaim spent lead-acid batteries that are recyclable materials ("spent batteries").

(1) Persons who generate, transport, or who store spent batteries but do not reclaim them are subject only to the requirements of WAC 173-303-050, 173-303-145 and 173-303-960 if such spent batteries are going to a battery reclaimer.

(2) Owners and operators of battery reclaiming facilities that store spent lead acid batteries prior to reclaiming them are subject to the following requirements:

(a) For all reclaimers, the applicable storage provisions of:

(i) WAC 173-303-280 (2) and (3);

(ii) WAC 173-303-290;

(iii) WAC 173-303-310 through 173-303-360;

(iv) WAC 173-303-380;

(v) WAC 173-303-390 (2) and (3);

(vi) WAC 173-303-395;

(vii) WAC (~~173-303-420 through 173-303-440~~) ~~173-303-285; (and)~~

(viii) WAC (~~173-303-800 through 173-303-840~~) ~~173-303-286; and~~

(ix) WAC 173-303-800 through 173-303-840.

(b) For reclaimers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(c) For reclaimers with final facility permits, the applicable storage provisions of:

(i) WAC 173-303-600 through 173-303-650; and

(ii) WAC 173-303-660.

AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-560 MINIMUM STANDARDS FOR FACILITIES MANAGING SPECIAL WASTE. In no case will the department approve standards for facilities managing special waste which do not include, at a minimum, the following applicable requirements:

(1) WAC 173-303-060;

(2) WAC 173-303-286;

(3) WAC 173-303-350;

~~((3))~~ (4) WAC 173-303-360;

~~((4))~~ (5) WAC 173-303-370;

~~((5))~~ (6) WAC 173-303-380; and

~~((6))~~ (7) WAC 173-303-390(~~and~~

~~(7) WAC 173-303-430~~).

AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-600 FINAL FACILITY STANDARDS. Purpose, scope, and applicability.

(1) The purpose of WAC 173-303-600 through 173-303-670, is to establish minimum state-wide standards which describe the acceptable management of dangerous waste. In addition to WAC 173-303-600 through 173-303-670, the final facility standards include WAC 173-

303-280 through 173-303-395(~~and 173-303-420 through 173-303-440~~)).

(2) The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of this section.

(3) The final facility standards do not apply to:

(a) Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

(b) Persons whose disposal activities are permitted under the Underground Injection Control Program of the Safe Drinking Water Act, except that storage, or treatment facilities needed to handle dangerous wastes are subject to final facility standards;

(c) Owners or operators of POTWs which treat, store, or dispose of dangerous waste provided they follow the permit-by-rule requirement of WAC 173-303-802(4);

(d) A generator accumulating waste on site in compliance with WAC 173-303-200;

(e) The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter 173-304 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-070(8);

(f) A farmer disposing of waste pesticides from his own use provided he complies with WAC 173-303-160(2)(b);

(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240(5);

(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of his final facility permit;

(j) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment unit as defined in WAC 173-303-040, provided that he complies with the permit by rule requirements of WAC 173-303-802(5); and

(k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b).

(4) The owner or operator of a final status TSD facility which manages special waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the final facility standards of WAC 173-303-600 through 173-303-670, but only for those special wastes which he manages and only after the department has issued or modified his final facility permit in accordance with WAC 173-303-800

through 173-303-840 to incorporate the special requirements.

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-525 in lieu of the final facility standards.

(6) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

#### AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-650 SURFACE IMPOUNDMENTS. (1) Applicability. The regulations in this section apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of dangerous waste.

(2) Design and operating requirements.

(a)(i) A surface impoundment (except for an existing portion of a surface impoundment) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with subsection (6)(a)(i) of this section. For impoundments that will be closed in accordance with subsection (6)(a)(ii) of this section, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift;

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(D) For EHW management, the owner or operator shall submit an engineering report with his permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report shall be certified by a licensed professional engineer.

(ii) The owner or operator of a new surface impoundment installed after October 31, 1984, and in which liquid EHW is managed must:

(A) Install a double lined system which incorporates the specifications of subsection (3)(a), (b), and (c) of this section; and

(B) Must comply with either the ground water monitoring requirements of WAC 173-303-645, or the

unsaturated zone monitoring requirements of WAC 173-303-655(6).

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents listed in WAC 173-303-9905, or which otherwise cause his wastes to be regulated under this chapter, into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;  
 (ii) The proposed alternate design and operation;  
 (iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(d) A surface impoundment must be designed so that any flow of waste into the impoundment can be immediately shut off in the event of overtopping or liner failure.

(e) A surface impoundment must be designed to repel birds.

(f) A surface impoundment shall be located so as to meet the buffer zone requirements of WAC ((173-303-440)) 173-303-285.

(g) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent their failure. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

(h) Earthen dikes must be kept free of:

(i) Perennial woody plants with root systems which could weaken its structural integrity; and

(ii) Burrowing mammals which could weaken its structural integrity or create leaks through burrows.

(i) Earthen dikes must have a protective cover, such as grass, shale or rock to minimize wind and water erosion and to preserve their structural integrity.

(j) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(3) Double-lined surface impoundments; exemption from WAC 173-303-645, ground water protection requirements.

(a) Except as provided in subsection (2)(a)(ii) of this section, the owner or operator of a double-lined surface impoundment is not subject to regulation under WAC 173-303-645 if the following conditions are met:

(i) The impoundment (including its underlying liners) must be located entirely above the seasonal high water table;

(ii) The impoundment must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) of this section;

(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and

(iv) A leachate detection, collection and removal system must be designed and operated to remove accumulated liquids from the system as quickly as possible so as to avoid unnecessary buildup of hydrostatic pressure in the system.

(b) If liquid leaks into the leak detection system, the owner or operator must:

(i) Notify the department of the leak in writing within seven days after detecting the leak; and

(ii)(A) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or

(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.

(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

(4) Monitoring and inspection.

(a) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from subsection (2)(a)(i) of this section) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of overtopping control systems;

(ii) Sudden drops in the level of the impoundment's contents;

(iii) The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section; and

(iv) Severe erosion or other signs of deterioration in dikes or other containment devices.

(c) Prior to the issuance of a permit, and after any extended period of time (at least six months) during which the impoundment was not in service, the owner or operator must obtain a certification from a qualified engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(i) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(ii) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

(5) Emergency repairs; contingency plans.

(a) A surface impoundment must be removed from service in accordance with (b) of this subsection when:

(i) Unexpected changes of liquid levels occur; or

(ii) The dike leaks.

(b) When a surface impoundment must be removed from service as required by (a) of this subsection, the owner or operator must:

(i) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(ii) Immediately contain any surface leakage which has occurred or is occurring;

(iii) Immediately stop the leak;

(iv) Take any other necessary steps to stop or prevent catastrophic failure;

(v) Empty the impoundment, if a leak cannot be stopped by any other means; and

(vi) Notify the department of the problem in writing within seven days after detecting the problem.

(c) As part of the contingency plan required in WAC 173-303-340 through 173-303-360, the owner or operator must specify:

(i) A procedure for complying with the requirements of (b) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; description of a schedule of actions to be taken in the event of a possible failure; and the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the impoundment to be removed from service.

(d) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(i) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with subsection (4)(c) of this section;

(ii) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(A) For any existing portion of the impoundment, a liner must be installed in compliance with subsection (2)(a)(i) or (3) of this section; and

(B) For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

(e) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired must be closed in accordance with the provisions of subsection (6) of this section.

(6) Closure and postclosure care.

(a) At closure, the owner or operator must:

(i) Remove or decontaminate all dangerous waste and dangerous waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with dangerous waste and leachate, and manage them as dangerous waste; or

(ii) If the surface impoundment will be closed as a landfill, except that this option is prohibited if EHW would remain in the closed unit(s):

(A) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(B) Stabilize remaining wastes to a bearing capacity sufficient to support a final cover; and

(C) Cover the surface impoundment with a final cover designed and constructed to:

(I) Provide long-term minimization of the migration of liquids through the closed impoundment with a material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present;

(II) Function with minimum maintenance;

(III) Promote drainage and minimize erosion or abrasion of the final cover; and

(IV) Accommodate settling and subsidence so that the cover's integrity is maintained.

(b) If some waste residues or contaminated materials are left in place at final closure (except that no EHW may ever be left in place), the owner or operator must comply with all postclosure requirements contained in WAC 173-303-610 (7), (8), (9), and (10), including maintenance and monitoring throughout the postclosure care period (specified in the permit). The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsection (3) of this section, where such a system is present between double liner systems;

(iii) Maintain and monitor the ground water monitoring system and comply with all applicable requirements of WAC 173-303-645; and

(iv) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(c)(i) If an owner or operator plans to close a surface impoundment in accordance with (a)(i) of this subsection, and the impoundment does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (2)(b) of this section, then:

(A) The closure plan for the impoundment under WAC 173-303-610(3) must include both a plan for complying with (a)(i) of this subsection, and a contingent plan for complying with (a)(ii) of this subsection in case not all contaminated subsoils can be practicably removed at closure; and

(B) The owner or operator must prepare a contingent postclosure plan under WAC 173-303-610(8) for complying with (b) of this subsection in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and postclosure care of an impoundment subject to (c) of this subsection must include the cost of complying with the contingent closure plan and the contingent postclosure plan, but are not required to include the cost of expected closure under (a)(i) of this subsection.

(d) During the postclosure care period, if liquids leak into a leak detection system installed under subsection (3) of this section, the owner or operator must notify the department of the leak in writing within seven days after detecting the leak. The department will then modify the permit to require compliance with applicable requirements of WAC 173-303-645, or, if so requested by the owner or operator, to require removal of all materials in accordance with (a)(i) of this subsection.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090; and

(ii) WAC 173-303-395 (1)(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(c) The surface impoundment is used solely for emergencies.

(8) Special requirements for incompatible wastes. Incompatible wastes and materials must not be placed in the same surface impoundment, unless WAC 173-303-395 (1)(b) is complied with.

(9) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) The wastes F020, F021, F022, F023, F026, or F027 must not be placed in a surface impoundment unless the owner or operator operates the surface impoundment in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this section. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

#### AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-800 PERMIT REQUIREMENTS FOR DANGEROUS WASTE MANAGEMENT FACILITIES. (1) The purpose of WAC 173-303-800 through 173-303-840 is to establish the requirements for permits which will allow a dangerous waste facility to operate without endangering the public health and the environment.

(2) The owner/operator of a dangerous waste facility that transfers, treats, stores, or disposes (TSD) or recycles dangerous waste shall, when required by this chapter, obtain a permit covering the active life, closure period, ground water protection compliance period, and for any regulated unit (as defined in WAC 173-303-040(75)), and for any facility which at closure does not meet the removal or decontamination limits of WAC 173-303-610 (2)(b), post-closure care period in accordance with WAC 173-303-800 through 173-303-840.

(3) TSD facility permits will be granted only if the objectives of the siting and performance standards set forth in WAC (~~(173-303-420)~~) 173-303-285 and (~~(173-303-430)~~) 173-303-286 are met.

(4) Permits shall be issued according to the requirements of all applicable TSD facility standards.

(5) The owner/operator of a TSD facility is responsible for obtaining all other applicable federal, state, and local permits authorizing the development and operation of the TSD facility.

(6) The terms used in regard to permits which are not defined in WAC 173-303-040 shall have the same meanings as set forth in 40 CFR 270.2.

#### AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-802 PERMITS BY RULE. (1) Purpose and applicability. This section provides for permit by rule for particular facilities and activities managing dangerous wastes, provided that certain conditions are met. These facilities, activities, and conditions are listed in this section. Owners and operators of facilities with permits by rule are not required to submit an application for a dangerous waste facility permit.

(2) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts dangerous waste for ocean disposal, shall have a permit by rule if the owner or operator:

(a) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. § 1420 et seq.);

(b) Complies with the conditions of that permit; and  
 (c) Complies with the following dangerous waste regulations:

- (i) WAC 173-303-060, notification and identification numbers;
- (ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;
- (iii) WAC 173-303-370, manifest system;
- (iv) WAC 173-303-380 (1)(a), operating record;
- (v) WAC 173-303-390(2), annual report; and
- (vi) WAC 173-303-390(1), unmanifested waste report.

(3) Underground injection wells. Underground injection wells with an underground injection control (UIC) permit for underground injection shall have a permit by rule if the owner or operator has a UIC permit issued by the department under a federally approved program for underground injection control, and complies with the conditions of the permit and requirements of 40 CFR 144.14 and applicable state waste discharge rules. All underground injection wells must comply with WAC 173-303-060, notification and identification numbers. However, underground injection wells disposing of EHW are prohibited.

(4) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts dangerous waste for treatment, shall have a permit by rule if the owner or operator:

- (a) Has a National Pollutant Discharge Elimination System (NPDES) permit;
- (b) Complies with the conditions of that permit;
- (c) Complies with the following regulations:
  - (i) WAC 173-303-060, notification and identification numbers;
  - (ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;
  - (iii) WAC 173-303-370, manifest system;
  - (iv) WAC 173-303-380 (1)(a), operating record;
  - (v) WAC 173-303-390(2), annual report; and
  - (vi) WAC 173-303-390(1), unmanifested waste reports;

(d) Accepts the waste only if it meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and

(e) Accepts no EHW for disposal at the POTW.

(5) Totally enclosed treatment facilities or elementary neutralization or wastewater treatment units.

(a) The owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit shall have a permit by rule, except as provided in (b) or (c) of this subsection, if he complies with:

- (i) WAC 173-303-060, notification and identification numbers;
- (ii) WAC 173-303-310, 173-303-350, 173-303-360, 173-303-370, 173-303-380 (1)(d), and 173-303-390 of the general facility standards; and
- (iii) WAC (~~173-303-430~~) 173-303-286, performance standards.

(b) A facility is not required to have a permit by rule under this subsection if the owner or operator can demonstrate to the department's satisfaction that:

- (i) The facility already has an existing permit (or permits) issued under federal, state or local authority (such as NPDES, state waste discharge, pretreatment, etc.); and
- (ii) The permit (or permits) include, either separately or jointly in the case of multiple permits, all requirements specified in (a) of this subsection.

(c) The department may require the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit subject to either (a) or (b) of this subsection to apply for and obtain a final facility permit in accordance with WAC 173-303-800 through 173-303-840, if:

- (i) The owner or operator violates the general facility or performance requirements specified in (a) of this subsection;
- (ii) The owner or operator is conducting other activities which require him to obtain a final facility permit;
- (iii) The department determines that the general facility or performance requirements specified in (a) of this subsection, are not sufficient to protect public health or the environment and that additional requirements under chapter 173-303 WAC are necessary to provide such protection; or
- (iv) The owner or operator does not comply with applicable local, state or federal requirements established pursuant to sections 402 or 307(b) of the Federal Clean Water Act, or chapter 90.48 RCW.

#### AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-805 INTERIM STATUS PERMITS. (1) Applicability. This section applies to all facilities eligible for an interim status permit. When a facility is owned by one person but is operated by another person, it is the operator's duty to qualify for interim status, except that the owner must also sign an interim status application. Prior to submittal of an interim status permit application the requirements of WAC 173-303-284 must be met.

(2) Failure to qualify for interim status. If the department has reason to believe upon examination of a Part A application that it fails to provide the required information, it shall notify the owner or operator in writing of the apparent deficiency. Such notice shall specify the grounds for the department's belief that the application is deficient. The owner or operator shall have thirty days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the department determines that the application is deficient it may take appropriate enforcement action.

(3) Interim status for facilities under RCRA interim status. Any existing facility operating under interim status gained under section 3005 of RCRA shall be deemed to have an interim status permit under chapter

173-303 WAC provided that the owner/operator complies with the applicable requirements of WAC 173-303-400 and this section.

(4) Interim status for facilities managing state-designated (non-RCRA) dangerous wastes. Any existing facility which does not satisfy subsection (3) of this section, but which is only managing dangerous wastes that are not hazardous wastes under 40 CFR Part 261, shall be deemed to have an interim status permit provided that the owner/operator of the facility has complied with the notification requirements of WAC 173-303-060 by May 11, 1982 and has submitted Part A of his permit application by August 9, 1982. If an existing facility becomes subject to this chapter due to amendments to this chapter and the facility was not previously subject to this chapter, then the owner/operator of an existing facility may qualify for an interim status permit by complying with the notification requirements of WAC 173-303-060 within three months, and submitting Part A of his permit application within six months, after the adoption date of the amendments which cause the facility to be subject to the requirements of this chapter. Facilities qualifying for interim status under this subsection shall not be deemed to have interim status under section 3005 of RCRA, and may only manage non-RCRA wastes until they either qualify separately for interim status under section 3005 of RCRA or receive a final status facility permit allowing them to manage RCRA wastes.

(5) Maintaining the interim status permit.

(a) Timely notification and submission of a Part A application qualifies the owner/operator of the existing TSD facility for the interim status permit, until the department terminates interim status pursuant to subsection (8) of this section.

(b) Interim status for the existing TSD facility shall be maintained while the department makes final administrative disposition of a final facility permit pursuant to WAC 173-303-806 if:

(i) The owner/operator has submitted his final facility permit application (as described in WAC 173-303-806) within six months of the written request by the department to submit such application; and

(ii) Grounds for terminating interim status (as described in subsection (8) of this section) do not exist.

(c) The owner/operator of an interim status facility must update his Part A whenever he is managing wastes that are newly regulated under this chapter, and as necessary to comply with subsection (7) of this section. Failure to comply with this updating requirement is a violation of interim status.

(6) Prohibitions for interim status permits. Facilities with an interim status permit shall not:

(a) Treat, store, or dispose of dangerous waste not specified in Part A of the permit application;

(b) Employ processes not specified in Part A of the permit application; or

(c) Exceed the design capacities specified in Part A of the permit application.

(7) Changes during interim status.

(a) Dangerous wastes not previously identified in Part A of the application may be treated, stored, or disposed

at a facility with interim status if the owner/operator submits to the department a revised Part A permit application prior to accepting the new dangerous wastes.

(b) Increases in the design capacity of processes used at a facility with interim status may be made if the owner or operator submits a revised Part A permit application prior to such a change (~~((along with a justification explaining the need for the change))), the requirements of WAC 173-303-284 are met~~ and the department approves the change because of a lack of available treatment, storage, or disposal capacity at other permitted TSD facilities.

(c) Changes in the processes for the treatment, storage, or disposal of dangerous waste may be made at a facility with interim status, or additional processes may be added if the owner or operator submits a revised Part A permit application prior to such changes (~~((along with a justification explaining the need for the change))), the requirements of WAC 173-303-284 are met~~ and the department approves the change because:

(i) It is necessary to prevent a threat to public health or the environment because of an emergency situation; or

(ii) It is necessary to comply with state, local, or federal regulations.

(d) Changes in the ownership or operational control of a facility with interim status may be made if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the interim status financial requirements of 40 CFR Part 265 subpart H (as referenced in WAC 173-303-400), until the new owner or operator has demonstrated to the department that he is complying with the financial requirements. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change in the ownership or operational control of the facility. All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with the interim status financial requirements, the department shall notify the old owner or operator in writing that he no longer needs to comply with the interim status financial requirements as of the date of demonstration.

(e) In no event shall changes be made to a TSD facility under the interim status permit which amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new TSD facility.

(f) Any revisions to an existing interim status permit must be made on the applicable Part A form(s), (forms 1 or 3 are available from the department). The owner and operator certification page must be signed and included with those sections completed.

(g) Demonstration zone. The authority provided under this subsection will allow the department to request additional information. Such additional information shall

be deemed necessary to ensure protection of public health and the environment when a facility expansion is proposed to be located within a demonstration zone. Information requests by the department under this subsection are not subject to justification and must be provided by the facility owner/operator. Owners or operators of existing interim status facilities applying for expansion may be required to submit additional detailed information as determined by the department on a case-by-case basis. Such information must address specific features of the environment and human populations in the vicinity of a proposed expansion and predict potential negative impacts on public health and the environment. The information submitted must also demonstrate to the department's satisfaction how those impacts, and any other impacts identified by the department, will be prevented or mitigated. The burden of proof for such demonstrations will be solely on the applicant. Such information may be required for facility expansions proposed to be located within a demonstration zone defined as:

(i) Any hazardous waste management facility proposed to be located within one-half mile of the property boundary of a designated municipal watershed for public water systems utilizing surface water as governed by WAC 248-54-225, Watershed control; or

(ii) Any landfill, land treatment, surface impoundment, waste pile or incineration facility proposing to locate within one-quarter mile of the boundary of a wetland, city or county park, recreation area, natural preserve or archaeological or historic area as defined under WAC 173-303-285 (5)(f).

(h) The information required under (g) of this subsection will be used by the department to determine if preventative or mitigative measures will be required, beyond those proposed by the facility owner or operator, regarding structural design, operation and maintenance procedures, monitoring and detection systems or other measures as the department deems necessary and reasonable to protect public health and the environment.

(i) In addition to the above approvals and requirements the owners and operators of interim status facilities proposing to expand after the effective date of these amendments and under the conditions described in subsection (7)(g) of this section must also apply for a Part B final facility permit application pursuant to WAC 173-303-806.

(8) Termination of interim status permit. The following are causes for terminating an interim status permit, or for denying a revised permit application:

(a) Final administrative disposition of a final facility permit application is made pursuant to WAC 173-303-806;

(b) When the department on examination or reexamination of a Part A application determines that it fails to meet the applicable standards of this chapter, it may notify the owner or operator that the application is deficient and that the interim status permit has been revoked. The owner or operator will then be subject to enforcement for operating without a permit;

(c) Failure to submit a requested Part B application on time, or to provide in full the information required in the Part B application; ((or))

(d) Violation of applicable interim status standards;

(e) A determination that the permit applicant has failed to demonstrate that the proposed facility expansion complies with the location standards of WAC 173-303-285; or

(f) A determination by the department that the permit applicant has not demonstrated to the department's satisfaction, as required under subsection (7)(g) of this section, that the proposed facility expansion will not result in significant adverse impacts on public health or the environment, or in failure to satisfy the performance standards of WAC 173-303-286.

(9) Special waste facilities. If the department determines, pursuant to WAC 173-303-550 through 173-303-560, that interim status standards can be reduced, the department will issue a notice of interim status modification stating what standards will be applied. Failure to comply with the conditions and standards as stated in the notice of modification or with the requirements of this section shall form a basis for revoking the notice. Upon revocation of the notice of interim status modification by the department, the owner or operator shall be subject to all of the requirements applicable to interim status dangerous waste management facilities. Before issuing the notice of modification, the department shall provide public notice of its intent, shall allow thirty days for public comment, and shall hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing shall be provided at least fifteen days in advance, and the public comment period shall be extended to include the date of the hearing if it will occur after the initial thirty-day comment period. Within fifteen days of the end of the public comment period the department shall, based on comments received, issue, modify and issue, or deny the notice of interim status modification.

#### AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-806 FINAL FACILITY PERMITS. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

- (a) Final status TSD facilities;
- (b) Special waste management facilities; and
- (c) Certain recycling facilities that are not exempt from the permit requirements.

(2) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must comply with WAC 173-303-284 and apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a

final facility permit shall complete, sign, and submit an application to the department. An application shall consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the permit is issued by the department. WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application shall consist of the information required in (a) through (h) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

(i) A general description of the facility.

(ii) Chemical, biological, and physical analyses of the dangerous waste to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.

(iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).

(iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640(4), 173-303-650(4), 173-303-660 (4) and (5), 173-303-665(4), and 173-303-670(7).

(vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340.

(vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640(8), 173-303-650(5) and 173-303-660(6).

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);

(B) Prevent run-off from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(C) Prevent contamination of water supplies;

(D) Mitigate effects of equipment failure and power outages; and

(E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing).

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Facility location information;

(A) ~~((In order to determine the applicability of the earthquake fault criteria (WAC 173-303-420(3)) the owner or operator of a new facility must identify the county in which the facility is proposed to be located.~~

~~(Comment: If the county is not listed in WAC 173-303-420 (3)(c), no further information is required to demonstrate compliance with WAC 173-303-420(3).)~~

~~(B) If) The facility ((is proposed to be located in a county listed in WAC 173-303-420 (3)(c), the)) owner or operator shall demonstrate compliance with the seismic standard WAC 173-303-285 (5)(a)(i). This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluating seismic activity. The information submitted must show that either:~~

~~(I) No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have displacement in Holocene time) within three thousand feet of a facility are present, based on data from: Published geologic studies; aerial reconnaissance of the area within a five-mile radius from the facility; an analysis of aerial photographs covering a three thousand foot radius of the facility; and if needed to clarify the above data, a reconnaissance based on walking portions of the area within three thousand feet of the facility; or~~

~~(II) If faults (to include lineations) which have had displacement in Holocene time are present within three thousand feet of a facility, no faults pass within two~~

hundred feet of the portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within two hundred feet of such portions of the facility data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than two hundred feet from portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within three thousand feet of the portions of the facility where treatment, storage, or disposal of dangerous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of faults found.

~~((E))~~ (B) Owners and operators of all facilities shall provide an identification of whether the facility is located within a one hundred-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the one hundred-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a one hundred-year flood.

(Comment: Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the one hundred-year floodplain. However, if the FIA map excludes an area (usually areas of the floodplain less than two hundred feet in width), these areas must be considered and a determination made as to whether they are in the one hundred-year floodplain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the one hundred-year floodplain, and if so located, what the one hundred-year flood elevation would be.)

~~((D))~~ (C) Owners and operators of facilities located in the one hundred-year floodplain must provide the following information:

(I) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as the consequence of a one hundred-year flood;

(II) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;

(III) If applicable, and in lieu of (a)(xi)(D)(I) and (II) of this subsection, a detailed description of procedures to be followed to remove dangerous waste to safety before the facility is flooded, including: Timing of such movement relative to flood levels, including estimated

time to move the waste, to show that such movement can be completed before floodwaters reach the facility; a description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive dangerous waste in accordance with the regulations under this chapter; the planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and the potential for accidental discharges of the waste during movement.

~~((E)) Existing facilities not in compliance with WAC 173-303-420(4) shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.~~

(F)) (D) Owners and operators of all facilities shall provide all information necessary to demonstrate compliance with the shoreline siting standards of WAC ~~((173-303-420(5)))~~ 173-303-285 (5)(f)(iii).

~~((G))~~ (E) The owner or operator of a new disposal facility must provide all information necessary to demonstrate compliance with the sole source aquifer siting standards of WAC ~~((173-303-420(6)))~~ 173-303-285 (5)(d)(ii).

(F) The owner or operator of a new disposal facility must provide all information necessary to demonstrate compliance with all other siting standards of WAC 173-303-285.

(G) Demonstration zone. The authority provided under this subsection will allow the department to request additional information during review of an application for completeness under WAC 173-303-840. Such additional information shall be deemed necessary to ensure protection of public health and the environment when a facility is proposed to be located within a demonstration zone. Information requests by the department under this subsection are not subject to justification and must be provided by the facility owner/operator. The department may request additional detailed information of facility owners or operators to ensure compliance with WAC 173-303-285, Location standards and 173-303-286, Performance standards. The content and extent of such information requests shall be determined on a case-by-case basis and may extend beyond design and operation specifications set forth in this chapter. The additional information submitted must address specific features of the environment and human populations in the vicinity of a proposed facility and predict potential negative impacts on public health and the environment due to natural or man-made hazards regarding that facility. The information submitted must also demonstrate to the department's satisfaction how those impacts, and any other impacts identified by the department, will be prevented or mitigated. The burden of proof for such demonstrations will be solely on the applicant. Such information may be required for facilities proposed to be located within a demonstration zone defined as:

(I) Any hazardous waste management facility proposed to be located within one-half mile of the property boundary of a designated municipal watershed for public water systems utilizing surface water as governed by WAC 248-54-225, Watershed control; or

(II) Any landfill, land treatment, surface impoundment, waste pile or incineration facility proposing to locate within one-quarter mile of the boundary of a wetland, city or county park, recreation area, natural preserve, archaeological or historic area as defined under WAC 173-303-285 (5)(f).

(H) The information required under (a)(G) of this subsection will be used by the department to determine if preventative or mitigative measures will be required, beyond those proposed by the facility owner or operator, regarding structural design, operation and maintenance procedures, monitoring and detection systems or other measures as the department deems necessary and reasonable to protect public health and the environment.

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the postclosure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), and 173-303-665(6).

(xiv) For dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) and a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent postclosure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620 (8)(a) and, if applicable, WAC 173-303-620 (8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620 (8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of

surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

- (A) Map scale and date;
  - (B) One hundred-year floodplain area;
  - (C) Surface waters including intermittent streams;
  - (D) Surrounding land uses (residential, commercial, agricultural, recreational);
  - (E) A wind rose (i.e., prevailing windspeed and direction);
  - (F) Orientation of the map (north arrow);
  - (G) Legal boundaries of the TSD facility site;
  - (H) Access control (fences, gates);
  - (I) Injection and withdrawal wells both on-site and off-site;
  - (J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);
  - (K) Barriers for drainage or flood control; and
  - (L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).
- (Note – For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)
- (xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste surface impoundments, waste piles, land treatment units, and landfills except as otherwise provided in WAC 173-303-645 (1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in WAC 173-303-9905, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645(9)(h)(v). To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:

(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken; and

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration

of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable; and

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c).

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) References to design standards or other available information used (or to be used) in design and construction of the tank;

(ii) A description of design specifications including identification of construction materials and lining materials (include pertinent characteristics such as corrosion or erosion resistance);

(iii) Tank dimensions, capacity, and the basis for selecting shell thickness, certified by a licensed professional engineer;

(iv) A diagram of piping, instrumentation, and process flow;

(v) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(vi) Description of procedures for handling incompatible ignitable, or reactive wastes, including the use of buffer zones;

(vii) A description of the containment system to demonstrate compliance with WAC 173-303-640 (2)(b) and, where applicable, WAC 173-303-640(8). Show at least the following:

(A) Drawings and a description of the basic design parameters, dimensions, and materials of construction of the containment system;

(B) Capacity of the containment system relative to the design capacity of the tank(s) within the system;

(C) Description of the system to detect leaks and spills, and how precipitation and run-on will be prevented from entering into the detection system;

(viii) A description of the marking and/or labeling of tanks; and

(ix) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in

surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-650(2). This submission must address the following items as specified in WAC 173-303-650(2):

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping; and

(C) Structural integrity of dikes;

(iii) If any exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-650(3), detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment, and the design of a double-liner system that incorporates a leak detection system between the liners;

(iv) A description of how each surface impoundment, including the liner and cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a) and (b). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the postclosure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment,

an explanation of how WAC 173-303-650(8) will be complied with; and

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9).

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(2). This submission must address the following items as specified in WAC 173-303-660(2):

(A) The liner system (except for an existing portion of a pile), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), the owner or operator must submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding units associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) If an exemption from WAC 173-303-645 is sought as provided by WAC 173-303-660 (3) or (4), submit detailed plans and an engineering report describing how the requirements of WAC 173-303-660 (3)(a) or (4)(a) will be complied with;

(v) A description of how each waste pile, including the liner and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the postclosure plan submitted under (a)(xiii) of this subsection;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(10).

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are

present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110(3), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110(3); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

(I) Incinerator ash residues, if any; and

(II) Residues from the air pollution control devices.

(iv) The department shall approve a permit application without a trial burn if the department finds that:

(A) The wastes are sufficiently similar; and

(B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

(A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;

(B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including:

(I) The type of test (e.g., column leaching, degradation);

(II) Materials and methods, including analytical procedures;

(III) Expected time for completion; and

(IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment

demonstration. The land treatment program must address the following items:

- (A) The wastes to be land treated;
- (B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:
  - (I) Waste application method and rate;
  - (II) Measures to control soil pH;
  - (III) Enhancement of microbial or chemical reactions; and
  - (IV) Control of moisture content;
- (C) Provisions for unsaturated zone monitoring, including:
  - (I) Sampling equipment, procedures, and frequency;
  - (II) Procedures for selecting sampling locations;
  - (III) Analytical procedures;
  - (IV) Chain of custody control;
  - (V) Procedures for establishing background values;
  - (VI) Statistical methods for interpreting results; and
  - (VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);
- (D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;
- (E) The proposed dimensions of the treatment zone;
- (iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:
  - (A) Control of run-on;
  - (B) Collection and control of run-off;
  - (C) Minimization of run-off of dangerous constituents from the treatment zone;
  - (D) Management of collection and holding facilities associated with run-on and run-off control systems;
  - (E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and
  - (F) Control of wind dispersal of particulate matter, if applicable;
- (iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:
  - (A) Characteristics of the food-chain crop for which the demonstration will be made;
  - (B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;
  - (C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;
  - (D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and
  - (E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the postclosure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the postclosure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12).

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information;

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is or will be designed, constructed, operated and maintained to comply with the requirements of WAC 173-303-665(2). This submission must address the following items as specified in WAC 173-303-665(2):

(A) The liner system and leachate collection and removal system (except for an existing portion of a landfill), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding facilities associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) If an exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-665(3), the owner or operator must submit detailed plans and an engineering report explaining the location of the saturated zone in relation to the landfill, the design of a double-liner system that incorporates a leak detection system between the liners, and a leachate collection and removal system above the liners;

(iv) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of WAC 173-303-665(4). This

information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and postclosure plans submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be landfilled, an explanation of how the standards of WAC 173-303-665(7) will be complied with;

(vii) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(8) will be complied with;

(viii) If bulk of noncontainerized liquid waste or wastes containing free liquids is to be landfilled, an explanation of how the requirements of WAC 173-303-665(9) will be complied with;

(ix) If containers of dangerous waste are to be landfilled, an explanation of how the requirements of WAC 173-303-665(10) will be complied with; and

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-665(11).

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after complying with WAC 173-303-284, submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit shall submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department shall not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity.

(9) Recordkeeping. Applicants shall keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits shall contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits shall be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit shall not be extended beyond ten years, unless otherwise authorized under WAC 173-303-806(7).

(12) Grounds for termination. The following are causes for terminating a final facility permit during its term, or for denying a permit (~~renewal~~) application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; (~~or~~)

(c) A determination that the permitted activity endangers public health or the environment and the hazard can only be controlled by permit modification or termination;

(d) A determination that the permit applicant has failed to demonstrate that the proposed facility complies with the location standards of WAC 173-303-285; or

(e) A determination by the department that the permit applicant has not demonstrated to the department's satisfaction, as required under subsection (4)(a)(xi)(G) of this section, that a facility at the proposed location will not result in significant adverse impacts on public health or the environment, or in failure to satisfy the performance standards of WAC 173-303-286.

(13) Permit changes. All final facility permits shall be subject to the requirements of permit changes, WAC 173-303-830.

(14) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(15) Other requirements for final special waste and recycling facility permits. In lieu of issuing a final special waste or recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit

already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-525 for recycling facilities or WAC 173-303-550 through 173-303-560 for special waste facilities.

**NEW SECTION**

**WAC 173-303-901 RESPONSE TO REQUESTS FOR PUBLIC RECORDS.** RCW 42.17.320 requires that the department, when responding to requests for public records make such responses "promptly". The department often receives requests, submitted pursuant to chapter 42.17 RCW, for public records that exist because of the requirements of or actions mandated by this chapter (such public records are referred to as dangerous waste records). When the department receives requests for such dangerous waste records, then the department shall respond promptly, as required by RCW 42.17.320, and in no event will the response occur later than twenty working days after receipt of the public request submitted pursuant to chapter 42.17 RCW.

**WSR 88-07-040  
PROPOSED RULES  
DEPARTMENT OF PERSONNEL  
(Personnel Board)  
[Filed March 11, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning disciplinary action, new WAC 356-05-123;

that the agency will at 10:00 a.m., Thursday, April 14, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, 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 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 12, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-06-014 filed with the code reviser's office on February 23, 1988.

Dated: March 11, 1988  
By: Leonard Nord  
Secretary

**WSR 88-07-041  
PROPOSED RULES  
DEPARTMENT OF PERSONNEL  
(Personnel Board)  
[Filed March 11, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning:

- New WAC 356-05-311 Productivity award leave.
- New WAC 356-18-114 Productivity award leave;

that the agency will at 10:00 a.m., Thursday, April 14, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, 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 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 12, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-04-032 filed with the code reviser's office on January 27, 1988.

Dated: March 11, 1988  
By: Leonard Nord  
Secretary

**WSR 88-07-042  
PROPOSED RULES  
DEPARTMENT OF PERSONNEL  
(Personnel Board)  
[Filed March 11, 1988]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning hours of work, amending WAC 356-15-085;

that the agency will at 10:00 a.m., Thursday, April 14, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, 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 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 12, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-04-035 filed with the code reviser's office on January 27, 1988.

Dated: March 11, 1988  
By: Leonard Nord  
Secretary

**WSR 88-07-043**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
 [Filed March 11, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning:

- Amd WAC 356-42-020 Determination of bargaining unit.
- New WAC 356-42-042 Election provision—General.
- Amd WAC 356-42-043 Union shop requirements.
- Amd WAC 356-42-045 Union shop elections.
- New WAC 356-42-049 Disclaimer of interest petition—Decertification of exclusive representative.
- Amd WAC 356-42-055 Arbitration—Grievance—Procedure.
- Amd WAC 356-42-082 Filing unfair labor practice charge.
- Amd WAC 356-42-084 Answer to complaint—Unfair labor practice.
- New WAC 356-42-105 Requests for mediation and arbitration.
- Amd WAC 356-42-020 Determination of bargaining unit.
- Amd WAC 356-42-082 Filing unfair labor practice charge.
- Amd WAC 356-42-084 Answer to complaint—Unfair labor practice;

that the agency will at 10:00 a.m., Thursday, April 14, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, 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 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 12, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-01-073 filed with the code reviser's office on December 18, 1987.

Dated: March 11, 1988  
 By: Leonard Nord  
 Secretary

**WSR 88-07-044**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
 [Filed March 11, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Personnel Board intends to adopt, amend, or repeal rules concerning:

- Rep WAC 356-05-450 Union shop.
- Rep WAC 356-05-455 Union shop fee.
- Rep WAC 356-05-460 Union shop representative.
- New WAC 356-05-451 Agency shop.
- New WAC 356-05-452 Agency shop representative.
- New WAC 356-05-456 Agency shop nonassociation fee.
- New WAC 356-05-461 Agency shop representation fee.
- Amd WAC 356-42-010 Membership in employee organization.
- Amd WAC 356-42-043 Union shop requirements.

- Amd WAC 356-42-045 Union shop elections.
- Amd WAC 356-42-047 Union shop decertification.
- Amd WAC 356-42-050 Contents of written agreements.
- Amd WAC 356-42-060 Unfair labor practices for management.
- Amd WAC 356-42-070 Unfair labor practices for employee organizations;

that the agency will at 10:00 a.m., Thursday, April 14, 1988, in the Board Hearings Room, Department of Personnel, 600 South Franklin, 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 41.06.040.

The specific statute these rules are intended to implement is RCW 41.06.150.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 12, 1988.

This notice is connected to and continues the matter in Notice No. WSR 88-01-072 filed with the code reviser's office on December 18, 1987.

Dated: March 11, 1988  
 By: Leonard Nord  
 Secretary

**WSR 88-07-045**  
**ADOPTED RULES**  
**DEPARTMENT OF PERSONNEL**  
**(Personnel Board)**  
 [Order 296—Filed March 11, 1988]

Be it resolved by the State Personnel Board, acting at the Department of Personnel Board Hearings Room, 600 South Franklin, Olympia, WA, that it does adopt the annexed rules relating to military training leave—Paid, repealing WAC 356-18-130.

This action is taken pursuant to Notice No. WSR 88-04-065 filed with the code reviser on February 2, 1988. 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 41.06.150 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 March 10, 1988.

By Leonard Nord  
 Secretary

**REPEALER**

WAC 356-18-130 MILITARY TRAINING LEAVE—PAID.

## WSR 88-07-046

## ADOPTED RULES

DEPARTMENT OF PERSONNEL  
(Personnel Board)

[Order 297—Filed March 11, 1988—Eff. May 1, 1988]

Be it resolved by the State Personnel Board, acting at the Department of Personnel Board Hearings Room, 600 South Franklin, Olympia, WA, that it does adopt the annexed rules relating to miscellaneous leave, amending WAC 356-18-120.

This action is taken pursuant to Notice No. WSR 88-04-034 filed with the code reviser on January 27, 1988. These rules shall take effect at a later date, such date being May 1, 1988.

This rule is promulgated pursuant to RCW 41.06.150 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 March 10, 1988.

By Leonard Nord  
SecretaryAMENDATORY SECTION (Amending Order 253, filed 7/1/86, effective 8/1/86)

## WAC 356-18-120 MISCELLANEOUS LEAVE.

(1) Leave with pay may be allowed to permit an employee to take an examination for a state position, receive assessment from the employee advisory service, serve as a member of a jury, or perform other civil duties.

(2) Employees who receive compensation for performing civil duties during working hours shall retain ~~((their regular salary but the amount of such additional compensation up to the amount of the employee's basic salary shall be returned or credited back to the agency. The employees shall retain travel reimbursement, and per diem, if any))~~ the amount compensated and any travel reimbursement and per diem. The salary or wages of an employee receiving compensation for civil duties shall be reduced by an amount equal to the civil duty pay excluding that amount designated as travel reimbursement or per diem. Employees receiving such compensation shall provide their agency with documentation showing the amount of civil duty pay.

## WSR 88-07-047

## ADOPTED RULES

DEPARTMENT OF LICENSING  
(Board of Optometry)

[Order PM 710—Filed March 11, 1988]

Be it resolved by the Board of Optometry, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

Amd	WAC 308-53-010	Renewal of licenses.
Amd	WAC 308-53-030	Temporary permit policy.
Amd	WAC 308-53-100	Continuing education requirement.
Amd	WAC 308-53-120	Courses presumed to qualify for credit.
Amd	WAC 308-53-145	Credit for reports.
Amd	WAC 308-53-170	Surplus credit hours.

This action is taken pursuant to Notice No. WSR 88-03-071 filed with the code reviser on January 20, 1988. 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 18.54.070 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 18.54.070 which directs that the Board of Optometry has authority to implement the provisions of chapter 18.54 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 February 26, 1988.

By Jack R. Hale  
ChairmanAMENDATORY SECTION (Amending Order PL 239, filed 3/3/76)

## WAC 308-53-010 RENEWAL OF LICENSES.

(1) The annual license renewal date for licensed optometrists ~~((is hereby changed to))~~ coincides with the licensee's birthdate. Individuals making application for initial license and examination, provided they meet all such requirements, will be issued a license, to expire on their next birth anniversary date.

(2) ~~((After the initial conversion to a staggered system;))~~ Licensees ~~((may))~~ shall renew their licenses, at the annual renewal fee rate, for one year, from birth anniversary date to the next birth anniversary date.

(3) ~~((In the event of failure to pay the renewal fee, the director shall mail a notice of such suspension to the last known post office address of the holder between the first and fifth days of each of the three succeeding months following the due date of the renewal fee, and if the fee is not paid by the first of the fourth month following the month of renewal, the director may declare the certificate revoked and immediately notify the county clerk of the county in which the certificate is recorded, and the clerk shall mark his records accordingly.~~

~~((4))~~ All applicants for license renewal must comply with the continuing education requirements set forth in WAC 308-53-100 to 308-53-180.

AMENDATORY SECTION (Amending Order PL 465, filed 4/18/84)

WAC 308-53-030 TEMPORARY PERMIT ~~((RECOMMENDATION))~~ POLICY RECOMMENDATION. To protect the public, the board recommends to the director that temporary permits not be issued

~~((under the director's discretion))~~ pursuant to the discretion granted in RCW 18.53.030. However, if a temporary permit is issued the board recommends that the applicant must be under the direct and immediate supervision of a currently licensed optometrist who is at all times on the same premises.

**AMENDATORY SECTION** (Amending Order PL 326, filed 12/28/79)

WAC 308-53-100 CONTINUING EDUCATION REQUIREMENT. Each applicant for renewal of a license to practice optometry in the state of Washington must have completed ~~((thirty))~~ fifty hours of continuing education within the two years previous to his first renewal date ~~((on or after January 1, 1979))~~, and must complete ~~((thirty hours of continuing education within each successive two-year period. For example, an individual with a renewal date of January 3, 1979, must have completed thirty credit hours of continuing education within the period beginning January 3, 1977, and ending January 2, 1979. On his renewal date of January 3, 1980, he will be eligible for renewal regardless of the number of continuing education credit hours he has accumulated since January 3, 1979. PROVIDED, That he meets all other requirements for renewal, but then to be eligible for license renewal on January 3, 1981, he must have completed an additional thirty credit hours of continuing education within the period beginning January 3, 1979, and ending January 2, 1981, and so on for as long as he continues to practice. PROVIDED, HOWEVER, That each applicant for renewal of a license to practice optometry in the state of Washington must have completed fifty hours of continuing education within the two years previous to his first renewal date on or after January 1, 1985, and must complete))~~ fifty hours of continuing education within each successive two-year period. Applicants for renewal practicing only out of the state of Washington may petition the board for full recognition of the continuing education requirement through fulfillment of their state of practice's licensing and continuing education requirements. Failure to complete this requirement is cause for revocation of the license of any optometrist pursuant to RCW ~~((18.53.100(14)))~~ 18.130.180(7), or for refusal to renew the license of any optometrist, except that an optometrist applying for the first renewal of his license subsequent to his initial licensing will be exempt from this requirement.

**AMENDATORY SECTION** (Amending Order PL 465, filed 4/18/84)

WAC 308-53-120 COURSES PRESUMED TO QUALIFY FOR CREDIT. Courses offered by the organizations listed in this section will be presumed to qualify as continuing education courses without specific prior approval of the board ~~((of it))~~, but the board reserves the authority to refuse to accept credits in any course if the board determines that the course did not provide information or training sufficient in amount or relevancy. Organizations for the purposes of this section shall include:

- (1) The American Optometric Association.
- (2) Any college or school of optometry whose scholastic standards are deemed sufficient by the board under RCW 18.53.060(2).
- (3) The Washington Optometric Association.
- (4) Any state optometric association which is recognized by the licensing authority of its state as a qualified professional association or educational organization.
- (5) The state optometry board.
- (6) The optometry licensing authority of any other state.
- (7) The American Academy of Optometry.
- (8) The Optometric Extension Program.
- (9) The College of Optometrists and Visual Development.
- (10) The National Eye Research Foundation.
- (11) Regional congresses of any of the organizations listed in subsections (1) through (10) of this section.
- ~~((12) The Commission on Continuing Optometric Education of the American Optometric Association, category one courses.))~~

**AMENDATORY SECTION** (Amending Order PL 331, filed 3/21/80)

WAC 308-53-145 CREDIT FOR REPORTS. Continuing education credit may be given for reports on professional optometric literature. Such report shall list ten descriptive basic statements from ~~((an article(s) or sequence of articles))~~ each article for each hour of credit. Such report shall be submitted typewritten to the department of licensing, professional licensing division in Olympia. Professional literature approved for such reports are: American Journal of Optometry and Physiological Optics, American Optometric Association News, Contact Lens Forum, Contacto, Insight, International Contact Lens Clinic, Journal of American Optometric Association, Journal on Optometric Education, Journal of Optometric Vision Development, OEP Monthly, Optometric Management, Optometric Monthly, Optometric World, Review of Optometry, 20/20 Magazine. Other professional literature may be submitted in advance for the board's consideration and approval. Literature utilized shall not be issuance dated over two years on the date of submission of the report for credit. Reports shall list the title of the article(s), literature that the article(s) was taken from, the date of issuance/publication of the literature, page(s) utilized, and author(s). A copy of the article utilized shall be submitted whenever possible.

The combined maximum continuing education credit that may be granted under this section and WAC 308-53-146 is twenty percent for every two-year requirement period.

**AMENDATORY SECTION** (Amending Order PL 239, filed 3/3/76)

WAC 308-53-170 SURPLUS CREDIT HOURS. Continuing education credits in excess of the required hours earned in any renewal period may not be carried forward to a subsequent ~~((renewal))~~ reporting period.

**WSR 88-07-048****NOTICE OF PUBLIC MEETINGS  
COMMISSION ON HISPANIC AFFAIRS**

[Memorandum—March 9, 1988]

The following are meeting sites for the Commission on Hispanic Affairs:

April 9, 1988	Spokane
June 11, 1988	Bellingham
August 13, 1988	Moses Lake
September 17, 1988	Yakima
December 10, 1988	Olympia

**WSR 88-07-049****ADOPTED RULES  
DEPARTMENT OF LICENSING  
(Board of Nursing)**

[Order PM 717—Filed March 14, 1988]

Be it resolved by the Washington State Board of Nursing, acting at Spokane, Washington, that it does adopt the annexed rules relating to application requirements for ARNP, WAC 308-120-335.

This action is taken pursuant to Notice No. WSR 88-01-102 filed with the code reviser on December 22, 1987. 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 18.88.030(2), 18.88.080, 18.88.086, 18.88.140 and 18.130.050 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 March 4, 1988.

By Margaret Auld Bruya, D.N.S., R.N.  
Chair

**AMENDATORY SECTION** (Amending Order PL 569, filed 11/26/85)

WAC 308-120-335 APPLICATION REQUIREMENTS FOR ARNP. A registered nurse applicant for designation as an ARNP shall:

(1) After January 1, (~~(1990)~~) 1995 show evidence of a master's degree in the nursing or health care field from an accredited college or university, except for those applicants who provide documentation as requested by the board that the applicant was:

(a) Certified by a board approved national certification program prior to December 31, (~~(1989)~~) 1994; and

(b) Recognized by another state board of nursing for advanced practice prior to December 31, (~~(1989)~~) 1994.

(2) Meet the requirements of WAC 308-120-300.

(3) Submit a completed application on a form furnished by the board.

(4) Submit evidence of certification by a certification program approved by the board.

(5) Submit a nonrefundable fee as specified in WAC 308-120-275.

**WSR 88-07-050****BOARD ON GEOGRAPHIC NAMES**

[Order 88-1—Filed March 14, 1988]

**ABERNETHY CREEK:** Stream, 16.09 km (10 mi) long, heads at 46°18'38"N, 123°13'20"W, flows S to its confluence with the Columbia River; Cowlitz and Wahkiakum Cos., WA; starts in the NE 1/4 of sec. 31, T 10 N, R 4 W and in sec. 10, T 8 N, R 4 W, W.M.; 46°11'30"N, 123°10'00"W (ending). Approved 6-12-87.

**ACKERMAN ISLAND:** Island, 1.6 km (1 mi) long in the Columbia River, 332 m (0.2 mi) off NE end of Government Island and 4.5 km (2.8 mi) WSW of Camas; Clark Co., WA; sec. 16 and 17, T 1 N, R 3 E, W.M.; 45°34'27"N, 122°27'30"W. Approved 9-13-85.

**ANT MOUNTAIN:** Small mountain, elevation 1.0 km (3,300 ft), W of Franklin D. Roosevelt Lake; Ferry Co., WA; secs. 5, 6, 7, 8, T 34 N, R 36 E, W.M.; 48°28'56"N, 118°17'47"W. Approved 6-13-86.

**ARGONAUT PEAK:** Peak, elevation 2.58 km (8,453 ft) located 3.14 km (1.95 mi) ESE of Mount Stuart, in the Alpine Lakes Wilderness Area; Chelan Co., WA; sec. 21, T 23 N, R 16 E, W.M.; 47°28'13"N, 120°51'38"W. Approved 12-13-85.

**ASGARD PASS:** Pass, elevation 728 m (2,390 ft), in the Cascade Mountains, N of Isolation Lake and 1.6 km (1 mi) SE of Colchuck Lake; Chelan Co., WA; sec. 15, T 23 N, R 16 E, W.M.; 47°28'45"N, 120°49'15"W. Approved 3-14-86.

**ASHTON CREEK:** Stream, about 6.4 km (4 mi) long heading in the SE corner of sec. 29, T 32 N, R 9 E, W.M.; and flowing almost due N to enter Squire Creek at Squire Creek Park, 402 m (0.25 mi) downstream from where Highway 530 crosses Squire Creek. This feature is in the Mount Baker National Forest; Snohomish Co., WA; 48°16'20"N, 121°40'30"W (ending), 48°13'35"N, 121°40'06"W (heading). Approved 12-11-87.

**BAGLEY CREEK:** Stream, 4.8 km (3 mi) flowing NE approximately 3 mi heading at the SE base of Mount Hermann where it joins the North Fork Nooksack River. Feature is in Mount Baker National Forest; Whatcom Co., WA; 48°53'40"N, 121°40'00"W (ending), 48°51'49"N, 121°41'40"W (heading). Approved 12-11-87.

**BALD EAGLE PEAK:** Peak, in the Cascade Mountains, 563 m (0.35 mi) NE of Bald Eagle Lake, in the Alpine Lakes Wilderness Area; King Co., WA; sec. 33, T 25 N, R 12 E, W.M.; 47°34'36"N, 121°16'46"W. Approved 3-8-85.

- BARLOW POINT:** Peak, 982 m elevation (3,222 ft), in the Cascade Mountains, 1.1 km (0.7 mi) due N of Barlow Pass, 2.25 km (1.4 mi) NW of Sheep Mountain, in the Mount Baker National Forest; Snohomish Co., WA; sec. 6, T 29 N, R 11 E, W.M.; 48°02'13"N, 121°24'03"W. Approved 9-13-85.
- BARNABY ISLAND:** Island, 1.6 km (1 mi) N of Barnaby Creek in the Columbia River. The island is about 305 m (1,000 ft) long and 152 m (500 ft) wide; Ferry Co., WA; sec. 13, T 34 N, R 36 E, W.M.; 48°26'45"N, 118°12'47"W. Approved 6-14-85.
- BASIN CITY:** Town, located in northern Franklin County approximately 40.3 km (25 mi) N of Pasco, 29 km (18 mi) S of Othello, 9.7 km (6 mi) W of Mesa, and 32.2 km (20 mi) WSW of Connell; Franklin Co., WA; sec. 23, T 13 N, R 29 E, W.M.; 46°35'39"N, 119°09'07"W. Approved 3-8-85.
- BEAN CANYON:** Canyon, approximately 6.4 km (4 mi) long; Lincoln Co., WA; trending SW in sec. 9 and 30, T 27 N, R 36 E, W.M.; 47°48'53"N, 118°18'57"W (ending), 47°51'18"N, 118°16'43"W (heading). Approved 6-14-85.
- BEAVER CREEK:** Creek, 4.0 km (2.5 mi) long, heads in sec. 18, T 5 N, R 10 E, W.M.; flows N to join Cave Creek in sec. 32, T 6 N, R 10 E, W.M.; Klickitat Co., WA; 45°55'38"N, 121°35'53"W (heading), 45°57'24"N, 121°35'22"W (ending). Approved 12-9-83.
- BEEKS SPRING:** Spring, 2.78 km (2 mi) E of Satus Pass; Klickitat Co., WA; sec. 30, T 6 N, R 18 E, W.M.; 45°58'57"N, 120°36'46"W. Approved 12-9-83.
- BERRY CREEK:** Stream, 1.5 km (0.9 mi) long; Skamania Co., WA; in secs. 3, 10, T 4 N, R 9 E, W.M.; flows SE to join Little White Salmon River; 45°51'14"N, 121°39'03"W (ending), 45°51'46"N, 121°39'38"W (heading). Approved 12-9-83.
- BETH LAKE:** Lake, 0.12 km<sup>2</sup> (approx. 30 acres), its approximate center is near the S/16 corner between secs. 23 and 24, T 39 N, R 30 E, W.M.; in the Okanogan National Forest; a campground on its shores is maintained by the U.S. Forest Service and is named Beth Lake Campground; Okanogan Co., WA; 48°52'00"N, 118°59'00"W. Approved 3-13-87.
- BEUSCH LAKE:** Lake, located on that branch of Summit Creek which heads in Dumbbell Lake in Cowlitz Pass. It is about 804 m (0.5 mi) W of Dumbbell Lake, 6 km (3.75 mi) N from White Pass, or 22.5 km (14 mi) ENE of Packwood; Lewis Co., WA; sec. 23, T 14 N, R 11 E, W.M.; 46°41'37"N, 121°23'42"W. Approved 12-12-86.
- BLIZZARD PASS:** Pass, in Olympic National Park, on the SE slope of Mount Olympus between Hoh and Humes Glaciers; Jefferson Co., WA; 47°47'20"N, 123°40'00"W. Approved 3-14-86.
- BLOODGOOD CREEK:** Stream, 4 km (2.5 mi) long, heads at Bloodgood Spring in the NW 1/4 of sec. 8, T 4 N, R 16 E, W.M.; flows S to Little Klickitat River 1.3 km (0.8 mi) WNW of Goldendale; Klickitat Co., WA; 45°49'29"N, 120°50'08"W. Approved 12-14-85.
- BLOODGOOD SPRING:** Spring, at the head of Bloodgood Creek, 3.86 km (2.4 mi) NNW of Goldendale; Klickitat Co.; WA; sec. 8, T 4 N, R 16 E, W.M.; 45°51'11"N, 120°49'57"W. Approved 12-14-85.
- BOLSTER CREEK:** Creek, flowing generally NW to the confluence of Myers Creek, near the site of Bolster; Okanogan Co., WA; heading in SE 1/4 sec. 23, T 40 N, R 30 E, W.M.; 48°58'22"N, 119°01'14"W (ending), 48°57'02"N, 118°59'06"W (heading). Approved 3-13-87.
- BOURGEAU LAKE:** Lake, approximately 804 m (0.5 mi) long and 402 m (0.25 mi) wide; 8.0 km (5 mi) S of Inchelium, 2.25 km (1.4 mi) NW of the W shore of Franklin D. Roosevelt Lake, 804 m (0.5 mi) N of Stray Dog Canyon; Ferry Co., WA; sec. 36, T 32 N, R 36 E, W.M.; 48°13'50"N, 118°12'55"W. Approved 6-14-85.
- BOWERMAN BASIN:** Estuary, 3.1 km (1.9 mi) W of Hoquiam, on the NE side of county; Grays Harbor County, WA; 46°58'42"N, 123°55'57"W. Approved 6-14-85.
- BRETLAND:** Place, described as Lot 3, containing 0.19 km<sup>2</sup> (47.5 acres) with approximately 0.5 km (1,650 ft) of shoreline, located on the eastern shore of Camano Island facing Port Susan, approximately 4.7 km (2.9 mi) from Kayak Point; Island Co., WA; sec. 4, T 30 N, R 3 E, W.M., 48°07'26"N, 122°25'37"W. Approved 3-13-87.
- BROCK CREEK:** Creek, that starts near the N section line of sec. 4, T 8 N, R 3 W, W.M.; and proceeds through secs. 3, 4 and 10 until flowing into Harmony Creek. Length of creek is slightly more than 2.78 km (2+ mi). The creek generally flows in a southerly direction and parallels Eufaula Heights Road; Cowlitz Co., WA; 46°10'55"N, 123°03'34"W (heading), 46°11'42"N, 123°02'56"W (ending). Approved 6-12-87.
- CALAMITY PEAK:** Mountain, elevation 1.30 km (4,287 ft), located 3.6 km (2.25 mi) E of West Point and 4.4 km (2.75 mi) W of Bare Mountain; Skamania Co., WA; 45°55'00"N, 122°07'30"W. Approved 6-13-86.
- CANYON FALLS:** Falls, approximately 14 m (45 ft) high, on the South Fork Skykomish River, approximately 2.4 km (1.5 mi) upstream from Sunset Falls and 3.2 km (2 mi) downstream from Eagle Falls; Snohomish Co., WA; sec. 28, T 27 N, R 10 E, W.M.; 47°50'14"N, 121°32'05"W. Approved 12-11-87.
- CANYON RIDGE:** Ridge, 12.9 km (8 mi) long, in the Cascade Mountains, N of Canyon Creek; Whatcom

- Co., WA; 48°58'45"N, 121°56'30"W. Approved 8-13-87.
- CASTLE LAKE:** Lake, 2.4 km (1.5 mi) long, 7.2 km (4.5 mi) NW of Mount St. Helens summit; Cowlitz Co., WA; secs. 14, 23, 26, T 9 N, R 4 E, W.M.; 46°14'20"N, 122°16'15"W. Approved 12-9-83.
- CASTLE ROCK:** Rock pinnacle, elevation about 457 m (1,500 ft), in Tumwater Canyon on the Wenatchee River, immediately above U.S. Highway 2, 2.1 km (1.3 mi) SSE of the mouth of Slide Creek, 2.1 km (1.3 mi) NW of the mouth of Steep Creek; Chelan Co., WA; sec. 4, T 24 N, R 17 E, W.M.; 47°36'00"N, 120°42'45"W. Approved 9-12-86.
- CEDAR CREEK:** Stream, heading in a submerged marsh about 10.3 km (6.4 mi) WNW of Inchelium, flowing SSE for about 2.4 km (1.5 mi) sec. 36, T 33 N, R 35 E, ending at Round Lake; Ferry Co., WA; sec. 7, T 32 N, R 36 E, W.M.; 48°17'40"N, 118°19'20"W (ending), 48°18'44"N, 118°17'47"W (heading). Approved 6-14-85.
- CEDAR CREEK MEADOWS:** Meadows, in sec. 13, T 18 N, R 15 E, W.M.; Kittitas Co., WA; 47°68'18"N, 120°54'58"W, to 47°08'05"N, 120°54'45"W. Approved 6-14-85.
- CH'WAH:** Canyon and River, heads 1.13 km (0.7 mi) SW of Chiwawa Mountain, flows SE for 48.3 km (30 mi) to join Wenatchee River; Chelan Co., WA; sec. 1, T 26 N, R 17 E, W.M.; 3.86 km (2.4 mi) SE of Wenatchee Lake. 47°46'00"N, 120°39'52"W (ending), 48°09'30"N, 120°53'48"W (heading). Approved 3-8-85.
- CHEWUCH RIVER:** River, 64.4 km (40 mi) long, heading in sec. 25, T 40 N, R 21 E at the junction of Cathedral Creek and Rimmel Creek and flowing S to join the Methow River at Winthrop; Okanogan Co., WA; sec. 2, T 34 N, R 21 E, W.M.; 48°56'00"N, 120°07'00"W (heading), 48°29'00"N, 129°10'00"W (ending). Approved 3-9-84.
- CHIBAHDEHL ROCKS:** Rocks, in the Strait of Juan de Fuca off the N coast of the Olympic Peninsula N of Midway and 4.8 km (3 mi) NW of the community of Neah Bay, in the Makah Indian Reservation; Clallam Co., WA; 48°23'39"N, 124°40'29"W. Approved 3-8-85.
- CHIKAMIN PEAK:** Peak, elevation 2.13-2.15 km (7,000-7,040 ft), in the Cascade Range, 1.7 km (1.1 mi) E of Huckleberry Mountain, in the Alpine Lakes Wilderness Area; Kittitas Co., WA; sec. 23, T 23 N, R 12 E, W.M.; 47°28'30"N, 121°18'36"W. Approved 9-13-85.
- COLCHUCK GLACIER:** Glacier, in the Cascade Mountains, located in the Alpine Lakes Wilderness Area 482 m (0.3 mi) NE of the summit of Colchuck Peak, draining into Colchuck Lake; Chelan Co., WA; secs. 15 and 16, T 23 N, R 16 E, W.M.; 47°28'50"N, 120°50'25"W. Approved 6-13-86.
- COLCHUCK PEAK:** Peak, elevation 2.65 km (8,705 ft) located 4.2 km (2.6 mi) E of Mount Stuart, in the Alpine Lakes Wilderness; Chelan Co., WA; sec. 16, T 23 N, R 16 E, W.M.; 47°28'42"N, 120°50'44"W. Approved 12-13-85.
- CORNSTALK CREEK:** Stream, about 7.7 km (4.8 mi) W of Inchelium, flowing SE about 4.8 km (3.0 mi) to Stranger Creek; Ferry Co., WA; sec. 5, T 32 N, R 36 E, W.M.; 48°16'14"N, 118°17'03"W (heading), 48°15'42"N, 118°15'11"W (ending). Approved 6-14-85.
- COUGAR CREEK:** Creek, about 2.3 km (1.4 mi) long, flows NE into Fish Creek; Snohomish Co., WA; sec. 24, T 31 N, R 4 E, W.M.; 48°09'00"N, 122°15'03"W (heading), 48°10'00"N, 122°12'30"W (ending). Approved 12-13-85.
- COURTNEY PEAK:** Peak, elevation 2.6 km (8,392 ft) on Sawtooth Ridge, 3.2 km (2 mi) SW of Oval Peak and 24.1 km (15 mi) W of Carlton; Chelan and Okanogan Cos., WA; 48°15'38"N, 120°26'31"W. Approved 6-14-85.
- COWAP PEAK:** Peak, elevation, 1,725 m (5,658 ft), in the Cascade Mountains, in the Mount Baker National Forest, 1.6 km (1 mi) NNW of Damfino Lakes, and 4.8 km (3 mi) NE of Bearpaw Mountain; Whatcom Co., WA; 48°58'10"N, 121°47'55"W. Approved 9-12-86.
- CUTTHROAT PEAK:** Peak, elevation 2,357 m (8,050 ft) in the Cascade Range, 1.24 km (0.77 mi) NNE of Whistler Mountain in both Okanogan and Mount Baker National Forests; Chelan and Skagit Cos., WA; sec. 23, T 35 N, R 17 E, W.M.; 48°31'36"N, 120°42'08"W. Approved 6-14-85.
- DRAGONTAIL PEAK:** Peak, elevation 2,694 m (8,840 ft), in Stuart Range 5.3 km (3.3 mi) E of Mount Stuart, just S of Colchuck Lake, Alpine Lakes Wilderness Area; Chelan Co., WA; sec. 15, T 23 N, R 16 E, W.M.; 47°28'44"N, 120°49'56"W; Approved 3-9-84.
- EAGLE CREEK:** Stream, originating S of Tveit Rd. in Arlington, flowing N for 2.4 km (1.5 mi) to the S fork of the Stillaguamish River, Arlington; Snohomish Co., WA; sec. 12, T 31 N, R 5 E, W.M.; 48°11'56"N, 122°06'34"W (heading), 48°12'25"N, 122°06'39"W (ending). Approved 6-13-86.
- EAST BAY:** Bay, 804 m (0.5 mi) long and 322 m (0.2 mi) wide, at the end of Budd Inlet in the City of Olympia, E side of Port Peninsula; Thurston Co., WA; 47°03'20"N, 122°53'40"W. Approved 3-8-85.
- EAST FORK NOOKACHAMPS CREEK:** Stream, heading in sec. 25, R 5 E, T 34 N and flowing W about 12.9 km (8 mi) into Nookachamps Creek; Skagit Co.; sec. 10, T 34 N, R 4 E, W.M.; 48°26'57"N, 122°16'37"W (ending), 48°24'24"N, 122°06'20"W (heading). Approved 3-14-86.

- EAST NOOKSACK GLACIER:** Glacier, on the E slopes of Mount Shuksan and on the N slope of Jagged Ridge. Feature is within Mount Baker National Forest; Whatcom Co., WA; 48°49'30"N, 121°34'06"W. Approved 12-11-87.
- EDUCKET CREEK:** Stream, approximately 5.1 km (3.2 mi) long, heading in 48°19'40"N, 124°35'47"W, flows NW to the Waatch River 1.12 km (0.7 mi) S of Neah Bay, in the Makah Indian Reservation; Clallam Co., WA; sec. 15, T 33 N, R 15 W, W.M.; 48°21'23"N, 124°37'24"W (ending). Approved 3-8-85.
- ELECTRIC POINT:** Peak, on Gladstone Mountain 4.19 km (2.6 mi) SE of Leadpoint in Colville National Forest; Stevens Co., WA; sec. 18, T 39 N, R 42 E, W.M.; 48°52'59"N, 117°32'40"W. Approved 3-9-84.
- ELL LAKE:** Lake, located in the Aeneas Valley; Okanogan Co., WA; near the center of sec. 19, T 36 N, R 30 E, W.M.; 48°36'15"N, 119°07'00"W. Approved 3-13-87.
- ELLIOTT POINT:** Point, along the Columbia River; Wahkiakum Co., WA; sec. 18, T 9 N, R 8 W, W.M.; 46°15'36"N, 123°36'40"W. Approved 6-13-86.
- EMPI CREEK:** Creek, heading and flowing approximately 1.6 km (1 mi) NW to where it drains into Grays River; Wahkiakum Co., WA; in the NW 1/4 of sec. 35, T 10 N, R 8 W, in the SE 1/4 of sec. 27, T 10 N, R 8 W, W.M.; 46°19'10"N, 123°39'00"W (ending), 46°18'45"N, 123°38'00"W (heading). Approved 12-13-85.
- EXCELSIOR PASS:** Pass, elevation between 1,616 m and 1,646 m (5,300 and 5,400 ft), in the Cascade Mountains; Whatcom Co., WA; 48°56'08" N, 121°47'35" W. Approved 3-14-86.
- EXCELSIOR POINT:** Peak, elevation 1,738 m (5,699 ft) in the Cascade Mountains in the Mount Baker National Forest; Whatcom Co., WA; 48°56'05"N, 121°47'20"W. Approved 3-14-86.
- FALL CREEK:** Creek, about 16.09 km (10 mi) W of Longview and 0.8 km (0.5 mi) E of Stella; Cowlitz Co., WA; heading in sec. 1, T 8 N, R 4 W, W.M.; terminates in sec. 12, T 8 N, R 4 W, W.M.; 46°11'25"N, 123°06'50"W (ending), 46°12'55"N, 123°07'10"W (heading). Approved 3-13-87.
- FALLS CREEK:** Creek, heading in the SE 1/4, sec. 23, T 31 N, R 35 E, W.M.; about 402 m (0.25 mi) N of Seymour Hill and running S and E approximately 8 km (5 mi) into Franklin D. Roosevelt Lake; Ferry Co., WA; in the SW 1/4, sec. 34, T 31 N, R 36 E, W.M.; 48°08'10"N, 118°15'21"W (ending), 48°10'00"N, 118°21'00"W (heading). Approved 9-13-85.
- FALLS CREEK:** Stream, about 3.21 km (2 mi) long, heading in the SE 1/4 of sec. 29, T 19 N, R 8 E, W.M.; and flowing N to its confluence with the Clearwater River; Pierce Co., WA; in sec. 21, T 19 N, R 8 E, W.M.; 47°07'34"N, 121°48'00"W. Approved 6-12-87.
- FERGUSON CREEK:** Stream, about 3.21 km (2 mi) long, heading 3.21 (2 mi) SW of Boundary Butte; Stevens Co., WA; 47°58'35"N, 118°10'16"W, and flowing generally S to Orazada Creek; ending at 47°57'08"N, 118°10'32"W. Approved 12-13-85.
- FIREWOOD PEAK:** Peak, in North Cascades National Park, on W edge of Challenger Glacier, 2.41 km (1.5 mi) NW of Mount Challenger and 43.5 km (27 mi) NE of Concrete; Whatcom Co., WA; 48°50'40"N, 121°22'05"W in Mount Baker National Forest. Approved 12-14-85.
- FLOWING LAKE:** Lake, about 1.2 km (0.75 mi) long and 805 m (0.5 mi) wide; Snohomish Co., WA; located at the common corner of secs. 1, 2, 35, and 36, T 28 and 29 N, R 6 E, W.M.; 47°56'10"N, 121°59'10". Approved 12-11-87.
- FOUR BROTHERS:** Mountain, with four closely spaced peaks, of which the SE peak is at an elevation of 1,977 m (6,485 ft), about 0.56 km (0.35 mi) directly W of Glacier Lake, located on Chikamin Ridge, directly SE of Chikamin Peak, in the Wenatchee National Forest, in the Alpine Lakes Wilderness; Kittitas Co., WA; sec. 23, T 23 N, R 12 E, W.M.; 47°28'00"N, 121°18'19"W. Approved 9-13-85.
- FRANZ LAKE:** Lake, located about 2.41 km (1.5 mi) W of Skamania; Skamania Co., WA; located in the N half of sec. 4, T 1 N, R 6 E, W.M.; 45°58'34"N, 121°21'20"W. Approved 12-12-86.
- FUCA PILLAR:** Rock, off the W coast of Cape Flattery at the NW tip of the Olympic Peninsula, 8.05 km (5 mi) W of the community of Neah Bay; Clallam Co., WA; T 33 N, R 16 W, W.M.; 48°22'43"N, 124°43'53"W, Approved 3-8-85.
- GLACIER BASIN:** Cirque, glacially carved, in the Cascade Mountains at the head of Glacier Creek, NW of Monte Cristo Peak, in the Mount Baker National Forest; Snohomish Co., WA; sec. 26, T 29 N, R 11 E, W.M.; 47°58'34"N, 121°21'20"W. Approved 6-14-85.
- GLACIER PASS:** Pass, in the Olympic National Park, on the ESE slope of Mount Olympus between Blue and Hoth Glaciers, SSW of Mount Mathias; Jefferson Co., WA; 47°47'52"N, 123°40'55"W. Approved 3-14-86.
- GLADSTONE MOUNTAIN:** Mountain, bound on the N by Silver Creek, on the NE by W Fork Silver Creek and on the SW by Republic Creek 4.18 km (2.6 mi) SE of Leadpoint and 11.26 km (7 mi) WNW of Metaline Falls, in Colville National Forest; Stevens Co., WA; secs. 17, 18, 19 and 20, T 39 N, R 42 E, W.M.; 48°52'59"N, 117°32'40"W. Approved 3-9-84.

- GOBLIN GATES:** A gap, in Olympic National Park, entrance to Rica Canyon along the Elwha River, 1.6 km (1 mi) SE of Whiskey Bend and 8.9 km (5.5 mi) ESE of Olympic Hot Springs; Clallam Co., WA; 47°57'23"N, 123°34'24"W. Approved 3-14-86.
- GRAND MOUND PRAIRIE:** Prairie, about 8.8 km (5.5 mi) long, and 4.02 km (2.5 mi) wide, the center of which is about 3.21 km (2 mi) N of the town of Grand Mound; Thurston Co., WA; W end: 46°48'30"N, 123°04'00"W, E end: 46°50'30"N, 122°56'30"W. Approved 6-13-86.
- GREEN CANYON:** Canyon, about 4.02 km (2.5 mi) long; heading near Inkster Lake and trending NE to Sand Flat; Lincoln Co., WA; 47°51'16"N, 118°09'03"W. Approved 6-14-85.
- GREENS CANYON:** Canyon, approximately 2.81 km (1.75 mi) long; the canyon heads about 1.6 km (1 mi) N of the town of Cle Elum and ends near the town boundary; Kittitas Co., WA; sec. 22, 23, 26; T 20 N, R 15 E, W.M.; 47°11'53"N, 120°55'34"W (ending), 47°13'03"N, 120°56'55"W (heading). Approved 6-14-85.
- GROSS MOUNTAIN:** Mountain, 12.9 km (8 mi) N of Husum; Klickitat Co., WA; sec. 5, T 5 N, R 11 E, W.M.; 45°56'40"N, 121°27'20"W. Approved 12-9-83.
- GROTTO MOUNTAIN:** Mountain, 1,713 m (5,620 ft), in the Cascade Mountains, 2.1 km (1.3 mi) SE of Baring Mountain, 322 m (0.2 mi) SW of Klinger Lake, in the Snoqualmie National Forest; King Co., WA; sec. 8, T 26 N, R 11 E, W.M.; 47°25'48"N, 121°22'50"W. Approved 9-13-85.
- HARKER CANYON:** Canyon, about 9.65 km (6 mi) long, trends N to Franklin D. Roosevelt Lake; Lincoln Co., WA; heads in sec. 23, T 26 N, R 37 E, ending in sec. 31, T 27 N, R 38 E, W. M.; 47°47'45"N, 118°04'35"W (ending), 47°43'48"N, 118°08'20"W (heading). Approved 9-13-85.
- HARRY'S RIDGE:** Ridge, 2.41 km (1.5 mi) long and 1.2 km (0.75 mi) wide, long W arm of Spirit Lake, 8.05 km (5 mi) N of Mount St. Helens crater; Skamania Co., WA; secs. 9, 10 and 15, T 9, R 5 E, W.M.; 46°16'30"N, 122°10'15"W. Approved 12-9-83.
- HEATHER MEADOWS:** Meadows, approximately 1.6 km (1 mi) in length and 322 m (0.2 mi) wide with Picture Lake at the N end and Austin Pass on the S end. Feature is within Mt. Baker National Forest; Whatcom Co., WA; 48°51'36"N, 121°40'46"W. Approved 12-11-87.
- HEE HEE MOUNTAIN:** Mountain, elevation 1,341 m (4,400 ft), 8.37 km (5.2 mi) SW of Chesaw; Okanogan Co., WA; near center of N 1/2 of sec. 34, T 40 N, R 29 E, W.M.; 48°55'03"N, 119°09'24"W. Approved 3-13-87.
- HEE HEE STONE:** Monument, marking location of Indian legendary Hee Hee Stone (Historical Society sign); Okanogan Co., WA; near center of N 1/2 of sec. 34, T 40 N, R 29 E, W.M.; 48°55'30"N, 119°09'30"W (heading). Approved 3-13-87.
- HELDT CREEK:** Creek, heading in SE 1/4 of sec. 25, T 10 N, R 8 W, W.M., flowing approximately 4.02 km (2.5 mi) W where it drains into Grays River; Wahkiakum Co., WA; in the NE 1/4 of sec. 27, T 10 N, R 8 W, W.M.; 46°19'41"N, 123°38'41"W (ending), 46°19'15"N, 123°36'00"W (heading). Approved 12-13-85.
- HEMLOCK PEAK:** Peak, 1,695-1,707 m (5,560-5,600 ft), in the Cascade Mountains, about 4.5 km (2.8 mi) NW of the crest of Snoqualmie Pass, 321 m (0.2 mi) SE of Bryant Peak and The Tooth, in the Snoqualmie National Forest; King Co., WA; sec. 30, T 23 N, R 11 E, W.M.; 47°26'44"N, 121°26'58"W. Approved 9-13-85.
- HERRON CREEK:** Stream, approximately 6.44 km (4 mi) long; Ferry Co., WA; flowing SW to Curlew Lake, S half of sec. 17, T 37 N, R 33 E, W.M.; 48°41'30"N, 118°40'00"W (ending), 48°42'00"N, 118°35'00"W (heading). Approved 6-12-87.
- HIBOX LAKE:** Lake, in the Cascade Mountains, Wenatchee National Forest, Alpine Lakes Wilderness, on Box Ridge; Kittitas Co., WA; 724 m (0.45 mi) SE of point 6032, sec. 12, T 22 N, R 12 E, W.M.; 47°25'15"N, 121°16'30"W. Approved 6-13-86.
- HIBOX MOUNTAIN:** Peak, 2,000-2,012 m (6,560-6,600 ft) in the Cascade Range, 2.73 km (1.7 mi) SW of Three Queens Mountain, 2.57 km (1.6 mi) SE of Alta Mountain, in the Wenatchee National Forest, in the Alpine Lakes Wilderness; Kittitas Co., WA; sec. 2, T 22 N, R 12 E, W.M.; 47°25'58"N, 121°17'58"W. Approved 12-13-85.
- HI-KHAED GLACIER:** Glacier, in the Cascade Mountains, Mount Baker National Forest; Snohomish Co., WA; sec. 5, T 31 N, R 11 E, and sec. 32, T 32 N, R 11 E, W.M.; 48°12'45"N, 121°25'00"W. Approved 12-12-86.
- HOLMES CREEK:** Stream, 11.26 km (7 mi) long, flows SE to join Chapman Creek; Klickitat Co., WA; sec. 8, T 5 N, R 12 E, and sec. 28, T 6 N, R 11 E, W.M.; 45°58'50"N, 121°26'15"W (heading), 45°56'31"N, 121°20'10"W (ending). Approved 12-9-83.
- HOOT CREEK:** Creek, which heads at a spring at 47°40'53"N, 122°38'59"W, 0.64 km (0.4 mi) E of Island Lake, flows S to Barker Creek and ends at 47°38'39"N, 122°39'25"W which empties into Dyes Inlet. Said stream flows year-round; Kitsap Co., WA; secs. 22, T 25 N, R 21 E, W.M. Approved 9-12-86.
- HORSESHOE BEND:** Tableland, (kidney-shaped) 7.24 km (4.5 mi) long, 4.02 km (2.5 mi) wide, bounded by the Little Klickitat River to the N and Swale Canyon to the E; Klickitat Co., WA; sec. 14-27, T 4 N,

- R 14 E, W.M.; 45°49'15"N, 121°05'00"W (NW end). 45°46'30"N, 120°59'15"W (SE end). Approved 12-9-83.
- HUNTER CREEK:** Creek, flowing W into Franklin D. Roosevelt Lake, flowing W from Huckleberry Mountain by way of several branches, notably the South Fork Hunter Creek and the North Fork Hunter Creek. The name Hunter Creek applies to the bottom approximately 11.3 km (7 mi) of drainage, below the point where the two forks join. This creek flows through the town of Hunters; Stevens Co., WA; sec. 12, T 31 N, R 36 E, W.M.; the mouth of the creek is at 48°06'46"N; 118°13'34"W. Approved 9-13-85.
- HUNTER CREEK, NORTH FORK:** Stream, 8.05 km (about 5 mi) long, heading about 1.6 km (1 mi) S of Stensgar Mountain and flowing generally SW where it joins South Fork to form Hunter Creek; Stevens Co., WA; sec. 6, T 30 N, R 38 E, W.M.; 48°07'14"N, 118°04'59"W (ending), 48°09'24"N, 117°59'20"W (heading). Approved 9-13-85.
- HUNTER CREEK, SOUTH FORK:** Stream, about 9.66 km (6 mi) long, heading on Huckleberry Mountain, flowing generally N where it joins North Fork to form Hunter Creek; Stevens Co., WA; sec. 6, T 30 N, R 38 E, W.M.; 48°07'14"N, 118°04'59"W (ending), 48°03'02"N, 118°03'33"W (heading). Approved 9-13-85.
- ICE CLIFF GLACIER:** Glacier, in the Alpine Lakes Wilderness Area of the Wenatchee National Forest on the NE side of Mount Stuart, 0.56 km (0.35 mi) NE of the summit of Mount Stuart; Chelan Co., WA; secs. 18 and 19, T 23 N, R 16 E, W.M.; 47°28'35"N, 120°53'40"W. Approved 6-13-86.
- INDIAN RACE TRACK:** Area, 0.32 km (0.2 mi) long, N of Red Mountain, S of Berry Mountain; Skamania Co., WA; 45°56'46"N, 121°49'24"W (SW end), 45°56'51"N, 121°49'12"W (NE end). Approved 12-9-83.
- INGALLS PASS:** Pass, elevation 2,000 m (6,560 ft), in the Cascade Mountains, located in Wenatchee National Forest, 1.21 km (0.75 mi) SSE of Ingalls Lake, 0.32 km (0.2 mi) NW of point 6878, and 0.47 km (0.9 mi) ESE of point 7382; Chelan and Kittitas Cos., WA; sec. 26, T 23 N, R 15 E, W.M.; 47°27'35"N, 120°56'00"W (crest). Approved 6-13-86.
- JACKS CREEK:** Creek, about 5.63 km (3.5 mi) long, flowing SE-NW with a heading in sec. 6, T 6 N, R 3 E, and mouth in sec. 34, T 7 N, R 2 E, W.M., where it flows into the Kalama River; Cowlitz Co., WA; 46°03'17"N, 122°32'26"W (ending) 46°02'11"N, 122°29'00"W (heading). Approved 9-13-85.
- JIM CREEK:** Stream, about 20.9 km (13 mi) due E of Arlington; Snohomish Co., WA; in unsurveyed sec. 31, T 32 N, R 8 E, W.M., and traveling W for about 32.2 km (20 mi) to enter the South Fork of the Stillaquamish River about 3.21 km (2 mi) ESE of Arlington in the SE corner of sec. 7, T 31 N, R 6 E, W.M. This feature is within the Mount Baker National Forest, 48°11'04"N, 122°49'35"W. Approved 12-11-87.
- JONATHAN CREEK:** Creek, approximately 0.64 km (0.4 mi) long, beginning on the slopes of Snyder Mountain, flowing W into Hall Creek at a point about 0.40 km (0.25 mi) E from the Packwood Ranger Station; Lewis Co., WA. It is a perennial stream about 1.5 m (5 ft) in width; sec. 22, T 13 N, R 9 E, W.M.; 46°36'37"N, 121°39'12"W (heading), 46°36'38"N, 121°39'47"W (ending). Approved 9-13-85.
- JUDGE CANYON:** Canyon, 4.82 km (3 mi) long, between Williams Canyon and Ollala Canyon, 7.24 km (4.5 mi) SE of Leavenworth; in Wenatchee National Forest; Chelan Co., WA; secs. 13, 23, 24 and 26, T 24 N, R 18 E, W.M.; 47°34'53"N, 120°31'16"W (heading), 47°33'13"W, 120°32'34"W (ending). Approved 12-14-85.
- JUMPOFF JOE CREEK:** Stream, 5.95 km (3.7 mi) long, heads on Gillette Mountain at 48°40'20"N, 117°49'01"W, flows SE to North Fork Mill Creek 12.88 km (8 mi) NE of Colville, in Colville National Forest; Stevens Co., WA; sec. 9, T 36 N, R 40 E, W.M.; 48°37'53"N, 117°46'50"W (ending). Approved 3-9-84.
- KABUSIE CREEK:** Creek, about 0.80 km (0.5 mi) long NE-SW in sec. 9, T 32 N, R 15 W, W.M. This creek is in the Makah Indian Reservation; Clallam Co., WA; 48°17'02"N, 124°37'00"W (ending), 48°17'22"N, 124°37'20"W (heading). Approved 3-8-85.
- KAIDERA CAMP:** Locality, at the SE base of Grayback Mountain, 19.63 km (12.2 mi) NNE of Klickitat; Klickitat Co., WA; secs. 28 and 29, T 6 N, R 14 E, W.M.; 45°58'44"N, 121°04'14"W. Approved 12-14-85.
- KAISOOTS MOUNTAIN:** Peak, elevation 1,671 m (5,481 ft), in the Cascade Mountains, 7.24 km (4.5 mi) NW of Church Mountain; Whatcom Co., WA; sec. 12, T 40 N, R 6 E, W.M.; 48°58'00"N, 121°57'40"W. Approved 9-12-86.
- KARR CREEK:** Creek, begins on E slopes of Davis Mountain in sec. 34, T 13 N, R 8 E, W.M., and flows SE then SW 3.21 km (2 mi) through the Pothole area and into the Cowlitz River, in Gifford Pinchot National Forest; Lewis Co., WA; 46°34'13"N, 121°47'22"W (heading) 46°33'05"N, 121°45'53"W (ending). Approved 12-14-85.
- KEHOE MOUNTAIN:** Mountain, rising above Big Bottom (upper Cowlitz River Valley) 756 m (2,480 ft) knob, immediately N from White Pass High School grounds; Lewis Co., WA. It extends for less than 1.6 km (1 mi) in a SW/NE direction, through the section corner common to secs. 3, 4, 9, & 10, T 12

- N, R 7 E, W.M.; Hampton Creek is to the W, Silver Creek to the E, 40°33'01"N, 121°55'34"W. Approved 9-13-85.
- KENDALL PEAK:** Peak, 1,763 m (5,784 ft), in the Cascade range near Snoqualmie Pass, 2.90 km (1.8 mi) SE of Snoqualmie Mountain, in both the Mount Baker and Wenatchee National Forests, within the Alpine Lakes Wilderness Area; King and Kittitas Cos., WA; sec. 34, T 23 N, R 11 E, W.M.; 47°28'35"N, 120°23'00"W. Approved 9-13-85.
- KESSEL CREEK:** Creek, flowing approximately 3.22 km (2 mi) NW to where it drains into Grays River; Wahkiakum Co., WA; heading in the SW 1/4 of sec. 19, T 10 N, R 7 W, W.M., in the SW 1/4 of sec. 13, T 10 N, R 8 W, W.M.; 40°20'29"N, 123°37'00"W (ending), 46°19'48"N, 123°34'55"W (heading). Approved 12-13-85.
- KIKET BAY:** Bay, located approximately 8.05 km (5 mi) NW of La Conner, and 4.83 km (3 mi) E of Deception Pass. The bay faces in a westerly direction towards Whidbey Island. The size of the bay is approximately 2.59 km<sup>2</sup> (1 sq. mi); Skagit Co., WA; secs. 21 and 28, T 34 N, R 2 E, W.M.; 47°25'00"N, 122°32'00"W. Approved 12-11-87.
- KLATT CAMP:** Locality, SE of the head of Sheep Canyon, 17.22 km (10.7 mi) NNE of Klickitat; Klickitat Co., WA; secs. 32 and 33, T 6 N, R 14 E, W.M.; 45°57'26"N, 121°04'19"W. Approved 12-14-85.
- KOENEMAN LAKE:** Lake, 4.02 km (2.5 mi) NE from Allyn - Rocky Creek to Case Inlet drainage, drains to the S, elevation 64 m (210 ft), 0.076 km<sup>2</sup> (19 acres), 7.62 m (25 ft) deep; Kitsap Co., WA; sec. 10, T 22 N, R 1 W, W.M.; 47°24'38"N, 122°47'02"W (heading), 47°24'21"N, 122°47'00"W (ending). Approved 9-13-85.
- KOITLAH POINT:** Point of land, on the N coast of the Olympic Peninsula, approximately 2.41 km (1.5 mi) NNW of Neah Bay; Clallam Co., WA; 48°23'18"N, 124°38'05"W. Approved 3-8-85.
- LA FLEUR LAKE:** Lake, at 48°24'54"N, 118°15'25"W; Ferry Co., WA. Approved 12-13-85.
- LAKE HERITAGE:** Lake, 1.77 km (1.1 mi) long, one of the Little Pend Oreille Lakes, between Lake Thomas and Lake Leo, 29 km (18 mi) ENE of Colville; Stevens Co., WA; secs. 8, 9 and 17, T 36 N, R 42 E, W.M.; 48°38'00"N, 117°31'35"W. Approved 3-9-84.
- LAKE HOLM:** Lake, 0.8 km (0.5 mi) long, 6.44 km (4 mi) E of Auburn, 8.05 km (5 mi) W of Black Diamond; King Co., WA; sec. 14, T 21 N, R 5 E, W.M.; 47°18'10"N, 122°07'30"W. Approved 12-14-85.
- LAKE QUINAULT:** Lake, about 6.44 km (4 mi) long and 3.21 km (2 mi) wide; Grays Harbor Co., WA; sec. 23 N, T 9 W and R 10 W, W.M.; 47°28'30"N, 123°52'00"W. Approved 6-12-87.
- LAKE TOKE TIE:** Lake, 1.6 km (1 mi) NE of Gifford Peak, just E of Pacific Crest Trail, in Gifford Pinchot National Forest; Skamania Co., WA; 45°59'31"N, 121°47'20" (center). Approved 3-9-84.
- LANGE'S CREST:** Area, Skamania Co., WA; E 1/2 of sec. 16, T 9 N, R 5 E, W.M.; 46°16'10"N, 122°10'40"W. Approved 12-9-83.
- LINCOLN:** Unincorporated community, Lincoln Co., WA; located in sec. 21, T 27 N, R 35 E, W.M.; 47°49'50"N, 118°24'45"W. Approved 6-14-85.
- LITTLE ANNA PURNA:** Peak, 2,573-2,585 m (8,440-8,480 ft) located 1.85 km (1.15 mi) SE of Dragontail Peak, in the Wenatchee National Forest; Chelan Co., WA; sec. 23, T 23 N, R 16 E, W.M.; 47°28'07"N, 120°48'47"W. Approved 12-13-85.
- LITTLE BUCK CREEK:** Creek, 5.63 km (3.5 mi) long, Klickitat/Skamania Cos., WA; heads in sec. 31, T 4 N, R 10 E, W.M., and flows SE to Northwestern Lake in sec. 3, T 3 N, R 10 E, W.M.; 45°47'15"N, 121°32'20"W (ending). Approved 12-9-83.
- LITTLE FISHTRAP:** Cove, in Puget Sound, S shore of Dana Passage, 2.41 km (1.5 mi) NE of Boston Harbor; Thurston Co., WA; 47°09'13"N, 122°52'31"W. Approved 3-8-85.
- LITTLE ROUNDTOP:** Mountain, at the junction of North Fork Mill Creek and Mill Creek 5.63 km (3.5 mi) N of Old Dominion Mountain and 13.7 km (8.5 mi) NE of Colville, in Colville National Forest; Stevens Co., WA; secs. 9, 10, 15, and 16, T 36 N, R 40 E, W.M.; 48°37'50"N, 117°45'46"W. Approved 3-9-84.
- LITTLE TWIN LAKES:** Lakes, 0.8 km (0.5 mi) long, at the head of Camp Creek, 19.31 km (12 mi) ENE of Colville and 21.7 km (13.5 mi) SW of Tiger, in Colville National Forest; Stevens Co., WA; sec. 33, T 36 N, and sec. 4, T 35 N, R 41 E, W.M.; 48°34'15"N, 117°38'35"W. Approved 3-9-84.
- LONGS PASS:** Pass, elevation 1,878-1,902 m (6,160-6,240 ft), in the Cascade Mountains, in the Wenatchee National Forest, 0.32 km (0.2 mi) NW of point 6413, 0.97 km (0.6 mi) SSE of point 6878; Chelan and Kittitas Cos., WA; sec. 25, T 23 N, R 15 E, W.M.; 47°26'55"N, 120°55'25"W (crest). Approved 6-13-86.
- LOWER CURTIS GLACIER:** Glacier, on the SW slope of Mount Shuksan, approximately 1.6 km (1 mi) S 70 W of the top of Mount Shuksan. Feature is within the Mount Baker National Forest; Whatcom Co., WA; 48°49'25"N, 121°37'20"W. Approved 12-11-87.
- LUANA BEACH:** Area, unincorporated, on NE shore of Maury Island, King Co., WA; sec. 14, T 22 N, R 3 E, W.M.; 47°23'45"N, 122°23'00"W. Approved 12-9-83.
- MAGEE CREEK:** Creek, starting in the NE 1/4 of sec. 7, T 33 N, R 38 E, flowing W for approximately 8.05

- km (5 mi) where it empties into Franklin D. Roosevelt Lake at Daisy; Stevens Co., WA; located in the center of sec. 6, T 33 N, R 37 E, W.M. Approved 12-13-85.
- MARSH CREEK:** Stream, on the SW slope of Blue Mountain and flowing W for about 6.43 km (4 mi) to its confluence with the Sultan River; Snohomish Co., WA; in the NW 1/4 of sec. 9, T 28 N, R 8 E, W.M.; 47°57'55"N, 121°44'45"W. Approved 12-11-87.
- MAURY:** Area, unincorporated, on E end of Maury Island; King Co., WA; sec. 23, T 22 N, R 3 E, W.M.; 47°23'00"N, 122°22'00"W. Approved 12-9-83.
- MAY CREEK:** Townsite and pier, on E shore of Lake Washington; King Co., WA; sec. 29, T 24 N, R 5 E, W.M.; 47°32'00"N, 122°12'20"W. Approved 12-9-83.
- MCCAY CREEK:** Stream, heading near the base of Mount McCay and flowing generally SE about 7.72 km (4.8 mi) to the confluence of West Fork Salmon Creek; Okanogan Co., WA; in NE 1/4 NE 1/4 sec. 7, T 35 N, R 24 E, W.M.; 48°33'15"N, 119°51'31"W. Approved 9-11-87.
- MCCLELLAN PEAK:** Peak, elevation (8,364 ft), located 3.7 km (2.3 mi) ESE of Dragontail Peak, in the Alpine Lakes Wilderness Area; Chelan Co., WA; sec. 24, T 23 N, R 16 E, W.M.; 47°28'14"N, 120°47'06"W (center). Approved 12-13-85.
- MCILROY CANYON:** Drain, flows SE then E 3.21 km (2 mi) through secs. 10 and 11, T 4 N, R 10 E, W.M. into White Salmon River, S of BZ Corner; Klickitat Co., WA; 45°51'11"N, 121°32'26"W (heading), 45°50'46"N, 121°30'54"W (ending). Approved 12-9-83.
- MILL CANYON:** Canyon, 6.44 km (4 mi) long, trends NW to Franklin D. Roosevelt Lake, Spokane River, 16.1 km (10 mi) NE of Davenport, WA.; Lincoln Co., WA; heads in sec. 20, T 26 N, R 38 E, mouth in sec. 31, T 27 N, R 38 E, W.M.; 47°47'28"N, 118°03'40"W (ending), 47°44'14"N, 118°02'10"W (heading). Approved 9-13-85.
- MITRE ROCK:** Rock, on the E bank of the Franklin D. Roosevelt Lake, approximately 213 m (700 ft) above water level; Stevens Co., WA; sec. 1, T 28 N, R 35 E, W.M.; 45°57'33"N, 118°20'34"W. Approved 9-13-85.
- MONAGHAN CREEK:** Creek, heading in the SW 1/4, sec. 8, T 30 N, R 36 E (upper end of Grant Canyon) and flowing S and E approximately 4.82 km (3 mi) into Franklin D. Roosevelt Lake in the NW 1/4, sec. 22, T 30 N, R 36 E, W.M.; Ferry Co., WA; 48°06'35"N, 118°18'10"W (ending). Approved 12-13-85.
- MONOHON:** Area, on E shore of Lake Sammamish, King Co., WA; sec. 8, T 24 N, R 6 E, W.M.; 47°34'48"N, 122°04'30"W. Approved 12-9-83.
- MOUNT DICKERMAN:** Peak, elevation 1,744 m (5,723 ft), in the Cascade Mountains of the Mount Baker National Forest, Snohomish Co., WA; sec. 24, T 30 N, R 10 E, W.M.; 48°04'08"N, 121°28'13"W. Approved 12-12-86.
- MOUNT HERMANN:** Peak, elevation, 1,916 m (6,285 ft) named for Binger Hermann, former head of U.S. General Land Office; Whatcom Co., WA; sec. 13, T 39 N, R 8 E, W.M.; 48°52'00"N, 121°42'04"W. Approved 3-14-86.
- MOUNT HIGGINS:** Peak, elevation 1,567 m (5,142 ft), in the Cascade Mountains; Mount Baker National Forest; situated toward the E end of the ridge presently known as Mount Higgins; Skagit Co., WA; sec. 27, T 33 N, R 8 E, W.M.; 48°18'53"N, 121°45'40"W. Approved 9-12-86.
- MOUNT PHELPS:** Peak, elevation 1,577 m (5,162 ft); King Co., WA; in sec. 6, T 25 N, R 10 E, W.M.; 47°40'46"N, 121°34'40"W. Approved 12-13-85.
- MOUNT PILCHUCK:** Peak, elevation 1,623 m (5,324 ft), in the Cascade Mountains; Snohomish Co., WA; secs. 28-29, T 30 N, R 8 E, W.M.; 48°03'27"N, 121°47'45"W. Approved 12-12-86.
- MOUNT PUGH:** Peak, elevation 2,195 m (7,201 ft), in the Mount Baker National Forest, on the W side of Pugh Creek; Snohomish Co., WA; sec. 27, T 31 N, R 11 E, W.M.; 48°08'36"N, 121°22'23"W. Approved 12-12-86.
- MOUNT ROOSEVELT:** Peak, 1,779 m (5,835 ft) in the Cascade Mountains about 7.08 km (4.4 mi) NW of Snoqualmie Pass, 0.97 km (0.6 mi) N of Kaleetan Peak, 1.29 km (0.8 mi) SW of Wright Mountain in the Snoqualmie National Forest; King Co., WA; secs. 13, 24, T 23 N, R 10 E, W.M.; 47°28'11"N, 121°28'33"W. Approved 12-13-85.
- MULLINS CREEK:** Stream, 2.4 km (1.5 mi) long; Lewis Co., WA; sec. 21, T 12 N, R 8 E, W.M.; 46°30'12"N, 121°49'07"W (heading), 46°31'15"N, 121°48'47"W (ending). Approved 3-14-86.
- MUSHROOM ROCK:** Rock, shaped like a mushroom off N coast of Cape Flattery in the Strait of Juan de Fuca, 7.24 km (4.5 mi) NW of the community of Neah Bay; Clallam Co., WA; sec. 1, T 33 N, R 16 W, W.M.; 48°23'26"N, 124°42'42"W. Approved 3-8-85.
- MYSTERY HILL:** Hill, a minor N-S spur, on the S and W sides of Glacier Creek, extending from about 1,158 m (3,800 ft) to about 1,463 m (4,800 ft) elevation, about 1.37 km (0.85 mi) W and SW of Cadet Peak, in the Mount Baker National Forest; Snohomish Co., WA; secs. 22, 27, T 29 N, R 11 E, W.M.; 47°31'17"N, 120°21'58"W. Approved 12-13-85.
- NACHAKTSEN PEAK:** Peak, elevation 2,123 m (6,966 ft), in the Cascade Mountains, in the Mount Baker National Forest, 1.45 km (0.9 mi) SE of Mount Sefrit, 4.18 km (2.6 mi) NW of Ruth Mountain;

Whatcom Co., WA; unsurveyed township. 48°52'55"N, 121°34'38"W. Approved 9-12-86.

**NAHA LAKE:** Lake, 2,000 m<sup>2</sup> (0.5 acres), 2.0 km (1.25 mi) N of Gifford Peak; Skamania Co., WA; 45°59'55"N, 121°48'25"W (center). Approved 12-9-83.

**NEWBILL LAKE:** Lake, about 457 m (1,500 ft) long and up to about 153 m (500 ft) wide, about 4.02 km (2.5 mi) E of Franklin D. Roosevelt Lake, 1.93 km (1.2 mi) SE of the community of Fruitland, 1.13 km (0.7 mi) S of Alder Creek; Stevens Co., WA; near the center of sec. 32, T 30 N, R 37 E, W.M.; 48°03'22"N, 118°11'00"W (center). Approved 9-13-85.

**NICHOLAS LAKE:** Lake, 6.44 km (4 mi) NW of Rice on the W slope of Staehly Mountain; Ferry Co., WA; sec. 10, T 34 N, R 36 E, W.M.; 48°27'45"N, 118°14'38"W (center). Approved 6-14-85.

**NOOKSACK CIRQUE:** Cirque, glacially carved, in North Cascades National Park at the head of the North Fork Nooksack River; Whatcom Co., WA; 48°50'0"N, 121°33'20"W. Approved 3-14-86.

**NORTH CRESTED BUTTE:** Peak, elevation 1,621 m (5,318 ft), 0.65 km (0.4 mi) S of Sheep Gap, in the Mount Baker National Forest; Snohomish Co., WA; sec. 36, T 29 N, R 10 E, W.M.; 47°57'15"N, 121°27'36"W. Approved 12-13-85.

**NORTH FORK BERRY CREEK:** Stream, 3.86 km (2.4 mi) long, flows SE to join Berry Creek; Skamania Co., WA; sec. 3, T 4 N, R 9 E, W.M.; 45°51'46"N, 121°39'38"W (ending), 45°52'47"N, 121°41'52"W (heading). Approved 12-9-83.

**NORTH FORK WRECK CREEK:** Creek, 5.63 km (3.5 mi) long, heads in sec. 11, T 21 N, R 12 W, W.M., and flows S and W to join Wreck Creek in sec. 28; Grays Harbor Co., WA; 47°17'15"N, 124°13'24"W (ending), 47°19'13"N, 124°10'34"W (heading). Approved 12-9-83.

**NORTH SPECTACLE BUTTE:** Peak, elevation 2,460 m (8,070 ft), 2.74 km (1.7 mi) E of Mount Maude, Wenatchee National Forest; Chelan Co., WA; sec. 6, T 30 N, R 17 E, W.M.; 48°08'02"N, 120°45'59"W. Approved 3-9-84.

**NUESKE CREEK:** Creek, flows N 1.6 km (1 mi) to confluence with Sherman Creek; Ferry Co., WA; heading W in sec. 3, T 35 N, R 36 E, W.M.; 48°56'30"N, 118°11'22"W (ending), 47°38'18"N, 118°08'42"W (heading). Approved 6-14-85.

**ONE TOO MANY CREEK:** Creek, begins on the NE side of Mount Lena and flows N for about 4.02 km (2.5 mi) and enters the Duckabush River 3.21 km (2 mi) E of Crazy Creek, about 19.3 km (12 mi) W of Hood Canal; Jefferson Co., WA; 47°40'21"N, 123°12'32"W. Approved 12-13-85.

**ORAZADA CREEK:** Creek, approximately 5.63 km (3.5 mi) long, flows SW to Franklin D. Roosevelt Lake, Spokane River; Stevens Co., WA; heads in sec. 33,

T 29 N, R 37 E, W.M.; mouth in sec. 7, T 28 N, R 37 E, W.M.; 47°56'30"N, 118°11'22"W (ending) 47°38'18"N, 118°08'42"W (heading). Approved 12-13-85.

**ORDWAY CREEK:** Creek, about 4.02 km (2.5 mi) long starting in the SE 1/4, sec. 21, T 10 N, R 4 W, W.M., and flowing S to its confluence with Abernathy Creek in the NE 1/4, sec. 5, T 9 N, R 4 W, W.M.; Cowlitz Co., WA; 46°17'38"N, 123°12'00"W. Approved 6-13-86.

**PANAKANIC PRAIRIE:** Prairie, Klickitat Co., WA; secs. 20, 21 and 29, T 5 N, R 12 E, W.M.; 45°53'30"N, 121°19'30"W. Approved 12-9-83.

**PENNY CREEK:** Creek, starting in the SE 1/4 of sec. 31, T 13 N, R 6 W, W.M., and flowing W for about 5.63 km (3.5 mi) to its confluence with the Willapa River in sec. 3, T 12 N, R 7 W, W.M.; Pacific Co., WA; 46°33'10"N, 123°32'00"W. Approved 6-12-87.

**PESHASTIN PINNACLES:** Pinnacles, situated between elevation 366 m and 488 m (1,200 and 1,600 ft), 1.21 km (0.75 mi) N of the Wenatchee River, 1.29 km (0.8 mi) ENE of point 1412, 0.32 km (0.2 mi) S of point 1783; Chelan Co., WA; sec. 25, T 24 N, R 18 E, W.M.; 47°32'33"N, 120°31'10"W. Approved 6-13-86.

**PETER POINT:** Point, on NW side of Vashon Island in Colvos Passage; King Co., WA; sec. 24, T 23 N, R 2 E, W.M.; 47°28'12"N, 122°29'50"W. Approved 12-9-83.

**PIGTAIL PEAK:** Peak, elevation 1,817 m (5,961 ft) on the Cascade Crest about 3.06 km (1.9 mi) NNE from Hogback Mountain. Tower 20 at the top of the White Pass Ski lift is located on this point; Lewis and Yakima Cos., WA; sec. 11, T 13 N, R 11 E, W.M.; 46°37'27"N, 121°23'10"W. Approved 9-12-86.

**PIPERS CREEK:** Stream, 2.25 km (1.4 mi) long, heads at 47°42'02"N, 122°21'50"W, flows NW to Puget Sound 4.83 km (3 mi) NE of Sunset Hill in Seattle; King Co., WA; sec. 26, T 26 N, R 3 E, W.M.; 47°42'43"N, 122°22'45"W. Approved 12-9-83.

**PITNEY CREEK:** Stream, about 4.02 km (2.5 mi) long heading on the E side of a low plateau and flowing NW to Franklin D. Roosevelt Lake; Lincoln Co., WA; 47°52'37"N, 118°09'15"W. Approved 6-14-85.

**PRUSIK PASS:** Pass, elevation 2,268-2,292 m (7,440-7,520 ft) in the Alpine Lakes Wilderness of the Wenatchee National Forest, 0.97 km (0.6 mi) SW of the S end of Shield Lake and 0.97 km (0.6 mi) E of point 8520; Chelan Co., WA; sec. 13, T 23 N, R 16 E, W.M.; 47°29'15"N, 120°47'00"W. Approved 6-13-86.

**PRUSIK PEAK:** Peak, elevation 2,438 m and 2,451 m (between 8,000 and 8,040 ft), located in the Alpine Lakes Wilderness; 0.89 km 0.55 mi SW of the SW

- end of Shield Lake; Chelan Co., WA; sec. 13, T 23 N, R 16 E, W.M.; 47°29'15"N, 120°47'00"W. Approved 9-12-86.
- PUMICE PLAIN:** Area, extending from the base of the N slope of Mount St. Helens to Spirit Lake and the former course of the North Fork Toutle River; Skamania Co., WA; secs. 14-18, 20-23, and 28, T 9 N, R 5 E, W.M.; 46°15'00"N, 122°10'00" W. Approved 12-9-83.
- QUEEST-ALB GLACIER:** Glacier, in the Cascade Mountains, in the Mount Baker National Forest, on the W side of Three Fingers Mountain, unsurveyed township; Snohomish Co., WA; 48°10'10"N, 121°42'00"W (approximate center). Approved 9-12-86.
- QUINEY FLATS:** Meadow, 5.31 km (3.3 mi) WNW of Black Butte and 18 km (11.2 mi) NE of Klickitat; Klickitat Co., WA; sec. 2, T 5 N, R 14 E, W.M.; 45°46'41"N, 121°00'41"W. Approved 12-14-85.
- RAINEY CREEK:** Creek, a stream about 4.83 km (3 mi) long heading on Deadman's Hill and running SW into Beaver Creek. The heading of this creek is in the Olympic National Forest; Clallam Co., WA; sec. 15, T 30 N, R 12 W, W.M.; 48°04'50"N, 124°16'13"W. Approved 3-8-85.
- RAINEY CREEK:** Creek, a 15.0 km (9.3 mi) long perennial tributary to the Cowlitz River which now empties into Riffe Lake. The community of Glenoma is located along U.S. Highway 12 in the valley of this creek; Lewis Co., WA; 46°29'28"N, 122°11'58"N (ending), 40°34'16"N, 122°06'06"W (source). Approved 12-12-86.
- RAINEY VALLEY:** Valley, encompassing approximately 10.8 km<sup>2</sup> (2,700 acres) of bottomland, mostly on the N side of Rainey Creek, from the mouth of the creek to about 8.05 km (5 mi) up the drainage. The unincorporated community of Glenoma is located in the valley. The nearest incorporated town is Morton, 11.3 km (7 mi) W of Glenoma on U.S. Highway 12; Lewis Co., WA; secs. 12 and 13, T 12 N, R 5 E, W.M.; 46°32'00"N, 122°07'30"W. Approved 12-12-86.
- RASMUSSEN CREEK:** Creek, about 3.22 km (2 mi) in length; Clallam Co., WA; heading in sec. 3, T 32 N, R 14 W, W.M., and flowing NE into the Strait of Juan de Fuca. 48°19'57"N, 124°29'20" (mouth), 48°18'11"N, 124°29'47"W (ending). Approved 3-8-85.
- ROCKY CREEK:** Creek, approximately 6.44 km (4 mi) long. This feature is within Mount Baker National Forest. Trends S and E to Lake Shannon; Whatcom and Skagit Cos., WA. Trends through sec. 22, 26, 27, 35, and 36, T 37 N, R 8 E, W.M.; 48°38'55"N, 121°42'00"W. Approved 12-11-87.
- RUBY CREEK:** Creek; Kitsap Co., WA; 122°41'01"W (heading), 47°30'35"N, 122°38'48"W (ending). Approved 6-13-86.
- SAQUATSAKS PASS:** Pass, elevation 1,625 m (5,330 ft), in the Cascade Mountains in the Mount Baker National Forest, 1.7 km (1.1 mi) N of Sloan Peak, .67 km (0.9 mi) SE of Bedal Peak; Snohomish Co., WA; sec. 25, T 30 N, R 11 E, W.M.; 48°03'27"N, 121°20'32"W. Approved 9-12-86.
- SASQUATCH STEPS:** Area, on N flank of Mount St. Helens, 2.9 to 4.67 kms (1.8 to 2.9 mi) SSW of Spirit Lake; Skamania Co., WA; secs. 28 and 33, T 9 N, R 5 E, W.M.; 46°14'00"N, 122°11'00"W. Approved 12-9-83.
- SEYLER VALLEY:** Valley, about 7.24 km (4.5 mi) NW of Inchelium; Ferry Co., WA; sec. 21 and 28, T 33 N, R 36 E, W.M.; 48°21'05"N, 118°16'20"W (center). Approved 6-14-85.
- SHERMAN PASS:** Pass, elevation 1,703 m (5,587 ft); Ferry Co., WA; located in sec. 24, T 36 N, R 34 E, W.M.; 48°36'25"N, 118°18'40"W. Approved 6-14-85.
- SHERPA GLACIER:** Glacier, in the Cascade Mountains, located in the Alpine Lakes Wilderness of the Wenatchee National Forest, 0.4 km (0.25 mi) NNW of the summit of Sherpa Peak at 2,623 m (8,605 ft) and 0.89 km (0.55 mi) E of the summit of Mount Stuart; Chelan Co., WA; sec. 18, and 19, T 23 N, R 16 E, W.M. 47°28'30"N, 120°53'25"W (center). Approved 6-13-86.
- SHERPA PEAK:** Peak, elevation 2,623 m (8,605 ft), located 1.1 km (0.68 mi) SE of Mount Stuart, in the Wenatchee National Forest, in the Alpine Lakes Wilderness Area; Chelan Co., WA; sec. 19, T 23 N, R 16 E, W.M.; 47°28'20"N, 120°53'15"W (center). Approved 12-13-85.
- SHUWAH:** Community, located along, and to the E of Highway 101, about 8.05 km (5 mi) N of Forks; Clallam Co., WA; sec. 16, T 29 N, R 13 W, W.M.; 48°01'17"N, 124°23'07"W (center). Approved 9-13-85.
- SILVER EAGLE PEAK:** Peak, elevation 1,903 m (6,241 ft), in the Cascade Mountains, 1.13 km (0.7 mi) SW of Bald Eagle Lake and 1.29 km (0.8 mi) N of Nazanne Lake in the Snoqualmie National Forest and in the Alpine Lakes Wilderness; King Co., WA; sec. 36, T 24-1/2 N, R 12 E, W.M.; 47°36'29"N, 121°17'23"W. Approved 3-8-85.
- SILVER LAKE:** Town, on the shore of Silver Lake, 8.05 km (5 mi) NE of Castle Rock; N central Cowlitz Co., WA; sec. 4, T 9 N, R 1 W, W.M.; 46°17'51"N, 122°48'34"W. Approved 9-11-87.
- SIMPSON LAKE:** Lake, 5.31 km (3.3 mi) WSW of Rice, WA, about 0.27 km (900 ft) long and 0.15 km (500 ft) wide located in the Colville Indian Reservation; Ferry Co., WA; in the NW 1/4 of sec. 35, T 34 N, R 36 E, W.M.; 48°24'31"N, 118°14'07"W (center). Approved 12-13-85.
- SKADULGWAS PEAK:** Peak, elevation between 1,512 m and 1,536 m (4,960 and 5,040 ft), in the Mount

- Baker National Forest; 1.2 km (0.75 mi) WSW of point 5142; 1.29 km (0.8 mi) E of point 4849; Skagit Co., WA; sec. 33, T 33 N, R 8 E, W.M.; 48°18'42"N, 122°46'40"W. Approved 9-12-86.
- SKAMANIA ISLAND:** Island, in the Columbia River; 2.41 km (1.5 mi) long, 1.6 km (1 mi) NNW of Multnomah Falls; Skamania Co., WA; sec. 17 and 12, T 1 N, R 6 E, W.M.; 45°35'20"N, (center). Approved 6-14-85.
- SNOW CREEK WALL:** Cliff, between elevation 975 m and 1,220 m (3,200 and 4,000 ft) in the Wenatchee National Forest, on the W side of lower Snow Creek, 2.9 km (1.8 mi) NE of Toketie Lake; Chelan Co., WA; sec. 33, T 24 N, R 17 E, W.M.; 47°31'45"N, 120°43'05"W. Approved 9-12-86.
- SODA SPRING:** Spring, along the Dosewallips River trail, 0.8 km (0.5 mi) W of the West Fork trail, 305 m (1,000 ft) E of where the West Fork enters the Dosewallips River and about 122 m (400 ft) SW of Sunny Brook; Jefferson Co., WA; 47°44'41"N, 123°11'57"W. Approved 12-13-85.
- SODERMAN CREEK:** Stream, flowing in a NE direction from the N side of Tiger Mountain into the Raging River, near the mill yards in the town of Preston; approximately 1.6 km (1 mi) long; King Co., WA; sec. 5, T 23 N, R 7 E, W.M.; secs. 32 and 33, T 24 N, R 7 E, W.M.; 47°30'12"N, 121°56'45"W (beginning), 47°31'16"N, 121°55'33"W (ending). Approved 9-13-85.
- SORGENFREI CREEK:** Creek; Snohomish Co., WA; sec. 32, T 29 N, R 7 E, W.M.; 47°57'20"N, 121°55'12"W (heading), 47°56'35"N, 121°56'42"W (ending). Approved 9-12-86.
- SOUTH CRESTED BUTTE:** Butte, 1,627 m (5,338 ft) 0.8 km (0.5 mi) N of Hard Pass, in the Snoqualmie National Forest; Snohomish Co.; WA; sec. 1, T 28 N, R 10 E, W.M.; 47°56'46"N, 121°27'46"W. Approved 12-13-85.
- SOUTH FORK GALE CREEK:** Stream, about 4.82 km (3 mi) long, heading near the N edge of sec. 26, T 18 N, R 6 E, W.M. and flowing N to its confluence with Gale Creek in sec. 11, T 18 N, R 6 E, W.M.; Pierce Co., WA; 47°03'43"N, 121°59'57"W. Approved 6-12-87.
- SOUTH FORK MOUSE CREEK:** Stream, 3.22 km (2 mi) long, heads on SW slope of Big Huckleberry Mountain, flows W to Mouse Creek 6.6 km (4.1 mi) NE of Stabler; Skamania Co., WA; 45°50'32"N, 121°50'09"W (ending), 45°50'34"N, 121°47'53"W (heading). Approved 12-9-83.
- SOUTH FORK BERRY CREEK:** Stream, 1.77 km (1.1 mi) long, flows SE to join Berry Creek, in sec. 3, T 4 N, R 9 E, W.M.; Skamania Co., WA; 45°51'46"N, 121°39'38"W (ending), 45°52'06"N, 121°41'43"W (heading). Approved 12-9-83.
- SOUTH SPECTACLE BUTTE:** Peak, elevation 2,558 m (8,392 ft), 3.62 km (2.25 mi) ESE Mount Maude; Chelan Co., WA; sec. 5, T 30 N, R 17 E, W.M.; 48°07'35"N, 120°45'28"W (heading).
- SQUAW CANYON:** Canyon, about 6.43 km (4 mi) long, heading at a spring about 8.05 km (5 mi) W of Reardan, trending NW to Saben Canyon where Mill Canyon is formed; Lincoln Co., WA; 47°41'12"N, 117°58'44"W (heading). Approved 9-13-85.
- STAEHLY MOUNTAIN:** Ridge, elevation 1,030 m (3,380 ft) at highest point, about 7.24 km (4.5 mi) long on the W side of the Columbia River extending from LaFleur Creek to Barnaby Creek, within the Colville National Forest; Ferry Co., WA; 48°30'02"N, 118°14'22"W. Approved 6-14-85.
- STERLING VALLEY:** Valley, on the S shore of Franklin D. Roosevelt Lake, 6.43 km (4 mi) NW of Lincoln; Lincoln Co.; WA; sec. 1, T 27 N, R 34 E, W.M.; 47°52'15"N, 118°28'10"W. Approved 3-8-85.
- STERLING POINT:** Point of land, on the S shore of Franklin D. Roosevelt Lake, 12.9 km (8 mi) NNE of Creston; Lincoln Co., WA; sec. 36, T 28 N, R 34 E, W.M.; 47°52'36"N, 118°28'05"W. Approved 3-8-85.
- STUART GLACIER:** Glacier, elevation 2,870 m (9,415 ft), located in the Alpine Lakes Wilderness Area of the Wenatchee National Forest, on the N side of Mount Stuart; 0.48 km (0.3 mi) N of the summit of Mount Stuart; Chelan Co., WA; sec. 18, T 23 N, R 16 E, W.M.; 47°28'45"N, 120°54'05"W (center). Approved 6-13-86.
- SUNDAY FALLS:** Waterfall, in the Mount Baker National Forest, on Sunday Creek, at contour elevation 914 m (3,000 ft), 2.17 km (1.35 mi) NE of Silvertip Peak; Snohomish Co., WA; sec. 21, T 29 N, R 11 E, W.M.; 47°58'55"N, 121°23'25"W. Approved 6-13-86.
- THE GREAT BEND:** Area, at which the Hood Canal turns to the E from its N-S trend, at Annas Bay between Potlatch and Union; Mason Co., WA; 47°23'00"N, 123°08'00"W. Approved 3-14-86.
- THE HORSEMAN:** Pinnacle, in the North Cascades National Park, 2,475 m (8,120 ft); Skagit Co., WA; 48°38'15"N, 121°09'12"W. Approved 3-14-86.
- THE NEEDLE:** Pinnacle, in North Cascades National Park, 2,463 m (8,080 ft); Whatcom Co., WA; sec. 13, T 37 N, R 13 E, W.M.; 48°38'45"N, 121°09'25"W. Approved 3-14-86.
- THE SPILLOVER:** Avalanche material, between Truman Ridge and Johnston Ridge and spilled over into the South Fork Coldwater Creek, 0.97 km (0.6 mi) W of the W shore of Spirit Lake; Skamania Co., WA; secs. 9, 10, 15, and 16, T 9 N, R 5 E, W.M.; 46°16'15"N, 122°10'40"W. Approved 12-9-83.
- THIRTEENMILE MOUNTAIN:** Mountain, elevation 1,489 m (4,886 ft), about 1.6 km (1 mi) N-S by 1.6 km (1 mi) E-W, located 15.3 km (9.5 mi) S and 7.24 km (4.5 mi) E of Republic; Ferry Co., WA; in secs. 22,

23, 26, and 27, T 35 N, R 33 E, W.M.; 48°30'32"N, 115°38'29"W. Approved 3-13-87.

**THREEMILE CREEK:** Creek, approximately 1.6 km (1 mi) long, flowing E into the Franklin D. Roosevelt Lake; Ferry Co., WA; sec. 10 and 11, T 28 N, R 35 E, W.M.; 47°56'20"N, 118°22'07"W (ending), 47°56'10"N, 118°23'22"W (heading). Approved 6-14-85.

**TIGER MOUNTAIN:** Mountain, elevation 916 m (3,004 ft), 8.05 km (5 mi) SE of Issaquah; King Co., WA; secs. 7, 8, 17 and 18, T 23 N, R 7 E, W.M.; 47°29'20"N, 121°56'45"W. Approved 12-9-83.

**TOBASCO CREEK:** Stream, 2.90 km (1.8 mi) long, heads at 48°38'10"N, 117°05'40"W, flows NW to Sema Creek 22.5 km (14 mi) ESE of Tiger, in Kaniksu National Forest; Pend Oreille Co., WA; sec. 4, T 36 N, R 45 E, W.M.; 48°39'12"N, 117°06'07"W. Approved 3-9-84.

**TOMBSTONE LAKE:** Lake, 0.01 km<sup>2</sup> (2.5 acres), 0.80 km (0.5 mi) E of Gifford Peak; Skamania Co., WA; 45°58'54"N, 121°47'32"W. Approved 12-9-83.

**TONASKET CREEK:** Stream, flowing NW approximately 3.22 km (2 mi) from the SW corner of sec. 30, T 39 N, R 34 E, W.M., to join with Curlew Creek approximately 3.22 km (2 mi) S of the town of Curlew; Ferry Co., WA; in the N half of sec. 26, T 39 N, R 33 E, W.M.; 48°51'30"N, 118°36'00"W (ending), 48°51'00"N, 118°34'00"W (heading). Approved 3-13-87.

**TONASKET MOUNTAIN:** Mountain, elevation 1,750 m (5,740 ft), about 1.6 km (1 mi) long and 0.8 km (0.5 mi) wide, lying in a NW-SE direction about 34.3 km (7.5 mi) SE of Curlew; Ferry Co., WA; in sec. 2, T 38 N, R 34 E, W.M.; 48°48'51"N, 118°28'16"W (center). Approved 3-13-87.

**TORODA CREEK:** Stream, heading in Moccasin Lake, about 3.22 km (2 mi) NE of Wauconda, WA, which flows NE 35.40 km (22 mi) to the Kettle River; Okanogan and Ferry Cos., WA; in sec. 35, T 38 N, R 30 E, W.M.; 48°44'30"W, 118°59'30"W. Approved 3-13-87.

**TOUTLE:** Community, located along State Highway 504; Cowlitz Co., WA; sec. 30, T 10 N, R 1 E, W.M.; 46°19'26"N, 122°44'07"W (center). Approved 9-13-85.

**VIOLA CREEK:** Stream, about 6.44 km (4 mi) long, heading in unsurveyed sec. 35, T 18 N, R 8 E, W.M., and flowing NE to its confluence with Pinochle Creek in unsurveyed sec. 18, T 18 N, R 9 E, W.M.; Pierce Co., WA; 47°02'47"N, 121°42'37"W. Approved 6-12-87.

**WEEDEN CREEK:** Creek, in the Mount Baker National Forest, draining into the South Fork Sauk River, lying NW of Silvertip Peak, and E of Del Campo Peak; Snohomish Co., WA; secs. 18 and 19, T 29 N, R 11 E, W.M.; 48°00'11"N, 121°26'17"W. Approved 6-13-86.

**WEEDEN LAKE:** Lake, in the Mount Baker National Forest, draining into Weeden Creek, 1.77 km (1.1 mi) SE of Del Campo Peak, 2.73 km (1.7 mi) W of Silvertip Peak; Snohomish Co., WA; sec. 25, T 29 N, R 10 E, W.M.; 47°58'37"N, 121°27'23"W. Approved 6-13-86.

**WELSH CREEK:** Creek, approximately 11.3 km (7 mi) long, flowing in a northerly direction into the Franklin D. Roosevelt Lake; Lincoln Co., WA; 47°44'35"N, 118°28'30"W (heading), 47°49'49"N, 118°25'39"W (ending). Approved 6-14-85.

**WESEL CREEK:** Creek, 2.41 km (1.5 mi) long, heading on the S slope of Davis Mountain and flowing ENE to the Cowlitz River near the mouth of Willame Creek; Lewis Co., WA; sec. 36, T 13 N, R 8 E, W.M. and sec. 31, T 13 N, R 9 E, W.M.; 46°34'44"N, 121°44'43"W (heading), 46°34'04"N, 121°43'34"W (ending). Approved 3-9-84.

**WEST BAY:** Bay, in the SW portion of Budd Inlet (W side of Port Peninsula) within the City of Olympia; Thurston Co., WA; 47°03'20"N, 122°54'30"W. Approved 3-8-85.

**WIGGINS HEAD:** Land, on Sucia Island, making up the SE boundary of Mud Bay, SW boundary of Snoring Bay, and N boundary of Fossil Bay; San Juan Co., WA; 48°44'54"N, 122°53'30"W. Approved 12-9-83.

**WILLOUGHBY LAKE:** Lake, 259 m (850 ft) long by 91 m (300 ft) wide, 1.2 km (0.75 mi) E of Pacific Ocean shoreline, 1.6 km (1 mi) SW Point of the Arches; Clallam Co., WA; in NW 1/4 corner of sec. 31, T 32 N, R 15 W, W.M.; 48°14'06"N, 124°41'03"W. Approved 6-14-85.

**WILMANS SPIRES:** Pinnacles, in the Cascade Mountains, of which the highest is 1,900 m (6,233 ft) elevation, 1.69 km (1.05 mi) NW of Columbia Peak, in the Mount Baker National Forest; Snohomish Co., WA; sec. 27, T 29 N, R 11 E, W.M.; 47°58'32"N, 120°22'09"W. Approved 9-13-85.

**WOODPILE CREEK:** Creek, heading in SE 1/4 sec. 34, T 38 N, R 24 E, W.M., and flowing generally SW, passing near Woodpile Cabin (landmark) to the confluence of Sinlahekin Creek in SE 1/4, sec. 9, T 37 N, R 24 E, W.M.; Okanogan Co., WA; 48°42'54", 119°49'30"W. Approved 9-11-87.

**WRECK CREEK:** Creek, 6.44 km (4 mi) long, 5.63 km (3.5 mi) N of Moclips, heads in sec. 14, T 21 N, R 12 W, W.M., flows W to the Pacific Ocean; Grays Harbor Co., WA; 47°17'04"N, 124°14'02"W (ending), 47°18'33"N, 124°09'55"W (heading). Approved 12-9-83.

**YAKSUM:** Canyon, begins in sec. 21, T 23 N, R 19 E, W.M., flows N 4.02 km (2.5 mi) to join Mission Creek in sec. 8, 4.83 km (3 mi) NW of Monitor; Chelan Co., WA; 47°29'58"N, 120°28'32"W (ending), 47°27'57"N, 120°27'52"W (heading). Approved 12-13-85.

**ZI-IOB PEAK:** Peak, elevation 1,977 m (6,487 ft), in the Cascade Mountains, in the Mount Baker National Forest, 1.6 km (1.0 mi) NNW of Damfino Lakes; Snohomish Co., WA; Sec. 5, T 30 N, R 12 E, W.M. (unsurveyed); 48°07'27"N, 121°18'03"W. Approved 9-12-86.

#### NAMES REPEALED

**ARTS KNOLL:** Peak, elevation 2,195-2,207 m (7,200-7,240 ft), in both the Okanogan and Mount Baker National Forests, and within the Glacier Peak Wilderness Area; Chelan and Skagit Cos., WA; sec. 18, T 34 N, R 14 E, W.M.; 48°25'51"N, 121°02'30"W. Repealed 12-13-85.

**TWIN PEAKS:** Peaks, on the NW side of the north Twin Lake, in the Snoqualmie National Forest; Snohomish Co., WA; sec. 34, T 29 N, R 11 E, W.M.; 47°57'29"N, 121°22'50"W. Repealed 3-14-86.

**WSR 88-07-051**  
**EMERGENCY RULES**  
**INSURANCE COMMISSIONER**  
[Order R 88-3—Filed March 14, 1988]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the Washington state health insurance pool, by the amendment of WAC 284-91-010 to enable a member to serve as both the administrator of the pool and as a director thereof, and the amendment of WAC 284-91-020 to enable an out-of-state member to serve as the administrator of the pool, and to clarify other wording therein.

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 restrictions in existing rules must be changed because no bids were received from any potential administrator of the health insurance pool. Amendment by permanent rule procedures would unduly delay the start of the pool's operation and be harmful to persons in need of high-risk insurance. Permanent rules will follow promptly.

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, 48.44.050 and 48.46.200 which directs that the Insurance Commissioner has authority to implement the provisions of RCW 48.41.040 and 48.41.060.

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 March 14, 1988.

Dick Marquardt  
Insurance Commissioner  
By David H. Rodgers  
Chief Deputy Insurance Commissioner

#### AMENDATORY SECTION (Amending Order R 87-9, filed 8/27/87)

**WAC 284-91-010 BOARD OF DIRECTORS.** Pursuant to section 4(2), chapter 431, Laws of 1987, a board of directors for the Washington state health insurance pool is hereby established. Nine directors shall comprise the board, and shall be selected by position as follows:

(1) Individual persons shall be appointed by the commissioner to positions one, two, and three. Position one will represent the general public. Position two will represent health care providers. Position three will represent health insurance agents.

(2) At the organizational meeting six directors shall be elected by the "members" of the Washington state health insurance pool in attendance at such meeting. The statutory definition of "member" is set forth in section 3(12), chapter 431, Laws of 1987. Nomination for the members' positions shall be in accordance with the following procedures:

(a) Members who are health care service contractors, registered pursuant to chapter 48.44 RCW, shall nominate one member for position four. In the determination of the nominee for position four, each health care service contractor is entitled to one vote. The contractors will then nominate one member for position five. In the determination of the nominee for position five, each health care service contractor's vote shall be weighted in proportion to its share of the earned premiums received by all member contractors during the preceding calendar year. A health care service contractor is not eligible for position four or position five if it is controlled by a health maintenance organization or a commercial insurer.

(b) Members who are health maintenance organizations with certificates of authority pursuant to chapter 48.46 RCW shall nominate one member for position six. In the determination of the nominee for position six, each health maintenance organization is entitled to one vote. The health maintenance organizations will then nominate one member for position seven. In the determination of the nominee for position seven, each health maintenance organization's vote shall be weighted in proportion to its share of the total earned premium received by all member organizations during the preceding calendar year. A health maintenance organization is not eligible for position six or position seven if it is controlled by a health care service contractor or a commercial insurer.

(c) Members who are commercial insurers providing disability insurance pursuant to certificates of authority issued by the commissioner, shall nominate one member for position eight. In the determination of the nominee for position eight, each commercial insurer is entitled to one vote. The commercial insurers will then nominate a member for position nine. In the determination of the

nominee for position nine, each commercial insurer's vote shall be weighted in proportion to its share of the total earned premiums for disability insurance received by all commercial insurers during the preceding calendar year. A commercial insurer is not eligible for position eight or position nine if it is controlled by a health care service contractor or a health maintenance organization.

(d) If, in the nomination process, more than two members are proposed and the resulting vote fails to produce a majority for any candidate, succeeding ballots will be conducted, each dropping the candidate with the lowest vote on the previous ballot until one member receives a majority vote for nomination.

(e) If, in the nominating process, there is a tie vote, the prevailing member will be determined by the flip of a coin, with the nominee whose name comes first in alphabetical order making the call of heads or tails.

(f) For purposes of proportional voting in the nominating process, "earned premium" is that amount reported from the state of Washington in the most recent annual statement filed with the commissioner.

(3) The members nominated pursuant to subsection (2) of this section must be confirmed by a majority of the members present and voting at any election. If the confirming vote results in the rejection of any nominee proposed in accordance with subsection (2) of this section, the appropriate members will caucus and nominate a new candidate. Such nominee must be confirmed by a majority vote of those members present and voting.

(4) The following general rules apply to the nomination and election process set forth in subsections (2) and (3) of this section.

(a) Only one board position may be held by a member, its parent member or its subsidiary members.

(b) ~~((No))~~ A member may serve as both the administrator and a director. However, a director which submits a bid to become the administrator is disqualified from participating in the board's considerations and decision in choosing the administrator. While a director is also serving as the administrator, it is disqualified from participating in the board's considerations and decisions concerning:

(i) The compensation to be paid to the administrator,

(ii) Its removal, renewal, or replacement as administrator, and

(iii) Any matter in dispute between the board and the administrator.

(c) A member is eligible for election to the board of directors if, at time of election, it has at least one thousand persons insured under either individual or group contracts or both and has provided health expense benefits continuously for two or more years.

(d) Except as provided in subsections (2)(a), (b), and (c) of this section, each member shall have one vote which may be cast in person or by proxy granted in writing.

(e) Directors shall serve three-year terms or until a successor has been appointed or elected except as follows. The original directors in positions one, two, and three will first serve one-year terms. The original directors in positions four, six, and eight will first serve two-

year terms. All other terms will be for three years or until a successor is appointed or elected.

(f) After the initial terms, elections for positions four through nine will be conducted in accordance with the procedures set forth in subsections (2) and (3) of this section at a time and place designated by the plan of operation.

#### AMENDATORY SECTION (Amending Order R 87-9, filed 8/27/87)

WAC 284-91-020 ORGANIZATIONAL MEETING, DUTIES OF BOARD OF DIRECTORS. (1) The organizational meeting at which nominations and elections are conducted shall be called by the commissioner, pursuant to notice given by mail to all members, which notice shall specify the time, place, and purpose of such meeting. The organizational meeting will be conducted by the commissioner or his designee.

(2) The board of directors shall meet at least once each calendar quarter with five directors constituting a quorum. ~~((At the first meeting after the organizational meeting,))~~ The board shall:

(a) Select a presiding officer,

(b) ~~((Initiate a search for))~~ Select an administrator which shall be either a member ~~((domiciled in this state))~~ or an experienced third party administrator with ~~((headquarters))~~ an office in this state,

(c) ~~((Consider retaining))~~ Retain such legal, actuarial, accounting, or other professional services as the directors deem necessary to operate the high risk health pool in a sound and competent manner,

(d) ~~((Determine the need for an))~~ Initiate such interim and regular assessments as may be reasonable and necessary for ~~((organizational or interim operating costs))~~ the operation of the high risk health pool in a sound and competent manner,

(e) Initiate efforts to develop a plan of operation as required by section 4(4), chapter 431, Laws of 1987; and

(f) Take such other ~~((matters))~~ action as the directors consider necessary and appropriate to properly initiate the activities of the high risk health pool pursuant to chapter 431, Laws of 1987.

#### WSR 88-07-052

##### ADOPTED RULES

#### DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Public Assistance)

[Order 2608—Filed March 14, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Aid to families with dependent children and continuing general assistance—Eligibility need, amending chapter 388-28 WAC.

This action is taken pursuant to Notice No. WSR 88-04-045 filed with the code reviser on January 29, 1988. 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 74.04.050 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 March 11, 1988.

By Leslie F. James  
Director Administrative Services

AMENDATORY SECTION (Amending Order 2087, filed 3/14/84)

WAC 388-28-440 ACCUMULATION AND DEPLETION OF ALLOWABLE CASH RESOURCE RESERVES. (1) Recipients may spend their cash reserves and rebuild them with succeeding public assistance grants, with funds from other exempt sources, or other income which has been considered in computing financial need. Recipients may place grants in accounts along with cash reserves and then spend out of those accounts during the month.

(2) Cash on hand may exceed the specified limits for a maximum of thirty days if it has already been considered in computing financial need.

(3) FOR GENERAL ASSISTANCE ONLY, allowable cash reserves may be accumulated from nonrecurrent cash lump-sum sources, including the following:

- (a) Income tax refunds.
- (b) Inheritances.
- (c) Insurance benefits.
- (d) Gifts.
- (e) Prizes and awards.
- (f) Repayment of debts owed the recipient.
- (g) Proceeds from the sale of exempt property.
- (h) Social Security death benefits.
- (i) Indian per capita payments generated by tribally held land or business.

(4) IN GENERAL ASSISTANCE ONLY if a lump sum, when added to existing reserves, causes the resources to exceed allowable limits, the excess is newly acquired income to be treated in accordance with WAC 388-28-484.

~~(5) ((Recipients may not use the following types of one-time payments to accumulate resource reserves:~~

~~(a) Earnings accrued over a period of time and received in one payment.~~

~~(b) Payments representing accumulated periodic benefits. Examples are Social Security retirement and disability benefits, railroad retirement benefits, unemployment insurance benefits, and veterans' benefits.~~

~~(6))~~ If a lump sum is placed in trust for a recipient and is not under his or her control, the following rules apply:

(a) Funds kept in trust do not affect public assistance need.

(b) FOR GENERAL ASSISTANCE ONLY the trustee may release to the recipient an amount up to the allowable resource limit for the assistance unit less any amount of existing cash and marketable securities as of the date the lump sum was received. Such disbursement,

if made within thirty days of the date the lump sum was received, is used to accumulate allowable reserves and does not affect public assistance need. This may be done once for each lump sum placed in trust.

AMENDATORY SECTION (Amending Order 2276, filed 8/30/85)

WAC 388-28-475 USE OF INCOME AND INCOME POTENTIALS. (1) Meaning of income (see definition in WAC 388-22-030). Income ~~((includes))~~ shall include, but is not limited to, all types of:

- ~~(a) Real or personal property((;));~~
- ~~(b) Support from parent, stepparent, or other nonrelated adult((;));~~
- ~~(c) Stocks and bonds((;));~~
- ~~(d) Wages((;));~~
- ~~(e) Interest in an estate((;));~~
- ~~(f) Income from farming((; all));~~
- ~~(g) Benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, and U.C.((;));~~

~~(h) 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)); and~~

~~(i) For AFDC lump sum payments. For general assistance, only that amount of the lump sum in excess of the resource limits is income.~~

(2) Ownership and use of income and income potentials. The policies in WAC 388-28-300 through 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 388-28-457 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.

WSR 88-07-053

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Public Assistance)

[Filed March 14, 1988]

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 alcoholism detoxification program, amending chapter 388-40 WAC;

that the agency will at 10:00 a.m., Tuesday, April 26, 1988, in the Auditorium, OB-2, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 27, 1988.

The authority under which these rules are proposed is RCW 74.50.010.

The specific statute these rules are intended to implement is chapter 74.50 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 26, 1988.

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

Troyce Warner  
Office of Issuances  
Department of Social and Health Services  
Mailstop OB-33H  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact: Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by April 12, 1988. The meeting site is in a location which is barrier free.

Dated: March 11, 1988

By: Leslie F. James, Director  
Administrative Services

#### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.

The Following Sections are Affected by this Revision: Amending WAC 388-40-080, 388-40-090 and 388-40-100; and new WAC 388-40-110.

Purpose of this Rule Change: To revise the way in which the department administers the Alcoholism and Drug Addiction Treatment and Support Act (ADATSA).

These rules are necessary to satisfy the terms of a recent superior court ruling which found the department's implementation of ADATSA to be inconsistent with sections 6 and 7 of that act.

Statutory Authority: RCW 74.04.005, 74.09.010, and 74.09.035 and under a new chapter in Title 74 RCW, signed into law on May 19, 1987.

In Summary, the Rule Change: Modifies treatment services to include individual determinations of appropriate treatment rather than the requirement that all ADATSA recipients participate in inpatient treatment; and expands shelter services to include assistance payments (through protective payee or vendor payment) for persons who wish to maintain or acquire their own housing. Up until the court order, persons who didn't want treatment were only offered shelter in a department contracted facility.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule: Cecile Anderson, Community Services Program Manager, Bureau of Alcohol and Substance Abuse, Mailstop OB-44W, Olympia, WA 98504, phone (206) 753-5866, scan 234-5866.

These rules are necessary as a result of a Declaratory Judgment and Permanent Injunction signed by Judge Paula Casey, November 25, 1987, in the Superior Court of the state of Washington, county of Thurston.

#### AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-080 ADATSA ASSESSMENT CENTERS—ROLE. (1) ADATSA assessment centers are responsible for ~~((the administration of))~~ ADATSA diagnostic evaluation and placement services; they are not responsible for providing direct treatment.

(2) The assessment center shall, in accordance with standards set forth in WAC 275-19-185, conduct a face to face diagnostic assessment of the application to:

(a) Determine incapacity based on alcoholism or drug addiction; and  
(b) Determine whether ~~((to place))~~ the incapacitated applicant ~~((is))~~ is willing and able to undergo a course of treatment or ~~((to provide))~~ desires shelter assistance only.

(3) Once the applicant's financial and medical eligibility is established, the assessment center shall:

(a) Arrange all placements as required into treatment ~~((and/or shelter))~~ facilities;

(b) Arrange all placements as required for those applicants/recipients who wish to live in department-contracted shelter facilities;

(c) Provide ongoing case monitoring ~~((of))~~ for recipients of such treatment and/or shelter services; ~~((and))~~

~~((and))~~ (d) Refer back to the community services office to provide case monitoring for those shelter assistance recipients who choose to live in independent housing; and

(e) Notify the community services office promptly of all placement or eligibility status changes.

#### AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-090 ADATSA TREATMENT MODALITIES—DESCRIPTION OF SERVICES, REQUIREMENTS, AND LIMITATIONS. (1) The department shall offer ADATSA treatment services to eligible applicants/recipients incapacitated by alcoholism or drug addiction ~~((shall be offered ADATSA treatment services))~~.

(2) Treatment services are limited to a total of six months in a twenty-four month period. The twenty-four month period begins on the date of initial entry into treatment.

(3) ~~((Treatment is provided in a continuum of three phases as follows:~~

(a) Phase one: Intensive inpatient treatment, not to exceed thirty days;

(b) Phase two: Sixty days of residential recovery house treatment; and

(c) Phase three: Ninety days of outpatient treatment)) The assessment center shall determine a course of treatment based on an individual assessment of alcohol/drug involvement and treatment needs, in accordance with the procedures in WAC 275-19-185.

(4) ~~((Alcohol residential treatment programs that are structured to periods of ninety days of treatment may combine phases one and two for a total of ninety days of residential care))~~ Treatment may consist of residential and/or outpatient services.

(5) ~~((Drug residential treatment programs that are structured to periods of ninety days or more of treatment may combine phases one, two, and three for a total of one hundred eighty days of residential care))~~ Residential treatment is limited to the following services:

(a) Intensive inpatient treatment, not to exceed 30 days;

(b) Recovery house treatment, not to exceed 60 days;

(c) Extended care recovery house treatment, not to exceed 180 days;

(d) Drug residential treatment, not to exceed 180 days.

(6) ~~((In order to))~~ An applicant/recipient shall qualify for up to six months of outpatient treatment services ~~((; the))~~ if the assessment center determines that residential treatment is not necessary or appropriate. The assessment center shall base this determination on clinical or medical factors which would indicate the likelihood that an applicant/recipient would succeed from a less structured primary treatment modality. Such factors may include an assessment of former treatment history, the number of detoxification admissions, and the chronicity, and degree of incapacity of the applicant/recipient ~~((must have first participated in phases one and two of treatment within the same twenty-four month period))~~. The assessment center shall also consider social factors such as the availability of social support systems, family support, and stable living arrangement when evaluating the individual's ability to benefit from primary outpatient treatment.

(7) ADATSA recipients who withdraw from treatment for any reason ~~((must))~~ shall apply for readmission to treatment through the assessment center.

(a) Recipients who drop out of treatment in the intensive inpatient phase ~~((phase one shall))~~ may be required to repeat this phase.

(b) Recipients who drop out of treatment during the recovery house or outpatient phase (~~((phase two or three) shall))~~ may be ((readmitted only)) required to return to the modality from which they dropped out or may be required to enter intensive inpatient treatment if, ((for the remainder of the time allotted for that phase)) in the clinical judgment of the assessment center, a more structured form of treatment seems warranted.

(c) Recipients who have been absent from ~~((phase one))~~ inpatient treatment or ~~((phase two))~~ other residential services for less than seventy-two hours may, at full discretion of the providing program director, reenter that program without being considered as having dropped out and without being required to reapply for readmittance through the assessment center.

(8) Recipients in the inpatient or recovery house treatment modality shall be eligible for an allowance based on the department's current payment standard for clothing and personal incidentals.

(9) Recipients in the outpatient treatment modality shall be eligible for a treatment stipend for housing and other living expenses.

(a) The community services office shall base the stipend amount ((shall be based)) on the current payment standard for public assistance recipients; and

(b) The community services office shall issue this stipend directly to the outpatient facility as custodial (protective) payee.

#### AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-100 ADATSA SHELTER SERVICES. (1) The department shall provide shelter services ((shall be available)) to eligible ADATSA applicants/recipients:

(a) Who refuse treatment; or

(b) Who have exhausted their six months of treatment in a twenty-four month period; or

(c) Who are in temporary need of shelter pending placement into a treatment facility, or pending SSI approval.

(2) ~~((Att))~~ Eligible applicants/recipients wishing shelter ((placements)) services shall ((be arranged)) have their choice of:

(a) Placement by the assessment center ((in shelters contracted for by the department)) into a department-contracted shelter facility which provides room and board; or

(b) A shelter assistance payment for independent housing and basic needs.

(3) The department shall issue shelter assistance to persons in independent housing through a protective payee or vendor payment. The department shall base the amount of assistance on the appropriate payment standard in WAC 388-29-100 (3)(a) or (b).

(4) The department shall provide assistance for independent housing only to persons who reside in a permanent residential structure and who have a deed of purchase, rental agreement, or other verifiable written agreement between themselves and the person to whom they are obligated for shelter costs or from whom they are receiving supplied shelter.

#### NEW SECTION

WAC 388-40-110 ADATSA PROTECTIVE PAYEE REQUIREMENTS. (1) The department shall pay the assistance needs of recipients receiving outpatient treatment or shelter services by protective payee or vendor payment. See WAC 388-33-455 for protective payee selection criteria.

(2) An ADATSA protective payee shall have the authority and responsibility to make decisions about the expenditure of outpatient treatment stipends or shelter assistance. Disbursement of funds shall be made first to assure the basic needs of shelter, utilities, food, clothing, and personal incidentals are met.

(a) The protective payee for a recipient in outpatient treatment shall encourage the recipient to participate in the decision-making process as a means of developing good money management, budgeting, and decision-making skills. The amount of control or latitude exercised shall depend upon the recipient's status in treatment and the clinical judgment of the protective payee as to how responsible the recipient has become.

(b) The protective payee for a shelter assistance recipient shall first disburse a direct payment for shelter and utilities, such as a check to the landlord, mortgage company, utility company, etc.

(3) The protective payee may use his or her discretion on the method of disbursing to the recipient any cash balance remaining from the recipient's monthly assistance warrant. The protective payee has the

authority to apportion any remaining funds to the recipient at regular intervals throughout the month.

(4) In the event the recipient and/or protective payee relationship is terminated for any reason, the protective payee shall return any remaining funds to the department.

**WSR 88-07-054**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2611—Filed March 14, 1988]

I, Leslie F. James, director of the Administrative Services do promulgate and adopt at Olympia, Washington, the annexed rules relating to alcoholism detoxification program, amending chapter 388-40 WAC.

I, Leslie F. James, 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 comply with RCW 74.50.060 and [74.50.]070 per a superior court ruling.

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

This rule is promulgated pursuant to RCW 74.50.010 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 74.50 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 March 11, 1988.

By Leslie F. James, Director  
Administrative Services

#### AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-080 ADATSA ASSESSMENT CENTERS—ROLE. (1) ADATSA assessment centers are responsible for ((the administration of)) ADATSA diagnostic evaluation and placement services; they are not responsible for providing direct treatment.

(2) The assessment center shall, in accordance with standards set forth in WAC 275-19-185, conduct a face to face diagnostic assessment of the application to:

(a) Determine incapacity based on alcoholism or drug addiction; and

(b) Determine whether ((to place)) the incapacitated applicant ((on)) is willing and able to undergo a course of treatment or ((to provide)) desires shelter assistance only.

(3) Once the applicant's financial and medical eligibility is established, the assessment center shall:

(a) Arrange all placements as required into treatment ((and/or shelter)) facilities;

(b) Arrange all placements as required for those applicants/recipients who wish to live in department-contracted shelter facilities;

(c) Provide ongoing case monitoring (~~(of)~~) for recipients of such treatment and/or shelter services; (~~and~~)

(~~(c)~~) (d) Refer back to the community services office to provide case monitoring for those shelter assistance recipients who choose to live in independent housing; and

(e) Notify the community services office promptly of all placement or eligibility status changes.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-090 ADATSA TREATMENT MODALITIES—DESCRIPTION OF SERVICES, REQUIREMENTS, AND LIMITATIONS. (1) The department shall offer ADATSA treatment services to eligible applicants/recipients incapacitated by alcoholism or drug addiction (~~(shall be offered ADATSA treatment services)~~).

(2) Treatment services are limited to a total of six months in a twenty-four month period. The twenty-four month period begins on the date of initial entry into treatment.

(3) (~~Treatment is provided in a continuum of three phases as follows:~~

(a) Phase one: Intensive inpatient treatment, not to exceed thirty days;

(b) Phase two: Sixty days of residential recovery house treatment; and

(c) Phase three: Ninety days of outpatient treatment))

The assessment center shall determine a course of treatment based on an individual assessment of alcohol/drug involvement and treatment needs, in accordance with the procedures in WAC 275-19-185.

(4) (~~Alcohol residential treatment programs that are structured to periods of ninety days of treatment may combine phases one and two for a total of ninety days of residential care~~) Treatment may consist of residential and/or outpatient services.

(5) (~~Drug residential treatment programs that are structured to periods of ninety days or more of treatment may combine phases one, two, and three for a total of one hundred eighty days of residential care~~) Residential treatment is limited to the following services:

(a) Intensive inpatient treatment, not to exceed 30 days;

(b) Recovery house treatment, not to exceed 60 days;

(c) Extended care recovery house treatment, not to exceed 180 days;

(d) Drug residential treatment, not to exceed 180 days.

(6) (~~In order to~~) An applicant/recipient shall qualify for up to six months of outpatient treatment services(~~, the~~) if the assessment center determines that residential treatment is not necessary or appropriate. The assessment center shall base this determination on clinical or medical factors which would indicate the likelihood that an applicant/recipient would succeed from a less structured primary treatment modality. Such factors may include an assessment of former treatment

history, the number of detoxification admissions, and the chronicity, and degree of incapacity of the applicant/recipient (~~(must have first participated in phases one and two of treatment within the same twenty-four month period)~~). The assessment center shall also consider social factors such as the availability of social support systems, family support, and stable living arrangement when evaluating the individual's ability to benefit from primary outpatient treatment.

(7) ADATSA recipients who withdraw from treatment for any reason (~~(must)~~) shall apply for readmission to treatment through the assessment center.

(a) Recipients who drop out of treatment in the intensive inpatient phase (~~(phase one)~~) may be required to repeat this phase.

(b) Recipients who drop out of treatment during the recovery house or outpatient phase (~~(phase two or three)~~) may be (~~(readmitted only)~~) required to return to the modality from which they dropped out or may be required to enter intensive inpatient treatment if, (~~(for the remainder of the time allotted for that phase)~~) in the clinical judgment of the assessment center, a more structured form of treatment seems warranted.

(c) Recipients who have been absent from (~~(phase one)~~) inpatient treatment or (~~(phase two)~~) other residential services for less than seventy-two hours may, at full discretion of the providing program director, reenter that program without being considered as having dropped out and without being required to reapply for readmittance through the assessment center.

(8) Recipients in the inpatient or recovery house treatment modality shall be eligible for an allowance based on the department's current payment standard for clothing and personal incidentals.

(9) Recipients in the outpatient treatment modality shall be eligible for a treatment stipend for housing and other living expenses.

(a) The community services office shall base the stipend amount (~~(shall be based)~~) on the current payment standard for public assistance recipients; and

(b) The community services office shall issue this stipend directly to the outpatient facility as custodial (protective) payee.

AMENDATORY SECTION (Amending Order 2526, filed 8/21/87)

WAC 388-40-100 ADATSA SHELTER SERVICES. (1) The department shall provide shelter services (~~(shall be available)~~) to eligible ADATSA applicants/recipients:

(a) Who refuse treatment; or

(b) Who have exhausted their six months of treatment in a twenty-four month period; or

(c) Who are in temporary need of shelter pending placement into a treatment facility, or pending SSI approval.

(2) (~~(A))~~ Eligible applicants/recipients wishing shelter (~~(placements)~~) services shall (~~(be arranged)~~) have their choice of:

(a) Placement by the assessment center (~~(in shelters contracted for by the department)~~) into a department-

contracted shelter facility which provides room and board; or

(b) A shelter assistance payment for independent housing and basic needs.

(3) The department shall issue shelter assistance to persons in independent housing through a protective payee or vendor payment. The department shall base the amount of assistance on the appropriate payment standard in WAC 388-29-100 (3)(a) or (b).

(4) The department shall provide assistance for independent housing only to persons who reside in a permanent residential structure and who have a deed of purchase, rental agreement, or other verifiable written agreement between themselves and the person to whom they are obligated for shelter costs or from whom they are receiving supplied shelter.

#### NEW SECTION

**WAC 388-40-110 ADATSA PROTECTIVE PAYEE REQUIREMENTS.** (1) The department shall pay the assistance needs of recipients receiving outpatient treatment or shelter services by protective payee or vendor payment. See WAC 388-33-455 for protective payee selection criteria.

(2) An ADATSA protective payee shall have the authority and responsibility to make decisions about the expenditure of outpatient treatment stipends or shelter assistance. Disbursement of funds shall be made first to assure the basic needs of shelter, utilities, food, clothing, and personal incidentals are met.

(a) The protective payee for a recipient in outpatient treatment shall encourage the recipient to participate in the decision-making process as a means of developing good money management, budgeting, and decision-making skills. The amount of control or latitude exercised shall depend upon the recipient's status in treatment and the clinical judgment of the protective payee as to how responsible the recipient has become.

(b) The protective payee for a shelter assistance recipient shall first disburse a direct payment for shelter and utilities, such as a check to the landlord, mortgage company, utility company, etc.

(3) The protective payee may use his or her discretion on the method of disbursing to the recipient any cash balance remaining from the recipient's monthly assistance warrant. The protective payee has the authority to apportion any remaining funds to the recipient at regular intervals throughout the month.

(4) In the event the recipient and/or protective payee relationship is terminated for any reason, the protective payee shall return any remaining funds to the department.

**WSR 88-07-055**  
ADOPTED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)

[Order 2607—Filed March 14, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Employment and training—Work incentive, amending chapter 388-57 WAC.

This action is taken pursuant to Notice No. WSR 87-22-009 filed with the code reviser on October 26, 1987. 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 74.04.050 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 March 11, 1988.

By Leslie F. James, Director  
Administrative Services

#### NEW SECTION

**WAC 388-57-011 WASHINGTON EMPLOYMENT OPPORTUNITIES PROGRAM (OPPORTUNITIES).** (1) The Washington employment opportunities program (OPPORTUNITIES) is a group of employment and training programs for applicants and recipients of AFDC and includes:

- (a) Work incentive (WIN) program,
- (b) Employment search program (ESP),
- (c) Community work experience program (CWEP), and
- (d) Employment partnership program (EPP).

(2) An AFDC applicant/recipient shall not be subject to sanction for failure to participate in one program if assigned to and participating in another OPPORTUNITIES program.

#### AMENDATORY SECTION (Amending Order 750, filed 12/7/72)

**WAC 388-57-040 WORK INCENTIVE PROGRAM (WIN)—(~~STATUTORY BASIS~~) AUTHORITY.** (1) The work incentive (~~WIN~~) program is authorized by the Social Security Act, Title IV, Part C (~~of Title IV of the Social Security Act which directs the secretary of labor to establish work incentive programs in each state. The Washington state employment security department, by agreement with the secretary of the U.S. Department of Labor, provides AFDC recipients with the following service categories for placement:~~)

~~((1) Placement in employment, on-the-job training, or); and in 45 CFR 224 and identical 29 CFR 56.~~

~~(2) ((Institutional and work experience training likely to lead to regular employment, or)) The department of social and health services and the employment security department have joint administrative responsibility for WIN.~~

~~(3) ((Public service employment)) DSHS has jurisdiction to conduct hearings on appeals regarding:~~

~~(a) WIN registration as an AFDC eligibility requirement, and~~

~~(b) AFDC grant change resulting from a WIN sanction (deregistration by ESD for refusal and/or failure to participate).~~

~~(4) ESD has jurisdiction to conduct hearings on appeals regarding:~~

~~(a) Refusal or failure to participate in WIN employment and training activity or WIN social services required for employability; and~~

~~(b) Grievances related to WIN requirements and services.~~

AMENDATORY SECTION (Amending Order 2035, filed 10/6/83)

WAC 388-57-057 WORK INCENTIVE PROGRAM—CERTIFICATION ((OF AFDC RECIPIENT TO STATE EMPLOYMENT)) AND SUPPORTIVE SERVICES. (1) ~~((An AFDC recipient registered with WIN))~~ The department shall certify registrants ~~((shall be certified to the state employment service when requested by the state))~~ as to readiness for employment ~~((service))~~ or training:

(a) When referred to ESD for active participation, or

(b) When requested by ESD.

~~(2) ((Self-support services required by the individual shall be provided and continued as needed during the individual's participation in all WIN components, and for a thirty-day period from the start of paid employment. For this purpose, employment shall include full-time and part-time unsubsidized employment, WIN on-the-job training, WIN public service employment, and WIN suspense to other programs offering on-the-job training, public service employment, or other paid work)) The department shall certify a nonexempt AFDC-E qualifying parent within thirty days of grant opening.~~

~~(3) ((A certified mandatory registrant may not refuse supportive services if such refusal prevents the individual from accepting an appropriate work or training assignment. Such refusal shall be treated as a refusal to participate without good cause)) The department shall provide supportive social services needed for participation in an active WIN status and for thirty days from the start of paid employment. This is limited to the availability of federal and state funding for WIN.~~

#### NEW SECTION

WAC 388-57-059 WIN PROGRAM—GRIEVANCES. (1) A registrant not refusing or failing to participate may file with ESD a grievance regarding assignment to or provision of WIN services. The grievance may concern either manpower services from ESD or supportive social services from DSHS.

(2) A registrant may request a hearing with a state administrative law judge through ESD, in addition to pursuing local grievance procedure with ESD management.

(3) A participant shall not be relieved of required WIN participation pending the results of a filed grievance or request for a grievance hearing.

#### NEW SECTION

WAC 388-57-063 WIN PROGRAM—FAILURE TO PARTICIPATE. (1) This section applies to a registrant in a WIN status failing without good cause to participate in WIN.

(2) Failure to participate shall include, but is not limited to, refusal or failure to:

(a) Appear for two appointments with OPPORTUNITIES staff, including appointments for reappraisal of an unassigned recipient; or

(b) Appear for one appointment in three consecutive months with other than OPPORTUNITIES staff when referred for employment-related activity, including social services;

(c) Accept or continue WIN work experience, training, or supportive services required for employability; or

(d) Accept or continue employment without good cause.

(3) If there is overt refusal, an oral or written statement of unwillingness to participate, OPPORTUNITIES staff shall offer the registrant conciliation lasting no more than thirty days from date of refusal.

(4) If there is a defacto failure, behavior from which lack of participation is inferred, OPPORTUNITIES staff shall offer the registrant:

(a) A face-to-face appointment to determine good cause and begin conciliation, explaining in the appointment notice the reason for and the consequences of not keeping the appointment; and

(b) Conciliation lasting no more than thirty days from the face-to-face appointment.

(5) OPPORTUNITIES staff shall begin conciliation, counseling to restore participation, as soon as possible but no later than ten days after staff determine an overt or defacto failure exists.

(6) Conciliation activity shall consist of at least two attempts to involve the registrant and may continue for up to 30 calendar days.

(7) OPPORTUNITIES staff shall advise the registrant of the right to terminate conciliation and, where necessary, assist in preparing the written statement.

(8) OPPORTUNITIES must issue a notice of intended deregistration within two working days after unsuccessful termination of conciliation due to:

(a) Written request from the registrant to terminate conciliation, or

(b) Belief by OPPORTUNITIES staff that the dispute cannot be resolved by conciliation, based on current efforts, or

(c) Expiration of the thirty-day limit without resolution of the problem.

NEW SECTION

WAC 388-57-066 WIN PROGRAM—NOTICE OF INTENDED DEREGISTRATION. A notice of intended deregistration for sanction shall state:

- (1) Why the action is taking place, giving details;
- (2) The AFDC grant may be affected;
- (3) The number of payment months the deregistration shall stand; and
- (4) The right to appeal to ESD within ten days.

NEW SECTION

WAC 388-57-067 WIN PROGRAM—SANCTION. (1) A WIN sanction is the deregistration of a nonexempt registrant from OPPORTUNITIES by ESD for refusal or failure to participate without good cause while in a WIN status.

(2) The sanction shall begin on the first day of the first payment month the sanctioned individual's needs are removed from the AFDC grant.

(3) For the first occurrence, the sanction shall be for three consecutive payment months.

(4) For the second or subsequent occurrence, the sanction shall be for six consecutive payment months.

NEW SECTION

WAC 388-57-071 WORK INCENTIVE PROGRAM—GOOD CAUSE. (1) This section applies to participants in WIN, including unassigned recipients subject to reappraisal.

(2) The OPPORTUNITIES staff member directing the activity shall make a reasonable effort to determine good cause prior to initiating sanction for refusal or failure to participate in WIN. A reasonable effort shall be a minimum of at least two attempts to contact the WIN client to determine good cause.

(3) The following conditions when verified shall constitute good cause for refusal or failure to participate in WIN. These include, but are not limited to:

- (a) Physical, mental, or emotional inability to perform the required activity.
- (b) Court-ordered appearance or temporary incarceration.
- (c) Family or individual emergency or crisis.
- (d) Breakdown in transportation arrangements, with no readily accessible alternate transportation.
- (e) Inclement weather which prevents the individual and others similarly situated from traveling to or participating in the prescribed activity.
- (f) Breakdown in child care arrangements, or child care not available to the single parent AFDC household.
- (g) The nature of the required activity would be hazardous to the participant.
- (h) The wages of the employment do not meet minimum wage standards or are not customary for such work in the community.
- (i) The job is available because of a labor dispute.
- (j) The employment referral was not for a specific job vacancy.
- (k) Refusal to accept major medical treatment, e.g., major surgery, needed for employability.

(l) Refusal by an AFDC-E qualifying parent to accept employment of 100 hours or more per month, the wages for which, less mandatory payroll deductions and necessary work-related expenses, would not equal or exceed the family's AFDC cash benefits.

(m) The required activity would interrupt a program in process for permanent rehabilitation or self-support or conflict with an imminent likelihood of re-employment at the person's regular work.

(4) No person shall be required to perform a WIN activity unless supportive and manpower services necessary for participation are available. The absence, cessation, or withdrawal of such necessary services while the individual is in a WIN component shall constitute good cause for refusal to participate.

NEW SECTION

WAC 388-57-074 OPPORTUNITIES PROGRAM—EXEMPTION AND HEARINGS. (1) An AFDC applicant and/or recipient, claiming to be exempt from ESP/CWEP participation or WIN registration, shall be considered exempt until status is finally determined.

(2) DSHS has jurisdiction to conduct hearings on appeals by individuals claiming to be exempt from:

- (a) ESP participation required of AFDC applicants and recipients,
- (b) CWEP participation required of AFDC recipients, and
- (c) WIN (OPPORTUNITIES) registration required of AFDC recipients.

(3) DSHS has jurisdiction to conduct hearings on appeals by individuals:

(a) Requesting a grievance hearing over an issue with either ESD or DSHS OPPORTUNITIES while participating in ESP, CWEP, or EPP;

(b) Contesting sanction (AFDC grant change or denial) for failure to participate while assigned to ESP or CWEP under the OPPORTUNITIES program; and

(c) Contesting an AFDC grant change as a result of a WIN sanction (deregistration by ESD from the OPPORTUNITIES program).

(4) ESD has jurisdiction to conduct hearings on appeals by individuals:

(a) Requesting a grievance hearing over an issue with either ESD or DSHS OPPORTUNITIES regarding WIN services or required WIN activity under the OPPORTUNITIES program,

(b) Contesting a WIN sanction (deregistration by ESD from the OPPORTUNITIES program), and

(c) Contesting a refusal by OPPORTUNITIES staff to register an individual following a WIN sanction.

AMENDATORY SECTION (Amending Order 2102, filed 6/7/84)

WAC 388-57-097 COMMUNITY WORK EXPERIENCE PROGRAM (CWEP). The community work experience program (CWEP) is authorized by the Social Security Act, Title IV, Part A, and in 45 CFR 238, and under RCW 74.04.473 ((and as provided for in 45-CFR-238)).

(1) ~~((The program has the following objectives:~~  
 (a) ~~To provide work experience to recipients of AFDC unable to secure employment through other employment programs; and~~

(b) ~~To determine the extent work experience will assist individuals participating in the program to secure unsubsidized employment.~~

(2) ~~CWEP sites shall be located in the Moses Lake and Mount Vernon CSOs.~~

(3) ~~Any AFDC recipient shall, as a condition of eligibility for AFDC, participate ((in)) when assigned to CWEP unless the individual:~~

(a) ~~Is participating in ((a WIN/E&T approved)) an education or training ((plan)) program for increasing employability potential or job skills; or~~

(b) ~~Meets the ((WIN/E&T)) exemption criteria of WAC 388-24-107; or~~

(c) ~~Is ((both currently (or becomes))) employed at least eighty hours per month and earning not less than the legally established minimum wage for such employment((. Persons employed at least eighty hours per month at jobs not having an established minimum wage shall be exempted regardless of wage level)); or~~

(d) ~~Is denied an AFDC grant for any month solely because the amount of the entitlement is less than ten dollars per month; or~~

(e) ~~Resides in ((a non-CWEP CSO)) an area not having CWEP.~~

~~((4)) (2) The department shall:~~

(a) ~~Provide coordination between CWEP, ESP, EPP and the WIN((/E&T)) program:~~

(i) ~~To ensure ((that)) job placement will have priority over participation in CWEP((;)), and~~

(ii) ~~To ensure ((that)) aid may not be denied on the grounds of failure to participate in ((either WIN or)) CWEP if participants are ((actively and satisfactorily)) participating in ((the other program)) WIN, ESP, or EPP.~~

(b) ~~((Provide that CWEP work hour requirements may be met hour for hour by documented job search activity which has received prior approval by the CWEP service worker;~~

(c) ~~Require appropriate standards of health, safety, and other conditions applicable to the performance of work;~~

~~((d)) (c) Ensure reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants;~~

~~((e)) (d) Ensure participants do not perform tasks in any way related to political, electoral, or partisan activities or which would result in displacement of persons currently employed or fill established unfilled position vacancies;~~

~~((f)) (e) Ensure tasks have not been developed in response to ((or in any way associated with,)) the existence of a strike, lockout, or other bona fide labor dispute or violate any existing labor agreement between employees and employers;~~

~~((g)) (f) Reimburse necessary transportation costs;~~

~~((h)) (g) Pay customary departmental scale costs of child care needed in order to participate in CWEP;~~

~~((i)) (h) Not require the use of the participant's assistance or income or resources to pay participation costs;~~

~~((j)) (i) Provide ((that)) assignments to CWEP projects will be made taking into consideration ((to the extent possible,)) the prior training, proficiency, experience, and skills of a participant;~~

~~((k)) (j) Provide ((that)) assignment to CWEP projects shall not require participants to travel unreasonable distances from home or to remain away from home overnight without consent; and~~

~~((l)) (k) ((Provide worker's compensation coverage for participants through the department of labor and industries)) Ensure agencies utilizing CWEP participants provide worker's compensation coverage through the department of labor and industries.~~

~~((5)) (3) CWEP participants shall ((be referred to and shall)) participate in work experience slots designed to serve a useful public purpose in public agencies or private nonprofit organizations ((as agreed on by the agency and the department)).~~

~~((6)) (4) The hours of CWEP participation required ((of any assistance unit, regardless of the number of participants in that unit,)) shall be no more than the number calculated by dividing the amount of the ((household's assistance)) grant by the greater of the federal or state minimum wage, and are not to exceed one hundred twenty-eight hours during a calendar month. This is not to prevent a person from volunteering additional hours in a CWEP assignment. The AFDC payment shall not be construed as compensation for work performed.~~

~~((7) If a recipient of AFDC-R fails or refuses without good cause to participate in the community work experience program, his or her needs shall not be taken into account in determining the family's need for assistance and grant amount. If a recipient of AFDC-E qualifying the family for AFDC-E fails or refuses without good cause to participate in the community work experience program, the entire assistance unit shall become ineligible for AFDC-E. These sanctions shall be consistent with the WIN sanction period in WAC 388-57-064. A recipient adversely affected shall have the opportunity for administrative review and/or fair hearing as provided by RCW 74.08.070 and chapter 388-08 WAC. Good cause provisions are included in WAC 388-57-064. WAC 388-57-064 (7)(d) shall not apply to CWEP participation.~~

~~((8)) (5) AFDC recipients who are not mandatory referrals to CWEP may volunteer for this program in CWEP sites. No sanctions in this chapter shall apply to CWEP volunteers for failure to participate in this program.~~

~~(6) DSHS has administrative and adjudicatory responsibility for CWEP.~~

AMENDATORY SECTION (Amending Order 2147, filed 8/29/84, effective 10/1/84)

WAC 388-57-100 EMPLOYMENT SEARCH PROGRAM (ESP). The employment search program (ESP) is authorized ((under Public Law 97-248, 96 Stat. 324, 42 U.S.C. 1302 and as further provided)) by

the Social Security Act, Title IV, Part A, and in 45 CFR 240.

(1) The purpose of this program is to reduce welfare dependency by assisting individuals in obtaining regular unsubsidized employment. It is a structured, job-seeking activity providing concentrated employment services, labor market information, and job-seeking skills.

(2) ~~((As a condition of eligibility for))~~ All AFDC applicants and recipients ~~((who are determined job ready by WIN or E&T))~~ shall, as a condition of eligibility, participate ~~((im))~~ when assigned to the employment search program, unless exempt under WAC 388-24-107.

(a) ~~For an initial period((:)), an individual((s)) assigned to the employment search program shall ((be required to)) participate in the program for up to ((eight)) fifty-six consecutive ~~((weeks))~~ days from the date a written request for AFDC is made.~~

(b) Individuals completing the initial ~~((eight-week))~~ fifty-six-day participation shall be subject to an additional ~~((eight-week))~~ forty-day participation in any subsequent twelve-month period.

~~((c) The first such period of twelve consecutive months shall begin at any time following the close of the initial period in (a) of this subsection.))~~

(3) ~~((Exemptions and sanctions shall be the same as prescribed in WAC 388-57-064 (1), (2), (3), (4), and (7)).~~

(4) ~~Nothing in this section shall restrict WIN program employment search requirements, providing that:~~

~~((a)) No individual shall be subject to concurrent job search requirements in WIN and the employment search program((, and)).~~

~~((b) No individual shall be subject to any sanction for failure to participate in one program in this section if he/she is actively and satisfactorily participating in the other program.))~~

(4) The department shall provide child care and transportation expenses needed for participation in ESP. Participants shall be specifically informed at the time of assignment to ESP of the available of those services.

(5) ESP participants shall conduct job search according to a structured employability plan which outlines, in writing, the types, frequency, and duration of the activities in which the participant will engage a minimum number of job contacts each work week and identified participants' training needs for job search skills. This plan will take into account a participant's work history, abilities, job skills, education, labor market conditions, any barriers to employment, time of year, and other relevant factors, in order to identify regular unsubsidized employment which the participant seeks to attain. A participant dissatisfied with the content or execution of the plan make invoke the procedures of WAC 388-57-105.

(6) DSHS has administrative and adjudicatory responsibility for ESP.

#### NEW SECTION

WAC 388-57-105 TITLE IV-A EMPLOYMENT PROGRAMS—COMPLAINTS AND GRIEVANCES. (1) WAC 388-57-105 applies to issues initiated by

individuals assigned to ESP or CWEP having not refused or failed to participate. This section also applies to any EPP participant having a grievance.

(2) A participant shall be informed at the time of assignment to ESP or CWEP of the right to file a complaint or grievance with DSHS OPPORTUNITIES with regard to any matter concerning his or her participation. DSHS shall pursue the grievance in accordance with standard grievance procedures, as contained in WAC 388-33-389. The participant shall be further informed that filing such a complaint or grievance shall not preclude his or her right to request a DSHS fair hearing on the issue at any time.

(3) A participant shall not be relieved of required participation pending the results of a filed grievance.

#### NEW SECTION

WAC 388-57-112 TITLE IV-A EMPLOYMENT PROGRAMS—FAILURE TO PARTICIPATE WITHOUT GOOD CAUSE. (1) DSHS has the responsibility for determining if an individual has failed to meet the requirements for participation in ESP or CWEP and whether he or she had good cause for not meeting such requirements.

(a) DSHS shall make its determination prior to initiating any sanction against the individual.

(b) A face-to-face meeting with the participant should take place to obtain information. A telephone interview with the participant should be arranged if a face-to-face meeting is not possible. A decision may be made on the basis of information supplied by Employment Security Department only if a meeting or telephone interview with the participant is not possible after reasonable efforts, or not less than two attempts to contact the participant, have been made.

(c) Whether failure to participate or whether good cause for failing to participate exists depends on the facts and circumstances.

(2) Failure to participate in ESP and CWEP without good cause includes, but is not limited to:

(a) Not appearing for two appointments with OPPORTUNITIES staff within a three consecutive month period;

(b) Not appearing for one appointment with other than OPPORTUNITIES staff in a three consecutive month period when referred for employment-related activity, including social services;

(c) Not accepting or continuing work experience assignments under CWEP;

(d) Not conducting required job search or accepting an offer of suitable employment under ESP;

(e) Not accepting or continuing social services needed for participation; or

(f) Not retaining a CWEP assignment due to the participant's misconduct.

(3) For participants in CWEP, ESP, and EPP, good cause for failure to perform program requirements includes, but is not limited to:

(a) Physical, mental, or emotional inability to perform the required activity;

(b) Court-ordered appearance or temporary incarceration;

(c) Family or individual emergency or crisis;

(d) Breakdown in transportation arrangements, with no readily accessible alternate transportation;

(e) Inclement weather preventing the individual and others similarly situated from traveling to or participating in the prescribed activity;

(f) Breakdown in child care arrangements, or child care not available to the single-parent AFDC household;

(g) The nature of the required activity would be hazardous to the participant;

(h) The participant is engaged in an educational or training program for increasing employability potential or job skills;

(i) Nonreceipt of a notice of appointment with OPPORTUNITIES staff or non-OPPORTUNITIES staff;

(j) The wages of the employment do not meet minimum wage standards or are not customary for such work in the community. This does not apply to CWEP, as participants do not receive a wage;

(k) The job is available because of a labor dispute;

(l) Refusal to accept major medical treatment (e.g., major surgery) needed for employability; and

(m) Refusal by an AFDC-E qualifying parent to accept employment of one hundred hours or more per month, the wages for which, less mandatory payroll deductions and necessary work-related expenses, would not equal or exceed the family's AFDC cash benefits. This does not apply to CWEP, which does not involve wages.

(4) If DSHS determines there has been a failure to participate in ESP or CWEP program requirements without good cause and that sanction is appropriate, the participant shall be sent a notice that complies with WAC 388-33-376.

#### NEW SECTION

WAC 388-57-115 TITLE IV-A EMPLOYMENT PROGRAMS—SANCTION. (1) A IV-A sanction is the denial or termination of AFDC due to ineligibility because of failure to participate while in ESP or CWEP status.

(2) A nonexempt individual failing to participate in ESP without good cause while an applicant shall be sanctioned by denial of AFDC. WAC 388-57-117 shall apply until the individual reapplies for AFDC.

(3) A nonexempt AFDC recipient failing to participate in ESP or CWEP without good cause shall be sanctioned as follows, in accordance with WAC 388-57-117:

(a) For the first occurrence, the sanction shall be for three payment months;

(b) For the second or subsequent occurrence, the sanction shall be for six payment months; and

(c) The sanction shall begin on the first day of the first payment month the sanctioned individual's needs can be removed from the AFDC grant, after DSHS financial services receives notification of failure to participate without good cause.

#### NEW SECTION

WAC 388-57-117 OPPORTUNITIES PROGRAM—EFFECT OF SANCTION ON AFDC. (1) This section applies to:

(a) Nonexempt AFDC applicants sanctioned under ESP or WIN; and

(b) Nonexempt AFDC recipients sanctioned under WIN, ESP, or CWEP.

(2) The entire family shall be ineligible for AFDC if the sanctioned individual is:

(a) The only dependent child in the assistance unit, or

(b) The unemployed parent qualifying the family for AFDC-E.

(3) The sanctioned individual's needs shall not be considered in determining the family's need for assistance if the sanctioned person is:

(a) One of two or more dependent children on the grant, or

(b) The parent other than the qualifying parent on AFDC-E.

(4) If the sanctioned individual is the caretaker relative on an AFDC-R grant:

(a) The sanctioned individual's needs shall not be considered in determining the family's need for assistance, and

(b) Assistance to the remaining eligible family members shall be provided by protective payment as specified in WAC 388-33-450.

#### AMENDATORY SECTION (Amending Order 2403, filed 8/1/86)

WAC 388-57-120 EMPLOYMENT PARTNERSHIP PROGRAM (EPP)—AUTHORITY. The employment partnership program EPP is authorized by the Social Security Act, Title IV, Part A, and ((under P.L. 97-35, 95 stat. 848; (42 U.S.C. Section 614), chapter 172, Laws of 1986, and as further provided)) in 45 CFR 239. EPP is a subsidized on-the-job training program for AFDC recipients. It is a voluntary program.

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 2403, filed 8/1/86)

WAC 388-57-123 EMPLOYMENT PARTNERSHIP PROGRAM—ELIGIBLE EMPLOYERS. An employer(~~(, before becoming eligible to fill a position under the employment partnership program,))~~ shall certify to the employment security department that the employment(~~(, offer of employment, or work activity))~~ complies with the following conditions:

(1) The conditions of work are reasonable and not in violation of applicable federal, state, or local safety and health standards;

(2) The assignments are not in any way related to political, electoral, or partisan activities;

(3) The employer shall provide industrial insurance coverage as required by Title 51 RCW;

(4) The employer shall provide unemployment compensation coverage as required by Title 50 RCW; and

(5) ~~((The employment partnership))~~ Program participants hired following the completion of the program shall be provided benefits equal to those provided to other employees ~~((including Social Security coverage, sick~~

leave, the opportunity to join a collective bargaining unit, and medical benefits)).

AMENDATORY SECTION (Amending Order 2403, filed 8/1/86)

WAC 388-57-124 EMPLOYMENT PARTNERSHIP PROGRAM—CONDITIONS OF EMPLOYMENT. Employment positions established by this program shall not be created as the result of, nor result in, any of the following:

- (1) Displacement of current employees or overtime currently worked by these employees;
- (2) The filling of positions that would otherwise be promotional opportunities for current employees;
- (3) The filling of a position, before compliance with applicable personnel procedures or provision of collective bargaining agreements;
- (4) The filling of a position created by termination, layoff, or reduction in work force.
- (5) The filling of a work assignment customarily performed by a worker in a job classification within a recognized collective bargaining unit in that specific work site, or the filling of a work assignment in any bargaining unit in which funded positions are vacant, or in which regular employees are on layoff;
- (6) A strike, lockout, or other bonafide labor dispute, or violation of any existing collective bargaining agreement between employees and employers;
- (7) Decertification of any collective bargaining unit.

AMENDATORY SECTION (Amending Order 2403, filed 8/1/86)

WAC 388-57-125 EMPLOYMENT PARTNERSHIP PROGRAM—FUNDING AND PAYMENT. ~~((1) The employer shall pay wages of at least five dollars per hour;)~~

~~((2))~~ (1) The employer shall pay wages at the usual and customary rate of comparable jobs(;;), or five dollars per hour, whichever is greater.

~~((3))~~ (2) ~~((A recoupment process))~~ When a job does not last six months following the subsidization period, the department shall recover state supplemented wages from an employer ~~((when a job does not last six months following))~~ from the beginning of the subsidization period unless the employee:

- (a) ~~((The employee))~~ voluntarily quits, or
- (b) Is fired for good cause due to misconduct, felony, or gross misdemeanor, as determined under rules pursuant to chapter 50.20 RCW(;;).

~~((4))~~ (3) Job placements shall have promotional opportunities or reasonable opportunities for wage increases(;;).

~~((5))~~ (4) Supportive counseling and referral services may be provided;

~~((6))~~ (5) Employers shall provide monetary matching funds of at least fifty percent of total wages(;;).

~~((7))~~ (6) Grants may be diverted for self-employment wages withheld for worker-owned businesses (if:

(a) A feasibility study or business plan is completed on the proposed business; and

(b) The project is approved by the loan committee of the Washington state development loan fund as created by RCW 43.168.110)) pursuant to RCW 43.168.050.

~~((8))~~ (7) A participant shall be considered an AFDC recipient and remain eligible for Medicaid benefits even if the participant does not receive a residual cash grant. Employment partnership participants shall be eligible for:

(a) The thirty dollar plus one-third of earned income exclusion from income for up to nine months;

(b) The work-related expense disregard; and

(c) The child care expense disregard deemed available to recipient of AFDC in computing his or her grant, unless prohibited by federal law.

~~((9))~~ (8) A participant's total benefits will not decrease because of participation in the program.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-57-010 UTILIZATION OF EMPLOYMENT SECURITY DEPARTMENT.

WAC 388-57-015 UTILIZATION OF EMPLOYMENT SECURITY DEPARTMENT DES—REGISTRATION.

WAC 388-57-020 UNEMPLOYMENT COMPENSATION STATUS—VERIFICATION.

WAC 388-57-028 VOCATIONAL TRAINING.

WAC 388-57-032 EMPLOYMENT AND TRAINING (E&T) PROGRAM.

WAC 388-57-036 EMPLOYMENT AND TRAINING (E&T)—DEFINITIONS.

WAC 388-57-045 WORK INCENTIVE PROGRAM—DEFINITIONS.

WAC 388-57-056 REFUSAL TO COOPERATE IN APPRAISAL PRIOR TO CERTIFICATION.

WAC 388-57-061 REFUSAL OF TRAINING OR EMPLOYMENT UNDER WIN/E&T WITHOUT GOOD CAUSE.

WAC 388-57-064 REFUSAL OF TRAINING OR EMPLOYMENT OR REDUCTION OF EARNINGS UNDER WIN WITHOUT GOOD CAUSE—DEREGISTRATION SANCTION AND REACCEPTANCE TO WIN.

WAC 388-57-070 COMMUNITY SERVICES OFFICE—STATE EMPLOYMENT SERVICE JOINT CASE RESPONSIBILITY.

WAC 388-57-090 REFUSAL OF TRAINING OR EMPLOYMENT UNDER WIN/EMPLOYMENT AND TRAINING WITHOUT GOOD CAUSE—FAIR HEARINGS.

WAC 388-57-121 PURPOSE.

**WSR 88-07-056**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 2601A—Filed March 14, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Aid to families with dependent children—Eligibility, amending chapter 388-24 WAC, correction filing to WSR 88-06-084.

This action is taken pursuant to Notice No. WSR 88-01-125 filed with the code reviser on December 23, 1987. 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 chapter 74.04 RCW which directs that the Department of Social and Health Services has authority to implement the provisions of RCW 74.04.050.

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 March 11, 1988.

By Leslie F. James, Director  
 Administrative Services

AMENDATORY SECTION (Amending Order 2275A, filed 8/30/85)

WAC 388-24-074 AID TO FAMILIES WITH DEPENDENT CHILDREN—EMPLOYABLE—DEPRIVATION DUE TO UNEMPLOYMENT OF A PARENT. Effective 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)) shall be 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)) shall be considered in determining the qualifying parent, regardless of when the relationship began.

(c) The designated qualifying parent ((remains)) shall be 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)) shall be deprived of parental care and support because of the unemployment of a natural parent, adoptive parent, or stepparent who satisfies all the requirements in this section to qualify the assistance unit.

A parent or stepparent ((is)) shall be 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)) shall be 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)) shall 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)) shall 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 program ((unless exempted by WAC 388-24-107)).

(b) If exempt from ((WIN registration)) OPPORTUNITIES participation due to remoteness, ((must)) shall 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 for E&T unless exempted by WAC 388-24-107. If exempt from E&T registration due to remoteness, must still be registered for employment with the local DES office.))

(7) The qualifying parent or stepparent, if eligible for unemployment compensation, ((has)) shall not have refused to apply for or accept such compensation.

(8) The qualifying parent or stepparent:

(a) ((Has had)) Shall have 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 child ((must)) shall be living with both natural parents, adoptive parents, or a parent and stepparent

except that one may be temporarily absent for up to ninety days to search for employment with the expectation of continuing to live with the family. The absent parent ~~((must))~~ shall meet the requirements in WAC 388-24-107.

(10) AFDC ~~((with))~~ shall 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))~~ OPPORTUNITIES program.

AMENDATORY SECTION (Amending Order 2033, filed 11/2/83)

WAC 388-24-090 ELIGIBILITY CONDITIONS APPLICABLE TO AFDC—EMPLOYMENT OR TRAINING. ~~((Effective August 23, 1983:))~~ (1) All AFDC applicants and recipients ~~((are))~~ shall be subject to WIN ~~((or employment and training (E&T)))~~ registration and OPPORTUNITIES participation as provided in WAC 388-24-107.

(2) A ~~((WIN/E&T))~~ WIN registrant~~((, unless a volunteer,))~~ failing to cooperate in appraisal prior to certification shall be subject to provisions of chapter 388-57 WAC ~~((388-57-056)), unless:~~

(a) He or she is exempt from OPPORTUNITIES participation,

(b) He or she has not been notified of nonexempt status for OPPORTUNITIES participation,

(c) An OPPORTUNITIES program volunteer participant.

(3)(a) An AFDC recipient~~((, unless a volunteer,))~~ certified for the work incentive (WIN) program and determined by DES to have refused employment or training or participation in the WIN program without good cause shall be subject to provisions of chapter 388-57 WAC ~~((388-57-061)), unless:~~

(i) He or she is exempt from OPPORTUNITIES participation,

(ii) He or she has not yet been notified of nonexempt status for OPPORTUNITIES participation,

(iii) An OPPORTUNITIES program volunteer participant.

(b) An AFDC applicant or recipient~~((, unless a volunteer certified for the E&T program and))~~ determined by DSHS to have refused employment~~((, training,))~~ or participation in the ~~((E&T))~~ ESP or CWEP programs without good cause shall be subject to provisions of chapter 388-57 WAC ~~((388-57-061)), unless:~~

(i) He or she is exempt from OPPORTUNITIES participation,

(ii) He or she has not yet been notified of nonexempt status for OPPORTUNITIES participation,

(iii) An OPPORTUNITIES program volunteer participant.

(4) A child's eligibility ~~((is))~~ shall not be affected by the ~~((WIN/E&T registration))~~ OPPORTUNITIES program participation requirement for the parent or needy caretaker relative in the AFDC-R program. A child's eligibility ~~((is))~~ shall be affected by the ~~((WIN/E&T))~~ OPPORTUNITIES program participation requirement for the unemployed qualifying parent in the AFDC-E program.

(5) An individual determined ~~((to be))~~ exempt from ~~((registration for WIN/E&T))~~ participation in OPPORTUNITIES on the basis of documented incapacity shall be referred to DVR. See also WAC 388-52-150 through 388-52-155.

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 2503, filed 6/1/87)

WAC 388-24-107 ELIGIBILITY CONDITIONS APPLICABLE TO AFDC-R AND AFDC-E—REGISTRATION AND PARTICIPATION IN EMPLOYMENT PROGRAMS. (1) ~~((Except as exempted in (2),))~~ All AFDC applicants/recipients shall, as a condition of eligibility:

(a) Register for the ~~((Washington employment opportunities))~~ Work Incentive (WIN) program ~~((OPPORTUNITIES)). A person who requests or receives AFDC shall be considered registered in WIN for every person 16 through 64 years of age in the assistance unit. This shall include everyone who becomes 16 years of age while on AFDC; and~~

(b) Except as exempted in subsection (2) of this section, participate as required in the following programs under the OPPORTUNITIES program:

(i) Work incentive program (WIN); and/or

(ii) Employment search program (ESP); and/or

(iii) Community work experience program (CWEP).

(2) The following AFDC applicants/recipients ~~((are))~~ shall be exempt from requirements in subsection ~~((1))~~ (b) of this section:

(a) A dependent child 16 years of age and under ~~((age sixteen))~~ or 16 years of age ~~((sixteen))~~ but not yet ~~((nineteen))~~ 19 years of age and is attending full time, or has been accepted for enrollment as a full-time student for the next school term, in an elementary or secondary school, or the equivalent level of vocational or technical training, and reasonably expected to complete such course prior to the end of the month he or she reaches ~~((nineteen))~~ 19 years of age;

(b) A person who is ill, incapacitated, or sixty-five years of age or older;

(i) Temporary illness or incapacity provides ~~((WIN/E&T))~~ exemption only for the period of a documented condition of unemployment. Exemption terminates when the condition ceases.

(ii) Persons determined to be exempt ~~((from registration))~~ on the basis of permanent incapacity shall be referred for services under the vocational rehabilitation program.

(c) A person residing outside ~~((a WIN/E&T))~~ an OPPORTUNITIES area or at a location so remote from ~~((a WIN/E&T project))~~ an OPPORTUNITIES office or service unit that his or her effective participation is precluded. A person is considered remote when a round trip of more than two hours would be required for a normal work or training day, unless normal round trip commuting time in the area is more than two hours. The round trip commuting time shall not exceed the generally accepted

community standards. Available public or private transportation is used to compute transportation time. The time necessary to transport children to and from a child care facility is not counted;

(d) A person whose presence in the home is required because of illness or incapacity of another member of the household;

(e) A parent or other needy caretaker relative of a child under the age of six who is:

(i) Personally providing full-time care for the child;

(ii) Absent from the child only very briefly and infrequently, i.e., averaging less than thirty hours per week; and

(iii) Not a full-time day student in a college, vocational school, or other post-secondary school;

(f) A person employed at least thirty hours per week;

(g) A woman in the third trimester of pregnancy;

(h) The parent of a child when the other parent or stepparent is in the home and is not exempted by subsection ~~((+))~~ (2)(a), (b), (c), (d), (e), (f), or (g) of this section; or

(i) A full-time VISTA (volunteers in service to America) participant who was determined eligible for AFDC prior to becoming a VISTA volunteer.

~~((2))~~(3) Any applicant or recipient ~~((has))~~ shall have a right to a fair hearing to contest a determination of nonexempt status and shall be considered as exempt until his or her status is finally determined. (See chapter 388-57 WAC ~~((388-57-090))~~.)

~~((3))~~(4) The requirements of any individual, other than the parent qualifying the assistance unit for AFDC-E, failing to ~~((register))~~ participate as required under subsection (1)(b) of this section shall not be taken into account in determining the requirements of the assistance unit and the amount of assistance ~~((, and))~~. Assistance ~~((will))~~ shall be granted to the eligible members of the assistance unit.

~~((4))~~ (5) An exempt parent caretaker of a child shall be advised of his or her option to ~~((register))~~ participate if he or she so desires, and of the fact child care ~~((will))~~ shall be provided if needed subject to available funding. Other exempted individuals may volunteer to ~~((register))~~ participate, subject to acceptance of such ~~((registration))~~ participation by ~~((DES))~~ the OPPORTUNITIES program.

~~((5))~~ When an AFDC recipient classified as exempt from WIN/E&T registration reports any change affecting the exempt status, he or she shall be registered within thirty days after the report. If a change is not reported, exempt or nonexempt status will be determined at the next review unless the department becomes aware an AFDC recipient's exempt status has changed. Then the recipient shall be notified he or she shall be registered within thirty days.)

(6) The department's financial service unit shall determine which AFDC applicants or recipients are exempt from ~~((registration))~~ OPPORTUNITIES program participation and which are required to ~~((register))~~ participate as a condition of eligibility. The department shall notify each applicant or recipient of the determination

giving the reason for the determination. No applicant or recipient shall be required to participate in the OPPORTUNITIES program until notified by the department.

## WSR 88-07-057

### ADOPTED RULES

### WHATCOM COMMUNITY COLLEGE

[Order 88-02—Filed March 15, 1988]

Be it resolved by the board of trustees of Whatcom Community College, Community College District No. 21, acting at Bellingham, Washington, that it does adopt the annexed rules relating to parking and traffic regulations, chapter 132U-116 WAC; and health and safety, chapter 132U-52 WAC.

This action is taken pursuant to Notice No. WSR 88-04-070 filed with the code reviser on February 2, 1988. 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 the board of trustees of Whatcom Community College as authorized in RCW 28B.50.130.

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 March 14, 1988.

By Patricia Hite  
Chair

Chapter 132U-116  
Parking and Traffic Regulations

### NEW SECTION

WAC 132U-116-010 AUTHORITY. Pursuant to the authority granted by RCW 28B.50.140(10), the board of trustees of Whatcom Community College hereby establishes rules and regulations for vehicular parking on property owned, operated or maintained by the college district.

### NEW SECTION

WAC 132U-116-020 PURPOSE. The rules and regulations contained in this chapter are established for the following purposes: (1) to protect and control pedestrian and vehicular traffic on property owned, operated and maintained by the college district.

(2) To assure access for emergency traffic.

(3) To facilitate the operation of the college by assuring access for vehicles.

(4) To regulate the use of parking spaces.

[Statutory authority: RCW 28B.50.140(10)]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the institutions and appear herein pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 132U-116-030 PARKING AND TRAFFIC REGULATIONS. (1) All students, faculty members and staff at Whatcom Community College may be issued parking permits upon registration or employment with the college may be required to display those permits on their vehicles in a prominent place.

(2) People who come upon the campus as guests, and people who lawfully visit the campus for purposes which are in keeping with the college's role as an institution of higher education may park in the campus visitor parking lot.

(3) Students, faculty, staff and visitors shall obey any signs or painted instructions regarding parking regulations on the campus.

(4) The college reserves the right to have towed from the college premises any abandoned vehicle or any vehicle blocking a fire lane or parked in a handicapped parking space without the appropriate permit.

(5) Cars left in excess of 48 hours will be considered abandoned and may be towed at the expense of the owner.

(6) A student's failure to abide by these regulations shall constitute a conduct violation, subjecting the student to fines as authorized by the board of trustees or to discipline under Chapter 132U-120 WAC.

(7) Faculty, administration or staff members who fail to abide by these regulations shall be subject to discipline under the system appropriate to the employees's status and classification.

[Statutory Authority: RCW 28B.50.140(10)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institutions and appear herein pursuant to the requirements of RCW 34.08.040.

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

Chapter 132U-52  
HEALTH AND SAFETY

NEW SECTION

WAC 132U-52-010 CONTROL OF DOGS. Dogs are not permitted in Whatcom Community College buildings or on college property except when they are, (1) seeing-eye dogs, (2) dogs trained for assisting the hearing impaired under immediate control of their owners, or (3) dogs authorized by the Dean of Instruction for educational purposes.

[Statutory authority: RCW 28B.50.140(10)]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the institutions and appear herein pursuant to the requirements of RCW 34.08.040.

## WSR 88-07-058

## ADOPTED RULES

## LIQUOR CONTROL BOARD

[Order 240, Resolution No. 249—Filed March 15, 1988]

Be it resolved by the Washington State Liquor Control Board, acting at the Offices of the Liquor Control

Board, Capital Plaza Building, 5th Floor, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to Class H restaurant—Qualifications, WAC 314-16-190.

This action is taken pursuant to Notice No. WSR 88-04-082 filed with the code reviser on February 3, 1988. 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 Washington State Liquor Control Board as authorized in RCW 66.98.070.

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 March 15, 1988.

By L. H. Pedersen  
Chairman

AMENDATORY SECTION (Amending Order 160, Resolution No. 169, filed 7/3/85)

WAC 314-16-190 CLASS H RESTAURANT—QUALIFICATIONS. (1) All restaurant applicants for a Class H license, in addition to furnishing all requested material and information relating to the premises applied for and their personal qualifications, shall establish to the satisfaction of the board that the premises will commence as, and continue to operate as, a bona fide restaurant as required by RCW 66.24.400 and 66.24.410(2).

(2) A restaurant applicant for a Class H license shall be subject to the following requirements which are conditions precedent to action by the board on the application:

(a) The applicant shall furnish to the board a detailed blueprint of the entire premises to be licensed drawn to scale of one-fourth inch to one foot. This blueprint shall include the kitchen equipment layout plus a detailed listing of the kitchen equipment and its approximate value.

(b) Prior to delivery of the license the board shall receive a verification from its enforcement officer, based upon an inspection of the premises, that the kitchen equipment designated in ~~((paragraph))~~ (a) ~~((above))~~ of this subsection is in place and is operational.

(3) In any case where the board has a concern as to the applicant's qualifications, based on the applicant's experience; the adequacy of the proposed facility; the proposed method of operation; the applicant's financial stability; or for any other good and sufficient reason, the board may require such applicant to submit figures reflecting operation as a restaurant for a period to be designated by the board. The submission of these operating figures shall be a condition precedent to the board making a decision on a license application. Any applicant required to submit operating figures for a period designated by the board, shall not thereby be deemed to have acquired a vested right to have the license applied for

issued merely because the requested figures have been submitted.

(4) To demonstrate to the satisfaction of the board that a Class H restaurant as defined in RCW 66.24.410(2) is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals, a Class H restaurant shall maintain daily average gross retail food sales of one hundred dollars or more, and such food sales shall amount to ((forty)) thirty percent or more of the restaurant's total food-liquor sales.

(5) Each Class H restaurant licensee shall submit semi-annual reports on forms provided by the board, showing its gross food and liquor sales. If for two successive semi-annual reports, a Class H restaurant's daily average gross retail food sales are less than one hundred dollars, or its retail food sales are less than ((forty)) thirty percent of its total food-liquor sales, such restaurant shall be ineligible to retain its Class H license.

(6) The restaurant area of any Class H restaurant shall be open to the public for service of complete meals at least five days a week, unless otherwise authorized in writing by the board to alleviate demonstrated hardship, and such service of complete meals shall be available to the public for five hours a day on any day liquor is offered for sale, service or consumption, unless otherwise authorized in writing by the board to alleviate demonstrated hardship. At all other times when the restaurant area is not open for service of complete meals, but liquor is offered for sale, service or consumption on the licensed premises, sandwiches and/or short orders of food shall be available for sale to the public.

(7) In the event a Class H restaurant licensee shall fail to comply with any of the foregoing requirements, and such licensee has been notified that they will not be eligible to retain its Class H license, such licensee may petition the board setting forth unusual, extenuating and mitigating circumstances for the failure to comply and the board may consider such reasons and may grant an extension of the Class H license under such terms and conditions as the board determines are in the best interest of the public.

(8) Licensees who presently hold a Class B liquor license and who apply for a Class H liquor license in lieu thereof, in order to demonstrate to the satisfaction of the board that the business such applicant has been operating is primarily that of a restaurant, must submit and establish the following data and information:

(a) Sales figures for ninety days preceding the in lieu application showing total sales, segregated as to the following categories:

- (i) Food sales for on-premises consumption;
- (ii) Food sales for off-premises consumption;
- (iii) Beer and/or wine sales for on-premises consumption;
- (iv) Beer and/or wine sales for off-premises consumption;
- (v) Miscellaneous sales, including but not limited to, cigarettes, candies, packaged snack foods, and where such activity has been conducted the income from games, gambling, cover charges, etc.

(b) That for a period of at least ninety days prior to the date of filing the Class H license application, the

gross food sales for on-premises consumption as set forth in (a)(i) of this subsection constituted fifty-one percent or more of total food-liquor sales for on-premises consumption.

While the requirements of (a) and (b) of this subsection must be established before the board will give consideration to the issuance of an in lieu Class H license, the fact that an applicant meets those criteria does not establish a vested right that such license shall issue.

**WSR 88-07-059**  
**ADOPTED RULES**  
**GAMBLING COMMISSION**  
 [Order 175—Filed March 15, 1988]

Be it resolved by the Washington State Gambling Commission, acting at Vancouver, Washington, that it does adopt the annexed rules relating to amending WAC 230-20-064, 230-20-325, 230-20-605, 230-20-610 and 230-20-630; new sections WAC 230-20-615 and 230-30-300; and repealing WAC 230-04-197.

This action is taken pursuant to Notice No. WSR 88-03-024 filed with the code reviser on January 12, 1988. 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 (8), (11) and (14) 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 March 11, 1988.

By Frank L. Miller  
Deputy Director

**AMENDATORY SECTION** (Amending Order 168, filed 6/15/87 [6/16/87])

**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.

(5) During the commission's study on MAXIMUM LIMITATIONS on bingo income, an organization may exceed the Class K gross receipts limitation if the organization has been in compliance for the last 12 months with all Class K requirements set forth in Table 1. This authorization will only be issued to those organizations who voluntarily agree to donate 14% of all gross income generated in excess of \$3,500,000 to a charitable organization of their choice. Provided: The donation may not be given to an auxiliary or to another bingo licensee Class E and above. Provided further: All donations made (~~after the effective date of this amendment~~) within the licensed year may be counted as a credit towards the 14% requirement. This section will terminate on December 31, 198((7))8.

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%

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

**AMENDATORY SECTION** (Amending Order 153, filed 8/12/85)

WAC 230-20-325 MANNER OF CONDUCTING A RAFFLE. All raffles shall be conducted by selling individual prenumbered tickets for not more than 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~~) available, whether ((m)) 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 \$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.

(6) The raffle license issued by the Commission or a photostatic copy of the license shall be conspicuously posted and displayed at the location at all times during the occasion when a drawing is being conducted.

#### AMENDATORY SECTION (Amending Order 149, filed 4/15/85)

WAC 230-20-605 TYPES OF AMUSEMENT GAMES AUTHORIZED. The commission hereby authorizes the following amusement games whether coin operated or not, to be operated by persons possessing a special location amusement games license, or bona fide charitable or nonprofit organizations possessing a license issued by the gambling commission or when conducted as authorized by RCW 9.46.03((0))2((3))(1) at an authorized location(:(:)). For clarification, games will be classified as either "non dispensing" (operator awards prize or redeems tickets or tokens for prize) or "self dispensing" (game awards merchandise prize).

##### (1) Non Dispensing Amusement Games.

((3))a) Fish pond (duck pond). The player "catches" a fish or other object floating in a pond of water by using a pole, hand, net or string. All fish or objects are marked on the bottom indicating the size of prize the player wins. The player is awarded a prize every time and the player must be allowed to continue playing until a prize is won.

When played at school carnivals, the game may be played without the pond of water and the operator of the game may assist the player by attaching a prize to the pole, hand, net or string.

((2))b) Hoop or ring toss. The player must toss a hoop(s) or ring(s) over a target which may consist of bottles, pegs, blocks, or prizes. The operator must specifically advise the player as to the degree that the hoop(s) or ring(s) must go over the target. All hoops of the same color used at an individual stand must be the

same size. All targets used at an individual booth must be the same size or the operator must advise the player by posting signs or using color codes denoting the different sizes.

((3))c) Dart games. The target area for all dart games must be of a material capable of being penetrated and retaining a metal tip dart. The target area will be in the rear of the stand and will be at least three feet but not more than fifteen feet from the foul line. Target must be stationary at all times.

((a))i) Balloon (poparoo) (balloon smash). The targets are inflated balloons. The player throws one or more darts to burst a predetermined number of balloons. If the predetermined number of balloons are burst by the dart(s), the player receives the prize indicated.

((b))ii) Dart throw. The targets are various sizes and shapes located on the target area. The player must throw dart(s) individually at the target. The player must hit and the dart must stick in a predetermined target to win the prize as designated.

((c))iii) Tic tac toe dart. The target is a tic tac toe board located in the target area. The player throws darts at the target and wins a designated prize when the thrown darts line up in a row in the target. The darts may line up vertically, horizontally or diagonally to win.

((d))iv) Add um up darts. The target consists of numbered squares located in the target area. Prizes are awarded based on the total score obtained by the player by throwing and sticking the darts in the numbered squares. All darts stuck on lines will receive a rethrow. The player has the right to add up the score of the darts thrown.

((4))d) Ball tosses. In all ball toss games, the balls used at a specific stand must be of the same weight and size. Targets must be of the same weight and size or the operator must color code the targets and advise the player of the difference in targets by posting a sign or providing a duplicate of the target showing the limitations or restrictions readily visible to the player.

((a))i) Milk bottle toss. The player tosses or throws ball(s) at simulated milk bottles. The player wins by either tipping over or knocking bottles off the raised platform as designated by the operator. The bottles may be constructed of wood, metal or plastic or a combination of the above three. Operators may vary the number of bottles and balls used in each game. No floating or loose weights in bottles shall be allowed. The weight of individual bottles shall not exceed seven and one-half pounds.

((b))ii) Milk can (Mexican hat, cone). The player tosses a ball(s) into the opening of a milk can or a fiber glassed Mexican hat turned upside down or through a cone to win.

((c))iii) Football toss (tire toss). The player tosses or throws a football(s) through a stationary tire or hoop to win.

((d))iv) Basketball toss/throw. The player tosses or throws a basketball(s) through a basketball type hoop to win.

((e))v) Bushel baskets. The player tosses a ball(s) into a bushel type basket mounted on a stationary back-drop at a fixed angle. The ball(s) must stay in the basket

to win. All rim shots will be allowed except the operator may designate the top 6 inches of the basket rim by color and disallow ball(s) striking this area as winning tosses.

((f)vi) Cat-ball-toss (star/diamond toss). The player tosses a ball(s) into a simulated cat's mouth or a round, diamond or star shaped hole to win.

((g)vii) Ping pong toss. The player tosses ping pong balls into dishes, saucers, cups or ashtrays floating in water. A predetermined number of balls must remain in the dishes, saucers, cups or ashtrays for the player to win. The dishes, saucers, cups or ashtrays must have water covering the bottom of the surface which is facing up.

((h)viii) Fish bowl game. The player tosses ping pong balls into a water-filled fish bowl to win.

((i)ix) Volley ball toss (soccer ball). The player tosses a volley or soccer ball(s) into a keg type container mounted on a stationary backdrop at a fixed angle. The ball(s) must stay in the keg to win a prize. Rim shots are authorized as stated in paragraph (e) above for bushel baskets.

((j)x) Goblet ball (whiffle ball). The player tosses a whiffle ball(s) into a target area of glass or plastic goblets. Located in the target area are colored goblets which determine the type of prize the player wins. At least 33 percent of the goblets in the target area must be winners. The ball(s) must stay in the goblet to win a prize.

((k)xi) Break the plate/bottle. The player tosses or throws a ball(s) at a plate, phonograph record or bottle. The type of prize won is determined by the number of targets broken by the player.

((l)xii) Punk rack. The targets for this game are rows of dolls or cats on a ledge at the rear of the stand. The dolls or cats must be filled with sawdust, styrofoam, cotton or other like material which provides a firm base for the ball to strike. The hair protruding from the side of the dolls or cats shall not exceed three inches. The prize is determined by how many dolls or cats the player knocks over or, off the ledge as posted by the operator.

((m)xiii) Teeth game. The target consists of a large face with wooden teeth. The prize is determined by how many teeth the player knocks down by throwing a ball(s).

((n)xiv) Toilet game (doniker). The player tosses or throws a ball or other object through a toilet seat, which is located at the rear of the stand, to win.

((o)xv) (Coke roll). The player rolls a ball(s) down an alley with the object of knocking over two coke bottles standing at the end of the alley. The player must tip over both bottles to win. Bottles shall be placed on predetermined spots painted on the surface of the alley.

((p)xvi) Rolldown. The player rolls ball(s) down an alley with the object of putting the ball(s) in numbered slots at the end of the alley. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Scores above or below a predetermined score win. The alley surface shall at all times be smooth and free from defects.

((q)xvii) Fascination (I got it). A group game which involves competition among the players. The target area

consists of twenty-five holes and the player tosses or rolls a ball into one of the holes. The object of the game is to get five balls in a row either vertically, horizontally or diagonally. The first player to accomplish this is the winner. Prize size is determined by the number of players participating in each game.

((r)xviii) Pokereno. The target area consists of twenty-five squares with each square given the value of a poker card. The player rolls or tosses five balls to land in the squares. The operator has predetermined winning poker hands and the player wins when balls land in the squares that duplicate the operators selection.

((s)xiv) Batter-up. The player uses a whiffle ball bat to swing and strike whiffle balls which are pitched at medium speed from a pitching machine. The player wins when he "hits" a ball into the "home run" shelf. The "home run" shelf is located at the back of the batting cage approximately fifteen feet from the player.

((t)xxi) Sky bowling. Two bowling pins are set on predetermined painted spots on a shelf. A ball is attached to a chain suspended from a stationary support at least 6 inches to the right or left of the bowling pins. The object is to swing the ball, miss the pins with the ball as it goes forward and knock the pins over as the ball returns.

((u)xxii) Clown rolldown. A ball is tossed through the open mouth of a moving clown or animal head. The ball then rolls down a chute to numbered slots to the rear of the clown or animal head. The scores represented by the balls in each numbered slot are added up at the conclusion of the game. Prizes are awarded on the points achieved.

((x)xxiii) Skee ball. The player rolls a ball(s) up the mechanical bowling alley into targets. A computer adds up the scores and predetermined scores win.

((y)xxiv) Speedball radar game. Player gets four balls. Player throws three balls through radar to establish speeds and to estimate at what speed fourth ball will pass through radar. Player wins prize if he accurately estimates speed of the fourth ball. Radar must be mounted and stationary.

((5)e) Shooting games. These games are conducted by the player using a weapon of some type to shoot at a target in the rear of the stand. The safety requirement of the local city or county ordinances must be observed by the operator and player. The target may be stationary or mobile.

((a)i) Short range (shooting gallery)(-) includes where ((+)-) the player is given four rounds to shoot at a spot target 1/4 inches or less in diameter. The player wins when the spot target is completely shot out(-), or ((+)-) the player is given five rounds to shoot one round each at five triangular, round or square targets, 1/2 square inch. The prize is determined by the number of targets struck by the player((-)-), or the player is given five rounds to shoot one round each at five triangular, round or square targets, 1/2 square inch. Within each target is a bull's eye and the player must hit the bull's eye without touching outer surface of the target. The prize won is determined by the number of bull's eyes correctly hit.

~~(((b))ii) Shoot-out-the-star (machine gun). The player, using an automatic air pellet gun, is given 100 pellets to shoot at a star shaped target. The player must shoot out all of the target to win. The star cannot be more than one and one quarter inch from point to point.~~

~~(((e))iii) Water racer. This group game involves competition with the player winning a prize based on the number of players competing. The player, using a water pistol, shoots the water into a target. The water striking the target causes a balloon to inflate or advances an object to ring a bell. The player bursting the balloon or ringing the bell first is the winner.~~

~~(((d))iv) Rapid fire. This group game involves competition among players similar to the water racer described in (c) above. The player uses an electronic pistol to shoot at a target. Hits on the target give the player a score and the first player to reach a predetermined score is the winner.~~

~~(((e))v) Cork gallery. The player uses a cork gun or similar device to propel objects which could include, but are not limited to, corks, suction cup darts, or styrofoam balls, to shoot at targets located on a shelf or bull's-eye type target. The player must hit the bull's-eye or knock the target over or off the shelf to win a prize. The prize is determined by the target knocked over or off the shelf, or by the number of targets knocked over or off the shelf, or by the player accomplishing other tasks as stated in the posted rules. When suction cup darts or other darts are used and fail to stay on or in the target, the player will receive the play over. The base of each target shall be uniform front and rear.~~

~~(((f))vi) Boomball. The player uses a cannon with compressed air to propel balls into a target area. The targets have varied point value and if the ball remains in the target, a computer adds up the scores. Prizes are awarded based on the points achieved.~~

~~(((6))f) Coin pitchers.~~

~~(((a))i) Spot pitch (lucky strike). The player pitches a coin at colored spots located on a table in the center of the stand. The coin must touch or stay inside of a spot to win a prize.~~

~~(((b))ii) Plate pitch. The player pitches a coin onto a glass plate to win a prize as designated.~~

~~(((e))iii) Glass pitch (bowl). The player pitches a coin into or onto dishes, glasses, etc. If the coin remains in one of the top "target" glass items then the player wins that item.~~

~~(((7))g) ~~Coin-operated games.~~~~

~~(a)) Miscellaneous games (i) Skill chute (bulldozer) (penny fall). The player inserts a coin or token into a chute aiming the coin or token so that it will fall in front of a continuous sweeper, (bulldozer). If the coin or token is aimed correctly, the sweeper (bulldozer) will push additional tokens or prizes into a hole or chute which sends them to the player. Tokens are exchanged for prizes. If there is a hidden ledge, tip or similar obstruction which inhibits the passage of tokens or prizes into the hole or chute which sends them to the player, then the operator must post a sign to advise the players.~~

~~(((b)) Skec ball. The player rolls a ball(s) up the mechanical bowling alley into targets. A computer adds up the scores and predetermined scores win.~~

~~(c) Diggers. The player turns a crank on a mechanical crane to pick up a prize. If the player picks up a prize then the player wins that prize. There can be no stops on the digger or, if there are stops, all prizes must be the same. All prizes must be capable of being picked up by the crane.~~

~~(8) Miscellaneous games:~~

~~(a)) (ii) Tip-em-up bottle. The player is provided with a pole and a string which has a hoop or ring attached at the end. The player, using the pole with ring, must raise a bottle lying on its side to an upright position to win.~~

~~(((b))iii) Hi-striker. The player, using a wooden maul, must strike a lever target which causes a metal weight to rise on a guide line or track and ring a bell. The player must ring the bell a predetermined number of times to win a prize.~~

~~(((e))iv) Rope ladder. Player must climb up a rope ladder, which is anchored at both ends by a swivel and ring a bell or buzzer to win a prize.~~

~~(((d))v) Whac-a-mole. A group game which has a target surface with 5 holes - animated "moles" pop up and down at random. Whac (hit) as many moles as possible with a mallet. First player to hit a predetermined number of moles wins.~~

~~(((e))vi) Dip bowling game. Player rolls a bowling type ball over hump in track. If ball stays on the back side of hump, the player wins.~~

~~(((f)) Speedball radar game. Player gets four balls. Player throws three balls through radar to establish speeds and to estimate at what speed fourth ball will pass through radar. Player wins prize if he accurately estimates speed of the fourth ball. Radar must be mounted and stationary:))~~

~~(((g))vii) Horse race derby. A group game. Players advance their horse by shooting or rolling a ball in target area. The faster and more skillful one shoots or rolls his ball, the faster his horse will run. First horse to finish line wins.~~

~~(((h))viii) Shuffleboard. Player pushes a puck(s) down a shuffleboard alley to knock over poly pins at end of alley. Player wins by knocking down all the pins.~~

~~(((i))ix) Bean bag. The player tosses or throws a bean bag or a simulated bean bag at cans, bottles or other objects on a raised platform. The player wins a prize when he either knocks the object(s) off the raised platform or tips the targets over.~~

~~(((j))x) Soccer kick. The player kicks a soccer ball(s) through a hole(s) in the target area to win.~~

~~(xi) Frog game. Plastic frog or similar object sets on a small end of teeter totter. The opposite end of the teeter totter is struck with a mallet causing the frog to fly off the teeter totter. If the frog lands in a pail or similar receptacle, the player wins a prize.~~

~~(xii) Cover the spot. The object of the game is for player to drop 5 circular discs onto a circular spot, completely covering the spot. The diameter of each of the discs utilized to cover the spot will be a minimum of 64% of the diameter of the spot to be covered. The spot to be covered shall be painted or drawn on a permanent, solid material such as metal or wood, or may be a round~~

opened lighted circle. The spot and each disc shall have a uniform diameter.

(xiii) Pocket Billiards. Using a regulation pocket billiard table, a player must run a consecutive number of balls to win a prize. The number of balls shall be set by the operator.

~~((9) Any additional games or modification of the games authorized above, must be submitted to the commission in writing. The director may temporarily approve any additional games or modification of the games subject to final approval by the commission.~~

~~(10) No other games or variations of games may be played.))~~

(2) Self Dispensing Amusement Games.

All self dispensing amusement games must have non-resettable coin in meters. The following games are authorized;

(a) Digger. The player turns a crank on a mechanical crane to pick up a prize. If the player picks up a prize then the player wins that prize. There can be no stops on the digger or, if there are stops, all prizes must be the same. All prizes must be capable of being picked up by the crane.

(b) Electronic crane (claw) games. The player uses a joystick or buttons to maneuver the crane into a position to grab the desired prize. All games must allow at least 15 seconds per play; the crane must be able to reach any prize situated on the upper tier of prizes, must be able to maneuver to the back of the game, and to the right or left to ensure all areas are accessible to the crane, and must be able to pick-up and return to drop slot all prizes contained in game. The crane mechanism must be pre-set by the factory to be able to pick up at least 4 ounces; all prongs must be touching or within a quarter of an inch of touching each other while the crane is in the closed position. In addition, all cranes must be clearly labeled as to maximum weight and dimensions of prizes, and all operating instructions must be in plain view so as to inform players as to how the game is played.

(3) Any additional games or modification of the games authorized above, must be submitted to the Commission staff in writing prior to being used in the state. In addition, a written request shall include proposed rules of play and specifications for each game. A demonstration of the game may be required by the Commission staff to be made in Olympia or at such place as designated by the Commission staff. After review, the Director may temporarily authorize a new or modified game, in writing, subject to final approval by the Commission.

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 55, filed 6/25/76)

WAC 230-20-610 AMUSEMENT GAMES—FACTORS AFFECTING SKILL TO BE READILY VISIBLE TO PLAYERS. No ((person licensed to conduct amusement games shall conduct any amusement games within the state of Washington unless the outcome of said game depends in a material degree upon

~~the skill of the contestant. No person licensed to conduct)) amusement games shall be conducted ((any such game)) within the state of Washington wherein the physical limitations affecting the degree of skill necessary to win a prize are not readily visible to the player ((unless a duplicate thereof which does disclose any physical limitation is displayed at the game)). For example, if any target, basket, hoop, can, or other similar device utilized in an amusement game, has any limiting features not readily visible to the player, a duplicate thereof showing the limitation or restriction shall be placed so as to be readily visible to the players.~~

NEW SECTION

WAC 230-20-615 AMUSEMENT GAMES — MATERIAL DEGREE OF SKILL REQUIRED — STANDARDS. (1) Notwithstanding that a material degree of chance exists in any amusement game, no amusement game shall be conducted within the state of Washington unless the outcome of said game depends to a material degree upon the skill of the contestant. The Director shall determine if a material degree of skill is present and shall submit a report to the Commission for final approval of any game. The standard to be applied shall be the following:

(a) Do contestants' physical and or mental abilities play an important and integral role in determining the outcome of the game; or is the outcome based upon chance alone; and

(b) Would the success rate of the average contestant(s) improve with repeated play or practice.

If the outcome is not based upon chance alone and both (a) and (b) are present, a material degree of skill in the outcome of a game shall be deemed to be present.

AMENDATORY SECTION (Amending Order 55, filed 6/25/76)

WAC 230-20-630 AMUSEMENT GAMES—FEES, RULES, PRIZES AND VARIATIONS IN OBJECTS TO BE POSTED—FEES TO BE PAID IN CASH OR SCRIPT—PRIZES NOT TO DIFFER FROM THOSE POSTED. (1) No person ((licensed to conduct amusement games)) shall conduct any amusement game at any location within the state of Washington unless there is posted in a conspicuous place, readily visible to persons playing the game, ((a notification of the fees charged for playing, the rules by which the game is to be played, prizes to be won, and any variation in the size or weight of objects utilized in the game which is not readily visible to the player.)) a sign(s) made of permanent material, such as wood, poster board, metal or plastic with lettering at least one and one half (1 1/2) inches in height that contains the following information:

(a) Fees charged for playing;

(b) The rules by which the game is to be played;

(c) Prizes to be won;

(d) Any variation in the size or weight of objects utilized in the game which is not readily visible to the player; and

(e) The name of the operator and an assigned concession number.

(2) Licensed amusement game operators shall assign each concession a number and a list of all concessions and their assigned numbers shall be kept available in the show office.

(3) No ~~((person licensed to conduct))~~ amusement games shall be conducted ~~((any such game))~~ wherein the price charged for playing said game is paid other than in cash, or in an amount other than that posted upon the premises of said game. The term "cash" as used herein shall include checks. In addition, the operator may accept as consideration, tokens, script or tickets, but only under the following conditions:

(a) The value of each token, ticket or item of script, as measured by the equivalent amount of cash which a player would have to present in lieu of said token, ticket or script, must be indicated on the face thereof;

(b) Said tokens, tickets or script are not redeemable for cash;

(c) Said tickets or script shall bear the name of the operator or sponsor.

((2))4 No ~~((person licensed to conduct))~~ amusement games shall be conducted ~~((any such game))~~ within the state of Washington wherein the prize to be given to a prospective winner is other than that posted upon the premises of said game: Provided, however, That after an individual player has won two or more prizes, ~~((a licensee))~~ an operator may offer said player the opportunity to exchange said prizes for one or more other prizes, but only if the prize to be received by the player in exchange was available to be won during the play of the game. Any prize system which requires forfeiture of previously won prize(s) in exchange for another play is prohibited. ~~((Persons licensed to conduct))~~ Operators of amusement games may utilize a scheme for distribution of prizes wherein the winners of individual prizes receive tickets, which are subsequently redeemable in combination with other tickets won for a merchandise prize.

#### NEW SECTION

WAC 230-30-300 RECALL OF DEFECTIVE PUNCHBOARDS, PULL TABS OR PULL TAB DISPENSING DEVICES. (1) Upon a determination that punchboards, pull tabs or pull tab dispensing devices for sale in Washington do not meet Commission standards, the Director may order all defective products and all similarly constructed or printed products be recalled by the manufacturer(s).

(2) If the Director orders such a recall, the manufacturer of the product shall be immediately notified regarding the items to be recalled, reason for the recall, effective date of the recall, and any other specific requirements. The verbal notification shall be followed with a written notification. Immediately upon the oral notification, manufacturers shall cease sale in the state and initiate actions to ensure complete compliance with the recall. Manufacturers will notify all distributors within 72 hours of the items recalled, effective date of

recall, and arrange for the prompt return of the defective items. Distributors, when notified in writing by either manufacturer or commission of the recall, shall immediately stop sales and/or delivery of the product.

(3) The Commission shall notify, in writing, each licensed distributor of gambling paraphernalia of the recall, effective dates thereof, the products involved, and of any special instructions if applicable. Within 72 hours, the distributor shall notify the Commission of the name and addresses of operators who have purchased the recalled item(s) during the last 30 days.

(4) When the distributors have provided the names of the operators, the Commission shall then notify, in writing, each affected licensed operator as to the items recalled, effective date and special instructions, if applicable. Operators shall not utilize any defective punchboards, pull tabs or pull tab dispensing devices after receiving written notification from the Commission.

(5) Prior to any reintroduction in the state of any recalled or similar item, the manufacturer must first submit the revised or reworked item to the Commission for review, evaluation and approval. The manufacturer will be notified in writing, of the approval or disapproval and a copy of the approving letter will be sent by the manufacturer to the distributor with the next five shipments of the reworked item.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-04-197 PERMITS FOR RAFFLES ON SEPARATE PREMISES

**WSR 88-07-060**

**ADOPTED RULES**

**LIQUOR CONTROL BOARD**

[Order 239, Resolution No. 248—Filed March 16, 1988]

Be it resolved by the Washington State Liquor Control Board, acting at the Capital Plaza Building, 5th Floor Conference Room, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to Guest and courtesy cards—Visitors, WAC 314-40-040.

This action is taken pursuant to Notice No. WSR 88-04-083 filed with the code reviser on February 3, 1988. 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 Washington State Liquor Control Board as authorized in RCW 66.08.030.

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 March 16, 1988.

By L. H. Pedersen  
Chairman

AMENDATORY SECTION (Amending Order 235, Resolution No. 244, filed 12/8/87)

WAC 314-40-040 GUEST AND COURTESY CARDS—VISITORS. (1) Guest cards may be issued only as follows:

(a) For clubs located within the limits of any city or town, only to those persons residing outside of an area ten miles from the limits of such city or town;

(b) For clubs located outside of any city or town only to those persons residing outside an area fifteen miles from the location of such club: PROVIDED, That where such area limitation encroaches upon the limits of any city or town, the entire corporate limits of such city or town shall be included in the prohibited area;

(c) Such guest cards shall be issued for a period not to exceed two weeks and must be numbered serially, with a record of the issuance of each such card to be filed in a manner as to be readily accessible to the agents of the board;

(d) Mileage restrictions in ~~((WAC 314-40-040 (H)))~~(a) and (b) of this subsection shall not apply to contestants in golf or tennis tournaments conducted on the grounds of a licensed club.

(2) Visitors may be introduced when accompanied at all times by a member and may remain as long as such member is present in the club: PROVIDED, That any such visitor may only enjoy the privileges of the club a reasonable number of times in any one calendar year.

(3) Persons who are members in good standing of a national veterans organization may enjoy the privileges of any licensed club affiliated with any national veterans organization, and persons who are members in good standing of a national fraternal organization may enjoy the privileges of any club affiliated with that particular national fraternal organization: PROVIDED, That the bylaws of such clubs authorize reciprocal privileges: PROVIDED FURTHER, That ~~((WAC 314-40-040))~~ subsections (1) and (2) of this section shall not apply to members of such organizations.

(4) Persons who are members in good standing of organizations licensed as private nonfraternal clubs may enjoy the privileges of other licensed nonfraternal clubs: PROVIDED, That the bylaws of such clubs authorize reciprocal privileges: PROVIDED FURTHER, That ~~((WAC 314-40-040))~~ subsections (1) and (2) of this section shall not apply to members of such clubs.

(5) Courtesy cards may be issued to the adult members of the immediate family of any member with or without charge upon application being made to the club by the member.

(6) In order to recruit new members and build club membership, a private club may hold one public membership function per calendar year where club liquor may be given or sold to those attending as a part of the membership drive activities.

(7) A person issued a guest card by the club manager pursuant to subsection (1) of this section may introduce

visitors into the club provided the visitors are accompanied at all times by the sponsoring guest card holder; the visitors remain in the club only as long as the sponsoring guest card holder is present; the house rules or bylaws of the club provide guest card holders the privilege of introducing visitors into the club; and, such house rules or bylaws have been filed with the liquor control board.

WSR 88-07-061  
PROPOSED RULES  
GAMBLING COMMISSION  
[Filed March 16, 1988]

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, May 13, 1988, in the Laquinta Inn, Tacoma, 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 9.46.070(5).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 13, 1988.

Dated: March 16, 1988  
By: Ronald O. Bailey  
Director

STATEMENT OF PURPOSE

Title: Amending WAC 230-04-201 Fees.

Description of Purpose: Update and equalization of raffle license fees.

Statutory Authority: RCW 9.46.070(5).

Summary of Proposed Rules and Reasons Supporting Action: Changes license fees for raffles to a gross receipts basis. It is necessary to distribute the license fee burden in a fair and equitable manner.

Agency Personnel Responsible for Drafting, Implementing, and Enforcing the Rules: Ronald O. Bailey, Director and Frank L. Miller, Deputy Director, both located at the Jefferson Building, 1110 South Jefferson, Olympia, WA 98504, phone 234-1075 scan, 753-1075 comm.

Proponents and Opponents: Gambling Commission staff.

Agency Comments: The agency believes the proposed amendment and new rule are self-explanatory and need no further comment.

This amendment and new rule 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 there may be an economic impact upon a certain number of licensees administered by this agency by the adoption of this amendment or new rule.

AMENDATORY SECTION (Amending Order 172, filed 10/9/87)

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	(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	(See WAC 230-04-260) New class fee, less previous fee paid, plus	25
DUPLICATE LICENSE REPLACEMENT	(See WAC 230-04-290)	25
IDENTIFICATION STAMPS	(See WAC 230-30-016)	25
6. FUND RAISING EVENT		
Class A	One event not more than 24 consec. hrs.	\$ 300
Class B	One event not more than 72 consec. hrs.	500
Class C	Additional participant in joint event (not lead organization)	150
7. PERMITS		
Class A	Agricultural fair/special property bingo One location and event only (see WAC 230-04-191)	\$ 25
8. PUNCHBOARDS/ PULL TABS	(Fee based on annual gross receipts)	
Class A	Up to \$10,000	\$ 300
Class B	Up to \$50,000	475
Class C	Up to \$100,000	960
Class D	Up to \$200,000	1,560
Class E	Up to \$300,000	2,360
Class F	Up to \$400,000	3,150
Class G	Up to \$500,000	3,775
Class H	Up to \$600,000	4,340

LICENSE TYPE	DEFINITION	FEE
Class I	Up to \$700,000	4,825
Class J	Up to \$800,000	5,225
Class K	Over \$800,000	5,900
9. RAFFLES	(Fee based on annual ((net)) gross receipts)	
Class A	Up to \$5,000	\$ 50
Class B	Up to \$10,000	150
Class C	<del>((500 or less))</del> Up to \$25,000	<del>((50))</del> 300
Class D	<del>((501 - 5,000))</del> Up to \$50,000	<del>((+00))</del> 500
Class E	<del>((5,001 - 15,000))</del> Up to \$75,000	<del>((400))</del> 800
Class F	<del>((Over \$15,000))</del> Over \$75,000	<del>((600))</del> 1,200
10. SEPARATE PREMISES		
BINGO	Occasion (see WAC 230-04-300)	\$ 25
RAFFLES	(See WAC 230-04-197)	25
11. SPECIAL FEES		
INVESTIGATION	(See WAC 230-04-240)	As required
IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-30-015 and 230-30-030)	As required
12. SIX-MONTH PAYMENT PLAN		\$ 25
	The Commission may allow an applicant to pay their fee in two payments during their annual renewal or submission of an additional or reinstatement application under 90 days.	
	<b>FEE PROCEDURE</b>	
	Administrative processing fee, plus first half of annual license fee at time of application/renewal. Second half of annual license fee will be collected prior to the expiration date of first six-month license. Pertains only to annual licenses \$800 and above.	

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 consecutive 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	(See WAC 230-04-310)	\$ 25
LOCATION	(See WAC 230-04-320)	25
BUSINESS CLASSIFICATION	(Same owners - see WAC 230-04-340(3))	50
LICENSE 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 REPLACEMENT	(See WAC 230-04-340(1))	50
IDENTIFICATION STAMPS	(See WAC 230-30-016)	25
LICENSE TRANSFERS	(See WAC 230-04-125, 230-04-340 and 230-04-350)	50

<u>LICENSE TYPE</u>		<u>DEFINITION</u>	<u>FEE</u>	
3.	DISTRIBUTOR	(Fee based on annual gross receipts for sale of punchboards, pull tabs, pull tab dispensing devices and sale/lease of fund raising event equipment.)	Original	Renewal
	Class A	up to \$600,000	\$2,750	\$1,250
	Class B	over \$600,000	\$2,750	\$1,700
4.	DISTRIBUTOR'S REPRESENTATIVE	Original		\$ 220
		Renewal		110
5.	MANUFACTURER	Original		\$3,300
		Renewal		1,650
6.	MANUFACTURER'S REPRESENTATIVE	Original		\$ 220
		Renewal		110
7.	PERMITS	Agricultural fair/special property bingo		
	Class A	One location and event only (see WAC 230-04-191)		\$ 25
	Class B	Annual permit for specified different events and locations (see WAC 230-04-193)		150
8.	PUBLIC CARD ROOM EMPLOYEE	Original		\$ 150
		Renewal		75
9.	PUNCHBOARDS/ PULL TABS	(Fee based on annual gross receipts)		
	Class A	Up to \$10,000		\$ 300
	Class B	Up to \$50,000		475
	Class C	Up to \$100,000		960
	Class D	Up to \$200,000		1,560
	Class E	Up to \$300,000		2,360
	Class F	Up to \$400,000		3,150
	Class G	Up to \$500,000		3,775
	Class H	Up to \$600,000		4,350
	Class I	Up to \$700,000		4,825
	Class J	Up to \$800,000		5,225
	Class K	Over \$800,000		5,900
10.	SPECIAL FEES			
	INVESTIGATION	(See WAC 230-04-240)		As Required
	IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-30-015 and 230-30-030)		As Required
11.	SPECIAL LOCATION	(Fee based on annual net receipts)		
	AMUSEMENT GAMES			
	Class A	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
12.	SIX-MONTH PAYMENT PLAN	The Commission may allow an applicant to pay their fee in two payments during their annual renewal or submission of an additional or reinstatement application under 90 days.		\$ 25

LICENSE TYPEDEFINITIONFEEFEE PROCEDURE

Administrative processing fee, plus first half of annual license fee at time of application/renewal. Second half of annual license fee will be collected prior to the expiration date of first six-month license. Pertains only to annual licenses \$800 and above.

**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 88-07-062****ADOPTED RULES****DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES****(Public Assistance)**

[Order 2612—Filed March 16, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Standards of assistance—AFDC—Child in need of specialized education or training, repealing WAC 388-29-145.

This action is taken pursuant to Notice No. WSR 88-04-037 filed with the code reviser on January 28, 1988. 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 74.08.044 which directs that the Department of Social and Health Services has authority to implement the provisions of RCW 74.08.045.

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 March 15, 1988.

By Leslie F. James, Director  
Administrative Services

REPEALER

The following section of the Washington Administrative Code of repealed:

WAC 388-29-145 STANDARDS OF ASSISTANCE—AFDC—CHILD IN NEED OF SPECIALIZED EDUCATION OR TRAINING.

**WSR 88-07-063****ADOPTED RULES****BOARD OF HEALTH**

[Order 308—Filed March 16, 1988]

Be it resolved by the Washington State Board of Health, acting at Saint Placid Priory, 320 College Street S.E., Lacey, Washington, that it does adopt the annexed rules relating to communicable and certain other diseases, chapter 248-100 WAC.

This action is taken pursuant to Notice No. WSR 88-03-022 filed with the code reviser on January 12, 1988. 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 43.20.050 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 March 9, 1988.

By John A. Beare, M.D., M.P.H.  
Secretary

AMENDATORY SECTION (Amending Order 302, filed 5/19/87)

WAC 248-100-011 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of chapter 248-100 WAC:

(1) "Board" means the Washington state board of health.

(2) "Carrier" means a person harboring a specific infectious agent and serving as a potential source of infection to others, but who does not have symptoms of the disease.

(3) "Case" means a person, alive or dead, having been diagnosed to have a particular disease or condition by a health care provider with diagnosis based on clinical or laboratory criteria or both.

(4) "Category A disease or condition" means a reportable disease or condition of urgent public health importance, a case or suspected case of which must be reported to the local or state health officer immediately at the time of diagnosis or suspected diagnosis.

(5) "Category B disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer no later than the next working day following date of diagnosis.

(6) "Category C disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer within seven days of diagnosis.

(7) "Communicable disease" means an illness caused by an infectious agent which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water, or air.

(8) "Contact" means a person exposed to an infected person, animal, or contaminated environment which might provide an opportunity to acquire the infection.

(9) "Child day care facility" or "day care center" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

(10) "Department" means the Washington state department of social and health services.

(11) "Food handler" means any person preparing, processing, handling, or serving food or beverages for people other than members of his or her household.

(12) "Food service establishment" means any establishment where food or beverages are prepared for sale or service on the premises or elsewhere, and any other establishment or operation where food is served or provided for the public with or without charge.

(13) "Health care facility" means any facility or institution licensed under chapter 18.20 RCW, boarding home, chapter 18.46 RCW, maternity homes, chapter 18.51 RCW, nursing homes, chapter 70.41 RCW, hospitals, or chapter 71.12 RCW, private establishments, clinics, or other settings where one or more health care providers practice.

(14) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care or medical care including persons licensed in this state under Title 18 RCW to practice medicine, podiatry, chiropractic, optometry, osteopathy, nursing, midwifery, dentistry, physician assistants, and military personnel providing health care within the state regardless of licensure.

(15) "Infection control measures" means the management of infected persons, persons suspected to be infected, and others in such a manner as to prevent transmission of the infectious agent.

(16) "Isolation" means the separation or restriction of activities of infected persons, or of persons suspected to be infected, from other persons to prevent transmission of the infectious agent.

(17) "Laboratory director" means the director or manager, by whatever title known, having the administrative responsibility in any medical laboratory.

(18) "Local health department" means the city, town, county, or district agency providing public health services to persons within the area, as provided in chapter 70.05 RCW and chapter 70.08 RCW.

(19) "Local health officer" means the individual having been appointed under chapter 70.05 RCW as the health officer for the local health department, or having been appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department.

(20) "Medical laboratory" means any facility analyzing specimens of original material from the human body for purposes of patient care.

(21) "Nosocomial infection" means an infection acquired in a hospital or other health care facility.

(22) "Outbreak" means the occurrence of cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.

(23) "Principal health care provider" means the attending physician or other health care provider recognized as primarily responsible for diagnosis and treatment of a patient or, in the absence of such, the health care provider initiating diagnostic testing or therapy for a patient.

(24) "Quarantine" means the separation or restriction on activities of a person having been exposed to or infected with an infectious agent, to prevent disease transmission.

(25) "Reportable disease or condition" means a disease or condition of public health importance, a case of which, and for certain diseases, a suspected case of which, must be brought to the attention of the local health officer.

~~(26) ("Restrictable infection" means any disease, condition, illness, infection, or infestation having the likelihood of being transmitted from one person to another within certain specified occupations or settings making it necessary to restrict persons with such an infection from that occupation or setting during the communicable period in order to prevent serious and predictable consequences resulting from transmission of infection.~~

~~(27))~~ (27) "School" means a facility for programs of education as defined in RCW 28A.31.102 (preschool and kindergarten through grade twelve).

~~((28))~~ (27) "State health officer" means the person designated by the secretary of the department to serve as statewide health officer, or, in the absence of such designation, the person having primary responsibility for public health matters in the state.

~~((29))~~ (28) "Suspected case" means a person whose diagnosis is thought likely to be a particular disease or condition with suspected diagnosis based on signs and symptoms, laboratory evidence, or both.

~~((30))~~ (29) "Unusual communicable disease" means a communicable disease which is not commonly seen in the state of Washington but which is of general public health concern including, but not limited to, Lassa fever, smallpox, typhus, and yellow fever.

~~((31))~~ (30) "Veterinarian" means an individual licensed under provisions of chapter 18.92 RCW, veterinary medicine, surgery, and dentistry and practicing animal health care.

NEW SECTION**WAC 248-100-026 RESPONSIBILITIES AND DUTIES—VETERINARIANS.** (1) Veterinarians shall:

(a) Notify the local health officer of any human case, suspected case, outbreak, or suspected outbreak of reportable disease listed in WAC 248-100-076;

(b) Notify the state veterinarian, Washington state department of agriculture, within one working day of any animal case, suspected case, outbreak, or suspected outbreak of:

- (i) Anthrax,
- (ii) Brucellosis,
- (iii) Equine encephalitis,
- (iv) Plague,
- (v) Rabies,
- (vi) Psittacosis, and
- (vii) Tuberculosis.

(2) Upon receipt of a report of human disease, the state health officer shall immediately notify the state veterinarian of reports of:

- (a) Anthrax,
- (b) Brucellosis,
- (c) Psittacosis,
- (d) Equine encephalitis,
- (e) Plague,
- (f) Rabies, and
- (g) Tuberculosis in an animal handler.

(3) Upon receipt of a report of animal disease, the state veterinarian shall notify the state health officer of reports of:

- (a) Anthrax,
- (b) Brucellosis excluding Strain 19 disease,
- (c) Psittacosis,
- (d) Equine encephalitis,
- (e) Plague,
- (f) Rabies, and
- (g) Tuberculosis.

NEW SECTION**WAC 248-100-036 RESPONSIBILITIES AND DUTIES—LOCAL HEALTH OFFICERS.** (1) The local health officer shall review and determine appropriate action for:

(a) Each reported case or suspected case of a reportable disease or condition;

(b) Any disease or condition considered a threat to public health;

(c) Each reported outbreak or suspected outbreak of disease, requesting assistance from the department in carrying out investigations when necessary; and

(d) Instituting disease prevention and infection control, isolation, and quarantine measures necessary to prevent the spread of communicable disease, invoking the power of the courts to enforce these measures when necessary.

(2) Local health officers shall:

(a) Submit reports to the state health officer as required in chapter 248-100 WAC;

(b) Establish a system at the local health department for maintaining confidentiality of written records and written and telephoned disease case reports;

(c) Notify health care providers within the health district regarding requirements in this chapter;

(d) Distribute appropriate report forms to persons responsible for reporting; and

(e) Notify the principle health care provider, if possible, prior to initiating a case investigation by the local health department.

(3) Each local health officer has the authority to:

(a) Carry out additional steps determined to be necessary to verify a diagnosis reported by a health care provider;

(b) Require any person suspected of having a reportable disease or condition to submit to examinations required to determine the presence of the disease or condition; and

(c) Investigate any case or suspected case of a reportable disease or condition or other illness, communicable or otherwise, if deemed necessary.

(4) Local health officers shall conduct investigations and institute control measures consistent with those indicated in the fourteenth edition (1985) of Control of Communicable Diseases in Man, edited by Abram S. Benenson, published by the American public health association, except:

(a) When superseded by more up-to-date measures, or

(b) When other measures are more specifically related to Washington state.

NEW SECTION**WAC 248-100-166 IMMUNIZATION OF DAY CARE AND SCHOOL CHILDREN AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES.**

(1) Definitions for purposes of this section:

(a) "Certificate of immunization status (CIS) form" means a form provided by the department labeled DSHS 13-263, including data entry spaces for immunization information including:

(i) Name of child or student,

(ii) Birth date,

(iii) Sex,

(iv) Type of vaccine,

(v) Date of each dose of vaccine received specifying day, month, and year,

(vi) Signature of parent, legal guardian, or adult in loco parentis, and

(vii) Documented exemptions, if applicable and as specified in subsection (5) of this section.

(b) "Chief administrator" means:

(i) The person with the authority and responsibility for the immediate supervision of the operation of a school, day care center, or

(ii) A designee of the chief administrator assigned in writing to carry out the requirements of RCW 28A.31-.118 through the statutory or corporate board of directors of the school district or school, or

(iii) Person or persons with the authority and responsibility for the general supervision of the operation of the school district or school.

(c) "Child" means any person regardless of age admitted to any day care center, preschool, kindergarten, or grades one through twelve program of education in:

(i) Any public school district, or  
 (ii) Any private school or private institution subject to approval by the state board of education or described in RCW 28A.04.120(4) and 28A.02.201 through 28A.02.260.

(d) "Full immunization" means vaccinated in accordance with schedules and immunizing agents approved by the state board of health in WAC 248-100-166 against:

- (i) Diphtheria,
- (ii) Tetanus,
- (iii) Pertussis or whooping cough,
- (iv) Measles or rubeola,
- (v) Rubella,
- (vi) Mumps, and
- (vii) Poliomyelitis.

(e) "Immunizing agents" means any vaccine or other biologic licensed and approved by the bureau of biologics, United States Food and Drug Administration (FDA), for immunization of persons against:

- (i) Diphtheria, tetanus, pertussis (DTP, DT, Td);
- (ii) Measles;
- (iii) Mumps;
- (iv) Poliomyelitis, types I, II, and III (TOPV, IPV); and
- (v) Rubella;

(f) "National immunization guidelines" means schedules for immunization described in:

- (i) 1986 American Academy of Pediatrics (AAP) red book; or
- (ii) Advisory Committee on Immunization Practices (ACIP) on General Recommendations on Immunization, January 14, 1983; and
- (iii) New Recommended Schedule for Active Immunization of Normal Infants and Children, 9/19/86, Advisory Committee on Immunization Practices (ACIP), United States public health service.

(g) "Parent" means a person who is:

- (i) The mother, father, legal guardian, or designated caretaker of a child seventeen years of age or younger; or
- (ii) A person eighteen years of age or older; or
- (iii) An emancipated minor.

(h) "Transfer student" means a student previously enrolled in grades kindergarten through twelve moving from one school district or system to another at any time during the school year, excluding students transferring within a district or system when the school transfers records within the district.

(2) Full immunization schedule. Each day care, preschool, and school shall establish and maintain requirements for full immunization of children attending day care and preschool through grade twelve.

(3) For day care and preschool children, full immunization means a child received vaccines consistent with the National Immunization Guidelines defined in subsection (1) of this section and including:

- (i) DTP, DT, or Td;
- (ii) Polio;
- (iii) Measles;
- (iv) Mumps; and
- (v) Rubella.

(4) For a child commencing school entry (kindergarten or first grade) attendance, on or after August 1, 1988, full immunization means a child received vaccines as follows:

(a) A minimum of four doses of either DTP, DT, or Td with last dose after four years of age and excluding tetanus toxoid only, consistent with national immunization guidelines defined in subsection (1) of this section, or

(b) Three doses of Td excluding tetanus toxoid only if the series began at seven years of age or older, and

(c) A minimum of three doses of trivalent oral poliomyelitis vaccine (TOPV) or four doses of trivalent inactivated poliomyelitis vaccine (IPV) with last dose received after four years of age and consistent with national immunization guidelines defined in subsection (1) of this section, and

(d) One dose of live virus measles vaccine at or after one year of age unless a child provides proof of past infection with measles virus (an acceptable measles virus antibody titer result), and

(e) One dose of live virus rubella vaccine at or after one year of age unless a child provides proof of past infection with rubella virus (an acceptable rubella antibody titer result), and

(f) One dose of live virus mumps vaccine administered at or after one year of age for children in kindergarten or first grade, whichever is the entry level.

(5) For a child who commenced kindergarten or first grade school attendance before August 1, 1988, and for transfer students, full immunization means a child received vaccines as follows:

(a) A minimum of three doses of either DTP, DT, or Td, with the last dose after four years of age and excluding tetanus toxoid only, consistent with national immunization guidelines defined in subsection (1) of this section; or

(b) Three doses of Td, excluding tetanus toxoid only, if the series began at seven years of age or older; and

(c) A minimum of three doses of trivalent oral poliomyelitis vaccine (TOPV), or four doses of trivalent inactivated poliomyelitis vaccine (IPV) with the last dose received after four years of age and consistent with national immunization guidelines defined in subsection (1) of this section; and

(d) One dose of live virus measles vaccine at or after one year of age unless a child provides written proof from a physician of past infection with measles virus documenting month and year of disease occurrence; and

(e) One dose of live virus rubella vaccine at or after one year of age unless a child provides proof of past infection with rubella virus (an acceptable rubella antibody titer result); and

(f) One dose of live virus mumps vaccine administered at or after one year of age for children in kindergarten or first grade, whichever is entry level.

(6) Conditions for day care, preschool, and school attendance when a child is not fully immunized:

(a) When a child lacks full immunization, the day care, preschool, or school shall require satisfactory progress toward full immunization as a condition of school attendance including:

(i) Documented proof of start or continuance of child's schedule of immunization;

(ii) Assurance the scheduled immunization is consistent with the national immunization guidelines defined in subsection (1) of this section;

(iii) Proof of completion of the required immunization or immunizations for admission the following year, no later than the child's first day of attendance; and

(iv) Issuance of an order of exclusion as described in subsection (10) of this section if:

(A) Sufficient time for completion of required immunizations elapses, and

(B) The child has not completed the required immunizations in time.

(b) When immunization schedules are incomplete due to insufficient time, the chief administrator shall:

(i) Notify the child's parents of when the schedule must be completed, and

(ii) Issue an order of exclusion if not completed by that date.

(7) Schools, preschools, and day care centers shall require documented proof related to immunization including:

(a) Completion of a certificate of immunization status (CIS) form by a parent as documented proof of:

(i) Full immunization, or

(ii) Initiation or continuation of a schedule, or

(iii) Exemption.

(b) Information from a written personal immunization record, given to the immunized person or to his or her parent by the physician or agency administering the immunization, as the source of the immunization data entered on the CIS form and prohibiting substitution of a personal immunization record for a CIS form;

(c) Acceptance of only the revised CIS form from new enrollees registering in kindergarten through grade twelve;

(d) In addition to current CIS form, acceptance of previous CIS forms, DSHS 13-263, or locally developed forms approved by the department indicating the month and year of each immunization as the official immunization status for children enrolled prior to September 1, 1979; and

(e) No additional proof of immunization as a condition to attend a particular day care, preschool, or school if the school keeps the CIS or other department-approved forms for children verifying:

(i) Proof of full immunization, or

(ii) Proof of exemption from immunization.

(8) Schools, preschools, and day care centers shall accept medical exemptions and:

(a) Require a signature of a licensed physician to certify medical reasons to defer one or more immunizations on the CIS form;

(b) Admit children and keep on file a CIS form for children with:

(i) Temporary exemption from immunization for medical reasons if the required immunizations are received upon expiration of the exemption, or

(ii) Permanent exemptions.

(c) Include a statement on the CIS form informing the parent that should an outbreak of vaccine preventable disease for which the child is exempted occur, the child may be excluded from school or day care for the duration of the outbreak by order of the local health department as described in subsection (10) of this section; and

(d) Keep on file a list of children so exempted and transmit the list to the local health department if requested.

(9) Schools, preschools, and day care centers shall accept religious, philosophical or personal exemptions and:

(a) Allow a parent to exempt their child from the required immunizations for religious, philosophical, or personal objections when the CIS form indicates:

(i) Type or exemption, and

(ii) Signature of parent.

(b) Admit children and keep on file a CIS form for each child so enrolled;

(c) Include a statement on the CIS form informing the parent that should an outbreak of vaccine preventable disease for which the child is exempted occur, the child may be excluded from school for the duration of the outbreak by order of the local health department as described in subsection (10) of this section; and

(d) Keep on file a list of children so exempted and transmit the list to the local health department if requested.

(10) Schools, preschools, and day care centers shall exclude children from school as follows:

(a) Exclude any child from school for failure to provide a completed CIS form as defined in subsection (1) of this section before or on the child's first day of attendance consistent with procedures required by the state board of education, Title 180 WAC;

(b) Exclude from attendance any child in a day care center for failure to provide a completed CIS form as defined in subsection (1) of this section before or on the child's first day of attendance;

(c) The chief administrator shall retain records on excluded children for at least three years including:

(i) Name,

(ii) Address, and

(iii) Date of exclusion.

(d) A health officer may exclude children from school, preschool, and day care attendance in the event of a child's exposure to a disease according to chapter 248-101 WAC, including children presenting proof of:

(i) Initiation of a schedule of immunization,

(ii) Medical exemption,

(iii) Religious exemption,

(iv) Philosophical exemption, or

(v) Personal exemption.

(11) Schools, preschools, and day care centers shall maintain records and require:

(a) A completed CIS form retained in the files for every child enrolled;

(b) Return of records to the parent in the event of the child's withdrawal from school or transfer including:

(i) The original CIS form; or

(ii) A legible copy of the CIS form; and

(iii) Prohibiting withholding of a record for nonpayment of school, preschool, or day care fees or any other reason.

(c) Access to immunization records for each child enrolled by agents of the state or local health department.

(12) Persons or organizations administering immunizations, either public or private, shall:

(a) Furnish each person immunized, or his or her parent, with a written record of immunization containing information required by the state board of health; and

(b) Provide immunizations and records in accordance with chapter 248-100 WAC.

(13) Chief administrators of schools, preschools, and day care centers shall report as follows:

(a) The chief administrator of each school shall forward a written annual report to the department and local health department on the immunization status of children in school:

(i) By October 15 of each year, except in the event of a late school opening when the report is due thirty days after the first day of school; and

(ii) On forms provided by the department.

(b) The chief administrator of each preschool and day care center shall forward a written annual report to the department and local health department on the immunization status of children in preschool or day care on forms provided by the department.

#### NEW SECTION

WAC 248-100-171 SPECIAL SETTINGS—FOOD SERVICE ESTABLISHMENTS. (1) Food handlers with communicable disease in an infectious or carrier state shall not handle food or beverages if the infectious agent can be transmitted through food or beverages.

(2) Employers or persons in charge of food service establishments shall prohibit persons from work as food handlers with a known disease, condition, and/or carrier state including, but not limited to:

- (a) Amebiasis;
- (b) B hemolytic streptococcal infection;
- (c) Campylobacter;
- (d) Cholera;
- (e) Hepatitis A and Hepatitis unspecified;
- (f) Salmonellosis, including typhoid and paratyphoid;
- (g) Shigellosis;
- (h) Staphylococcal infections; and
- (i) Signs of undiagnosed infection including:

(A) Diarrhea (with episodes of over forty-eight hours requiring approval by a health care provider or local health officer prior to return to work);

- (B) Skin lesions;
- (C) Vomiting; or
- (D) Fever.

(3) Work restrictions, control measures, and removal of work restrictions on food handlers and food service establishments shall be consistent with:

(a) Control of Communicable Diseases in Man, 14th edition, Abram S. Benenson (editor), American public health association, 1985;

(b) Chapter 248-84 WAC food service sanitation, rules, and regulations of the Washington state board of health; and

(c) Chapter 69.06 RCW, food and beverage establishments, workers permits.

(4) Employers and persons in charge of food service establishments shall:

(a) Require notification or approval of removal of work restriction by a health care provider or local health officer for persons working with diseases, carrier states, conditions and signs listed in subsection (2) of this section; and

(b) Cooperate with public health officials investigating cases, outbreaks, or suspected outbreaks.

(5) The local health department has authority to:

(a) Require an examination of a person or persons to determine presence of infection,

(b) Adopt more stringent rules for excluding a food handler from work, and

(c) Protect public safety consistent with chapter 248-84 WAC by ordering food items to be:

- (i) Placed under a hold order,
- (ii) Destroyed immediately,
- (iii) Surrendered,
- (iv) Sampled, and
- (v) Submitted for laboratory testing.

#### NEW SECTION

WAC 248-100-176 SPECIAL SETTINGS—SCHOOLS. Private and public schools, vocational schools, colleges, and universities shall cooperate with local and state health officers in carrying out requirements in chapters 248-101 and 248-100 WAC.

#### NEW SECTION

WAC 248-100-181 SPECIAL SETTINGS—CHILD DAY CARE FACILITIES. Child day care facilities shall:

(1) Establish policy and procedures for prevention and control of communicable diseases in employees, voluntary staff, and children that:

(a) Are consistent with "child health care plan guidelines" available from division of health, office of licensing and certification, personal care facilities survey section, ET-33, Olympia, Washington 98504; and/or

(b) Are consistent with additional or more stringent recommendations of the local health department; and

(c) Include a provision for reporting illness to the local health department when required in chapter 248-100 WAC and WAC 388-73-056.

(2) Consult with a health care provider or the local health department for information about infectious or communicable disease, as necessary.

#### NEW SECTION

WAC 248-100-186 SPECIAL SETTINGS—HEALTH CARE FACILITIES. Health care facilities shall:

(1) Adopt written policy and procedures restricting work of employees, staff, students, and volunteers diagnosed to have a communicable disease from direct contact with patients, residents, and recipients of care during the period of communicability when:

(a) Transmission of the disease to recipients of care or other employees can occur in that particular job environment, and

(b) The disease can cause serious illness.

(2) Permit employees, staff, students, and volunteers to return to work when measures have been taken to prevent transmission of disease if:

(a) Measures are consistent with recommendations of an infection control committee or equivalent authorized group if existing, and

(b) Measures are consistent with recommendations of local health officer.

(3) Comply with applicable state licensure law and department rules regarding communicable disease screening and control.

#### NEW SECTION

WAC 248-100-191 ANIMALS, BIRDS, PETS—MEASURES TO PREVENT HUMAN DISEASE. (1) All persons and entities are prohibited from:

(a) Sale of milk, meat, hides, and hair from animals infected with anthrax; and

(b) Sale and display of turtles except as permitted under Title 21 CFR, food and drug administration, part 1240.62, 1986.

(2) Except for bonafide public or private zoological parks, persons and entities are prohibited from:

(a) Importing into Washington state any bat, skunk, fox, raccoon, or coyote without a permit from the director of the Washington state department of agriculture, as required in WAC 16-54-125; and

(b) Acquiring, selling, bartering, exchanging, giving, purchasing, or trapping for retention as pets or for export any:

- (i) Bat,
- (ii) Skunk,
- (iii) Fox,
- (iv) Raccoon, and
- (v) Coyote.

(3) Local health officers shall determine whether or not to order the destroying or testing of animals other than cats and dogs if:

(a) The animal has bitten or otherwise exposed a person, and

(b) Rabies is suspected.

(4) When an animal has bitten or otherwise exposed a person, the local health officer shall institute any or all of the following as judged appropriate:

(a) Order testing and destruction of the animal,

(b) Order restriction of dogs and cats for ten days observation,

(c) Require examination and recommendation by a veterinarian related to signs of rabies, or

(d) Specify other appropriate actions for animals considered low risk for rabies.

(5) When an animal other than a bat is found to be rabid, the local health officer shall immediately institute a community-wide rabies control program including:

(a) Issuance of orders to pick up and impound all stray and unlicensed dogs and cats,

(b) Issuance of orders to owners of dogs and cats requiring proof of rabies vaccination of animals by a veterinarian within six previous months,

(c) Restriction of household mammals to owners' premises except when on a leash, or

(d) Institute actions other than subsection (5)(a), (b), and (c) of this section when judged appropriate.

(6) A person destroying an animal as described in this section shall:

(a) Avoid damaging the brain; and

(b) Transport the dead animal's head, brain, or body in a manner approved by the local health department.

(7) To improve surveillance for rabies, laboratories shall inform the local health officer prior to testing specimens and samples for rabies.

(8) When a cat or dog has been bitten or exposed to a rabid or suspected rabid animal, the local health officer shall require:

(a) Destruction of the exposed animal; or

(b) Revaccination, if currently vaccinated, including observation by owner for ninety days; or

(c) If not currently vaccinated, vaccination and strict isolation for six months with revaccination one month prior to release from isolation; or

(d) Any other action judged appropriate by the local health officer.

(9) A person importing a dog and/or a cat into Washington state shall comply with WAC 16-54-120.

#### NEW SECTION

WAC 248-100-196 ANIMAL BITES—REPORT TO LOCAL HEALTH DEPARTMENT. Health care providers shall:

(1) Report all cases of humans exposed to secretions or bitten by domestic or wild animals, especially bats and carnivores, to the local health department or designated local authority;

(2) Report bites of rodents and lagomorphs only when an animal exhibits unusual behavior; and

(3) Use protocols established in Communicable Diseases in Man, 14th edition, Abram S. Benenson, editor, 1985, when treating wounds caused by animal bites.

#### NEW SECTION

WAC 248-100-201 BIRDS—MEASURES TO PREVENT PSITTACOSIS. (1) Definitions specific to this section:

(a) "Breeder" means a person or persons propagating birds for purpose of sale, trade, gift, or display;

(b) "Displayer" means a person, owner, or entity other than a public or private zoological park showing, exhibiting, or allowing a person or persons to handle or access a bird in a place open to the public or in a health care facility;

(c) "Leg band" means a smooth plastic or metal cylinder, either open (seamed) or closed (seamless), designed to be used to encircle a leg of a bird including permanent inscription of identification indicating:

- (i) Code for individual bird, and
- (ii) Code for breeder source except when open bands identify vendor rather than breeder.

(d) "Psittacine bird" or "bird" means all birds commonly known as:

- (i) Parrots,
- (ii) Macaws,
- (iii) Cockatoos,
- (iv) Lovebirds,
- (v) Parakeets, and
- (vi) All other birds of the order psittaciformes.

(e) "Vendor" means a person or entity selling, trading, or giving a bird to another person or entity.

(2) A person selling, trading, or otherwise transferring a bird shall identify each bird by:

- (a) A coded and closed (seamless) leg band;
- (b) A United States department of agriculture open (seamed) leg band; or
- (c) An open (seamed) leg band only in cases where an original and closed (seamless) leg band was lost or required replacement due to injury or potential injury to the bird.

(3) A vendor transferring a bird to other than the general public shall maintain a record of transfer including acquisition, sales, and trade of a bird, for at least one year and including:

- (a) Date of transaction;
- (b) Name and address of the recipient and source;
- (c) Number and type, including the common name of the bird transferred; and
- (d) Leg band codes, including breeder or vendor and individual bird codes, omitting individual bird code only upon initial transfer of a bird propagated by the breeder.

(4) A vendor transferring a bird to the general public shall provide each buyer or recipient with:

- (a) A sales slip or written document including all information required in subsection (3)(a), (b), (c), and (d) of this section; and
- (b) A written warning or caution notice including:

(i) Information about possible human infection or disease caused by birds, especially psittacosis, parrot fever, and ornithosis;

(ii) Signs of infection or a sick bird including:

- (A) Nasal discharge,
- (B) Sneezing,
- (C) Coughing,
- (D) Ruffled feathers,
- (E) Lethargy, and
- (F) Diarrhea.

(iii) Signs and symptoms of an illness in a human including, but not limited to:

- (A) Chills,
- (B) Fever,
- (C) Headache,
- (D) Cough, and
- (E) Muscle aches.

(iv) Information that nasal discharge and droppings of an infected or sick bird may cause illness in humans; and

(v) Advice to consult veterinarian or health care provider, as appropriate, if signs or symptoms occur.

(5) A vendor shall post a readable sign in a public area with a warning described in subsection (4)(b) of this section.

(6) When investigation of a human case of psittacosis indicates probable infection from a bird, the local health officer shall:

(a) Order collection of blood or other appropriate samples from the suspect bird or birds for appropriate laboratory tests to rule out disease; or

(b) Use protocols established in Communicable Diseases in Man, 14th edition, Abram S. Benenson, editor, 1985; and

(c) Have authority to enforce requirements of this section on a nonpsittacine bird or birds when:

- (i) There is suspected exposure to an infected bird, or
- (ii) There is evidence a bird caused a disease.

(7) When a local health officer orders a quarantine of a bird or birds, the vendor shall:

- (a) Cooperate with the local health officer, and
- (b) Assume costs associated with action.

(8) Upon confirmation of psittacosis, vendors shall follow directions issued by the local health officer to:

(a) Place the birds under antibiotic treatment with environmental cleaning and sanitizing; or

(b) Destroy all birds on the premises followed by environmental cleaning and sanitizing; and

(c) Assume costs associated with psittacosis prevention and control action ordered by local and state health officer;

- (d) Prohibit sale or addition of birds to inventory; and
- (e) Prevent contact of any bird with the public.

(9) A person exhibiting or displaying a bird or birds in a place or area used or occupied by the public shall exhibit the bird or birds in a manner preventing human exposure to the birds and bird discharges except:

- (a) In single-purpose pet shops and aviaries, and
- (b) At bird shows if:

(i) A room containing a bird or birds is separated from other areas and activities, and

(ii) The room entrance has a sign warning a person about potential exposure to psittacosis.

(10) Shipment and embargo of birds.

(a) Any person or entity receiving a psittacine bird or birds from points outside Washington state shall:

- (i) Comply with Title 9 CFR, parts 92.3 and 92.8(b);
- (ii) Refuse receipt of any bird originating from premises where psittacosis infection is suspected or known; and

(iii) Refuse receipt of any bird from a premise quarantined for psittacosis.

(b) The state health officer is authorized to:

(i) Order placement and removal of an embargo upon shipment of a live bird or birds into Washington state, and

(ii) Order any action necessary to control an outbreak or potential outbreak of psittacosis in Washington state.

AMENDATORY SECTION (Amending Order 302, filed 5/19/87)

WAC 248-100-231 DUTIES OF LABORATORIES—SUBMISSION OF SPECIMENS BY LABORATORIES. (1) The director of every medical laboratory shall:

(a) Submit microbiologic cultures, subcultures, or appropriate clinical material as specified in subsection (2) of this section to the Washington state public health laboratory or other laboratory designated by the state health officer for diagnosis, confirmation, or further testing;

(b) Identify each specimen on a form provided or approved by the department including:

(i) The patient's name, and, if available,

(ii) Age, sex, date of onset of illness, first and last name of principal health care provider.

(2) When test results indicate possible infection with any of the following, laboratory action shall include:

(a) Brucellosis (Brucella species): Submit suspicious subcultures for confirmation and final identification;

(b) Cholera (Vibrio cholerae): Submit subcultures for confirmation and final identification;

(c) Diphtheria (Corynebacterium diphtheriae): Submit subcultures for identification and for toxin study when indicated;

(d) Malaria (Plasmodium species): Laboratories are encouraged to submit thick and thin stained smears for conformation, final identification, and forwarding for international epidemiologic surveillance;

(e) Meningococcal infection of blood or spinal fluid (Neisseria meningitis): Submit subcultures for confirmation and final identification;

(f) Plague (Yersinia pestis): Submit subcultures or appropriate clinical material for confirmation;

(g) Salmonellosis, including typhoid fever (Salmonella species): Submit subcultures for confirmation and serotyping;

(h) Shigellosis (Shigella species): Submit subcultures for confirmation and serotyping;

(i) Syphilis (Treponema pallidum): Submit reactive or weakly reactive serologic specimens for confirmation and further definitive testing;

(j) Mycobacteriosis, including tuberculosis (Mycobacterium species): Submit subcultures of initial isolates for:

(i) Mycobacterium tuberculosis,

(ii) Mycobacterium bovis, and

(iii) Other mycobacterial species when isolate is suspected of causing disease(~~(, and)~~);

(k) Tularemia (Francisella tularensis): Submit subcultures or appropriate clinical material for confirmation.

(3) When clinical impression and epidemiologic circumstances indicate a possible case of botulism, laboratory action shall include the following:

(a) Infant botulism: Submit stool for clostridium botulinum identification and toxin typing,

(b) Food borne botulism:

(i) Submit serum and stool for C. botulinum identification and toxin typing(~~(;)~~), and

(ii) If available, submit suspect foods (ideally in original containers).

(c) Wound botulism: Submit subculture or serum, debrided tissue, or swab sample from wound for C. botulinum identification.

(4) The state health officer may require submission of specimens for other infections of public health concern as described in WAC 248-100-041.

AMENDATORY SECTION (Amending Order 302, filed 5/19/87)

WAC 248-100-236 DUTIES OF LABORATORIES—REPORTING OF LABORATORY RESULTS INDICATIVE OF CERTAIN REPORTABLE DISEASES. (1) By December 31, 1987, medical laboratories shall:

(a) Report each positive culture or other suggestive test results to the local health officer by phone, written report, or submission of specimen within two working days, unless specified otherwise, for:

(i) Anthrax (Bacillus anthracis),

(ii) Botulism (Clostridium botulinum),

(iii) Cholera (Vibrio cholerae),

(iv) Diphtheria (Corynebacterium diphtheriae) – toxicogenic strains,

(v) Gonorrhea (Neisseria gonorrhoeae) (report within seven days),

(vi) Measles (rubeola) (measles virus),

(vii) Plague (Yersinia pestis),

(viii) Rabies (rabies virus),

(ix) Brucellosis (Brucella species),

(x) Leptospirosis (Leptospira interrogans),

(xi) Listeria infection of blood or spinal fluid (Listeria monocytogenes),

(xii) Meningococcal infection of blood or spinal fluid (N. (~~meningitis~~) meningitidis),

(xiii) Pertussis (Bordetella pertussis),

(xiv) Salmonellosis (Salmonella species),

(xv) Shigellosis (Shigella species), and

(xvi) Hepatitis A (positive anti-HAV IgM).

(b) Send a copy of the state form accompanying specimen submitted as required in WAC 248-100-231 or identifying information including:

(i) Type of specimen tested (e.g., serum or sputum),

(ii) Test result,

(iii) Name of reporting laboratory,

(iv) Date of report,

(v) Name of requesting health care provider or health care facility, and

(vi) Name of patient.

(2) By December 31, 1987, medical laboratories shall report positive cultures or other suggestive test results for chlamydial infection (chlamydia trachomatis) to local health departments monthly including either:

(a) Identifying information specified in subsection (1)(b)(i-vi) of this section, or

(b) Aggregate numbers of positive tests including age, sex, and site of infection when known.

(3) Medical laboratories shall label or stamp reports appropriately with information indicating "reportable disease" and the telephone number of the local health

department, if such labels or stamps are provided by the local health department.

(4) State and local health officers and health departments receiving reports from medical laboratories shall:

(a) Allow time for the laboratory to notify the principal health care provider prior to contact if:

- (i) Delay is unlikely to jeopardize public health, and
- (ii) The laboratory requests a delay.

(b) Try to contact the principal health care provider and discuss circumstances prior to contact of a patient when possible.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 248-100-025 GENERAL—INVESTIGATIVE DUTY OF HEALTH OFFICERS.

WAC 248-100-050 REPORTS OF DISEASES BY HEALTH CARE PROVIDERS AND OTHERS—HEALTH OFFICERS.

WAC 248-100-163 IMMUNIZATION OF SCHOOL CHILDREN AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES.

WAC 248-100-164 IMMUNIZATION OF CHILDREN ATTENDING DAY CARE CENTERS AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES.

WAC 248-100-440 PSITTACOSIS (ORNITHOSIS).

WAC 248-100-450 RABIES.

WAC 248-100-452 MANAGEMENT OF RABIES OUTBREAK.

**WSR 88-07-064**

**NOTICE OF PUBLIC MEETINGS**

**DEPARTMENT OF COMMUNITY DEVELOPMENT  
(Development Loan Fund Committee)**

[Memorandum—March 15, 1988]

The schedule of quarterly meetings for the Department of Community Development's Development Loan Fund Committee for the rest of 1988 is:

- May 19
- August 18
- November 17

Exact locations have not yet been arranged, if there are any questions, please call or write, Development Loan Fund, 9th and Columbia Building, Olympia, WA 98504, GH-51, phone (206) 586-8976.

**WSR 88-07-065**

**ADOPTED RULES**

**DEPARTMENT OF WILDLIFE**

**(Wildlife Commission)**

[Order 307—Filed March 16, 1988]

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

New	WAC 232-28-617	1988-90	Washington	game	fish
				regulations.	
Amd	WAC 232-12-154		Juvenile fishing	waters.	
Rep	WAC 232-28-616	1987-88	Washington	game	fish
				regulations.	

This action is taken pursuant to Notice No. WSR 87-18-078 filed with the code reviser on September 2, 1987. 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 77.12.040 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 October 9, 1987.

By Dr. James M. Walton  
Chairman, Wildlife Commission

**NEW SECTION**

WAC 232-28-617 1988-90 WASHINGTON GAME FISH REGULATIONS.

**Reviser's note:** The text and accompanying pamphlet comprising the 1988-90 Washington game fish regulations adopted by the Department of Wildlife have 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 rules may be obtained from the main office of the Department of Wildlife, 600 North Capitol Way, Olympia, Washington 98504, and are available in pamphlet form from the department, its six regional offices, and at numerous drug and sporting goods stores throughout the state.

**AMENDATORY SECTION** (Amending Order 174, filed 10/22/81)

WAC 232-12-154 JUVENILE FISHING WATERS. It is unlawful for a person (~~fourteen~~) fifteen years of age or older to fish any waters restricted to juvenile fishing only.

**REPEALER**

The following section of the Washington Administrative Code is hereby repealed:

WAC 232-28-616 1987-88 WASHINGTON GAME FISH REGULATIONS

**WSR 88-07-066****ADOPTED RULES  
STATE PATROL**

[Order 88-03-A—Filed March 17, 1988]

I, George B. Tellevik, director of the Washington State Patrol, do promulgate and adopt at the General Administration Building, AX-12, Olympia, Washington 98504, the annexed rules relating to Washington State Patrol criminal records, implementing chapter 486, Laws of 1987.

This action is taken pursuant to Notice No. WSR 88-03-056 filed with the code reviser on January 19, 1988. 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 43.43.838, section 5, chapter 486, Laws of 1987, which directs that the Washington State Patrol has authority to implement the provisions of RCW 43.43.838, chapter 486, Laws of 1987.

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 March 17, 1988.

By George B. Tellevik  
Chief

**AMENDATORY SECTION** (Amending Order 80-2, filed 7/1/80)

WAC 446-20-020 DEFINITIONS. (1) The definitions in RCW 10.97.030 shall apply to these regulations.

(2) "Nonconviction data" has the meaning set forth in RCW 10.97.030(2), but shall not include dismissals following a period of probation, or suspension, or deferral of sentence.

(3) "The administration of criminal justice" has the meaning set forth in RCW 10.97.030(6), but does not include crime prevention activities (if that is the sole function of the program or agency) or criminal defense activities.

(4) The definitions as enumerated in chapter 486, Laws of 1987, "AN ACT Relating to child and adult abuse information", shall apply whenever applicable in these regulations.

**NEW SECTION**

WAC 446-20-285 EMPLOYMENT—CONVICTION RECORDS; CHILD AND ADULT ABUSE INFORMATION. After January 1, 1988, certain child and adult abuse conviction information will be furnished by the state patrol upon the submission of a written request of any applicant, business or organization, the state board of education, or the department of social and health services. This information will consist of the following:

(1) Convictions of crimes against persons as defined in RCW 43.43.830(6);

(2) Department of licensing disciplinary board final decisions of specific findings of physical or sexual abuse or exploitation of a child; and

(3) Civil adjudications of child abuse.

This information will be furnished, consistent with the provisions of chapter 486, Laws of 1987, on an approved Request for Criminal History Information form available from the Washington State Patrol, P. O. Box 2527, Olympia, Washington, 98507-2527.

The state patrol shall also furnish any similar records maintained by the Federal Bureau of Investigation or records in custody of the National Crime Information Center, if available, subject to their policies and procedures regarding such dissemination.

(a) The business or organization making such request shall not make an inquiry to the Washington state patrol or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer that an inquiry may be made.

(b) For positive identification, the Request for Criminal History Information form may be accompanied by fingerprint cards of a type specified by the Washington state patrol identification section, and shall contain a certification by the business or organization; the state board of education; or the department of social and health services, that the information is being requested and will be used only for the purposes as enumerated in chapter 486, Laws of 1987.

(c) In the absence of fingerprint cards, the applicant may provide a right thumb fingerprint impression in the area provided on the Request for Criminal History Information form. In the event of a possible match, where the applicant's name and date of birth as submitted varies from that of the record contained by the identification section, the right thumb fingerprint impression will be used for identification verification purposes only. An exact name and date of birth match will be required for dissemination of conviction information in the absence of a fingerprint card or thumbprint impression for positive identification or verification of record.

(d) After processing a properly completed Request for Criminal History Information form, if the conviction record, disciplinary board final decision, adjudication record, or equivalent response from a federal law enforcement agency shows no evidence of crimes against persons, an identification declaring the showing of no evidence shall be issued to the applicant by the state patrol within fourteen calendar days of receipt of the request. Possession of such identification shall satisfy future background check requirements for the applicant.

(e) The business or organization shall notify the applicant of the state patrol's response within ten calendar days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(f) The business or organization shall be immune from civil liability for failure to request background information on a prospective employee or volunteer unless the failure to do so constitutes gross negligence.

AMENDATORY SECTION (Amending Order 82-5, filed 10/22/82)

WAC 446-20-290 FEES. (1) A nonrefundable fee of ten dollars shall accompany each (~~(fingerprint card)~~) request for conviction records submitted pursuant to (~~(chapter 202, Laws of 1982)~~) RCW 43.43.815 and chapter 486, Laws of 1987, unless through prior arrangement an account is authorized and established. Fees are to be made payable to the "Washington State Patrol", and are to be remitted only by cashier's check, money order or check written on a commercial business account. The Washington state patrol identification section shall adjust the fee schedule as may be practicable to ensure that direct and indirect costs associated with the provisions of (~~(this chapter)~~) these chapters are recovered.

(2) Pursuant to provisions of chapter 486, Laws of 1987, no fees will be charged to a nonprofit organization, including school districts and educational service districts, for the request for conviction records.

AMENDATORY SECTION (Amending Order 82-5, filed 10/22/82)

WAC 446-20-300 PRIVACY—SECURITY. (1) All employers or prospective employers receiving conviction records pursuant to (~~(chapter 202, Laws of 1982)~~) RCW 43.43.815, shall comply with the provisions of WAC 446-20-210 through 446-20-250 relating to privacy and security of the records.

(2) Businesses or organizations, the state board of education, and the department of social and health services receiving conviction records of crimes against persons, disciplinary board final decision information, or a civil adjudication record pursuant to chapter 486, Laws of 1987, shall comply with the provisions of WAC 446-20-220 (1) and (3) relating to privacy and security of the records.

(a) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited. A business or organization violating this prohibition is subject to a civil action for damages.

(b) No employee of the state, employee of a business or organization, or the organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

AMENDATORY SECTION (Amending Order 82-5, filed 10/22/82)

WAC 446-20-310 AUDITS. (1) All employers or prospective employers receiving conviction records pursuant to (~~(chapter 202, Laws of 1982)~~) RCW 43.43.815, shall comply with the provisions of WAC 446-20-260 through 446-20-270 relating to audit of the record keeping system.

(2) Businesses or organizations, the state board of education and the department of social and health services receiving conviction records of crimes against persons,

disciplinary board final decision information or civil adjudication records pursuant to chapter 486, Laws of 1987, may be subject to periodic audits by Washington state patrol personnel to determine compliance with the provisions of WAC 446-20-300(2).

**WSR 88-07-067**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE CENTER**  
[Memorandum—March 16, 1988]

A special meeting of the board of directors of the Washington State Convention and Trade Center will be held on Monday, March 21, 1988, at 5:00 p.m., to discuss board action on the kitchen contract. The meeting will be held at the Plymouth Congregational Church, Room 221, 1217 Sixth Avenue, Seattle.

**WSR 88-07-068**  
**RULES OF COURT**  
**STATE SUPREME COURT**  
[March 3, 1988]

IN THE MATTER OF THE ADOPTION No. 25700-A-411  
OF THE AMENDMENT TO THE CODE OF JUDICIAL CONDUCT ORDER

The Court having considered the proposed amendment to the Code of Judicial Conduct and having determined that the amendment will aid in the prompt and orderly administration of justice and having further determined that an emergency exists which necessitates an early adoption; Now, therefore, it is hereby

ORDERED:

(a) That the amendment as attached hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9(i), the amendment will be published expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 3rd day of March, 1988.

Vernon R. Pearson

Robert F. Utter

Fred H. Dore

Robert F. Brachtenbach

Keith M. Callow

James M. Dolliver

Wm. C. Goodloe

James A. Andersen

B. Durham

**CODE OF JUDICIAL CONDUCT**  
**PREAMBLE**

1. COMPLIANCE WITH THE CODE OF JUDICIAL CONDUCT. Anyone, whether or not a lawyer, who is an officer of a judicial system performing judicial

functions, including an officer such as a referee in bankruptcy, special master, court commissioner, or magistrate, is a judge for the purpose of this code. All judges should comply with this code except as provided below.

(A) ~~Part-Time Judge. Judges. A part-time judge is a judge who serves~~ Judges. Part-time judges are judges who serve on a continuing or periodic basis, but is are permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. ~~A part-time judge. Part-time judges:~~

(1) ~~is are~~ not required to comply with Canon 5(C)(2), (D), (E), (F), and (G), and Canon 6(C);

(2) should not act as a lawyer in a proceeding in which ~~he has~~ they served as a judge or in any other proceeding related thereto.

(B) ~~Judge Judges Pro Tempore. A judge pro tempore is a person who is~~ Judges pro tempore are persons who are appointed to act temporarily as a judge. judges.

(1) While acting as such, ~~a judge pro tempore is~~ judges pro tempore are not required to comply with Canon 5(C)(2), (C)(3), (D), (E), (F), and (G), and Canon 6(C).

(2) ~~A person~~ Persons who ~~has~~ have been a judge pro tempore should not act as a lawyer in a proceeding in which ~~he has~~ they have served as a judge or in any other proceeding related thereto.

2. EFFECTIVE DATE OF COMPLIANCE. ~~A person~~ Persons to whom this code becomes applicable should arrange ~~his~~ their affairs as soon as reasonably possible to comply with it. If, however, the demands on ~~his~~ their time and the possibility of conflicts of interest are not substantial, ~~a person~~ persons who ~~holds~~ hold judicial office on the date this code becomes effective may:

(A) continue to act as an officer, director, or nonlegal adviser of a family business;

(B) continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a member of ~~his~~ their family.

#### CANON 1—A JUDGE JUDGES SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

An independent and honorable judiciary is indispensable to justice in our society. ~~A judge~~ Judges should participate in establishing, maintaining, and enforcing, and should ~~himself~~ themselves observe high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this code should be construed and applied to further that objective.

#### CANON 2—A JUDGE JUDGES SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL HIS THEIR ACTIVITIES

(A) ~~A judge~~ Judges should respect and comply with the law and should conduct ~~himself~~ themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

(B) ~~A judge~~ Judges should not allow ~~his~~ their family, ~~their~~ families, social, or other relationships to influence ~~his~~

~~their~~ judicial conduct or judgment. ~~He~~ Judges should not lend the prestige of ~~his~~ their office to advance the private interests of others; nor should ~~he~~ judges convey or permit others to convey the impression that they are in a special position to influence ~~him~~ them. ~~He~~ Judges should not testify voluntarily as a ~~character witness~~ character witnesses.

#### Comment

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. ~~A judge~~ Judges must avoid all impropriety and appearance of impropriety. ~~He~~ Judges must expect to be the subject of constant public scrutiny. ~~He~~ Judges must therefore accept restrictions on ~~his~~ their conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The testimony of a ~~judge~~ judges as a ~~character witness~~ character witnesses injects the prestige of ~~his~~ their office into the proceeding in which ~~he~~ testifies ~~they~~ testify and may be misunderstood to be an official testimonial. This canon, however, does not afford ~~him~~ judges a privilege against testifying in response to an official summons.

#### CANON 3—A JUDGE JUDGES SHOULD PERFORM THE DUTIES OF HIS THEIR OFFICE IMPARTIALLY AND DILIGENTLY

The judicial duties of a judge take precedence over all ~~his~~ other activities. ~~His~~ The judge's judicial duties include all the duties of ~~his~~ his office prescribed by law. In the performance of these duties, the following standards apply:

(A) Adjudicative Responsibilities.

(1) ~~A judge~~ Judges should be faithful to the law and maintain professional competence in it. ~~He~~ Judges should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) ~~A judge~~ Judges should maintain order and decorum in proceedings before ~~him~~ them.

(3) ~~A judge~~ Judges should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom ~~he~~ deals ~~judges~~ deal in ~~his~~ their official capacity, and should require similar conduct of lawyers, and of ~~his~~ the staff, court officials, and others subject to ~~his~~ their direction and control.

#### Comment

The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate.

(4) ~~A judge~~ Judges should accord to every person who is legally interested in a proceeding, or ~~his~~ that person's lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding. ~~A judge~~ Judges, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before ~~him~~ them, by

amicus curiae only, if ~~he affords~~ they afford the parties reasonable opportunity to respond.

#### Comment

The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted. It does not preclude ~~a judge~~ judges from consulting with other judges, or with court personnel whose function is to aid ~~the judge~~ judges in carrying out ~~his~~ their adjudicative responsibilities.

An appropriate and often desirable procedure for a court to obtain the advice of a disinterested expert on legal issues is to invite ~~him~~ the expert to file a brief amicus curiae.

(5) ~~A judge~~ Judges should dispose promptly of the business of the court.

#### Comment

Prompt disposition of the court's business requires ~~a judge~~ judges to devote adequate time to ~~his~~ their duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with ~~him~~ the judges to that end.

(6) ~~A judge~~ Judges should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to ~~his~~ their direction and control. This ~~canon subsection~~ does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

(7) A judge may permit broadcasting, televising, recording, and taking photographs in the courtroom during sessions of the court, including recesses between sessions, under the following conditions:

(a) Permission shall have first been expressly granted by the judge and under such conditions as the judge may prescribe;

(b) The media personnel will not distract participants or impair the dignity of the proceedings; and

(c) No witness, juror, or party who expresses any prior objection to the judge shall be photographed nor shall the testimony of such a witness, juror, or party be broadcast or telecast. Notwithstanding such objection, the judge may allow the broadcasting, televising, recording, or photographing of other portions of the proceedings.

#### ILLUSTRATIVE BROADCAST GUIDELINES

1. Officers of Court. The judge has the authority to direct whether broadcast equipment may be taken within the courtroom. ~~The broadcast newsperson~~ Broadcast newsmen should advise the bailiff prior to the start of a court session that ~~he or she desires~~ they desire to electronically record and/or broadcast live from within the courtroom. The bailiff may have prior instructions from the judge as to where the broadcast reporter and/or camera operator may position themselves. In the absence of any directions from the judge or bailiff, the position

should be behind the front row of spectator seats by the least used aisleway or other unobtrusive but viable location.

2. Pooling. Unless the judge directs otherwise, no more than one television camera should be taking pictures in the courtroom (as presently constructed) at any one time. Where coverage is by both radio and television, the microphones used by television should also serve for radio and radio should be permitted to feed from the television sound system. Multiple radio feeds, if any, should be provided by a junction box. It should be the responsibility of each broadcast news representative present at the opening of each session of court to achieve an understanding with all other broadcast representatives as to who will function at any given time, or, in the alternative, how they will pool their photographic coverage. This understanding should be reached outside the courtroom and without imposing on the judge or court personnel.

Broadcast coverage outside the courtroom should be handled with care and discretion, but need not be pooled.

3. Broadcast Equipment. All running wires used should be securely taped to the floor. All broadcast equipment should be handled as inconspicuously and quietly as reasonably possible. Sufficient film and/or tape capacities should be provided to obviate film and/or tape changes except during court recess. No camera should give any indication of whether it is or is not operating such as a red light on some studio cameras. No additional lights should be used without the specific approval of the presiding judge and then only as ~~he~~ the judge may specifically approve as may be needed in the case of appellate hearings.

4. Decorum. Broadcast representatives' dress should not set them apart unduly from other trial spectators. Camera operators should not move tripod-mounted cameras except during court recesses. All broadcast equipment should be in place and ready to function no less than 15 minutes before the beginning of each session of court.

#### ILLUSTRATIVE PRINT MEDIA GUIDELINES

1. The judge has authority to direct whether photographs may be taken within the courtroom. The photographer should advise the bailiff, prior to the start of a court session, that ~~he desires to take photographs~~. photographs are desired. The bailiff may have prior instructions from the judge as to where the photographer may ~~position himself~~. be positioned. In the absence of any directions from the judge or bailiff, the photographer should remain behind the front row of spectator seats.

2. Unless the judge directs otherwise, no more than one still picture photographer is to be taking pictures in the courtroom at any one time. It is the responsibility of each photographer present at the opening of each session of court to achieve an understanding with all other photographers present as to which will function at any given time, or, in the alternative, how they will pool their photographic coverage. This understanding must be reached outside the courtroom and without imposing on the judge or court personnel.

3. The ~~photographer's~~ photographers' dress and equipment should not set ~~him~~ them apart unduly from other trial spectators. Cameras which operate without flash and with a minimum of noise should be utilized.

4. The photographer's movements in and out of the courtroom and while taking pictures should be unobtrusive. ~~He~~ The photographer should not, for example, assume body positions inappropriate for spectators.

(B) Administrative Responsibilities.

(1) ~~A judge~~ Judges should diligently discharge ~~his~~ their administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

(2) ~~A judge~~ Judges should require ~~his~~ their staff and court officials subject to ~~his~~ their direction and control to observe the standards of fidelity and diligence that apply to ~~him~~ them.

(3) ~~A judge~~ Judges should take or initiate appropriate disciplinary measures against a lawyer for unprofessional conduct of which ~~the judge~~ they may become aware.

Comment

Disciplinary measures may include reporting a lawyer's misconduct to an appropriate disciplinary body.

(4) ~~A judge~~ Judges should not make unnecessary appointments. ~~He~~ They should exercise ~~his~~ their power of appointment only on the basis of merit, avoiding nepotism and favoritism. ~~He~~ They should not approve compensation of appointees beyond the fair value of services rendered.

Comment

Appointees of the judge include officials such as referees, commissioners, special masters, receivers, guardians and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by this ~~canon~~ subsection.

(C) Disqualification.

(1) ~~A judge~~ Judges should disqualify ~~himself~~ themselves in a proceeding in which ~~his~~ their impartiality might reasonably be questioned, including but not limited to instances where:

(a) ~~he~~ the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) ~~he~~ the judge served as lawyer in the matter in controversy, or a lawyer with whom ~~he~~ the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

Comment

~~A lawyer~~ Lawyers in a governmental agency ~~does~~ do not necessarily have an association with other lawyers employed by that agency within the meaning of this ~~canon~~ subsection; ~~a judge~~ judges formerly employed by a governmental agency, however, should disqualify ~~himself~~ themselves in a proceeding if ~~his~~ their impartiality might reasonably be questioned because of such association.

(c) ~~he~~ the judge knows that ~~he~~, individually or as a fiduciary, ~~the judge~~ or ~~his~~ the judge's spouse or minor child residing in ~~his~~ the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(d) ~~he~~ the judge or ~~his~~ the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

Comment

The fact that a lawyer in a proceeding is affiliated with a law firm with which a lawyer-relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "~~his~~ their impartiality might reasonably be questioned" under Canon 3(C)(1), or that the lawyer-relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under Canon 3(C)(1)(d)(iii) may require ~~his~~ the judge's disqualification.

(iii) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) is to the judge's knowledge likely to be a material witness in the proceeding.

(2) ~~A judge~~ Judges should inform ~~himself~~ themselves about ~~his~~ their personal and fiduciary financial interests, and make a reasonable effort to inform ~~himself~~ themselves about the personal financial interests of ~~his~~ their spouse and minor children residing in ~~his~~ their household.

(3) For the purposes of this section:

(a) the degree of relationship is calculated according to the civil law system;

Comment

According to the civil law system, the third degree of relationship test would, for example, disqualify the judge if ~~his~~ or his the judge's or the judge's spouse's father, parent, grandfather, grandparent, aunt, uncle, brother, sibling, or niece's husband or nephew's wife were a party or lawyer in the proceeding, but would not disqualify ~~him~~ the judge if a cousin were a party or lawyer in the proceeding.

(b) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(c) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

(i) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

(ii) an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) the proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(D) Remittal of Disqualification.

A judge disqualified by the terms of Canon 3(C)(1)(c) or Canon 3(C)(1)(d) may, instead of withdrawing from the proceeding, disclose on the record the basis of ~~his~~ the disqualification. If, based on such disclosure, the parties and lawyers, independently of the judge's participation, all agree in writing that the judge's relationship is immaterial or that ~~his~~ the judge's financial interest is insubstantial, the judge is no longer disqualified, and may participate in the proceeding. The agreement, signed by all parties and lawyers, shall be incorporated in the record of the proceeding.

Comment

This procedure is designed to minimize the chance that a party or lawyer will feel coerced into an agreement. When a party is not immediately available, the judge without violating this canon may proceed on the written assurance of the lawyer that ~~his~~ the party's consent will be subsequently filed.

**CANON 4—A JUDGE JUDGES MAY ENGAGE IN ACTIVITIES TO IMPROVE THE LAW, THE LEGAL SYSTEM, AND THE ADMINISTRATION OF JUSTICE**

~~A judge,~~ Judges, subject to the proper performance of ~~his~~ their judicial duties, may engage in the following quasi-judicial activities, if in doing so ~~he does~~ they do not cast doubt on ~~his~~ their capacity to decide impartially any issue that may come before ~~him:~~ them:

(A) ~~He~~ They may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.

(B) ~~He~~ They may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and ~~he~~ they may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.

(C) ~~He~~ Judges may serve as ~~a member, officer, or director~~ members, officers, or directors of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. ~~He~~ They may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. ~~He~~ They may make recommendations to public and private fund granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

Comment

As a judicial ~~officer and person~~ officers and persons specially learned in the law, ~~a judge is~~ judges are in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that ~~his~~ their time permits, ~~he is~~ they are encouraged to do so, either independently or through a bar association, judicial conference, or other organization dedicated to the improvement of the law.

Extrajudicial activities are governed by Canon 5.

**CANON 5—A JUDGE JUDGES SHOULD REGULATE ~~HIS~~ THEIR EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH ~~HIS~~ THEIR JUDICIAL DUTIES**

(A) Avocational Activities. ~~A judge~~ Judges may write, lecture, teach, and speak on nonlegal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of ~~his~~ their office or interfere with the performance of ~~his~~ their judicial duties.

Comment

Complete separation of ~~a judge~~ judges from extrajudicial activities is neither possible nor wise; ~~he~~ they should not become isolated from the society in which ~~he~~ they ~~lives:~~ they live.

(B) Civic and Charitable Activities. ~~A judge~~ Judges may participate in civic and charitable activities that do not reflect adversely upon ~~his~~ their impartiality or interfere with the performance of ~~his~~ their judicial duties. ~~A judge~~ Judges may serve as ~~an officer, director, trustee, or non-legal advisor~~ officers, directors, trustees, or nonlegal advisors of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) ~~A judge~~ Judges should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before ~~him~~ them or will be regularly engaged in adversary proceedings in any court.

Comment

The changing nature of some organizations and of their relationship to the law makes it necessary for ~~a judge~~ judges regularly to reexamine the activities of each organization with which ~~he is~~ they are affiliated to determine if it is proper for ~~him~~ them to continue ~~his~~ their relationship with it. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

(2) ~~A judge~~ Judges should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of ~~his~~ their office for that purpose, but ~~he~~ they may be listed as

~~an officer, director, or trustee~~ officers, directors, or trustees of such an organization. ~~He~~ They should not be a speaker or the guest of honor at an organization's fund raising events, but ~~he~~ they may attend such events.

(3) ~~A judge~~ Judges should not give investment advice to such an organization, but ~~he~~ they may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

#### Comment

~~A judge's~~ Judges' participation in an organization devoted to quasi-judicial activities is governed by Canon 4. (C) Financial Activities.

(1) ~~A judge~~ Judges should refrain from financial and business dealings that tend to reflect adversely on ~~his~~ their impartiality, interfere with the proper performance of ~~his~~ their judicial duties, exploit ~~his~~ their judicial position, or involve ~~him~~ them in frequent transactions with lawyers or persons likely to come before the court on which ~~he~~ she serves; ~~they~~ serve.

(2) Subject to the requirements of Canon 5(C)(1), a ~~judge~~ judges may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as ~~an officer, director, manager, advisor, or employee~~ officers, directors, managers, advisors, or employees of any business.

#### Comment

The Preamble, section 2, of this code qualifies this canon with regard to a judge engaged in a family business at the time this code becomes effective.

(3) ~~A judge~~ Judges should manage ~~his~~ their investments and other financial interests to minimize the number of cases in which ~~he~~ they are disqualified. As soon as ~~he~~ they can do so without serious financial detriment, ~~he~~ they should divest ~~himself~~ themselves of investments and other financial interests that might require frequent disqualification.

(4) Neither a ~~judge~~ judges nor a ~~member of his family~~ members of their families residing in ~~his household~~ their households should accept a gift, bequest, favor, or loan from anyone except as follows:

(a) a ~~judge~~ judges may accept a gift incident to a public testimonial to ~~him; them;~~ books supplied by publishers on a complimentary basis for official use; or an invitation to the ~~judge~~ judges and ~~his spouse~~ their spouses to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;

(b) a ~~judge~~ judges or a ~~member of his family~~ members of their families residing in ~~his household~~ their households may accept ordinary social hospitality; a gift, bequest, favor, or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;

(c) a ~~judge~~ judges or a ~~member of his family~~ members of their families residing in ~~his household~~ their households may accept any other gift, bequest, favor, or loan only if the donor is not a party or other person

whose interests have come or are likely to come before ~~him; the judge,~~ and, if its value exceeds \$100, the judge reports it in the same manner as ~~he~~ reports compensation is reported in Canon 6(C).

#### Comment

This canon does not apply to contributions to a judge's campaign for judicial office, a matter governed by Canon 7.

(5) For the purposes of this canon "~~member of his family~~ members of their families residing in ~~his household~~ their households" means any relative of a judge by blood or marriage, or a person treated by a judge as a member of ~~his~~ the judge's family, who resides in ~~his~~ the judge's household.

(6) ~~A judge is~~ Judges are not required by this code to disclose ~~his~~ their income, debts, or investments, except as provided in this canon and Canons 3 and 6.

#### Comment

Canon 3 requires a ~~judge~~ judges to disqualify ~~himself~~ themselves in any proceeding in which ~~he~~ they have a financial interest, however small; Canon 5 requires a ~~judge~~ judges to refrain from engaging in business and from financial activities that might interfere with the impartial performance of ~~his~~ their judicial duties; Canon 6 requires ~~him~~ judges to report all compensation ~~he~~ they receive for activities outside ~~his~~ their judicial office. ~~A judge has~~ Judges have the rights of an ~~ordinary citizen;~~ ordinary citizens, including the right to privacy of ~~his~~ their financial affairs, except to the extent that limitations thereon are required to safeguard the proper performance of ~~his~~ their duties. Owning and receiving income from investments do not as such affect the performance of a judge's duties.

(7) Information acquired by a ~~judge in his~~ judges in their judicial capacity should not be used or disclosed by ~~him~~ them in financial dealings or for any other purpose not related to ~~his~~ their judicial duties.

(8) Subject to the limitations and requirements of Canon 6, a ~~judge~~ judges may accept compensation and reimbursement of expenses for the solemnization of marriages, performed outside of regular court hours, pursuant to RCW 26.04.050.

(D) Fiduciary Activities. ~~A judge~~ Judges should not serve as the ~~executor, administrator, trustee, guardian, or other fiduciary;~~ executors, administrators, trustees, guardians, or other fiduciaries, except for the estate, trust, or person of a ~~member of his family,~~ members of their families, and then only if such service will not interfere with the proper performance of ~~his~~ their judicial duties. "~~Member of his family~~" includes "Members of their families" include a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. As a ~~family fiduciary a judge is~~ family fiduciaries judges are subject to the following restrictions:

(1) ~~He~~ Judges should not serve if it is likely that as a fiduciary ~~he~~ they will be engaged in proceedings that would ordinarily come before ~~him; them,~~ or if the estate, trust, or ward becomes involved in adversary proceedings

in the court on which ~~he serves~~ they serve or one under its appellate jurisdiction.

Comment

The Preamble, section 2, of this code qualifies this canon with regard to a judge who is an executor, administrator, trustee, or other fiduciary at the time this code becomes effective.

(2) While acting as a fiduciary ~~a judge is~~ judges are subject to the same restrictions on financial activities that apply to ~~him in his personal capacity~~: them in their personal capacities.

Comment

~~A judge's obligation~~ Judges' obligations under this canon and ~~his obligation~~ their obligations as a fiduciary may come into conflict. For example, ~~a judge~~ judges should resign as ~~trustee~~ trustees if it would result in detriment to the trust to divest it of holdings whose retention would place the judge in violation of Canon 5(C)(3).

(E) Arbitration. ~~A judge~~ Judges should not act as an ~~arbitrator or mediator~~: arbitrators or mediators.

(F) Practice of Law. ~~A judge~~ Judges should not practice law.

(G) Extrajudicial Appointments. ~~A judge~~ Judges should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. ~~A judge~~, Judges, however, may represent ~~his~~ their country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

Comment

Valuable services have been rendered in the past to the states and the nation by judges appointed by the executive to undertake important extrajudicial assignments. The appropriateness of conferring these assignments on judges must be reassessed, however, in light of the demands on ~~judicial manpower~~ the judiciary created by today's crowded dockets and the need to protect the courts from involvement in extrajudicial matters that may prove to be controversial. Judges should not be expected or permitted to accept governmental appointments that could interfere with the effectiveness and independence of the judiciary.

**CANON 6—~~A JUDGE~~ JUDGES SHOULD  
REGULARLY FILE REPORTS OF  
COMPENSATION RECEIVED FOR QUASI-  
JUDICIAL AND EXTRAJUDICIAL ACTIVITIES**

~~A judge~~ Judges may receive compensation and reimbursement of expenses for the quasi-judicial and extrajudicial activities permitted by this code, if the source of such payments does not give the appearance of influencing the ~~judge in his~~ judges in their judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:

(A) Compensation. Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

(B) Expense Reimbursement. Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by ~~his~~ the judge's spouse. Any payment in excess of such an amount is compensation.

(C) Public Reports. A judge should make such financial disclosures as required by law.

**CANON 7—~~A JUDGE~~ JUDGES SHOULD  
REFRAIN FROM POLITICAL ACTIVITY  
INAPPROPRIATE TO ~~HIS~~ THEIR JUDICIAL  
OFFICE**

(A) Political Conduct in General.

(1) ~~A judge or a candidate~~ Judges or candidates for election to judicial office should not:

(a) act as ~~a leader~~ leaders or hold any office in a political organization;

(b) make speeches for a political organization or candidate or publicly endorse a nonjudicial candidate for public office;

(c) solicit funds for or pay an assessment or make a contribution to a political organization or nonjudicial candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions, except as authorized in Canon 7(A)(2);

(2) ~~A judge~~ Judges holding an office filled by public election between competing candidates or candidates for such office, may attend political gatherings and speak to such gatherings on ~~his~~ the judge's own behalf or that of another judicial candidate. ~~The judge or candidate~~ Judges or candidates shall not identify ~~himself as a member~~ themselves as members of a political party, and ~~he~~ judges shall not contribute to a political party or organization.

(3) ~~A judge~~ Judges shall resign ~~his~~ their office when ~~he becomes a candidate~~ they become candidates either in a party primary or in a general election for a nonjudicial office, except that ~~he~~ they may continue to hold ~~his~~ their judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention, if ~~he is~~ they are otherwise permitted by law to do so.

(4) ~~A judge~~ Judges should not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice.

(B) Campaign Conduct.

(1) ~~A candidate~~, Candidates, including an incumbent judge, for a judicial office that is filled either by public election between competing candidates or on the basis of a merit system election:

(a) should maintain the dignity appropriate to judicial office, and should encourage members of ~~his~~ their families to adhere to the same standards of political conduct that apply to ~~him~~; them;

(b) should prohibit public officials or employees subject to ~~his~~ their direction or control from doing for ~~him~~ them what ~~he is~~ they are prohibited from doing under this canon; and except to the extent authorized under Canon 7(B)(2) or (B)(3), ~~he~~ they should not allow

any other person to do for ~~him what he is~~ them what they are prohibited from doing under this canon;

(c) should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; announce ~~his~~ their views on disputed legal or political issues; or misrepresent ~~his~~ their identity, qualifications, present position, or other fact.

(d) should not permit false, misleading, or deceptive campaign advertising to be published or broadcast in behalf of ~~his~~ their candidacy.

(2) ~~A candidate,~~ Candidates, including an incumbent judge, for a judicial office that is filled by public election between competing candidates should not ~~himself~~ themselves solicit or accept campaign funds, but ~~he~~ they may establish committees of responsible persons to secure and manage the expenditure of funds for ~~his~~ their campaign and to obtain public statements of support for ~~his~~ their candidacy. Such committees are not prohibited from soliciting campaign contributions and public support from lawyers or others. ~~A candidate's~~ Candidates' committees may solicit funds for ~~his~~ their campaign no earlier than 120 days from the date when filing for that office is first permitted and no later than 30 days after the last election in which ~~he~~ they participate during the election year. ~~A candidate~~ Candidates should not use or permit the use of campaign contributions for the private benefit of ~~himself~~ themselves or members of ~~his~~ their family. ~~The candidate~~ Candidates should comply with all laws requiring public disclosure of campaign finances.

(3) An incumbent judge who is a candidate for retention in or reelection to office without a competing candidate, and whose candidacy has drawn active opposition, may campaign in response thereto and may obtain publicly stated support and campaign funds in the manner provided in Canon 7(B)(2).

**WSR 88-07-069**

**PROPOSED RULES**

**UTILITIES AND TRANSPORTATION  
COMMISSION**

[Filed March 18, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules relating to telecommunications companies, WAC 480-120-028. The proposed new section is shown below as Appendix A, Cause No. U-87-963-R. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposed new section on economic values, pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

that the agency will at 9:00 a.m., Wednesday, May 4, 1988, in the Commission's Hearing Room, Second Floor, 1300 South Evergreen Park Drive S.W., 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 May 18, 1988.

The authority under which these rules are proposed is RCW 80.01.040 and 80.04.160.

The specific statute these rules are intended to implement is RCW 80.36.300(3).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 13, 1988, supplemental comments before April 27, 1988.

Dated: March 14, 1988

By: Paul Curl

Acting Secretary

**STATEMENT OF PURPOSE**

In the matter of adopting WAC 480-120-028 relating to telecommunications companies.

The rule proposed by the Washington Utilities and Transportation Commission are to be promulgated pursuant to RCW 80.01.040 and 80.04.160 which direct that the commission has authority to implement the provisions of chapter 80.36 RCW.

The rule proposed by the Washington Utilities and Transportation Commission is designed to expand the framework for intraLATA discounts to provide for an intermediate discount between the "premium" rate and the "nonpremium" rate for access to the telecommunications network.

Paul Curl, Acting Secretary, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, Washington, phone (206) 753-6451, and members of his staff were responsible for the drafting of the proposed rule and will be responsible for implementation and enforcement of the proposed rule.

The proponent of the rule is the Washington Utilities and Transportation Commission.

There are no comments or recommendations being submitted inasmuch as the proposal is pursuant to legislative authorization reflected in RCW 80.01.040 and 80.04.160.

The rule change is not necessary as the result of federal law, or federal or state court action.

The rule change proposed will affect no economic values.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Joint Administrative Rules Review Committee.

**APPENDIX "A"**

**NEW SECTION**

WAC 480-120-028 INTRALATA ACCESS DISCOUNTS. (1) Not later than July 1, 1988, all local exchange companies shall file access tariffs which provide a discount as provided in this section. The discount shall be applicable to usage associated with end offices which have been converted to Feature Group D service, where 1+ dialing is available on an interLATA basis, but intraLATA 1+ dialing is available only to the designated intraLATA toll carrier. (See Eighteenth Supplemental Order in Cause No. U-85-23 et al.) The discount shall not be available to the designated intraLATA toll carrier.

(2) In end offices that have not been converted to Feature Group D capabilities, Feature Group A and B rates for access minutes of use

shall be maintained at a level fifty percent less than the nondiscounted Feature Group D rates.

**WSR 88-07-070**  
**ADOPTED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Order R-284, Cause No. U-87-1525-R—Filed March 18, 1988]

In the matter of amending WAC 480-90-071 and 480-100-071 relating to discontinuance of service by gas and electric companies.

This action is taken pursuant to Notice No. WSR 88-04-076 filed with the code reviser on February 3, 1988. The rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meeting Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 88-04-076 the above matter was scheduled for consideration at the commission's regular open meeting, to take place at 9:00 a.m., Wednesday, March 9, 1988, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, Washington.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to March 4, 1988, and to submit data, views, or arguments orally at the regular open meeting noted above.

At the March 9, 1988, meeting the commission considered the rule change proposal. No written or oral comments were presented.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-90-071 and 480-100-071 should be amended to read as set forth in Appendix A shown below hereto and by this reference made a part hereof. WAC 480-90-071 and 480-100-071 as amended will restore language to commission rules on discontinuance of service inadvertently omitted when the commission adopted rules implementing laws pertaining to the winter moratorium for low income customers.

**ORDER**

WHEREFORE, IT IS ORDERED That WAC 480-90-071 and 480-100-071 as set forth in Appendix A, be amended as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for

filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 9th day of March, 1988.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
A. J. Pardini, Commissioner

**APPENDIX "A"**

AMENDATORY SECTION (Amending Order R-279, Cause No. U-87-590-R, filed 11/12/87)

WAC 480-90-071 DISCONTINUANCE OF SERVICE. By customer - a customer shall be required to give notice to the utility of his or her intention to discontinue service.

By utility -

(1) service may be discontinued by the utility for any of the following reasons:

(a) For the nonpayment of bills. The utility shall require that bills for service be paid within a specified time after issuance. The minimum specified time shall be fifteen days. Upon the expiration of said specified time without payment, payment arrangement, or a payment plan, the bill may be considered delinquent.

(b) For the use of gas for purposes or properties other than that specified in the application.

(c) Under flat rate service, for increased use of gas without approval of the utility.

(d) For wilful waste of gas through improper or imperfect pipes, fixtures, or otherwise.

(e) For failure of the customer to eliminate any hazardous condition found to exist in his facilities (i.e., piping, venting, appliances, etc.).

(f) For tampering with the utility's property.

(g) In case of vacation of the premises by customer.

(h) For nonpayment of any proper charges, including deposit, as provided in the tariff of the utility, unless the customer has notified the utility of inability to pay a deposit in accordance with WAC 480-90-072 (4)(a) and has satisfied the remaining requirements to qualify for a payment plan.

(i) For refusal to comply with provisions of WAC 480-90-091, access to premises.

(j) For violation of rules, service agreements, or filed tariff(s).

(k) For use of equipment which adversely affects the utility's service to its other customers.

(l) For fraudulent obtaining or use of service. Whenever a fraudulent obtaining or use of the service is detected the utility may discontinue service without notice: PROVIDED, HOWEVER, That if the customer shall make immediate payment for such estimated amount of service as had been fraudulently taken and all costs resulting from such fraudulent use, the utility shall continue such service, subject to any applicable deposit requirements. If a second offense as to fraudulent obtaining or use is detected the utility may refuse to reestablish service subject to appeal to the commission. The burden of proof of such fraudulent obtaining or use will be upon the utility in case of an appeal to the commission. This rule shall not be interpreted as relieving the

customer or other person of civil or criminal responsibility.

(m) For failure to keep any agreed upon payment plan.

(2) Except in case of danger to life or property, fraudulent use, impairment of service, or violation of law, no utility shall discontinue service unless the following conditions are met:

(a) Each utility shall provide written notice of disconnection served on the customer either by mail or, at its option, by personal delivery of the notice to the customer's address. If such written notice of disconnection is for nonpayment during the winter period, the utility shall advise the customer of the payment plan which is available pursuant to WAC 480-90-072(3), payment arrangements and responsibilities. If a mailed notice is elected, service shall not be disconnected prior to the eighth business day following mailing of the notice. If personal delivery is elected, disconnection shall not be permitted prior to 5 p.m. of the first business day following delivery. Delivered notice shall be deemed effective if handed to a person of apparent competence in the residence or, if a business account, a person employed at the place of business of the service customer. If no person is available to receive notice, notice shall be deemed served if attached to the primary door of the residence unit or business office at which service is provided. If service is not discontinued within ten working days of the first day on which disconnection may be effected, unless other mutually acceptable arrangements have been made, that disconnect notice shall become void and a new notice shall be required before the service can be discontinued.

(b)(i) Before effecting disconnection of service, a utility shall make a good faith, bona fide effort to reach the customer in person or by telephone to advise the customer of the pending disconnection and the reasons therefor. Where telephone contact is elected, at least two attempts to reach a customer by telephone shall be made during the utility's regular business hours. If a business or message telephone number is provided by the customer, the utility shall endeavor by that means to reach the customer if unable to make contact through the customer's home telephone. A log or record of the attempts shall be maintained by the utility showing the telephone number called and the time of call. Telephone or personal contact shall not be a substitute for written notice of disconnection as specified above.

(ii) Where the service address is different from the billing address, the utility shall in all instances prior to effecting discontinuance of service upon its own initiative provide notice to the service address except as provided in subsection (2)(e) of this section regarding master meters. If personal service is effected upon the billing address, then personal service must be effected upon the service address; if service by mail is effected to the billing address, then service by mail must also be effected to the service address.

(iii) When a customer of record orders termination of service at a service address, and the utility through its representative discovers that the actual service user at

the service address has no prior notice of such termination, the utility shall delay termination for at least one complete business day following provision of actual notice to the service user.

(iv) All notices of delinquency or pending disconnection shall detail procedures pertinent to the situation and provide notice of means by which the customer can make contact with the utility to resolve any differences or avail himself or herself of rights and remedies as set forth in WAC 480-90-096 (complaints and disputes) herein.

(c) Except in case of danger to life or property, no disconnection shall be accomplished on Saturdays, Sundays, legal holidays, or on any other day on which the utility cannot reestablish service on the same or following day.

(d) When a utility employee is dispatched to disconnect service, that person shall be required to accept payment of a delinquent account at the service address if tendered in cash, but shall not be required to dispense change for cash tendered in excess of the amount due and owing. Any excess payment shall be credited to the customer's account. The utility shall be permitted to assess a reasonable fee as provided for in the tariff of the utility for the disconnection visit to the service address. Notice of the amount of such fee, if any, shall be provided within the notice of disconnection.

(e) Where service is provided through a master meter, or where the utility has reasonable grounds to believe service is to other than the customer of record, the utility shall undertake all reasonable efforts to inform occupants of the service address of the impending disconnection. Upon request of one or more service users, where service is to other than the subscriber of record, a minimum period of five days shall be allowed to permit the service users to arrange for continued service.

(f) Where service is provided to a hospital, medical clinic with resident patients, or nursing home, notice of pending disconnection shall be provided to the director, Washington state department of social and health services, as well as to the customer. Upon request from the director or his designee, a delay in disconnection of no less than five business days from the date of notice shall be allowed so that the department may take whatever steps are necessary in its view to protect the interests of patients resident therein who are responsibilities of the department.

(g) Service may not be disconnected while a customer is pursuing any remedy or appeal provided for by these rules, provided any amounts not in dispute are paid when due. The customer shall be so informed by the utility upon referral of a complaint to a utility supervisor or the commission.

(h) (i) The utility shall postpone termination of utility service or will reinstate service to a residential customer for thirty days from the date of receipt of a certificate by a licensed physician which states that termination of gas service will aggravate an existing medical condition or create a medical emergency for the customer, a member of the customer's family, or other permanent resident of the premises where service is rendered. Where service is reinstated, payment of a reconnection charge and/or a

deposit shall not be required prior to such reinstatement of service.

(ii) This certificate of medical emergency must be in writing and show clearly the name of the person whose medical emergency would be adversely affected by termination, the nature of the medical emergency, and the name, title, and signature of the person certifying the medical emergency.

(iii) Any customer may designate a third party to receive notice of termination or other matters affecting the provision of service. The utility shall offer all customers the opportunity to make such designation. When the utility discovers that a customer appears to be unable to comprehend the impact of a termination of service, it shall consider an appropriate social agency to be third party. In either case, it shall not effect termination until five business days after provision of notice to the third party. Utilities shall discover which social agencies are appropriate for and willing to receive such notice, and the name and/or title of the person able to deal with the termination situation, and shall inform the commission on a current basis which agencies and position titles receive such notifications.

(3) Payment of any delinquent amounts to a designated payment agency of the utility shall constitute payment to the utility, if the customer informs the utility of such payment and the utility verifies such payment.

(4) Service shall be restored when the causes of discontinuance have been removed and when payment of all proper charges due from the customer, including any proper deposit, has been made as provided for in the tariff of the utility; or as the commission may order pending resolution of any bona fide dispute between the utility and customer over the propriety of disconnection.

(5) A utility may make a charge for restoring service when service has been discontinued for nonpayment of bills. The amount of such charge is to be specified in the utility's tariff.

**AMENDATORY SECTION** (Amending Order R-279, Cause No. U-87-590-R, filed 11/12/87)

**WAC 480-100-071 DISCONTINUANCE OF SERVICE.** By customer – a customer shall be required to give notice to the utility of his or her intention to discontinue service.

By utility –

(1) Service may be discontinued by the utility for any of the following reasons:

(a) For the nonpayment of bills. The utility shall require that bills for service be paid within a specified time after issuance. The minimum specified time shall be fifteen days. Upon the expiration of said specified time without payment, payment arrangement, or a payment plan, the bill may be considered delinquent.

(b) For the use of electrical energy for purposes or properties other than that specified in the application.

(c) Under flat rate service, for increased use of electrical energy without approval of the utility.

(d) For willful waste of electrical energy through improper or imperfect wiring, equipment, or otherwise.

(e) When customer's wiring or equipment does not meet the utility's standards, or fails to comply with other applicable codes and regulations..

(f) For tampering with the utility's property.

(g) In case of vacation of the premises by customer.

(h) For nonpayment of any proper charges, including deposit, as provided in the tariff of the utility unless the customer has notified the utility of inability to pay a deposit in accordance with WAC 480-100-072 (4)(a) and has satisfied the remaining requirements to qualify for a payment plan.

(i) For refusal to comply with provisions of WAC 480-100-091, access to premises.

(j) For violation of rules, service agreements, or filed tariff(s).

(k) For use of equipment which adversely affects the utility's service to its other customers.

(l) For fraudulent obtaining or use of service. Whenever a fraudulent obtaining or use of the service is detected the utility may discontinue service without notice: **PROVIDED, HOWEVER,** That if the customer shall make immediate payment for such estimated amount of service as had been fraudulently taken and all costs resulting from such fraudulent use, the utility shall continue such service, subject to any applicable deposit requirements. If a second offense as to fraudulent obtaining or use is detected the utility may refuse to reestablish service subject to appeal to the commission. The burden of proof of such fraudulent obtaining or use will be upon the utility in case of an appeal to the commission. This rule shall not be interpreted as relieving the customer or other person of civil or criminal responsibility.

(m) For failure to keep any agreed upon payment plan.

(2) Except in case of danger to life or property, fraudulent use, impairment of service, or violation of law, no utility shall discontinue service unless the following conditions are met:

(a) Each utility shall provide written notice of disconnection served on the customer either by mail or, at its option, by personal delivery of the notice to the customer's address. If such written notice of disconnection is for nonpayment during the winter period the utility shall advise the customer of the payment plan which is available pursuant to WAC 480-100-072(3), payment arrangements and responsibilities. If a mailed notice is elected, service shall not be disconnected prior to the eighth business day following mailing of the notice. If personal delivery is elected, disconnection shall not be permitted prior to 5 p.m. of the first business day following delivery. Delivered notice shall be deemed effective if handed to a person of apparent competence in the residence or, if a business account, a person employed at the place of business of the service customer. If no person is available to receive notice, notice shall be deemed served if attached to the primary door of the residence unit or business office at which service is provided. If service is not discontinued within ten working days of the first day on which disconnection may be effected, unless other mutually acceptable arrangements have been made, that disconnect notice shall become void and

a new notice shall be required before the service can be discontinued.

(b)(i) Before effecting disconnection of service, a utility shall make a good faith, bona fide effort to reach the customer in person or by telephone to advise the customer of the pending disconnection and the reasons therefor. Where telephone contact is elected, at least two attempts to reach a customer by telephone shall be made during the utility's regular business hours. If a business or message telephone number is provided by the customer, the utility shall endeavor by that means to reach the customer if unable to make contact through the customer's home telephone. A log or record of the attempts shall be maintained by the utility showing the telephone number called and the time of call. Telephone or personal contact shall not be a substitute for written notice of disconnection as specified above.

(ii) When the service address is different from the billing address, the utility shall in all instances prior to effecting discontinuance of service upon its own initiative provide notice to the service address unless the utility has verified that the customer of record and the service user are the same party. If personal service is effected upon the billing address, then personal service must be effected upon the service address; if service by mail is effected to the billing address, then either personal service or service by mail must be effected to the service address. Discontinuance of service shall not occur earlier than five business days after provision of notice to the service address.

(iii) When a customer of record orders termination of service at a service address, and the utility through its representative discovers that the actual service user at the service address has no prior notice of such termination, the utility shall delay termination for at least one complete business day following provision of actual notice to the service user.

(iv) All notices of delinquency or pending disconnection shall detail procedures pertinent to the situation and provide notice of means by which the customer can make contact with the utility to resolve any differences or avail himself or herself of rights and remedies as set forth in WAC 480-100-096 (complaints and disputes) herein.

(c) Except in case of danger to life or property, no disconnection shall be accomplished on Saturdays, Sundays, legal holidays, or on any other day on which the utility cannot reestablish service on the same or following day.

(d) When a utility employee is dispatched to disconnect service, that person shall be required to accept payment of a delinquent account at the service address if tendered in cash, but shall not be required to dispense change for cash tendered in excess of the amount due and owing. Any excess payment shall be credited to the customer's account. The utility shall be permitted to assess a reasonable fee as provided for in the tariff of the utility for the disconnection visit to the service address. Notice of the amount of such fee, if any, shall be provided within the notice of disconnection.

(e) Where service is provided through a master meter, or where the utility has reasonable grounds to believe

service is to other than the customer of record, the utility shall undertake all reasonable efforts to inform occupants of the service address of the impending disconnection. Upon request of one or more service users, where service is to other than the subscriber of record, a minimum period of five days shall be allowed to permit the service users to arrange for continued service.

(f) Where service is provided to a hospital, medical clinic with resident patients, or nursing home, notice of pending disconnection shall be provided to the director, Washington state department of social and health services, as well as to the customer. Upon request from the director or his or her designee, a delay in disconnection of no less than five business days from the date of notice shall be allowed so that the department may take whatever steps are necessary in its view to protect the interests of patients resident therein who are responsibilities of the department.

(g) Service may not be disconnected while a customer is pursuing any remedy or appeal provided for by these rules, provided any amounts not in dispute are paid when due. The customer shall be so informed by the utility upon referral of a complaint to a utility supervisor or the commission.

(h)(i) When a utility has, or has had, cause to disconnect utility service, the utility shall postpone termination of service or will reinstate service to a residential customer for thirty days from the date of receipt of a certificate by a licensed physician which states that termination of electric service will aggravate an existing medical condition or create a medical emergency for the customer, a member of the customer's family, or other permanent resident of the premises where service is rendered. When service is reinstated, payment of a reconnection charge and/or a deposit shall not be required prior to such reinstatement of service.

(ii) This certificate of medical emergency must be in writing and show clearly the name of the person whose medical emergency would be adversely affected by termination, the nature of the medical emergency, and the name, title, and signature of the person certifying the medical emergency. If a notice of disconnection has been issued and the customer notifies the utility that a medical emergency exists, the customer shall be allowed five business days from when the utility is so notified to provide the utility with a certificate of medical emergency. If this five day period extends beyond the time set for discontinuance of service, the utility shall extend the time of discontinuance until the end of the five day period. If service has been discontinued and the customer requests reconnection of service due to a medical emergency, the utility shall reconnect service and the customer shall be allowed five business days to provide the utility with a certificate of medical emergency. If the utility does not receive a certificate of medical emergency within the time limits set herein, the utility may discontinue service following an additional twenty-four hour notice to the premises.

(iii) Any customer may designate a third party to receive notice of termination or other matters affecting the provision of service. The utility shall offer all customers the opportunity to make such designation. When the

utility discovers that a customer appears to be unable to comprehend the impact of a termination of service, the utility shall consider an appropriate social agency to be the third party. In either case, the utility shall not effect termination until five business days after provision of notice to the third party. Utilities shall discover which social agencies are appropriate and willing to receive such notice, and the name and/or title of the person able to deal with the termination situation, and shall inform the commission on a current basis which agencies and position titles receive such notifications.

(3) Payment of any delinquent amounts to a designated payment agency of the utility shall constitute payment to the utility, if the customer informs the utility of such payment and the utility verifies such payment.

(4) Service shall be restored when the causes of discontinuance have been removed and when payment of all proper charges due from the customer, including any proper deposit, has been made as provided for in the tariff of the utility; or as the commission may order pending resolution of any bona fide dispute between the utility and customer over the propriety of disconnection.

(5) A utility may make a charge for restoring service when service has been discontinued for nonpayment of bills. The amount of such charge is to be specified in the utility's tariff.

#### WSR 88-07-071

##### ADOPTED RULES

#### DEPARTMENT OF AGRICULTURE

[Order 1970—Filed March 18, 1988]

I, C. Alan Pettibone, director of the Department of Agriculture, do promulgate and adopt at Olympia, Washington, the annexed rules relating to rapeseed production and establishment of districts, chapter 16-570 WAC.

This action is taken pursuant to Notice No. WSR 88-04-072 filed with the code reviser on February 3, 1988. 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 chapter 15.65 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 March 18, 1988.

By Michael V. Schwisow  
Deputy Director

#### NEW SECTION

WAC 16-570-040 RULES OF RAPESEED PRODUCTION DISTRICTS. Dominant type rapeseed. The dominant type of rapeseed for duly established production Districts 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 shall be canola, low erucic acid rapeseed - low glucosinolates

(lear-1g): PROVIDED, That off-type rapeseed production may be allowed if conditions outlined in WAC 16-570-030 (1)(f) are met.

#### WSR 88-07-072

##### EMERGENCY RULES STATE PATROL

[Order 88-03-B—Filed March 18, 1988]

I, George B. Tellevik, director of the Washington State Patrol, do promulgate and adopt at the General Administration Building, AX-12, Olympia, Washington 98504, the annexed rules relating to Washington State Patrol criminal records, implementing chapter 486, Laws of 1987.

I, George B. Tellevik, 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 agency is required by law to furnish transcripts of conviction records of crimes against persons, disciplinary board final decisions, and civil adjudications to certain businesses or organizations, for specified purposes, upon written request. These rules are adopted in order to establish safeguards, and ensure privacy and security for anticipated requests. Permanent rules take effect on April 16, 1988.

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

This rule is promulgated pursuant to RCW 43.43.838, section 5, chapter 486, Laws of 1987, which directs that the Washington State Patrol has authority to implement the provisions of RCW 43.43.838, chapter 486, Laws of 1987.

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 March 18, 1988.

By George B. Tellevik  
Chief

#### AMENDATORY SECTION (Amending Order 80-2, filed 7/1/80)

WAC 446-20-020 DEFINITIONS. (1) The definitions in RCW 10.97.030 shall apply to these regulations.

(2) "Nonconviction data" has the meaning set forth in RCW 10.97.030(2), but shall not include dismissals following a period of probation, or suspension, or deferral of sentence.

(3) "The administration of criminal justice" has the meaning set forth in RCW 10.97.030(6), but does not include crime prevention activities (if that is the sole function of the program or agency) or criminal defense activities.

(4) The definitions as enumerated in chapter 486, Laws of 1987, "AN ACT Relating to child and adult

abuse information", shall apply whenever applicable in these regulations.

#### NEW SECTION

**WAC 446-20-285 EMPLOYMENT—CONVICTION RECORDS; CHILD AND ADULT ABUSE INFORMATION.** After January 1, 1988, certain child and adult abuse conviction information will be furnished by the state patrol upon the submission of a written request of any applicant, business or organization, the state board of education, or the department of social and health services. This information will consist of the following:

(1) Convictions of crimes against persons as defined in RCW 43.43.830(6);

(2) Department of licensing disciplinary board final decisions of specific findings of physical or sexual abuse or exploitation of a child; and

(3) Civil adjudications of child abuse.

This information will be furnished, consistent with the provisions of chapter 486, Laws of 1987, on an approved Request for Criminal History Information form available from the Washington State Patrol, P. O. Box 2527, Olympia, Washington, 98507-2527.

The state patrol shall also furnish any similar records maintained by the Federal Bureau of Investigation or records in custody of the National Crime Information Center, if available, subject to their policies and procedures regarding such dissemination.

(a) The business or organization making such request shall not make an inquiry to the Washington state patrol or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer that an inquiry may be made.

(b) For positive identification, the Request for Criminal History Information form may be accompanied by fingerprint cards of a type specified by the Washington state patrol identification section, and shall contain a certification by the business or organization; the state board of education; or the department of social and health services, that the information is being requested and will be used only for the purposes as enumerated in chapter 486, Laws of 1987.

(c) In the absence of fingerprint cards, the applicant may provide a right thumb fingerprint impression in the area provided on the Request for Criminal History Information form. In the event of a possible match, where the applicant's name and date of birth as submitted varies from that of the record contained by the identification section, the right thumb fingerprint impression will be used for identification verification purposes only. An exact name and date of birth match will be required for dissemination of conviction information in the absence of a fingerprint card or thumbprint impression for positive identification or verification of record.

(d) After processing a properly completed Request for Criminal History Information form, if the conviction record, disciplinary board final decision, adjudication record, or equivalent response from a federal law enforcement agency shows no evidence of crimes against

persons, an identification declaring the showing of no evidence shall be issued to the applicant by the state patrol within fourteen calendar days of receipt of the request. Possession of such identification shall satisfy future background check requirements for the applicant.

(e) The business or organization shall notify the applicant of the state patrol's response within ten calendar days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(f) The business or organization shall be immune from civil liability for failure to request background information on a prospective employee or volunteer unless the failure to do so constitutes gross negligence.

#### AMENDATORY SECTION (Amending Order 82-5, filed 10/22/82)

**WAC 446-20-290 FEES.** (1) A nonrefundable fee of ten dollars shall accompany each (~~finger~~print card) request for conviction records submitted pursuant to (~~chapter 202, Laws of 1982~~) RCW 43.43.815 and chapter 486, Laws of 1987, unless through prior arrangement an account is authorized and established. Fees are to be made payable to the "Washington State Patrol", and are to be remitted only by cashier's check, money order or check written on a commercial business account. The Washington state patrol identification section shall adjust the fee schedule as may be practicable to ensure that direct and indirect costs associated with the provisions of (~~this chapter~~) these chapters are recovered.

(2) Pursuant to provisions of chapter 486, Laws of 1987, no fees will be charged to a nonprofit organization, including school districts and educational service districts, for the request for conviction records.

#### AMENDATORY SECTION (Amending Order 82-5, filed 10/22/82)

**WAC 446-20-300 PRIVACY—SECURITY.** (1) All employers or prospective employers receiving conviction records pursuant to (~~chapter 202, Laws of 1982~~) RCW 43.43.815, shall comply with the provisions of WAC 446-20-210 through 446-20-250 relating to privacy and security of the records.

(2) Businesses or organizations, the state board of education, and the department of social and health services receiving conviction records of crimes against persons, disciplinary board final decision information, or a civil adjudication record pursuant to chapter 486, Laws of 1987, shall comply with the provisions of WAC 446-20-220 (1) and (3) relating to privacy and security of the records.

(a) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited. A business or organization violating this prohibition is subject to a civil action for damages.

(b) No employee of the state, employee of a business or organization, or the organization is liable for defamation, invasion of privacy, negligence, or any other claim

in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

AMENDATORY SECTION (Amending Order 82-5, filed 10/22/82)

WAC 446-20-310 AUDITS. (1) All employers or prospective employers receiving conviction records pursuant to ((chapter 202, Laws of 1982)) RCW 43.43.815, shall comply with the provisions of WAC 446-20-260 through 446-20-270 relating to audit of the record keeping system.

(2) Businesses or organizations, the state board of education and the department of social and health services receiving conviction records of crimes against persons, disciplinary board final decision information or civil adjudication records pursuant to chapter 486, Laws of 1987, may be subject to periodic audits by Washington state patrol personnel to determine compliance with the provisions of WAC 446-20-300(2).

**WSR 88-07-073**  
**PROPOSED RULES**  
**INSURANCE COMMISSIONER**

[Filed March 18, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Insurance Commissioner intends to adopt, amend, or repeal rules concerning limitations as to gifts and inducements from title insurance companies and their agents to persons who are, or may be, in positions to influence the selection of title insurers, by defining unfair or deceptive acts and practices and unfair methods of competition. Note: Consideration will be given to allowing gifts in excess of the \$5 limitation, as proposed. Comments on this issue are solicited;

that the agency will at 9:30 a.m., Wednesday, May 4, 1988, in the John A. Cherberg Building, Hearing Room #1, State Capitol Campus, 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 May 12, 1988, at 2:00 p.m. in the Olympia office of the Insurance Commissioner.

The authority under which these rules are proposed is RCW 48.02.060 (3)(a).

The specific statute these rules are intended to implement is RCW 48.01.030 and 48.30.010(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 4, 1988. Mailing address: Insurance Building, AQ-21, Olympia, Washington 98504.

Dated: March 18, 1988

By: Robert E. Johnson  
Deputy Commissioner

## STATEMENT OF PURPOSE

Title: WAC 284-30-800 Unfair practices applicable to title insurers and their agents.

Purpose: To substantially limit title insurers and their agents from giving or offering gifts to persons who could influence others in their selection of a title insurer.

Statutory Authority: RCW 48.02.060 (3)(a), to effectuate RCW 48.01.030 and 48.30.010(2).

Rebating and illegal inducements are prohibited by RCW 48.30.140 and 48.30.150, and those statutes apply to title insurance companies. However, those statutes primarily affect inducements or gifts to an insured or an insured's employee or representative. They do not directly prevent similar conduct with respect to others who have considerable control or influence over the selection of the title insurer to be used in a real estate transaction. As a result, insureds do not always have free choice or unbiased recommendations as to the title insurer selected.

The effect of the proposed rule is to extend the prohibitions now applicable with respect to gifts or inducements made to insureds, so that similar prohibitions will be applicable with respect to gifts or inducements made to persons who could influence the selection of a title insurance company. Small gifts could still be used to promote a title insurer, but their value would be limited to a set amount per year, in the same manner as RCW 48.30.140(4) applies to gifts from an insurer to an insured. As proposed, the rule would limit the value of any gift to \$5. Our notice of hearing advises that we will consider a higher limit and invites comments from interested persons relative to that issue.

The rule, as proposed, would specifically apply with respect to inducements or gifts to real estate agents, brokers, lawyers, mortgagees, mortgage loan brokers, financial institutions, escrow agents, persons who lend money for the purchase of real estate or interests therein, building contractors, real estate developers and subdividers, and other persons who could influence the selection of a title insurer. The rule would not prohibit payments for legitimate advertising.

Patricia D. Petersen and Robert E. Johnson, Deputy Insurance Commissioners, (206) 753-2406, were responsible for drafting the rule. Edward H. Southon, Deputy Commissioner for Company Supervision, (206) 753-7303, will be primarily responsible for the implementation and enforcement of the proposed rule. Their addresses are Insurance Building, AQ-21, Olympia, Washington 98504.

The rule is proposed by Dick Marquardt, the insurance commissioner, a state public official. The proposed rule is not necessary as the result of federal law or federal or state court action.

Small Business Economic Impact Statement: The proposed rule will have a minor impact on title insurers, large or small. The rule will not increase the cost per employee or per hour of labor, whether the insurer has more or less than fifty employees. To the extent that an insurer now gives gifts or inducements in excess of the value which the proposed rule would allow, it will have a savings. Further, all title insurers, large or small, will

compete more fairly once gifts are controlled as proposed.

#### NEW SECTION

WAC 284-30-800 UNFAIR PRACTICES APPLICABLE TO TITLE INSURERS AND THEIR AGENTS. (1) RCW 48.30.140 and 48.30.150, pertaining to "rebating" and "illegal inducements," are applicable to title insurers and their agents. Because those statutes primarily affect inducements or gifts to an insured and an insured's employee or representative, they do not directly prevent similar conduct with respect to others who have considerable control or influence over the selection of the title insurer to be used in real estate transactions. As a result, insureds do not always have free choice or unbiased recommendations as to the title insurer selected. To prevent unfair methods of competition and unfair or deceptive acts or practices, this rule is adopted.

(2) It is an unfair method of competition and an unfair and deceptive act or practice for a title insurer or its agent, directly or indirectly, to offer, promise, allow, give, set off, or pay anything of value exceeding five dollars, calculated in the aggregate over a twelve-month period on a per person basis in the manner specified in RCW 48.30.140(4), to any person as an inducement, payment, or reward for placing or causing title insurance business to be given to the title insurer.

(3) Subsection (2) of this section specifically applies to and prohibits inducements, payments, and rewards to real estate agents and brokers, lawyers, mortgagees, mortgage loan brokers, financial institutions, escrow agents, persons who lend money for the purchase of real estate or interests therein, building contractors, real estate developers and subdividers, and any other person who is or may be in a position to influence the selection of a title insurer, except advertising agencies, broadcasters, or publishers, and their agents and distributors, and bona fide employees and agents of title insurers, for routine advertising or other legitimate services.

### WSR 88-07-074

#### ADOPTED RULES

#### PARKS AND RECREATION COMMISSION

[Order 103—Filed March 18, 1988—Eff. May 15, 1988]

Be it resolved by the Washington State Parks and Recreation Commission, acting at Vancouver, Washington, that it does adopt the annexed rules relating to:

Amd	WAC 352-12-010	Moorage and use of marine facilities.
Amd	WAC 352-12-020	Moorage fees.
Amd	WAC 352-32-035	Campsite reservation.
Amd	WAC 352-32-045	Reservation for group day use.
Amd	WAC 352-32-250	Standard fees charged.
Amd	WAC 352-74-030	Filming within state parks.
Amd	WAC 352-74-040	Film permit application, fees and conditions.
Amd	WAC 352-74-060	Issuance and revocation of film permit.
Amd	WAC 352-74-070	Additional fees and release of bond or damage deposit.

This action is taken pursuant to Notice No. WSR 88-04-075 filed with the code reviser on February 3, 1988. These rules take effect at a later date, such date being May 15, 1988.

This rule is promulgated under the general rule-making authority of the Washington State Parks and Recreation Commission as authorized in RCW 43.51-.040 and 43.51.060.

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 March 11, 1988.

By Edward T. Luders  
Chair

#### AMENDATORY SECTION (Amending Order 65, filed 3/2/83)

WAC 352-12-010 MOORAGE AND USE OF MARINE FACILITIES. (1) No person or persons shall moor or berth a vessel of any type in a commission owned or operated park or marine area except in designated marine park areas and at designated facilities.

(2) Use of designated marine park areas and facilities by commercial vessels is prohibited except for the loading and unloading of passengers transported for recreation purposes: PROVIDED HOWEVER, Park managers and park rangers may allow extended or night moorage at any facility during the period September 15 through April 30, inclusive, to commercial vessels unloading passengers transported to the park for recreation purposes if in the manager's or ranger's sole discretion sufficient space is reasonably available therefor.

(3) In order to afford the general public the greatest possible use of marine park facilities, continuous moorage at a facility by the same vessel, person or persons shall be limited to three consecutive nights, unless otherwise posted by the commission at any individual facility or area.

(4) In order to maximize usable space at mooring floats, boaters shall, whenever necessary, moor their vessels as close as reasonably possible to vessels already moored. Rafting of vessels is also permitted, within posted limits, but not mandatory.

(5) Use of any state park marine facility shall be on a first-come, first-served basis only. Reserving or retaining space to moor or berth a vessel at any facility, by means of a dinghy or any method other than occupying the space by the vessel to be moored, shall not be permitted.

(6) Dinghies shall be tied up only in designated spaces on moorage floats.

(7) Open flames or live coals, or devices containing or using open flames, live coals or combustible materials, including but not limited to barbecues, hibachis, stoves and heaters, shall be permitted on state park floats or piers only when placed on a fireproof base and the fire is located away from fuel tanks and/or fuel vents. In case of dispute related to fire safety, the ranger shall make final determination.

#### AMENDATORY SECTION (Amending Order 100, filed 3/23/87, effective 5/15/87)

WAC 352-12-020 MOORAGE FEES. (1) Vessels moored between 3 p.m. and 8 a.m. at those facilities designated by the commission shall be charged a nightly moorage fee during the period May 1 through ((Labor

Day)) September 30, inclusive, according to the following schedule:

(a) Vessels twenty-six feet in length, and over, (~~(\$5.50))~~ \$6.00 per night;

(b) Vessels under twenty-six feet in length, (~~(\$3.50))~~ \$4.00 per night: PROVIDED, HOWEVER, This fee shall be applicable all year at Blake Island, Cornet Bay, Jarrell Cove, and Mystery Bay State Parks: PROVIDED FURTHER, Vessels properly displaying a valid seasonal permit shall not be charged a nightly moorage fee: PROVIDED FURTHER, There shall be no moorage fee for dinghies, vessels moored to state park buoys, vessels moored to floats not attached to piers, or any vessel riding on its own anchor: PROVIDED FURTHER, There shall be no charge for temporary moorage for the purpose of loading or unloading a vessel, such temporary moorage shall be limited to thirty minutes.

(2) A vessel rafted to another vessel shall be charged the appropriate moorage fee based on that vessel's own length.

AMENDATORY SECTION (Amending Order 100, filed 3/23/87, effective 5/15/87)

WAC 352-32-035 CAMPSITE RESERVATION.

(1) Advance campsites reservations will be available in certain state parks as designated by the director.

(2) The period during which campsites may be reserved is from the Friday before Memorial Day through Labor Day.

(3) Reservation requests can only be made for camping dates within the current calendar year.

(4) Requests for reservations may be made in writing and must be postmarked a minimum of fourteen days in advance of the first camping night requested. Written reservation requests postmarked on or after January 1 will be accepted; reservation requests postmarked prior to January 1 will be returned. Accepted reservation requests will be processed in order of arrival (~~(beginning the second Monday in January and))~~) up to fourteen days in advance of Labor Day.

(5) Reservations may be made in person on or after April 1 at the park where camping is to occur.

(6) There will be a \$4.00 nonrefundable fee charged for each reservation made at each park, in addition to the standard campsite fee, regardless of the number of days reserved. Payment of the nonrefundable reservation fee and first night's camping fee must accompany the reservation request.

(7) Recreation, camping and reservation information may be obtained by calling the campsite information center on the toll-free telephone number established for that purpose. No reservation may be made by telephone.

(8) No individual may reserve a campsite in more than one state park, for one or more of the same days.

(9) Reservations for a specific campsite within a park will not be guaranteed.

(10) Campsites which have not been reserved may be used on a first-come-first-served basis without paying a reservation fee, if the site is occupied immediately.

(11) A raincheck will be issued for the camping fee paid for any confirmed reservation which is not used, provided a cancellation request is made by calling the

campsite information center or the park in which the site is reserved, no less than twenty-four hours in advance of the first day of the reservation, or in writing to the park, postmarked seven days in advance of the first day of the reservation. Rainchecks will be valid for one year from the date of issue, and may be used toward camping fees in any state park, or may accompany a subsequent reservation request in lieu of payment for the first night's camping fee.

(12) Campers will be declared no-show and forfeit their reservation as well as the reservation fee and the first night's camping fee if they have not cancelled or if the reservation is not claimed by 9:00 p.m. After this time, the site may be reassigned, unless late arrival arrangements are made with the park by telephone between the hours of 7:00 p.m. and 9:00 p.m. on the day of arrival.

AMENDATORY SECTION (Amending Resolution No. 67, filed 4/15/83)

WAC 352-32-045 RESERVATIONS FOR GROUP DAY USE. (1) All reserved group day use activities shall be arranged for only at those parks having identified group day use activity areas. A group is defined as 20 or more people engaged together and commonly in outdoor day use recreation at one park location.

(2) Such identified group day use activity areas shall have a predetermined use capacity. No group exceeding this capacity in number shall use these areas.

(3) Use of these activity areas shall be by reservation. Requests for reservations for groups of 20 to 250 shall be made 15 days in advance and for groups in excess of 250 shall be made 30 days in advance of the proposed use date, using the group use permit. All conditions outlined on the group use permit shall be binding on the group.

(4) A daily permit fee of ten dollars for groups of 20 to 50 persons, twenty dollars for groups of 51 to 100 persons, forty dollars for groups of 101 to 500 persons, and one hundred dollars for groups of more than 500 persons shall be charged to reservations granted under this WAC. Payment of the fee must be made with the submission of the group use permit request. In those cases where the fee is submitted at a later date, it must be paid by certified check, bank money order, or postal money order. Refunds will be made only to those groups which cancel their reservations thirty or more days before the effective date of the reservations.

(5) Reservation requests for groups of 20, but not exceeding 250, may be approved by the park manager of the park the group is requesting to use. Reservations for groups in excess of 250, but not exceeding 1,000, may be approved by the region supervisor for the region in which the park is located. Reservations for groups in excess of 1,000 may be approved by the assistant director for operations.

(6) A deposit shall be submitted with the request for reservation. In those cases where the deposit is submitted at a date later than the reservation request, it must be paid by certified check, bank money order, or postal money order. This deposit shall be held by the

Washington state parks and recreation commission to encourage the cleanliness and good order of the group activity area. For groups of 20, but not exceeding 50, this deposit shall be \$35. For groups in excess of 50, but not exceeding 100, this deposit shall be \$75. For groups in excess of 100, but not exceeding 500, this deposit shall be \$150. For groups in excess of 500, this deposit shall be \$300. Refund of this deposit shall be determined after an inspection of the area by a ranger and the individuals responsible for the group.

(7) Reservations for all groups shall be made by a person of the age of majority, who must be in attendance during the group's activities.

(8) Any group wishing to sell or dispense alcoholic beverages must request and obtain all appropriate licenses and permits. In order to sell alcoholic beverages, the group must obtain a temporary concession permit from the headquarters office of the Washington state parks and recreation commission.

(9) It shall be within the authority of the park manager, or his representative, to rescind the rights of a reservation, and remove from the park, any or all members of the group whose behavior, at any time, is in conflict with any state laws, becomes detrimental to the health and safety of the group or other park users, or becomes so unruly as to affect the reasonable enjoyment of the park by other park users.

**AMENDATORY SECTION** (Amending Order 100, filed 3/23/87, effective 5/15/87)

**WAC 352-32-250 STANDARD FEES CHARGED.** The following fees shall be charged in all parks operated by the Washington state parks and recreation commission:

(1) Overnight camping – standard campsite: (~~(\$6.00)~~) \$7.00 per night;

(2) Overnight camping – utility campsite: (~~(\$6.00)~~) \$7.00 per night plus a nightly fee of \$.50 for domestic water hookup, \$.50 for sewer hookup, and \$1.50 for electrical hookup. Payment for all utility hookups available to the site will be collected whether utility is actually used or not except when otherwise specified by a ranger;

(3) Overnight camping – primitive campsite: \$3.00 per night for nonmotorized vehicle and \$4.50 per night for motorized vehicle;

(4) Overnight camping – reservation fee: As specified in WAC 352-32-035;

(5) Overnight camping – multiple campsites: Where campsites are designated and posted as a "multiple campsite," an individual may rent the multiple campsite by paying the multiple campsite fee. The multiple campsite fee will be calculated by multiplying the standard utility or primitive campsite fee, as applicable, by the number of individual campsites to be used in the designated multiple campsite.

(6) Group camping area – certain parks: \$.50 per person per night; nonrefundable reservation fee – \$10.00. Recreational vehicle campers must pay the primitive campsite fee or other appropriate fee based on facilities available;

(7) Environmental learning center – overnight camping: \$3.15 per camper per night: PROVIDED, HOWEVER, The fee shall be \$3.40 per camper per night, effective September 8, 1987;

(a) Camp Wooten and Cornet Bay environmental learning centers during the season the swimming pools are operational: \$3.55 per camper per night: PROVIDED, HOWEVER, The fee shall be \$3.80 per camper per night, effective September 8, 1987;

(b) Environmental learning center – day use only: \$1.00 multiplied by the minimum capacity established for each environmental learning center or \$1.00 for each member of the group – whichever is higher;

(8) Hot showers: \$.25 for a minimum of six minutes shower time;

(9) Electric stoves: \$.25 for thirty minutes cooking time;

(10) Adirondacks – not to include those located in ELC areas: Same as fee charged for full utility campsite. Occupancy shall be limited to the number of built-in bunks provided;

(11) Extra vehicle charge: \$3.00 per night for each additional unhitched vehicle in excess of the one recreational vehicle allowed at each campsite: PROVIDED, An extra vehicle charge shall not be imposed when the recreational vehicle and the towed vehicle arrive at the park hitched together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the towed vehicle remain parked at the campsite for the duration of the camper's stay;

(12) Marine park moorage facilities – see WAC 352-12-020 and 352-12-030;

(13) Overnight camping – emergency camp area: The fee shall be the standard campsite fee.

These fees do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

**AMENDATORY SECTION** (Amending Order 82, filed 10/2/84)

**WAC 352-74-030 FILMING WITHIN STATE PARKS.** The commission recognizes the desire of individuals and organizations to film within the state parks. Individuals and organizations may film within state parks in a manner which is not disruptive to park users or resources when the filming is for personal or news purposes. Individuals and organizations that desire to film within state parks for other than personal or news purposes may do so only in accordance with the film permit requirements of this chapter ((352-74-WAC)) and subject to the discretion of the commission as otherwise set forth herein.

**AMENDATORY SECTION** (Amending Order 82, filed 10/2/84)

**WAC 352-74-040 FILM PERMIT APPLICATION, FEE(, AND CONDITIONS).** Persons or organizations that desire to film within a state park for other than personal or news purposes shall submit a film permit application provided by the director to the:

Washington State Parks and  
Recreation Commission  
7150 Cleanwater Lane KY-11  
Olympia, WA 98504

Each application shall be accompanied by an application fee of one hundred dollars which shall be in the form of a check or money order payable to the Washington state parks and recreation commission.

~~((All applicants shall agree to film in a manner which is compatible with the activities of park visitors, does not damage facilities or resources, does not disrupt wildlife, does not imply the endorsement of the commission for the content of the film, acknowledges the cooperation of the commission, and conforms with all of the applicable statutes, rules, policies, and procedures of the commission, and the instructions of the commission staff who supervise the filming.))~~

**AMENDATORY SECTION** (Amending Order 82, filed 10/2/84)

WAC 352-74-060 ISSUANCE AND REVOCATION OF FILM PERMIT. The director or designee of the director, shall issue a film permit provided by the commission to an approved applicant after the applicant has submitted to the commission any fees, bond, damage deposit, and insurance certification established pursuant to WAC 352-74-050 and has demonstrated in its application or otherwise to the satisfaction of the director that filming:

- (1) Is compatible with the activities of park visitors;
- (2) Will not damage facilities or resources, or interfere with park operations;
- (3) Will not disrupt wildlife;
- (4) Will not imply the endorsement of the commission for the content of the film;
- (5) Will acknowledge the cooperation of the commission;
- (6) Is not inconsistent in the judgment of the director with the purposes for, or conditions on which, the property where the filming is to take place was acquired; and
- (7) Will conform with all of the applicable statutes, rules, policies, and procedures of the commission, and the instructions of the commission staff who supervise the filming.

If a film maker does not comply with all of the applicable statutes, rules, policies, and procedures of the commission, the conditions upon which the permit was granted, and the instructions of the commission staff who supervise the filming, then the director or designee of the director shall revoke ~~((a))~~ the film permit.

**AMENDATORY SECTION** (Amending Order 82, filed 10/2/84)

WAC 352-74-070 ADDITIONAL FEES AND RELEASE OF BOND OR DAMAGE DEPOSIT. After completion of filming the director or the designee of the director shall determine if any additional fees are to be assessed a film maker and whether or not any bond or damage deposit submitted to the commission by a film maker may be released.

If the director or the designee of the director determines that no additional fees are to be assessed and that a bond or damage deposit is to be released, then a bond or damage deposit shall be returned to a film maker.

If the director or the designee of the director determines that additional fees are to be assessed or that a bond or damage deposit is not to be released, then the film maker shall be so informed.

If a film maker pays additional fees in the form of a check or money order payable to the Washington state parks and recreation commission which is submitted to the commission within thirty days of receipt of the notice to pay the fees, then the director or the designee of the director shall return a bond or damage deposit to a film maker.

If a film maker does not pay additional fees within the time period and in accordance with the procedures set forth above, then the director or designee of the director shall exercise the rights of the commission under a bond or damage deposit to pay the additional fees and so inform a film maker or exercise any such other legal rights as may be available.

**WSR 88-07-075**

**NOTICE OF PUBLIC MEETINGS  
BOARD FOR VOCATIONAL EDUCATION**

[Memorandum—March 18, 1988]

The Washington State Board for Vocational Education will meet on Wednesday, March 23, beginning at 9:00 a.m., in the conference room of the WEA Building.

People needing special accommodation, please call Patsi Justice at (206) 753-5660.

**WSR 88-07-076**

**EMERGENCY RULES  
LIQUOR CONTROL BOARD**

[Order 248, Resolution No. 257—Filed March 21, 1988]

Be it resolved by the Washington State Liquor Control Board, acting at the Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to Credit on nonliquor food items—Conditions—Record keeping, amending WAC 314-12-145.

We, the Washington State Liquor Control Board, 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 legislature, in enacting SB 6758, determined that an emergency exists and that the act was necessary for the immediate preservation of the public peace, health, and safety and the support of the state government and its existing public institutions and therefore should take effect immediately. In order to fully implement this legislative

intent, this amendment must also take effect immediately.

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

This rule is promulgated pursuant to chapter 50, Laws of 1988, SB 6578, 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 March 21, 1988.

By L. H. Pedersen  
Chairman

AMENDATORY SECTION (Amending Order 218, Resolution No. 227, filed 6/23/87)

**WAC 314-12-145 CREDIT ON NONLIQUOR FOOD ITEMS—CONDITIONS—RECORDKEEPING.** (1) Notwithstanding the provisions of WAC 314-12-140, persons licensed under RCW 66.24.200 as wine wholesalers and persons licensed under RCW 66.24.250 as beer wholesalers may sell at wholesale nonliquor food products (~~as defined in RCW 82.08.0293~~) on thirty days credit terms to persons licensed as retailers under this title. Complete and separate accounting records shall be maintained on all sales of nonliquor food products to ensure that such persons are in compliance with RCW 66.28.010.

(2) Nonliquor food products include all products for human consumption as defined in RCW 82.08.0293 as it exists on July 1, 1987, except that for the purposes of this rule bottled water and carbonated beverages, whether liquid or frozen, shall be considered food products.

(3) For the purpose of this rule, the period of credit is calculated as the time elapsing between the date of delivery of the product and the date of full legal discharge of the retailer, through the payment of cash or its equivalent, from all indebtedness arising from the transaction.

~~((3))~~ (4) If the board finds in any instance that any licensee has violated this section by extending or receiving credit in excess of the thirty days as provided for by this section, then all licensees involved shall be held equally responsible for such violation.

WSR 88-07-077

**COLUMBIA RIVER GORGE COMMISSION**

[Filed March 21, 1988]

**Reviser's note:** The following material has not been adopted under the Administrative Procedure Act, chapter 34.04 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

**NOTICE OF PROPOSED RULEMAKING**

Agency: Columbia River Gorge Commission.

The above named agency gives notice that pursuant to the statutory authority of chapter 499, Washington

Laws of 1987, the following action is proposed hearing to amend Rule No. 350-20.

Summary: The Columbia River Gorge Commission proposes to amend rules relating to its development review process. The amendments would shorten the time for decision on and allow earlier commencement of construction of certain classes of development activities subject to commission jurisdiction.

A public hearing will be held Tuesday, May 10, 1988, 1:30 p.m. at Community Building, Great Hall, 1110 East Columbia, Troutdale, OR.

Interested persons may obtain copies or submit data or views concerning the proposed rulemaking by writing to the address below. Written comments, in order to be considered, must be received by not later than May 6, 1988.

Columbia River Gorge Commission  
288 East Jewett Boulevard  
P.O. Box 730  
White Salmon, WA 98672  
Attn: Richard P. Benner  
Executive Director  
phone (509) 493-3323.

If any interested person wishes to express data, views and arguments orally or in writing at a public hearing, the person must make written request for a public hearing and submit this request along with any written comments to the above address. Request for public hearing must be received within 15 days after publication of notice in the Bulletin of the Secretary of State from 10 or more persons or an association having not less than 10 members. If sufficient requests are received to hold a public hearing, notice of the date and time of the hearing will be provided.

Sherril N. Anderson  
March 17, 1988

BEFORE THE  
COLUMBIA RIVER GORGE COMMISSION

In the Matter of Amendment  
to Administrative Rules Relating  
to Review by the Commission of  
Major Development Actions and  
and Residential Development

STATUTORY AUTHORITY,  
STATEMENT OF NEED,  
PRINCIPAL DOCUMENTS  
RELIED UPON AND FISCAL  
IMPACT

SUMMARY OR RULES

The Columbia River Gorge Commission proposes to amend rules relating to its development review process. The amendments would shorten the time for decision on and allow earlier commencement of construction of certain classes of development activities subject to Commission jurisdiction.

STATEMENT OF NEED

These amendments are necessary to remove unnecessary delay in review of certain classes of development activities subject to the jurisdiction of the Commission.

STATUTORY AUTHORITY

These amendments are based upon section 10(c) of the Columbia River Gorge National Scenic Area Act. That section charges the Commission to review major development for consistency with the Scenic Area Act.

Section a(4) of Article I of the Columbia River Gorge Compact, 1987 Washington Laws, Chapter 499, and 1987 Oregon Laws, Chapter 14, authorizes the Commission to implement P.L. 99-663. These amendments implement those authorities.

DOCUMENTS RELIED UPON

These amendments are based upon development procedures in county ordinances and review provisions of similar agencies in Oregon and Washington.

FISCAL IMPACT STATEMENT

The amendments will reduce the fiscal impact of the Commission's development review rules by abbreviating the time it takes to review certain classes of proposed development.

Dated March 16, 1988

On behalf of the Columbia River Gorge Commission:

Richard P. Benner  
Executive Director

WSR 88-07-078

COLUMBIA RIVER GORGE COMMISSION

[Filed March 21, 1988]

Reviser's note: The following material has not been adopted under the Administrative Procedure Act, chapter 34.04 RCW, but has been filed in the office of the code reviser and is published in the Register exactly as filed.

NOTICE OF PROPOSED RULEMAKING

Agency: Columbia River Gorge Commission.

The above named agency gives notice that pursuant to the statutory authority of chapter 499, Washington Laws of 1987 the following action is proposed hearing to adopt Rule No. 350-30.

Summary: The Columbia River Gorge Commission proposes to adopt rules to govern its procedure for enforcement of the Columbia River Gorge National Scenic Area Act. The rules call for investigation of alleged violations of the act, notice and opportunity for hearing and possible imposition of a civil penalty by the commission.

A public hearing will be held Tuesday, May 10, 1988, 1:30 p.m. at Community Building, Great Hall, 1110 East Columbia, Troutdale, OR.

Interested persons may obtain copies or submit data or views concerning the proposed rulemaking by writing to the address below. Written comments, in order to be considered, must be received by not later than May 6, 1988.

Columbia River Gorge Commission  
288 East Jewett Boulevard  
P.O. Box 730  
White Salmon, WA 98672  
Attn: Richard P. Benner  
Executive Director  
phone (509) 493-3323

If any interested person wishes to express data, views and arguments orally or in writing at a public hearing, the person must make written request for a public hearing and submit this request along with any written comments to the above address. Request for public hearing must be received within 15 days after publication of notice in the Bulletin of the Secretary of State from 10 or more persons or an association having not less than 10 members. If sufficient requests are received to hold a public hearing, notice of the date and time of the hearing will be provided.

Sherril N. Anderson  
March 17, 1988

BEFORE THE  
COLUMBIA RIVER GORGE COMMISSION

In the Matter of Adoption of  
Administrative Rules Relating  
to Enforcement and Imposition  
of Civil Penalties by the  
commission

STATUTORY AUTHORITY,  
STATEMENT OF NEED,  
PRINCIPAL DOCUMENTS  
RELIED UPON AND FISCAL  
IMPACT STATEMENT

SUMMARY OF RULES

The Columbia River Gorge Commission proposes to adopt rules to govern its procedure for enforcement of the Columbia River Gorge National Scenic Area Act. The rules call for investigation of alleged violations of the Act, notice and opportunity for hearing and possible imposition of a civil penalty by the Commission.

STATEMENT OF NEED

These rules are necessary for the Commission to carry out its enforcement role under the Scenic Area Act. The Act requires the Commission to take action to ensure compliance with the Act.

STATUTORY AUTHORITY

These rules are based upon Section 15(a)(3) of the Scenic Area Act, P.L. 99-663. That section authorizes the Commission to impose civil penalties upon any person who willfully violates the Act.

Section a(4) of Article I of the Columbia River Gorge Compact, 1987 Washington Laws, Chapter 499, and 1987 Oregon Laws, Chapter 14, authorizes the Commission to implement P.L. 99-663. These rules implement those authorities.

DOCUMENTS RELIED UPON

These rules are based upon civil penalty provisions in statutes and rules of other agencies.

FISCAL IMPACT STATEMENT

These rules will impose an impact upon those found to have violated the Scenic Area Act and receive a civil penalty. The rules will not likely have an impact beyond those subject to a civil penalty.

Dated March 16, 1988

On behalf of the Columbia River Gorge Commission:

Richard P. Benner  
Executive Director

**WSR 88-07-079**  
**PROPOSED RULES**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**  
 [Filed March 21, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Employment Relations Commission intends to adopt, amend, or repeal rules concerning amendatory section WAC 391-08-120;

that the agency will at 1:30 p.m., Thursday, April 28, 1988, in the University of Puget Sound Law School, Room 104, 950 Broadway, Tacoma, 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 41.58.050.

The specific statute these rules are intended to implement is chapters 41.56, 41.58, 53.18 and 28B.52 RCW, RCW 54.04.170 and 54.04.180.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 28, 1988.

Dated: March 21, 1988  
 By: Marvin L. Schurke  
 Executive Director

**STATEMENT OF PURPOSE**

Title of Chapter: General procedures.

Adopting Agency: Public Employment Relations Commission.

Summary: WAC 391-08-120 Service of process—Filing and service of papers, to clarify that filings with the commission and the executive director must be made at the Olympia office.

Agency Contact: Marvin L. Schurke, Executive Director, Public Employment Relations Commission, 603 Evergreen Plaza, FJ-61, Olympia, Washington 98504, (206) 753-3444.

Opposition: There is no known opposition.

AMENDATORY SECTION (Amending Order 83-01, filed 12/1/83, effective 1/1/84)

WAC 391-08-120 SERVICE OF PROCESS—FILING AND SERVICE OF PAPERS. (1) All notices, pleadings, and other papers filed with the agency or the presiding officer shall be served upon all counsel and representatives of record and upon parties not represented by counsel or upon their agents designated by them or by law.

(2) Service shall be made personally or, unless otherwise provided by law, by first class, registered, or certified mail, or by telegraph.

(3) Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed, and by telegraph when deposited with a telegraph company properly addressed and with charges prepaid.

(4) Papers required to be filed with the agency or with the presiding officer shall be deemed filed upon actual receipt during office hours at:

(a) The Olympia office of the commission for any papers required to be filed with the commission, the executive director, or the agency generally; or

(b) Any office of the agency or of the presiding officer for any papers required to be filed with the presiding officer.

(5) Where proof of service is required by statute or rule, filing the papers with the presiding officer, together with either an acknowledgment of service or the following certificate shall constitute proof of service:

"I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy thereof in person to (names) or by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent.

Dated at ..... this ... day of ....., 19....  
 (signature)"

**WSR 88-07-080**  
**PROPOSED RULES**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**  
 [Filed March 21, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Employment Relations Commission intends to adopt, amend, or repeal rules concerning amendatory sections WAC 391-25-090, 391-25-110, 391-25-190, 391-25-290, 391-25-390 and 391-25-470; and new section WAC 391-25-140;

that the agency will at 1:30 p.m., Thursday, April 28, 1988, in the University of Puget Sound Law School, Room 104, 950 Broadway, Tacoma, 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 41.58.050, 41.56.040, 41.59.110 and 28B.52.080.

The specific statute these rules are intended to implement is chapters 41.56, 41.58, 53.18 and 28B.52 RCW, RCW 54.04.170 and 54.04.180.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 28, 1988.

Dated: March 21, 1988  
 By: Marvin L. Schurke  
 Executive Director

**STATEMENT OF PURPOSE**

Title of Chapter: Representation case rules.

Adopting Agency: Public Employment Relations Commission.

Summary: WAC 391-25-090 Contents of petition filed by employer, to codify the decision of the commission in Rose Hill Water District, decision 2488-A (PECB, 1986); WAC 391-25-110 Supporting evidence, to close a potential loophole and assure that any petition filed with the commission has current support; WAC 391-25-140 Notice to employees, to require (consistent with rules and practices of the National Labor Relations Board) a posting of notice to employees shortly after a representation petition is filed; WAC 391-25-190 Intervention—By organization other than incumbent, to close a potential loophole and assure that any motion for intervention filed with the commission has current support; WAC 391-25-290 Notice of hearing, to delete requirement for posting of notice of hearing in favor of requirement for posting of notice of representation proceedings, see comments on WAC 391-25-140; WAC 391-25-390 Proceedings before the executive director, to codify existing practice on eligibility cutoff date for

directed elections; and WAC 391-25-470 Electioneering, to codify the decision of the commission in city of Tukwila, decision 2434-A (PECB, 1987).

Agency Contact: Marvin L. Schurke, Executive Director, Public Employment Relations Commission, 603 Evergreen Plaza, FJ-61, Olympia, Washington 98504, (206) 753-3444.

Opposition: There is no known opposition.

AMENDATORY SECTION (Amending Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-090 CONTENTS OF PETITION FILED BY EMPLOYER. Each petition filed by an employer shall contain all of the information required by WAC 391-25-070, except for that required by WAC 391-25-070(4)(-), and shall conform to the following additional requirements:

(1) Each petition filed by an employer shall contain a statement that the employer has been presented with a demand by an organization seeking recognition as the exclusive representative of the employees in the bargaining unit described in the petition.

(2) WAC 391-25-110 shall not be applicable to such petitions.

(3) Where the status of an incumbent exclusive bargaining representative is questioned, the employer shall attach such affidavits and other documentation as may be available to it to demonstrate the existence of a good faith doubt concerning the representation of its employees. To constitute a basis for a good faith doubt under this paragraph, signature documents provided to the employer by employees must be in a form which would qualify as supporting evidence under WAC 391-25-110 if filed by the employees directly with the commission.

AMENDATORY SECTION (Amending Order 81-01, filed 1/6/81)

WAC 391-25-110 SUPPORTING EVIDENCE. The original petition shall be accompanied by a showing of interest indicating that the petitioner has the support of not less than thirty percent of the employees in the bargaining unit which the petitioner claims to be appropriate. The showing of interest must be timely filed under the same standards applicable to the petition, and must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Such authorization cards shall not be valid unless signed and dated during the ninety-day period preceding the filing of the petition or the filing of such evidence with the agency, whichever is later.

NEW SECTION

WAC 391-25-140 NOTICE TO EMPLOYEES. The employer shall post a notice to employees, in the form specified by the commission, advising of the existence of proceedings under this chapter. The agency shall furnish the employer with copies of such notice, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted.

AMENDATORY SECTION (Amending Order 81-01, filed 1/6/81)

WAC 391-25-190 INTERVENTION—BY ORGANIZATION OTHER THAN INCUMBENT. An organization not covered by WAC 391-25-170 may, by motion, intervene in proceedings under this chapter and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and have its name listed as a choice on the ballot in any election. The motion for intervention shall be supported by a showing of interest indicating that the intervenor has the support of not less than ten percent of the employees in the bargaining unit which the petitioner claims to be appropriate or of not less than thirty percent of the employees in whatever different bargaining unit the intervenor claims to be appropriate. The showing of interest must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Such authorization cards shall not be valid unless signed and dated during the ninety-day period preceding the filing of the motion for intervention or the filing of such evidence with the agency, whichever is later. The showing of interest shall be made confidentially to the agency at or before the time the motion for intervention is made: PROVIDED, HOWEVER, That a motion for intervention may be granted conditionally subject to the subsequent furnishing of a showing of interest

under such conditions as the agency may impose to avoid undue delay of the proceedings. No motion for intervention shall be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

AMENDATORY SECTION (Amending Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-290 NOTICE OF HEARING. After a petition has been filed, if it appears to the executive director that there is reasonable cause to believe that a question concerning representation exists, there shall be issued and served on the employer and on all organizations listed in the petition and on any organization having theretofore intervened, a notice of hearing before a hearing officer at a time and place fixed therein. ~~((The agency shall furnish the employer with copies of such notice, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted.))~~ Any such notice of hearing may be amended or withdrawn before the close of the hearing.

AMENDATORY SECTION (Amending Resolution No. 85-01, filed 9/16/85)

WAC 391-25-390 PROCEEDINGS BEFORE THE EXECUTIVE DIRECTOR. The executive director may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The executive director shall determine whether a question concerning representation exists, and shall issue a direction of election, dismiss the petition or make other disposition of the matter. Unless otherwise provided in a direction of election, the cut-off date for eligibility to vote in an election shall be the date of issuance of the direction of election. Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to the hearing officer to decide those issues. Such actions shall be subject to review by the commission only as follows:

(1) Except for rulings as to whether the employer is subject to the jurisdiction of the commission, a direction of election and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

(2) An order of dismissal shall be subject to review by the commission on its own motion or at the request of any party made within twenty days following the date of the order. Briefs or written arguments shall be submitted as provided in WAC 391-25-650. Unless the matter is transferred to the commission for review, an order of dismissal issued by the executive director shall have the same force and effect as if issued by the commission.

AMENDATORY SECTION (Amending Order 80-5, filed 9/30/80, effective 11/1/80)

WAC 391-25-470 ELECTIONEERING. (1) Employers and organizations are prohibited from making election speeches on the employer's time to massed assemblies of employees:

(a) Within twenty-four hours before the scheduled time for the opening of the polls for an election conducted under "in person" voting procedures; or

(b) Within the period beginning with the issuance of ballots to employees for an election conducted under "mail ballot" voting procedures and the tally of ballots.

(2) There shall be no electioneering at or about the polling place during the hours of voting.

Violations of this rule shall be grounds for setting aside an election upon objections properly filed.

WSR 88-07-081  
PROPOSED RULES  
PUBLIC EMPLOYMENT  
RELATIONS COMMISSION  
[Filed March 21, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Employment

Relations Commission intends to adopt, amend, or repeal rules concerning new sections WAC 391-35-020 and 391-35-300;

that the agency will at 1:30 p.m., Thursday, April 28, 1988, in the University of Puget Sound Law School, Room 104, 150 Broadway, Tacoma, 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 41.58.050, 41.56.040, 41.59.110 and 28B.52.080.

The specific statute these rules are intended to implement is RCW 41.56.070, 41.59.070, 28B.52.030 and 28B.52.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 28, 1988.

Dated: March 21, 1988

By: Marvin L. Schurke  
Executive Director

### STATEMENT OF PURPOSE

Title of Chapter: Unit clarification case rules.

Adopting Agency: Public Employment Relations Commission.

Summary: WAC 391-35-020 Petition—Time for filing, to codify the decision of the commission in Toppenish school district, decision 1143-A (PECB, 1981) and subsequent decisions based thereon; and WAC 391-35-300 Transfer of bargaining rights, to codify the standards and principles relied upon in the decision of the commission in Skagit Valley Hospital, et al., decision 2509-A (PECB, 1987), (aff. Island County Sup. Ct.), to avoid the type of situation noted in the decision of the commission in Vancouver School District, decision 2575-A (PECB, 1987), and to set forth procedures for expeditious determination of such disputes in the future.

Agency Contact: Marvin L. Schurke, Executive Director, Public Employment Relations Commission, 603 Evergreen Plaza, FJ-61, Olympia, Washington 98504, (206) 753-3444.

Opposition: There is no known opposition.

### NEW SECTION

WAC 391-35-020 PETITION—TIME FOR FILING. (1) Disputes concerning status as a "confidential employee" may be filed at any time.

(2) Except as provided in subsection (1) of this section, where there is a valid written and signed collective bargaining agreement in effect, a petition for clarification of the covered bargaining unit will be considered timely only if:

(a) The petitioner can demonstrate, by specific evidence, substantial changed circumstances during the term of the collective bargaining agreement which warrant a modification of the bargaining unit by inclusion or exclusion of a position or class; or

(b) The petitioner can demonstrate that, although it signed the current collective bargaining agreement covering the position or class at issue in the unit clarification proceedings, (i) it put the other party on notice during negotiations that it would contest the inclusion or exclusion of the position or class via the unit clarification procedure, and (ii) it filed the petition for clarification of the existing bargaining unit prior to signing the current collective bargaining agreement.

### NEW SECTION

WAC 391-35-300 TRANSFER OF BARGAINING RIGHTS. Where an organization claims, by means of an affiliation, merger, change of name, or similar intra-organization transaction, to be the successor to the exclusive bargaining representative in an existing bargaining unit, a ruling on the successorship claim may be obtained by the employer or the organization by filing a petition in the form specified by WAC 391-35-030 and 391-35-050, specifying under WAC 391-35-050(7) that the dispute concerns a transfer of bargaining rights.

(1) The organization shall have the burden of proof to demonstrate at hearing that:

(a) The transaction giving rise to the successorship claim was conducted pursuant to the constitution(s) and/or bylaws of the organization(s) involved.

(b) Due process was provided to employees entitled to voice and/or vote on the transaction including notice and opportunity to discuss the transaction and its effects.

(c) Any election or vote conducted within the organization(s) involved was conducted in a fair and orderly manner.

(d) The transaction has been consummated by transfer of other rights and obligations to the organization claiming to be the successor.

(2) Upon a showing conforming to the requirements of subsection (1) of this section, the executive director shall issue an order clarifying bargaining unit pursuant to WAC 391-35-190, transferring the rights, obligations, and status of exclusive bargaining representative to the successor organization retroactive to the effective date of the transaction.

(3) An organization which claims or may claim to be a successor pursuant to a transaction qualifying under this section may file and process a petition for investigation of a question concerning representation pursuant to chapter 391-25 WAC. In the event that proceedings are initiated under chapter 391-25 WAC, proceedings under this rule shall be suspended. If the proceedings under chapter 391-25 WAC result in the issuance of a certification, all rights and proceedings under this rule shall be terminated and the rights of any exclusive bargaining representative shall be effective only on and after the date of issuance of the certification under chapter 391-25 WAC.

WSR 88-07-082

PROPOSED RULES

PUBLIC EMPLOYMENT  
RELATIONS COMMISSION

[Filed March 21, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Employment Relations Commission intends to adopt, amend, or repeal rules concerning new section WAC 391-45-260 and repealing WAC 391-45-013;

that the agency will at 1:30 p.m., Thursday, April 28, 1988, in the University of Puget Sound Law School, Room 104, 150 Broadway, Tacoma, 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 41.58.050, 41.56.040, 41.59.110 and 28B.52.080.

The specific statute these rules are intended to implement is chapters 41.56, 41.58, 53.18 and 28B.52 RCW, RCW 54.04.170 and 54.04.180.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 28, 1988.

Dated: March 21, 1988

By: Marvin L. Schurke  
Executive Director

## STATEMENT OF PURPOSE

Title of Chapter: Unfair labor practice case rules.

Adopting Agency: Public Employment Relations Commission.

Summary: WAC 391-45-013 Special provision—Academic employees, to make chapter 391-45 WAC applicable to disputes arising under chapter 28B.52 RCW. Unfair labor practice jurisdiction is conferred on the commission by chapter 314, Laws of 1987; and WAC 391-45-260 Settlement conference, to formalize and perpetuate a settlement conference procedure which PERC has been using for some time.

Agency Contact: Marvin L. Schurke, Executive Director, Public Employment Relations Commission, 603 Evergreen Plaza, FJ-61, Olympia, Washington 98504, (206) 753-3444.

Opposition: There is no known opposition.

NEW SECTION

WAC 391-45-260 SETTLEMENT CONFERENCE. Prior to hearing, the parties may be requested to participate in a settlement conference conducted by a member of the commission staff other than the assigned examiner. During the course of a settlement conference, the parties will be encouraged, on factual and legal grounds including precedent on the particular subject, to resolve the unfair labor practice dispute. Participation in the settlement conference is voluntary, and the refusal of a party to participate shall not prejudice the nonparticipating party in any manner.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 391-45-013 SPECIAL PROVISION—ACADEMIC EMPLOYEES.

**WSR 88-07-083**  
**PROPOSED RULES**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**  
 [Filed March 21, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Employment Relations Commission intends to adopt, amend, or repeal rules concerning amendatory sections WAC 391-55-002, 391-55-400, 391-55-410, 391-55-415, 391-55-420, 391-55-425, 391-55-430, 391-55-435, 391-55-440, 391-55-445, 391-55-450 and 391-55-455; new section WAC 391-55-071, and repealing WAC 391-55-033 and 391-55-505;

that the agency will at 1:30 p.m., Thursday, April 28, 1988, in the University of Puget Sound Law School, Room 104, 950 Broadway, Tacoma, 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 41.58.050, 41.56.110 and 28B.52.080.

The specific statute these rules are intended to implement is RCW 28B.52.060 and 41.56.475.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 28, 1988.

Dated: March 21, 1988

By: Marvin L. Schurke  
 Executive Director

## STATEMENT OF PURPOSE

Title of Chapter: Impasse resolution case rules.

Adopting Agency: Public Employment Relations Commission.

Summary: WAC 391-55-002 Sequence and numbering of rules—Special provisions, to conform to statutory changes. Chapter 135, Laws of 1987 extended collective bargaining to officers of the Washington State Patrol and created "fact-finding" procedures for impasses in their bargaining. Chapter 314, Laws of 1987, amended chapter 28B.52 RCW to delete "fact-finding" procedures; WAC 391-55-033 Special provision—Academic employees, to conform to statutory changes, which make mediation available on the request of either party; WAC 391-55-071 Special provision—State Patrol personnel, to differentiate mediation for State Patrol personnel from other mediation efforts; WAC 391-55-400 State Patrol personnel—Fact finding; WAC 391-55-410 State Patrol personnel—Selection of fact finder; WAC 391-55-415 State Patrol personnel—Conduct of fact-finding proceedings; WAC 391-55-420 State Patrol personnel—Submission of proposals for fact finding; WAC 391-55-425 State Patrol personnel—Fact-finding hearing; WAC 391-55-430 State Patrol personnel—Order of proceedings and evidence; WAC 391-55-435 State Patrol personnel—Fact finding in the absence of a party; WAC 391-55-440 State Patrol personnel—Close of fact-finding hearings; WAC 391-55-445 State Patrol personnel—Findings of fact and recommendations; WAC 391-55-450 State Patrol personnel—Responsibility of parties after fact finding; WAC 391-55-455 State Patrol personnel—Expenses of fact finding. Amendment of regulations setting forth former fact-finding process for academic employees is proposed, converting those procedures to cover Washington State Patrol personnel. See comments on WAC 391-55-002; and WAC 391-55-505 Marine employees—Referral for mediation, the commission formerly administered chapter 47.64 RCW covering Washington state ferries. This provision was erroneously left on the books when other rules concerning the marine employees were repealed.

Agency Contact: Marvin L. Schurke, Executive Director, Public Employment Relations Commission, 603 Evergreen Plaza, FJ-61, Olympia, Washington 98504, (206) 753-3444.

Opposition: There is no known opposition.

AMENDATORY SECTION (Amending Order 83-05, filed 12/1/83, effective 1/1/84)

WAC 391-55-002 SEQUENCE AND NUMBERING OF RULES—SPECIAL PROVISIONS. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. Special provisions required for conformity with a particular statute are set forth in separate rules numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW,

~~((f))~~port employees (Employment relations—Collective bargaining and arbitration), are set forth in WAC sections numbered one digit greater than the general rule on that subject matter and in ~~((a))~~ subchapters of rules as follows:

(a) Special provisions relating to interest arbitration for unformed personnel within the meaning of RCW 41.56.030(7) are set forth beginning with WAC 391-55-200; and

(b) Special provisions relating to fact finding for state patrol personnel within the meaning of RCW 41.56.020 are set forth beginning with WAC (~~(391-55-200)~~) 391-55-400.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter and in a subchapter of rules beginning with WAC 391-55-300.

~~((3))~~ Special provisions relating to chapter 28B.52 RCW (professional negotiations—academic faculties of community college districts) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter and in a subchapter of rules beginning with WAC 391-55-400.))

#### NEW SECTION

WAC 391-55-071 SPECIAL PROVISION—STATE PATROL PERSONNEL. In the case of mediation involving state patrol personnel as defined in RCW 41.56.020, the mediator shall not consider wage or wage-related matters.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-400 (~~(ACADEMIC EMPLOYEES)~~) STATE PATROL PERSONNEL—FACT FINDING. ~~((If a dispute involving academic employees within the meaning of RCW 28B.52.020 has not been settled after a reasonable period of mediation, either party may request the appointment of a fact finder by giving written notice to the commission, the mediator, and the opposite party:))~~ (1) If a dispute involving state patrol personnel as defined in RCW 41.56.020 is not resolved after a reasonable period of mediation, either party, upon written notice to the other party, to the mediator, and to the commission, may request that unresolved matters be submitted to a fact finder for recommendations.

(2) In the event that the executive director determines that the parties remain at impasse after a reasonable period of negotiation and mediation, and after consultation with the assigned mediator, the executive director shall initiate fact finding proceedings.

(3) The fact finder may only consider those issues that are certified by the executive director for fact finding proceedings.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-410 (~~(ACADEMIC EMPLOYEES)~~) STATE PATROL PERSONNEL—SELECTION OF FACT FINDER. ~~((Upon receipt of a unilateral request for fact finding, the executive director shall determine the position of the party other than the party making the request. If both parties concur in the initiation of fact finding, the executive director shall furnish the parties a list of five members of the dispute resolution panel. The parties shall meet to attempt to select a fact finder. If the parties agree on a fact finder, they shall obtain a commitment to serve and shall notify the executive director of the identity of the fact finder so selected. If the parties are unable to agree on a fact finder, they shall notify the executive director, who shall designate a fact finder from the dispute resolution panel. The parties are not entitled to influence the designation of a fact finder and shall not, either in writing or by other communication, attempt to indicate any preference for or against any person as the fact finder to be appointed by the commission:))~~ Upon the filing of a timely request for fact finding, the executive director shall furnish the parties a list of five members of the dispute resolution panel from which the parties will be invited to exercise their right under RCW 41.56.475. Within seven days following receipt of the list, the parties shall meet to attempt to select a fact finder. If the parties agree on a fact finder, they shall obtain a commitment to serve and shall notify the executive director of the identity of the fact finder so selected. If the parties are unable to agree on a fact finder, they shall notify the executive director, who shall designate a fact finder from the dispute resolution panel. The parties are not entitled to influence the designation of a fact finder and shall not, either in writing or by other communication, attempt to indicate any

preference for or against any person as the fact finder to be appointed by the commission.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-415 (~~(ACADEMIC EMPLOYEES)~~) STATE PATROL PERSONNEL—CONDUCT OF FACT FINDING PROCEEDINGS. Proceedings shall be conducted as provided in WAC 391-55-400 through 391-55-455. The fact finder shall interpret and apply these rules insofar as they relate to the powers and duties of the fact finder. Any party who proceeds with fact finding after knowledge that any provision or requirement of these rules has not been complied with and who fails to state its objection thereto in writing, shall be deemed to have waived its right to object.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-420 (~~(ACADEMIC EMPLOYEES)~~) STATE PATROL PERSONNEL—SUBMISSION OF PROPOSALS FOR FACT FINDING. At least seven days before the date of the hearing, each party shall submit to the fact finder and to the other party written proposals on all of the issues it intends to submit to fact finding.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-425 (~~(ACADEMIC EMPLOYEES)~~) STATE PATROL PERSONNEL—FACT FINDING HEARING. The fact finder shall establish a date, time, and place for a hearing. The fact finding hearing shall be open to the public unless otherwise agreed by the parties. For good cause shown, the fact finder may adjourn the hearing upon the request of a party or upon his or her own initiative. The parties may waive oral hearing by written agreement.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-430 (~~(ACADEMIC EMPLOYEES)~~) STATE PATROL PERSONNEL—ORDER OF PROCEEDINGS AND EVIDENCE. The order of presentation at the hearing shall be as agreed by the parties or as determined by the fact finder. The fact finder shall be the judge of the relevancy of the evidence. All evidence shall be taken in the presence of all parties, unless a party is absent in default or has waived its right to be present. Each documentary exhibit shall be filed with the fact finder and copies shall be provided to the other parties. The exhibits shall be retained by the fact finder until an agreement has been signed, after which they may be disposed of as agreed by the parties or as ordered by the fact finder.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-435 (~~(ACADEMIC EMPLOYEES)~~) STATE PATROL PERSONNEL—FACT FINDING IN THE ABSENCE OF A PARTY. The fact finder may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. Fact finders shall treat any subject on which one party has taken a position that it is not a mandatory subject for bargaining in accordance with this rule. Findings of fact and recommendations shall not be made solely on the default of a party, and the fact finder shall require the participating party to submit such evidence as may be required for making of the findings of fact and recommendations.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-440 (~~(ACADEMIC EMPLOYEES)~~) STATE PATROL PERSONNEL—CLOSING OF FACT FINDING HEARINGS. The fact finder shall declare the hearing closed after the parties have completed presenting their testimony and/or exhibits and filing of briefs within agreed time limits.

AMENDATORY SECTION (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-445 (~~(ACADEMIC EMPLOYEES)~~) STATE PATROL PERSONNEL—FINDINGS OF FACT AND RECOMMENDATIONS. The findings of fact and recommendations of the

fact finder shall not be subject to review by the commission. Fact finders shall rule only on the reasonability of the proposals advanced in the context of the whole of the negotiations between the parties and shall not rule on whether or not a subject or proposal in dispute is a mandatory subject for collective bargaining.

**AMENDATORY SECTION** (Amending Order 80-8, filed 9/30/80, effective 11/1/80)

WAC 391-55-450 (~~ACADEMIC EMPLOYEES~~) STATE PATROL PERSONNEL—RESPONSIBILITY OF PARTIES AFTER FACT FINDING. Not more than seven days after the findings and recommendations have been issued, the parties shall notify the commission and each other whether they accept the recommendations of the fact finder. If the recommendations of the fact finder are rejected by one or both parties and their further efforts do not result in an agreement, either party may request mediation pursuant to chapter 41.58 RCW and, upon the concurrence of the other party, the executive director shall assign a mediator.

**AMENDATORY SECTION** (Amending Order 80-8 [83-05], filed 9/30/80 [12/1/83], effective 11/1/80 [1/1/84])

WAC 391-55-455 (~~ACADEMIC EMPLOYEES~~) STATE PATROL PERSONNEL—EXPENSES OF FACT FINDING. Each party shall pay the expenses of presenting its own case. The expenses of witnesses shall be paid by the party producing them. The fees and traveling expenses of a fact finder shall be paid by the parties equally.

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

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 391-55-033 SPECIAL PROVISION—ACADEMIC EMPLOYEES.  
WAC 391-55-505 MARINE EMPLOYEES—REFERRAL FOR MEDIATION.

**WSR 88-07-084**  
**PROPOSED RULES**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**  
[Filed March 21, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Employment Relations Commission intends to adopt, amend, or repeal rules concerning amendatory section WAC 391-65-050; and repealing WAC 391-65-074 and 391-65-094;

that the agency will at 1:30 p.m., Thursday, April 28, 1988, in the University of Puget Sound Law School, Room 104, 950 Broadway, Tacoma, 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 41.58.050.

The specific statute these rules are intended to implement is RCW 41.58.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 28, 1988.

Dated: March 21, 1988  
By: Marvin L. Schurke  
Executive Director

#### STATEMENT OF PURPOSE

Title of Chapter: Grievance arbitration case rules.

Adopting Agency: Public Employment Relations Commission.

Summary: WAC 391-65-050 Grievance arbitration—Contents of request, the commission formerly administered chapter 47.64 RCW covering Washington state ferries personnel. Other rules concerning the marine employees were repealed previously, but this rule was left on the books in error; WAC 391-65-074 Special provision—Marine employees; and WAC 391-65-094 Special provision—Marine employees; the commission formerly administered chapter 47.64 RCW covering Washington state ferries personnel. Other rules concerning the marine employees were repealed previously, but this rule was left on the books in error.

Agency Contact: Marvin L. Schurke, Executive Director, Public Employment Relations Commission, 603 Evergreen Plaza, FJ-61, Olympia, Washington 98504, (206) 753-3444.

Opposition: There is no known opposition.

**AMENDATORY SECTION** (Amending Order 80-9, filed 9/30/80, effective 11/1/80)

WAC 391-65-050 GRIEVANCE ARBITRATION—CONTENTS OF REQUEST. Each request for appointment of a grievance arbitrator shall contain:

(1) The name, address and telephone number of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining.

(2) The name, address and telephone number of the exclusive representative and the name, address and telephone number of its principal representative.

(3) Identification of the request as: (a) A request for appointment of a member of the agency staff as arbitrator; or (b) ~~((a request for arbitration of a grievance dispute arising under chapter 47.64 RCW; or (c)))~~ a request for the submission of a list of names from the dispute resolution panel created by WAC 391-55-110.

(4) A description of the grievances or issues to be submitted to arbitration and the number of employees affected thereby.

(5) The agreement of the requesting party, or the parties jointly, that there will be no strike or lockout on any matter submitted to arbitration.

(6) The agreement of the requesting party, or the parties jointly, that the arbitration award be final and binding upon the parties.

(7) The signature(s) and, if any, title(s) of the representative(s) of the requesting party (parties).

**WSR 88-07-085**  
**PROPOSED RULES**  
**PUBLIC EMPLOYMENT**  
**RELATIONS COMMISSION**  
[Filed March 21, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Public Employment Relations Commission intends to adopt, amend, or repeal rules concerning amendatory sections WAC 391-95-010, 391-95-030 and 391-95-230;

that the agency will at 1:30 p.m., Thursday, April 28, 1988, in the University of Puget Sound Law School, Room 104, 950 Broadway, Tacoma, 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 41.58.050.

The specific statute these rules are intended to implement is chapters 41.56, 41.59 and 28B.52 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 28, 1988.

Dated: March 21, 1988

By: Marvin L. Schurke  
Executive Director

**STATEMENT OF PURPOSE**

Title of Chapter: Union security case rules.

Adopting Agency: Public Employment Relations Commission.

Summary: WAC 391-95-010 Union security—Obligation of exclusive bargaining representative, conform to statutory changes, which make union security dispute available under chapter 28B.52 RCW. Chapter 314, Laws of 1987, authorized union security agreements and provided for the assertion of a right of nonassociation under chapter 28B.52 RCW; WAC 391-95-030 Union security—Assertion of right of nonassociation, deletion of limiting references is proposed to conform to statutory changes. See comments on WAC 391-95-010; and WAC 391-95-230 Hearings—Nature and scope, to codify case precedent, and to inform claimants of the procedures and their burden of proof.

Agency Contact: Marvin L. Schurke, Executive Director, Public Employment Relations Commission, 603 Evergreen Plaza, FJ-61, Olympia, Washington 98504, (206) 753-3444.

Opposition: There is no known opposition.

AMENDATORY SECTION (Amending Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-010 UNION SECURITY—OBLIGATION OF EXCLUSIVE BARGAINING REPRESENTATIVE. An exclusive bargaining representative which desires to enforce a union security provision contained in a collective bargaining agreement negotiated under the provisions of chapter 28B.52, 41.56, or 41.59 RCW shall provide each affected employee with a copy of the collective bargaining agreement containing the union security provision and shall specifically advise each employee of his or her obligation under that agreement, including informing the employee of the amount owed, the method used to compute that amount, when such payments are to be made, and the effects of a failure to pay.

AMENDATORY SECTION (Amending Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-030 UNION SECURITY—ASSERTION OF RIGHT OF NONASSOCIATION. An employee who(~~pursuant to RCW 41.56.122(1) or 41.59.100;~~) asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall notify the exclusive bargaining representative, in writing, of the claim of a right of nonassociation and shall, at the same time, provide the exclusive bargaining representative with the name(s) and address(es) of one or more nonreligious charitable organizations to which the employee is prepared to make alternative payments in lieu of the payments required by the union security provision.

AMENDATORY SECTION (Amending Order 80-10, filed 9/30/80, effective 11/1/80)

WAC 391-95-230 HEARINGS—NATURE AND SCOPE. Hearings shall be public and shall be limited to matters concerning the determination of the eligibility of the employee to make alternative

payments and the designation of an organization to receive such alternative payments. The employee has the burden to make a factual showing, through testimony of witnesses and/or documentary evidence, of the legitimacy of his or her beliefs, as follows:

(1) In cases where the claim of a right of nonassociation is based on the teachings of a church or religious body, the claimant employee must demonstrate:

(a) His or her bona fide religious objection to union membership; and

(b) That the objection is based on a bona fide religious teaching of a church or religious body; and

(c) That the claimant employee is a member of such church or religious body.

(2) In cases where the claim of a right of nonassociation is based on personally held religious beliefs, the claimant employee must demonstrate:

(a) His or her bona fide religious objection to union membership; and

(b) That the religious nature of the objection is genuine and in good faith.

**WSR 88-07-086**

**EMERGENCY RULES**

**WASHINGTON STATE LIBRARY  
(Library Commission)**

[Order 88-02—Filed March 21, 1988]

Be it resolved by the Washington State Library Commission, acting at Timberland Regional Library Service Center, Conference Room, 415 Airdustrial Way S.W., Olympia, WA 98501, that it does adopt the annexed rules relating to Library Services and Construction Act Title II construction grant application process, chapter 304-12 WAC.

We, the Washington State Library 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 unexpected occurrences of asbestos in library remodeling projects necessitates a change in definition of allowable costs for match. In order to best serve the library community, these rules need to be in place at the onset of the next competitive grant cycle for construction projects, which occurs January, 1988.

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 Washington State Library as authorized in chapter 27.04 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 March 17, 1988.

By Nancy Zussy  
State Librarian

AMENDATORY SECTION (Amending Order 86-02, filed 6/4/86)

WAC 304-12-290 CONSTRUCTION GRANT PROGRAM—RULES. The following final rules and regulations were adopted by the Washington state library commission in order to comply with the provisions of the Library Services and Construction Act of 1969 (formerly Public Law 88-269; Public Law 89-511 and now Public Law 91-600).

(1) Only projects to be owned by a state or local public agency are eligible for consideration.

(2) Requests for projects from any unit within a library district must be submitted with approval by the respective district library administration.

(3) Applicants will be required to give written evidence of official approval of any governmental unit involved in the project.

(4) Agreements to observe the legal requirements of the grants will be executed between the Washington state library commission and the officials administering approved projects.

(5) Applicants will be required to submit adequate evidence for evaluation of their request on the points established as criteria for evaluation by the Washington state library commission.

(6) Each application will be acknowledged and each applicant notified when the project will be considered by the state library commission.

(7) Each applicant will be notified concerning acceptance or rejection by the state library commission within ten days of such official action.

(8) Rejected applications will be accompanied by a statement as to why the project was not approved.

(9) Rejected applications may be resubmitted with evidence the objections have been met.

(10) Any applicant who feels their request has been unjustly rejected may request a hearing. Said hearing will be set to meet the convenience of both the Washington state library commission and the applicant insofar as is reasonably possible.

(11) The local share must be expended before grant funds will be paid, except for those projects covering two fiscal years, in which instance federal regulations will hold. Grant funds will be paid based upon a percentage of completion.

(12) Certification must be presented that local funds are on hand.

(13) Submission of a schedule of the planned progress of the project with estimated dates each step will be completed, is required.

(14) Upon receipt of formal approval by the state library commission, the project must be initiated within a six months' period.

(15) The building plans must meet the approval of the state library. Federal regulations, including but not limited to, evaluation of flood hazards, provision for the physically handicapped, environmental policies and procedures, and competitive bidding must be observed.

(16) When a plaque indicating completion date and source of funds is planned as part of the completed

building or when a construction site sign is planned, acknowledgment shall be given to federal participation.

(17) The state library commission will establish a completion date, based upon the project architect's estimate of the time needed. A project is considered to be completed when it has been opened to the public for service.

(18) Expenses related to acquisition of an existing building or of land, architect's fees, ~~((and))~~ preliminary planning and capital improvements mandated by law or regulation may be considered an allowable previous expense and used as matching funds ~~((, if incurred no earlier than))~~. To be considered an allowable previous expense, the following criteria must be met:

(a) Expenses must be incurred within a three-year ~~((s))~~ period prior to the date of ~~((approval))~~ award of the ~~((project))~~ grant by the state library commission.

(b) Expenses must directly relate to the grant project.

(c) Type of funds used must meet allowable match criteria for Library Services and Construction Act projects.

(d) Expenditures must meet all federal regulations applicable to Library Services and Construction Act projects.

(19) Five percent of the federal share of the project will be withheld as the final payment. Final payment of the grant will be made upon completion of the project and when the state library commission has been satisfied that all conditions of the grant have been met, including the completion of a successful audit.

(20) When changes in federal regulations affect the above without sufficient time for formal notice and change, federal regulations will be considered as official.

(21) Projects are reviewed by the agency designated by the governor as federal coordinator.

(22) The advisory council will be kept fully informed as to pending projects, and progress of the approved project.

(23) Participants in federally-funded projects will cooperate with the advisory council during the period of evaluation.

WSR 88-07-087

ADOPTED RULES

WASHINGTON STATE LIBRARY

(Library Commission)

[Order 88-03—Filed March 21, 1988]

Be it resolved by the Washington State Library Commission, acting at Timberland Regional Library Service Center, Conference Room, 415 Airdustrial Way S.W., Olympia, WA 98501, that it does adopt the annexed rules relating to Library Services and Construction Act Title II construction grant application process, chapter 304-12 WAC.

This action is taken pursuant to Notice No. WSR 88-03-018 filed with the code reviser on January 11, 1988. 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 Washington State Library as authorized in chapter 27.04 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 March 17, 1988.

By Nancy Zussy  
State Librarian

AMENDATORY SECTION (Amending Order 86-02, filed 6/4/86)

WAC 304-12-290 CONSTRUCTION GRANT PROGRAM—RULES. The following final rules and regulations were adopted by the Washington state library commission in order to comply with the provisions of the Library Services and Construction Act of 1969 (formerly Public Law 88-269; Public Law 89-511 and now Public Law 91-600).

(1) Only projects to be owned by a state or local public agency are eligible for consideration.

(2) Requests for projects from any unit within a library district must be submitted with approval by the respective district library administration.

(3) Applicants will be required to give written evidence of official approval of any governmental unit involved in the project.

(4) Agreements to observe the legal requirements of the grants will be executed between the Washington state library commission and the officials administering approved projects.

(5) Applicants will be required to submit adequate evidence for evaluation of their request on the points established as criteria for evaluation by the Washington state library commission.

(6) Each application will be acknowledged and each applicant notified when the project will be considered by the state library commission.

(7) Each applicant will be notified concerning acceptance or rejection by the state library commission within ten days of such official action.

(8) Rejected applications will be accompanied by a statement as to why the project was not approved.

(9) Rejected applications may be resubmitted with evidence the objections have been met.

(10) Any applicant who feels their request has been unjustly rejected may request a hearing. Said hearing will be set to meet the convenience of both the Washington state library commission and the applicant insofar as is reasonably possible.

(11) The local share must be expended before grant funds will be paid, except for those projects covering two fiscal years, in which instance federal regulations will hold. Grant funds will be paid based upon a percentage of completion.

(12) Certification must be presented that local funds are on hand.

(13) Submission of a schedule of the planned progress of the project with estimated dates each step will be completed, is required.

(14) Upon receipt of formal approval by the state library commission, the project must be initiated within a six months' period.

(15) The building plans must meet the approval of the state library. Federal regulations, including but not limited to, evaluation of flood hazards, provision for the physically handicapped, environmental policies and procedures, and competitive bidding must be observed.

(16) When a plaque indicating completion date and source of funds is planned as part of the completed building or when a construction site sign is planned, acknowledgment shall be given to federal participation.

(17) The state library commission will establish a completion date, based upon the project architect's estimate of the time needed. A project is considered to be completed when it has been opened to the public for service.

(18) Expenses related to acquisition of an existing building or of land, architect's fees, ~~((and))~~ preliminary planning and capital improvements mandated by law or regulation may be considered an allowable previous expense and used as matching funds ~~((, if incurred no earlier than))~~. To be considered an allowable previous expense, the following criteria must be met:

(a) Expenses must be incurred within a three-year((s)) period prior to the date of ((approval)) award of the ((project)) grant by the state library commission.

(b) Expenses must directly relate to the grant project.

(c) Type of funds used must meet allowable match criteria for Library Services and Construction Act projects.

(d) Expenditures must meet all federal regulations applicable to Library Services and Construction Act projects.

(19) Five percent of the federal share of the project will be withheld as the final payment. Final payment of the grant will be made upon completion of the project and when the state library commission has been satisfied that all conditions of the grant have been met, including the completion of a successful audit.

(20) When changes in federal regulations affect the above without sufficient time for formal notice and change, federal regulations will be considered as official.

(21) Projects are reviewed by the agency designated by the governor as federal coordinator.

(22) The advisory council will be kept fully informed as to pending projects, and progress of the approved project.

(23) Participants in federally-funded projects will cooperate with the advisory council during the period of evaluation.

**WSR 88-07-088**  
**PROPOSED RULES**  
**BELLEVUE COMMUNITY COLLEGE**  
 [Filed March 22, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Bellevue Community College, Community College District VIII, intends to adopt, amend, or repeal rules concerning general operating policies of Community College District VIII, new WAC 132H-200-250;

that the institution will at 1:30 p.m., Tuesday, May 10, 1988, in the Board Room, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, 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 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before May 10, 1988.

Dated: March 17, 1988  
 By: Paul N. Thompson  
 President

#### STATEMENT OF PURPOSE

**Description of Purpose:** Add to permanent rules of chapter 132H-200 WAC, General operating policies of Community College District VIII pertaining to a policy on life threatening, chronic or debilitating illnesses.

**Statutory Authority:** RCW 28B.50.140.

**Summary of Rule:** This policy recognizes that students, staff, faculty, administrators and their dependents with life-threatening, chronic, or debilitating illnesses, including, but not limited to cancer, heart disease and Acquired Immune Deficiency (AIDS), may wish to continue to engage in as many of their activities as their condition allows, including work and academic pursuits without being discriminated against.

**Reasons Supporting Proposed Action:** To provide for students, staff, faculty, administrators the guidelines as provided from the American Health Association's "General Statement on Institutional Response to AIDS."

**Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Paul N. Thompson, President, Bellevue Community College, 3000 Landerholm Circle S.E., P.O. Box 92700, Bellevue, WA 98009-2037.

**Person or Organization Proposing Rule, and Whether Public, Private or Governmental:** Board of trustees, Bellevue Community College District VIII, public.

**Institution Comments of Recommendations, if any:** None.

**Rule Necessary as Result of Federal Law or Federal of State Court Action:** No.

#### NEW SECTION

**WAC 132H-200-250 POLICY ON LIFE THREATENING, CHRONIC OR DEBILITATING ILLNESS.** Bellevue Community College recognizes that students, staff, faculty, administrators and their dependents with life-threatening, chronic, or debilitating illnesses, including, but not limited to cancer, heart disease and Acquired

Immune Deficiency Syndrome (AIDS), may wish to continue to engage in as many of their activities as their condition allows, including work and academic pursuits without being discriminated against.

As long as these students and employees are able to meet acceptable performance standards, and medical evidence indicates that attendance at Bellevue Community College is not a threat to themselves or others, the College will treat them the same as any other students and employees.

At the same time, Bellevue Community College seeks to provide a safe environment for students and employees. Therefore, precautions will be taken, as needed, to ensure that a student's or employee's condition does not present a health and/or safety threat to any other individuals on the campus.

To date, medical research indicates that students or employees with AIDS, Aids Related Complex (ARC), or a positive Human Immunodeficiency Virus (otherwise known as HIV, the virus that causes AIDS) antibody test do not pose a health risk to other students or employees in an academic setting. The HIV infection is thought to be transmitted by intimate sexual contact, intravenous drug activity or blood transfusions. There has been no confirmed case of transmission of the HIV infection by any casual, ordinary household, office, or school contact. The United States Public Health Service states that, among other things, there is no risk created by living in the same house as an infected person, eating food handled by an infected person, being coughed or sneezed upon by an infected person, casual kissing, swimming in a pool with an infected person or, with proper precautions, caring for an AIDS patient.

(1) **GUIDELINES.** Bellevue Community College subscribes to the following guidelines provided from the American Health Association's "General Statement on Institutional Response to AIDS:"

(a) The general rule is that legal and ethical considerations militate against the adoption of any policies or courses of action which would deny ordinary privileges and rights, including that of privacy, to members of the college community who are known or suspected to have AIDS, ARC, or a positive HIV antibody test or any other chronic or debilitating illness.

(b) College students who have AIDS, ARC, or a positive HIV antibody test, whether they are symptomatic or not, should be allowed regular classroom attendance in an unrestricted manner as long as they are physically able to attend classes.

(c) There is no medical justification for restricting the access of students with AIDS, ARC, or a positive HIV antibody test to student unions, theaters, restaurants, cafeterias, snack bars, gymnasiums, swimming pools, recreational facilities, or other common areas.

(d) Consideration of the existence of AIDS, ARC, or a positive HIV antibody test will not be a part of the admission decision for those applying to attend the college.

(e) The rights, privileges, and confidentiality of individuals with confirmed exposure to the AIDS virus shall be based on applicable State and Federal regulations and laws and college policy which guarantees freedom from discrimination and harassment.

(2) **RESOURCES.** Consistent with our concern for students and employees with life-threatening, chronic, or debilitating illnesses, Bellevue Community College will provide the following resources to students and staff:

(a) Education and information on terminal illness and specific life-threatening illnesses. The Health Services Department shall provide education and information on terminal and/or life-threatening illnesses through lectures, workshops and brochures.

(b) Referral to agencies and organizations which offer supportive services for life-threatening illness.

**WSR 88-07-089**  
**PROPOSED RULES**  
**BELLEVUE COMMUNITY COLLEGE**  
 [Filed March 22, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that Bellevue Community College, Community College District VIII, intends to adopt, amend, or repeal rules concerning bylaws and standing orders of Community College District VIII, amending WAC 132H-150-140;

that the institution will at 1:30 p.m., Tuesday, May 10, 1988, in the Board Room, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, 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 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before May 10, 1988.

Dated: March 17, 1988

By: Paul N. Thompson  
President

### STATEMENT OF PURPOSE

Description of Purpose: Amend permanent rules of chapter 132H-105 WAC, pertaining to correcting titles listed in section 140 of the bylaws and standing orders of Community College District VIII.

Statutory Authority: RCW 28B.50.140.

Summary of Rule: The bylaws and standing orders of Community College District VIII.

Reasons Supporting Proposed Action: The reason for amending section 140 of WAC 105 [chapter 132H-105 WAC] is to accurately reflect the correct titles stated in this section.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul N. Thompson, President, Bellevue Community College, 3000 Landerholm Circle S.E., P.O. Box 92700, Bellevue, WA 98009-2037.

Person or Organization Proposing Rule, and Whether Public, Private or Governmental: Board of trustees, Bellevue Community College District VIII, public.

Institution Comments or Recommendations, if any: None.

Rule Necessary as Result of Federal Law or Federal or State Court Action: No.

### AMENDATORY SECTION (Amending Order 61, filed 9/13/78)

WAC 132H-105-140 DELEGATION OF AUTHORITY FOR HIGHER EDUCATION PERSONNEL LAW - CLASSIFIED PERSONNEL. Be it resolved that the President or his designee, the (~~Executive Assistant to the President and Director of Personnel~~) Dean of Student Programs and Personnel Services, is hereby delegated the power and duty of the Board of Trustees to act in its behalf as the appointing authority of the college for the purpose of the Higher Education Personnel Law. This delegation shall include but not be limited to the authority to employ, dismiss, suspend, demote, lay off, reassign or accept the resignations of members of the classified staff. In addition, the President or his designee, the (~~Executive Assistant to the President and Director of Personnel~~) Dean of Student Programs and Personnel Services, is hereby delegated such authority as is necessary to effectuate the administration of the classified personnel; provided that all contracts between recognized bargaining agents of classified personnel and Bellevue Community College shall be valid only after those contracts have received the approval of the Board of Trustees. The President of the college or his designee, the (~~Executive Assistant to the President and Director of Personnel~~) Dean of Student Programs and Personnel Services, may be delegated the authority to negotiate on behalf of the Board of Trustees, but in no event shall the President or his designee, the (~~Executive Assistant to the President and Director of Personnel~~) Dean of Student Programs and Personnel Services, be authorized to bind contractually the college in any agreement with a recognized bargaining agent of the classified staff.

### WSR 88-07-090

#### ADOPTED RULES

### LIQUOR CONTROL BOARD

[Order 243, Resolution No. 252—Filed March 22, 1988]

Be it resolved by the Washington State Liquor Control Board, acting at the Offices of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1025 East Union Avenue, Olympia, WA 98504, that it does adopt the annexed rules relating to License designations, chapter 314-22 WAC, new section WAC 314-22-010 Non-retail licenses—License designations.

This action is taken pursuant to Notice No. WSR 88-05-007 filed with the code reviser on February 8, 1988. 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 Washington State Liquor Control Board as authorized in RCW 66.08.030.

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 March 22, 1988.

By L. H. Pedersen  
Chairman

### Chapter 314-22 WAC LICENSE DESIGNATIONS

#### WAC

314-22-010 Nonretail licenses—License designations.

#### NEW SECTION

WAC 314-22-010 NONRETAIL LICENSES—LICENSE DESIGNATIONS. The license designation for licenses authorized under chapter 66.24 RCW which are considered to be nonretail licenses are hereby established as follows:

(1) A manufacturer's license as authorized by RCW 66.24.150 shall be known as a "N1" license.

(2) A distiller's license as authorized by RCW 66.24.150 and having a fee of \$2,000 shall be known as a "N2" license.

(3) A distiller's license for a commercial chemist having a fee of \$20 as authorized by RCW 66.24.140 shall be known as a "N3" license.

(4) A distiller's license for fruit and/or wine having a fee of \$200 as authorized by RCW 66.24.140 shall be known as a "N4" license.

(5) A liquor importer's license as authorized by RCW 66.24.160 shall be known as a "N5" license.

(6) An agent's license as authorized by RCW 66.24.310 shall be known as a "N6" license.

(7) A duty free exporter's license as authorized by RCW 66.24.530 shall be known as a "NS" license.

(8) A brewer's license as authorized by RCW 66.24.170 shall be known as a "B1" license.

(9) A beer wholesaler's license as authorized by RCW 66.24.250 shall be known as a "B2" license.

(10) A beer certificate of approval license for use by in-state beer importers and importers of foreign beer shall be known as a "B3" license.

(11) A beer importer's license as authorized by RCW 66.24.260 shall be known as a "B4" license.

(12) A beer certificate of approval license for use by brewers located outside the state of Washington as authorized by RCW 66.24.270 shall be known as a "B5" license.

(13) A domestic winery license as authorized by RCW 66.24.170 shall be known as a "W1" license.

(14) A wine wholesaler's license as authorized by RCW 66.24.200 shall be known as a "W2" license.

(15) A wine importer's license as authorized by RCW 66.24.204 shall be known as a "W3" license.

(16) A wine certificate of approval license for use by in-state wine importers and importers of foreign wine as authorized by RCW 66.24.206 shall be known as a "W4" license.

(17) A bonded wine warehouse license as authorized by RCW 66.24.185 shall be known as a "W5" license.

(18) A grower's license as authorized by RCW 66.24.520 shall be known as a "W6" license.

(19) A wine certificate of approval license for use by out-of-state wineries as authorized by RCW 66.24.206 shall be known as a "W7" license.

(20) A CCI-1 license as authorized by RCW 66.24.395 shall be known as a "C1" license.

(21) A CCI-2 license as authorized by RCW 66.24.395 shall be known as a "C2" license.

(22) A CCI-3 license as authorized by RCW 66.24.395 shall be known as a "C3" license.

(23) A CCI-4 license as authorized by RCW 66.24.395 shall be known as a "C4" license.

## WSR 88-07-091

### PROPOSED RULES

### LIQUOR CONTROL BOARD

[Filed March 22, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Liquor Control Board intends to adopt, amend, or repeal rules concerning Credit on nonliquor food items—Conditions—Record keeping, amending WAC 314-12-145;

that the agency will at 9:30 a.m., Tuesday, April 26, 1988, in the Offices of the Liquor Control Board, Capital Plaza Building, 5th Floor, 1025 East Union Avenue, Olympia, WA 98504, 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 chapter 50, Laws of 1988, SB 6578.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 26, 1988.

Dated: March 21, 1988

By: L. H. Pedersen

Chairman

### STATEMENT OF PURPOSE

Title: WAC 314-12-145 Credit on nonliquor food items—Conditions—Record keeping.

Description of Purpose: The rule is being written to implement SB 6578 which allows wholesalers to extend credit on bottled water and carbonated beverages. This bill was enacted as chapter 50, Laws of 1988, by the legislature with an emergency clause and was signed by the governor and became effective March 15, 1988.

Statutory Authority: Chapter 50, Laws of 1988, (i.e. SB 6578).

Statutes Implemented by the Rule: Chapter 50, Laws of 1988, (i.e. SB 6578).

Summary of Rule: The current rule allows wholesalers to extend credit on food products "as defined in RCW 82.08.0293." That statute specifically excludes bottled waters and carbonated beverages from the definition of food.

Reasons Supporting Proposed Action: This amendment is a housekeeping measure to make the rule consistent with the statute. Senate Bill 6578 added bottled waters and carbonated beverages to the list of permissible items on which credit could be extended.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing, and enforcing this rule: Janice Lee Britt, Supervisor, Manufacturers, Importers and Wholesalers Division, Capital Plaza Building, Olympia, Washington 98504, phone (206) 753-6273.

Person or Organization Proposing Rule: The Washington State Liquor Control Board.

Necessity of Rule: This rule was made necessary as a result of state law (chapter 50, Laws of 1988) as explained above.

Small Business Economic Impact Statement: No negative cost impact is expected for this rule amendment.

### AMENDATORY SECTION (Amending Order 218, Resolution No. 227, filed 6/23/87)

WAC 314-12-145 CREDIT ON NONLIQUOR FOOD ITEMS—CONDITIONS—RECORD KEEPING. (1) Notwithstanding the provisions of WAC 314-12-140, persons licensed under RCW 66.24.200 as wine wholesalers and persons licensed under RCW 66.24.250 as beer wholesalers may sell at wholesale nonliquor food products ((as defined in RCW 82.08.0293)) on thirty days credit terms to persons licensed as retailers under this title. Complete and separate accounting records shall be maintained on all sales of nonliquor food products to ensure that such persons are in compliance with RCW 66.28.010.

(2) Nonliquor food products include all products for human consumption as defined in RCW 82.08.0293 as it exists on July 1, 1987, except that for the purposes of this rule bottled water and carbonated beverages, whether liquid or frozen, shall be considered food products.

(3) For the purpose of this rule, the period of credit is calculated as the time elapsing between the date of delivery of the product and the date of full legal discharge of the retailer, through the payment of cash or its equivalent, from all indebtedness arising from the transaction.

((3)) (4) If the board finds in any instance that any licensee has violated this section by extending or receiving credit in excess of the thirty days as provided for by this section, then all licensees involved shall be held equally responsible for such violation.

**WSR 88-07-092**  
**PROCLAMATION NO. 88-02**  
**OFFICE OF THE GOVERNOR**

Twin Rivers Corrections Center has been designated as the site of the Department of Corrections Sex Offender Treatment Program. A change in the capacity is needed in anticipation of the increasing numbers of sex offenders requiring placement at this facility. In order to assist the state in responding to this condition, it is necessary that the Department of Corrections be authorized to increase the population ceiling at Twin Rivers Corrections Center by 10 percent (50 beds) in excess of the rated capacity of the facility.

Now, therefore, I Booth Gardner, Governor of the State of Washington, do hereby declare, pursuant to RCW 72.12.160, that an emergency exists with respect to the classification needs and number of inmates currently in the custody of the Department of Corrections, and further that the Department of Corrections is authorized to increase the population limitation at the Twin Rivers Corrections Center and to house up to 550 prisoners at that facility for a period not to exceed one (1) year from the date the Department exceeds the present rated capacity of the facility, unless this Proclamation shall have been rescinded.

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  
18th day of March, nine-  
teen hundred and eighty-  
eight.

Booth Gardner

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

**WSR 88-07-093**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF WILDLIFE**  
[Filed March 22, 1988]

The Department of Wildlife hereby withdraws the proposed adoption of WAC 232-28-711, 1988 Spring bear season.

The CR-1 was filed February 17, 1988, Notice No. WSR 88-05-065.

Jack Smith, Chief  
Wildlife Management Division

**WSR 88-07-094**  
**PROPOSED RULES**  
**BOARD OF REGISTRATION**  
**FOR PROFESSIONAL ENGINEERS**  
**AND LAND SURVEYORS**

[Filed March 22, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Registration for Professional Engineers and Land Surveyors intends to adopt, amend, or repeal rules concerning amending WAC 196-04-030, 196-12-010, 196-12-085, 196-16-007 and 196-20-010; and adding new section WAC 196-04-025;

that the agency will at 9:00 a.m., Friday, May 13, 1988, in the Sea-Tac Marriott, City Suite, 3201 176th Street, Seattle, WA 98188, 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 18.43.035.

The specific statute these rules are intended to implement is RCW 18.43.035.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 12, 1988.

Dated: March 17, 1988

By: Rick Notestine  
Acting Registrar

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Board of Registration for Professional Engineers and Land Surveyors.

Purpose: To define the powers and duties of the board incidental to its regulation of professional engineers, engineers-in-training, and professional land surveyors; define the duties of the chief executive (registrar) of the board; and provide that all applications be sent to the registrar of the board at the board's official address.

Statutory Authority: RCW 18.43.035.

Summary of the Proposed Rules: WAC 196-04-025, defines powers and duties of the board to hire and evaluate board staff, and establish policies and procedures pertinent to the board's operation; WAC 196-04-030, amends the duties and qualifications of the registrar; WAC 196-12-010, to tell where applications must be sent and how often a new application must be filed; WAC 196-12-085, to have corporations or joint stock associations file with the registrar at the board's official address; WAC 196-16-007, to tell where applications must be sent and how often a new application must be filed; and WAC 196-20-010, is amended to tell with whom and where applications must be filed.

Reasons Proposed: To more clearly define the powers and duties of the Washington State Board of Registration for Professional Engineers and Land Surveyors and to enhance the ability of the board to serve this public.

Responsible Personnel: In addition to the board and its registrar, the following individuals have knowledge of and responsibility for drafting, implementing, enforcing

and repealing these rules: Alfred E. Byrne, P.E., Chairman, Jerry C. Olson, P.E., P.L.S., Roy A. Avent, P.E., Robert D. Cray, P.L.S., Wesley Taft, P.E., Wilho Williams, P.E. and Charles Salina, P.E.; Acting Registrar: Rick Notestine, P.L.S.; Board address and telephone: Washington State Board of Registration for Professional Engineers and Land Surveyors, Quince Street Building, P.O. Box 9649, Olympia, Washington 98504, (206) 753-3634.

Proponents of the Proposed Rule: The Washington State Board of Registration for Professional Engineers and Land Surveyors.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal law or of federal or state court action.

Small Business Impact Statement: A small business economic impact statement is not required for this statement.

#### NEW SECTION

WAC 196-04-025 BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS—POWERS AND DUTIES. Pursuant to RCW 18.43.035, the board of registration for professional engineers and land surveyors shall have the following powers and duties incidental to its regulation of professional engineers, engineers-in-training, and professional land surveyors. Such powers shall include, but not be necessarily limited to, the following:

(1) The board shall have the exclusive power to hire its registrar, subject to the provisions of chapter 41.06 RCW. The board shall also have the exclusive power to review the performance of its registrar, subject to the provisions of chapter 41.06 RCW, on a regular basis, but in any event at least once every twelve months.

(2) The board or its registrar shall hire, subject to the provisions of chapter 41.06 RCW, such other employees as may be necessary to carry out its responsibilities under the law.

(3) The board and its registrar shall prepare its operating budget in a manner consistent with state law and any applicable rules, procedures, and guidelines from the office of financial management. Consistent with rules, policies, and/or guidelines of the office of financial management, the board shall also oversee the spending of budgeted funds for budgeted board tasks.

(4) The board shall determine the physical location of its files, papers, records, and other equipment used by the board to implement its responsibilities under chapter 18.43 RCW.

(5) The board shall determine the appropriate form and content of all forms and correspondence used by the board, pursuant to its duties under chapter 18.43 RCW.

(6) The board shall be responsible for all aspects of any examination which the board is required or authorized to administer under chapter 18.43 RCW.

(7) The board may designate an official mailing address for official correspondence directed to the board, its registrar, or any other board employee.

(8) The board may contract with the department of licensing for any services required to be provided by the board under chapter 18.43 RCW.

#### AMENDATORY SECTION (Amending Order PL 512, filed 1/31/85)

WAC 196-04-030 CHIEF EXECUTIVE OF THE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS—DUTIES, QUALIFICATIONS. (1) The chief executive of the staff of the board of registration for professional engineers and land surveyors, (~~hereinafter~~) referred to in this chapter as the "registrar," shall have the following duties:

(a) Setting policy (~~for the daily~~) supervising and directing all work related activities of board employees including but not limited to clerical work of receiving and processing applications, complaints, investigations and general correspondence;

(b) Reviewing the performance of all board employees, who shall be under the direction and control of the registrar. Such review shall be in accordance with the provisions of chapter 41.06 RCW, and any rules

adopted thereto, and shall be performed on a regular basis, but at least once every year;

(c) Overseeing the examination and grading process, including personnel and site selection;

~~((c))~~ (d) Directing investigations of violations or alleged violations of all laws applicable to the practice of professional engineering and land surveying;

~~((d))~~ (e) Directing the preparation of the board's budget and the monitoring of expenditures;

~~((e))~~ (f) Scheduling, preparation and minute-keeping of board meetings;

~~((f))~~ (g) Maintaining liaison with other state board of engineering examiners in order to be conversant with the laws, policies and procedures of other states, so as to facilitate reciprocity provisions of chapter 18.43 RCW;

~~((g))~~ (h) Performing other duties, as may from time to time be required; ~~and~~

~~((h))~~ (i) Making the initial review of all applications, renewals, and other general correspondence received by the board; and

(j) Performing duties requested by the board.

(2) The registrar of the state board of registration for professional engineers and land surveyors shall possess the following minimum qualifications:

(a) Said registrar shall hold a valid registration, issued pursuant to chapter 18.43 RCW, as a professional engineer in the state of Washington.

(b) Said registrar shall possess at least three years of supervisory experience satisfactory to the board.

(3) Said registrar shall report solely and directly to the board; and all board employees shall report solely to the registrar of the board.

#### AMENDATORY SECTION (Amending Order PM 606, filed 6/4/87)

WAC 196-12-010 APPLICATIONS. All applications shall be sent to the registrar of the board, at the board's official address, on forms provided by the board. The deadline for receipt of applications properly filled out and accompanied by the application fee is four months before the date of the examination. Verification of the applicant's claimed experience must be in the board office three months before the date of the examination. Applications received after the deadline will be held for consideration for a later examination. Lack of verification of experience will also cause the application to be held for a later examination. Those who have previously taken the examination and failed or those who qualified and did not appear for the examination are required to notify the board office in writing three months before the next examination which they intend to take.

#### AMENDATORY SECTION (Amending Order PL 454, filed 1/25/84)

WAC 196-12-085 CORPORATION OR JOINT STOCK ASSOCIATIONS. Corporations or joint stock associations shall file with the registrar at the board's official address:

(1) A letter of application containing a brief statement of the corporation's origin, activities, and principals. Said letter should also state the type, or types, of engineering practiced, or to be practiced by such corporation. Type or types are limited to the branches currently being issued by the board. Application shall be signed and attested by a corporate officer.

(2) The application for certificate of authorization shall state the experience of the corporation, if any, in furnishing engineering services during the preceding five year period and state the experience of the corporation, if any, in the furnishing of all feasibility and advisory studies made within the state of Washington.

(3) A certified copy of a resolution of the board of directors of the corporation which shall designate a person holding a certificate of registration under this chapter as responsible for the practice of engineering by said corporation in this state and shall provide that full authority to make all final engineering decisions on behalf of said corporation with respect to work performed by the corporation in this state shall be granted and delegated by the board of directors to the person so designated in said resolution: PROVIDED, That the filing of such resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract. The designated engineer responsible for the practice of engineering by said corporation shall be a full-time employee of the corporation. Full-time employee is defined

as an individual whose main place of business and major income is derived from said corporation. No individual will be the designated engineer at more than one place of business or one company at any one time.

(4) A designation in writing setting forth the name or names of a person or persons holding certificates of registration under this chapter who shall be in responsible charge of each project and each major branch of the engineering activities in which the corporation shall specialize in this state. The engineers in charge of major branch or project shall be full-time employees of the corporation. Full-time employee is defined as an individual whose main place of business and major income is derived from said corporation. No individual will be an engineer in charge of branch or project at more than one place of business or company at any one time. In the event there shall be a change in the person or persons in responsible charge of any project or major branch of the engineering activities, such changes shall be designated in writing and filed with the board within thirty days after the effective date of such changes.

(5) A certified copy of the section of the bylaws of the corporation containing provisions that all engineering decisions pertaining to any project or engineering activities in this state shall be made by the designated engineer in responsible charge named in the resolution of the board of directors.

(6) A current certified financial statement accurately reflecting the financial condition of the corporation. Certification shall be by an officer of the corporation or a public accountant.

(7) The professional records of the designated person or persons under subsection (3) (~~above~~) of this section who shall be in responsible charge of all the engineering activities of the corporation.

(8) A copy of the articles of incorporation as filed with the secretary of state for the state of Washington and bearing his acceptance stamp.

(9) A copy of the corporation bylaws and any revisions to the bylaws, that may affect the ability of the designated engineer to make all engineering decisions as set forth in subsection (5) (~~above~~) of this section.

(10) In the case of change or increase in the engineers named as being in responsible charge (subsection (3) (~~above~~) of this section), a certified copy of a resolution of the board of directors of the corporation which shall designate said person or persons shall be filed with the board within thirty days after the effective date of such changes. The professional history of newly named engineers will also be required.

(11) Application fee as determined by the director of the department of licensing.

**AMENDATORY SECTION** (Amending Order PM 606, filed 6/4/87)

WAC 196-16-007 APPLICATIONS. All applications must be filed with the registrar at the board's official address. The deadline for receipt of a properly completed application accompanied by the required application fee is four months prior to the date of the examination. Response from applicant's references must be in hand three months before the date of the examination. Applications received after the deadline will be held for consideration for a later examination. Late responses from references will also cause the application to be held for consideration for a later examination. Those who have previously taken the examination and failed or those who qualified and did not appear for the examination are required to notify the board office in writing three months before the examination which they intend to take. A new application is not required where an applicant has taken the previous examination and failed or has filed and failed to appear for the previous examination. However, a new complete application is required every five years after approval by the board until registration in Washington state is obtained.

**AMENDATORY SECTION** (Amending Order PL 454, filed 1/25/84)

WAC 196-20-010 APPLICATIONS. All applications must be filed with the registrar at the board's official address. The deadline for properly completed applications accompanied by the statutory fee is four months prior to the date of the examination. Applications received after the deadline will be held for consideration for a later examination.

Official transcripts of college record, if not attached to the application, shall be forwarded to the board office as soon as they are available.

**WSR 88-07-095**

**ADOPTED RULES**

**DEPARTMENT OF LICENSING**

[Order PFT 88-003—Filed March 22, 1988]

I, Theresa Anna Aragon, director of the state of Washington Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to motor vehicle fuel tax, chapter 308-72 WAC; new sections WAC 308-72-502, 308-72-504, 308-72-506, 308-72-508 and 308-72-512; and amendatory section WAC 308-72-540.

This action is taken pursuant to Notice No. WSR 88-04-029 filed with the code reviser on January 27, 1988. 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 Licensing as authorized in RCW 82.36.435.

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 March 21, 1988.

By Theresa Anna Aragon  
Director

**NEW SECTION**

WAC 308-72-502 SALE OF DISTRIBUTION AT WHOLESALE. "Sale or distribution at wholesale" includes all sales or distributions of motor vehicle fuel owned or controlled by a distributor, from bulk storage or from a fuel delivery vehicle owned or controlled by him/her, to two or more of his/her own retail service stations, where no change of title or ownership occurs. This is the same standard used in RCW 82.04.270 for imposition of business and occupation tax levied on wholesalers and distributors.

**NEW SECTION**

WAC 308-72-504 BONA FIDE WHOLESALE MERCHANT. "Bona fide wholesale merchant" for purposes of licensure as a distributor under chapter 82.36 RCW, means any person whose sales or distribution of motor vehicle fuel at wholesale, regardless of whether there is a change in title or ownership of the fuel, constitute a substantial, as distinguished from incidental, sporadic or infrequent part of his/her total volume of motor vehicle fuel sales or distributions in any given month. Provided: No part of one's sales or distributions from a retail service station may be considered to qualify one as a "bona fide wholesale merchant" to qualify as a "distributor" for purposes of RCW 82.36.010(3), regardless of whether there were wholesale sales or distributions from a retail service station.

**NEW SECTION**

WAC 308-72-506 APPLICATION FOR DISTRIBUTOR'S LICENSE. Application for motor vehicle

fuel distributor license shall be made to the department on forms furnished by the department, and shall be accompanied by a fee of ten dollars and the bond or security required by RCW 82.36.060.

The application form shall include the following: (1) Name of applicant.

(2) Physical business address.

(3) Mailing address if different from the business address.

(4) Federal Identification Number or Social Security Number.

(5) Washington Department of Revenue registration number.

(6) Information as to type of business organization, i.e., individual, partnership or corporation, and related information.

(7) Information as to whether the applicant or its principals, partners, or corporate officers, or share holders holding 50% or more of its shares, are currently or have previously been licensed in Washington as distributors.

(8) Tax liability information.

(9) Names of suppliers.

(10) Place where records may be examined.

(11) A declaration signed by the applicant or authorized representative that the statements contained in the application are true and correct.

The information in the application is subject to disclosure to the Internal Revenue Service.

The Department may send an investigator to the business site to verify information contained in the application, and to examine the facilities of the applicant.

#### NEW SECTION

WAC 308-72-508 REQUIREMENTS TO QUALIFY FOR A MOTOR VEHICLE FUEL DISTRIBUTOR LICENSE. To qualify for a motor vehicle fuel distributor license the applicant must: (1) Meet the definition of a distributor as defined in RCW 82.36.010(3); and

(2) Have made application for the distributor license on forms furnished by the department; and

(3) Have paid the required filing fee of ten dollars; and

(4) Have furnished the bond or security required in RCW 82.36.060; and

(5) Be registered with the Secretary of State, if required by law; and

(6) Be registered to do business in the state; and

(7) Have facilities for the safe and proper storage and handling or delivery of motor vehicle fuel; and

(8) Have provided a Federal Identification Number (FIN) or Social Security Number (SSN).

#### NEW SECTION

WAC 308-72-512 CANCELLATION OF DISTRIBUTOR'S LICENSE. A distributor license may be cancelled by the director under the following circumstances. (1) Upon written request of the distributor, such cancellation to be come effective sixty days from the

date of receipt of the written request of such distributor for cancellation thereof.

(2) Upon investigation and sixty days notice if the director ascertains and finds that the person to whom the license is issued is no longer engaged in the business of a distributor, and has not been so engaged for the period of six months prior to such cancellation. A licensee whose sales or distributions of motor vehicle fuel at wholesale constitutes less than a substantial part of his/her total volume of sales during a consecutive six month period, as disclosed by the licensee's monthly fuel tax reports, is considered no longer engaged in the business of a distributor, and the distributor license must be cancelled as provided in RCW 82.36.190.

(3) Upon failure to file a new bond or to make deposits (cash) in accordance with RCW 82.36.060, when surety requests to be released or discharged.

(4) Upon failure to file new or additional surety bond or to deposit additional securities within thirty days after being requested to do so by the department.

#### AMENDATORY SECTION (Amending Order 107MV, filed 9/10/71)

WAC 308-72-540 TAX EXEMPT TRANSACTIONS. (1) Exports. Exemption from the motor vehicle fuel tax may be claimed when a licensed distributor delivers motor vehicle fuel:

(a) To a customer at a point outside the state by means of equipment owned and operated or completely controlled by the licensed distributor.

(b) To a common or contract "carrier" for transportation to a destination outside the state under a bill of lading or a shipping contract that definitely establishes that the Washington licensed distributor claiming the export actually and, in fact, retains title to and control over said fuel until actual delivery to its destination out of the state of Washington.

(c) To another Washington licensed distributor at a destination outside the state. The delivering distributor shall claim exemption by reason of export and shall report such transactions in the same manner as an export to any other customer.

(d) To another Washington licensed distributor at a destination outside this state following a receipt from another licensed distributor in this state. The licensed distributor receiving the fuel in this state shall be deemed the exporter.

(e) To a buyer in an individual quantity of 500 gallons or less for export by the buyer provided that the licensed distributor is also licensed in and agrees to pay the applicable fuel tax to the state, territory or country of destination.

(f) Into the transportation equipment of a buyer or a common or contract carrier employed by the buyer if the buyer transports the fuel to a location in a foreign nation.

(2) United States armed forces and National Guard. Exemption from the motor vehicle fuel tax may be claimed when a licensed distributor delivers motor vehicle fuel:

(a) To the United States armed forces or National Guard under a government bill of lading for the express

purpose of exportation from the state by the armed forces or National Guard.

(b) Into the fuel tanks of ships operated by the United States armed forces or National Guard and bearing armed forces or National Guard identification names or numbers.

(c) Into the storage facilities of the United States armed forces or National Guard maintained exclusively for the purpose of fueling ships.

(d) Within the state in accordance with a credit or courtesy card issued to the United States armed forces or National Guard by a licensed distributor provided that a delivery is made into the fuel tanks of ships operated by the United States armed forces or National Guard.

(e) No exemptions shall be granted for motor vehicle fuel sold to contractors acting as agents of the United States armed forces or National Guard for use in the performance of contracts with the United States armed forces or National Guard.

(3) ~~((Deliveries))~~ Sales or distributions to other licensed distributors. Exemption from the motor vehicle fuel tax may be claimed when a licensed distributor delivers motor vehicle fuel to another Washington licensed distributor in this state except no sale or distribution of motor vehicle fuel from one licensed distributor to another licensed distributor may be made free of motor vehicle fuel tax where the sale or distribution is a withdrawal of motor vehicle fuel for delivery to a retail service station or to unlicensed bulk storage. No exemption from motor vehicle fuel tax may be claimed where a sale or distribution is a withdrawal of motor vehicle fuel for delivery to a retail service station or to unlicensed bulk storage.

## WSR 88-07-096

### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed March 23, 1988]

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 concerning use of slaughter tag, WAC 16-620-240; fees for identifying paper tags used by custom farm slaughterers or custom meat facilities, WAC 16-620-260; and repealing WAC 16-620-265;

that the agency will at 1:00 p.m., Wednesday, April 27, 1988, in the Meeting Room of Washington Cattlemen's Association, 1720 Canyon Road, Ellensburg, WA 98926, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 4, 1988.

The authority under which these rules are proposed is chapter 16.57 RCW.

The specific statute these rules are intended to implement is RCW 16.57.160.

Dated: March 23, 1988

By: Mike Willis  
Assistant Director

## STATEMENT OF PURPOSE

Title: Increase in fee for custom farm slaughter tags.

Description of Purpose: To increase the fee for custom farm slaughter tags from a total of one dollar to one dollar and fifty cents per tag.

Specific Statute Rule is Intended to Implement: RCW 16.57.160.

Statutory Authority: Chapter 16.57 RCW.

Summary of Rule: The rule provides that only the Department of Agriculture will furnish the tags required to identify the ownership of custom farm slaughtered cattle and establishes the cost per tag.

Reasons Supporting Proposed Action: The revenue received from the sale of tags is used to employ an investigator who enforces the laws and rules pertaining to custom slaughtering, livestock identification and theft prevention. The cost of producing the tags has increased to the point where a fee increase is necessary in order to maintain this position.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mike Willis, Assistant Director, Washington State Department of Agriculture, Livestock Services Division, 406 General Administration Building, Olympia, WA 98504, (206) 753-5065.

Person or Organization Proposing Rule, and Whether Public, Private, or Governmental: Washington State Department of Agriculture, Livestock Services Division.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

Whether Rule is Necessary as Result of Federal Law or Federal or State Court Action: No.

Small Business Economic Impact Statement: None.

### AMENDATORY SECTION (Amending Order 1590, filed 6/29/79)

WAC 16-620-240 SLAUGHTER TAG. Any person licensed as a custom farm slaughterer shall, in lieu of mandatory brand inspection, complete and attach an official department of agriculture paper slaughter tag to each of the four quarters of all slaughtered cattle handled by that slaughterer. These tags must remain on the quarters until the quarters are cut and wrapped. The department will maintain a surveillance and enforcement program to assure compliance with these ~~((regulations))~~ regulations.

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

### AMENDATORY SECTION (Amending Order 1590, filed 6/29/79)

WAC 16-620-260 FEE. Only the department of agriculture will provide the identifying paper tags, referred to in WAC 16-620-240 and 16-620-250, to licensed custom farm slaughterers or custom ~~((cutting and wrapping))~~ meat facilities. The fee for each set of four paper tags ~~((will not exceed the actual cost to the department of producing and supplying the tags and enforcing these regulations. For the purposes of these regulations, the actual cost of producing and supplying the tags is twenty cents per set. The department will provide identifying paper tags, to licensed custom farm slaughterers or custom cutting and wrapping facilities, to identify slaughtered hogs at the actual cost of producing and supplying the tags, which is established at twenty cents per set.))~~ shall be one dollar and fifty cents.

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-620-265 Actual costs for enforcement and surveillance established.

**WSR 88-07-097**  
**PROPOSED RULES**  
**BOARD OF PHARMACY**  
 [Filed March 23, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pharmacy intends to adopt, amend, or repeal rules concerning:

Amd WAC 360-13-066 Pharmaceutical services.  
 Amd WAC 360-36-425 Schedule II immediate precursors;

that the agency will at 1:30 p.m., Thursday, April 28, 1988, in the Cavanaugh's Inn at the Part, Finch Room, W303 North River Street, 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 18.64.005(11).

The specific statute these rules are intended to implement is RCW 18.64.005(11) and 69.50.201.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 28, 1988.

Dated: March 23, 1988

By: John H. Keith

Assistant Attorney General

**STATEMENT OF PURPOSE**

Name of Agency: Washington State Board of Pharmacy.

Summary, Purpose of Rule and Reason Proposed: WAC 360-13-066 would permit extended care facilities to use certain bulk stock nonlegend drugs as authorized by WAC 388-88-050; and WAC 360-36-425 would designate lead acetate and methyl formamide as substances as the immediate precursor of a Schedule II controlled substance which should be controlled to prevent, curtail or limit manufacture of illegal controlled substances.

Statutory Authority: RCW 18.64.005(11) for WAC 360-13-066; and RCW 69.50.201 for WAC 360-36-425.

Responsible Agency Personnel: The board and the executive secretary of the board have responsibility for drafting, implementing and enforcing these rules. The executive secretary is Donald H. Williams, 319 East 7th Avenue, W.E.A. Building, FF-21, Olympia, Washington 98504, phone (206) 753-6834.

Proponents of the Proposed Rules: Washington State Board of Pharmacy.

Federal Law or State or Federal Court Requirements: These rules are not necessitated as a result of federal law or state or federal court action.

Small Business Economic Impact Statement: Not necessary since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

AMENDATORY SECTION (Amending Order 161, filed 6/30/81)

WAC 360-13-066 PHARMACEUTICAL SERVICES. (1) Administration of pharmaceutical services.

(a) There shall be provision for timely delivery of drugs and biologicals from a pharmacy so a practitioner's orders for drug therapy can be implemented without undue delay.

(b) Unless the nursing home operates a licensed pharmacy and employs a director of pharmaceutical services, the nursing home shall have a written agreement with one or more licensed pharmacists who provide for pharmaceutical consultant services. The staff pharmacist or consultant pharmacist supervises the entire spectrum of pharmaceutical services in the nursing home.

(c) There shall be a pharmaceutical services committee whose membership includes at least a staff or consultant pharmacist, a physician, the director of nursing or his/her designee, and the administrator or his/her designee. The pharmaceutical services committee develops and maintains written policies and procedures for safe and effective drug therapy, distribution, control, and use which are current and followed in practice.

(d) Reference material regarding the use of medication, adverse reactions, toxicology, and poison control center information shall be available to facility staff.

(e) There shall be procedures established for the reporting and recording of medication errors and adverse drug reactions.

(2) A staff pharmacist of consultant pharmacist shall be responsible for coordinating pharmaceutical services which include:

(a) Provision of pharmaceutical services evaluations and recommendations to the administrative staff.

(b) On-site reviews to ensure that drug handling and utilization procedures are carried out in conformance with recognized standards of practice.

(c) Regularly reviewing each resident's therapy to screen for potential or existing drug therapy problems and documenting recommendations.

(d) Provision of drug information to the nursing home staff and physicians as needed.

(e) Planning and participating in the nursing home staff development program.

(f) Consultation regarding resident care services with other departments.

(3) Security and storage of drugs.

(a) The nursing home shall store drugs under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security as defined by regulation and accepted standards of practice.

(b) All drugs shall be stored in locked cabinets, rooms, or carts, and shall be accessible only to personnel licensed to administer or dispense drugs.

(c) Schedule III controlled substances shall be stored apart from other drugs on a separate shelf or in a separate compartment or cabinet, provided, however, Schedule III controlled substances may be stored with Schedule II controlled substances. Schedule III controlled substances can be stored with other drugs when distributed in a unit dose drug distribution system.

(d) Drugs for external use shall be stored apart from drugs for internal use, on a separate shelf or in a separate compartment or cabinet. Any shelf, compartment, or separate cabinet used for storage of external drugs shall be clearly labeled to indicate it is to be used for external drugs only.

(e) At all times, all keys to drug boxes, cabinets, and rooms shall be carried by persons legally authorized to administer drugs and on duty on the premises.

(f) If a supplemental dose kit within a unit dose drug distribution system is provided it must comply with WAC 360-13-030.

(g) If an emergency kit is provided, it shall comply with Washington state board of pharmacy regulations WAC 360-13-010 and 360-13-020.

(4) Labeling of drugs.

(a) The label for each legend drug which is not dispensed in a unit dose shall have the name and address of the pharmacy from which the drug was dispensed; the prescription number; the physician's name; the resident's full name; the date of issue; the initials of the dispensing pharmacist; the name and strength of the drug; a controlled substances schedule, if any; the amount (e.g., number of tablets or cc's) of the drug dispensed, and the expiration date. In the case of a compounded drug which contains Schedule II or III controlled substances, the quantity of each controlled substance per cc or teaspoonful shall be shown on the label.

(b) In a unit dose drug distribution system, a clear, legible label shall be printed or affixed securely to each unit dose package. Each unit dose drug label shall include: the name, strength and, for each unit dose package, the dosage amount of the drug; the expiration date for any time-dated drug; the lot or control number; and controlled substances schedule number, if any. Each individual drug compartment shall be labeled with the full name of the resident whose drug the compartment contains and the name of the resident's physician.

(c) Nonlegend drugs shall be clearly labeled with at least the patient's name, date of receipt by the facility, as well as display a manufacturer's original label or a pharmacy label if repackaged by the pharmacist. Nonlegend drugs supplied by the extended care facility pursuant to WAC 388-88-050 need not be labeled with the patient's name.

(d) A label on a container of drugs shall not be altered or replaced except by the pharmacist. Drug containers having soiled, damaged, incomplete, or makeshift labels shall be returned to the pharmacy for relabeling or disposal. Drugs in containers having no labels or illegible labels shall be destroyed.

(5) Control and accountability.

(a) The nursing home shall maintain and follow written procedures which provide for the accurate control and accountability of all drugs in the nursing home.

(b) No drugs may be returned from the nursing home to a pharmacy except as provided in paragraph (4)(d) or if the drug is returned in unopened unit dose packages.

(c) Drugs shall be released to a resident upon discharge only on specific written authorization of the attending physician. A receipt containing information sufficient to document the drug's destination, the person who received the drug, and the name and quantity of drugs released shall be entered in the resident's health record.

(d) All of an individual resident's drugs including Schedule III, IV and V controlled substances, that are discontinued by the physician and remain unused, shall be destroyed by a licensed nurse employee of the nursing home in the presence of a witness within 90 days after having been discontinued, and accurate records of destruction maintained except from drugs which are sealed in unit dose packages.

(e) Outdated, unapproved, contaminated, deteriorated, adulterated, or recalled drugs shall not be available for use in the nursing home.

(f) Except in the case of Schedule II controlled substances and drugs which are sealed in unit dose packages, drugs which remain in the nursing home after the patient has died or been discharged, and drugs in containers with illegible or missing labels, shall be immediately and irretrievably disposed of by a licensed nurse employee in the presence of a witness and proper records maintained of such disposal. Destruction of Schedule II drugs shall be handled in accordance with (6)(g). Unit dose packages may be returned to the pharmacy.

(6) Special requirements for controlled substances.

(a) All Schedule II controlled substances shall be stored in separately keyed and locked secure storage within a drug facility.

(b) Schedule III controlled substances shall be stored apart from other drugs and may be stored on a separate shelf, drawer, or compartment with Schedule II controlled substances.

(c) There shall be a record book for Schedule II and Schedule III controlled substances which shall be a bound book with consecutively numbered pages in which complete records of receipt and withdrawal of Schedule II and III controlled substances are maintained.

(d) At least once each 24 hours, the amount of all Schedule II controlled substances stored in the facility shall be counted by at least two persons who are legally authorized to administer drugs. A similar count shall be made of all Schedule III controlled substances at least weekly. Records of counts shall be entered in the Schedule II and III controlled substances book(s).

(e) When a resident is discharged, a record of release for any Schedule II or III controlled substances released shall be entered on the appropriate page for the given drug in the controlled substances record book.

(f) Any discrepancy in actual count of Schedule II or III controlled substances and the record shall be documented in the Schedule II or III controlled substances books and reported immediately to the responsible supervisor who shall investigate the discrepancy. Any discrepancy which has not been corrected within seven calendar days shall be reported to the consultant pharmacist and the Washington state board of pharmacy.

(g) Discontinued Schedule II controlled substances and all Schedule II controlled substances which remain after the discharge or death of residents shall:

(i) Be destroyed at the nursing home within 30 days by a registered pharmacist and the director or nursing or a registered nurse designee with appropriate documentation maintained, or

(ii) Be destroyed at the nursing home by a representative of the Washington state board of pharmacy if so requested by the board or the nursing home.

(h) A nursing home may establish procedures which vary from those paragraphs (6)(a)(g) if they are using a unit dose drug distribution system and if that system provides for the accurate accounting, by the nursing home and the supplying pharmacy, of the receipt and disposition of all Schedule II and III controlled substances.

(7) Drug administration.

(a) Staff shall follow written procedures which provide for the safe handling and administration of drugs to residents.

(i) Drugs shall be administered only by persons licensed to administer drugs.

(ii) The resident shall be identified prior to administration.

(iii) All drugs shall be identified up to the point of administration.

(c) Drugs shall be prepared immediately prior to administration and administered by the same person who prepares them except under a unit dose system.

(d) Drug administration shall be documented as soon as possible after the act of administration, and shall include:

(i) Verification of administration

(ii) Reasons for ordered doses not taken

(iii) Reasons for administration of, and response to drugs given on and as needed basis (PRN).

(e) Drug orders shall be received only by a licensed nurse and administered only on the written or verbal order of a practitioner. Verbal orders shall be signed by the prescribing practitioner in a timely manner.

(f) The self-administration of medication program shall provide evidence of:

(i) Assessment of the resident's capabilities

(ii) Instructions for administration

(iii) Monitoring of progress and compliance with orders

(iv) Safe storage of drugs.

#### AMENDATORY SECTION (Amending Order 211, filed 3/2/88)

WAC 360-36-425 SCHEDULE II IMMEDIATE PRECURSORS. (1) The board finds and designates the following substances as being the principal compound used or produced primarily for use and which are an immediate chemical intermediary used or likely to be used, in the manufacture of a schedule II controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(2) Unless specifically excepted or listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances or their salts or isomers having potential for abuse associated with the preparation of controlled substances shall be a schedule II controlled substance.

(a) Anthranilic acid.

(b) Ephedrine.

(c) Methylamine.

(d) Phenylacetic acid.

(e) Pseudoephedrine.

(f) Methamphetamine.

(g) Lead acetate.

(h) Methyl formamide.

((Except t)) PROVIDED: That any drug or compound containing Ephedrine, or any of its salts or isomers, or Pseudoephedrine, or any of its salts or isomers, that are prepared for dispensing or over-the-counter distribution and are in compliance with the federal food, drug and cosmetic act and applicable regulations are not controlled substances for the purpose of this section; AND PROVIDED FURTHER That any cosmetics containing lead acetate that is distributed in compliance with the federal food, drug and cosmetic act and applicable regulations are not controlled substances.

**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 88-07-098**  
**PROPOSED RULES**  
**WASHINGTON STATE UNIVERSITY**  
 [Filed March 23, 1988]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Washington State University intends to adopt, amend, or repeal rules concerning Washington State University campus parking and traffic regulations:

- New WAC 504-17-025 Applicability of parking regulations to government vehicles.
- Amd WAC 504-17-220 Enforcement—Fines.
- Amd WAC 504-17-235 Enforcement—Accumulated violations, wheel lock, wheel lock fees, towing;

that the institution will at 4:00 p.m., Tuesday, April 26, 1988, in the Compton Union Building, Room 212, Washington State University, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 6, 1988.

The authority under which these rules are proposed is RCW 28B.10.560 chapters 28B.19 and [28B.]30 RCW.

The specific statute these rules are intended to implement is RCW 28B.10.560.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution before 5:00 p.m., April 26, 1988.

Written or oral submissions may also contain data, views and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

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 meeting.

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:

John Shaheen  
 Safety Building  
 Washington State University  
 Pullman, WA 99164-7300  
 (509) 335-9666

Dated: March 21, 1988

By: John Shaheen  
 Manager, Parking Services

**STATEMENT OF PURPOSE**

Purpose of the Rule Change: WAC 504-17-025, to support the implementation of policies regulating the parking of government vehicles on the WSU campus; and WAC 504-17-235 and 504-17-220, to deter parking violators, and to pass a larger share of parking enforcement costs on to parking violators. NOTE: One violation deemed to be too severe for the offense is being reduced.

Reason this Rule is Necessary: WAC 504-17-025, the increased presence of government vehicles on campus

requires clarification of the rules controlling the parking of those vehicles; and WAC 504-17-235 and 504-17-220, greater deterrence is needed to discourage parking violators. At the same time enforcement costs have increased to a level no longer covered adequately by current fine revenues.

Statutory Authority: RCW 28B.10.560.

Summary of Rule Change: WAC 504-17-025 will allow the university to develop and implement policies regulating the parking of government vehicles on the WSU campus. WAC 504-17-235 and 504-17-220 will reduce the number of parking violations eligible for the 1/2 price reduction if paid within 24 hours; add a \$35.00 fine for vehicles impounded by wheellock; add a \$5.00 charge for violations that have not been paid within 45 days of issuance; and reduce the fine for the improper display of a parking permit to \$3.00.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: John Shaheen, Manager, Parking Services, Safety Division, Safety Building, Washington State University, Pullman, Washington 99164-7300.

Rule Proposed By: Division of Safety, Washington State University, an institution of higher education and an agency of the state of Washington.

NEW SECTION

WAC 504-17-025 APPLICABILITY OF PARKING REGULATIONS TO GOVERNMENT VEHICLES. (1) Government-owned vehicles shall be subject to all provisions relating to permits and fines except as provided in subsection (2) of this section. Government vehicles from nonuniversity agencies which are parked on an occasional basis on campus are eligible for visitors' permits. See WAC 504-17-160. University vehicles based on the Pullman campus or at university extension facilities located off campus may use special government permits charged on a daily, monthly or annual basis. These permits may be obtained from parking services. Government permits may not be used in private vehicles.

(2) The following vehicles shall be exempt from permit and enforcement provisions:

(a) University-owned vehicles operated by service personnel performing services vital to the operation and welfare of the university, including physical plant and housing and food service maintenance vehicles and equipment service vehicles.

(b) Emergency vehicles, including ambulances, fire department equipment and police vehicles.

(c) Other classifications of vehicles may be exempted under this subsection by filing a petition with parking services. The parking manager, with the advice of the traffic control subcommittee of the university planning committee, shall approve or disapprove applications for exemption.

AMENDATORY SECTION (Amending Order 86-1, filed 9/10/86)

WAC 504-17-220 ENFORCEMENT—FINES. (1) Schedule of fines: Parking violations will be processed by the university. Fines must be paid at university parking services in the safety building at the following rates:

- (a) Meter violation \$ 5
- (b) Overtime in time zone \$ 5
- (c) No transferable pool permit \$ 10
- (d) No parking permit \$ 15
- (e) No parking permit for this area \$ 10
- (f) No parking zone \$ 10
- (g) Improper ((parking)) display \$ ((+0))  
3
- (h) No 3 a.m.—6 a.m. parking \$ 10
- (i) Blocking traffic \$ 15
- (j) Handicap (disability) zone \$ 25
- (k) Fire zone \$ 25

- (l) Parking in reserved area \$ 25
- (m) Illegal use or alteration of permit \$ 50
- (n) All other parking violations \$ 10
- (o) Display of lost or stolen permit \$100

(p) Wheel lock fee (see WAC 504-17-235) \$ 35

~~(2) Reduction of fines: ((Except for (m) illegal use or alteration of permit and (o) display of lost or stolen permit, fines relating to the display of a lost or stolen permit, all)) Fines for violations (a) and (b) paid within 24 hours will be reduced by one-half. Eligible violations received on Friday or Saturday can be paid on Monday to satisfy the 24-hour requirement. Mailed fines must be postmarked within 24 hours to receive the one-half reduction. If a permit holder of record neglects to display ((their)) his/her permit and received a notice of violation for (d) no parking permit, that fine will be reduced to \$3.00 when possession of a valid parking permit is verified by the permit holder within 24 hours.~~

(3) Visitors: The first violation of the notices listed in WAC 504-17-220(d) (no parking permit) and (e) (no parking permit for area) issued to visitors are considered warning notices upon presentation to parking services office.

(4) Failure to pay fines: Forty-five days after issuance of a notice of violation a \$5 charge shall be added to all unpaid parking violations. If a student or staff member fails to pay the fine assessed for any violation, the fine will be referred to the controller's office for collection. The controller may, if other collection efforts fail, deduct outstanding fines from the salary warrants of employees or withhold the amount of the outstanding fines from damage deposits or other funds held for any student in order to secure payment. When collection efforts are unsuccessful, the controller may notify the registrar to refrain from issuing student transcripts or to withhold permission to reenroll for a subsequent term until outstanding fines are paid. The procedures discussed above are not exclusive, however, and failure to pay fines may lead to towing or use of the wheel-lock device described in these regulations. Nor are the procedures discussed above a precondition to towing or use of the wheel lock.

~~((5) Fine for display of lost or stolen permit. The fine for the display of a lost or stolen permit will be \$100.))~~

**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 86-1, filed 9/10/86)

WAC 504-17-235 ENFORCEMENT—ACCUMULATED VIOLATIONS, WHEEL LOCK, WHEEL LOCK FEES, TOWING.  
(1) Any vehicle with an accumulation of three or more unpaid parking violations or any vehicle displaying a lost or stolen permit may be temporarily immobilized by use of a wheel lock device placed on a wheel. A \$35 fee will be assessed on vehicles which are immobilized with a wheel lock.

(2) Any vehicle may be towed away if the vehicle:

- (a) Has been immobilized by wheel lock more than 24 hours; or
- (b) Is illegally parked in a marked tow-away zone; or
- (c) Is a hazard or obstruction to vehicular or pedestrian traffic (including, but not limited to, vehicles parked in yellow curb zones or crosswalks); or

(d) Cannot be impounded with a wheel lock device.

~~((2))~~ (3) The driver and/or owner of a towed vehicle shall pay towing and storage expenses. Any vehicle immobilized by use of the wheel lock device in excess of 24 hours in a location where towing away is impossible or impractical will be assessed a storage fee of \$5.00 for each calendar day or portion thereof, beyond the first 24 hours. The university assumes no responsibility in the event of damages resulting from towing, use of wheel lock devices, storage, or attempts to move a vehicle with a wheel lock device installed. No vehicle impounded by towing or wheel lock device shall be released until the following fines are paid:

- (a) All unpaid parking violation penalties against said vehicle;
- (b) A \$35 wheel lock fee;
- (c) All towing and storage fees.

Any vehicle impounded pursuant to these regulations in excess of 30 calendar days shall be considered an abandoned vehicle and shall be disposed of in accordance with chapter 46.52 RCW. A person wishing to challenge the validity of any fines or fees imposed under this subsection may appeal such fines or fees as elsewhere provided in these regulations. However, in order to secure release of the vehicle, such

person must pay the amount of such fines or fees as a bond which may be refunded after a successful appeal.

~~((2))~~ (4) An accumulation of six unpaid violations during any 12-month period, exclusive of meter violations, overtime in time zone violations, and no transferable pool permit violations, will subject the violator to revocation or denial of parking privileges. Vehicles without permits which accumulate the above number of violations will be prohibited from parking on university property.

#### WSR 88-07-099

#### NOTICE OF PUBLIC MEETINGS CONVENTION AND TRADE CENTER (Design Committee)

[Memorandum—March 22, 1988]

#### NOTICE OF DESIGN COMMITTEE MEETING

The Design Committee of the Washington State Convention and Trade Center will meet on will on Wednesday, April 6, 1988, at 11:30 a.m., at the Plymouth Congregational Church, Room 221, 1217 Sixth Avenue, in downtown Seattle.

#### NOTICE OF REGULAR BOARD MEETING

The regular meeting of the board of directors of the Washington State Convention and Trade Center will be held at 3:00 p.m., on the same date and at the same location.

#### WSR 88-07-100

#### PROPOSED RULES

#### DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 23, 1988]

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 this notice proposes to amend sections in Washington Administrative Code, chapter 296-15 WAC, Rules and regulations for self-insured employers, and chapter 296-18A WAC, Rehabilitation review. WAC 296-15-020 changes certain requirements for certification; WAC 296-15-022 changes parent ownership requirements; WAC 296-15-023 clarifies ownership requirements of entities included in certification; WAC 296-15-030 adjusts surety requirements; WAC 296-15-065 deletes limitation of terms for board members; WAC 296-15-070 incorporates a procedure on rehabilitation outcome report; WAC 296-15-170 clarifies procedures for handling changes in certification status; WAC 296-15-190 updates reporting requirement for occupational disease; WAC 296-15-215 clarifies time frames for communicating pension orders; WAC 296-15-250 makes attorney general's appearance in self-insured appeals permissive instead of mandatory; WAC 296-18A-445 and 296-18A-500 outline procedures to ensure compliance with rehabilitation laws and rules;

that the agency will at 10:00 a.m., Tuesday, April 26, 1988, in the First Floor Conference Room, General Administration Building, 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 June 1, 1988.

The authority under which these rules are proposed is RCW 51.04.020(1).

The specific statute these rules are intended to implement is chapter 51.14 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 26, 1988.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

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:

Douglas Connell  
Self-Insurance Administrator  
General Administration Building, HC-221  
Olympia, Washington 98504  
phone (206) 753-3677

Dated: March 23, 1988

By: Joseph A. Dear  
Director

#### STATEMENT OF PURPOSE

Title and Number of Rule Chapter(s): Chapter 296-15 WAC, Rules and regulations for self-insured employers; chapter 296-18A WAC, Rehabilitation review; WAC 296-15-020 Application; 296-15-022 Corporate guarantee; 296-15-023 Entities included in certification; 296-15-030 Posting of security; 296-15-065 Self-insurers insolvency trust; 296-15-070 Accident reports and claims procedures; 296-15-170 Cessation of business; 296-15-190 Notification of rights and obligations; 296-15-215 Cash, bond, or assignment of account; 296-15-250 Representation in self-insured appeals; 296-18A-445 Self-insured reports; and 296-18A-500 Self-insurers.

Statutory Authority: RCW 51.04.020.

Specific Statutes that Rules are Intended to Implement: Chapter 51.14 RCW.

Summary of the Rules: These proposals will clarify and update certification and reporting requirements for self-insurers. WAC 296-15-020, change certain requirements for certification; WAC 296-15-022, change parent ownership requirement; WAC 296-15-023, clarify ownership requirements of entities included in certification; WAC 296-15-030, adjust surety requirements for self-insurers; WAC 296-15-065, delete limitation of terms for board members; WAC 296-15-070, incorporate a procedure on rehabilitation outcome report; WAC 296-15-170, clarify procedures for handling changes in

certification status; WAC 296-15-190, update reporting requirement for occupational disease to comply with RCW; WAC 296-15-215, clarify time frames for communicating pension orders; WAC 296-15-250, make attorney general's appearance in self-insured employer appeals permissive instead of mandatory; WAC 296-18A-445, outline procedures for self-insurers to ensure compliance with rehab laws and rules; and WAC 296-18A-500, outline procedures for self-insurers to ensure due process in vocational issues.

Reasons Supporting the Proposed Rules: To further define the initial certification requirements and continuing financial reporting requirements and claims management procedures for self-insurers.

Agency Person Responsible for Drafting, Implementation and Enforcement of the Rules: Douglas Connell, Self-Insurance Administrator, 1011 Plum Street S.E., Olympia, Washington 98504, phone (206) 753-3677.

Name of the Person or Organization Whether Private, Public, or Governmental that is Proposing the Rules: Department of Labor and Industries.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation and Fiscal Matters Pertaining to the Rules: None.

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

Any Other Information that may be of Assistance in Identifying the Rules or Their Purpose: None.

Small Business Economic Impact Statement: This statement pertains to revisions in chapters 296-15 and 296-18A WAC, proposed by the Department of Labor and Industries to become effective July 1, 1988, and is prepared to conform with sections 3(2) and 4 of the Regulatory Fairness Act (chapter 6, Laws of 1982). The proposed rule revisions pertain to employers and groups who self-insure their workers' compensation benefit obligations. Small businesses seldom qualify as self-insurers because they lack the extensive financial resources and long term continuity of operation which are prerequisites for self-insurance. Therefore, the rules have negligible direct impact on small businesses.

#### AMENDATORY SECTION (Amending Order 86-25, filed 7/1/86)

WAC 296-15-020 APPLICATION. (1) The application for certification to self-insure will be made only by those firms who have been in business for a minimum of ((3)) three years, on a form prescribed by the department which will elicit necessary information as to an employer's qualifications for self-insurance.

(2) The application shall be supplied by the department to an employer upon the employer's request. It shall be completely and accurately filled out by the employer, and forwarded, with all necessary supporting documents, to the director.

(3) The director shall consider all matters relating to the applicant's qualifications to perform as a self-insurer, and shall advise the employer of the action taken on the application ((within a reasonable period of time and in no instance less than 21 calendar days)) thirty days before the requested certification date. If deemed necessary for obtaining further information, the director may extend the time for acting on the application. ((If certification is denied due to lack of evidence of a safety program, the firm shall be denied reconsideration for one full quarter. The firm may then request certification during the second quarter after denial.)) Employers who are denied certification due to deficient accident prevention programs may be required to wait six months before being considered for certification again.

AMENDATORY SECTION (Amending Order 83-22, filed 12/1/83, effective 1/1/84)

WAC 296-15-022 CORPORATE GUARANTEE. If the applicant employer is a subsidiary, the parent firm will furnish the department with its guarantee to assume and be responsible for the workers' compensation liabilities of the subsidiary in the event the subsidiary firm is unable or unwilling to cover these liabilities. ((This guarantee also applies to self-insured accounts that are purchased or acquired by another firm and remain in the self-insured program.)) If a self-insurer is purchased by another firm, which becomes its parent, the parent must provide the department with its most recent audited financial statement and its guarantee. This guarantee is to be on a form prescribed by the department. A parent firm is defined as one which owns fifty percent, and has a controlling interest in, another firm.

AMENDATORY SECTION (Amending Order 86-25, filed 7/1/86)

WAC 296-15-023 ENTITIES INCLUDED IN CERTIFICATION. (1) The certification of a firm will include all of its subsidiaries or divisions doing business in the state of Washington. A subsidiary is defined, for the purpose of this rule, as an entity which is ((more than 50%)) fifty percent owned and has its interest controlled by another single firm.

(2) One certificate will be issued to an approved self-insurer, including all subsidiaries or divisions. The entities will be considered as one employer for all purposes of Title 51 RCW.

AMENDATORY SECTION (Amending Order 87-02, filed 2/9/87)

WAC 296-15-030 POSTING OF SECURITY. Subsections (1), (2), (3), and (4) of this section shall apply only to individual self-insurers except counties, cities, school districts, municipal corporations, and individual accounts participating in a group self-insurance program. Subsection (6) of this section shall apply only to counties, cities, municipal corporations, and school districts not participating in a group self-insurance program. Group self-insurance programs are subject to reserve requirements set forth in WAC 296-15-02601(3) and 296-15-02605, in lieu of application of this section.

(1) Upon receiving a completed application for certification to self-insure, the director shall review the matter and notify the employer of the amount of security which must be deposited to secure the payment of compensation and assessments, pursuant to RCW 51.14.020 as now or hereafter amended. This amount as so established may be satisfied by the employer's supplying of money, corporate or governmental securities approved by the director, or a surety bond, written by a company admitted to transact surety business in this state, in favor of the department. All such securities of a self-insurer shall be deposited with an escrow agent appointed by the director and administered pursuant to a written agreement between the department, the self-insurer and the escrow agent. Securities shall be registered in the name of the escrow agent on behalf of the self-insurer. The original of all surety bonds submitted by self-insurers following approval by the director and the attorney general will be kept on file in the department.

(2) On or after July 1, 1985, the minimum amount of security required for initial certification as a self-insurer shall be the projected average cost of a permanent total ((pension)) disability claim for an injury occurring during the first year after the employer's self-insuring, including medical, time-loss, pension reserve, and any other miscellaneous claim costs paid prior to award of the pension. This average cost shall be calculated by the department on an annual basis.

The security required for initial certification as a self-insurer on or after July 1, 1985, may be greater than the minimum amount described above. In establishing such security requirements, the department shall estimate the following amounts:

(a) The estimated amount of accident and medical aid fund premium that the self-insurer would have paid to the state fund during the first year of self-insurance, if it had remained in the state fund.

(b) The estimated amount of incurred benefits for the first year of self-insurance, based on past experience with the state fund, adjusted for intervening changes in benefit schedules and exposure.

If either or both of the above amounts exceed the minimum security deposit described in this section, the department may require the larger of (a) or (b) of this subsection as a security deposit for initial certification as a self-insurer on or after July 1, 1985.

(c) The initial surety requirement for a self-insurer may be based on an estimate of the expected average annual incurred losses, made by an independent actuary.

(d) The initial surety requirement for a self-insurer may be based upon an estimate of the expected average annual incurred losses, net of expected payments during the first year, made by an independent actuary; provided:

(i) That the applicant self-insurer agrees in writing to provide the department with an estimate of the outstanding liability made by an independent actuary within sixty days of the end of each calendar year of certification, through the first full three years of self-insurance; and

(ii) That the applicant self-insurer agrees in writing that if an estimate from an independent actuary is not provided as indicated in (d) of this subsection, the department, each year, will automatically increase the self-insurers' surety requirement by the amount of its average annual incurred losses estimated at the time of certification.

The security required in accordance with the above procedures may be adjusted by the department if there are other known conditions which may alter the self-insurer's potential claim costs and/or its ability to pay them.

(3) The amount of security required of each self-insurer shall be reviewed periodically by the director to determine if there is need for any increase or decrease thereof. To facilitate this review a self-insurer's annual report (SIF #7) shall be required in the form prescribed by the director and supplied to all self-insurers.

Security requirements in effect on, or initially established after, July 1, 1985, shall not be increased unless and until one or more of the following conditions are met:

(a) An estimate of the self-insurer's outstanding claim liabilities, made by either the self-insured employer or the department, exceeds the amount of security in force; or

(b) The projected average cost of a permanent total pension claim for an injury in the current year, including medical, time-loss and any other miscellaneous claim costs paid prior to award of the pension, exceeds the security in force for the employer by one hundred thousand dollars or more.

(4) The following procedure shall apply for purposes of updating security requirements:

(a) On July 1, 1985, the security requirement for each self-insurer shall be the larger of the following two amounts:

(i) The existing security in force for the self-insurer; or  
(ii) The self-insurer's stated estimate of outstanding claim liabilities as shown on the 1984 self-insurer's annual report (SIF #7).

(b) On July 1, 1986, the security requirement for each self-insurer shall be the larger of the following amounts:

(i) The existing security in force for the self-insurer; or  
(ii) The average of the self-insurer's stated estimate of outstanding claim liabilities as shown on the 1985 self-insurer's annual report (SIF #7) and the department's estimate of the self-insurer's outstanding claim liabilities as of December 31, 1985, made in accordance with provisions of (e) of this subsection; or  
(iii) The minimum security requirement.

(c) On July 1, 1987, the security requirement for each self-insurer shall be the larger of the following amounts:

(i) The existing security in force for the self-insurer; or  
(ii) The department's estimate of the self-insurer's outstanding claim liabilities as of December 31, 1986, made in accordance with provisions of (e) of this subsection; or  
(iii) The minimum security requirement.

(d) After July 1, 1987, the security requirement for each self-insurer will be subject to review and increased or decreased at such times as the director deems necessary to maintain the adequacy of those requirements. Such review and adjustment, when made, shall be performed in accordance with provisions of (e) of this subsection.

(e) In establishing or adjusting security requirements for a self-insurer, the department may perform a runoff test of the adequacy of the employer's estimates of liabilities, by tracking the subsequent cost of claims (subsequent payments plus the employer's updated estimates of remaining liabilities). If the subsequent costs do not exceed original liability estimates, the employer's most recent estimates of claim liabilities shall be considered adequate for purposes of setting current security requirements for the employer.

If the runoff test shows that subsequent costs of claims exceed the employer's original estimates of outstanding liabilities, the department may apply a loss development factor to the employer's most recent estimates of claim liabilities to compensate for anticipated repetition of inadequate estimates. The loss development factor shall be based on the self-insured employer's experience.

The following special considerations shall apply in establishing or adjusting security requirements for a self-insurer:

(i) Pension claims – Reserve amounts attributable to death or permanent total disability claims independently secured by means of a surety bond or assignment of account, and which are included in estimates of outstanding claim liabilities as shown on the self-insurer's annual report (SIF #7), shall be deducted from estimates of outstanding claim liabilities made in accordance with other provisions of this section.

(ii) Reinsurance – Anticipated recoveries under reinsurance policies held by a self-insurer must be documented by the self-insurer and reported to the department to qualify for consideration in establishing security requirements. Such anticipated recoveries shall be applied to either the self-insurer's estimate of outstanding claim liabilities as shown on the most current self-insurer's annual report (SIF #7) or the department's estimate of the self-insurer's outstanding liabilities made in accordance with (e) of this subsection, whichever is greater. If the resulting estimate of claim liabilities net of reinsurance recoveries is less than the security requirements imposed by this section without adjustment for reinsurance, the security requirement shall be reduced accordingly; provided, that security requirements imposed upon initial certification of a self-insurer or based upon the projected average cost of a permanent total pension claim may be retained by the department regardless of other estimates of claim liabilities for the self-insurer.

(iii) Strict application of loss development factors based upon the runoff test presumes a consistency of reserving methodology and results for the self-insurer. If the department determines that an employer has changed its reserving methodology in such a way as to invalidate loss development factors based upon past experience, then the department shall make such adjustments to the procedure as it may deem appropriate under the circumstances.

(iv) The department will give full consideration to any evaluation of the self-insured employer's outstanding claim liabilities made by an independent qualified actuary. Such independent actuarial evaluations are optional and not required by this rule.

(f) Any changes to existing bonds and/or adjustments to bond amounts made by or required of a self-insurer on or after July 1, 1985, shall provide adequate security for all self-insured workers' compensation liabilities of the employer, regardless of when the claims giving rise to those liabilities were incurred. Changes contemplated by this subsection include, but are not limited to, designation of a new surety carrier, issuance of a replacement bond by a current surety carrier, and/or revision of the face amount of any bond whether by endorsement or issuance of a replacement bond. If a new surety carrier does not assume full responsibility for all past self-insured liabilities regardless of when incurred, the department may require that such liabilities be secured by other means.

(5) A self-insurer's annual report (SIF #7) shall be required of group self-insurance plans, in the form prescribed by the director and supplied to all group self-insurance plans.

(6) On January 1, 1987, the security requirement for counties, cities, school districts, and municipal corporations shall provide for sufficient revenues to satisfy one hundred percent of the estimated claims for the succeeding fiscal year. The county, city, school district, or municipal corporation shall provide a cumulative reserve fund comprised of governmental securities, surety bonds, or any legal source of funding, equal to no less than twenty-five percent of the estimated claims payments for the succeeding fiscal year, to satisfy unforeseen claims obligations: PROVIDED, That the minimum security requirement shall be one hundred thousand dollars. If a jurisdiction's cumulative reserve fund as of the effective date of this section is not at the required level, it shall annually increase the amount of such fund by no less than one-fourth of the difference between the amount of such fund as of January 1, 1987, and the required level of such cumulative reserve fund.

By February 1 of each year, each county, city, school district, or municipal corporation shall certify in writing to the department, the security requirements, specifying the source, or sources, of revenues including securities, bonds, anticipated insurance recoveries, or other moneys. A copy of the officially adopted budget that sets forth the fund or funds, and the accounts as required by the state auditor's budget accounting reporting system to meet the minimum security requirement, expenses, and liabilities of industrial insurance shall be available to the department. Security requirements for governmental units shall be subject to an annual review by the department.

#### AMENDATORY SECTION (Amending Order 86-40, filed 11/24/86)

WAC 296-15-065 SELF-INSURERS' INSOLVENCY TRUST. (1) For the purpose of interpretation of this section, the term "insolvent self-insurer" means a self-insurer who has defaulted upon any obligation under Title 51 RCW, and with respect to which default the director has taken action authorized by RCW 51.14.060.

(2) A self-insurance insolvency fund shall be established in the office of the state treasurer. The purpose of this fund shall be to pay, to the injured workers of insolvent self-insured employers under Title 51 RCW, any unsecured benefits to which such injured workers had become entitled, and to pay for the department's associated administrative costs, including attorneys' fees.

(3) This fund shall be financed by assessment, as follows: (a) Assessments shall be levied on a post-insolvency basis against all self-insurers, including any of which have surrendered certification at any time during the thirty-six months prior to the close of a quarter for which assessments to the insolvency fund are payable: PROVIDED, HOWEVER, That school districts, cities and counties are exempt from assessment(s) to finance such self-insurers' insolvency fund: PROVIDED, FURTHER, That school districts, cities and counties shall not have their obligations discharged, in full or in part, with moneys from said self-insurers' insolvency fund; (b) each assessment shall be a percentage of the payments made on all claims involving the self-insured employer; (c) assessments shall be levied on a quarterly basis as prescribed by the board of trustees established in this section; (d) assessments shall be payable each quarter, by the thirtieth day following the notice of assessment.

(4) The administration of an insolvent self-insurer's claims shall be the responsibility of the department until the security deposit as required by RCW 51.14.020 and/or the recovery from any court action concerning the self-insurer's workers' compensation liabilities have been exhausted.

(5) Establishing self-insurance insolvency fund assessment rates and administering the claims of insolvent self-insurers upon depletion of remedies for reimbursement of workers' compensation expenditures made by the department as specified under subsection (4) of this section shall be the responsibility of a five-member board of trustees, under the general supervision of the department's self-insurance section.

(6) Assessments for the self-insurers' insolvency fund shall be in amounts deemed adequate to reimburse the accident, medical aid and/or pension reserve funds for benefits paid from these funds to injured workers of insolvent self-insurers, and for associated administrative costs, including attorneys' fees. Any and all interest earned on assessments levied and collected by the board of trustees shall become a part of the self-insurers' insolvency fund, and be distributed only for the purposes for which the fund was established.

(7) The board of trustees shall be comprised of the director or the director's designee, three representatives of self-insured employers, and one representative of workers. Initially and thereafter, the director shall appoint the self-insurer representatives from a list of names submitted by state-wide organizations of self-insurers and others. Initially and thereafter, the director shall appoint the worker representative from a list of names submitted by an organization, state-wide in scope, which through its affiliates embraces a cross section and a majority of the organized labor of the state. Initial appointments shall be made within thirty days of the effective date of this section. Two of the initial appointees shall serve three-year terms, and two shall serve two-year terms. Thereafter, appointed representatives shall serve two-year terms (~~(- PROVIDED, That no representative shall serve more than two consecutive terms)~~). Each representative on the board of trustees shall have one vote.

(8) No later than March 31 of each year, the board of trustees shall report in writing to the workers' compensation advisory committee regarding the status of the insolvency fund as of the previous December 31, and summarize any events or transactions of interest or importance to the ongoing operation of the insolvency fund.

#### AMENDATORY SECTION (Amending Order 86-35, filed 8/28/86)

WAC 296-15-070 ACCIDENT REPORTS AND CLAIMS PROCEDURES. (1) Reporting of accidents shall be on a form prescribed by the department, entitled the self-insurer's accident report (SIF #2), which will be supplied to all self-insurers, and by self-insurers to their employees. Forwarding a completed copy of this form to the department for compensable claims immediately and medical only claims monthly after closing by the self-insured employer shall satisfy

the initial accident reporting responsibility and statistical reporting responsibility under the law.

(2) A self-insurer, on denying any claim, shall provide to the claimant, the department, and the attending physician, within thirty days after such self-insurer has notice of the claim, a notice of denial of claim, substantially similar to the example SIF #4. With every such claim denial a self-insurer shall send to the department all information on which the denial was based.

(3) A self-insurer shall file a complete and accurate supplemental or final report on injury or occupational disease claims resulting in time loss payments, on a form substantially similar to labor and industries Form No. F207-005-000, self-insurer's report of occupational injury or disease, 7-86 (SIF-5) at the following times:

(a) Within five working days following the date the first time loss compensation is paid.

(b) Within five working days following the date the time loss compensation is terminated, reinstated, or the rate thereof changed.

(c) On the date a determination is requested or date temporary disability claim is closed.

(d) On all compensable claims, a rehabilitation outcome report must be submitted with the final SIF #5.

All medical reports and other pertinent information in the self-insurer's possession not previously forwarded to the department must be submitted with the request for all determinations.

(4)(a) A self-insured employer shall, upon notice of an industrial injury, provide the injured worker with the opportunity to file a self-insurer accident report (SIF-2) and shall notify the worker of his/her rights and responsibilities under Title 51 RCW. A completed copy of the self-insurer accident report (SIF-2), with an assigned department claim number, is to be provided to the worker within five working days of the date an injured worker submits the SIF-2 to the employer.

(b) A self-insurer, upon closure of a medical only claim, shall issue an order on a form prescribed by the department entitled self-insurer's claim closure order and notice (LI-207-20), which will be supplied to all self-insurers, and by the self-insurers to their employees, in compliance with reporting responsibilities under the law, a copy of which shall be sent to the attending physician.

The self-insurer shall submit monthly statistical information on medical only claims closed during the month by copy of the accident report (SIF #2).

(c) A self-insurer, upon closure of a temporary disability claim, shall issue an order on a format substantially similar to labor and industries Form No. F207-070-000, self-insured employer's time loss claim closure order and notice, 7-86. The self-insurer shall send a copy of the closing order and final SIF-5 to the claimant and the department at the time of closure of a temporary disability claim.

(d) When the department requests claim information by certified mail, the self-insurer shall submit all information in its possession dealing with the claim in question, within ten working days from the date of receipt of such certified mail.

(e) In any case where the department or the self-insured employer has issued an appealable order on a medical-only claim, all subsequent orders in that claim shall be issued by the department.

(f) When an application for reopening of claim for aggravation of condition is received by a self-insured employer or its authorized representative, it shall be the responsibility of the self-insured employer to forward it to the department within five working days from the date of receipt.

(5) Self-insurers may close temporary disability claims with the date of injury occurring July 1, 1986, through June 30, 1988, and occupational disease claims filed July 1, 1986, through June 30, 1988. Self-insured claims that involve a permanent partial disability, an order issued by the department resolving a disagreement, or return to work with a different employer are not subject to closure by the self-insurer.

AMENDATORY SECTION (Amending Order 75-28, filed 8/29/75, effective 1/1/76)

WAC 296-15-170 CESSATION OF BUSINESS—CHANGE OF STATUS. (1) A self-insurer that proposes to cease doing business entirely, or proposes to cease doing business in Washington, or proposes to dispose of, by sale or otherwise, the controlling interest of the business for which the certificate was issued shall immediately notify the department in writing of such proposed action and shall, upon request, surrender their certificate for cancellation.

(2) A self-insurer that amends its articles, charter or agreement of incorporation, association, copartnership or sole proprietorship so as to change its identity or business structure or in any manner so as to materially alter its status as a self-insured employer as it existed at the time of the issuance of its certificate shall, within thirty days notify the department in writing of such action and provide the department with information regarding any change in the status of such self-insured employer. The department may, at its discretion, ask for copies of any documents deemed necessary regarding such transactions.

(3) When a self-insurer sells, divests, or spins off a part of itself, self-insurance coverage for the separated part ends with the date of separation from the self-insurer. The selling self-insurer must retain liability for claims against the separated part occurring up to the date of the separation. If the separating part desires to be a self-insurer, an application for certification must be received by the department thirty days before the date of certification. If certification cannot be granted before the date of separation, industrial insurance coverage must be purchased effective with the date of separation.

AMENDATORY SECTION (Amending Order 75-28, filed 8/29/75, effective 1/1/76)

WAC 296-15-190 NOTIFICATION OF RIGHTS AND OBLIGATIONS. (1) ~~(Every self-insurer)~~ Self-insurers shall develop and maintain a comprehensive program designed to inform their employees about self-insurance and their rights and obligations. Such a program must include all present employees. Newly hired employees must be thoroughly advised of their industrial insurance rights and obligations ~~(thoroughly)~~ during the first thirty calendar days of employment. The method and manner of advising employees of this program must have the approval of the department.

(2) This program shall include, but not be limited to the following:

(a) An explanation of the employees' industrial insurance rights and obligations.

(b) An explanation of the employer's claim processing system.

(c) A statement telling which employees are covered and under what circumstances coverage is provided.

(d) A complete explanation of the payment of all medical bills and the time loss compensation an injured worker can expect to receive if forced to lose time from work due to an injury, or occupational disease sustained at work ~~(and as well)~~ and an explanation of the method ~~(utilized)~~ used to periodically determine continued time loss certification.

(e) The extent of the coverage provided and the procedure ~~(utilized in)~~ for closing a claim.

(f) An explanation of the law and rules of the department relating to the payment of medical expenses incurred by an on-the-job injury or occupational disease and ~~(as well)~~ the procedure for making an application for reopening a closed claim.

(g) An explanation of the role of the department in claims processing. ~~(Final orders are issued by the department in all cases, and any request for reconsideration of such orders should be directed to the department.)~~ Such explanation shall include a description of the method and manner of requesting reconsideration of department orders and appealing orders of the department to the Board of Industrial Insurance Appeals. Further, the mailing address and phone number of the self-insurance offices shall be made known and available to all employees.

(h) An explanation of the supplemental pension fund assessment and the deduction made for that purpose.

(i) An explanation of the way an injured worker, or someone in his/her behalf, must file a claim. Such an explanation must include the statutory requirement that a claim be filed within one year of the date of the injury or within ~~(one year of knowledge of)~~ two years following the date the worker received written notice from a physician of the existence of an occupational disease and (also) that the injured worker is responsible for filing the claim with his/her employer along with the certification of a licensed physician as stated in RCW 51.28.020.

(j) An explanation of both scheduled and unscheduled permanent partial disability (PPD) awards.

(3) A self-insurer shall designate a person or persons reasonably accessible to ~~(his)~~ the work locations to whom an injured worker or any employee may direct questions about industrial insurance matters. This individual should have sufficient knowledge to answer routine questions and have the responsibility of seeking answers to more complex problems.

AMENDATORY SECTION (Amending Order 85-6, filed 3/1/85)

WAC 296-15-215 CASH, BOND OR ASSIGNMENT OF ACCOUNT ALTERNATIVE FOR DEATH OR PERMANENT TOTAL DISABILITY. An "assignment of account" as used in this rule means a legal instrument executed by a self-insurer and a federally or state chartered commercial banking institution authorized to conduct business in the state of Washington, for the benefit of the department of labor and industries, which accomplishes the following:

(1) Identifies an existing account on deposit with the banking institution in the name of the self-insurer, which account contains an amount no less than the amount deemed by the department to be sufficient to insure the payment of pension benefits required by law for the claim on which the assignment of account is made, above and beyond any and all other existing assignments on that account.

(2) Binds the self-insurer to maintain a balance in that account at least equal to the current present cash value of the pension benefits provided by law on the claim for which the assignment of account is made, above and beyond all other assignments on that account, for the life of the claim. Present cash values shall be revised annually by the department in conjunction with the insurance commissioner's report as prescribed in RCW 51.44.140. Quarterly payments of pension, if made from the assigned account, shall not reduce the account balance below the present cash value last established by the department on the claim.

(3) Authorizes the department of labor and industries, upon default of the self-insurer, in any payment of any obligation on the claim for which the assignment of account has been made, to immediately without notice withdraw from the account without obligation of reimbursement of any amount, up to and including the entire amount specified in the assignment of account document, necessary to implement the cash alternative prescribed in RCW 51.44.070(1).

Upon establishment of a death or permanent total disability obligation, the self-insured employer may elect to pursue the bond or assignment of account alternative outlined in RCW 51.44.070(2). In all such cases, cash, bond or assignment of account, the department shall commence to pay benefits immediately upon issuance of an order establishing such obligation. In the event there is a retroactive payment of benefits in the establishment of such obligation, and the self-insured employer elects to pursue RCW 51.44.070(2), this payment shall be made at the time the employer submits the required cash deposit. All further obligations paid by the department from the pension reserve fund shall be reimbursed to the department by the self-insured through the quarterly report system in accordance with RCW 51.44.070(2). Upon election of RCW 51.44.070(2) the self-insured employer shall submit a bond or assignment of account in the amount deemed by the insurance commissioner to be reasonably sufficient to insure payment of the pension benefits provided by law. Such bond or assignment of account and required cash deposit shall be filed with the self-insurance section no later than sixty days after ~~((establishment))~~ the funding order establishing the amount of the death or permanent total disability obligation was communicated to the parties. The bond or assignment of account alternative as prescribed by RCW 51.44.070(2) shall be allowed only once on any given claim elected at the time of the establishment of such obligation. In the event the amount of the bond is subsequently deemed insufficient and the self-insurer is unable to secure the required bond obligation the employer shall deposit cash into the reserve fund, pursuant to RCW 51.44.070(1), to replace the bond obligation. In the event the amount of the assignment of account is subsequently deemed insufficient and the self-insurer is unable to provide the required assignment of account, the employer shall deposit cash into the reserve fund, pursuant to RCW 51.44.070(1), to replace the assignment of account. Funds available within the existing assignment of account shall, in this instance, be withdrawn by the department, deposited in the reserve fund, and credited toward the employer's obligation for the claim pursuant to RCW 51.44.070(1).

A separate assignment of account shall be established for each pension and, in case of failure of a banking institution carrying an assignment of account, the employer is responsible for the total amount of the obligation. Upon such failure of a banking institution, the self-insured employer shall, within thirty days, 1) establish a new assignment of account pursuant to this rule, or 2) deposit cash into the reserve fund to replace the obligation. If an employer terminates its self-insured status, the assignment of account will be placed with the department. The required reserve will be determined by the insurance commissioner and any excess will be returned to the employer.

AMENDATORY SECTION (Amending Order 83-28, filed 9/1/83)

WAC 296-15-250 REPRESENTATION IN SELF-INSURED APPEALS. ~~((The department has determined that in order to protect its interests and the interests of those parties who are beneficiaries of its orders, the department shall be represented in cases where those orders are appealed to the board of industrial insurance appeals.))~~

Pursuant to the authority granted by RCW 51.52.100, the department ~~((shall))~~ may, through the office of the attorney general, appear in proceedings before the board of industrial insurance appeals to defend any of the department orders appealed to the board of industrial insurance appeals by a self-insured employer ~~((Further, the department may elect to appear and defend the department orders appealed by))~~ or a claimant(s) or ~~((their))~~ beneficiaries when such action is deemed necessary to protect the department's interests. The department shall support medical and other witness fees which, in the department's opinion, are necessary to defend its order.

This rule will apply to appeals filed with the board of industrial insurance appeals on or after the effective date of this rule.

AMENDATORY SECTION (Amending Order 85-20, filed 8/13/85)

WAC 296-18A-445 SELF-INSURED REPORTS. The following reports are required from the self-insurer to be sent to the self-insurance section.

(1) Self-insured rehabilitation referral. A form submitted no later than after paying ninety continuous days of time loss after the initial filing or reopening of a claim. 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) Employability 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 after the initial filing or reopening of a claim. The format for this form will be supplied by the department.

(3) A vocational rehabilitation plan shall be submitted to the self-insurance section by the self-insurer no later than ten calendar days after being signed by the injured worker, vocational rehabilitation provider and the employer. The plan will follow the criteria established in WAC 296-18A-450.

(4) Closing report. Upon completion of a formal program, the self-insurer will submit the closing report to the department. The closing report must follow the criteria as outlined in WAC 296-18A-440(3).

(5) Rehabilitation outcome report. This form is to be submitted ((when all vocational rehabilitation services have been completed)) with the final self-insurer's report on occupational injury or disease (SIF-5). The format for this form will be supplied by the department and applies to all compensable claims.

AMENDATORY SECTION (Amending Order 85-20, filed 8/13/85)

WAC 296-18A-500 SELF-INSURERS. (1) No later than paying ninety continuous days of time loss following the initial filing or reopening of a claim, the self-insurer shall notify the self-insurance section 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-insurance section. The criteria to determine employability will be the same as for the state fund. If the injured worker is determined employable, the self-insurer will submit an employability assessment form which contains objective reasons why the injured worker is employable. Within twenty calendar days of receipt of an employability assessment form, the supervisor's designee within the self-insurance section will inform the self-insurer and the injured worker as to whether or not self-insurers determination of employability is approved. If an employability determination cannot be made due to medical instability, the self-insured shall request an extension by notifying the self-insurance section of the injured worker's condition and when 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. Within ten calendar days of receipt of the vocational plan, the supervisor's designee will inform the self-insurer, the vocational rehabilitation counselor and the injured worker that the plan has been received. A review of the

vocational rehabilitation plan by the supervisor's designee will be initiated upon request by the employer or the injured worker. ~~((The supervisor's designee shall notify the parties within fifteen calendar days of receipt of the results of the review.))~~ Reasons for the review must be stated in writing. A request for a plan review must be made prior to completion or termination of the plan. If necessary, conflict resolution techniques, such as conferences and fact-finding, will be used in order to resolve problems with the plan in as fair and expedient manner as possible. The supervisor's designee shall notify the parties of the plan review results no later than sixty days from the date the request was received.

Disputes of the supervisor's designee's determination must be submitted to the director in accordance with WAC 296-18A-470.

~~((At the))~~ (3) Upon completion of ~~((each case))~~ the formal program, the self-insurer ~~((shall provide))~~ will submit to the self-insurance section ~~((and the office of rehabilitation services a rehabilitation outcome report on a form prescribed by the department))~~ a closing report. Within ten calendar days of receipt of the closing report, the supervisor's designee shall inform the injured worker and employer that vocational services have concluded.

(4) The self-insurer shall provide the self-insurance section with a rehabilitation outcome report on a form prescribed by the department. The rehabilitation outcome report shall be attached to the final self-insurer's report on occupational injury or disease (SIF-5). A rehabilitation outcome report will be submitted on all compensable claims.

### WSR 88-07-101

#### ADOPTED RULES

#### DEPARTMENT OF LABOR AND INDUSTRIES

[Order 88-02—Filed March 23, 1988]

I, Joseph A. Dear, director of the Department of Labor and Industries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to this order amends the effective date of October 1, 1987, in WAC 296-81-008(4) to the correct effective date of December 6, 1987.

This action is taken pursuant to Notice No. WSR 88-04-053 filed with the code reviser on January 29, 1988. 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 70.87.080, [70.87.]090 and [70.87.]100 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 March 23, 1988.

By Joseph A. Dear  
Director

AMENDATORY SECTION (Amending Order 87-21, filed 11/6/87)

WAC 296-81-008 NATIONAL ELEVATOR CODE SUPPLEMENT ADOPTED. (1) The American National Standard Supplement to Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, A17.1-1971, ANSI A17.1a-1972 is hereby adopted as additional standards for compliance in this state for elevators, dumbwaiters, escalators, and moving walks installed from February 25, 1972, through June 30, 1982, and by this reference such standards are incorporated

herein as though fully set forth. Copies of this supplement may be obtained from The American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.

(2) The 1981 edition of ANSI A17.1 is supplemented by the ANSI A17.1a - 1982 supplement for elevators, dumbwaiters, escalators, and moving walks installed on or after March 1, 1984, through January 9, 1986. The 1981 edition of ANSI A17.1 and ANSI A17.1a - 1982 is supplemented by ANSI A17.1b - 1983 for elevators, dumbwaiters, escalators, and moving walks installed on or after December 1, 1984, through January 9, 1986, with the exception of portable escalators covered by Part VIII of ANSI A17.1b - 1983.

(3) The 1984 edition of ANSI A17.1 is supplemented by the ANSI A17.1a - 1985 supplement for elevators, dumbwaiters, escalators, and moving walks installed on or after January 10, 1986.

(4) The 1984 edition of ANSI A17.1 is supplemented by ANSI A17.1b - 1985, ANSI A17.1c - 1986, ANSI A17.1d - 1986, and ANSI A17.1e - 1987 for elevators, dumbwaiters, escalators, and moving walks installed on or after ~~((October 1))~~ December 6, 1987.

### WSR 88-07-102

#### PROPOSED RULES

#### DEPARTMENT OF LABOR AND INDUSTRIES

[Filed March 23, 1988]

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 rules applicable to the administration of retrospective rating plans and group insurance plans chapter 296-17 WAC for workers' compensation insurance underwritten by the Department of Labor and Industries and offered to employers on an optional basis. The proposed rule offers employers or employer groups that have enrolled in retrospective rating programs for coverage periods beginning July 1, 1984, through July 1, 1988, the opportunity to elect to eliminate the required fourth and fifth retrospective premium adjustment under WAC 296-17-916 by giving written notification to the Department of Labor and Industries no later than September 30, 1988. Employer or employer groups that have elected to eliminate the required fourth and fifth annual retrospective premium adjustments may request fourth and fifth annual retrospective premium adjustments as described in WAC 296-17-916 as amended July 1, 1988;

that the agency will at 1:00, Friday, April 29, 1988, in the 1st Floor Conference Room, 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 May 31, 1988.

The authority under which these rules are proposed is RCW 51.04.020(1) and 51.16.035.

The specific statute these rules are intended to implement is RCW 51.16.035.

The agency reserves the right to modify the text of these proposed rules before the public hearing thereon or in response to written and/or oral comments received prior to or during the public 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 proposed rules attached should be addressed to:

Kathy Lanzo  
Group Insurance  
905 Plum Street  
Mailstop: HC-212  
Olympia, WA 98504  
(206) 586-3726

Dated: March 23, 1988

By: Joseph A. Dear  
Director

### STATEMENT OF PURPOSE

**Title and Number of Rule(s) or Chapter:** The proposal for rule change which follow amends chapter 296-17 WAC which is the administrative code comprising the "Manual of rules, classifications, rates, and rating system for Washington state workers' compensation insurance." The proposed rule governs the retrospective rating plans and group insurance plans underwritten by the department, offered to Washington employers on an optional basis.

**Statutory Authority:** RCW 51.04.020(1) and 51.16.035.

**Implementation of Specific Statute:** RCW 51.16.035.

**Description of the Proposed Rule(s):** Offers option: Employer or employer groups that have enrolled for coverage periods beginning July 1, 1984, through July 1, 1988, may elect to eliminate the required fourth and fifth retrospective premium adjustment under WAC 296-17-916 by giving written notification to the Department of Labor and Industries no later than September 30, 1988; and employer or employer groups that have elected to eliminate the required fourth and fifth annual retrospective premium adjustments may request optional fourth and fifth retrospective premium adjustments as described in WAC 296-17-916 as amended July 1, 1988.

**Reasons Supporting Proposed Rule:** Lack of finality of adjustments creates problems in collecting additional premium assessments due; decisions rendered by the board of industrial insurance appeals do not have a binding effect until the final adjustment; and this rule would reduce the number of uncollectable additional premium assessments which occur when firms go out of business.

**Agency Personnel Responsible for Drafting, Implementation and Enforcement of the Rule(s):** Robert McCallister, Assistant Director for Industrial Insurance, 753-5173, Al Spadoni, Assistant Director for Employer Services, 753-5371 and Kathy Lanzo, Group Insurance Manager, 586-3726, General Administration Building, Olympia, Washington 98504.

**Name of Person or Organization Whether Private, Public or Governmental, that is Proposing the Rule(s):** The Department of Labor and Industries.

**Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule(s):** None.

These rules are not proposed to comply with a 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.

**Effect of Proposed Revisions:** RCW 19.85.030, proposed change will not have an impact on 20% of all industries or 10% of one industry.

### NEW SECTION

WAC 296-17-91601 NINETY-DAY OPEN OPTION. Employer or employer groups that have enrolled for coverage periods beginning July 1, 1984, through July 1, 1988, may elect to eliminate the required fourth and fifth retrospective premium adjustment under WAC 296-17-916 by giving written notification to the department of labor and industries no later than September 30, 1988.

Employer or employer groups that have elected to eliminate the required fourth and fifth annual retrospective premium adjustments may request optional fourth and fifth retrospective premium adjustments as described in WAC 296-17-916 as amended July 1, 1988.

### WSR 88-07-103

#### PROPOSED RULES

#### DEPARTMENT OF ECOLOGY

[Filed March 23, 1988]

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:

New	ch. 173-223 WAC	Interim wastewater discharge permit fees.
Amd	ch. 173-222 WAC	Wastewater discharge permit fees.
Amd	ch. 173-220 WAC	National pollutant discharge elimination system permit program.
Amd	ch. 173-216 WAC	State waste discharge permit program.

Chapter 173-223 WAC, Interim wastewater discharge permit fees. RCW 90.48.610 as enacted by the 1987 special session of the Washington state legislature, mandates that beginning July 1, 1988, the Department of Ecology shall charge any person or entity holding a permit under RCW 90.48.160, 90.48.162 or 90.48.260, annual fees to recover "administrative expenses". Administrative expenses means costs incurred by the department in: Processing permit applications and modifications; monitoring and evaluating compliance with permits; conducting inspections; securing laboratory analysis of samples taken during inspections; reviewing required plans and documents directly related to operations of permittees; monitoring compliance with delegated pretreatment programs; and supporting the overhead expenses that are directly related to each of the preceding activities. This initial fee schedule is required for FY 89, and a proposed schedule for use in FY 90 and beyond will be the subject of future rulemaking. The department, in response to this legislative mandate, has developed a permit fee regulation/permit fee schedule,

shown below, that establishes fees based on these administrative expenses for each discharger category. Public hearings are scheduled for April/May with adoption on May 24, 1988.

Chapter 173-216 WAC, State waste discharge permit program; and chapter 173-220 WAC, National pollutant discharge elimination system permit. Minor revisions to reflect the changes made by RCW 90.48.610.

Chapter 173-222 WAC, Wastewater discharge permit fees. Minor revision to clarify the change made by WAC 173-223-120;

that the agency will at 2 p.m. public workshop, 7:00 p.m., Tuesday, April 26, 1988, in the Energy Facility Site Evaluation Council Hearings Room, Building #1, 4224 6th Avenue, Lacey, WA, and at 2 p.m. public workshop, 7:00 p.m., Monday, May 2, 1988, Spokane County Health Auditorium, W. 1101 College, Spokane, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 26, 1988.

The authority under which these rules are proposed is chapter 43.21A RCW.

The specific statute these rules are intended to implement is chapter 90.48 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before 5:00 p.m., May 9, 1988.

Dated: March 23, 1988

By: Phillip C. Johnson  
Deputy Director, Programs

#### STATEMENT OF PURPOSE

Title: Interim wastewater discharge permit fees; state waste discharge permit program; national pollutant discharge elimination system permit; and wastewater discharge permit program.

Description of Purpose: To adopt a fee schedule to recover administrative expenses incurred by the department in the issuance and administration of wastewater discharge permits.

Statutory Authority: RCW 90.48.610.

Specific Statute Rule is Intended to Implement: RCW 90.48.600, 90.48.610 and 90.48.620.

Summary of Rule: To establish a fee schedule as a basis for the Department of Ecology to charge fees to recover administrative expenses incurred in the issuance and administration of wastewater discharge permits.

Reasons Supporting Proposed Action: To obtain resources by administering water quality discharge permits for improving water quality state-wide by enhancing the ability of the Department of Ecology to adequately inspect dischargers into state ground and surface waters and implement water pollution control laws.

Agency Personnel Responsible For Drafting: Beverly Poston, 438-7039; Implementation: Patty Carlton, 459-6211; and Enforcement: Marc Horton, 459-6053; all located at Mailstop PV-11, Olympia.

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: The adoption of the interim wastewater discharge permit fee regulation will provide partial funding for implementation of the Puget Sound water quality management plan and other statewide needs. Future legislation may be requested to increase the \$3.6 million fee revenue ceiling.

Whether Rule is Necessary as a Result of Federal Law or Federal or State Court Action: N/A.

Small Business Economic Impact Statement: Chapter 173-223 WAC, Wastewater discharge permit fees.

The Regulatory Fairness Act, chapter 19.85 RCW, requires that rules which have an economic impact on more than 20% of all industries or more than 10% of the businesses in any one industry be reviewed and altered to minimize their impact upon small businesses. This regulatory proposal has been reviewed in light of that requirement. The conclusions of this review are summarized below.

It should be noted that this analysis only deals with the private sector of the economy. Many wastewater discharge permits are held by cities, counties, sewer districts, water districts, publicly-owned electric utilities, and state government agencies. The impact of the permit fees on these governments is not examined in this analysis. RCW 19.85.040 requires that the costs of complying with the rule for small business be compared to the costs of compliance for large businesses. A small business is defined to be one with 50 or fewer employees. The cost of complying with chapter 173-223 WAC is the fee charged for the wastewater discharge permit.

The intent of the rule, as stated in RCW 90.48.600 and restated in WAC 173-223-015, is for the Department of Ecology to recover the administrative expenses it incurs in issuing wastewater discharge permits by charging fees for the permits. Therefore, the permit fees are chiefly determined by the administrative costs of issuing and administering a permit for the average member of each of the different categories of permit holders.

Since the primary basis on which the fees are calculated is the administrative cost of issuing and administering the permit, it is highly likely that some small businesses will be more heavily impacted by the fees than some large businesses. This is because there is not a direct correlation between the cost of issuing a permit and the company's employment or sales. The cost of issuing a permit to certain types of small businesses could equal or exceed that of issuing one to certain types of large businesses. As long as the permit fees are chiefly determined by ecology's administrative costs, the impact of the fees cannot be made equal for all sizes of businesses.

The permit fees depend on the permitted flow of wastewater, the presence of toxicants, and whether the discharger is a major industry. In general, among permit holders in otherwise similar circumstances, those with higher flows will pay higher fees. Within any particular industry, it is believed that there is at least some positive correlation between flow, administrative costs, and size of the business as measured by sales or employment. Therefore, a certain degree of mitigation of the fees for small businesses has been built into the fee schedule.

Small businesses will tend to have lower flow and thus will tend to pay lower fees. However, because there is no exact correlation between flow and sales or employment, it is nearly certain that there will be cases in which small businesses pay higher fees than larger businesses. This is especially true for small businesses with toxic discharges when compared to larger businesses with no toxic discharges.

It has not yet been possible to obtain data on the actual sales of the individual businesses which will be required to pay permit fees. It is possible that in the near future such data will be obtained. Therefore, in the following analysis, estimates of the impact of permit fees on small and large businesses will be made and compared. The analysis will chiefly use the percentage that the fee is of the permit holder's sales as the measure of the fees' impact.

Data from 1985 County Business Patterns: Washington (U.S. Department of Commerce, Bureau of the Census, 1987) were used to estimate the average fee per employee and the percentage the fee is of average payroll for small and large businesses. In addition, sales and employment data from the 1986/1987 Washington Manufacturers' Register (Times Mirror Press, 1986) were used to estimate the impact of the permit fees on some of the large manufacturers which hold permits. Data from the 1982 Census of Manufacturers: Washington and the 1982 Census of Wholesale Trade: Washington (U.S. Department of Commerce, Bureau of the Census, 1985) were used to calculate average sales-to-payroll ratios. Using these ratios and the estimates of the fee as a percentage of average payroll, estimates of the fee as a percentage of sales were made.

It is estimated that most small businesses will fall into the permit categories required to pay fees of either 600 or 2,500 dollars. For small businesses it is estimated that the fees as a percentage of sales will range from .92 percent down to .01 percent. Many of the small businesses will pay a fee between .92 percent and .20 percent of their sales. However, it is possible that the fee paid by particular small businesses could range up to two percent of sales. The variation in the fees as a percentage of sales is chiefly due to differences in the average sales of small businesses among the various sectors of the economy.

Large businesses, while often paying higher permit fees, will in general pay a fee which is equal to a lower percentage of their sales than small businesses will. It is estimated that large businesses will pay a fee which is approximately between .12 percent and .001 percent of sales.

Therefore, the estimates indicate that it is very likely that the cost of complying with chapter 173-223 WAC will be greater for small businesses than for large businesses. That is, the permit fee as a percentage of sales tends to be greater for small businesses than for large businesses.

This result occurs because the fees paid by private businesses (ignoring the permit fee category "Minor Industries with permitted flows less than or equal to 800 gd" because few companies fall into that category) vary

between 600 and 31,000 dollars, while sales vary between roughly 200,000 dollars and one hundred million dollars or more. (Most of the firms which are presently known to fall into the "Noncontact Cooling Water" fee category—which has a fee of 500 dollars—are publicly-owned and thus fall outside the scope of this study). Forty-three companies will pay the 31,000 dollar fee and among these companies are some of the largest manufacturers in the state. If these 43 companies are eliminated from consideration, the permit fee ranges only from 600 dollars to 8,000 dollars. The 8,000 dollar fee is only 13.33 times the 600 dollar fee. However, even if the 43 large companies are not considered, the permit holders' sales can range from 200,000 dollars to tens of millions, and in some cases, hundreds of millions of dollars. The sales of the larger companies can easily be 40 times those of the smallest companies. Sales vary far more than the permit fees do. Thus the fees as a percentage of sales falls fairly quickly as sales rise. The variation of the permit fees is restricted because they are chiefly based on the Department of Ecology's administrative costs of issuing a permit. These costs do not vary as much as the permit-holding companies' sales do. Therefore, the cost of compliance for small businesses, using as a measure of the cost of compliance the percentage which the fee is of sales, is higher than that for large businesses.

The rule allows permit holders to request the department to allow delayed payment of the permit fee if payment of the fee would cause substantial economic hardship (WAC 173-223-050(3)). WAC 173-223-090 allows permit holders to appeal determinations of the department which they believe to be contrary to the requirements of RCW 90.48.600, 90.48.610 or 90.48.620. This right of appeal can be used to appeal permit fees which adversely impact small businesses. These provisions will aid in mitigating the impact of the fees on small businesses.

The department has concluded that in general the impact of the permit fees upon businesses is of acceptable size. Some businesses may initially be required to pay fees which fall outside this range: The above-mentioned rights of appeal are intended to allow these fees to be subsequently adjusted downward.

Not applicable for other three rules.

#### Chapter 173-223 WAC INTERIM WASTEWATER DISCHARGE PERMIT FEES

##### WAC

173-223-015	Purpose and authority.
173-223-020	Applicability.
173-223-030	Definitions.
173-223-040	Permit fee schedule.
173-223-050	Permit fee payments.
173-223-060	Permits issued by other governmental agencies.
173-223-070	Credits.
173-223-080	Transfer of ownership or control.
173-223-090	Administrative appeals to the director.
173-223-100	Deposits.
173-223-120	Past due payments.

##### NEW SECTION

WAC 173-223-015 PURPOSE AND AUTHORITY. It is the purpose of this chapter to establish an interim fee system for permits

issued by the department of ecology pursuant to RCW 90.48.160, 90.48.162, and 90.48.260. This fee system is subject to change in fiscal year 1990 and beyond. RCW 90.48.610 authorizes the department to charge fees to recover administrative expenses incurred in the issuance and administration of wastewater discharge permits. Annual operating fees shall be based on seven fee eligible categories listed in RCW 90.48.600:

- (1) Processing permit applications and modifications;
- (2) Monitoring and evaluating compliance with permits;
- (3) Conducting inspections;
- (4) Securing laboratory analysis of samples taken during inspections;
- (5) Reviewing required plans and documents directly related to operations of permittees;
- (6) Monitoring compliance with delegated pretreatment programs; and
- (7) Supporting the overhead expenses that are directly related to each of the preceding activities. Expenses start when a permit application is filed with the department of ecology.

**NEW SECTION**

WAC 173-223-020 APPLICABILITY. This chapter applies to all persons or entities holding a waste discharge permit issued pursuant to RCW 90.48.160, 90.48.162, and 90.48.260, including persons or entities holding permits that remain in effect under WAC 173-216-040 or 173-220-180(5) and RCW 90.48.200.

**NEW SECTION**

WAC 173-223-030 DEFINITIONS. (1) "Annual fee" means the fee which is paid annually based on the state's fiscal year (July 1 to June 30).

(2) "Concentrated animal feeding operation" means an "animal feed operation" which meets the criteria in Appendix B of 40 CFR 122.23 (b)(3).

(3) "Department" means the department of ecology.  
 (4) "Director" means the director of the department of ecology or authorized representative.

(5) "EPA" means the United States Environmental Protection Agency.

(6) "Industrial facility" means any facility not included in definition of "municipal/domestic facility."

(7) "Major facility" means any NPDES permitted facility or activity classified as such by the Region 10 administrator of the Environmental Protection Agency in conjunction with the director. This list is published annually as part of the state/EPA agreement. Other facilities may be classified by agreement between EPA and the department based on EPA criteria following submittal of an application for a new source or an expansion or modification of an existing source. The department will notify the applicant of this classification.

(8) "Municipal/domestic facility" means a publicly-owned facility treating domestic wastes together with such industrial wastes as may be present, or a privately-owned facility treating domestic wastes.

(9) "Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(10) "NPDES permit" means the National Pollutant Discharge Elimination System permit issued by the department pursuant to section 402 of the Federal Clean Water Act and RCW 90.48.260.

(11) "Permit fee" means that fee charged by the department of ecology for expenses associated with the activities specified in WAC 173-223-015.

(12) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(13) "Permitted flow" means:  
 (a) For municipal/domestic facilities, the monthly average flow limitation contained in the permit;

(b) For industrial facilities, the daily maximum flow limitation contained in the permit;

(c) For permits in which a flow limit is not specified, the department shall use the design flow corresponding to (a) or (b) of this subsection.

(14) "State waste discharge permit" means a permit required under chapter 173-216 WAC.

**NEW SECTION**

WAC 173-223-040 PERMIT FEE SCHEDULE. Tables 1, 2, and 3.

- (1) Industrial categories.
- (2) Municipal/domestic categories.
- (3) Special primary industry categories.

Table 1

INDUSTRIAL CATEGORIES	ANNUAL PERMIT FEE
Major industries listed in Table 3	\$ 31,000
Major industries not listed in Table 3	\$ 8,000
Minor industries listed in Table 3	\$ 7,000
with permitted flows > 10,000 GD	
Minor industries not listed in Table 3	\$ 2,500
with permitted flows > 10,000 GD	
Minor industries listed in Table 3	\$ 2,000
with permitted flows < 10,000 GD	
Minor industries not listed in Table 3	\$ 600
with permitted flows < 10,000 GD	
Noncontact cooling water	\$ 500
Hatcheries/fish rearing/aquaculture	\$ 1,500
Water plants	\$ 1,250
Concentrated animal feeding operations	\$ 1,000
General permits	70% of fee category in which they would otherwise belong

Table 2  
MUNICIPAL/DOMESTIC

Permitted Flows	Minor Facility	Major Facilityw/Pretreatment*	Facility
> 100 MGD	—	—	\$35,000
50 MGD to < 100 MGD	—	—	\$25,000
25 MGD to < 50 MGD	—	—	\$20,000
10 MGD to < 25 MGD	—	\$12,000	\$15,000
5 MGD to < 10 MGD	\$7,500	\$10,000	\$12,000
1 MGD to < 5 MGD	\$6,000	\$ 8,000	\$ 9,000
.5 MGD to < 1 MGD	\$4,500	\$ 6,000	—
.1 MGD to < .5 MGD	\$2,500	—	—
.05 MGD to < .1 MGD	\$1,000	—	—
.0008 MGD to < .05 MGD	\$ 500	—	—
<.0008 GPD	\$ 150	—	—

\*Municipal/domestic facilities with delegated pretreatment programs as authorized by the Federal Water Pollution Control Act.

Table 3  
Special Industrial Categories

- Adhesives and sealants
- Aluminum forming
- Auto and other laundries
- Battery manufacturing and recycling
- Coal mining
- Copper forming
- Electrical and electronic components
- Electroplating
- Explosives
- Foundries
- Gum and wood chemicals
- Inorganic chemicals manufacturing
- Iron and steel manufacturing
- Leather tanning and finishing
- Mechanical products manufacturing
- Nonferrous metals manufacturing
- Nuclear fuels
- Ore mining

Table 3  
Special Industrial Categories

Organic chemicals manufacturing  
 Paint and ink formulation  
 Pesticides  
 Petroleum refining  
 Pharmaceutical preparations  
 Plastics processing  
 Plastic and synthetic materials  
 manufacturing  
 Porcelain enameling  
 Printing and publishing  
 Pulp and paper mills  
 Rubber processing  
 Shipyards  
 Soap and detergent manufacturing  
 Steam electric power plants  
 Solid waste disposal sites  
 Textile mills  
 Timber processing products

#### NEW SECTION

WAC 173-223-050 PERMIT FEE PAYMENTS. (1) Permit fee computation. Computation of fees shall begin on the first day of each fiscal year, or in the case of facilities or activities not previously covered by permits, on the issuance date of the permit. In the case of applicants for state waste discharge permits who are deemed to have a temporary permit under RCW 90.48.200, computation shall begin on the sixty-first day after the department receives an application. Computation of fees shall end on the last day of the state's fiscal year, or in the case of a terminated permit, on the date of termination. Computation shall end on the expiration date of a permit only if a permit holder has indicated to the department in writing that the permitted activity has been terminated.

(2) The department shall charge fees based on the annual fee schedule contained in WAC 173-223-040. The department may charge fees at the beginning of the year to which they apply. The department shall notify permit holders of fee charges by mailing billing statements. Fee payment shall be due and payable thirty days after the department mails a billing statement. The department may elect to bill permit holders a prorated portion of the annual fee on a monthly, quarterly, or other periodic basis, and may adjust fees downward from the fee schedule if necessary to assure that total fees collected are within the maximum amount allowed under RCW 90.48.600 (three million six hundred thousand dollars per year). In cases where a permit is only in effect for a portion of the fiscal year upon which the annual fee is based, the department shall prorate the fee accordingly. In addition to other circumstances, this applies where the department terminates a permit upon its determination that an industry which discharges to a municipal sewer system is satisfactorily regulated by a local pretreatment program.

(3) Delayed payment. In cases where payment of the total amount of fee charges, by the due date specified in this subsection, would cause substantial economic hardship, a permit holder may request that the department allow delayed payment. Such a request must be submitted to the department's fiscal office in writing by the permit's payment due date, and must include information demonstrating that such a hardship would occur. The department may approve such a request provided that the permit holder enters into a written agreement with the department to pay the fee charges and interest as specified in WAC 173-223-030, according to a specific delayed schedule, and that all fee and interest charges shall be paid in full by the fifteenth day of the last month of the year for which the fee is due.

(4) For permits issued prior to the effective date of this chapter, to which WAC 173-222-015 applies, fees must be received by the department within thirty days of notification by the department. Failure to make payment will result in immediate action pursuant to chapter 90.48 RCW and chapters 173-216 and 173-220 WAC.

(5) The applicable permit fee shall be paid by check or money order payable to the department of ecology, and mailed to the Department of Ecology, Fiscal Office, Mailstop PV-11, Olympia, Washington 98504.

(6) In the event checks are returned due to insufficient funds, fees shall be deemed not to have been paid.

(7) Interest due on delinquent or delayed accounts. The department shall charge permit holders interest on fee charges that have not been

paid by the due date at the rate of ten percent per annum, compounded monthly. Interest charges shall be due and payable in the same manner as fees, and nonpayment of interest charges shall be deemed as nonpayment of fees for purposes of collection and enforcement.

(8) Enforcement for nonpayment. If a permit holder has failed to pay fee charges that are due and payable, the department shall give notice of intent to terminate the permit after thirty days in accordance with RCW 90.48.190 unless fee and interest charges are paid in full within that time. Such notice shall be given by certified mail or by personal delivery, and shall state the exact amount due and the date by which the charges must be paid.

If the full payment is not received by the department by the specified date, the department shall promptly issue an order terminating the permit. Such order shall be transmitted by certified mail or by personal delivery. Following termination of a permit, if the activity requiring a permit continues, the department shall either commence issuing civil penalties under RCW 90.48.144, or shall file an action to enjoin the activity previously authorized by the permit in a court of jurisdiction, or both. Civil penalties issued by the department shall be sufficiently large to offset the economic benefit gained from nonpayment of fees and to deter continued operation and/or nonpayment. Payment of civil penalties shall not be deemed as payment of fees, nor shall payment of fees after assessment of penalties be deemed as a cause for reducing the penalty: PROVIDED, That the department may reduce or set aside penalties upon a determination that it made a factual error or errors in assessing the penalty. Nothing herein shall be interpreted as restricting the authority of the department to exercise its other enforcement remedies as authorized by law.

#### NEW SECTION

WAC 173-223-060 PERMITS ISSUED BY OTHER GOVERNMENTAL AGENCIES. The department shall not charge fees for permits issued by a city, town, or municipal corporation under RCW 90.48.165, nor for permits issued by the energy facilities site evaluation council under RCW 80.50.071, nor for permits administered by the EPA under 33 U.S.C. 1251, et seq. Nothing herein shall restrict the department from charging fees to recover administrative expenses of permits it issues under RCW 90.48.160 for discharges into municipal sewer systems, nor for charging fees to recover administrative expenses related to monitoring compliance with delegated pretreatment programs.

#### NEW SECTION

WAC 173-223-070 CREDITS. Any public entity engaging in comprehensive monitoring programs may apply for credits against permit fees. The full amount of permit fees assessed against a public entity that has made application for credits shall not be due and payable until after the department made a determination on the application for credit. The department may establish a due date in accordance with WAC 173-223-050 for an amount equal to the fee assessment minus the requested credit. Any balance of fee charges remaining after approval or denial of a credit shall be due thirty days after the department gives notice of such approval or denial. The department may approve applications for credits that meet the following criteria:

(1) Credit shall not be granted to all facilities in excess of twenty-five percent of the permit fee assessed over the five-year period of a permit;

(2) The total amount of credits granted for the five-year period beginning July 1, 1988, shall not exceed fifty thousand dollars;

(3) Credit shall not be granted for monitoring required by the terms of the applicant's permit, nor for monitoring of effluent or the effects of effluent on the receiving water, sediment, or biota in the vicinity of the discharge, nor for monitoring that is within the scope of monitoring guidelines developed by the department for implementation through permits;

(4) The department must determine that the applicant's comprehensive monitoring program produces significant benefits to the general public or to public agencies responsible for protection or management of the state's waters or aquatic resources. Such benefits must extend beyond the immediate area of jurisdiction of influence of the entity making application.

#### NEW SECTION

WAC 173-223-080 TRANSFER OF OWNERSHIP OR CONTROL. The department shall charge fees from the permit holder on

record with the department. In the event that ownership or control of a permitted facility or activity is transferred, it shall not be the responsibility of the department to transfer funds between a new and previous permit holder, and the department shall not refund fee charges prospectively in the event of a transfer. Fees paid by a previous permit holder shall be deemed to satisfy the corresponding fee payment requirements of a new permit holder. Agreements between a new and previous permit holder are not binding on the department.

#### NEW SECTION

WAC 173-223-090 ADMINISTRATIVE APPEALS TO THE DIRECTOR. Any person aggrieved by a determination made under this chapter by the department may file a written appeal to the director no later than the due date for payment of fees. Such appeal shall state the reasons that the aggrieved person believes that the department's determination is contrary to the requirements of RCW 90.48.600, 90.48.610, or 90.48.620, and specific actions that he/she is requesting that are consistent with those requirements. The director shall either issue a revised determination or a statement upholding the original determination. A revised determination shall be consistent with the requirements of RCW 90.48.600, 90.48.610, and 90.48.620. If the director determines that there is a substantial public interest, he/she may hold a public hearing on the appeal prior to issuing a final determination.

#### NEW SECTION

WAC 173-223-100 DEPOSITS. The department shall deposit fee and interest payments in the water quality permit account in the state treasury. Additional charges to recover the costs of collection under WAC 173-223-040 shall be disbursed to pay for those costs.

#### NEW SECTION

WAC 173-223-120 PAST DUE PAYMENTS. Any person who, by the effective date of this chapter, has not paid the fees and other amounts due under chapter 173-222 WAC shall continue to be obligated to pay such fees and amounts.

#### AMENDATORY SECTION (Amending Order 86-03, filed 3/4/86)

WAC 173-222-015 APPLICABILITY. This chapter applies to all permit applications received by the department after July 28, 1985. This chapter does not apply to permits issued after June 30, 1988.

#### AMENDATORY SECTION (Amending Order 86-03, filed 3/4/86)

WAC 173-220-150 OTHER TERMS AND CONDITIONS. (1) In addition to the requirements of WAC 173-220-130 and 173-220-140, each issued permit shall require that:

(a) All discharges authorized by the permit shall be consistent with the terms and conditions of the permit; any facility expansions, production increases or process modifications which would result in new or increased discharges of pollutants must be reported to the department by submission of a new application or supplement thereto; or, if such discharge does not violate effluent limitations specified in the permit, by submission to the department of notice of such new or increased discharges of pollutants; any discharge of any pollutant more frequent than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit.

(b) The permit may be modified, suspended or revoked in whole or in part during its terms for cause including, but not limited to, the following:

- (i) Violation of any term or condition of the permit;
- (ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;
- (iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;
- (iv) To incorporate an approved local pretreatment program into a POTW's permit; and
- (v) Nonpayment of permit fees assessed pursuant to RCW ((90.48-460) 90.48.610.

(c) The permittee shall allow the department or its authorized representative upon the presentation of credentials and at reasonable times:

- (i) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under terms

and conditions of the permit subject to any access restrictions due to the nature of the project;

(ii) To have access to and copy at reasonable cost any records required to be kept under terms and conditions of the permit;

(iii) To inspect any monitoring equipment or method required in the permit; or

(iv) To sample any discharge of pollutants.

(d) That, if the permit is for a discharge from a publicly owned treatment works, the permittee shall provide notice to the department of the following:

(i) Any new introduction of pollutants into such treatment works from a source which would be a new source as defined in section 306 of the FWPCA if such source were discharging pollutants;

(ii) Except as to such categories and classes of point sources or discharges specified by the department, any new introduction of pollutants into such treatment works from a source which would be subject to section 301 of the FWPCA if such source were discharging pollutants;

(iii) Any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

Such notice shall include information on:

(I) The quality and quantity of effluent to be introduced into such treatment works; and

(II) Any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works.

(e) The permittee shall at all times properly operate and maintain any facilities or systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit. Where design criteria have been established, the permittee shall not permit flows or waste loadings to exceed approved design criteria, or approved revisions thereto.

(f) If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the FWPCA for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the permit, the department shall revise or modify the permit in accordance with the toxic effluent standard of prohibition and so notify the permittee.

(2) Every permit shall be conditioned to insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308 of the FWPCA.

(3) Permits for domestic wastewater facilities shall be issued only to a public entity, except in the following circumstances:

(a) Facilities existing or approved for construction with private operation on or before the effective date of this chapter, until such time as the facility is expanded;

(b) Facilities that serve a single nonresidential, industrial, or commercial establishment. Commercial/industrial complexes serving multiple owners or tenants and multiple residential dwelling facilities such as mobile home parks, apartments, and condominiums are not considered single commercial establishments for the purpose of the preceding sentence.

(c) Facilities that are owned by nonpublic entities and under contract to a public entity shall be issued a joint permit to both the owner and the public entity.

#### AMENDATORY SECTION (Amending Order 86-03, filed 3/4/86)

WAC 173-216-130 MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS. (1) Any permit issued under this chapter can be modified, suspended, or revoked, in whole or in part by the department for the following causes:

- (a) Violation of any permit term or condition;
- (b) Obtaining a permit by misrepresentation or failure to fully disclose all relevant facts;
- (c) A material change in quantity or type of waste disposal;
- (d) A material change in the condition of the waters of the state; or
- (e) Nonpayment of permit fees assessed pursuant to RCW ((90.48-460) 90.48.610.

(2) The department may modify a permit, including the schedule of compliance or other conditions, if it determines good and valid cause exists, which includes promulgation or revisions of categorical standards.

**WSR 88-07-104**

**PROPOSED RULES**

**COMMITTEE FOR DEFERRED COMPENSATION**

[Filed March 23, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Committee for Deferred Compensation intends to adopt, amend, or repeal rules concerning adopt additions to Title 154 WAC;

that the agency will at 9:00, Friday, April 29, 1988, in the DOT, Material Lab, 1655 South Second Avenue, Tumwater, 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 4.04.640 [41.04.640].

The specific statute these rules are intended to implement is RCW 41.04.610 through [41.04].635.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 25, 1988.

Dated: March 23, 1988

By: Lee Dreisbach  
Director

**STATEMENT OF PURPOSE**

Title: Dependent care assistance salary reduction plan.

Description of Purpose: To implement the provisions in RCW 41.04.610 through [41.04].635 and make it possible for employees to select on a "before-tax basis" certain taxable and nontaxable benefits pursuant to 26 U.S.C. Sec. 125 by establishing a salary reduction plan pursuant to 26 U.S.C. 129. These regulations will constitute the plan required by the above federal and state laws.

Statutory Authority: RCW 41.04.640.

Specific Statute Rule is Intended to Implement: RCW 41.04.610 through [41.04].635.

Summary of Rule: The rule provides that a state employee may elect to forgo a portion of salary or wages by entering a salary reduction agreement with the state to be used to reimburse dependent care expenses which allow the employee to be gainfully employed. The rule specifies the procedures for participating in the plan and the benefits and reductions which will result, including the effects on federal income tax withholding, Social Security taxes, and the risk of forfeiture of any amount not used to reimburse dependent care expenses.

Reasons Supporting Proposed Action: The program has been mandated by the state legislature for the purpose of "attracting and retaining individuals in governmental service . . ." RCW 41.04.600.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Committee for Deferred Compensation, Lee Dreisbach, Director; Mary Bush, Client Service Manager and Susan Ponsteen, Client Service Representative.

Person or Organization Proposing Rule: Committee for Deferred Compensation, governmental.

Agency Comments: None.

Whether Rule is Necessary as Result of Federal Law of Federal or State Court Action: The rule is not required as the result of federal law or federal or state court action, however, the specific content of the rule is substantially dictated by federal income tax laws governing such plans.

Small Business Economic Impact Statement: Not required, the regulations have no effect on small businesses.

Chapter 154-110 WAC

**DEPENDENT CARE ASSISTANCE SALARY REDUCTION PLAN**

WAC

- 154-110-010 Plan established.
- 154-110-015 Separate plan.
- 154-110-020 Interpretation.
- 154-110-030 General description of plan.

NEW SECTION

WAC 154-110-010 PLAN ESTABLISHED. In accordance with the provisions of RCW 41.04.260(5) and 41.04.600 through 41.04.645, and consistent with sections 125 and 129 of the Internal Revenue Code, the state of Washington through the committee for deferred compensation, establishes a dependent care assistance salary reduction plan.

NEW SECTION

WAC 154-110-015 SEPARATE PLAN. The provisions in chapters 154-110 through 154-200 WAC apply only to the dependent care assistance salary reduction plan and not to any other plan administered by the committee. The provisions in chapters 154-01 through 154-68 WAC do not apply to the dependent care assistance salary reduction plan.

NEW SECTION

WAC 154-110-020 INTERPRETATION. This plan is intended to qualify as a dependent care assistance salary reduction plan under sections 125 and 129 of the Internal Revenue Code, as amended from time to time, and is to be interpreted in a manner consistent with the requirements of those sections.

NEW SECTION

WAC 154-110-030 GENERAL DESCRIPTION OF PLAN. The dependent care assistance salary reduction plan subsidizes the cost of dependent care, enabling employees to be gainfully employed. The plan allows an eligible employee of the state of Washington to set aside a "before tax" portion of the employee's gross salary (i.e., before federal income and Social Security taxes) to be used to reimburse that employee's dependent care expenses.

The amount which may be reduced from salary and excluded from income is subject to annual fixed dollar and earned income limitations. The participant must incur and obtain reimbursement in an amount at least equal to the amount of salary reduction for the plan year or the unused portion of the amount excluded is forfeited.

Salary reduced under the plan continues to be included as regular compensation for the purpose of computing state retirement and pension benefits.

Chapter 154-120 WAC  
**DEFINITIONS**

WAC

- 154-120-010 Committee.
- 154-120-015 Dependent(s).
- 154-120-020 Dependent care expenses.
- 154-120-025 Dependent care account.
- 154-120-030 Eligible employee.
- 154-120-035 Employer.
- 154-120-040 Internal Revenue Code.
- 154-120-045 Participant.
- 154-120-050 Plan.

154-120-055 Plan year.

NEW SECTION

WAC 154-120-010 COMMITTEE. "Committee" means the committee for deferred compensation.

NEW SECTION

WAC 154-120-015 DEPENDENT(S). "Dependent(s)" means:

(1) An individual with respect to whom the participant is entitled to a dependency exemption under Internal Revenue Code section 151(c) and who is:

- (a) Under the age of fifteen; or
- (b) Physically or mentally incapable of self-care (regardless of age);

or

(2) The spouse of a participant, if such spouse is physically or mentally incapable of self-care.

NEW SECTION

WAC 154-120-020 DEPENDENT CARE EXPENSES. "Dependent care expenses" means amounts paid for the care of a dependent in the participant's home (including amounts paid for related household services) or for care at a dependent care facility which meets all applicable requirements of state and local law or is exempt from such requirements under state or local law, except that the following items shall not be considered dependent care expenses:

(1) Amounts paid to a person with respect to whom the participant or participant's spouse is entitled to claim an exemption for Federal Income Tax purposes;

(2) Amounts paid to a child of the participant who is eighteen years of age or younger;

(3) Amounts paid by an employer of the spouse or by an educational institution where the spouse is an enrolled student.

NEW SECTION

WAC 154-120-025 DEPENDENT CARE ACCOUNT. "Dependent care account" means a bookkeeping account containing the salary reduction amounts attributable to a participant, less reimbursements of the participant's dependent care expenses.

NEW SECTION

WAC 154-120-030 ELIGIBLE EMPLOYEE. "Eligible employee" means any elected official, officer, or employee of the employer.

NEW SECTION

WAC 154-120-035 EMPLOYER. "Employer" means the state of Washington.

NEW SECTION

WAC 154-120-040 INTERNAL REVENUE CODE. "Internal Revenue Code" means the Internal Revenue Code of 1986, Title 26 U.S.C. Reference to a specific provision of the code shall include such provision, any valid regulations promulgated thereunder, and any comparable provision of future legislation that amends, supplements, or supersedes such provision.

NEW SECTION

WAC 154-120-045 PARTICIPANT. "Participant" means any eligible employee who enters a salary reduction agreement with the committee pursuant to this plan for a particular plan year and adheres to the requirements of the plan.

NEW SECTION

WAC 154-120-050 PLAN. "Plan" means this dependent care assistance salary reduction plan.

NEW SECTION

WAC 154-120-055 PLAN YEAR. "Plan year" means January 1 through December 31 except that the first plan year will commence June 1, 1988, and end December 31, 1988.

Chapter 154-130 WAC  
PARTICIPATION

## WAC

- 154-130-010 Participation in plan.
- 154-130-020 Salary reduction agreement.
- 154-130-030 Changes in family status.

NEW SECTION

WAC 154-130-010 PARTICIPATION IN PLAN. An eligible employee may become a participant by entering a salary reduction agreement during an open enrollment period prior to the beginning of a plan year or within thirty days of becoming an eligible employee. A participant may first incur reimbursable dependent care expenses on the first day of the month following completion of the salary reduction agreement, but in no event prior to June 1, 1988. Salary reduction agreement forms are available through the employee's payroll authority. The enrollment process shall be deemed complete on the date the employee's payroll authority receives a completed salary reduction agreement form from the employee.

NEW SECTION

WAC 154-130-020 SALARY REDUCTION AGREEMENT. The salary reduction agreement is a contract whereby the employee elects irrevocably to forgo future wage payments from the employer in an amount equal to the maximum elected for the plan year. The reduction will be taken in equal amounts for each pay period during the plan year or, in the case of an employee who becomes eligible during the plan year, the remaining portion of the plan year. The salary reduction amount should not exceed the expected dependent care expenses the participant anticipates incurring during the period for which the participant is an eligible employee and covered by the plan. The agreement will require a participant to provide the Social Security number of the participant and the participant's spouse, if any, names and birth dates of dependents regarding whom reimbursement of dependent care expenses will be sought, and medical, family, and other information deemed necessary by the committee for the operation of the plan. Pursuant to federal income tax regulations, once a salary reduction agreement has been entered for a plan year it may not be revoked except in the event of a change in family status as defined in WAC 154-130-030.

NEW SECTION

WAC 154-130-030 CHANGES IN FAMILY STATUS. A participant is permitted to revoke a salary reduction agreement after the period of coverage has commenced and to enter a new salary reduction agreement regarding the remainder of the plan year if both the revocation and new election are on account of and consistent with any of the following changes in family status:

- (1) Marriage;
- (2) Divorce;
- (3) Death of a spouse or child;
- (4) Birth or adoption of a child;
- (5) Termination of employment of a spouse; and
- (6) Employment of an unemployed spouse.

Chapter 154-140 WAC  
BENEFITS

## WAC

- 154-140-010 Plan benefits.
- 154-140-020 Maximum benefits.
- 154-140-030 Reduction of benefits.

NEW SECTION

WAC 154-140-010 PLAN BENEFITS. Benefits under the plan include and are limited to the reimbursement of dependent care expenses. Such expenses must be incurred during the plan year. They are deemed to be incurred at the time the services to which the expenses relate are rendered. Only expenses which meet the criteria specified under section 129 of the Internal Revenue Code are eligible for reimbursement. Reimbursement of such expenses is limited to the participant's dependent care account balance.

**NEW SECTION**

WAC 154-140-020 MAXIMUM BENEFITS. The portion of salary a participant may exclude from gross income for federal income tax purposes is subject to the following maximums set forth in subsections 129(a) and (b) of the Internal Revenue Code:

(1) The amount excluded from the federal gross income of a participant for any taxable year may not exceed the earned income of the participant, if not married, or if married, the lesser of the "earned income" of the participant or the "earned income" of the participant's spouse. (If the spouse is a full-time student or is physically or mentally incapable of self-care, the spouse is deemed to have earned income of two hundred dollars per month if the participant has one dependent for whom care is provided and four hundred dollars per month if the participant has two or more dependents for whom care is provided.) "Earned income" for these purposes, is defined in section 32(c)(2) of the Internal Revenue Code as "(i) wages, salaries, tips and other employee compensation, plus (ii) the amount of the taxpayer's net earnings from self-employment for the taxable year...."

(2) In no event may the maximum amount excluded from the federal gross income of the participant for any taxable year exceed five thousand dollars (two thousand five hundred dollars in the case of a married participant filing separately).

**NEW SECTION**

WAC 154-140-030 REDUCTION OF BENEFITS. The committee may reduce the salary reduction amount of a participant and the corresponding benefit payable to such participant to the extent necessary to assure that the plan does not discriminate in favor of highly-compensated employees in violation of sections 89, 125, or 129 of the Internal Revenue Code, or any other applicable provision of law. Any such reduction of benefits shall be made on a reasonable and non-discriminatory basis.

Chapter 154-150 WAC  
REIMBURSEMENT OF DEPENDENT CARE EXPENSES

WAC	
154-150-010	Submittal of claims.
154-150-020	Payment of claims.
154-150-030	Report to participant.
154-150-040	Deadline for submitting claims.
154-150-050	Forfeiture of unexpended funds.

**NEW SECTION**

WAC 154-150-010 SUBMITTAL OF CLAIMS. Claims for reimbursement of dependent care expenses must be submitted to the committee on reimbursement forms provided by the committee through the agency payroll authority. The reimbursement form shall be completed, signed, and accompanied by bills, invoices, receipts, cancelled checks, or a statement signed by the provider of the services showing the amounts of dependent care expenses for which reimbursement is sought. Claims may be submitted monthly or at less frequent intervals during the plan year.

**NEW SECTION**

WAC 154-150-020 PAYMENT OF CLAIMS. The committee will review and reimburse claims monthly during the plan year to the extent funds are available in the participant's dependent care account. After all funds in a participant's account are expended, any claims remaining at the plan year end will be cancelled. In no event can these claims be resubmitted the next plan year, nor are any unpaid claims the employer's liability.

**NEW SECTION**

WAC 154-150-030 REPORT TO PARTICIPANT. On or before January 31 following the end of the plan year, the committee shall send each participant a written statement showing the amounts excluded and amounts reimbursed through the end of the plan year.

**NEW SECTION**

WAC 154-150-040 DEADLINE FOR SUBMITTING CLAIMS. Claims for expenses incurred during a given plan year must be submitted so that they are received by the committee not later than March 31st following the end of the plan year.

**NEW SECTION**

WAC 154-150-050 FORFEITURE OF UNEXPENDED FUNDS. Any funds remaining in a participant's dependent care account after all timely submitted claims have been paid for the plan year will be forfeited. Such balance cannot be carried forward to a subsequent plan year and shall not be available to the participant in any form or manner, but shall remain the property of the state.

Chapter 154-160 WAC  
SOURCE OF REIMBURSEMENT

WAC	
154-160-010	Salary reduction account.
154-160-020	Rights of participants.

**NEW SECTION**

WAC 154-160-010 SALARY REDUCTION ACCOUNT. Reimbursement of eligible expenses under this plan shall be from the salary reduction account in the state treasury. A participant shall have no rights to any particular assets of the employer, or to any assets except as provided by the plan. A participant's right to reimbursement under the plan shall be limited to the amount of salary reduction of the participant under the plan as reflected in the participant's dependent care account.

**NEW SECTION**

WAC 154-160-020 RIGHTS OF PARTICIPANTS. The establishment of any account hereunder or of any other administrative practice shall not vest any participant with title in the assets of the state or entitle such participant to benefits, except as expressly provided by the plan.

Chapter 154-170 WAC  
TERMINATION OF PARTICIPATION

WAC	
154-170-010	Termination of participation.

**NEW SECTION**

WAC 154-170-010 TERMINATION OF PARTICIPATION. (1) A participant shall cease to be a participant upon the occurrence of any of the following:

- (a) The date the participant ceases to be an eligible employee;
- (b) The date the participant refuses a request for updated information;
- (c) The date the plan is terminated.

(2) A participant who terminates participation shall be entitled to reimbursement only for dependent care expenses incurred within the current plan year, and only if the participant (or personal representative of such participant in the event of death) submits a claim for such reimbursement which is received by the committee on or before March 31st following the close of the plan year. No reimbursement shall exceed the balance in the participant's dependent care account for the plan year in which the expenses were incurred.

(3) For purposes of this section, the date a participant shall be deemed to have refused a request for updated information shall be thirty days after a letter requesting such information and notifying the participant of the consequences of failure to provide such information is mailed certified mail, return receipt requested, to such participant.

Chapter 154-180 WAC  
ADMINISTRATION

WAC	
154-180-010	Administered by committee.
154-180-020	Delegation of authority.
154-180-030	Proper proof.
154-180-040	Genuineness of documents.
154-180-050	Reliance on information.
154-180-060	Condition of participation.
154-180-070	Decision binding.

NEW SECTION

WAC 154-180-010 ADMINISTERED BY COMMITTEE. This plan shall be administered by the committee.

NEW SECTION

WAC 154-180-020 DELEGATION OF AUTHORITY. The committee may delegate functions to be performed under this plan to any designee with legal authority to perform such functions.

NEW SECTION

WAC 154-180-030 PROPER PROOF. In any case in which the employer, or the committee is required under the plan to take action upon the occurrence of any event, they will be under no obligation to take such action unless and until satisfactory evidence of such occurrence has been received by them.

NEW SECTION

WAC 154-180-040 GENUINENESS OF DOCUMENTS. The committee and the employer and their respective officers and employees, will be entitled to rely upon any notice, request, consent, invoice, draft, letter, telegram, or other paper or document believed by them or any of them to be genuine and to have been signed or sent by the participant or other person at the participant's request.

NEW SECTION

WAC 154-180-050 RELIANCE ON INFORMATION. In administering the plan, the committee will be entitled to the extent permitted by law to rely conclusively on all tables, valuations, certificates, opinions, and reports which are furnished by accountants, counsel, consultants, or other experts employed or engaged by the committee in good faith.

NEW SECTION

WAC 154-180-060 CONDITION OF PARTICIPATION. Participants are required, as a condition of participation, to provide the committee with medical, family, and other information deemed necessary by the committee for the operation of the plan.

NEW SECTION

WAC 154-180-070 DECISION BINDING. The committee is authorized to determine any matters concerning the rights of any participant under this plan and such determination shall be binding upon the participant and any beneficiary thereof. Any participant affected by such a determination may submit written or oral comments to the committee regarding its determination, which comments the committee shall consider.

Chapter 154-190 WAC  
TERMINATION OR AMENDMENT OF PLAN

WAC  
154-190-010 Termination or amendment of plan.

NEW SECTION

WAC 154-190-010 TERMINATION OR AMENDMENT OF PLAN. The employer may terminate the salary reduction plan at the end of the plan year or upon notification of federal action affecting the status of the plan. Upon such termination, a participant's right to reimbursement of dependent care expenses for that plan year will continue to apply to all such expenses incurred prior to the date of termination. The committee may amend the salary reduction plan at any time if the amendment does not affect the rights of the participants to receive eligible reimbursement from the participant's dependent care account.

Chapter 154-200 WAC  
MISCELLANEOUS

WAC  
154-200-010 Communication to employees.  
154-200-020 Nonassignability of rights.  
154-200-030 No guarantee of tax consequences.

154-200-040 Indemnification of employer by participants.

NEW SECTION

WAC 154-200-010 COMMUNICATION TO EMPLOYEES. Reasonable notification of the availability and terms of the plan shall be provided to eligible employees.

NEW SECTION

WAC 154-200-020 NONASSIGNABILITY OF RIGHTS. The right of any participant to receive any reimbursement under the plan shall not be alienable by the participant by assignment or any other method, and will not be subject to be taken by his creditors by any process whatsoever, and any attempt to cause such right to be so subjected will not be recognized, except to such extent as may be required by law.

NEW SECTION

WAC 154-200-030 NO GUARANTEE OF TAX CONSEQUENCES. Neither the employer nor the committee makes any commitment or guarantee that any amount paid to or for the benefit of a participant will be excludable from the participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any participant. It shall be the obligation of each participant to determine whether and what amount, if any, is excludable from the participant's gross income for federal and state income tax purposes, and to notify the committee if the participant has reason to believe that any amount excluded is not eligible for exclusion.

NEW SECTION

WAC 154-200-040 INDEMNIFICATION OF EMPLOYER BY PARTICIPANTS. If any participant receives one or more payments or reimbursements that are not for dependent care expenses, such participant shall indemnify and reimburse the employer for any liability it may incur for failure to withhold federal income tax or Social Security tax from such payments or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal income tax that the participant would have owed if the payments or reimbursements had been made to the participants as regular cash compensation, plus the participant's share of any Social Security tax that would have been paid on such compensation, less any such additional income and Social Security tax actually paid by the participant.

**WSR 88-07-105**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Filed March 23, 1988]

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 settlement agreement procedures under the Hazardous Waste Cleanup Act, chapter 70.105B RCW;

that the agency will at 7:00 p.m., Wednesday, April 27, 1988, in Hearing Room A, House Office Building, 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 May 23, 1988.

The authority under which these rules are proposed is chapter 70.105B RCW.

The specific statute these rules are intended to implement is chapter 70.105B RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 4, 1988.

Dated: March 23, 1988  
 By: Phillip C. Johnson  
 Deputy Director

173-340-050 State Conducted Remedial Action—Notice

### STATEMENT OF PURPOSE

**Title:** Hazardous waste cleanup settlement procedures (pursuant to chapter 70.105B RCW).

**Purpose:** Pursuant to the act, the department is required to adopt rules which provide procedures by which potentially liable persons may propose and negotiate voluntary remedial actions for release or threatened release of hazardous substances.

**Summary:** These regulations provide for public notice and an opportunity to comment on proposed settlements. The regulations also establish time periods for accomplishment of activities required by RCW 70.105B.070. These regulations are interim and will be amended by final regulations.

**Statutory Authority:** Chapter 70.105B RCW.

**Emergency:** These rules are to be initially adopted on an emergency basis. The legislature has determined in RCW 70.105B.010, that the healthful environment of our state is threatened by numerous hazardous waste sites. The statute itself was in a special extraordinary session on an emergency basis. Voluntary settlements and cleanups are a high priority under the act. Negotiations are currently underway to clean up numerous sites, including sites in King, Spokane, and Pierce counties, and emergency settlement agreement rules are necessary to expedite the cleanup process.

**State Environmental Policy Act:** A review of chapter 43.21C RCW and WAC 197-11-800(20) has been conducted, and the department has concluded that these rules qualify for a categorical exemption because being only procedural, they do not substantially affect the environment.

**Agency Personnel Responsible for Drafting:** Jerry Jewett, Policy and Planning Section, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504;  
**Implementation and Enforcement:** Marc Horton, Deputy Director, Department of Ecology, Mailstop PV-11, Olympia, Washington 98504.

**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 and Economic Impact Analysis:** A review of chapter 19.85 RCW (the Regulatory Fairness Act) and chapter 43.21H RCW (the Economic Policy Act) has been conducted, and economic considerations were appropriately considered by the department.

### Chapter 173-340 WAC HAZARDOUS WASTE CLEANUP SETTLEMENT PROCEDURES

#### WAC

173-340-010	Purpose
173-340-020	Definitions
173-340-030	Emergency Actions
173-340-040	Settlement Procedures

#### NEW SECTION

**WAC 173-340-010 PURPOSE.** These regulations implement RCW 70.105B.070 which requires that the department provide, by rule, procedures by which potentially liable persons may propose and negotiate voluntary remedial actions for releases or threatened releases of hazardous substances. These regulations provide for public notice and an opportunity to comment on proposed settlements and establish time periods for accomplishment of activities required by RCW 70.105B.070. These regulations are interim and will be amended by final regulations.

#### NEW SECTION

**WAC 173-340-020 DEFINITIONS.** (1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology or such person authorized to act for the director.

(3) "Final cleanup" means a remedial action which will achieve cleanup levels required by RCW 70.105B.060.

(4) "Potentially liable person" means any person whom the department finds, based upon credible evidence, to be liable under RCW 70.105B.040.

(5) "Remedial investigation/feasibility study" means (a) a remedial investigation to gather the data necessary and sufficient to: determine the nature and extent of a release or threatened release of a hazardous substance; establish target cleanup levels and monitoring methods; identify remedial action alternatives; and support the technical and cost analyses of the alternatives; and (b) a feasibility study which includes: an evaluation of the technical, environmental, and economic aspects of alternative remedial actions; a recommendation for the preferred remedial action; and cost estimates and a preliminary construction schedule for the remedial action.

(6) "Remedial design/remedial action implementation" means (a) an action where the selected remedy is clearly designed and/or specified in accordance with engineering criteria, for example, site action plan, relocation plan, or engineering drawings and specifications, in a bid package, enabling immediate implementation of the remedy; and (b) the implementation of a remedial action, normally following design, of the selected source control and/or off-site remedial measure. Remedial action implementation may include, but is not limited to, final cleanup.

#### NEW SECTION

**WAC 173-340-030 EMERGENCY ACTIONS.** (1) The provisions of this chapter shall not apply if the director determines that an emergency or imminent danger exists which requires immediate remedial action to protect human health or the environment.

(2) Nothing in this chapter shall be construed to limit the authority of the department, its employees, agents or contractors to take appropriate action in the event of an emergency or imminent danger to human health or the environment.

#### NEW SECTION

**WAC 173-340-040 SETTLEMENT PROCEDURES.** (1) General notice letters. The department may issue a general notice letter to potentially liable persons to inform them of their potential liability for remedial action costs at the site and natural resource damages. This notice may be used to begin or continue the process of information exchange, but it does not initiate the settlement procedures defined in this section.

(2) Special notice letters. When the department has reason to believe that a release or threatened release of a hazardous substance will require remedial action, and when the department is prepared to proceed with settlement procedures, it shall issue special notice letters to the potentially liable persons. Special notice letters shall be signed by the director and sent via certified mail, return receipt requested. The department shall not be required to issue special notice letters to potentially liable persons under this chapter if notice letters have been issued prior to the effective date of these regulations.

(3) Contents of special notice letters.

(a) Special notice letters shall inform the recipients that the department has identified them as potentially liable persons under chapter 70.105B RCW or other applicable laws regarding the release of hazardous substances. Such letters shall also notify the recipients that the

department has determined that remedial action will be required to protect human health or the environment. Special notice letters shall specifically identify the site where a release or threatened release of hazardous substances has occurred, and will identify, to the extent known by the department, the nature of such hazardous substances. Special notice letters shall also list the elements of the scope of work for remedial action required at the site.

(b) Special notice letters shall require the potentially liable persons to submit, within 30 days of receipt, a written response to the department via certified mail. The written response shall include the following: (i) a statement indicating whether or not the potentially liable persons wish to proceed with the settlement procedures defined in this chapter and intend to submit a good faith offer for undertaking or financing remedial actions required at the site; and (ii) the name, address and phone number of a representative who is authorized to negotiate on the potentially liable persons' behalf.

(c) If (i) a potentially liable person fails to state in writing, within 30 days of receipt of the special notice letter, that it wishes to proceed with the settlement procedures and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(d) Special notice letters may include: (i) a list of all potentially liable persons identified by the department who are also receiving special notice letters concerning the site; and (ii) a draft consent decree.

(e) The department, in its sole discretion, may extend the deadline for response to the special notice letter and provide additional time as it deems appropriate.

(4) Good faith offers.

(a) The potentially liable persons shall submit a good faith offer to the department within 60 days of receipt of a special notice letter. The department, in its sole discretion, will determine whether or not the offer submitted constitutes a good faith offer. If the department determines that (i) a good faith offer has not been received in accordance with this subsection, and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(b) A good faith offer shall consist of: (i) a statement of willingness to conduct or finance a remedial action which is consistent with the elements of the scope of work and any draft consent decree accompanying the special notice letter; (ii) a response to each element of the scope of work accompanying the special notice letter; (iii) a paragraph by paragraph response to any draft consent decree accompanying the special notice letter; (iv) a demonstration of the potentially liable persons' technical capability to undertake the remedial action. This will require that the potentially liable persons identify whom they expect to conduct the remedial actions required or the process they will undertake to select a qualified firm; and (v) a demonstration of the potentially liable persons' capability to finance the remedial action required.

(c) If the department rejects the offer submitted under this subsection it shall notify the potentially liable persons who submitted the offer.

(d) The department, in its sole discretion, may extend the deadline for receipt of a good faith offer and provide such additional time as it deems appropriate.

(5) Negotiation period.

(a) Following the department's determination that it has received a good faith offer, the department shall negotiate with the potentially liable persons to reach a settlement agreement within a period not to exceed, (i) in the case of a remedial investigation/feasibility study, 90 days from the date of receipt of the special notice letter; and (ii) in the case of a remedial design/remedial action implementation, 120 days from the date of receipt of the special notice letter.

(b) The department, in its sole discretion, may extend the period of negotiation for such additional time as it deems appropriate.

(c) The department shall negotiate with the potentially liable persons to achieve reasonable deadlines for remedying releases or threatened releases at the site. The department shall ensure that cleanup levels required under RCW 70.105B.060 are attained.

(d) If (i) no settlement is reached within the time periods specified in subsections 5(a) and (b) of this section, and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the

department may terminate the voluntary cleanup procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(e) If the department determines that negotiations have reached an impasse, it may terminate the proceedings by issuing a notice to those potentially liable persons participating in the negotiations, via certified mail, return receipt requested. In such a case, the negotiation period shall end upon receipt of such a notice. If (i) the negotiation period is terminated and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(6) Final settlement offer procedures.

(a) This subsection applies only when the special notice letter has required final cleanup as defined in WAC 173-340-020(3).

(b) The potentially liable persons may submit a final settlement offer for final cleanup and any supporting material for consideration by the department. A final settlement offer must be received by the department no later than 10 days after (i) the potentially liable persons fail to state in writing that they wish to proceed with the settlement process in accordance with subsection (3)(b) of this section, (ii) a determination is made by the department that a good faith offer has not been received as required by subsection (4)(a) and (b) of this section, (iii) the negotiation period has expired in accordance with subsection (5)(a) and (b) of this section, or (iv) the negotiation period has been terminated in accordance with subsection (5)(e) of this section.

(c) Upon receipt of a final settlement offer provided for in this subsection, the department shall prepare a notice of receipt of a final settlement offer and its availability for public review and invite public comments. The notice shall be published, at a minimum, in one newspaper of general circulation in the vicinity of the site.

(d) The department shall receive written comments on the final settlement offer for at least 30 days from the date of publication.

(e) If the department accepts the final settlement offer, it shall file it as a proposed consent decree in accordance with subsection (7) of this section.

(f) If the department rejects the final settlement offer, it shall state its reasons for rejection to the potentially liable persons via certified mail, return receipt requested.

(g) If the department does not receive a final offer as required by this subsection, the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(7) Consent decree procedures.

(a) Upon agreement between the department and the potentially liable persons for voluntary remedial action, a proposed consent decree shall be filed promptly with the appropriate superior court or the federal court having jurisdiction over the matter.

(b) Upon filing a proposed consent decree, the department shall prepare a public notice. Such notice shall inform the public that an agreement has been reached, state its availability for public review and invite public comments. This notice shall be placed, at a minimum, in one newspaper of general circulation in the vicinity of the site.

(c) The department shall receive written comments for at least 30 days from the date on which the proposed consent decree was filed with the court. The department shall file with the court all written comments received within the public comment period.

(d) If the parties agree to substantial changes to the proposed consent decree, the department shall place a notice in, at a minimum, one newspaper of general circulation in the vicinity of the site. Such notice shall inform the public that an agreement has been reached which substantially differs from that previously subjected to public comment. It shall also state that the revised proposed consent decree is available for public review and invite public comment. Comments shall be received for at least 30 days and shall be filed by the department with the court.

NEW SECTION

WAC 173-340-050 STATE CONDUCTED REMEDIAL ACTION—NOTICE. (1) Upon determination by the department to conduct remedial action, the department may prepare a proposed scope of work as provided in RCW 70.105B.120 (7)(a).

(2) Upon preparation of a scope of work for state conducted remedial action, the department may publish a notice of its proposed scope

of work, at a minimum, in one newspaper of general circulation in the vicinity of the site and indicate where the scope of work is available for review. Upon publication of such notice, comments shall be received for 30 days. Following receipt of comments, the department may revise the scope of work to include such comments or adopt its proposed scope of work as final.

**WSR 88-07-106**  
**EMERGENCY RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 88-10—Filed March 23, 1988]

I, Phillip Johnson, deputy director of the Department of Ecology, do promulgate and adopt at Olympia, Washington, the annexed rules relating to settlement agreement procedures under chapter 70.105B RCW, Hazardous waste cleanup.

I, Phillip Johnson, 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 legislature has determined in RCW 70.105B.010, that the healthful environment of our state is threatened by numerous hazardous waste sites. The statute itself was adopted in a special extraordinary session on an emergency basis. Voluntary settlements and cleanups are a high priority under the act. Negotiations are currently underway to clean up numerous sites, including sites in Spokane County, and emergency settlement agreement rules are necessary to expedite the cleanup process.

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

This rule is promulgated pursuant to chapter 70.105B RCW which directs that the Department of Ecology has authority to implement the provisions of the Hazardous Waste Cleanup Act, chapter 70.105B 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 March 23, 1988.

By Phillip C. Johnson  
Deputy Director

*Chapter 173-340 WAC*  
**HAZARDOUS WASTE CLEANUP SETTLEMENT PROCEDURES**

**WAC**  
173-340-010 Purpose  
173-340-020 Definitions  
173-340-030 Emergency Actions  
173-340-040 Settlement Procedures  
173-340-050 State Conducted Remedial Action—  
Notice

NEW SECTION

**WAC 173-340-010 PURPOSE.** These regulations implement RCW 70.105B.070 which requires that the department provide, by rule, procedures by which potentially liable persons may propose and negotiate voluntary remedial actions for releases or threatened releases of hazardous substances. These regulations provide for public notice and an opportunity to comment on proposed settlements and establish time periods for accomplishment of activities required by RCW 70.105B.070. These regulations are interim and will be amended by final regulations.

NEW SECTION

**WAC 173-340-020 DEFINITIONS.** (1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology or such person authorized to act for the director.

(3) "Final cleanup" means a remedial action which will achieve cleanup levels required by RCW 70.105B.060.

(4) "Potentially liable person" means any person whom the department finds, based upon credible evidence, to be liable under RCW 70.105B.040.

(5) "Remedial investigation/feasibility study" means (a) a remedial investigation to gather the data necessary and sufficient to: determine the nature and extent of a release or threatened release of a hazardous substance; establish target cleanup levels and monitoring methods; identify remedial action alternatives; and support the technical and cost analyses of the alternatives; and (b) a feasibility study which includes: an evaluation of the technical, environmental, and economic aspects of alternative remedial actions; a recommendation for the preferred remedial action; and cost estimates and a preliminary construction schedule for the remedial action.

(6) "Remedial design/remedial action implementation" means (a) an action where the selected remedy is clearly designed and/or specified in accordance with engineering criteria, for example, site action plan, relocation plan, or engineering drawings and specifications, in a bid package, enabling immediate implementation of the remedy; and (b) the implementation of a remedial action, normally following design, of the selected source control and/or off-site remedial measure. Remedial action implementation may include, but is not limited to, final cleanup.

NEW SECTION

**WAC 173-340-030 EMERGENCY ACTIONS.**

(1) The provisions of this chapter shall not apply if the director determines that an emergency or imminent danger exists which requires immediate remedial action to protect human health or the environment.

(2) Nothing in this chapter shall be construed to limit the authority of the department, its employees, agents or contractors to take appropriate action in the event of an emergency or imminent danger to human health or the environment.

NEW SECTION

**WAC 173-340-040 SETTLEMENT PROCEDURES.** (1) *General notice letters.* The department may issue a general notice letter to potentially liable persons to inform them of their potential liability for remedial action costs at the site and natural resource damages. This notice may be used to begin or continue the process of information exchange, but it does not initiate the settlement procedures defined in this section.

(2) *Special notice letters.* When the department has reason to believe that a release or threatened release of a hazardous substance will require remedial action, and when the department is prepared to proceed with settlement procedures, it shall issue special notice letters to the potentially liable persons. Special notice letters shall be signed by the director and sent via certified mail, return receipt requested. The department shall not be required to issue special notice letters to potentially liable persons under this chapter if notice letters have been issued prior to the effective date of these regulations.

(3) *Contents of special notice letters.*

(a) *Special notice letters shall inform the recipients that the department has identified them as potentially liable persons under chapter 70.105B RCW or other applicable laws regarding the release of hazardous substances. Such letters shall also notify the recipients that the department has determined that remedial action will be required to protect human health or the environment. Special notice letters shall specifically identify the site where a release or threatened release of hazardous substances has occurred, and will identify, to the extent known by the department, the nature of such hazardous substances. Special notice letters shall also list the elements of the scope of work for remedial action required at the site.*

(b) *Special notice letters shall require the potentially liable persons to submit, within 30 days of receipt, a written response to the department via certified mail. The written response shall include the following: (i) a statement indicating whether or not the potentially liable persons wish to proceed with the settlement procedures defined in this chapter and intend to submit a good faith offer for undertaking or financing remedial actions required at the site; and (ii) the name, address and phone number of a representative who is authorized to negotiate on the potentially liable persons' behalf.*

(c) *If (i) a potentially liable person fails to state in writing, within 30 days of receipt of the special notice letter, that it wishes to proceed with the settlement procedures and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).*

(d) *Special notice letters may include: (i) a list of all potentially liable persons identified by the department who are also receiving special notice letters concerning the site; and (ii) a draft consent decree.*

(e) *The department, in its sole discretion, may extend the deadline for response to the special notice letter and provide additional time as it deems appropriate.*

(4) *Good faith offers.*

(a) *The potentially liable persons shall submit a good faith offer to the department within 60 days of receipt of a special notice letter. The department, in its sole discretion, will determine whether or not the offer submitted constitutes a good faith offer. If the department determines that (i) a good faith offer has not been received in accordance with this subsection, and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).*

(b) *A good faith offer shall consist of: (i) a statement of willingness to conduct or finance a remedial action which is consistent with the elements of the scope of work and any draft consent decree accompanying the special notice letter; (ii) a response to each element of the scope of work accompanying the special notice letter; (iii) a paragraph by paragraph response to any draft consent decree accompanying the special notice letter; (iv) a demonstration of the potentially liable persons' technical capability to undertake the remedial action. This will require that the potentially liable persons identify whom they expect to conduct the remedial actions required or the process they will undertake to select a qualified firm; and (v) a demonstration of the potentially liable persons' capability to finance the remedial action required.*

(c) *If the department rejects the offer submitted under this subsection it shall notify the potentially liable persons who submitted the offer.*

(d) *The department, in its sole discretion, may extend the deadline for receipt of a good faith offer and provide such additional time as it deems appropriate.*

(5) *Negotiation period.*

(a) *Following the department's determination that it has received a good faith offer, the department shall negotiate with the potentially liable persons to reach a settlement agreement within a period not to exceed, (i) in the case of a remedial investigation/feasibility study, 90 days from the date of receipt of the special notice letter; and (ii) in the case of a remedial design/remedial action implementation, 120 days from the date of receipt of the special notice letter.*

(b) *The department, in its sole discretion, may extend the period of negotiation for such additional time as it deems appropriate.*

(c) *The department shall negotiate with the potentially liable persons to achieve reasonable deadlines for remedying releases or threatened releases at the site. The department shall ensure that cleanup levels required under RCW 70.105B.060 are attained.*

(d) *If (i) no settlement is reached within the time periods specified in subsections 5(a) and (b) of this section, and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the department may terminate the voluntary cleanup procedures and*

proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(e) If the department determines that negotiations have reached an impasse, it may terminate the proceedings by issuing a notice to those potentially liable persons participating in the negotiations, via certified mail, return receipt requested. In such a case, the negotiation period shall end upon receipt of such a notice. If (i) the negotiation period is terminated and (ii) the final settlement offer procedures in subsection (6) of this section do not apply, then the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(6) Final settlement offer procedures.

(a) This subsection applies only when the special notice letter has required final cleanup as defined in WAC 173-340-020(3).

(b) The potentially liable persons may submit a final settlement offer for final cleanup and any supporting material for consideration by the department. A final settlement offer must be received by the department no later than 10 days after (i) the potentially liable persons fail to state in writing that they wish to proceed with the settlement process in accordance with subsection (3)(b) of this section, (ii) a determination is made by the department that a good faith offer has not been received as required by subsection (4)(a) and (b) of this section, (iii) the negotiation period has expired in accordance with subsection (5)(a) and (b) of this section, or (iv) the negotiation period has been terminated in accordance with subsection (5)(e) of this section.

(c) Upon receipt of a final settlement offer provided for in this subsection, the department shall prepare a notice of receipt of a final settlement offer and its availability for public review and invite public comments. The notice shall be published, at a minimum, in one newspaper of general circulation in the vicinity of the site.

(d) The department shall receive written comments on the final settlement offer for at least 30 days from the date of publication.

(e) If the department accepts the final settlement offer, it shall file it as a proposed consent decree in accordance with subsection (7) of this section.

(f) If the department rejects the final settlement offer, it shall state its reasons for rejection to the potentially liable persons via certified mail, return receipt requested.

(g) If the department does not receive a final offer as required by this subsection, the department may terminate the settlement procedures and proceed with an enforcement action as provided in RCW 70.105B.120 or any other applicable laws and may conduct remedial actions as provided in RCW 70.105B.110 (2)(b).

(7) Consent decree procedures.

(a) Upon agreement between the department and the potentially liable persons for voluntary remedial action, a proposed consent decree shall be filed promptly with

the appropriate superior court or the federal court having jurisdiction over the matter.

(b) Upon filing a proposed consent decree, the department shall prepare a public notice. Such notice shall inform the public that an agreement has been reached, state its availability for public review and invite public comments. This notice shall be placed, at a minimum, in one newspaper of general circulation in the vicinity of the site.

(c) The department shall receive written comments for at least 30 days from the date on which the proposed consent decree was filed with the court. The department shall file with the court all written comments received within the public comment period.

(d) If the parties agree to substantial changes to the proposed consent decree, the department shall place a notice in, at a minimum, one newspaper of general circulation in the vicinity of the site. Such notice shall inform the public that an agreement has been reached which substantially differs from that previously subjected to public comment. It shall also state that the revised proposed consent decree is available for public review and invite public comment. Comments shall be received for at least 30 days and shall be filed by the department with the court.

#### NEW SECTION

WAC 173-340-050 STATE CONDUCTED REMEDIAL ACTION—NOTICE. (1) Upon determination by the department to conduct remedial action, the department may prepare a proposed scope of work as provided in RCW 70.105B.120 (7)(a).

(2) Upon preparation of a scope of work for state conducted remedial action, the department may publish a notice of its proposed scope of work, at a minimum, in one newspaper of general circulation in the vicinity of the site and indicate where the scope of work is available for review. Upon publication of such notice, comments shall be received for 30 days. Following receipt of comments, the department may revise the scope of work to include such comments or adopt its proposed scope of work as final.

**WSR 88-07-107**

**EMERGENCY RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Order 2-88—Filed March 23, 1988]

I, Isiah Turner, commissioner of the Employment Security Department, do promulgate and adopt at Olympia, Washington, the annexed rules relating to interpretive regulation, WAC 192-16-065. Effective date of chapter 83, Laws of 1988.

I, Isiah Turner, 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 chapter 83, Laws of 1988, was signed March

16, 1988, and contained an emergency clause that made the act effective on the Sunday following signature. This rule further clarifies the effective date of the 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 Employment Security Department as authorized in RCW 50.12.010 and 50.12.040.

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 March 23, 1988.

By Isiah Turner  
Commissioner

### NEW SECTION

*WAC 192-16-065 INTERPRETIVE REGULATIONS—EFFECTIVE DATE OF CHAPTER 83, LAWS OF 1988. Section (3), Chapter 83, Laws of 1988, provides that the act will be effective on the Sunday following the day the governor signs the bill. Chapter 83, Laws of 1988, was signed on March 16, 1988, and is effective Sunday March 20, 1988. The act will be effective for all strikes or lockouts beginning on or after March 20, 1988.*

### **WSR 88-07-108**

#### **PROPOSED RULES**

#### **EMPLOYMENT SECURITY DEPARTMENT**

[Filed March 23, 1988]

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

New WAC 192-16-057 Interpretive regulations—Under the same terms and conditions of employment defined.

New WAC 192-16-065 Interpretive regulation—Effective date of chapter 83, Laws of 1988;

that the agency will at 9:00 a.m., Wednesday, April 27, 1988, in the Commissioners Conference Room, 2nd Floor, 212 Maple Park, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 29, 1988.

The authority under which these rules are proposed is RCW 50.12.010 and 50.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 26, 1988.

Dated: March 23, 1988

By: Isiah Turner  
Commissioner

### STATEMENT OF PURPOSE

The following statement has been prepared by the Employment Security Department for the purpose of legislative review of agency rules as provided by chapter 34.04 RCW.

WAC 192-16-057, interpretive regulation, this rule defines "under the same terms and conditions of employment" for the purposes of the between terms denial for school employees in RCW 50.44.050 and 50.44.053. The definition includes only economic terms and conditions. The rule was requested by Region X of the United States Department of Labor to ensure conformity with federal interpretations. The rule is consistent with existing department policy.

WAC 192-16-065, interpretive regulations, effective date of chapter 83, Laws of 1988. The act changes the way the department determines whether a worker is eligible for unemployment benefits during a strike or lockout. The rule interprets the effective date of the act as applying to strikes and lockouts that begin on or after the effective date of the act.

Drafting, Implementation, and Enforcement: These rules were drafted by Wm. Eric Jordan, Employment Security Program Coordinator 3, Employment Security Department, 212 Maple Park, Mailstop KG-11, Olympia, Washington 98504, (206) 586-2915. These rules will be implemented and enforced by Jim Wolfe, Assistant Commissioner, Employment Security Department, 212 Maple Park, Mailstop KG-11, Olympia, Washington 98504, (206) 753-5120.

### NEW SECTION

*WAC 192-16-065 INTERPRETIVE REGULATIONS—EFFECTIVE DATE OF CHAPTER 83, LAWS OF 1988. Section (3), Chapter 83, Laws of 1988, provides that the act will be effective on the Sunday following the day the governor signs the bill. Chapter 83, Laws of 1988, was signed on March 16, 1988, and is effective Sunday March 20, 1988. The act will be effective for all strikes or lockouts beginning on or after March 20, 1988.*

### NEW SECTION

*WAC 192-16-057 INTERPRETIVE REGULATION—"UNDER THE SAME TERMS AND CONDITIONS OF EMPLOYMENT" DEFINED. For the purposes of RCW 50.44.050 and RCW 50.44.053, the phrase "under the same terms and conditions of employment" includes economic terms and conditions of employment such as wages, duration of contract, hours of work, and general nature of work, but does not include noneconomic conditions and details such as specific work location, specific duties, or assignment. It is not necessary that a position be identical to the previous position to meet the "under the same terms and conditions of employment" test. A position would be considered to be under the same terms and conditions of employment if it is of similar or equivalent type or classification, with similar pay, fringe benefits, hours of work, general type of work, and duration of employment.*

### **WSR 88-07-109**

#### **PROPOSED RULES**

#### **EMPLOYMENT SECURITY DEPARTMENT**

[Filed March 23, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Employment Security

Department intends to adopt, amend, or repeal rules concerning recovery of benefit overpayments:

Amd	WAC 192-28-105	Recovery of benefit overpayments—Notice to individual.
Amd	WAC 192-28-110	Recovery of benefit overpayments, fault provisions.
Amd	WAC 192-28-120	Recovery of benefit overpayments—By repayment or offset against future benefits.
New	WAC 192-28-130	Minimum payment calculation;

that the agency will at 10:00 a.m., Wednesday, April 27, 1988, in the Commissioners Conference Room, 2nd Floor, 212 Maple Park, Olympia, WA, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 29, 1988.

The authority under which these rules are proposed is RCW 50.12.010 and 50.12.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 26, 1988.

Dated: March 23, 1988

By: Isiah Turner  
Commissioner

#### STATEMENT OF PURPOSE

The following statement has been prepared by the Employment Security Department for the purpose of legislative review of agency rules as provided by chapter 34.04 RCW.

Chapter 192-28 WAC, Recovery of benefit overpayments. The Employment Security Department is proposing WAC changes to chapter 192-28 WAC, Recovery of benefit overpayments, for the following reasons: When an individual continues to make his/her minimum payments each month, the department will not apply offset credit should the individual become eligible to receive unemployment benefits. This should also provide an incentive to the individual to make regular monthly payments; the individual will be eligible for all of their UI benefits when he/she most need them, as long as he/she continues to make regular monthly payments; by computing a minimum payment amount due on overpayments established, the department expects to recoup the overpayments earlier; and the collection staff will be able to spend more time pursuing individuals who refuse to repay the department the amount they were paid in excess.

The following is a summary of the addition(s) and deletion(s) involved with WAC 192-28-105, 192-28-110, 192-28-120 and 192-28-130. WAC 192-28-105 (1)(d), adds the ability to use notice to withhold and deliver personal properties based on law change effective July 1, 1987; WAC 192-28-110 (1)(b)(ii) and (4), removes references to presentation of benefits rights (PBR). PBR's are no longer required; WAC 192-28-120(3) defines how an individual can avoid offsetting their overpayment while they are unemployed, and WAC 192-28-120(6) gives the department the authority to accept an offer in compromise in unusual circumstances for overpayments brought about pursuant to fraud and misrepresentation. (RCW 50.20.060(2) and 50.20.070); and WAC 192-28-130, defines the formula

for calculating the minimum monthly payment for overpayments.

Drafting, Implementation, and Enforcement of Rules: These rules were drafted by Dennis Knopp, Program Manager for Benefit Payment Control and Karen White, Collections Supervisor, Employment Security Department, 212 Maple Park, Mailstop KG-11, Olympia, WA 98504. Mr. Knopp may be reached by phone at (206) 753-5138 and Ms. White at (206) 753-4956. The rules will be implemented and enforced by Jim Wolfe, Assistant Commissioner for Unemployment Insurance, Employment Security Department, 212 Maple Park, Mailstop KG-11, Olympia, Washington 98504, (206) 753-5120.

#### AMENDATORY SECTION (Amending Order 3-86, filed 8/12/86)

WAC 192-28-105 RECOVERY OF BENEFIT OVERPAYMENT—NOTIFICATION TO INDIVIDUAL. (1) When the department has information which causes it to believe that an individual has been paid more benefits than he or she is entitled to receive, the department will provide that individual with a written notice, the overpayment advice of rights, explaining that a potential overpayment exists. This notice shall contain the following:

(a) The reasons for the department's belief that the individual has been overpaid benefits.

(b) The amount of the overpayment as of the mailing or delivery date of the overpayment advice of rights.

(c) The fact that the department will collect overpayments in accordance with WAC 192-28-120.

(d) The fact that final overpayment assessments constitute legally enforceable debts which individuals are liable to repay whether or not they are claiming or receiving unemployment benefits. These debts can be used to obtain warrants which could result in liens, notice to withhold and deliver personal properties, garnishment of salaries, and possible sale of real and personal properties.

(e) An explanation that if an individual is found to be not at fault, he or she has the right to request a waiver of the overpayment and that waiver means the individual would not have to repay the overpayment because it would be against the principles of equity and good conscience.

(f) An explanation that at the individual's request, an overpayment may be repaid by account adjustment without an overpayment assessment if both the individual and the department agree to the circumstances, the amount of the overpayment and the method of repayment. If an individual agrees to an account adjustment, he or she can repay the overpayment by authorizing the department to deduct past and/or future benefits payable. No account adjustment action whether formal or informal, will be taken until the individual has been advised of his or her rights and has been given an opportunity to be heard on the overpayment issue. All individuals will be advised in writing of their right to a formal overpayment assessment, the possibility of waiver and their appeal rights. The individual can ask for and the department will issue a formal overpayment assessment, even after an account adjustment has been completed.

(g) A statement that an individual has 10 days to submit information to the local job service center regarding or disputing the existence of an overpayment and whether or not he or she was at fault. Failure to do so will result in the department making a decision, based on available information, regarding the existence of the overpayment and the individual's eligibility for waiver.

#### AMENDATORY SECTION (Amending Order 3-86, filed 8/12/86)

WAC 192-28-110 RECOVERY OF BENEFIT OVERPAYMENT—FAULT PROVISIONS. (1) When an overpayment occurs, the department will make a finding of fault or nonfault based on information provided by the individual and/or by the employer and from information contained in the department's records. After reviewing all such information, the individual will be considered to be at fault when the overpayment is:

- (a) The result of fraud, misrepresentation, wilful nondisclosure; or
- (b) The result of a disqualification for a felony or gross misdemeanor pursuant to the provisions of RCW 50.20.060(2), or if all of the following three elements are established:

(i) The individual was paid benefits in an amount greater than he or she was entitled to receive and he or she accepted and retained those benefits; and

(ii) The payment of these benefits was based on incorrect information or a failure to furnish information which the individuals should have provided as outlined in the information for claimants booklet, (~~The Presentation of Benefit Rights;~~) claimant directives and other reasonable written communications issued by the department; or information which the individual caused another to fail to disclose; and

(iii) The individual had sufficient notice that the information should have been reported.

(2) In accordance with WAC 192-23-900, an individual who is overpaid as the result of a conditional payment is liable for repayment.

(3) The individual may be considered to be at fault, even though he or she provided the department with all material information prior to the issuance of an applicable benefit eligibility decision, if the overpayment is the result of payment that the individual should reasonably have known was improper. Following are some, but not all, examples of instances in which an individual should reasonably have known that a payment was improper and therefore is at fault. These are intended as examples only and do not mean that the department would rule in this manner in every such situation.

(a) The individual correctly reported earnings but the department paid benefits at the full amount or incorrectly deducted the earnings.

(b) The individual reported that he or she was unavailable for one or more customary work days, but the department paid at the full amount and the payment was not a conditional payment.

(c) The individual received a retroactive pension payment that he or she had applied for and was reasonably sure would be awarded.

(d) The individual did not inform the department that he or she was eligible for benefits on an unexpired claim against another state.

(e) A lower level decision was reversed by the office of administrative hearings, the commissioner or a court because of new information that the individual failed to disclose to the department.

(f) Other circumstances in which department fact finding indicates that the individual knew the payment was improper.

(4) In determining whether or not an individual is at fault, the department shall also consider education, mental abilities, emotional state, the individual's experience with claiming unemployment insurance and other elements of the individual's personal situation which affect his or her knowledge and ability to comply with reporting all material information that is relevant to benefit eligibility. This includes information contained in the information for claimants booklet, (~~The Presentation of Benefit Rights;~~) claimant directives and other reasonable written communications issued by the department.

(5) The individual will be considered without fault when he or she provided the department with all material information prior to the issuance of an applicable benefit eligibility decision and the overpayment is the result of payment that the individual would not reasonably have known was improper. Following are some, but not all, examples of instances in which an individual may not reasonably have known that a payment was improper and therefore is not at fault. These are intended as examples only and do not mean that the department would rule in this manner in every such situation.

(a) The department erroneously removed a payment stop, resulting in improper payment.

(b) The individual received a retroactive pension which was backdated by the pension source, not at the individual's request.

(c) A combined wage or federal claim was filed against Washington that should have been filed against another state.

(d) Extended benefits were paid by the department when the individual would have been eligible for a new claim against this or another state.

(e) A lower level decision, in which all information was provided by the individual, was reversed by the office of administrative hearings, the commissioner or a court.

(f) Other circumstances in which department fact finding indicates that the individual did not know the payment was improper.

(6) Fault and waiver are not considered if the individual agrees to an account adjustment as explained in WAC 192-28-120(5).

#### AMENDATORY SECTION (Amending Order 3-86, filed 8/12/86)

WAC 192-28-120 RECOVERY OF BENEFIT OVERPAYMENT—BY REPAYMENT OR OFFSET AGAINST FUTURE BENEFITS. (1) An overpayment may be recovered either by offset or repayment by the individual in full or by making the minimum monthly billed amount as defined in WAC 192-28-130. If not repaid

by the individual, the amount assessed shall be deducted from benefits payable for any future week(s) claimed. If any recovery procedure is in conflict with federal regulations, the federal regulations shall apply.

(2) For overpayments that are final and assessed pursuant to RCW 50.20.010 because the individual asked to have his or her claim for unemployment insurance cancelled, the amount to be deducted will be one hundred percent of benefits payable for each future week(s) claimed. The department will ensure that the individual was properly informed of the advantages and/or disadvantages of cancelling an existing claim to file a new claim.

(3) When an individual enters into current claim status, the overpayment will not be offset from future weeks payable provided that the individual has not missed two or more payments, as determined by WAC 192-28-130, since the overpayment became final. If the individual has missed two or more payments, the overpayment will be offset in accordance with (a) and (b) of this subsection.

(a) For overpayments brought about by a denial pursuant to RCW 50.20.070 for fraud, misrepresentation, or wilful nondisclosure, the amount to be deducted will be ~~((+100%))~~ one hundred percent of benefits payable for each future week(s) claimed. Such overpayments will be recouped before any other overpayment the individual may have.

(b) For all other overpayments, the amount to be deducted will be fifty percent of benefits payable for each future week claimed. Provided, that at the request of the individual, an overpayment can be repaid at one hundred percent of benefits payable for each future week claimed.

~~((3))~~ For overpayments assessed pursuant to RCW 50.20.010 because the individual asked to have his or her claim for unemployment insurance cancelled, the amount to be deducted will be 100% of benefits payable for each future week(s) claimed. The department will ensure that the individual was properly informed of the advantages and/or disadvantages of cancelling an existing claim to file a new claim.

~~((4))~~ For all other overpayments that are not waived, the amount to be deducted will be 50% of benefits payable for each future week claimed. Provided, that at the request of the individual, an overpayment can be repaid at 100% of benefits payable for each future week claimed.

~~((5))~~ (4) At the request of the individual, an overpayment may be repaid by account adjustment without an overpayment assessment if both the individual and the department agree to the circumstances, the amount of the overpayment and the method of repayment. If an individual agrees to an account adjustment, he or she can repay the overpayment by authorizing the department to deduct past and/or future benefits payable. No account adjustment action will be taken until the individual has been advised of his or her rights and has been given an opportunity to be heard on the overpayment issue. All individuals will be advised in writing of their right to a formal overpayment assessment, the possibility of waiver and their appeal rights. The individual can ask for and the department will issue a formal overpayment assessment even after an account adjustment has been completed.

~~((6))~~ (5) For an overpayment assessed by another state, the amount to be deducted for the other state will be ~~((deducted in accordance with WAC 192-28-120))~~ as follows:

(a) For overpayments brought about by a denial for fraud, misrepresentation, or wilful nondisclosure, the amount to be deducted will be one hundred percent of benefits payable for each future week(s) claimed. Such overpayments will be recouped before any other overpayment the individual may have.

(b) For all other overpayments, the amount to be deducted will be fifty percent of benefits payable for each future week claimed. Provided, that at the request of the individual, an overpayment can be repaid at one hundred percent of benefits payable for each future week claimed.

~~((7))~~ (6) Those individuals who have been denied waiver, as well as those individuals for whom waiver was not considered, will be notified in writing of their right to enter into a payment agreement with the department or to make an offer in compromise. Offers in compromise will not be approved for individuals whose overpayment was brought about by a denial pursuant to RCW 50.20.060(2) or 50.20.070 unless there are unusual circumstances which would justify a compromise.

#### NEW SECTION

WAC 192-28-130 MINIMUM PAYMENT CALCULATION. Unless otherwise authorized by the commissioner or his/her designee, the minimum monthly payment shall be as follows:

(1) For overpayments assessed under RCW 50.20.070, the minimum monthly payment amount will be the individual's weekly benefit amount or three percent of the remaining overpayment balance at the time of the billing statement rounded to the next lower multiple of one dollar, whichever is greater.

(2) For all other overpayments, the minimum monthly payment amount will be one-third of the weekly benefit amount, three percent of the remaining overpayment balance at the time of the billing statement rounded to the next lower multiple of one dollar, or twenty-five dollars, whichever is greater.

**WSR 88-07-110**  
**PROPOSED RULES**  
**EMPLOYMENT SECURITY DEPARTMENT**

[Filed March 23, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Employment Security Department intends to adopt, amend, or repeal rules concerning Family independence program—Employment, training, and education rules, new chapter 192-42 WAC;

that the agency will at 10:00 a.m., Thursday, April 28, 1988, in the OB-2 Auditorium, 12th and Franklin, Olympia, Washington, and at 1:00 p.m., Tuesday, April 26, 1988, at the Service Center for the Deaf and Hard of Hearing, N1206 Howard (corner of Howard and Boone), Spokane, WA, and at 1:00 p.m., Wednesday, April 27, 1988, in the North Auditorium, 4th Floor, Federal Building, 915-2nd Avenue, Seattle, WA, conduct public hearings on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 29, 1988.

The authority under which these rules are proposed is RCW 50.12.010 and chapter 74.21 RCW.

The specific statute these rules are intended to implement is chapter 74.21 RCW.

Dated: March 23, 1988

By: Isiah Turner  
Commissioner

**STATEMENT OF PURPOSE**

The following statement has been prepared by the Employment Security Department for the purpose of legislative review of agency rules as provided by chapter 34.04 RCW.

Chapter 192-42 WAC, Family independence program—Employment, training, and education rules.

These rules are required for the implementation of the family independence program (FIP) as authorized in chapter 74.21 RCW. These rules apply to the employment, training, and education portions of the program.

WAC 192-42-005, establishes the duration of the program; WAC 192-42-010 Definitions, defines terms used in this chapter and in chapter 74.21 RCW; WAC 192-42-020 FIP employment and training, identifies departmental responsibilities for employment and training and for FIP orientation; WAC 192-42-030 Employability plan, provides a description of the plan and criteria for evaluating employability plans; WAC 192-42-040 Incentive bonus, identifies incentive bonus for enrollees participating in job search skills training; WAC 192-42-

050 Funding criteria, provides a method for identifying priorities for funding appropriate employability plans; WAC 192-42-060 Labor dispute, provides that enrollees who continue employment at a place of employment that is involved in a labor dispute will not be eligible for FIP benefits; WAC 192-42-070 Grievance procedure and appeals—Administrative review, outlines procedures for review of decisions regarding FIP employment, training, or education; and WAC 192-42-080 Dispute resolution process, provides a dispute resolution process for FIP employment related issues.

The rules were drafted by Mike Warren, Employment Security Program Coordinator 2, Employment Security Department, Mailstop KG-11, Olympia, Washington 98504, (206) 439-4025. These rules will be implemented and enforced by Barbara Flaherty, Assistant Commissioner for FIP Administration and Government Relations, Employment Security Department, Mailstop KG-11, Olympia, Washington 98504, (206) 439-4613.

CHAPTER 192-42 WAC

FAMILY INDEPENDENCE PROGRAM  
EMPLOYMENT, TRAINING, AND EDUCATION RULES

NEW SECTION

WAC 192-42-005 DURATION OF PROGRAM. Family Independence Program Employment, Training, and Education rules will remain in effect as long as the state and federal governments continue the program. The program may be cancelled upon six months notice by either the state or federal government and may be cancelled with less or no notice with the agreement of both governments.

NEW SECTION

WAC 192-42-010 DEFINITIONS. The following definitions apply for this chapter and for Family Independence Program employment, training and education functions in Chapter 74.21 RCW. Throughout this chapter "FIP" means Family Independence Program.

(1) "Administrative review" means the appeal process available to enrollees who feel they are aggrieved by a decision of the department related to the employability plan, education, employment, or training.

(2) "Applicant" means any person or a member of a family unit who requests FIP cash assistance.

(3) "Appropriate plan" means an employability plan which is designed to lead to employment and self-sufficiency.

(4) "Approved funding" means FIP resources allotted to fund employability plans determined by FIP staff as appropriate.

(5) "Assessment" means FIP orientation and evaluation of the appropriateness of employment, education, or training options for FIP enrollees.

(6) "Department" means the employment security department.

(7) "Dispute resolution" means the appeal process available to non-enrollees for resolving disagreements arising from employment of enrollees.

(8) "Employability plan" means the component of the self-sufficiency plan which specifies the enrollee's employment goal and is signed by the enrollee and FIP staff.

(9) "Enrollee" means the head of household or family member of a family eligible to receive financial assistance or other services under the family independence program.

(10) "Fair Hearing" means an administrative proceeding under chapter 34.04 RCW by which the office of administrative hearings hears and decides the appeal of an enrollee from an action or decision of the department.

(11) "Family Independence Program Services" include job readiness programs, job development, employment, job search skills training, work programs, training, education, family planning services, development of mentor programs, income and medical support, parenting education, child care, and training in family responsibility and family management skills, including appropriate financial counseling and training in the management of finances and use of credit.

(12) "Job search skill training" means group or individual training that aids the enrollee to identify, acquire, and sustain employment.

(13) "Long term education or training" means education or training which exceeds nine months in duration.

(14) "On-the-job-training" means training provided by any employer who hires and then instructs the enrollee in the duties required of the enrollee at the work site. The employer pays the enrollee's wages, but will be reimbursed through a contract for the cost of employment training based on a percentage of the enrollee's gross salary, not to exceed fifty percent (50%).

(15) "Transitional employment" means fully subsidized employment.

(16) "Self-sufficiency plan" means a written agreement between the department of social and health services or the department and the enrollee that may include activities specifically undertaken for self support, and other items outlined in the employability plan or the social services plan.

(17) "Short term education or training" means education or training which does not exceed nine months in duration.

(18) "Work experience" means unsalaried training in a supervised employment site which instructs the enrollee in essential work practices, as well as providing an opportunity for the exercise of skills specific to employment procedures.

#### NEW SECTION

WAC 192-42-020 FIP EMPLOYMENT AND TRAINING. (1) The department shall offer employment and training assessment as well as, within available funding, employment and training services.

(2)(a) All applicants and enrollees shall be given the opportunity to participate in a FIP orientation. All enrollees, except those who are exempt pursuant to RCW 74.21.080 (2)(d)(ii)-(vi), are required to participate in an orientation and assessment.

(b) Orientation shall include as a minimum:

- (i) An explanation of FIP benefits and services;
- (ii) An explanation of how a person can be linked with employment and training activities;
- (iii) Current local labor market information;
- (iv) Information and referral to family opportunity councils; and
- (v) Documentation of applicant/enrollee's attendance in the orientation.

#### NEW SECTION

WAC 192-42-030 EMPLOYABILITY PLAN. (1) Enrollees who seek to pursue employment, training, or education shall receive an assessment of employment, training, and education opportunities, and the opportunity to mutually participate in developing an individual employability plan. Department staff shall assist the enrollee in developing the employability plan based on an evaluation of the enrollee's assessed competencies, interests, skills, and aptitudes.

(2) The department staff shall determine if the employability plan is appropriate using the following criteria:

- (a) The availability of suitable training activities to meet the enrollee's employment goal;
- (b) The likelihood that the training goal leads to employment which meets the financial requirements for the family to become self-sufficient;
- (c) The documentation of the enrollee's acceptance into education or training institutions, or other programs;
- (d) The assessment and appraisal of competencies, previous education and training, local labor market information and local wage levels, enrollee skills, employment history, aptitudes, abilities, barriers, limitations, desires, and interests which indicate the enrollee can attain the employment goal; and
- (e) Other factors which, in individual circumstances or conditions, demonstrate likelihood for successful completion of training.

(3) At any time during the FIP enrollment, the enrollee may request modification of the employability plan.

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

#### NEW SECTION

WAC 192-42-040 INCENTIVE BONUS. Enrollees who participate in the job search skills training as a part of the employability plan may receive an incentive bonus of up to thirty dollars (\$30) per month

for a maximum of one hundred twenty dollars (\$120) in a consecutive twelve month (12) period. Enrollees must meet the terms of the employability plan to receive the incentive bonus.

#### NEW SECTION

WAC 192-42-050 FUNDING CRITERIA. The following criteria will be used in developing priorities for funding of appropriate employability plans:

(1) Regional management committees shall establish priorities for funding of appropriate training and education programs of enrollees based upon the following principles:

(a) Training will be allocated among the following categories in order to ensure that training will be offered to some enrollees across a full range of job readiness:

- (i) Job search skills training;
- (ii) Short-term education or training; and
- (iii) Long-term education or training.

(b) Funds should not be used to replace existing funding resources.

(c) Emphasis will be directed to supplementing education or skills training activities primarily funded through other sources and to funding job search skills training.

(d) Consideration shall be given to local conditions that reflect the expectations of the educational, training and employer communities and the training priorities established by the Private Industry Councils funded by the Job Training Partnership Act.

(2) Once an employability plan is deemed appropriate, the following criteria will be used to approve payment:

(a) Funds are available to obligate for the length of the employability plan, subject to annual review; and

(b) The plan meets the priorities established by the regional management committee; and

(c) Within priorities, plans will be funded within available funds and in the order in which they are approved.

#### NEW SECTION

WAC 192-42-060 LABOR DISPUTE. RCW 74.21.120(3) provides that enrollees in subsidized and unsubsidized employment shall not continue participation at a place of employment that is involved in a strike, lockout, or other bona fide labor dispute. Therefore, should an enrollee continue employment at a place that is involved in a strike, lockout, or other bona fide labor dispute, the enrollee is not eligible for FIP benefits including incentive payments and non-financial services while so employed.

#### NEW SECTION

WAC 192-42-070 GRIEVANCE PROCEDURE AND APPEALS—ADMINISTRATIVE REVIEW. (1) An administrative review shall be available for those enrollees (per RCW 74.21.090(2)) who are dissatisfied with the decision of the department within 10 calendar days of the decision of the department in any of the following areas:

- (a) The appropriateness of the employability plan;
- (b) The disapproval of funding issued for a proposed employability plan;
- (c) A denial of a request for modification of an employability plan;

or

(d) The removal of incentive bonus.

(2) An enrollee is not required to use the administrative review procedure prior to requesting a fair hearing.

(3) An enrollee using the administrative review hearing is not precluded from requesting a fair hearing.

(4) A request for an administrative review must be submitted in writing to the local department staff within ten calendar days.

(5) The written administrative review decision shall be issued or mailed to the enrollee within a reasonable time period of the filing of the request.

(6) If an enrollee disagrees with the administrative review decision, the enrollee may file a request for a fair hearing in accordance with Chapters 34.12 and 34.04 RCW.

(7) To the extent permitted by the federal social security act as amended, the manner and conduct of hearings and administrative appeals concerning written determinations issued pursuant to this chapter shall be in accordance with hearings and administrative appeals held pursuant to the employment security act, Title 50 of the Revised Code of Washington.

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

#### NEW SECTION

WAC 192-42-080 DISPUTE RESOLUTION PROCESS. RCW 74.21.120(4) requires a dispute resolution process for resolving disagreements relating to that section or other employment sections of chapter 74.21 RCW.

(1) The following sections or paragraphs within sections of the Act relate to employment and will be covered by the dispute mechanisms:

- (a) 74.21.03 (17) and (18);
- (b) 74.21.070 (1)(o);
- (c) 74.21.120; and
- (d) 74.21.130.

(2) The department will accept a written complaint from an employee or former employee, or employer who feels harmed by a decision relating to sections

- (a) 74.21.03(17);
- (b) 74.21.03(18);
- (c) 74.21.070 (1)(o);
- (d) 74.21.120; or
- (e) 74.21.130.

(3) The complaints must be submitted to the department within 30 days of the date that individual discovers or is informed of an alleged violation.

(4) Following receipt of a complaint, or on its own volition, the department will investigate an alleged violation. The assistant commissioner for FIP or a designee shall submit a finding and an order within 45 working days of receipt of the complaint or within 30 days of the end of the investigation, whichever is later.

(5) Such finding shall be a determination of the validity of the alleged violation.

(6) If the finding is that the alleged violation is valid, an order will be submitted to the disputing parties.

(7) The order will include both an opportunity for the employer to rectify the situation, and actions to be taken by the department. At the discretion of the assistant commissioner, these actions may include, but are not limited to, removing the enrollee from the place of employment, establishing an overpayment for the amount of the subsidy, removal of the employer from involvement in the program for a specified period of time, or a prohibition of future referrals or placements with the employer.

(8) The order shall also include the effective date of implementation and methods for extending that date. At the discretion of the assistant commissioner, the order may be made effective the date of delivery or of mailing, or may be made effective the date of the complaint. An appeal of the decision does not in itself delay implementation of the order.

(9) Any party aggrieved by the decision of the assistant commissioner for FIP may request a hearing within 30 days of the finding or order. The hearing will be held pursuant to RCW Chapters 34.04 and 34.12.

(10) Following the issuance of a decision by the office of administrative hearings, an aggrieved party may file a petition for review with the commissioner of employment security in accordance with Chapter 50.32 RCW.

**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 88-07-111  
PROPOSED RULES  
DEPARTMENT OF FISHERIES**

[Filed March 23, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Department of Fisheries intends to adopt, amend, or repeal rules concerning commercial and personal use fishing rules;

that the agency will at 1:00 p.m., Tuesday, April 26, 1988, in the Large Conference Room, 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 May 3, 1988.

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.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 26, 1988.

Dated: March 23, 1988

By: Robert A. Turner

for Joseph R. Blum

Director

#### STATEMENT OF PURPOSE

**Title:** WAC 220-12-020 Shellfish—Classification; 220-52-010 Shellfish—Unlawful acts; 220-56-310 Shellfish—Daily bag limits; and 220-56-320 Shellfish gear—Unlawful acts.

**Description of Purpose:** Classify ghost and mud shrimp and provide for commercial and personal use harvest.

**Statutory Authority:** RCW 75.08.080.

**Summary of Rule and Reasons Supporting Proposed Action:** WAC 220-12-020, classifies ghost and mud shrimp. Classification is necessary to bring these species under the management authority of the Department of Fisheries. WAC 220-52-010, requires permit for commercial harvest. The ghost shrimp fishery is growing, and permit requirements will vary for both area and intensity of harvest. Management needs require specific knowledge of harvest level and method, notification of which will be permit requirements; WAC 220-56-310, sets personal use daily bag limit. This appears to be a reasonable daily bag limit in light of harvest methods; and WAC 220-56-320, establishes personal use harvest method. Requiring hand operated tools will prevent environmental degradation and distinguish commercial from recreational digging.

**Personnel Responsible for Drafting:** Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 586-2429; **Implementation:** Judith Freeman, 115 General Administration Building, Olympia, Washington, 753-6772; and **Enforcement:** James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

These rules are proposed by the Washington Department of Fisheries.

**Comments:** None.

These proposals are not the result of federal law or court order.

**Small Business Economic Impact Statement:** No differential impact is anticipated. No effect on 10% of businesses in any one three-digit industrial classification nor 20% of all businesses is expected.

**AMENDATORY SECTION** (Amending Order 87-187, filed 11/6/87)

WAC 220-12-020 SHELLFISH—CLASSIFICATION. The following species are classified as shellfish under RCW 75.08.080 and are subject to the provisions of this title:

Abalone	
Red abalone	<i>Haliotis refescens</i>
Pinto abalone	<i>Haliotis kamschatkana</i>
Mussel	
Blue mussel	<i>Mytilus edulis</i>
California mussel	<i>Mytilus californianus</i>
Scallops	
Pacific pink scallop	<i>Chlamys rubida</i>
Rock scallop	<i>Crassadoma gigantea</i>
Spiny scallop	<i>Chlamys hastata</i>
Weathervane scallop	<i>Patinopecten caurinus</i>
Clams	
Bent nose clam	<i>Macoma secta</i>
All other macoma clams	<i>Macoma spp.</i>
Butter clam	<i>Saxidomus giganteus</i>
Common cockle	<i>Clinocardium nuttalli</i>
Geoduck	<i>Panope abrupta</i>
Horse or Gaper clam	<i>Tresus nuttalli</i> , <i>Tresus capax</i>
Mud or soft shell clam	<i>Mya arenaria</i>
Manila clam	<i>Tapes philippinarum</i>
Piddock	<i>Zirfaea pilsbryi</i>
Razor clam	<i>Siliqua patula</i>
Rock or native little neck clam	<i>Protothaca staminea</i>
Oysters	
Eastern oyster	<i>Crassostrea virginica</i>
Olympia or native oyster	<i>Ostrea lurida</i>
Pacific oyster	<i>Crassostrea gigas</i>
Kumamoto oyster	<i>Crassostrea gigas (kumamoto)</i>
European oyster	<i>Ostrea edulis</i>
All other oysters	( <i>Ostreidae</i> )
Squid	
Pacific Coast squid	<i>Loligo opalescens</i>
Nail squid	<i>Onychoteuthis borealijaponica</i>
Flying squid	<i>Ommastrephes bartramai</i>
All other squid	<i>Sepioidea</i> or <i>Teuthoiden</i>
Octopus	
Octopus	<i>Octopus dofreni</i>
Barnacles	
Goose barnacle	<i>Pollicipes polymerus</i>
Shrimp	
Coonstripe shrimp	<i>Pandalus danae</i>
Coonstripe shrimp	<i>Pandalus hypsinotus</i>
Ghost or sand shrimp	<i>Callinassa spp.</i>
Humpy shrimp	<i>Pandalus goniurus</i>
Mud shrimp	<i>Upogebia pugettensis</i>
Ocean pink shrimp	<i>Pandalus jordani</i>
Pink shrimp	<i>Pandalus borealis</i>
Sidestripe shrimp	<i>Pandalopsis dispar</i>
Spot shrimp	<i>Pandalus platyceros</i>
Crab	
Dungeness or Pacific	<i>Cancer magister</i>
Red crab	<i>Cancer productus</i>
Tanner crab	<i>Chionoecetes tanneri</i>
Crawfish	
Crawfish	<i>Pacifastacus sp.</i>
Sea cucumber	
Sea cucumber	<i>Parastichopus californicus</i>
Sea cucumber	<i>Cucumaria miniata</i>
Sea urchin	
Green urchin	<i>Strongylocentrotus droebachiensis</i>
Red urchin	<i>Strongylocentrotus franciscanus</i>
Purple urchin	<i>Strongylocentrotus purpuratus</i>

**AMENDATORY SECTION** (Amending Order 86-102, filed 9/12/86)

WAC 220-52-010 SHELLFISH—UNLAWFUL ACTS. (1) It shall be unlawful to take, dig for or possess geoduck clams for commercial purposes except from registered aquatic farms under permit issued by the director or as provided in WAC 220-52-019.

(2) It shall be unlawful to take, dig for or possess clams taken for commercial purposes within the boundaries of any state park located on tidewater unless authorized by a permit issued by the director.

(3) It shall be unlawful to take oysters or clams for commercial purposes from tidelands reserved for public use unless authorized by a permit issued by the director.

(4) It shall be unlawful to take oysters, clams, or mussels for commercial purposes from state oyster reserves without being licensed under RCW 75.28.290 and having permission of the director of fisheries.

(5) It shall be unlawful to take from any building, scow, boat, live-box, container, trap, net or vehicle any caught or impounded shellfish with intent to deprive the rightful owner of such shellfish.

(6) All geoduck and mechanical clam harvester vessels shall be issued an identification number. This number will be placed in a visible location on each side of the vessel and on the top of the cabin or deck awning to be visible from the air. A sign board or banner arranged so the numbers can be seen at all times from directly overhead may be substituted if the vessel does not have a fixed roof. The numbers shall be black on a white background and shall be not less than 18 inches high and of proportionate width.

(7) It shall be unlawful for a commercial clam digger to harvest clams from intertidal ground without having on his person a signed authorization from the registered clam farmer for whom he is harvesting. The digger will also be required to have suitable personal identification with him when engaged in clam harvesting. The authorization from the registered clam farmer must be legible, dated and must contain the date on which the authorization expires, provided that in no instance may the authorization go beyond the end of any calendar year. The authorization must additionally contain the name of each bay or area where the registered clam farmer has owned or leased ground from which the named clam digger is authorized to harvest.

(8) It is unlawful to fish for or possess ghost or mud shrimp taken for commercial purposes unless authorized by a permit issued by the director.

**AMENDATORY SECTION** (Amending Order 87-16, filed 4/21/87)

WAC 220-56-310 SHELLFISH—DAILY BAG LIMITS. It is unlawful for any one person to take in any one day for personal use more than the following quantities and sizes of shellfish:

(1) Cockles, borers and clams in the shell, except razor clams, geoduck clams and horse clams:

(a) Hood Canal south of a line projected from Tala Point to Foulweather Bluff - 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first.

(b) Puget Sound south and west of the Tacoma Narrows Bridge. This also includes Carr and Case Inlets and Pickering Passage - 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(c) All portions of Puget Sound except those described in (a) and (b) of this subsection - Bag limit January 1 - May 31: 60 clams or 10 pounds in the shell in the aggregate, whichever occurs first. Bag limit June 1 - December 31: 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(d) In Skagit Bay, east of a line projected from Browns Point to Swinomish Slough entrance, diggers may retain up to 20 pounds of eastern softshell clams in the shell in addition to the limit set in (c) of this subsection.

(e) Willapa Bay - clams and borers five pounds in the shell in the aggregate.

(f) Willapa Bay - twenty-four cockles.

(g) In English Camp tidelands the bag limit shall be as described in (c) of this subsection plus an additional 10 pounds of clams in the shell.

(h) Grays Harbor - 40 clams or 7 pounds in the shell in the aggregate, whichever occurs first.

(2) Razor clams: 15 clams.

(3) Geoduck clams: 3 clams.

(4) Horse clams: First 7 clams taken.

(5) Oysters: 18 oysters.

(6) Rock scallops: 12 scallops.

(7) Sea scallops: 12 scallops (over 4 inches).

(8) Common or pink scallops: 20 pounds or 10 quarts in the shell.

(9) Shrimp: 10 pounds, whole in the shell.

(10) Octopus: 2 octopus.

(11) Abalone (Kamschatka): 5 abalone, minimum size limit 3-1/2 inches measured in horizontal line across the longest portion of the shell.

(12) Crawfish: 10 pounds in the shell.

(13) Squid: 10 pounds or 5 quarts.

(14) Sea cucumbers: 25 sea cucumbers.

(15) Red sea urchins: 18 sea urchins.

(16) Purple sea urchins: 18 sea urchins.

(17) Green sea urchins: 36 sea urchins.

(18) Dungeness crabs: 6 male crabs.

(19) Red rock crabs: 12 crabs.

(20) Blue mussels and sea mussels: 10 pounds in the shell.

(21) Goose barnacles: 10 pounds of whole barnacles or 5 pounds of barnacle stalks.

(22) Ghost and mud shrimp: 10 dozen.

**AMENDATORY SECTION** (Amending Order 87-16, filed 4/21/87)

**WAC 220-56-320 SHELLFISH GEAR—UNLAWFUL ACTS.**

(1) It is unlawful for the owner or operator of any personal use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last name and permanent mailing address of the operator, and in the case of Hood Canal shrimp gear, the name and address must appear exactly as it occurs on the shrimp license. It is unlawful for more than one person's name and address to appear on the same marker buoy. Unattended shellfish gear left in the waters of Puget Sound must have the line attaching the buoy to the pot weighted sufficiently to prevent the line from floating on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots in Puget Sound waters:

(a) All buoys must consist of durable material and remain floating on the water's surface when at least 5 pounds of weight are attached. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) All buoys attached to shrimp gear must be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color.

(c) All buoys attached to crab gear must be half fluorescent red in color and half white in color. Flags and staff, if attached, may be any color.

(d) The number of pots attached to each buoy must be marked on the buoy in a manner that is visible and legible at all times.

(2) It is unlawful for any person using shellfish traps for personal use shellfishing to allow said traps to become uncovered by water.

(3) It is unlawful to take, fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than one escape ring not less than 4-1/8 inches inside diameter located in the upper half of the crab pot.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) The entire top, bottom, and sides of the shellfish pots must be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for Hood Canal shrimp pots is defined as a mesh that a 7/8-inch square peg will pass through each mesh without changing the shape of the mesh opening.

(c) All entrance tunnels must open into the pot from the side.

(d) Effective January 1, 1985, the sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

(5) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.

(6) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes except from one hour before official sunrise to one hour after official sunset.

(7) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

(8) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand.

**WSR 88-07-112**

**PROPOSED RULES**

**SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Filed March 23, 1988]

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 WAC 392-171-761, 392-171-766, 392-171-771, 392-171-776 and 392-171-781;

that the agency will at 9:00 a.m., Friday, April 29, 1988, in the Old Capitol Building, SPI, Wanamaker Conference Room, 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 28A.13.070(7).

Dated: March 23, 1988

By: Frank B. Brouillet  
Superintendent of Public Instruction

**STATEMENT OF PURPOSE**

Rule: Chapter 392-171 WAC.

Rule Section(s): WAC 392-171-761, 392-171-766, 392-171-771, 392-171-776 and 392-171-781.

Statutory Authority: RCW 28A.13.070(7).

Purpose of the Rule(s): To repeal duplicative section.

Summary of the New Rule(s) and/or Amendments: [No information supplied by agency.]

Reasons Which Support the Proposed Action(s): Replaced by chapter 392-168 WAC.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Richard Wilson, SPI, 3-2298; Implementation and Enforcement: Charles Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 392-171-761 RIGHT TO REGISTER AND PROCESS COMPLAINTS.

WAC 392-171-766 COMPLAINT DIRECTED TO SCHOOL DISTRICT AND DESIGNATION OF RESPONSIBLE SCHOOL DISTRICT EMPLOYEE.

WAC 392-171-771 SCHOOL DISTRICT INVESTIGATION OF AND RESPONSE TO COMPLAINTS DIRECTED TO THE SCHOOL DISTRICT.

WAC 392-171-776 APPEAL TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

WAC 392-171-781 ACTIONS IN RESPONSE TO NOTICES OF APPEAL AND NOTICES REGISTERING COMPLAINTS.

**WSR 88-07-113****PROPOSED RULES****SUPERINTENDENT OF PUBLIC INSTRUCTION**

[Filed March 23, 1988]

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 Special services program—Chapter 1 Migrant of the Education Consolidation and Improvement Act of 1981, financial assistance to state education agencies, chapter 392-164 WAC;

that the agency will at 9:00 a.m., Friday, April 29, 1988, in the Old Capitol Building, SPI, Wanamaker Conference Room, 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 28A.02.100.

Dated: March 23, 1988

By: Frank B. Brouillet

Superintendent of Public Instruction

**STATEMENT OF PURPOSE**

Rule: Chapter 392-164 WAC.

Rule Section(s): WAC 392-164-100 to 392-164-415.

Statutory Authority: RCW 28A.02.100.

Purpose of the Rule(s): To provide OSPI and school districts authority to administer the Chapter 1 migrant education program.

Summary of the New Rule(s): Federal legislation and CFRs issued April 30, 1985, dictate a need for formally adopted changes in the accountability of the Chapter 1 migrant education program in Washington state. These rules which will allow for the proper administration of the program.

Reasons Which Support the Proposed Action(s): RCW 28A.02.100 gives SPI the authority to adopt rules and to receive federal funds on behalf of school districts and to other operating agencies and to disburse such funds in accordance with federal law and accompanying federal rules and regulations.

Section Analysis: Chapter 392-164 WAC, Special services program—Chapter 1 Migrant of the Education Consolidation and Improvement Act of 1981, financial assistance to state education agencies.

WAC 392-164-100 cites RCW 28A.02.100 as the authority for SPI to receive federal funds on behalf of school districts and to disburse such funds in accordance with federal law; 392-164-105 states that the purpose of these rules is to ensure compliance by the state, local school districts and other subgrantee's of Chapter 1 Migrant of the ECIA of 1981; 392-164-115 states that the accountability of the local school districts or other subgrantee shall not be relieved of the responsibility to comply with all applicable federal statutes, rules, and regulations; 392-164-120 to 392-164-240 defines operative terms used in chapter; 392-164-245 states that an operating agency that receives Chapter 1 Migrant education program funds shall base its program and projects on an annual assessment of education needs which meet

criteria consistent with eligible children to be served within the service priorities set by the state, and designed to ensure concentration on specific needs; 392-164-250 lists service priorities that are required in federal statute; 392-164-255 states that an annual application is required; 392-164-260 lists the information to be included in the annual application; 392-164-265 sets the basis for planning and funding a local school district or other subgrantee and OSPI shall consider before approving funding to such entities; 392-164-270 states that each annual application submitted shall be approved by the board of directors after the board has reviewed the program design and expenditures and considered a list of informational reports presented to them; 392-164-275 states that each application shall be certified by the board of directors; 392-164-280 lists conditions under which supervisory costs may be supported; 392-164-285 lists conditions under which an application is given final approval by OSPI; 392-164-290 states the factors for determining the amount of subgrant to a local school district or other subgrantee; 392-164-295 states the effect of approval on the local school district or other subgrant to administer and operate its project in accordance with its application, amendments, and project requirements of this chapter; 392-164-300 states that twenty percent adjustments may be made in a budgeted object/activity cell without filing a request to OSPI for a budget revision; 392-164-305 states the conditions under which a budget revision must be requested from OSPI; 392-164-310 defines the affect of approval of a budget revision; 392-164-315 states the conditions under which a program update must be submitted to OSPI; 392-164-320 states the required forms and information to be referenced for the purpose of identifying and recording migrant children; 392-164-325 states the conditions under which student accident insurance coverage is made available to migrant children; 392-164-330 states the conditions under which Chapter 1 Migrant education program funds may be used for construction or portable lease/purchase; 392-164-335 states that the OSPI retains title to and administers the acquisition of property and equipment purchased with Chapter 1 Migrant education program funds; 392-164-340 lists the conditions under which day care of infants and very young children may be provided with Chapter 1 Migrant education program funds; 392-164-345 lists the conditions under which preschool services may be provided with these funds; 392-164-350 states the fiscal requirements for operating agencies receiving funds under this chapter; 392-164-355 states that audits of local school district Chapter 1 Migrant programs shall be conducted in compliance with 34 CFR 74, Subpart H; 392-164-360 lists requirements that each school district shall notify parents of their children's participation and progress in the program. That these reports shall be provided in the primary language of the parent if necessary for communication unless it is clearly not feasible to do so; 392-164-365 states that local parent advisory councils are required to be established, and lists the composition and procedures to be adhered; 392-164-370 states that an operating agency that receives funds from these programs shall convene

annually a public meeting, and the [are] required in setting up and conducting such a meeting; 392-164-375 specifies the purpose of the state advisory committee, and lists the composition of and procedures for this committee to function; 392-164-380 states that there is an annual requirement for each local school district or other subgrantee to submit a report of services compiled and verified by each entity, or compiled by the MSRTS and verified by the local school district or other subgrantee; 392-164-385 lists the conditions under which a report of summer school services must be made to OSPI; 392-164-390 states that each local school district or other subgrantee that receives a subgrant under this program shall evaluate their Chapter 1 Migrant program under methods listed; 392-164-395 states that either a local school district or other subgrantee or OPSI [OSPI] may initiate a program or budget revision to a migrant project; 392-164-400 states that program compliance reviews will be conducted of all operating agencies receiving Chapter 1 Migrant moneys by OSPI once every three years. The process and implications of these reviewed is listed; 392-164-405 states that all operating agencies receiving funds under this chapter shall be required to adhere to all Chapter 1 Migrant accountability and compliance procedures; 392-164-410 lists the conditions under which Chapter 1 Migrant payments shall be withheld; and 392-164-415 states that a compliance agreement may be a substitute for, or in conjunction with, withholding or repayment actions under this program. The conditions of said agreement and results of not achieving compliance are listed.

Person or Organization Proposing the Rule(s): SPI, government.

Agency Personnel Responsible for Drafting: Ralph E. Julnes, SPI, 3-2298; Implementation: Raul de la Rosa, SPI, 2-1031; and Enforcement: Dr. Charles "Bob" Marshall, SPI, 3-1880.

The Rule(s) is (are) Necessary as the Result of Federal Law, Federal Court Action, or State Court Action: [No information supplied by agency.]

Agency Comments, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matter Pertaining to the Rule(s): [No information supplied by agency.]

Chapter 392-164 WAC

~~((GRANTS MANAGEMENT—ELEMENTARY AND SECONDARY EDUCATION ACT—TITLE I PROGRAM, MIGRANT))~~  
SPECIAL SERVICES PROGRAM—CHAPTER 1 MIGRANT OF THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981, FINANCIAL ASSISTANCE TO STATE EDUCATIONAL AGENCIES

NEW SECTION

WAC 392-164-100 AUTHORITY. The authority for this chapter is RCW 28A.02.100 which authorizes the superintendent of public instruction to receive federal funds on behalf of school districts of the state of Washington and to disburse such funds in accordance with federal law and accompanying federal rules and regulations.

NEW SECTION

WAC 392-164-105 PURPOSE. The purpose of this chapter is to ensure compliance by the state of Washington with provisions governing financial assistance to local school districts and other subgrantee's

of Chapter 1 Migrant of the Education Consolidation and Improvement Act of 1981 and accompanying federal rules and regulations, particularly 34 CFR Parts 201, 204 and 74.60-61 and Appendix G to part 74.

NEW SECTION

WAC 392-164-115 ACCOUNTABILITY. Nothing in this chapter shall be construed to relieve a local school district or other subgrantee of its responsibility to comply also with all applicable federal statutes, rules, and regulations.

NEW SECTION

WAC 392-164-120 CHAPTER 1 MIGRANT—DEFINITION. As used in this chapter, the term "Chapter 1 Migrant" means that part of Public Law 97-35 and subsequent amendments, commonly referred to as Chapter 1 of the Education Consolidation and Improvement Act of 1981, which provide financial assistance to state educational agencies to meet special educational needs of migratory children.

NEW SECTION

WAC 392-164-125 AGRICULTURAL ACTIVITY—DEFINITION. As used in this chapter, the term "agricultural activity" means any of the following:

- (1) Any activity directly related to the production or processing of crops, dairy products, poultry, or livestock for initial commercial sale or as a principal means of personal subsistence.
- (2) Any activity directly related to the cultivation or harvesting of trees.
- (3) Any activity directly related to fish farms.

NEW SECTION

WAC 392-164-130 FISHING ACTIVITY—DEFINITION. As used in this chapter, the term "fishing activity," means any activity directly related to the catching or processing of fish or shellfish for initial commercial sale or as a principal means of personal subsistence.

NEW SECTION

WAC 392-164-135 MIGRATORY AGRICULTURAL WORKER—DEFINITION. As used in this chapter, the term "migratory agricultural worker" means a person who has moved within the past twelve months from one school district to another to enable him or her to obtain temporary or seasonal employment in an agricultural activity.

NEW SECTION

WAC 392-164-140 MIGRATORY FISHER—DEFINITION. As used in this chapter, the term "migratory fisher" means a person who has moved within the past twelve months from one school district to another to enable him or her to obtain temporary or seasonal employment in a fishing activity.

NEW SECTION

WAC 392-164-145 CURRENTLY MIGRATORY CHILD—DEFINITION. As used in this chapter, the term "currently migratory child" means a child:

- (1) Whose parent or guardian is a migratory agricultural worker or a migratory fisher; and
- (2) Who has moved within the past twelve months from one school district to another to enable the child, the child's guardian, or a member of the child's immediate family to obtain temporary or seasonal employment in an agricultural or fishing activity. This definition includes a child who has been eligible to be served under the requirements in the preceding sentence, and who, without the parent or guardian, has continued to migrate annually to enable him or her to secure temporary or seasonal employment in an agricultural or fishing activity.

NEW SECTION

WAC 392-164-150 FORMERLY MIGRATORY CHILD—DEFINITION. As used in this chapter, the term "formerly migratory child" means a child who:

(1) Was eligible to be counted and served as a currently migratory child within the past five years regardless of whether or not such child actually received service as a migratory child, but is not now a currently migratory child;

(2) Resides in the area served by the agency carrying out a Chapter 1 migrant education program or project; and

(3) Has on file a certificate of eligibility revalidated yearly by the signature of his or her parent or guardian certifying such child as a formerly migratory child.

#### NEW SECTION

WAC 392-164-155 **MIGRATORY CHILDREN—DEFINITION.** As used in this chapter, the term "migratory children" means children who qualify under either the definition of "currently migratory child" or "formerly migratory child" defined in this chapter.

#### NEW SECTION

WAC 392-164-160 **CHILDREN—DEFINITION.** As used in this chapter, the term "children" means persons up to age twenty-one who are entitled to a free public education not above grade twelve and preschool children: **PROVIDED,** That a child who reaches the age of twenty-one during a school year in which such child is receiving migrant services shall be considered eligible for services until the end of the school year.

#### NEW SECTION

WAC 392-164-165 **PRESCHOOL CHILDREN—DEFINITION.** As used in this chapter, "preschool children" means children who are:

(1) Below the age and grade level at which the state provides free public education; and

(2) Of the age or grade level at which they can benefit from an organized instructional program provided in a school or instructional setting: **PROVIDED,** That such children shall not be younger than three years of age.

#### NEW SECTION

WAC 392-164-170 **ELIGIBLE MIGRATORY CHILDREN—DEFINITION.** As used in this chapter, the term "eligible migratory children" means migratory children determined to be eligible by a local school district or other subgrantee on the basis of credible information from any source, including that provided by the child or his or her parent or guardian: **PROVIDED,** That only those migratory children with a signed, validated certificate of eligibility on file with the school district shall be served in the migrant program.

#### NEW SECTION

WAC 392-164-175 **GUARDIAN—DEFINITION.** As used in this chapter, the term "guardian" means a person who:

(1) Has been appointed to be the legal guardian of a child through formal proceedings in accordance with state law;

(2) Would qualify as a legal guardian of a particular child under Washington state law if formal guardianship proceedings were undertaken; or

(3) Is standing in the place of a parent to a child by virtue of the fact that, with apparent parental consent, the child resides with such person: **PROVIDED,** That if no objection has been filed to such residency, parental consent may be presumed.

#### NEW SECTION

WAC 392-164-180 **OTHER SUBGRANTEE—DEFINITION.** As used in this chapter, the term "other subgrantee" means the government, nonprofit, or other legal entity to which the state as grantee awards a subgrant, and which is accountable to the state for the use of the funds provided. The subgrantee is the entire legal entity even if only a particular component of the entity is designated in the subgrant award document.

#### NEW SECTION

WAC 392-164-185 **OBJECT OF EXPENDITURE—DEFINITION.** As used in this chapter, the term "object of expenditure"

means an article purchased or a service obtained, coded appropriately on the program budget matrix (FORM SPI F-1000B—CH. 1) and referred to for accounting purposes as the third field of uniform expenditure classification.

#### NEW SECTION

WAC 392-164-190 **ACTIVITY—DEFINITION.** As used in this chapter, the term "activity(ies)," when used in the context of budgeting provisions, means a specific line of work carried on by the school district or other subgrantee coded appropriately on the program budget matrix (FORM SPI F-1000B—CH. 1) and referred to for accounting purposes as the second field of uniform expenditure classification.

#### NEW SECTION

WAC 392-164-195 **INDIRECT EXPENDITURE—DEFINITION.** As used in this chapter, the term "indirect expenditure" means those expenditure elements that cannot be easily, obviously, and conveniently identified with specific programs and are allowable costs pursuant to 34 CFR 204.22 "Allowable costs," i.e., "project activities that:

(1) Are designed to meet the special educational needs of the children eligible to be served . . . ;

(2) Are included in an approved application; and

(3) Comply with all requirements applicable to Chapter 1 programs.

(b) The project activities may include applicable activities in section 555(c) of Chapter 1."

#### NEW SECTION

WAC 392-164-200 **DIRECT EXPENDITURE—DEFINITION.** As used in this chapter, the term "direct expenditure" means that part of program-allowed total expenditures that appear on the budget matrix under allowed combinations of activities and objects of expenditures.

#### NEW SECTION

WAC 392-164-205 **DEFINITION—SERVICE MODEL.** As used in this chapter, the term "service model" means the location, time and conditions characteristic of the method(s) chosen by a school district for delivery of Chapter 1 Migrant instructional and/or support services. Permissible models are those described in the annual application instructions.

#### NEW SECTION

WAC 392-164-210 **SUPPLEMENT—DEFINITION.** As used in this chapter, the term "supplement" shall be defined as instructional or support services for migratory children funded with Chapter 1 Migrant moneys, and offered by a school district in addition to required basic educational services funded with nonfederal moneys and services required by law funded with other federal or nonfederal funds. Such supplemental services shall be designed and implemented in accordance with service models described in Chapter 1 Migrant annual application instructions and shall meet the supplement/supplant tests appropriate to each model.

#### NEW SECTION

WAC 392-164-215 **OPERATING AGENCY—DEFINITION.** As used in this chapter, the term "operating agency" means:

(1) A local school district to which the superintendent of public instruction makes a subgrant of migrant education program funds;

(2) A public or nonprofit private agency with which the superintendent of public instruction makes an arrangement to carry out a migrant education project; or

(3) The superintendent of public instruction, if the superintendent of public instruction operates the state's migrant education program or projects directly.

#### NEW SECTION

WAC 392-164-220 **PROJECT—DEFINITION.** As used in this chapter, the term "project" means those services, activities, personnel, and materials provided to migratory children by the superintendent of public instruction either directly or indirectly through a local school district or by some other subgrantee as a legally approved contract.

**NEW SECTION**

WAC 392-164-225 **ACADEMIC INSTRUCTION—DEFINITION.** As used in this chapter, the term "academic instruction" means reading, oral language, language arts, mathematics: **PROVIDED,** That other areas of basic education instruction identified in RCW 28A.58.754, Basic Education Act, may be included if appropriate to the state and local plans approved pursuant to WAC 392-164-285.

**NEW SECTION**

WAC 392-164-230 **GREATEST NEED OF SPECIAL ASSISTANCE—DEFINITION.** As used in this chapter, the term "greatest need of special assistance" means those eligible migratory children, as defined in WAC 392-164-170, who have been identified on the basis of established selection criteria, including objective measurement of educational achievement, as in the greatest need of special assistance.

**NEW SECTION**

WAC 392-164-235 **CONSULTATION WITH PARENTS AND TEACHERS OF PARTICIPATING CHILDREN—DEFINITION.** As used in this chapter, the term "consultation with parents and teachers of participating children" means:

- (1) Establishment by the local school district of a parent advisory council;
- (2) Active solicitation of parent involvement in the planning, operation, and evaluation of the migrant education program, including discussion of program revenues and expenditures; and
- (3) Similar involvement of teachers of children being served.

**NEW SECTION**

WAC 392-164-240 **DEFINITION—PARTICIPATING CHILDREN.** As used in this chapter, the term "participating children" means those children in greatest need of special assistance, as determined on the basis of established selection criteria, who are selected to receive services in the Chapter 1 Migrant program.

**NEW SECTION**

WAC 392-164-245 **ANNUAL NEEDS ASSESSMENT.** Operating agencies that receive Chapter 1 Migrant education program funds shall base their Chapter 1 Migrant education program and projects on an annual assessment of educational needs which meets the following criteria:

- (1) Identifies migratory children who are eligible to be served under WAC 392-164-170;
- (2) Requires, consistent with the service priorities in WAC 392-164-250, the selection of those migratory children in the greatest need of special assistance; and
- (3) Determines the educational needs of the children selected to participate with sufficient specificity to ensure concentration on those needs.

**NEW SECTION**

WAC 392-164-250 **SERVICE PRIORITIES.** Operating agencies shall serve eligible migratory children—according to their needs—in the following order:

- (1) School-aged currently migratory children.
- (2) School-aged formerly migratory children.
- (3) Preschool currently migratory children.
- (4) Preschool formerly migratory children.
- (5) **PROVIDED,** That if in order to provide Chapter 1 Migrant instructional services to school-aged currently migratory children, it would be necessary to provide day care or similar services to preschool-aged currently migratory children, and no other funds—other than Chapter 1 Migrant funds—are available for that purpose, or an operating agency may provide Chapter 1 Migrant instructional services instead of day care services to those preschool children as if those children had a priority higher than school-age formerly migratory children.

**NEW SECTION**

WAC 392-164-255 **APPLICATION REQUIRED.** Each local school district or other subgrantee that seeks an allocation of federal

funds under Chapter 1 Migrant shall submit an annual application on forms provided by the superintendent of public instruction.

**NEW SECTION**

WAC 392-164-260 **SUBSTANCE OF ANNUAL APPLICATION.** The local school district's or other subgrantee's annual application shall include:

- (1) A description of the Chapter 1 Migrant education project to be conducted, including the following:
  - (a) The services and types of programs to be provided.
  - (b) The number of children to be served in total and for each service.
  - (c) The types and number of staff to be employed.
- (2) An appropriate budget displayed on FORM SPI F-1000B—CH. 1.
- (3) The assurances in section 556(b)(2) through (b)(5) of Chapter 1 of the Education Consolidation and Improvement Act.
- (4) The assurances in section 436(b)(2) and (b)(3) of the General Education Provisions Act.
- (5) The state-developed assurances included in the application.
- (6) Services, site, and use of facilities and equipment to be purchased.
- (7) A description of the local school district's or other subgrantee's plan for involving parents of migratory children in the planning, implementation, and evaluation of the project.

**NEW SECTION**

WAC 392-164-265 **BASIS OF PROJECT PLANNING AND FUNDING.** The local school district or other subgrantee and the superintendent of public instruction shall consider the following factors in project planning and approval for funding.

- (1) An operating agency's project shall:
  - (a) Satisfy the provisions of the approved state plan submitted by the superintendent of public instruction to the secretary of education;
  - (b) Be planned and implemented based on the number and specific needs of participating, eligible migratory students;
  - (c) Be of sufficient size and scope as determined pursuant to WAC 392-164-275 to meet the needs of the eligible migratory students to be served;
  - (d) Be funded in relationship to:
    - (i) The Migrant Student Records and Transfer System (MSRTS) reports on full-time equivalent migratory students to determine the number and status of migratory students enrolled on the MSRTS as compared to previous years' enrollment and with other local school districts and operating agencies within Washington state;
    - (ii) Data contained in the report of services filed with the superintendent of public instruction to determine continuity of services and projected number of participants versus the number of migratory students actually served over time;
    - (iii) Skills Information Systems Reports and Supplementary Services Report to determine if skills mastered by project participants and under study are consistent with the amount of staff time requested;
    - (iv) The number of students served in supplemental programs by the operating agency to determine whether planning information and proposed services are consistent with one another and if funds requested are intended to support a new project;
    - (v) Monitoring reports to determine if the local school district or subgrantee has incorporated recommendations to remedy weaknesses in previous projects into their current proposal;
    - (vi) Expenditure claims for the immediately preceding and current year to determine if the amount requested is realistic in light of the rate of expenditure in the current year;
    - (vii) State plan to determine whether the scope of services planned at the local school district or subgrantee level is within approved state priorities; and
    - (viii) Migrant Student Records Transfer System and Migrant Education Regional Office reports to determine the needs, strengths and weaknesses of the proposal based on information gathered in visits for reports, training, and district profiles.
- (2) No project shall be established solely for formerly migratory children.

NEW SECTION

WAC 392-164-270 **BOARD APPROVAL.** Each annual application submitted by a local school district or other subgrantee to the superintendent of public instruction shall be approved by the board of directors only after the board has reviewed the program design and expenditures and considered each of the following:

- (1) Previous year's planned expenditures and total Chapter 1 Migrant moneys requested for the ensuing year (July 1 through June 30);
- (2) Evaluation results in terms of student achievement data from the previous year's program, and, when available, whether gains have been sustained over a period of one year;
- (3) Results of the annual needs assessment; and
- (4) The adequacy of parent/teacher consultation in the planning and implementation of the program.

NEW SECTION

WAC 392-164-275 **BOARD CERTIFICATION.** The board of directors shall, as a part of application approval, certify to the superintendent of public instruction that in their opinion:

- (1) The local school district or other subgrantee has included among the migratory children to be served, those children in greatest need of special assistance;
- (2) The approved program is of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of children being served; and
- (3) The school district or other subgrantee has complied with the provisions of this chapter.

NEW SECTION

WAC 392-164-280 **SUPERVISORY COSTS.** Support for supervisory costs related to educational services provided under this chapter shall be clearly supplemental to costs of regular supervisory activities and responsibilities of the operating agency.

- (1) All direct supervisory support requested shall be documented and submitted along with the project application.
- (2) A local school district or other subgrantee may claim the indirect expenditure rate defined in WAC 392-164-195 in addition to budgeting for direct supervisory expenditures subject to the approval of the superintendent of public instruction.

NEW SECTION

WAC 392-164-285 **APPROVAL OF CHAPTER 1 MIGRANT PROJECT APPLICATIONS FOR A SUBGRANT BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION.** (1) Final approval of a Chapter 1 Migrant project shall be given to a local school district or other subgrantee when the superintendent of public instruction has received a completed application in accordance with WAC 392-164-260 and 392-164-265 and is assured that the local school district or other subgrantee has satisfied all yearly reporting requirements and compliance agreements from the previous year, unless the agreement extends into the current year.

(2) Programs shall not be implemented without prior approval from the superintendent of public instruction. The effective approval date shall be July 1 of each year for applications received prior to July 1, or the subsequent date on which the application is received by the superintendent of public instruction.

(3) Fiscal expenditures made prior to the effective approval date indicated on an application or a request for budget revision shall not be allowed.

NEW SECTION

WAC 392-164-290 **AMOUNT OF SUBGRANT.** The superintendent of public instruction shall determine the amount of a subgrant to a local school district or other subgrantee based on the following factors:

- (1) The number of children to be served;
- (2) The nature, scope, and cost of the proposed project; and
- (3) Any other relevant criteria developed by the superintendent consistent with the provisions of WAC 392-164-250, including the priorities in the approved state plan concerning ages and grade levels of children to be served, areas of the state to be served, and types of services to be provided.

NEW SECTION

WAC 392-164-295 **EFFECT OF APPROVAL.** Approval by the superintendent of public instruction of a project application under this chapter requires the local school district or other subgrantee to administer and operate its project in accordance with its application, any amendments, and project requirements of this chapter. That approval, however, does not create for the local school district or other subgrantee an entitlement to receive a subgrant for a period other than the fiscal year for which approval is given.

NEW SECTION

WAC 392-164-300 **BUDGET REVISION—TWENTY PERCENT ALLOWED.** Using either an object or activity subtotal from FORM SPI F-1000B—CH. 1 as a base, local school districts or other subgrantees may make annual expenditure adjustments of up to twenty percent of the previously budgeted object/activity cell within the approved annual application without filing a request for a budget revision with the superintendent of public instruction.

NEW SECTION

WAC 392-164-305 **BUDGET REVISIONS—UPDATING PLANNED EXPENDITURES.** Except as provided in WAC 392-164-300 each local school district or other subgrantee shall expend Chapter 1 Migrant moneys in accordance with planned expenditures and the program description included in the application submitted to and approved by the superintendent of public instruction. A local school district or other subgrantee shall be required to file a request for a budget revision whenever necessary with the superintendent of public instruction in order to accomplish any of the following:

- (1) Increase the total expenditure of Chapter 1 Migrant moneys.
- (2) Change by more than twenty percent of an object/activity cell the expenditures among activities or object.
- (3) Expend money in any object or activity where no moneys were budgeted in the approved application.

NEW SECTION

WAC 392-164-310 **BUDGET REVISION—APPROVAL.** Approval of budget revisions by the superintendent of public instruction shall be in accordance with the provisions of WAC 392-164-285 for approval by the superintendent of public instruction of the annual application.

NEW SECTION

WAC 392-164-315 **PROGRAM UPDATE.** No later than thirty calendar days following a substantial program change, a local school district or other subgrantee shall submit to the superintendent of public instruction a description of such changes. "Substantial changes" shall mean one or more of the following:

- (1) Removal of Chapter 1 Migrant services from an area listed as "served" on the application.
- (2) Addition of Chapter 1 Migrant services to an area not listed as "served" in the application.
- (3) Modification of the Chapter 1 Migrant program in any served area by adding a new program focus, by changing grade levels, or by changing program service delivery models.
- (4) Increasing the number of students served in the Chapter 1 Migrant program to such an extent that the district must exceed the twenty percent budget variance to accommodate serving the additional eligible students.

(5) PROVIDED, That notwithstanding the thirty-day provision for notification to the superintendent of public instruction of substantial program changes, if such changes necessitate a budget revision or are based on a needs assessment revision, said revision shall be submitted to the superintendent of public instruction for approval prior to implementation of proposed changes.

NEW SECTION

WAC 392-164-320 **IDENTIFICATION OF MIGRATORY CHILDREN.** The uniform migrant student certificate of eligibility shall be used for the purpose of identifying and recording migratory children.

(1) All migratory children shall be identified, recruited, and enrolled on the Migrant Student Records Transfer System regardless of whether or not the child resides within a school district offering a migratory program.

(2) All operating agencies with identified migratory children shall participate in the Migrant Students Records Transfer System with updating of academic, health, and other pertinent data.

(3) The projected number of migratory students to be served by any subgrantee shall be based on actual statistical information recorded on the Migrant Student Records Transfer System and other pertinent information available to the subgrantee.

(4) Each student enrolled in a migrant education program shall have on file a currently valid certificate of eligibility according to the requirements of the state of Washington migrant education program.

#### NEW SECTION

WAC 392-164-325 STUDENT ACCIDENT INSURANCE. All migratory children enrolled on the Migrant Student Records Transfer System and enrolled in a bona fide educational program recognized by the superintendent of public instruction shall be provided with participatory accident insurance coverage paid from migrant program funds. It is the responsibility of the local school district or other subgrantee to:

- (1) Inform migratory parents of the accident insurance coverage provided for their children.
- (2) Facilitate claims procedures when necessary.

#### NEW SECTION

WAC 392-164-330 CONSTRUCTION AND PORTABLE LEASE/PURCHASE. Chapter 1 Migrant moneys may be used for the modification of existing facilities and/or for lease/purchase of portable facilities for the purpose of serving Chapter 1 Migrant eligible children if each of the following conditions are met:

- (1) The district has exhausted other available options for providing space in which to serve eligible children including the utilization of all available permanent classroom space within the district.
- (2) Modification of facilities or lease/purchase of portable facilities will provide essential improvement in the delivery of Chapter 1 Migrant services to eligible children.
- (3) The purchase of portable classrooms proves to be less expensive than cost of constructing more permanent structures or remodeling existing structures.
- (4) PROVIDED, That such use of moneys shall have prior approval from the superintendent of public instruction which shall be granted only after an on-site visit to the school district to examine existing facilities in order to determine that the above conditions do exist. The superintendent of public instruction is the record owner of all portable classrooms purchased under this chapter.

#### NEW SECTION

WAC 392-164-335 PROPERTY, FACILITIES, AND EQUIPMENT. The superintendent of public instruction administers directly the construction of facilities and the acquisition of property and equipment needed to implement programs for migratory children; and retains title to such facilities, property, and equipment and possesses the right to move or transfer them according to need. Such procedures shall be consistent with 34 CFR 74.130-145, Subpart 0—Property, which governs the acquisition, inventory, and disposition of property purchased with federal funds.

#### NEW SECTION

WAC 392-164-340 DAY CARE. Day care of infants and very young children may be provided under this part as a service to such children upon specific application to the superintendent of public instruction with sufficient information to enable the superintendent of public instruction to determine that such care as described in the application is:

- (1) Not available from other public or private agencies which provide day care services in the geographical area to be served;
- (2) Essential to enable eligible currently migratory children to participate in instructional services by relieving them of the responsibility of caring for younger children; and
- (3) Cost effective in view of the number of children who would receive day care, the number of currently migratory children involved,

and the effect the availability of such services would have on the attendance and participation of such migratory children in instructional services.

#### NEW SECTION

WAC 392-164-345 PRESCHOOL SERVICES. Preschool services for eligible migratory children may be provided under this part as a service to preschool children upon specific application to the superintendent of public instruction with sufficient information to enable him to determine that such care as described in the application:

- (1) Serves eligible students who are currently migratory children ages three to school age;
- (2) Supplements services available from other public or private agencies;
- (3) Is not extravagant in view of the cost and the number of children involved;
- (4) Does not prevent participation of school age migratory children or detract from the operation of projects for school age children;
- (5) Is developed based on an academic and support services needs assessment; and
- (6) Is designed to provide for the special educational, cultural, and linguistic needs of the children.

#### NEW SECTION

WAC 392-164-350 FISCAL REQUIREMENTS. Fiscal requirements for operating agencies receiving funds under this chapter shall be understood and applied as described in WAC 392-163-245, 392-163-405, 392-163-410, and 392-163-415 which apply to Chapter 1 Regular of the Education Consolidation and Improvement Act.

#### NEW SECTION

WAC 392-164-355 CHAPTER 1 MIGRANT AUDIT. Audit of local school district Chapter 1 Migrant programs shall be conducted in compliance with 34 CFR Part 74, Subpart H—"Standards for grantee and subgrantee financial management systems and non-federal audits" and Appendix G, "Audit requirements for state and local governments."

#### NEW SECTION

WAC 392-164-360 NOTIFICATION OF PARENTS. Each school district shall notify parents of participating children of their child's involvement in the Chapter 1 Migrant program and shall issue periodic reports of the child's progress in the program. Such notification and reports shall be provided in the primary language of the parent if necessary for communication unless it is clearly not feasible to do so.

#### NEW SECTION

WAC 392-164-365 LOCAL PARENT ADVISORY COUNCILS—COMPOSITION AND PROCEDURES. A parent advisory council shall be established in each local school district or subgrantee which receives a subgrant under this chapter. Such parent advisory council shall:

- (1) Be composed of parents of children eligible to be served, who shall constitute at least a simple majority of said council, and other persons knowledgeable in the needs of migratory children.
- (2) Assist the district in the planning, implementation, operation, and evaluation of the present local project and in the planning of future projects.
- (3) Have parent members selected from among the parent group by the parents themselves. The balance of the parent advisory council membership may be appointed by the district and shall consist of representatives of social, health service, local business and industry, and other such community agencies.
- (4) Elect its own chair and such other officers as the membership deems appropriate.
- (5) Formulate bylaws and a procedure by which parents may present grievances to the local school district or other subgrantee.

#### NEW SECTION

WAC 392-164-370 ANNUAL MEETING OF PARENTS. An operating agency that receives Chapter 1 Migrant funds shall convene annually a public meeting, to which all parents of eligible children

must be invited, to discuss with those parents the programs and activities provided with Chapter 1 Migrant funds.

(1) The meeting agenda shall include:

- (a) Informing parents of their right to consult in the design and implementation of the agency's Chapter 1 Migrant project;
- (b) Soliciting parents' input; and
- (c) Providing parents an opportunity to establish mechanisms for maintaining ongoing communication among parents, teachers, and agency officials.

(2) An operating agency may hold one or more meetings at sites convenient to such agency to meet the requirement in subsection (1) of this section.

(3) If parents of eligible children desire further activities, the operating agency may, upon request, provide reasonable support for these activities. This support may include, but is not limited to:

- (a) Reasonable access to meeting space and materials;
- (b) Provision of information concerning the Chapter 1 Migrant law, regulations, and instructional programs;
- (c) Training programs for parents; and
- (d) Other resources, as appropriate.

#### NEW SECTION

WAC 392-164-375 STATE ADVISORY COMMITTEE. The purpose of the state advisory committee shall be to advise the superintendent of public instruction in planning, developing, operating, and evaluating the state Chapter 1 Migrant program; and to facilitate communication among local parent advisory councils and between the state advisory committee and local councils.

(1) Membership of the state advisory committee shall be as follows:

(a) The superintendent of public instruction shall select parent members from nominations submitted by local parent advisory committees, current state advisory committee members, or migrant education staff;

(b) The majority of the state advisory committee shall consist of such parents, selected from nominees; and

(c) The balance of the state advisory committee shall be selected by the superintendent of public instruction and shall consist of representatives of local and intermediate school districts, the Washington Hispanic commission, a high school migratory student, and such other agencies and committees as are deemed appropriate.

(2) Bylaws shall be developed jointly by the state advisory committee and the superintendent of public instruction.

(3) Election of officers shall be conducted by the membership.

(4) The superintendent of public instruction shall call all meetings.

(5) Members shall be reimbursed for travel and expenses consistent with state law.

(6) The executive secretary of the state advisory committee shall be an employee of the superintendent of public instruction who shall be assisted by the executive committee of the state advisory committee in finalizing and facilitating state advisory committee meeting agendas.

#### NEW SECTION

WAC 392-164-380 REPORT OF SERVICES—ANNUAL REQUIREMENT. Each local school district or other subgrantee that receives a subgrant under Chapter 1 Migrant shall submit to the superintendent of public instruction each year a report of services compiled and verified by such entity or compiled by the Migrant Student Records Transfer System and verified by the local school district or other subgrantee. Such verified report shall be received by the superintendent of public instruction no later than the second Friday in July and shall contain all information requested, including data on the race, age, and gender of children served by the Chapter 1 Migrant program and on the number of children served by grade level.

#### NEW SECTION

WAC 392-164-385 REPORT OF SERVICES—SUMMER SCHOOL ADDENDUM. Any local school district or other subgrantee which conducts a summer school supported with Chapter 1 Migrant moneys, in addition to the annual report of services, shall submit a separate report of summer school services by the second Friday in September in the form required by the superintendent of public instruction.

#### NEW SECTION

WAC 392-164-390 PROGRAM EVALUATION. Each local school district or other subgrantee that receives a subgrant under Chapter 1 Migrant shall evaluate their Chapter 1 Migrant program using a locally-developed evaluation method or the Chapter 1 Evaluation and Reporting System (CHIERS) for reporting student impact data to the superintendent of public instruction. In addition, each local school district or other subgrantee, when appropriate, shall determine whether improved student achievement is sustained over a period of more than one program year, and shall consider that data in the improvement of programs and projects assisted with Chapter 1 Migrant moneys.

#### NEW SECTION

WAC 392-164-395 PROJECT PROGRAM AND BUDGET REVISIONS. Program and budget revisions to a migrant project may be initiated by either the local school district or other subgrantee or the superintendent of public instruction.

#### NEW SECTION

WAC 392-164-400 PROGRAM COMPLIANCE REVIEW. The superintendent of public instruction shall conduct program compliance reviews of all operating agencies receiving Chapter 1 Migrant moneys. Review of each operating agency shall occur at least once every three years. Upon receipt of the compliance review report from the superintendent of public instruction the operating agencies shall have one month to respond to the superintendent of public instruction if there are exceptions noted in the report. Substantial noncompliance or failure by the operating agencies to respond and/or initiate corrective action in a timely manner shall be subject to actions prescribed in WAC 392-164-410 or 392-164-415.

#### NEW SECTION

WAC 392-164-405 SUBGRANTEE ACCOUNTABILITY. Chapter 1 Migrant program accountability and compliance procedures under this chapter shall apply to all operating agencies receiving migrant funds under this chapter.

#### NEW SECTION

WAC 392-164-410 WITHHOLDING OF CHAPTER 1 MIGRANT PAYMENTS. Withholding by the superintendent of public instruction of Chapter 1 Migrant payments shall occur only under the following conditions.

(1) If the superintendent of public instruction determines that an operating agency is not in substantial compliance with federal statute and regulation or with this chapter, the superintendent of public instruction shall have the authority to withhold payment in whole or in part of Chapter 1 Migrant moneys to the offending operating agency. In deciding whether to withhold payments, the superintendent of public instruction shall provide:

(a) Reasonable notice to the operating agency of the reasons for the proposed withholding; and

(b) An opportunity for the operating agency within thirty calendar days of such notice to give reason why the withholding should not be instituted.

(2) Pursuant to the operating agency response, the superintendent of public instruction shall consider the following factors:

- (a) The seriousness of the noncompliance;
- (b) The amount of Chapter 1 Migrant moneys involved;
- (c) The effect of withholding on participating children; and
- (d) The need to withhold payments to prevent further misuse of Chapter 1 Migrant moneys.

(3) If, after consideration of these factors and within thirty calendar days, the superintendent of public instruction decides to initiate a withholding procedure, a date shall be specified by which the operating agency shall have achieved compliance, or the moneys withheld shall become subject to repayment procedures specified in 34 CFR 204.11(b), "Access to records and audits, state and local responsibilities."

#### NEW SECTION

WAC 392-164-415 COMPLIANCE AGREEMENT. Notwithstanding any of the actions prescribed by WAC 392-164-410, any

operating agency found out of compliance with this chapter may as a substitute for, or in conjunction with, withholding or repayment actions referenced in WAC 392-164-410 be required to enter into a compliance agreement with the superintendent of public instruction to ensure that noncompliant Chapter 1 Migrant program practices are corrected within a period of time specified in that agreement, as a condition to continuous receipt of Chapter 1 Migrant moneys. If an operating agency fails to achieve compliance within the specified period of time, the withholding and/or repayment procedures prescribed by WAC 392-164-410 shall be instituted by the superintendent of public instruction.

**WSR 88-07-114**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed March 23, 1988]

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 relating to the certification and inspection of seed in chapters 16-304, 16-316 and 16-495 WAC; that the agency will at 1:15 p.m., Tuesday, April 26, 1988, in the Ag Service Center Conference Room, 2015 South 1st Street, Yakima, conduct a public hearing on the proposed rules. The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 13, 1988. The authority under which these rules are proposed is chapter 15.49 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 26, 1988.

Dated: March 23, 1988  
 By: Art G. Losey  
 Assistant Director

**STATEMENT OF PURPOSE**

Title: Chapter 16-304, 16-316 and 16-495 WAC.  
 Description of Purpose: To set fees for services performed for the seed industry and set standards and requirements for the certification of seed.  
 Statutory Requirement: Chapter 15.49 RCW.  
 Summary of Rules: Update seed standards, varieties eligible and adjust fees to more accurately reflect costs.  
 Reasons for Supporting Proposed Activities: These proposed changes are in response to industry requests.  
 Agency Personnel Responsible for Drafting, Enforcing and Implementing Rules: Max G. Long, Seed Branch Supervisor, 2015 South 1st Street, Yakima, WA 98903, phone scan 558-2750.  
 Person or Agency Proposing Rules: Washington State Department of Agriculture.  
 Agency Comments: None.  
 Rule Amendments Necessary to Comply with Federal Law: No.  
 Small Business Economic Impact Statement: None.

AMENDATORY SECTION (Amending Order 1930, filed 5/22/87)

WAC 16-304-040 SCHEDULE OF CHARGES. (1) Testing fees shall be as follows:

	SAMPLE MIN. SIZE	PURITY (a)	NOXIOUS ONLY	GERM (b)	PURITY AND GERM (c)	TETRA- ZOLIUM 200 Seeds (d)
Bentgrass	2 oz.	\$30.00	\$15.00	\$16.00	\$46.00	\$21.00
Bluegrass	4 oz.	21.00	13.00	14.00	35.00	21.00
Bromegrass	6 oz.	22.00	13.00	11.50	33.50	21.00
Fescue	4 oz.	21.00	13.00	11.50	32.50	21.00
Orchardgrass	4 oz.	24.00	15.00	13.00	37.00	21.00
Ryegrass	4 oz.	21.00	13.00	10.50	31.50	21.00
Crested Wheatgrass	4 oz.	24.50	15.00	<del>((+3.00))</del> 14.00	37.50	21.00
Other Wheatgrasses	6 oz.	36.00	22.00	<del>((+3.00))</del> 14.00	49.00	21.00
Other grasses	4 oz.	17.00	10.50	10.50	27.50	21.00
Beans and peas	1 1/4 lb.	13.00	7.50	11.50	24.50	21.00
Cereals	1 1/4 lb.	13.50	9.00	11.50	25.00	21.00
Other crops	4 oz.	13.50	9.00	11.50	25.00	21.00
Mixture (for each additional kind)		10.50		13.00		21.00
Beets		18.00	8.50	17.00	35.00	
Rapeseed		32.00	9.00	16.00	48.00	21.00
Carrot		13.50	9.00	11.50	25.00	36.00

(a) Purity - analysis to determine percent pure, other crop, inert, and weeds based on working sample as prescribed by Federal Seed Act (example: One gram - bluegrass; five grams - alfalfa; and one hundred grams - wheat) and examined for

Washington state noxious weeds based on minimum sample size as prescribed by Federal Seed Act (example: Ten grams - bluegrass; fifty grams - alfalfa; five hundred grams - wheat).

(b) Germination - test prescribed by Federal Seed Act to determine percent germination of seed sample based on four hundred seeds.

(c) Purity and germination - includes both (a) and (b). This combination of tests provides information needed to label seed under state and federal acts.

(d) Tetrazolium test - a chemical test that measures viability and germination potential. (A germination test should also be obtained.)

(2) Special tests: (Standard noxious exam size unless otherwise specified).

- (a) Crop and/or weed exam . . . . . Noxious only fee plus \$ 3.50 (or hourly rate when applicable)

All crop seeds and/or all weed seeds are listed as number per pound.

- (b) Poa annua check for bentgrass and bluegrass - each five grams . . . . . \$16.00
- Poa annua check for other grasses - each 10 grams . . . . . \$16.00

- (c) Sod seed analysis -
- Bluegrass . . . . . \$56.00
- Fescue . . . . . \$40.00
- Ryegrass . . . . . \$32.00

(A special test of turf grasses - for those who need a detailed examination of seed before purchase and/or use.)

Bluegrass test includes purity, twenty-five gram all weed/all crop, except ten gram Poa annua exam. Ryegrass and Fescue test includes purity, one hundred gram all weed/all crop. (Fluorescent required on ryegrass; germ and fluorescent test additional fee.)

- (d) Fluorescent test - (four hundred seed test) . . . . . \$13.00
- (e) Pest and disease, soil exam or similar . . . . . \$16.00

(Reported on seed analysis certificate.) A visual examination of a representative sample.

- (f) Sod analysis check - twenty-five gram exam to evaluate if a lot appears to be sod quality (phone report only) . . . . . \$18.00

- (g) Variety separation of Kentucky bluegrass . . . . . \$18.00
- If separated at time of purity analysis . . . . . \$ 9.00

- (h) Sodium hydroxide test for presence of red and/or white wheat . . . . . \$10.00

- (i) Brassica seed chemical identification test . . . . . \$10.00
- (j) Analysis of partially cleaned, uncleaned or field run seed with excessive inert, other crop or weed seeds (per hour) . . . . . \$16.00

(3) Inventory testing for germination: A service to provide opportunity to have carry-over seed stocks except mixtures tested at lowest possible charge. Not an official germination test.

- (a) Reports may not be mailed until all tests are completed.
- (b) Samples shall be plainly labeled "inventory samples."

(c) Samples shall be reported according to the sender's designation. The laboratory shall assume no responsibility for correct identification. These samples and tests shall not become a part of our permanent record.

(d) The fee for this service shall be one-half the regular germination fee.

(e) Inventory testing for germination will be run as germination space is available, with the understanding that regular service samples have priority.

- (4) Miscellaneous laboratory fees:
- (a) Rush samples (including phone report if requested at time sample is submitted) . . . . . \$10.00
- (b) Phone reports on test result, per call . . . . . (~~(\$ 8.00)~~) \$3.50

- (c) Preliminary report on germination (phone report only) . . . . . \$ 8.00
- (d) Morphological test . . . . . \$ 8.00

(alfalfa or clover examined under magnification for combine damage.)

- (e) Additional mailing of report (each destination) . . . . . \$ 1.50
- (f) Recopies of reports (minimum fee) . . . . . \$ 2.50

- Revised reports (minimum fee) . . . . . \$ 5.00 (or hourly fee when applicable)

(g) I.S.T.A. rules test	PURITY	GERMINATION
Alfalfa, clover	( <del>(\$35.00)</del> )	( <del>(\$11.50)</del> )
	\$20.00	\$14.00
Kentucky bluegrass	( <del>(\$45.00)</del> )	\$14.00
	\$30.00	
Peas, lentils	( <del>(\$26.00)</del> )	( <del>(\$11.50)</del> )
	\$20.00	\$14.00
(h) Canadian rules test	PURITY	GERMINATION
Alfalfa, clover	( <del>(\$35.00)</del> )	( <del>(\$11.50)</del> )
	\$20.00	\$14.00
Kentucky bluegrass	( <del>(\$45.00)</del> )	\$14.00
	\$30.00	
Peas, lentils	( <del>(\$26.00)</del> )	( <del>(\$11.50)</del> )
	\$20.00	\$14.00

- (i) Seed count . . . . . \$16.00

(j) Extra charge for samples requiring special preparation for germination, i.e., New Zealand spinach, pelleted seeds, spinach, chard, etc. . . . . \$16.00

- (k) Hourly fee for miscellaneous services . . . . . \$16.00

(l) Service charge for submitted federal phytosanitary certificates, per certificate . . . . . \$ 5.00

- (m) All states noxious weed examination . . . . . (~~(\$12.00)~~) \$7.00

(n) Fee for special handling service (i.e., Federal Express, Air Parcel Post, or air freight) for documents or seed samples . . \$3.50

- (o) Fee for facsimile transmission of documents . . . . . \$3.50

**AMENDATORY SECTION** (Amending Order 1756, filed 3/31/82, effective 5/1/82)

**WAC 16-304-050 MISCELLANEOUS CHARGES.**

- (1) Sanitary certificate . . . . . \$20.00

(2) Service sampling or similar service: The fee for each service requested shall be:

- (a) Peas, beans, small grains or seeds of similar size per cwt . . . . . (~~(\$ 0.03)~~) \$0.05

- (b) For all other kinds - per cwt . . . . . \$ 0.15

- (c) Minimum charge . . . . . \$16.00

(3) Tagging and sealing or similar service: The fee for each service requested shall be:

- (a) For all kinds of seed - per cwt . . . . . \$ 0.15

- (b) Minimum fee . . . . . \$16.00

- (4) Checkweighing, checkloading, or similar service shall be - per hour . . . . . \$16.00
- Minimum fee . . . . . \$16.00

(5) If requested to make a special trip to provide a service, the person requesting said service may be charged at the rate of \$16.00 per hour travel time plus mileage fee set by statute plus the specific fee for said service. All standby time shall be charged at the rate of \$16.00 per man hour.

(6) Test plot examinations or consultant work in plots, fields, conditioning plants, etc. shall be at the rate of \$16.00 per hour plus mileage and travel time.

- (7) Requests for services not listed - most appropriate fee.

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**AMENDATORY SECTION** (Amending Order 1889, filed 6/9/86)

**WAC 16-304-110 ANNUAL SEED INSPECTION CHARGE.**

Each person required to obtain a seed labeling permit, pursuant to RCW 15.49.400, of the Washington State Seed Act, shall also, pursuant to RCW 15.49.310 and 15.49.370, pay a general seed inspection charge annually to the department in the amount of ten cents per one hundred dollars gross annual dollar sales in excess of ten thousand dollars of agricultural and/or vegetable seed distributed in this state during the preceding fiscal year: PROVIDED, That no assessment shall be collected on (1) seed for which the assessment has been previously collected, except when such seed has been relabeled; (2) agricultural or vegetable seed distributed out of state; (3) seed distributed in containers of four ounces or less; (4) stock seed; and (5) seed distributed by governmental agencies, such as but not limited to the United States Department of Agriculture national foundation seed project: PROVIDED FURTHER, That erroneous and overpayments shall be refunded on request. Requests for refund shall be filed by June 30 of the year following the due date. Agricultural and/or vegetable seeds

distributed under bailment contract shall be valued at the producer-conditioner agreement rate in lieu of sale.

The assessment fees for the period beginning July 1, ~~((1985))~~ 1987 through June 30, ~~((1986))~~ 1988 shall be ~~((due August 1, 1986 and))~~ payable by February 1, ~~((1987))~~ 1989. The assessment fees for the period beginning July 1, ~~((1986))~~ 1988 through June 30, ~~((1987))~~ 1989 shall be ~~((due August 1, 1987 and))~~ payable by February 1, ~~((1988))~~ 1990.

The assessment may accompany the annual application for the seed labeling permit. A penalty of ten percent of the assessment fee or minimum of ten dollars, whichever is greater, shall be added to all assessments not paid by February 1. These funds shall only be used for seed control activities. The annual seed labeling permit may not be issued until all assessments and penalties have been satisfied.

AMENDATORY SECTION (Amending Order 1889, filed 6/9/86)

WAC 16-304-130 SEED INSPECTION ASSESSMENT—EFFECTIVE DATES. This rule is effective through June 30, ~~((1988))~~ 1990. Between January 1, ~~((1988))~~ 1990 and March 1, ~~((1988))~~ 1990, the assessment program shall be reviewed by the seed branch advisory committee, who will recommend whether to continue the seed assessment program. Such recommendations shall be considered at a public hearing under the authority of chapter 42.30 RCW, the Open Public Meetings Act, and chapter 34.04 RCW, the Administrative Procedure Act. The advisory committee shall also recommend the objectives of the seed quality control activities and shall review expenditures of assessment funds to verify such funds are being used only for seed quality control activities.

AMENDATORY SECTION (Amending Order 1452, filed 5/13/76)

WAC 16-316-195 SAMPLING. A representative sample of each lot of seed for certification shall be obtained by the ~~((certifying agency))~~ department for laboratory analysis. The sample shall be obtained in accordance with official sampling procedures or with mechanical sampling device approved by the ~~((certifying agency))~~ department. The entire lot ~~((must))~~ shall be cleaned and in condition for sale at the time of sampling.

AMENDATORY SECTION (Amending Order 1851, filed 5/2/85)

WAC 16-316-230 ALFALFA SEED CERTIFICATION FEES.

(1) Seedling applications: Due within sixty days after planting, however, may be accepted after due date at the discretion of the certifying agency.

- (a) Seedling application fee: Per variety, per grower ..... \$15.00
(b) Late seedling penalty fee: ..... \$15.00

This additional fee shall be charged for each seedling application received more than sixty days after planting.

(c) Seedling acreage fee: (per acre) ..... \$ 1.75 (Refundable if acreage is withdrawn before inspection.) Required of seedling fields to be harvested for certification the year of planting. Notification of seedling field to be harvested for certification and required fees are due July 31, however, may be accepted after due date with ten dollars late penalty fee at the discretion of the certifying agency.

(2) Renewal applications: Due June ~~((7))~~ 15, however, may be accepted after due date at the discretion of the certifying agency.

- (a) Renewal application fee: Per variety, per grower ..... \$15.00
(b) Renewal acreage fee: (per acre) ..... \$ 1.75 (Refundable if acreage is withdrawn before inspection.)

(c) Late renewal penalty fee: ..... \$15.00 This additional fee shall be charged for each renewal application received after June 15.

(3) Reinspection: Other than isolation (each field) ..... \$20.00 If a field is rejected for certification, the grower may apply for reinspection after the cause for rejection has been corrected. Only two re-inspections are permitted for each field each year.

(4) Production fee includes sampling and tagging per cwt.: ..... \$ 0.50 The sampling and production fees are billed at completion of tests. If none of the seed is

tagged, ten cents of the fifty cents cwt. production fee charged is refundable.

(5) Purity and germination test: ..... Fees as established by the director of agriculture.

(6) Fees for retagging, or services not listed in this rule shall be the most applicable fee established by the director of agriculture.

(7) Fees for reissue of tags shall be ten cents a tag with a minimum fee of ten dollars.

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) ..... \$ .75

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 ~~((10,000))~~ ten thousand pounds or portion thereof. Officially drawn samples will 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.

AMENDATORY SECTION (Amending Order 1889, filed 6/9/86)

WAC 16-316-350 GRASS SEED CERTIFICATION FEES—SEEDLING APPLICATIONS. (1) All fees for seedlings planted from January 1 through June 30 shall be due September 1, and all fees for seedlings planted July 1 through December 31 shall be due April 1 of the following year: PROVIDED, That such applications may be accepted after due date at the discretion of the certifying agency upon payment of the late seedling penalty fee.

- (a) Seedling application fee: Per variety, per grower ..... \$15.00
(b) Late seedling penalty fee: (per kind) ..... \$15.00

This additional fee shall be charged for seedling applications received ~~((more than sixty days after planting))~~ after due date.

(c) Seedling producing application fee: Per variety, per grower ..... \$15.00 Required of seedling fields to be harvested for certification the year of planting. Notification of seedling field to be harvested for certification and required fees shall be due July 31: PROVIDED, That such application may be accepted after due date with ten dollars late penalty fee at the discretion of the certifying agency.

(2) Renewal applications: Due May 1: PROVIDED, That such applications may be accepted after due date at the discretion of the certifying agency upon payment of the late renewal penalty fee.

- (a) Renewal application fee:  
Per variety, per grower ..... \$15.00
  - (b) Late renewal penalty fee: (per kind) ..... \$15.00
- This additional fee shall be charged for renewal applications received after May 1.

(3) Annual grasses inspection fee: (per acre) ..... \$1.75  
Applications are due within sixty days after planting.

(4) Reinspection: Other than isolation (each field) ..... \$20.00  
If a field is rejected for certification, the grower may apply for reinspection after the cause for rejection is corrected. Only two reinspections are permitted for each field each year.

((4)) (5) Inspection and final certification fees: Inspection and final certification fees shall be based on pounds sampled and billed upon completion of required tests (Option A). Those dealers requesting sampling and tagging privileges and/or participation in Option B shall sign a memorandum of agreement that shall expire on June 30 of each year. Memorandum may be terminated by the director if conditioner violates certification standard or requirements of memorandum.

(a) Option A: When based on pounds sampled, and billed at completion of required laboratory tests, the fees shall be:

(i) Inspection and final certification fee ..... \$ 0.80  
per one hundred pounds. (If no seed is tagged, twenty cents of the final certification fee is refundable upon request.)

(ii) Service fee for out-of-state origin ..... \$ 0.30  
per one hundred pounds.

(iii) Blend fee shall be as established by blend rule, and in addition to above fees. However, blend fee not applicable to salvage blends.

(iv) Payment of fees shall be the responsibility of the person signing the application. However, conditioner may assume this responsibility.

(b) Option B: When based on pounds tagged after required laboratory tests are completed, the fees shall be:

(i) Inspection and final certification fee ..... \$ 1.10  
per one hundred pounds. (Minimum fee per tagging) ..... \$10.00

(ii) Service fee for out-of-state origin ..... \$ 0.65  
per one hundred pounds.

(iii) Blend fee (in addition to fee established by blend rule) shall be payable upon completion of blend on total weight of blend, and shall be as follows:

(A) Washington origin certified seed used in blend ..... \$ 1.00  
per one hundred pounds.

(B) Out-of-state origin certified seed used in blend ..... \$ 0.60  
per one hundred pounds: PROVIDED, That those fees listed in (a) and (b) above are not applicable to certified seed that is tagged and sealed, and on which final fees have been paid.

(C) A refund or credit shall be issued for the percent of the blend lot not tagged. (For example, if forty percent of the blend is not tagged, forty percent of the fees charged under Option B above is refundable.) Requests for refunds shall be made by June 30 following final disposition of the blend.

((5)) (6) Payment of fees shall be the responsibility of the conditioner. A conditioner choosing this program shall handle all certified grasses in his warehouse under this program for the entire crop year. Upon termination or nonrenewal of Option B memorandum of agreement, conditioner shall be responsible for Option A fees on all certified seed not tagged at termination date.

((6)) (7) Fees for services such as O.E.C.D. and sod quality, etc., shall be in addition to the fees listed in these standards.

((7)) (8) Purity and germination test fees shall be as established by the director of agriculture.

((8)) (9) Fees for retagging, or services not listed in this rule shall be the most applicable fee established by the director of agriculture.

((9)) (10) Fees for reissue of tags shall be ten cents per tag with a minimum fee of ten dollars.

AMENDATORY SECTION (Amending Order 1889, filed 6/9/86)

WAC 16-316-370 GRASS SEED STANDARDS. Seed standards for grass shall be as follows:

PART ONE OF TABLE

Crop & type of Reproduction	Symbol (as defined in WAC 16-316-360)	Min. % Germ Fndt. Reg.		Min. % Pure Fndt. Cert.		Max. % Inert Fndt. Reg. Cert.	
		Reg.	Cert.	Reg.	Cert.	Reg.	Cert.
<b>Bluegrass</b>							
Sherman	(A)	70	70	90	90	10	10
Canby	(A)	70	70	90	90	10	10
Kentucky	(A)	80(e)	80(e)	97	97(d)	3	3
Merion Kentucky	(A)	80(e)	80(e)	92	92(d)	8	8
Canada and upland	(A)	80	80	96	92(d)	4	8
<b>Bromegrass</b>							
Smooth Brome	(C)	80	85	95	95	5	5
Meadow Brome	(C)	80	85	95	95	5	5
Mountain Brome	(S)	85	85	95	95	5	5
Deertongue	(C)	50	50	97	95	3	5
<b>Fescue</b>							
Tall and meadow	(C)	80	85	95	97	5	3
Hard and sheep Fescue	(C)	80	85	95	95	5	5
Other Fescue (chewings)	(C)	80	90	95	95	5	5
Orchardgrass	(C)	80	85	85	90	15	10
				80 for Pennlate & Latar			
Ryegrass	(C)	((85(g)-90(g))) 85 90		96	97	4	3
Pennfine	(C)	((85(g)-85(g))) 85 85		96	97	4	3
Timothy	(C)	80	85	97	97	3	3
<b>Wheatgrass</b>							
Beardless	(C)	80	85	90	90	10	10
Bluebunch	(C)	80	85	90	90	10	10
Intermediate	(C)	80	85	95	95	5	5
Pubescent	(C)	80	85	95	95	5	5
Western							
Streambank Crested, and Siberian	(C)	80	85	90	95	10	5
Slender	(S)	80	85	90	95	10	5
Tall	(C)	80	85	95	95	5	5
Indian Ricegrass	(C)	80*	80*	95	90	5	10
Puccinellia distans	(C)	80	80	95	95	5	5
<b>Basin Wildrye and Russian Wildrye</b>	(C)	80	80	90	90	10	10
<b>Bentgrass</b>	(C)	85	85	98	98	2	2
<b>Redtop</b>	(C)	80	80	92	92	8	8
<b>Ann. Canarygrass</b>	(C)	85	85	99	99	1	1

PART TWO OF TABLE

Crop & type of Reproduction	Max. % Weeds(b) Fndt. Reg.		Max. % Other Crop Fndt.(a) Reg.		Max. No. seeds of other grass spp. Fndt. Reg.	
	Reg.	Cert.	Reg.	Cert.	Fndt.	Reg.
<b>Bluegrass</b>						
Sherman	.05	.3	.1	.5	1/10 grams	1/1 gram
Canby	.05	.3	.1	.5(d)	1/10 grams	1/1 gram
Kentucky	.05	.3	.1	.5(d)	1/10 grams	1/1 gram
Merion Kentucky	.05	.3	.1	.5(d)	1/10 grams	2/1 gram

Crop & type of Reproduction	Max. % Weeds(b) Fndt. Reg.		Max. % Other Crop Fndt.(a) Reg.		Max. No. seeds of other grass spp. Fndt. Reg.	
	Reg.	Cert.	Reg.	Cert.	Fndt.	Reg.
Canada, upland	.05	.3	.1	.5(d)	1/10 grams	1/1 gram
<b>Bromegrass</b>						
Smooth Brome	.05	.3(c)	.1	.5	1/50 grams	10/50 grams
Meadow Brome	.05	.3(c)	.1	.5	1/50 grams	10/50 grams
((-----))						
Mountain Brome	.3	.5	.5	1.0	1/50 grams	10/50 grams
Deertongue	.50	.5(c)	1.0	1.0	1%	---
<b>Fescue</b>						
Tall and Meadow	.03	.3(c)	.1	.5	2/50 grams	10/50 grams
Hard and sheep Fescue	.03	.3(c)	.1	.5	1/50 grams	5/50 grams
Other Fescue (chewing)	.03	.3(c)	.1	.5	1/50 grams	5/50 grams
Orchardgrass	.03	.3(c)	.1	.5	3/50 grams	10/50 grams
Ryegrass	.1	.3(c)	.1	.5	1/50 grams	5/50 grams
Pennfine	.1	.3(c)	.1	.5	1/50 grams	5/50 grams
Timothy	.1	.3	.1	.5	1/50 grams	5/50 grams
<b>Wheatgrass</b>						
Beardless	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Blue Bunch	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Intermediate	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Pubescent	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Western Streambank	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Crested, and Siberian	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Slender	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Tall	.1	.3(c)	.1(f)	.5	1/50 grams	5/50 grams
Indian Ricegrass	.3	.5	.5	1.0	1/50 grams	5/50 grams
Puccinellia distans	.3	.5	.5	1.0	1/10 grams	1/1 grams
<b>Basin Wildrye and Russian Wildrye</b>						
	.1	.3(c)	.1	.5	1/50 grams	5/50 grams
Bentgrass	.3(g)	.4(g)	.2	.6		
Redtop	.3(g)	.5(g)	.5	.2		
Ann. Canarygrass	.1	.3	1/lb.	3/lb.		

The following (a)-(f) are notes to the above table.

(a) Not to exceed twenty-five hundredths of one percent other grass species for certified seed.

(b) Grass seed shall not contain more than forty-five per pound for registered seed, ninety per pound for blue tag seed, singly or collectively, of objectionable weed seeds. (See current general rules.) Grass seed shall be free of the seed of prohibited noxious weeds.

(c) A tolerance of five-tenths of one percent may be allowed for samples containing weedy bromus spp.: PROVIDED, That the total of all other weed seeds does not exceed three-tenths of one percent.

(d) A three percent tolerance of other Kentucky Bluegrass varieties may be allowed in Merion. (Note: Containing minimum ninety-two percent Merion.) In Canada Bluegrass, three percent Kentucky Bluegrass may be permitted.

(e) A standard tetrazolium (two hundred seed) test may be used in lieu of germination test.

(f) A tolerance of eight-tenths of one percent may be allowed in registered and certified wheatgrass containing small grain seed: PROVIDED, That the total of all other crop seed does not exceed one-tenth of one percent for registered class and five-tenths of one percent for certified class.

(g) ((Acceptable maximum fluorescence allowed:

Variety	Foundation	Registered	Certified
NK-100	3 - 12%	---	3 - 12%
Norica	2%	---	5%
Pelo	1%	2%	5%
Pennfine	0 - 1%	---	0 - 3%
Cropper	0	---	3%
NK-200	0	---	3%
Yorktown	0	0	2%
Loretta	---	---	2%))

Blue tag seed shall not contain over nine hundred seeds per pound, singly or collectively, of the following weeds: Plaintain spp., Big Mouse-ear Chickweed, Yarrow, Spotted Cat's Ear, and Dandelion.

(i) A maximum of .50 percent weed seed may be allowed in bentgrass containing silver hairgrass: PROVIDED, That the total of all other weed seed does not exceed .40 percent.

(ii) 1.50 percent other fine bentgrasses and .50 percent redtop may be allowed in certified bentgrass containing a minimum of 98.00 percent total bentgrass.

\* or seventy percent by Tz test

**AMENDATORY SECTION (Amending Order 1941, filed 7/10/87)**

**WAC 16-316-525 FIELD PEA—LENTIL—SOYBEAN—SORGHUM—SMALL GRAIN—ELIGIBLE VARIETY AND STOCK SEED.**

Kind, type	Variety
Barley, spring	Advance, Belford, Andre, Clark, Columbia (P), Cougar, Flynn, Gus (P), ((Kimberly;)) Klages, Kombar (P), ((Larker;)) Lindy (P), ((Lud-(P;)) Menuet (P), Morex, Nova (P), Onda (P), Piston (P), Poco (P), Seven (P), Steptoe, Westbred Gustoe (P), Westbred 501 (P), Westbred Sprinter (P), Whitford (P)
Barley, winter	((Adair;)) Boyer, ((Casbon;)) Hesk, Kamiak, Luther, Mal, Scio, Showin
Oat, spring	Appaloosa, Border, Cayuse, Monida, Ogle, Park,
Rye, winter	Puma, Rymin
Wheat, spring	Bliss, Bronze Chief (P), Copper, Ceres (P), Dirkwin, Edwall, Fielder, Kodiak (P), Landmark (P), McKay, NK 751 (P), Owens, Penawawa, Tammy (P), Treasure, Urquie, Wampum, ((Wald;)) Wared, Waverly, West Bred 803 (P), West Bred 881 (P), West Bred 906R (P), West Bred 911 (P), Westbred 926 (P), WS-1 (P), W-444 (P), Yecora Rojo
Wheat, winter	Andrews, Basin (P), Batum, Cashup (P), Crew Daws, Dusty, Hatton, Hill-81, John, Lewjain, McCall, Moro, Nugaines, Paha, Sprague, Stephens, Tres, Tyee, Wanser

Triticale, spring Juan, Whitman

Triticale, Winter Flora

(P) means proprietary

The eligibility of other varieties may be approved by the certifying agency.

Foundation seed is eligible to produce registered seed or certified seed.

Registered seed is eligible to produce certified seed. Certified seed is not eligible for recertification.

**AMENDATORY SECTION** (Amending Order 1744, filed 7/10/81)

WAC 16-316-717 FIELD PEA STANDARDS. (1) Field pea – land, isolation, and field standards:

CLASS	LAND	ISOLATION	FIELD	OTHER CROP
	MINIMUM YEARS	MINIMUM FEET	OFF-TYPE MAXIMUM PLANTS/ACRE	MAXIMUM PLANTS/ACRE
Foundation	5*	3	None	None**
Registered	3*	3	10	None**
Certified	2*	3	20	5**

\* Also required is minimum number of years the following crop kinds were out of production:

	NUMBER OF YEARS MINIMUM	
	Lentil	Austrian pea
Foundation	5	10
Registered	3	10
Certified	2	10

\*\* Refers to vetch, except that no Austrian pea ((σ)), rye, or Triticale is permitted.

(2) Field pea – seed standards:

CLASS	OFF-TYPE MAXIMUM SEEDS/LB	PURE SEED MINIMUM %	INERT MAXIMUM %	OTHER CROP MAXIMUM SEEDS/LB	WEED MAXIMUM %	GERMINATION MINIMUM %
Foundation	None	99.00	1.00	None	None	90.00
Registered	None	99.00	1.00	None	0.25**	90.00
Certified	1	99.00	1.00	3*	0.25**	90.00

\* No Austrian pea ((σ)), rye, or Triticale is permitted.

\*\* Other tolerance for weed seed:

	OBJECTIONABLE WEED SEED MAXIMUM
Registered	1/lb
Certified	2/lb

**AMENDATORY SECTION** (Amending Order 1744, filed 7/10/81)

WAC 16-316-719 LENTIL STANDARDS. (1) Lentil – land, isolation, and field standards.

CLASS	LAND	ISOLATION	FIELD	OTHER CROP
	MINIMUM YEARS	MINIMUM FEET	OFF-TYPE MAXIMUM PLANTS/ACRE	MAXIMUM PLANTS/ACRE
Foundation	5	300*	None	None
Registered	4	20*	10	10**
Certified	3	20*	30	30**

\* Reduce to three feet from fields producing a certified class of the same variety. In addition, each lentil field for certification must be isolated from small grain fields by three feet. To prevent mechanical field mixing of swathed lentil seedcrop, the planting of small grain between lentil fields, except for three feet of isolation, is recommended.

\*\* Refers to barley and vetch, each. No rye or Triticale is permitted.

(2) Lentil – seed standards:

CLASS	OFF-TYPE MAXIMUM SEEDS/LB	PURE SEED MINIMUM %	INERT MAXIMUM %	OTHER CROP MAXIMUM %	WEED MAXIMUM %	GERMINATION MINIMUM %
Foundation	None	99.00*	1.00*	None	None	85.00
Registered	1	99.00*	1.00*	0.05**	0.05***	85.00
Certified	4	99.00*	1.00*	0.10**	0.05**	85.00

\* A total of three percent inert matter will be allowed in samples containing decorticated seed provided total of all other inert matter does not exceed one percent.

\*\* No vetch, rye, or Triticale is permitted.

\*\*\* Other tolerance for weed seed:

OBJECTIONABLE WEED SEED  
MAXIMUM

Registered	1/lb
Certified	2/lb

AMENDATORY SECTION (Amending Order 1941, filed 7/10/87)

WAC 16-316-724 SMALL GRAINS STANDARDS. (1) Small grains (barley, oat, rye, triticale, wheat) – land, isolation, and field standards:

CLASS	LAND STANDARDS	ISOLATION STANDARDS	FIELD STANDARDS	
	MINIMUM YEARS	MINIMUM FEET	OFF-TYPE MAXIMUM PLANTS/ACRE	OTHER CROP MAXIMUM PLANTS/ACRE
Foundation	1*	3**	None	None***
Registered	1*	3**	5	5***
Certified	1*	3**	15	15***

- \* Waived if the previous crop was grown from an equal or higher certified class of seed of the same variety.
- \*\* Refers to distance from other small grain fields. In addition, each rye field for certification shall be isolated from fields producing a certified class of the same variety by three feet, and from other rye fields by six hundred sixty feet. Each triticale field for certification shall be isolated from fields producing a certified class of the same variety by three feet, and from other triticale, rye and wheat fields by three hundred feet for foundation and registered class, and three feet for certified class, unless stated by plant breeder.
- \*\*\* Refers to other small grains, except that no rye or triticale is permitted in barley, oat, or wheat(;;no vetch is permitted)).

(2) Small grains – seed standards:

CLASS	OTHER SMALL GRAINS AND/OR OFF-TYPE MAXIMUM SEEDS/LB	PURE SEED MINIMUM %	INERT MAXIMUM %	OTHER CROP MAXIMUM %	WEED MAXIMUM %	GERMINATION MINIMUM %
Foundation	None	<del>((99.00</del> <del>1.00))</del> 98.00	<del>1.00</del> 2.00	None	<del>((None))</del> 0.01**	85.00
Registered	<del>((1</del> <del>2</del>	<del>99.00</del> <del>98.00</del>	<del>1.00</del> <del>2.00</del>	<del>0.05*</del> <del>0.03</del>	<del>0.05**)</del> <del>0.01**)</del>	85.00
Certified	4	<del>((99.00</del> <del>1.00</del>	<del>1.00</del> <del>2.00</del>	<del>0.10*</del> <del>0.05</del>	<del>0.05**)</del> <del>0.03**)</del>	85.00

((~~\*~~ Other tolerance for other crop seed:

OTHER SMALL GRAINS  
MAXIMUM

Foundation	None
Registered	1/lb
Certified	2/lb)

No rye or triticale is permitted in barley, oat or wheat; no vetch is permitted.

\*\* Other tolerances for weed seed:

	OBJECTIONABLE WEED SEED MAXIMUM	WILD OAT MAXIMUM
Foundation	None	None
Registered	None	None
Certified	1/lb	None, except 1/lb in oat

**AMENDATORY SECTION** (Amending Order 1758, filed 3/31/82, effective 5/1/82)

WAC 16-316-727 CHICK PEA STANDARDS. (1) Chick pea – land, isolation, and field standards:

CLASS	LAND	ISOLATION	OFF-TYPE	OTHER CROP	ASCOCHYTA BLIGHT
	MINIMUM YEARS	MINIMUM FEET	MAXIMUM PLANTS/ACRE	MAXIMUM PLANTS/ACRE	
Foundation	3	3	None	None*	None
Registered	2	3	10	10*	None
Certified	1	3	20	20*	None

\*Refers to vetch except that no Austrian pea ((σ)), rye, or Triticale is permitted

(2) Chick pea – seed standards:

CLASS	OFF-TYPE MAXIMUM SEEDS/LB	PURE SEED MINIMUM %	INERT MAXIMUM %	OTHER CROP MAXIMUM SEEDS/LB	WEED MAXIMUM %	GERMINATION MINIMUM %
Foundation	None	99.00	1.00	None	None	85.00
Registered	None	99.00	1.00	None	0.25**	85.00
Certified	1	99.00	1.00	3*	0.25**	85.00

\* No vetch, Austrian pea ((σ)), rye, or Triticale is permitted.

\*\* Other tolerance for weed seed:

OBJECTIONABLE WEED SEED  
MAXIMUM

Registered	1/lb
Certified	2/lb

**AMENDATORY SECTION** (Amending Order 1930, filed 5/22/87)

WAC 16-316-800 GRASS VARIETIES ELIGIBLE. (1) Following are the grass varieties eligible and the certifying scheme for each:

Bentgrass: (subject to poa annua quarantine)	Seaside Creeping*** Putter Creeping Emerald Creeping**
Big Bluegrass:	Sherman**
Canada Bluegrass: (subject to poa annua quarantine)	Reubens**
Canby Bluegrass:	Canbar**
Kentucky Bluegrass: (subject to poa annua quarantine)	A-34 (Bensun)** Abbey** Adelphi** Alpine Amason* America* Argyle** Banff** Barblue*pvvV Baron** Birka* Bono (Birdie)* Bronco Chateau** Cheri (Golf)* Classic** Coventry** Destiny Dawn Eclipse* Enmundi*pvvV Estate Fylking** Georgetown** Geronimo* Glade** Haga* Harmony* Holiday* Huntsville Ikone** Julia* Kenblue* Kyosti*

Rough Bluegrass:

Meadow Brome:

Mountain Brome:

Smooth Brome:

Fescue:  
(subject to poa annua  
quarantine – except tall  
fescue)

Leikra
Liberty**
Limosine
Majestic**
Merion**
Monopoly*
Mystic*
Nassau**
Newport**
Nugget*
Nutop*
Parade*
Park**
Paso
Pennstar*
Plush*
Ram 1*pvvV
Rugby*
Sving*
Sydsport*
S-21**
Tendos
Touchdown**
Troy**
Wabash*
Welcome*
Colt
Regar**
Bromar**
Baylor*
Beacon*
Bravo
Jubilee
Manchar**
Rebound*
Saratoga*
Countess Chewings**pvvV
Arid Tall*
Barcel Tall**pvvV
Barfalla Chewings**
Barfalla Chewings**
Baruba Chewings
Durar Hard**
Finelawn 1-Tall**
Joseph Idaho**
Nezpurs Idaho*pvvV
Logro Slender Creeping

AMENDATORY SECTION (Amending Order 1930, filed 5/22/87)

WAC 16-316-820 ALFALFA VARIETIES ELIGIBLE. (1) Following are the alfalfa varieties eligible and the certification scheme for each:

- Red\*\*pvpV
- Chesapeake Tall\*
- Manade Tall\*
- Mesa-Tall Turf Type
- Rebel Tall\*
- Safe Tall\*
- Southern Cross Tall
- Covar Sheep\*\*
- Fawn Tall\*
- Beaumont Meadow\*
- First Meadow\*\*
- Forager Tall\*
- Wrangler-Tall Turf Type
  
- Orchardgrass:
  - Hay King\*
  - Latar\*\*
  - Paiute\*\*
  - Pennlate\*
  - Potomac\*
  
- Redtop:
  - Streaker\*
  
- Indian Ricegrass:
  - Nezpar\*\*
  
- Perennial Ryegrass:
  - (subject to poa annual quarantine)
  - All\*Star\*\*
  - Friend\*\*pvpV
  
- Puccinellia distans:
  - Fults\*
  
- Timothy:
  - Clair\*
  - Climax\*
  - Hokuo\*
  - Hokusen
  - Kempus
  - Nosappu\*
  - Promesse
  - Senpoku
  
- Wheatgrass:
  - Whitmar Beardless\*\*
  - Secar Bluebunch\*\*
  - Fairway Crested\*
  - Ruff Crested\*
  - Nordan Crested\*\*
  - Ephraim Rhizomatous Crested\*\*
  - Greenar
    - Intermediate\*\*
  - Oahe Intermediate\*
  - Tegmar Intermediate\*
  - Siberian\*\*
  - Greenleaf Pubescent\*
  - Luna Pubescent\*\*
  - Topar Pubescent\*\*
  - P-27 Siberian\*\*
  - Sodar Streambank\*\*
  - Critana Thickspike\*\*
  - Alkar Tall\*\*
  
- Basin Wild Rye:
  - Magnar\*\*
  
- Russian Wild Rye:
  - Bozoisky Select\*\*

- Agate\*
- Anchor\*
- Answer\*
- Aquarius\*
- Apollo II\*
- Armor\*
- Atlas\*
- Atra-55\*
- Baker\*pvpV
- Big Ten\*
- Blazer\*
- Challenger\*
- Chief\*\*
- Cimarron\*
- Classic\*
- Crusader\*\*
- DK-135\*
- Drummor\*
- Eagle\*
- Endure\*
- Excaliber\*
- Gladiator\*
- G-2815\*
- G-7730\*
- GH-737\*\*
- Hi-Phy\*
- Honeoye\*pvpV
- Iroquois\*
- Julus\*
- Magnum III\*
- Maxim\*
- Mesilla\*\*
- Mohawk\*
- Oneida\*pvpV
- Peak\*
- Perry\*
- Phytor\*
- Polar II\*
- Preserve\*
- Primal\*
- Ranger\*\*
- Riley\*
- Saranac\*
- Saranac AR\*pvpV
- Shenandoah\*
- Sparta\*
- Spredor 2\*
- Sverre\*
- SX-217\*
- SX-418\*
- Trumpetor\*
- Turbo\*
- Vernal\*
- Vancor\*
- Vernema\*
- Vista\*
- WL-220\*
- Weevlchek\*
- WL-221\*
- WL-225\*\*pvpV
- WL-312\*
- WL-313\*
- WL-315\*pvpV
- WL-316\*pvpV
- WL-318\*
- WL-320\*\*pvpV
- Wrangler\*
- 88\*
- 120\*
- 123\*
- 130\*
- 521\*

NO. OF SEED HARVESTS  
FOUNDATION REGISTERED CERTIFIED

(a) Kentucky Bluegrass:		
Baron	5	5
Birka	2 + 3 Cert.	5
Enmundi	4	5
Georgetown	5	5
Geronimo	6	6
Kenblue	5	7
Majestic	3 + 5 Cert.	5
Parade	5	5
Ram-I	2	6
Rugby	3 + 2 Cert.	5
Sydspout		5
Touchdown	2 + 5 Cert.	5
(b) Orchardgrass:		
Pennlate	3	6

520\*  
526\*  
530\*  
531  
532\*  
581\*  
5444\*  
624\*  
629\*

(2) Variety restrictions.

Breeder	NO. OF SEED HARVESTS		
	Foundation	Registered	Certified
Answer	2		5
Apollo II			3
Baker	2	3	6
Blazer		3	
Challenger	2	3	5
Chief		3	5
Crusader		3	5
Drummor	2	3	5
G-7730		3	5
GH 737		3	5
Honeoye		3	6
Iroquois		3	6
Oneida		3	6
Peak		3	
Perry	2	3	6
Preserve	2	3	5
Polar II	2	3	5
Saranac		3	6
Saranac AR		3	6
Spredor 2	2	3	5
Trumpetor	2	3	5
Vancor	2	3	5
Vernema		4	6
WL-221		3	
WL-225		3	5
WL-313		3	
WL-315		3	5
WL-320		3	5
WL-316		3	5
Wrangler			6
120		3	
123		2	4
130		3	5
526		3	5

AMENDATORY SECTION (Amending Order 1930, filed 5/22/87)

WAC 16-316-830 BEAN VARIETIES ELIGIBLE. Following are the bean varieties eligible and the certification scheme for each:

Red Mexican:	NW-59** NW-63** Rufus** U of I 42**
Pinto:	Holberg** Fiesta*pvv NW-410** NW-590** Nodak** Olathe**pvv Pindak** U of I 114** Othello**
Pink:	Gloria** Harold** Roza** Victor** Viva**
Small White:	Chief** Bonus** Aurora**
Kidney:	Royal Red**, Montcalm-Dark Red** Isabella-Light Red**, Kardinal**, Kamiken** ((both light red))
Snap Bean:	Epoch**pvv ((BlueLake))
Navy:	Bunsi**, C-20**, Hyden**, Laker**, NW 395**, Seafarer** Duty (Pulsar)**
Great Northern:	Emerson**, Harris**
Black Turtle:	Black Turtle Soup** #39** Black Beauty** Ebony**pvv

AMENDATORY SECTION (Amending Order 1948, filed 8/13/87)

WAC 16-316-832 RAPESEED VARIETIES ELIGIBLE FOR CERTIFICATION. Following are the rapeseed varieties eligible and certification scheme for each:

Bridger*	((Lindoro-oo)) Lindora-oo*
Cascade*	Rubin
Ceres*	((Wn-988)) WW-988*

AMENDATORY SECTION (Amending Order 1930, filed 5/22/87)

WAC 16-316-880 RAPESEED-SEED STANDARDS. Rape-seed standards shall be as follows:

Purity	Foundation	Registered	Certified
Pure seed (Min.)	99.00%	99.00%	99.00%
Other crop and/or varieties (Max.)	2/100 grams	2/100 grams	4/100 grams
Inert matter (Max.)	1.00%	1.00%	1.00%
Weed seed (Max.)	20/100 grams	20/100 grams	40/100 grams
Prohibited noxious weeds (1)	None	None	None
Objectionable weeds (2) (Max.)	2/100 grams	2/100 grams	4/100 grams
((Ø)) Chemical Analysis (3)			
Germination (Min.)	85.00%	85.00%	85.00%

Note:

- (1) None means none found during normal inspection procedures. None is not a guarantee that the lot is free of noxious weed seeds.
- (2) Objectionable weed seeds are defined as: Restricted noxious plus: Brassica nigra, Sinapis arvensis, Brassica juncea, and Raphanus, raphanistrum.
- (3) Erucic acid and glucosinolate content shall be within tolerances as described by the plant breeder for each variety.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-316-0401 CERTIFICATION FEES.
- WAC 16-316-0451 LAND REQUIREMENTS.
- WAC 16-316-0501 ISOLATION REQUIREMENTS.
- WAC 16-316-0551 FIELD TOLERANCES.
- WAC 16-316-0601 BENT GRASS AND REDTOP SEED STANDARDS.

AMENDATORY SECTION (Amending Order 1703, filed 5/30/80)

WAC 16-495-085 DEFINITIONS. (1) Annual bluegrass - Poa annua and all related subspecies.

(2) Seed stock - those seeds of grasses which are to be planted for seed increase or with intent of seed increase; except this definition does not include: Big Bluegrass, Upland Bluegrass, Brome, Tall Fescue, Meadow Fescue, Oatgrass, Orchardgrass, Timothy, or Wheatgrass.

(3) Official seed laboratory - seed testing laboratory approved by the director, such as, but not limited to, Washington State Seed Lab, 2015 South 1st Street, Yakima, Washington; and Oregon State Seed Laboratory, Oregon State University, Corvallis, Oregon.

(4) Representative sample - sample drawn in accordance with sampling procedures adopted by the director.

(5) Annual bluegrass analysis certificate - a test report from an official laboratory showing freedom from annual bluegrass of a 10 gram sample for bentgrass or redtop; a 25 gram sample for bluegrass; ((50)) 25 gram sample for other grasses.

(6) Quarantine tag - a tag issued by Washington state department of agriculture to be sealed to each bag showing said seed has met quarantine requirements.

**WSR 88-07-115**  
**PROPOSED RULES**  
**OIL AND GAS**  
**CONSERVATION COMMITTEE**  
[Filed March 23, 1988]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Oil and Gas Conservation Committee intends to adopt, amend, or repeal rules concerning:

Amd WAC 344-12-050 Application to drill, redrill, or deepen,

Amd	WAC 344-12-145	this rule is amended to require notification in lieu of permitting seismic lines. Wheel spacing, this rule is amended to require setbacks from lease lines.
New	WAC 344-12-043	This section requires reclamation of seismic lines.
New	WAC 344-12-064	Operation of seismic lines, this rule sets environmental standards for reclamation of seismic lines;

that the agency will at 8:30 a.m., May 10, 1988, in the EFSEC Conference Room, Rowsix, Building 1, 4224 6th Avenue S.E., Lacey, WA 98503, 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 78.52.120 and 78.52.155.

The specific statute these rules are intended to implement is RCW 78.52.10 [78.52.120] and 78.52.155 (2)(d), (3)(a), (3)(f) and (6).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 5, 1988.

Dated: March 23, 1988

By: John L. Chambers  
Secretary

#### STATEMENT OF PURPOSE

**Purpose and Implementation:** To void the requirement for shot hole seismic survey permits. Instead, an operator needs only to file a notice for any seismic survey to be undertaken in Washington state. Rules are also proposed that require reclamation and establish reclamation standards for seismic lines; and an additional rule implements Oil and Gas Conservation Committee Order 87-1 which establishes setback requirements for exploratory drilling and provides for variances to these requirements.

**Adopting Agency:** Oil and Gas Conservation Committee.

**Statutory Authority:** RCW 78.52.120 and 78.52.155.

**Summary of Rules and Reasons Therefore:** The rules are promulgated under chapter 78.52 RCW, which requires the protection of the state's natural resources and to maintain a safe and healthful environment for the people of Washington.

**Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Ray Lasmanis, Oil and Gas Supervisor, Geology and Earth Resources, Department of Natural Resources, Rowsix, Building 1, 4224 6th Avenue S.E., Lacey, WA 98503, (206) 459-6372.

**Proponents or Opponents:** The Department of Natural Resources, as designated agent of the committee through Mr. Ray Lasmanis, Oil and Gas Supervisor, at the discretion of the Oil and Gas Conservation Committee.

**Agency Comments:** The amendments have been proposed at the direction of the Oil and Gas Conservation Committee and will carry out orders of the committee and their policy of January 8, 1988.

**Small Business Impacts:** Rule amendment will allow for less lead time for small business to conduct their activities.

#### NEW SECTION

**WAC 344-12-043 EXPLORATORY WELL LOCATIONS.** (1) No exploratory well, or any part of the bore, casing, or drill site, shall be located closer than 500 feet (152 meters) to the external boundary of those lands on which the operator and/or their partners hold a contiguous mineral-interest.

(2) Upon written request to the supervisor, the committee may grant exceptions to the exploratory well set back requirements for good cause shown, provided that all owners of oil and gas and surface rights within a 500-foot radius of the well consent in writing to the proposed location.

**AMENDATORY SECTION** (Amending Order 6, Resolution No. 10, filed 1/8/85)

**WAC 344-12-050 APPLICATION TO DRILL, REDRILL, OR DEEPEN (FORM-1).** (1) A person desiring to drill, redrill, or deepen a well in search of oil or gas shall for each such well:

- (a) Apply to the supervisor of such intent on Form-1;
- (b) Submit a completed environmental checklist;
- (c) Provide information on drill site layout, blowout prevention equipment details, mud program, casing and cementing program, and mud pit details;
- (d) Designate location and source of water supply;
- (e) Indicate topographic features of well site including drainage patterns, and any associated surface waters and wetlands;
- (f) Provide a narrative statement describing the proposed measures to be taken for protection of the environment, including, but not limited to, the prevention or control of:

- (i) Fires;
- (ii) Soil erosion;
- (iii) Pollution of surface and ground waters;
- (iv) Damage to fish and wildlife or other natural resources;
- (v) Air and noise pollution; and
- (vi) Hazards to public health and safety;
- (g) Provide such other pertinent information or data which the supervisor may require to support the application for the development of oil and gas resources and the protection of the environment including site reclamation procedures;

(h) Designate methods and site for disposal of waste materials and drilling muds that contain heavy metals or are considered hazardous waste;

(i) Notify the surface landowner, the landowners tenant, or other surface users in writing with a copy to the supervisor;

(j) Shall pay a fee, which is not refundable, in the following amounts for each application:

- (i) For each well the estimated depth of which is three thousand five hundred feet or less, two hundred fifty dollars;
- (ii) From three thousand five hundred one feet to seven thousand feet, five hundred dollars;
- (iii) From seven thousand one feet to twelve thousand feet, seven hundred fifty dollars; and
- (iv) From twelve thousand one feet and deeper, one thousand dollars.

The fee shall accompany the application and be in cash or check, drawn upon or issued by a Washington state qualified public depository payable to state treasurer, state of Washington. Upon receipt of the application, the fee, and other specified information, the supervisor may issue to such person a permit to drill, after completion of an inspection of the proposed drill site, unless the drilling of the well is contrary to law, or to a rule, regulation, or order of the committee. The drilling of the well is prohibited until a permit to drill is obtained in accordance with the provisions of this section. If the permit is disallowed, the supervisor will immediately notify the person in writing the reasons therefor. The permit will be on such form containing such conditions as the committee may prescribe.

(2) An operator shall be required to obtain a permit to deepen a well. The fee, which is based on the estimated depth of the well as per subsection (1)(j) of this section, is required for the permit to deepen a well previously drilled under permit. No permit is required for work-over so long as the well remains completed in the same pool, provided the casing above the fresh-water shut-off depth is not to be disturbed or altered by the redrilling, conditioning, or testing to be performed.

(3) A permit, for which a fee of one hundred dollars is required, shall be obtained for a relatively shallow well or wells (less than 2,000 feet) (610 meters) not drilled in search of oil and gas but solely to obtain subsurface geological data: PROVIDED, That holes drilled for

the purpose of obtaining information about or sampling of the offshore beds of ocean waters shall be governed by chapter 344-16 and 173-15 WAC. Applications for a permit for a shallow well or wells shall comply with the provisions of subsection (1) of this section.

(4) ~~((A blanket permit, for which a fee of one hundred dollars is required, shall be obtained for the shot holes necessary to conduct a seismic geophysical investigation of structure and stratigraphy. The application for such blanket permit shall contain information on the general location of the investigative work, the approximate number and depth of shot holes, an environmental checklist, the type and quantity of explosives to be used, and such other information as the supervisor may require))~~ Prior to the initiation of any seismic geophysical survey, the supervisor shall be given written notification on Form-1. Notification shall consist of:

- (a) Name of the operator;
- (b) Name of the geophysical contractor;
- (c) Approximate locations including counties in which the survey is to be conducted. Locations of geophysical seismic surveys shall be held confidential for a period of one year from the filing date;
- (d) Type of seismic survey;
- (e) Number of line miles to be surveyed;
- (f) Evidence that a shoreline permit (RCW 90.58.140) has been obtained for proposals within two hundred feet of surface waters; and
- (g) A notification fee of one hundred dollars per survey.

(5) A copy of each application received shall be transmitted by the supervisor within ten days to the department of ecology, department of social and health services, and general purpose local governments of the jurisdiction in which the proposed activity would occur or in the case of a city or a town a well proposed within a three mile radius of its municipal boundaries and other affected agencies as deemed necessary by the supervisor.

(6) A person shall not be issued a permit unless that person holds an ownership or contractual right to locate and operate a drilling operation upon the proposed drilling site.

(7) Designated representatives of general purpose local governments are requested to inform the supervisor in writing within ten working days of those local government zoning ordinances, permit requirements, or other factors, if any, which may apply to a well proposed to be drilled, redrilled, or deepened.

#### NEW SECTION

**WAC 344-12-064 OPERATION OF SEISMIC SURVEYS.** Drilling and produced fluids from seismic shot holes shall be contained at each site. All fluid flows shall be killed immediately and the department shall be given notification of the location and depth from which the flow occurred. Insofar as is possible, disturbance of the soil shall be minimized. Vehicle traffic over seismic lines and line access routes shall be minimized. Siltation of ground or surface waters is prohibited.

#### AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

**WAC 344-12-145 RECLAMATION.** The supervisor shall establish guidelines for the reclamation of land impacted by oil and gas drilling and production activities.

The owner, operator, or producer of the well or wells shall develop a reclamation plan for the area disturbed in site preparation, drilling, completing, or producing a well or wells, and submit the reclamation plan to the supervisor for approval. The owner, operator, or producer shall, before the reclamation plan is implemented, consult affected state agencies, including the department of game, before submitting the reclamation plan to the supervisor. Reclamation shall be accomplished in accordance with the reclamation plan and the following:

(1) Within three months after the completion or abandonment of a well the operator shall fill all pits containing mud, cuttings, salt water and oil that are not needed for production purposes, or are not required or allowed by state or federal law or rule or regulation, and remove all concrete bases, drilling supplies, and drilling equipment. Within such period the operator shall grade or terrace, and plant, seed, or sod the area disturbed, that is not required in production of the well, to bind the soil and prevent substantial erosion and sedimentation.

(2) Within three months after the plugging of a well, the operator shall remove all production and storage structures, supplies and equipment, and any oil, saltwater and debris and fill any remaining excavations. Within such period the operator shall grade or terrace, and plant, seed, or sod the area disturbed to bind the soil and prevent substantial erosion and sedimentation.

(3) Ground water and soil resources on and adjacent to seismic surveys shall be provided the greatest practical protection on a continuing basis. The minimum reclamation program for seismic surveys shall provide for:

- (a) Revegetation of disturbed ground within three months of cessation of operations;
- (b) Removal of refuse and discarded equipment to a licensed landfill;
- (c) Plugging of all shot holes that encountered water upon completion of each day's work with a nontoxic plug-mud or cement;
- (d) Regrading of areas where disruption of topography has occurred, such as deep tire tracks, such that reclaimed topography conforms with adjacent, undisturbed topography;
- (e) Installation of erosion elimination devices where drainage or soil conditions indicate erosion may occur.

The supervisor may, upon written application by an operator, find reasonable cause to extend the period in which reclamation shall be completed, but not to exceed one year.

#### **WSR 88-07-116**

#### **PROPOSED RULES**

#### **DEPARTMENT OF LICENSING**

[Filed March 23, 1988]

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:

New WAC 308-96A-066 Use of preexisting license plates.  
Amd WAC 308-96A-065 Personalized license plates;

that the agency will at 9:00 a.m., Thursday, April 28, 1988, in the 2nd Floor Conference Room, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, 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 46.16.276 and 46.16.600.

The specific statute these rules are intended to implement is RCW 46.16.010, 46.16.290 and 46.16.560 through 46.16.595.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 28, 1988.

Dated: March 22, 1988

By: Sandra Brooks, Administrator  
Title and Registration Control

#### **STATEMENT OF PURPOSE**

Name of Agency: Washington State Department of Licensing.

Purpose: Will enhance the ability of the Department of Licensing to protect the public health, safety and welfare through its administration of the personalized license plate program.

Statutory Authority: RCW 46.16.276, 46.16.600 and 46.16.580.

Summary of the Rules: WAC 308-96A-066, Use of preexisting license plates, requires use of regular license plates until personalized plates are manufactured and delivered; and WAC 308-96A-065, Personalized license plates, shortens the time period for cancellation of personalized license plates after nonrenewal and prescribed

prerequisites for reissuance of personalized plates after cancellation.

Reason Proposed: WAC 308-96A-065 is proposed to comply with RCW 46.16.585 and 46.16.595, which require annual renewal of personalized license plates and immediate reporting to the Department of Licensing of transfer of personalized plates, and to facilitate prompt cancellation and reissuance of nonrenewed plates; and WAC 308-96A-066 is proposed to clarify required use of regular license plates until personalized plates are manufactured and delivered.

Responsible Departmental Personnel: In addition to the director of the Department of Licensing, the following individuals have knowledge of and responsibility for drafting, implementing, enforcing and repealing these rules: David T. Kirk, Assistant Director, Vehicle Services, Second Floor, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, phone (206) 753-6914 comm or 234-6914 scan; and Sandra Brooks, Administrator, Title and Registration Control, Second Floor, Highways-Licenses Building, 12th and Franklin, Olympia, Washington 98504, phone (206) 753-6920 comm or 234-6920 scan.

Proponents: The state of Washington Department of Licensing.

Federal Law or Federal or State Court Requirements: Not necessitated as the result of federal or state court requirements.

Small Business Economic Impact Statement: A small business economic impact statement is not required for this statement.

AMENDATORY SECTION (Amending Order TL/RG-34, filed 5/28/87)

WAC 308-96A-065 PERSONALIZED LICENSE PLATES. (1) The registered owner of a vehicle may apply for personalized license plates with any acceptable and unassigned combination of one to seven letters, numbers, or combination of both pursuant to RCW 46.16.565 through 46.16.600. Single digit plates shall not be assigned the letters "I" or "O", nor the numbers "1" (one) or "0" (zero).

(2) When a vehicle with personalized plates is sold, transferred or destroyed, the owner shall remove the plates from the vehicle. The owner may retain the plates for transfer to a replacement vehicle or return the plates to the department, relinquishing the right to the letter and/or number sequence or combination, or relinquish the plates to another individual by signing a notarized release of interest in the plates. The person to whom the plates were transferred must ((immediately apply for ownership of)) within fifteen days make application to have the plates ((in his/her/their own name(s))) transferred to a vehicle registered to the person.

(3) When the owner of a personalized plate fails to renew the license within ((ninety)) thirty days following the renewal due date or fails to have the plate transferred to a replacement vehicle within ((ninety)) thirty days from the sale, transfer, or destruction of the original vehicle, the plates will be cancelled.

(4) Personalized plates that have been cancelled ((will not)) may be reissued ((for ninety days)) upon receipt by the department of a new application as soon after cancellation ((unless they are being repurchased by the same owner)) as the department determines a renewal application was not received prior to cancellation.

(5) The combination of letters and/or digits on a personalized license plate which has been cancelled may be reassigned to an applicant who applies for an original personalized plate with that combination of letters and/or digits and pays the fees for an original personalized plate.

NEW SECTION

WAC 308-96A-066 USE OF PREEXISTING LICENSE PLATES. Persons making application for personalized license plates shall continue to use the license plates issued for the vehicle until the personalized license plates are manufactured and received by the applicant. If the vehicle does not have a current and valid Washington license, a current registration must be obtained. Regular plates with current tabs or current tabs for use on a regular license plate will be issued to be used on the vehicle until the personalized plates are delivered to the applicant.

**WSR 88-07-117**

**ADOPTED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Order 2613—Filed March 23, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to use of income and income potentials, amending WAC 388-28-480, 388-28-482 and 388-28-483; effective date of change of eligibility, amending WAC 388-33-135.

This action is taken pursuant to Notice No. WSR 87-24-075 filed with the code reviser on December 2, 1987. 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 74.08.090 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 March 23, 1988.

By Leslie F. James, Director  
Administrative Services

AMENDATORY SECTION (Amending Order 2442, filed 11/10/86)

WAC 388-28-480 USE OF INCOME AND INCOME POTENTIALS—TYPES OF INCOME—EFFECT ON NEED. (1) ((An applicant or recipient whose nonexempt net monthly income exceeds the monthly payment level plus authorized additional requirements is not eligible to receive assistance. Ineligibility exists whether the income is received weekly, bi-weekly, or monthly, except as specified in WAC 388-24-250 through 388-24-265.

((2)) Treatment of income.

(a) The department shall determine the grant amount for the month ((the)) of application ((is approved)) 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 department shall prorate 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 department shall determine the grant amount for the month following the month of initial eligibility 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 department shall base the grant amount for the third month of assistance and subsequent months upon income received in the budget and/or report month. WAC 388-28-483(3) is an exception to this rule.

(d) An applicant or recipient whose nonexempt net monthly income exceeds the monthly payment level plus authorized additional requirements is not eligible to receive assistance. Ineligibility exists whether the income is received weekly, biweekly, or monthly, except as specified in WAC 388-24-250 through 388-24-265.

~~((3))~~ (2) Irregular or nonrecurring income.

(a) The department shall disregard irregular income up to five dollars per month received by a general assistance applicant or recipient ~~((shall be disregarded toward meeting need if the probability exists that such future income will not be appreciable))~~.

(b) The department shall disregard nonrecurring cash gifts received by an AFDC or RA applicant or recipient ~~((shall be disregarded))~~ when such gifts do not exceed thirty dollars per individual for any three-month period.

~~((4))~~ (c) The department shall consider an earned income credit (EIC) ((payments shall be considered)) to be earned income during the month received.

~~((5))~~ (3) Loans.

(a) The department shall not consider as income 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))~~.

(i) The department shall not include the property used as collateral for the loan ~~((shall not be included))~~ in determining property reserves.

(ii) The department shall consider toward the resource ceiling the equity accumulated in the specified property ~~((shall be considered toward the resource ceiling))~~.

(b) The department shall not consider as income 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))~~ when the department verifies:

(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~~((;))~~; and

(iii) The agreement ~~((must include))~~ includes 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~~((;))~~; and

~~((c))~~ As part of the verification process, the recipient is required to submit loan contract papers or a written agreement setting) (iv) The agreement sets forth the terms of the loan regarding the loan's amount; and ~~((the repayment plan:))~~

~~((v))~~ The agreement ~~((must be))~~ is signed by the lender and the ~~((recipient as parties to the agreement))~~ borrower.

~~((6))~~ (c) The department shall not consider as income 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.

(i) The department shall verify the facts of the loan ~~((must be verified))~~.

(ii) The department shall consider any interest paid on the loan ~~((as))~~ to be newly acquired income.

~~((7))~~ A gift in-kind, named as follows, supplied on condition 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 available to meet need:)

(4) Gift in-kind.

(a) The department considers the following items to be gifts-in-kind:

~~((a))~~ (i) Real or personal property, excluding cash and marketable securities, exempted for an applicant and within the ceiling values~~((; Example:))~~; e.g., A home or a new furnace.

~~((b))~~ (ii) Any item in the department's standards for additional requirements which is not a requirement for the recipient of such a gift~~((; Example:))~~; e.g., Telephone service.

(b) The department shall not consider a gift in-kind as income or resource if the donor specified in writing the intended use or purpose of the gift.

(c) Needed goods or services not currently included as additional requirements in the department's standards~~((; Example:))~~; e.g., Repair of house or of household equipment.

~~((8))~~ (5) Lump sums.

(a) The department shall consider lump sum payments as income in the month received;

(b) The department defines a lump sum payment as nonrecurring earned or unearned income. Lump sums may include:

(i) Lottery winnings,

(ii) An inheritance,

(iii) Personal injury award,

(iv) Workers compensation awards, or

(v) Social security back payments.

(6) WAC 388-28-482 and 388-28-484 cover newly acquired income received by a recipient.

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

AMENDATORY SECTION (Amending Order 2352, filed 3/21/86)

WAC 388-28-482 EFFECT OF NEWLY ACQUIRED INCOME AND PROPERTY ON CONTINUING NEED. "Newly acquired income" means any previously unreported or undiscovered income which has come into the possession or control, in whole or in part, of a recipient of public assistance, or of a recipient in suspended grant status.

(1) Whenever a recipient shall come into the possession or control of any income, except as modified in subsections (3), (4), and (5) of this section, such income shall be deducted from the payment level plus authorized additional requirements to determine grant amount beginning with the effective date specified in WAC 388-28-483. The amount deducted shall equal the following:

(a) The net amount of the income if in cash or its equivalent((-);) and

(b) At least his or her equity in the quick sale value of property other than cash.

(2) When the property is only potentially available for use in meeting the recipient's requirements, WAC 388-28-400(7) applies.

(3) Exceptions. A recipient who comes into the possession and control of property listed ~~((in this subsection))~~ below may retain such property without having the fact of possession or its sale value affect his or her eligibility or need((-);):

(a) A home used as a residence - see WAC 388-28-420((-);)

(b) Useful and needed clothing, household equipment, food, fuel, and other items included in the requirement standards((-);)

(c) An automobile within the ceiling values in WAC 388-28-430(2)((-);) and

(d) An income tax refund within the resource ceiling values in WAC 388-28-430. That portion of the refund which is an earned income tax credit shall be considered newly(=) acquired income.

~~((e) A compensatory award within the ceiling values in WAC 388-28-435. Compensatory award is defined in WAC 388-28-435.))~~

(4) Recipient with income. The rule in subsection (1) of this section is modified for a recipient of AFDC or continuing general assistance with income as follows:

(a) Earned income retained by a child according to WAC 388-28-535(3) shall be considered as the personal property of the family and shall be subject to the ceilings in WAC 388-28-430(2)((-);)

(b) Income from the Economic Opportunity Act, Title I of the Elementary and Secondary Education Act, and from WIN and JTPA is treated according to WAC 388-28-515 and 388-28-570 through 388-28-578((-);)

(c) The possession of any amount of funds from sources listed in subsection (4)(a) and (b) of this section in a cash reserve or savings account does not affect the eligibility of a general assistance recipient. However, if such exempted income is converted into other types of property, WAC 388-28-410 through 388-28-455 apply((-);)

(d) Income from interest on exempt savings, dividends from exempt stocks, increase in life insurance cash surrender value, livestock births, etc., affect eligibility only to the extent ~~((that))~~ the amount causes the total value of the resource possessed to exceed the ceiling values of the resource. The excess is considered available((-);)

(e) Payment for funeral expenses for recipient. When a public assistance recipient dies, his or her surviving spouse or children or parent of a minor child receiving public assistance may use any of their exempt or nonexempt resources or income, except the home property, to

add to available funeral and burial resources in order to pay for the funeral expenses of the deceased person without affecting their eligibility for public assistance: **PROVIDED HOWEVER**, That if the total funeral expenses for the deceased recipient exceeds the department's maximum cost or the amount provided by the recipient toward the total cost of the funeral expense, whichever is the lesser, shall be considered available to meet the public assistance need of the surviving recipient in accordance with this section((-);) and

(f) Funds received by an applicant or recipient representing another person's or family's share of household costs are exempt as income provided ~~((that))~~:

(i) Such payments do not represent legally obligated child support except as provided in WAC 388-28-484 (7)(b), and

(ii) The provisions of subsection (5) of this section are met.

(5) Use of grant and cash reserve in relation to income.

(a) No question about eligibility is raised if public assistance grants and other income considered in computing financial need are used to add to the cash reserve up to the legal personal property limitations - see WAC 388-28-430. The cash reserve may exceed the maximum only to the extent these unexpended moneys are on hand within thirty days after their receipt, and by exempted amounts as specified in this section.

(b) A recipient always has the right to make a current expenditure out of a cash reserve and replace it from a succeeding grant, just as he or she might place his or her whole grant in a bank account, along with his or her cash reserve, at the beginning of the month and then spend out of the account during the month.

#### AMENDATORY SECTION (Amending Order 2442, filed 11/10/86)

WAC 388-28-483 PROSPECTIVE ELIGIBILITY, PROSPECTIVE BUDGETING, AND RETROSPECTIVE BUDGETING~~((, PROSPECTIVE BUDGETING, AND PROSPECTIVE ELIGIBILITY))~~. (1) Definitions.

(a) The calendar month for which payment is made shall be called the payment month.

(b) The second calendar month preceding the payment month shall be called the budget month.

(c) The calendar month between the budget month and the payment month shall be called the process month.

(2) Eligibility determination. The department shall determine eligibility based on the best estimate of income and circumstances which will exist in the payment month ~~((for which the assistance payment is made)).~~

~~((2))~~ (3) Prospective budgeting.

(a) Except as specified in subsection (4)(a), the department shall budget all income prospectively for the first two months of initial eligibility, ((all income shall be budgeted prospectively)) including income of an individual ((who is)) added to an existing assistance unit. ~~((See subsection (3) of this section for exceptions.))~~

(b) The department shall compute the amount of the assistance payment based on the expected income and

circumstances which will exist in the payment month ~~((for which the assistance payment is made)).~~

~~((a))~~ (c) The department shall:

(i) Establish an overpayment if the income is underestimated~~((:)), and~~

~~((b))~~ (ii) ~~((The department shall))~~ Issue a corrective payment if the income is overestimated.

~~((3))~~ (4) Retrospective budgeting.

(a) The department shall ~~((use retrospective budgeting))~~ retrospectively budget all income for the first two months of initial eligibility ~~((when))~~ if:

~~((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))~~ (i) A case is reopened as terminated in error; or

(ii) An individual having had income deemed to an assistance unit is added to that assistance unit; or

(iii) Assistance had been suspended ~~((due to an extra paycheck for the month prior to the month of application, assistance had been terminated at the end of))~~ as specified in subsection (5); and

(A) The initial month follows the month of suspension, and

(B) The ~~((applicant's))~~ family'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.

~~((d))~~ An individual having had income deemed to an assistance unit is added to that assistance unit.

~~((e))~~ Assistance had been suspended for the payment month due to ineligibility) reported in the budget month.

~~((4))~~ (b) After the first two months of initial eligibility, the department shall budget all income retrospectively.

~~((a))~~ (c) The department shall compute the amount of assistance based on the income which existed in the ~~((second))~~ budget month ~~((preceding the month for which the payment is made)).~~

~~((b))~~ (d) The department shall consider all income received during the calendar month of application approval ~~((shall be considered))~~ for retrospective budgeting purposes.

~~((c))~~ (e) Noncontinuous income budgeted prospectively during the first two months of eligibility shall not be budgeted for the first and second payment month for which retrospective budgeting 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))~~ Suspension. The department shall suspend rather than terminate if:

(a) The department has knowledge of or reason to believe ineligibility would be only for one payment month, and

(b) Ineligibility for that one payment month was caused by income or other circumstances in the corresponding budget month.

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 2258, filed 7/17/85)

WAC 388-33-135 EFFECTIVE DATE OF CHANGE IN ELIGIBILITY. (1) A change in circumstances is any change affecting eligibility and/or continued payment of the grant previously authorized.

(2) When a change in income including the receipt of a lump-sum payment causes ineligibility for more than one month, the recipient is ineligible effective the first of the month of receipt. All assistance received shall be an overpayment and subject to recovery as in chapter 388-44 WAC.

(3) If the change causes ineligibility for one month only, refer to WAC 388-33-355.

(4) When a change of circumstances other than increased income renders the assistance unit or any member of the assistance unit ineligible, the effective date of ineligibility is the first of the month following the month in which the change occurred. For ineligibility of strikers, see WAC 388-24-042.

## WSR 88-07-118

### ADOPTED RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

### (Public Assistance)

[Order 2614—Filed March 23, 1988]

I, Leslie F. James, director of Administrative Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to time limit for disposal, amending WAC 388-38-110.

This action is taken pursuant to Notice No. WSR 88-04-038 filed with the code reviser on January 28, 1988. 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 74.04.057 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 March 23, 1988.

By Leslie F. James, Director  
Administrative Services

**AMENDATORY SECTION** (Amending Order 2380, filed 5/21/86)

WAC 388-38-110 TIME LIMIT FOR DISPOSAL. (1) The time limit from the date of application to the date of disposal action as specified in WAC 388-38-120(4) is thirty days for AFDC and forty-five days for GA. In applying this rule, the ~~((day application is made is not counted))~~ department shall count as day one the date following the date of application.

(2) The department shall act on each application ~~((shall be acted upon))~~ as quickly as possible~~(;)~~ and within applicable time limits unless exceptional circumstances ~~((constituting good cause in an individual case))~~ require a longer period of time. Exceptional circumstances, subject to rules in subsection ~~((2))~~ (3) of this section, considered good cause for delay in disposing of an application include, but are not limited to ~~((the following))~~:

(a) The applicant ~~((fails to))~~ did not provide requested verification within ten days of a written request;

(b) Eligibility decisions depend on medical reports and there is delay in obtaining ~~((such))~~ the reports ~~((from the examining doctor))~~ or in securing medical information;

(c) Eligibility depends ~~((upon))~~ on correspondence ~~((because of))~~ with out-of-state or intercity contacts and no other verification is available for the eligibility factor; or

(d) Eligibility depends ~~((upon))~~ on extensive property appraisals.

~~((2))~~ (3) For AFDC, when ~~((one or more))~~ exceptional circumstances exist ~~((as specified in subsection (1) of this section))~~, good cause for delay in processing an application also exists only if ~~((all the following conditions have been met))~~ the department:

(a) ~~((The department has notified the applicant in writing))~~ Within twenty days of the date of application, notified the applicant in writing of ~~((each))~~ specific ~~((piece of))~~ information needed ~~((for processing the application))~~ to determine eligibility; and

(b) ~~((In the cases where the department, subsequent to requesting the applicant provide information, determined the need for additional information or action, the department has notified the applicant in writing of the specific information or action needed))~~ Within five calendar days of ~~((the date such))~~ determining a need ~~((became known to the department))~~ for additional information or action, notified the applicant in writing of such need; and

(c) ~~((The department))~~ Determined eligibility and disposed of the application within five ~~((calendar))~~ working days of ~~((the date the department received))~~ receiving all information necessary to determine eligibility; and

(d) ~~((The department))~~ Determined ~~((whether or not))~~ if good cause ~~((for delay))~~ exists and documented ~~((such determination))~~ the decision in the case record on or before ~~((the date))~~ the time limit for processing the application expired.

~~((3))~~ (4) The department shall dispose of applications for medical assistance ~~((will be disposed of))~~ in accordance with WAC 388-84-105 and 388-84-110.

~~((4))~~ For applications submitted in intensive applicant employment services demonstration project areas by persons not exempt from participation under WAC 388-57-095, the date of authorization is the day following termination of participation in the intensive applicant employment services, but shall be no later than thirty days after the date of application unless subsection ~~(1)(a) through (d)~~ of this section is applicable.)

**WSR 88-07-119**

**ADOPTED RULES**

**HIGHLINE COMMUNITY COLLEGE**

[Order 021—Filed March 23, 1988]

I, Edward M. Command, vice president of Highline Community College, do promulgate and adopt at Highline Community College, the annexed rules relating to student rights and responsibilities code, repealing WAC 132I-14-010 through 132I-14-210.

This action is taken pursuant to Notice No. WSR 88-03-047 filed with the code reviser on January 19, 1988. 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 RCW 28B.50.140 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 March 10, 1988.

By Edward M. Command  
Vice President

**WAC 132I-14**

**STUDENT RIGHTS AND RESPONSIBILITIES  
CODE**

**REPEALER**

The following sections of the Washington Administrative Code are each repealed:

WAC 132I-14-010	STATEMENT OF PURPOSE
WAC 132I-14-020	GENERAL POLICIES
WAC 132I-14-030	DEFINITIONS
WAC 132I-14-040	RIGHT OF ACADEMIC FREEDOM
WAC 132I-14-050	RIGHT OF ACCESS TO COLLEGE FACILITIES
WAC 132I-14-060	RIGHT OF ASSEMBLY
WAC 132I-14-070	RIGHT TO INVITE OUTSIDE SPEAKERS
WAC 132I-14-080	RIGHT OF PUBLICATION

WAC 132I-14-090 RIGHT OF SALE AND DISTRIBUTION OF MATERIAL AND RIGHT TO CONDUCT FUND RAISING ACTIVITIES  
 WAC 132I-14-100 RIGHT TO BE INTERVIEWED  
 WAC 132I-14-110 RIGHT OF PRIVACY OF RECORDS  
 WAC 132I-14-120 AUTHORITY AND RESPONSIBILITY DISCIPLINE  
 WAC 132I-14-130 VIOLATIONS  
 WAC 132I-14-140 DEFINITION OF DISCIPLINARY ACTION  
 WAC 132I-14-150 AUTHORITY TO REQUEST IDENTIFICATION  
 WAC 132I-14-160 DISCIPLINARY PROCEDURE  
 WAC 132I-14-170 DISCIPLINE COMMITTEE  
 WAC 132I-14-180 PROCEDURE OF THE DISCIPLINARY COMMITTEE  
 WAC 132I-14-190 READMISSION AFTER DISMISSAL  
 WAC 132I-14-200 METHOD OF REVIEW AND REVISION  
 WAC 132I-14-210 FUNCTION OF THE REVIEW COMMITTEE

**WSR 88-07-120**  
**ADOPTED RULES**

**HIGHLINE COMMUNITY COLLEGE**

[Order 022—Filed March 23, 1988]

I, Edward M. Command, vice president of Highline Community College, do promulgate and adopt at Highline Community College, the annexed rules relating to student rights and responsibilities, chapter 132I-120 WAC, which describe the standards of conduct for students, disciplinary actions the college may take for violations of these standards, the process and procedures for enforcing disciplinary action, and the process for appeal and review of disciplinary action.

This action is taken pursuant to Notice No. WSR 88-03-048 filed with the code reviser on January 19, 1988. 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 RCW 28B.50.140 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 March 10, 1988.

By Edward M. Command  
 Vice President

Chapter 132I-120  
**STUDENT RIGHTS AND RESPONSIBILITIES**

WAC  
 132I-120-010 PURPOSE  
 132I-120-020 GENERAL POLICIES  
 132I-120-030 DEFINITIONS  
 132I-120-100 STUDENT RESPONSIBILITIES  
 132I-120-300 RIGHT OF ACADEMIC FREEDOM  
 132I-120-305 RIGHT OF EQUAL PROTECTION  
 132I-120-310 RIGHT OF ACCESS TO COLLEGE FACILITIES  
 132I-120-315 RIGHT OF ASSEMBLY  
 132I-120-320 RIGHT TO INVITE OUTSIDE SPEAKERS  
 132I-120-325 RIGHT OF PUBLICATION  
 132I-120-330 RIGHT OF OWNERSHIP OF WORKS  
 132I-120-335 RIGHT OF SALE AND DISTRIBUTION OF MATERIAL AND RIGHT TO CONDUCT FUND RAISING ACTIVITIES  
 132I-120-340 RIGHT TO BE INTERVIEWED  
 132I-120-345 RIGHT TO PRIVACY OF RECORDS  
 132I-120-400 AUTHORITY AND RESPONSIBILITY FOR DISCIPLINE  
 132I-120-405 VIOLATIONS  
 132I-120-410 DEFINITION OF DISCIPLINARY ACTION  
 132I-120-415 AUTHORITY TO REQUEST IDENTIFICATION  
 132I-120-420 DISCIPLINARY PROCEDURE  
 132I-120-425 EMERGENCY WITHDRAWAL  
 132I-120-430 INVOLUNTARY ADMINISTRATIVE WITHDRAWAL  
 132I-120-435 DISCIPLINE COMMITTEE  
 132I-120-440 PROCEDURE OF THE COLLEGE DISCIPLINE COMMITTEE  
 132I-120-445 READMISSION AFTER DISMISSAL  
 132I-120-500 REVIEW OF RULES  
 132I-120-510 MEMBERSHIP OF REVIEW COMMITTEE  
 132I-120-520 FUNCTION OF THE REVIEW COMMITTEE

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

Chapter 132I-120  
**STUDENT RIGHTS AND RESPONSIBILITIES**

NEW SECTION

WAC 132I-120-010 PURPOSE. Community College District 9 serves its community and the general public by providing continuing educational opportunities for all persons who are eligible to attend. To fulfill this purpose, the college provides students with broad, comprehensive programs of general education, including university-parallel transfer courses, developmental-remedial programs, and vocational-technical curricula.

The college also provides cultural, recreational, and community service activities. The college provides health, guidance, and counseling services which every student is encouraged to make use of on a voluntary basis. The confidentiality of counseling, health, and adviser services will be strictly maintained except as called for by legal requirement.

As members of the college community, students are encouraged through free inquiry and free expression, to develop their capacity for critical judgment and to engage in sustained and independent search for knowledge. It is the responsibility of the student to observe and help maintain appropriate conditions in the classroom, on campus, and in the larger community.

Highline Community College may take appropriate disciplinary action when student conduct unreasonably interferes with the college's educational responsibilities, its subsidiary responsibilities, or to protect the health and safety of persons on or in college facilities, to maintain and protect college property or private property on college facilities, to protect college records, to provide college services, and/or to sponsor non-classroom activities such as lectures, concerts, athletic events, and social functions.

The purpose of these rules is to prescribe standards of conduct for students of Community College District No. 9, the violations which may constitute sufficient cause for disciplinary action as described in and in accordance with the procedures established in WAC 132I-120-010 through 132I-120-520.

A student's registration constitutes acceptance of the responsibility to comply with the general policies and regulations established by the college.

#### NEW SECTION

**WAC 132I-120-020 GENERAL POLICIES.** (1) Highline Community College is an agency of the State of Washington and adheres to all local, state, and federal laws. The college is obligated to demonstrate respect for laws by cooperating in their enforcement.

(2) Highline Community College cannot and will not establish regulations which would abridge constitutional rights.

(3) Proper procedures are established to maintain conditions conducive to the effective performance of the function of the college, to protect individual students from unfair imposition of penalties, and to assure due process. Highline Community College is granted the right by law to adopt such rules as are deemed necessary to govern its operations.

(4) If these rules are broken, the college has the right and the obligation to take that action which is in the best interest of the entire college and which is commensurate with the constitutional rights of the individual.

(5) If a student is charged with an off-campus violation of the law, the matter shall be of no disciplinary concern to the college unless the student is incarcerated and unable to comply with academic requirements. If the violation of law occurs on campus and is also a violation of a published college regulation, the college may

institute its own proceedings against the offender or may refer the violation to the appropriate civilian authorities for disposition. The college shall not proceed with a disciplinary action that in fact or appearance duplicates punishment for the same offense unless the interests of the college are implicated in some separate way by violation of law.

(6) The Highline College Student Union will have the right to participate in the formulation and reviewing of all policies and rules pertaining to student conduct and in the enforcement of all such rules as provided by these rules.

(7) Rules of conduct and procedures of enforcement shall be printed and made available to all students.

(8) All rules herein adopted concerning student conduct shall apply to every student attending the college in any college facility.

#### NEW SECTION

**WAC 132I-120-030 DEFINITIONS.** (1) As used in these rules, the following words and phrases shall mean:

(a) "Assembly" means any overt activity engaged in by three or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons, or group of persons.

(b) "College" means Highline Community College, or any additional community college hereafter established with Community College District 9, State of Washington, and collectively, those responsible for its control and operation.

(c) "College community" means trustees, students, employees, and guests on college owned or controlled facilities.

(d) "College facilities" means and includes any or all property controlled and/or operated by the college.

(e) "Day" means a calendar day except the effective day of any provision of these rules shall be the day following a Saturday, Sunday or holiday.

(f) "HCSU" refers to Highline College Student Union, the official student government association.

(g) "President" means the chief executive officer of the college appointed by the board of trustees, and for the purposes of these rules includes "acting president" or the delegated authority in the absence of the president.

(h) "Board of trustees" means the board members appointed by the Governor of the State of Washington who have final authority for the governance of Highline Community College.

(i) "Student" means and includes all persons enrolled at the college, both full-time and part-time.

(j) "Student group" means a number of students who have not complied with the formal requirements of becoming officially recognized as student organization.

(k) "Student organization" means a number of students who have complied with the formal requirements of college recognition as provided by the HCSU.

(2) All other terms have their natural meaning unless the context dictates otherwise.

NEW SECTION

**WAC 132I-120-100 STUDENT RESPONSIBILITIES.** (1) Students who choose to attend Highline Community College also choose to participate actively in the adult learning process offered by the College. As a process, learning is not a product or commodity which is bought and sold, but rather, is a relationship between teachers who are willing and competent to teach and learners who are willing and competent to learn. Therefore, the responsibility for learning is shared equally between students and staff.

(2) The college is responsible for providing its students and educational environment rich in the high quality resources needed by students to attain their individual educational goals. In return, students are responsible for making themselves aware of the full breadth of the resources available, for the timely choosing and appropriate use of those resources, and for the specific behavioral tasks necessary for attaining desired learning outcomes. Examples of specific student responsibilities are:

- (a) To become knowledgeable of and adhere to the college's policies, practices, and procedures;
- (b) To participate actively in the learning process, both in and out of the classroom;
- (c) To seek timely assistance in meeting educational goals;
- (d) To attend all class sessions;
- (e) To adequately prepare to participate fully in class activities;
- (f) To participate actively in the advising system,
- (g) To develop skills required for learning, e.g., basic skills, time management, motivation, study skills, and openness to the educational process;
- (h) To assume final authority for the selection of appropriate educational goals;
- (i) To select courses appropriate for meeting chosen educational goals;
- (j) To evaluate the quality and quantity of resources available to students; and
- (k) To contribute towards improving the college.

NEW SECTION

**WAC 132I-120-300 RIGHT OF ACADEMIC FREEDOM.** (1) Freedom of discussion and expression of views must be encouraged and protected. Instructors have the responsibility to maintain order and to keep classroom discussion relevant to the course, but their authority must not be used to suppress the expression of views contrary to their own.

(2) Academic evaluation of student performance shall not be prejudicial or capricious. Students have a right to be informed in writing of grading policy and course content at the beginning of each course.

(3) Information about student views, beliefs, and political associations acquired by professors in the course of their work as instructors, advisors, and counselors is confidential and is not to be disclosed to others unless under legal compulsion or with permission of the student.

NEW SECTION

**WAC 132I-120-305 RIGHT OF EQUAL PROTECTION.** (1) It is the policy of Highline Community College to provide equal opportunity for all applicants and students to obtain college services and admission to classes and programs without regard to race, creed, color, age, sex, national origin, religious preference, sexual orientation, disability status, Vietnam Era and/or disabled veteran status.

(2) It is the policy of Highline Community College that no student shall be subject to sexual harassment by an employee of the college or by another student. Sexual harassment takes place when an individual subjects another person to unwanted sexual attention (either verbal or physical), coerces her/him into sexual relations and/or punishes her/him for refusal. Sexual harassment may occur when a person is in a position of authority, or is able to control or affect another person's academic career, grade, job, or emotional well being.

(3) It is the policy of Highline Community College to grant equal opportunity to handicapped students in accordance with Section 504 of the Rehabilitation Act of 1973.

(4) If a student believes his or her rights have been violated, whether such rights have been expressly stated in these rules or not, the student should attempt to solve the problem at the lowest practical level with the instructor or, if the student determines the problem may be handled more appropriately at a higher level of involvement, the complaint may be initiated at the next higher step.

- Step 1 – instructor
- Step 2 – department or program coordinator
- Step 3 – division chairperson
- Step 4 – associate dean of instruction
- Step 5 – dean of instruction
- Step 6 – faculty professional rights and responsibilities committee
- Step 7 – college president

(5) Students may seek the assistance of any faculty member, for example, any instructor, faculty adviser, counselor, librarian, health services coordinator, or student programs coordinator, in receiving information, support, and/or advocacy in using the appeals process.

**Reviser's note:** The section above was filed by the institution as WAC 132I-120-305. However, the other rules for Highline Community College are found in Title 132I WAC. The section above appears to be WAC 132I-120-305, but pursuant to the requirements of RCW 34.08.040, it is published in the same form as filed by the institution.

NEW SECTION

**WAC 132I-120-310 RIGHT OF ACCESS TO COLLEGE FACILITIES.** (1) Students have the right of access to college facilities subject to ordinary schedules and regulations governing each particular facility. When using these facilities, the student has the responsibility to respect these regulations and to comply with the spirit and content of these rules to facilitate the educational purposes of the college.

(2) The president of the college, personally or acting through the dean of students or another person designated by the president, shall have power and authority to

invoke the actions described in this section whenever an event, in the sole opinion of the president or designee, appears to be disruptive, to impede the movement of persons or vehicles, or to disrupt or threatens to disrupt the ingress or egress of persons from college facilities. The president may:

(a) Prohibit the entry of a person or persons 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

(b) Give notice against trespass in accordance with the Washington state statutes 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

(c) Order any person, persons or group of persons to leave or vacate all or any portion of a college facility.

(3) Any student who shall disobey a lawful order given by the president or his/her designee pursuant to the requirements of WAC 132I-120-310 (1) and (2) shall be subject to disciplinary action.

#### NEW SECTION

**WAC 132I-120-315 RIGHT OF ASSEMBLY.** (1) Students have the right to conduct or may participate in any assembly as defined in WAC 132I-120-030(1) on facilities that are generally available to the public provided that such assemblies:

(a) Are conducted in an orderly manner;

(b) Do not unreasonably interfere with classes, scheduled meetings or ceremonies, or regular functions of the college;

(c) Do not unreasonably interfere with pedestrian or vehicular traffic;

(d) Do not cause mental, verbal, or physical abuse of another person in the college community; or

(e) Do not cause destruction or damage to college property, including library materials, or private property on college facilities.

(2) Any student group or student organization which wishes to schedule an assembly must reserve the college facilities in the office of the coordinator of student activities.

(3) Assemblies which violate these rules may be ordered to disperse by the college in accordance with Washington state statutes.

(4) A student who fails to disperse when an assembly is ordered to disperse, in accordance with Washington state statutes, is subject to disciplinary action. A non-student who violates any provision of the rule will be referred to civilian authorities for criminal prosecution.

#### NEW SECTION

**WAC 132I-120-320 RIGHT TO INVITE OUTSIDE SPEAKERS.** It is the policy of Highline Community College to maintain an atmosphere in which a spirit of free inquiry and expression may exist. In accordance with this basic principle, the college makes this specific statement of policy with respect to the appearance of campus speakers:

(1) Any speaker invited by any student organization or student group may speak on the campus, subject to the procedures outlined in WAC 132I-120-320 (3), (4), (5).

(2) The appearance of speakers on campus does not involve an endorsement either implicit or explicit, of their views by this college, its students, its faculty, its administrators, or its Board of Trustees.

(3) The college may specify reasonable regulations with regard to time, place, and manner of a proposed speaker's appearance.

(a) Any student group or organization must notify the student government office, the coordinator of student activities, and the dean of students through the proper form (available in the coordinator of student activities office) at least three days prior to the event. It is recognized that contingencies may necessitate waiver of the three-day limit. When sponsorship is by a student organization, notification must be through an authorized member of the organization with the approval of that organization and with the knowledge of the organization's adviser.

(b) A student group may invite an outside speaker by: (i) seeking the sponsorship of a student organization or, (ii) by requesting the student government to sponsor the speaker.

(4) Appearances shall be coordinated with the master activities calendar maintained in the office of the dean of students and reservations for room facilities made through the coordinator of student activities office. Placement on the master activities calendar establishes a priority for the event over other requests for that date and time.

(5) In order to insure open-minded, objective evaluation of divergent points of view, the dean of students shall require a special planning session with the coordinator of student activities and the student government when any of the four may deem it advisable. The planning session will include sponsoring group members and the adviser who is responsible for conducting the meeting.

(6) Groups renting college facilities are subject to the regulations governing rentals adopted by the board of trustees in place of the procedures contained in WAC 132I-120-320.

#### NEW SECTION

**WAC 132I-120-325 RIGHT OF PUBLICATION.**

(1) Publications by students which operate on the same basis as other private enterprises are subject only to the same control as those, respecting reasonableness of time, place and manner of distribution, as defined in WAC 132I-120-335. Editors, managers, and other writers shall not be subject to discipline because of student, facility, administration, or community disapproval of editorial policy or content. This editorial freedom entails a corollary obligation under the canons of responsible journalism and applicable regulations of state and/or federal law regarding libel and obscenity.

(2) The Thunderword and other college-subsidized publications are subject to review by an adviser or instructor as a reasonable precaution against the publication of matter which would constitute illegal publication. Censorship of any publication may not take place unless substantial danger of liability or illegality can be demonstrated.

(3) All student communications shall explicitly state that the opinions expressed are not necessarily those of the college or its student body.

#### NEW SECTION

**WAC 132I-120-330 RIGHT OF OWNERSHIP OF WORKS.** It shall be the policy of Highline Community College that employees of the college shall not use students' published and unpublished works for personal gain without written consent of the student.

#### NEW SECTION

**WAC 132I-120-335 RIGHT OF SALE AND DISTRIBUTION OF MATERIAL AND RIGHT TO CONDUCT FUND RAISING ACTIVITIES.** (1) Students have the right to engage in incidental sales of personal property in a private transaction provided college facilities are not explicitly used for this purpose.

(2) The use of college grounds or facilities for commercial or private gain purposes is prohibited except where commercial activity such as sale of books, instructional supplies, or food contribute to the operation of the instructional program or where limited sale is specifically authorized by the dean of students for the benefit of an approved activity.

(3) All fund raising activities must be approved by the dean of students.

(4) All merchandise, periodicals, magazines and books offered for commercial sale may be sold only through the college bookstore or college food services except when approved pursuant to WAC 132I-120-335.

(5) All free publications not in violation of state and/or federal laws such as books, magazines, newspapers, handbills, leaflets, or similar materials may be distributed on campus. Any person desiring to distribute such publications shall first register with the dean of students so that reasonable areas and times can be assured and the activities of the institution will not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization or individual.

(6) Any person desiring to collect signatures for petitions must first register with the dean of students. Exceptions are students who are collecting signatures on a petition as a class-related activity or concerning college policies and procedures.

(7) All posters and notices to be posted on exterior bulletin boards must first be registered with the student activities office. Posting on interior bulletin boards must have the approval of the building manager.

#### NEW SECTION

**WAC 132I-120-340 RIGHT TO BE INTERVIEWED.** (1) Every student has the right to be interviewed on campus by any legal organization desiring to recruit at the college.

(2) Any student, student group, or student organization may assemble in protest against any such organization provided that such protest does not interfere with any other student's right to have such an interview, and provided that such protest is in accordance with WAC 132I-120-315.

#### NEW SECTION

**WAC 132I-120-345 RIGHT TO PRIVACY OF RECORDS.** The privacy and confidentiality of all student records shall be preserved consistent with the rules adopted by the college to implement the Family Educational Records Privacy Act of 1972.

#### NEW SECTION

**WAC 132I-120-400 AUTHORITY AND RESPONSIBILITY FOR DISCIPLINE.** (1) The board of trustees acting in accordance with Washington state statutes does by written order delegate to the president of the college authority to administer disciplinary action. All disciplinary action in which there is a recommendation that a student be suspended or expelled from the college shall be acted upon by the president as defined in WAC 132I-120-030 (1)(g). The president shall have no authority to delegate this decision.

(2) Administration of the disciplinary procedure is the responsibility of the dean of students.

(3) The instructor is responsible for conduct in the classroom and is authorized to take such steps as are necessary when behavior of the student interrupts the normal classroom procedure. When such behavior may be so serious as to result in expulsion from the class, the instructor must report the infraction in writing to the dean of students at the earliest opportunity.

(4) The student has the right to appeal any disciplinary action of an instructor to the dean of students.

(5) Students bringing children on campus are governed by existing state laws concerning their responsibility for the children.

#### NEW SECTION

**WAC 132I-120-405 VIOLATIONS.** (1) No college disciplinary action shall be imposed on a student except in accordance with these rules.

(2) Student performance reflecting honest and reliable behaviors is necessary in order to make an accurate appraisal of the student's competencies. Any test-taking behavior observed which may be interpreted by the test proctor as a violation of test confidentiality will result in the test being removed from the student; the consequences of such behavior will be determined on an individual basis by the instructor/faculty and can result in dismissal from the course with a failing grade. Some examples of unacceptable behavior during an exam include but are not limited to:

(a) Talking, whispering or otherwise interacting with another student;

(b) Using notes or books unless authorized by instructor;

(c) Looking at another student's test or test answers.

(3) Written assignments and/or electronic media assignments need to reflect original and appropriately referenced content. Electronic media includes, but is not limited to, computers, word processors and audio-visual equipment. Any falsification of the student's work is viewed seriously by the college. The consequences of such behavior will be determined on an individual basis by the instructor/faculty and can result in dismissal from the course with a failing grade.

(4) Disciplinary action may result from the commission or from the aiding or abetting of violations on college facilities or of the commission or omission in violation of civil or criminal law on college facilities such as:

(a) All forms of dishonesty including, but not limited to, knowingly furnishing false information to the college, and foregoing, altering or using college documents or instruments of identification with intent to defraud.

(b) Verbal or physical abuse of any person or conduct which unlawfully threatens movement or bodily harm or endangers the health or safety of any person.

(c) Destruction, damage, or misuse of college property or private property including library materials.

(d) Theft or conversion of college property or private property.

(e) Unauthorized use or access to college computers and other electronic media.

(f) Conduct which unreasonably disrupts the educational process of the college as defined in Washington state statutes.

(g) Lewd or indecent conduct as defined by Washington state statute.

(h) Disorderly conduct.

(i) Failure to comply with lawful directions of college personnel acting in performance of their duties.

(j) Interference by force or violence, or by threat of force or violence, with any administrator, faculty member, or student of the college who is in the peaceful discharge or conduct of his or her duties or studies.

(k) Possession, consumption, or furnishing of alcoholic beverages.

(l) Possession, consumption, or furnishing of any narcotic drug or dangerous drug as currently defined by law or hereinafter amended, except when use or possession is prescribed by an authorized medical doctor or dentist.

(m) Failure to disperse when an assembly is ordered to disperse as defined by Washington state statute.

(n) Disobedience to the notice against trespass as defined in accordance with Washington state statute.

(o) Failure to comply with the following regulations governing firearms and weapons:

(i) It shall be the policy of the college that carrying, exhibiting, displaying, or drawing any weapon, such as a dagger, sword, knife, or any other cutting or stabbing instrument or club or any other weapons apparently capable of producing bodily harm and/or property damage is prohibited on or in college facilities.

(ii) Explosives, incendiary devices, or any weapon facsimile are prohibited on or in college facilities.

(iii) It shall be the policy of the college that carrying of firearms on college facilities is prohibited except and unless the firearm is registered with the campus security for a specific period of time that the firearm is carried on campus.

(iv) The above regulations shall not apply to equipment or material owned, used, or maintained, by the college; nor will they apply to law enforcement officers.

(p) Violation of published college regulations including those related to entry and use of college facilities, the rules in these rules, and any other regulations which may be enacted with these rules.

(3) All rules hereinafter approved by the board pursuant to preceding Washington state statutes shall be in writing and shall be published, or posted in such a manner as to furnish adequate notice of their contents to students affected by such rules.

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

#### NEW SECTION

WAC 132I-120-410 DEFINITION OF DISCIPLINARY ACTION. The following disciplinary action may be imposed upon students according to the procedure outlined in WAC 132I-120-420.

(1) Admonition: An oral statement to a student that there is a violation and that continued violation may be cause for further disciplinary action.

(2) Warning: Notice in writing that continuation or repetition of conduct deemed wrongful, within a period of time stated in the warning, may be cause for more severe disciplinary action.

(3) Disciplinary probation: Formal action placing specific conditions upon the student's continued attendance and warning the student that further misconduct may subject him/her to dismissal.

(4) Restitution: Reimbursement for damage to or misappropriation of property. This may take the form or appropriate service or other compensation.

(5) Involuntary administrative withdrawal: Exclusion from classes and other privileges or activities in accordance with WAC 132I-120-430.

(6) Interim emergency withdrawal: Exclusion from classes and other privileges or activities in accordance with WAC-132I-120-425.

(7) Suspension: Exclusion from classes and other privileges or activities as set forth in the notice for a definite period of time.

(8) Dismissal: Termination of student status for an indefinite period of time. Conditions of reinstatement, if any, shall be stated in the order of dismissal.

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

#### NEW SECTION

WAC 132I-120-415 AUTHORITY TO REQUEST IDENTIFICATION. In situations of apparent

misconduct or apparent unauthorized presence in a college facility, it may be necessary for properly identified college personnel to ask a person to produce evidence of being a currently enrolled student at the college. Failure to comply with a legitimate request for identification from a properly identified college personnel may result in a disciplinary action if the person is found to be a student. In emergency situations, cases of serious misconduct or where there is a substantial danger to the college community or college property, failure to produce identification as a student may result in the assumption by college personnel that the person questioned is not a student and may result in direct civil or criminal action.

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

### NEW SECTION

**WAC 132I-120-420 DISCIPLINARY PROCEDURE.** (1) Disciplinary proceedings will be initiated by the dean of students or a designee.

(2) After considering the evidence and interviewing the student, the dean may take any of the following actions:

(a) Terminate the proceedings, exonerating the student or students.

(b) Dismiss the case after advisement.

(c) Impose minor sanctions which as admonition, warning, disciplinary probation or restitutions subject to the student's right of appeal. The student will be notified in writing of the charges if a warning, disciplinary probation or restitution is to be imposed.

(d) Refer the matter to the College Discipline Committee for a recommendation to the president of the college. The student shall be notified in writing that the matter has been referred to the committee.

(e) Recommend to the president that a student be subject to an interim emergency withdrawal in accordance with WAC-132I-120-425.

(f) Recommend to the president that the student be suspended for a specified time or dismissed subject to the student's right to appeal to the College Discipline Committee, subject to WAC 132I-120-020(4). The student shall be notified in writing that the matter has been referred to the president.

(3) In all cases the student shall be advised of rights by reference to these rules.

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

### NEW SECTION

**WAC 132I-120-425 EMERGENCY WITHDRAWAL** (1) An interim emergency withdrawal may be implemented immediately by the president, upon recommendation of the dean of students, if the dean of students determines that a student's behavior poses an imminent danger of:

(a) Causing serious physical harm to the student or others; or,

(b) Causing significant property damage, or directly and substantially impeding the lawful activities of others.

(2) A student subject to an interim emergency withdrawal shall be given written notice of the suspension either by personal delivery or by certified mail, to include a copy of these standards and procedures. An interim emergency withdrawal shall specify the length of term of the withdrawal and/or the conditions for reinstatement. The student shall have the right of appeal to the discipline committee in accordance with WAC 132I-120-435 or in the case of a mental disorder or suspected mental disorder may initiate involuntary administrative withdrawal procedures in accordance with WAC 132I-120-430.

(3) Any student subject to an interim emergency withdrawal shall be given an opportunity to appeal personally before the dean of students, or designee, within two days from the effective date of the interim emergency withdrawal, in order to review the following issues only:

(a) The reliability of the information concerning the student's behavior;

(b) Whether or not the student's behavior poses a danger of causing imminent, serious physical harm to the student or others, causing significant property damage, or directly and substantially impeding the lawful activities of others.

(4) As a result of the meeting between the dean of students and the student, the dean of students may:

(a) Recommend to the president either continuation or termination of the interim emergency withdrawal;

(b) Initiate disciplinary procedures in accordance with WAC-132I-120-420 or;

(c) Initiate involuntary administrative withdrawal procedures in accordance with WAC 132I-120-430.

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

### NEW SECTION

**WAC 132I-120-430 INVOLUNTARY ADMINISTRATIVE WITHDRAWAL** (1) A student may be subject to involuntary administrative withdrawal from Highline Community College if it is determined that the student is suffering from a mental disorder, and, as a result of the mental disorder:

(a) Engages, or threatens to engage, in behavior which poses a danger of causing physical harm to self or others; or

(b) Engages, or threatens to engage, in behavior which would cause significant property damage, or directly and unreasonably impede the lawful activities of others.

(2) These standards do not preclude disciplinary action in accordance with provisions of other portions of these rules.

(3) A student accused of violating college disciplinary regulations may be diverted from the standard disciplinary process and withdrawn in accordance with the provisions of WAC 132I-120-430, if the student, as a result of mental disorder:

(a) Lacks the capacity to respond to pending disciplinary charges; or

(b) Did not know the nature or wrongfulness of the conduct at the time of the offense.

(4) Students subject to disciplinary charges who wish to introduce relevant evidence of any mental disorder must so inform the dean of students in writing at least two days prior to any disciplinary hearing. If the dean determines that the evidence may have merit, the case shall be resolved in accordance with the standards and procedures specified in WAC 132I-120-430. Thereafter, if it is determined that the student does not meet the criteria set forth in WAC 132I-120-430(3), the case will be returned to the disciplinary process. Evidence of any mental disorder may not be admitted into evidence or considered by the dean of students or the College Discipline Committee in any disciplinary proceeding.

(5) The dean of students may recommend that a student receive a mental health evaluation by any competent mental health professional, if the dean reasonably believes that the student may meet the criteria set forth in WAC 132I-120-430(1), or if a student subject to disciplinary charges wishes to introduce relevant evidence of any mental disorder.

(6) Students wishing to introduce evidence of a mental disorder shall be given five days to complete the mental health evaluation, unless an extension is granted by the dean in writing. Days shall be counted from either the date on which the dean recommended an evaluation or from the date on which the student requested to introduce evidence of a mental disorder.

(7) Any pending disciplinary action may be withheld until the evaluation is completed, in the discretion of the dean of students.

(8) An informal hearing, as provided in WAC 132I-120-430(9), will be held within ten days after either the student has been evaluated by the appropriate mental health professional or the student has requested such a hearing. Students who have been withdrawn on an interim emergency withdrawal will remain withdrawn on an interim basis pending completion of the informal hearing, but will be allowed to enter upon the campus to attend the hearing, or for other necessary purposes, as authorized in writing by the dean of students.

(9) Students subject to an involuntary withdrawal shall be accorded an informal hearing before the dean of students, or a designee. The following guidelines will be applicable:

(a) Students will be informed of the time, date, and location of the informal hearing, in writing, either by personal delivery or certified mail, at least two days in advance.

(b) The entire case file, including an evaluation prepared pursuant to WAC 132I-120-430(5), and the names of prospective witnesses, will be available for inspection by the student in the dean of student's office during normal business hours. The file, which should be available at least two days before the informal hearing, need not include the personal and confidential notes of any institutional official or participant in the evaluation process.

(c) The informal hearing shall be conversational and non-adversarial. Formal rules of evidence will not apply. The dean of students or designee shall exercise active control over the proceedings to avoid needless consumption of time and to achieve the orderly completion of the hearing. Any person who disrupts the hearing may be excluded.

(d) The student may choose to be assisted by a family member and a competent mental health professional, or, in lieu of a mental health professional, by a member of the faculty or staff of the institution. Furthermore, the student may be accompanied by legal counsel, although the role of counsel will be limited to providing legal advice to the student.

(e) Those assisting the student, except for legal counsel, will be given reasonable time to ask relevant questions of any individual appearing at the informal hearing, as well as to present relevant evidence.

(f) Whenever possible, the student will be expected to respond to questions asked by the dean or designee. Students who refuse to answer on the grounds of the Fifth Amendment privilege may be informed that the dean or designee could draw a negative inference from their refusal which might result in their dismissal from the institution, in accordance with these standards and procedures.

(g) The informal hearing may be conducted in the absence of a student who fails to appear after proper notice.

(h) The mental health professional who prepared the evaluation pursuant to WAC 135I-120-430(5) procedures may appear at the informal hearing, and respond to relevant questions, upon request of any party, if the dean or designee determines that such participation is essential to the resolution of an issue in the case.

(i) The dean or designee may permit a college official, and the mental health professional who prepared the evaluation, to appear at the informal hearing and to present evidence in support of any withdrawal recommendation. Such evidence will not be presented by legal counsel for the college.

(j) The informal hearing shall be tape recorded by the dean or designee. The tape(s) shall be kept with the pertinent case file for as long as the case file is maintained by the institution.

(k) A written recommendation to the president shall be rendered by the dean or designee within five days after completion of the informal hearing. The president shall have five working days to make a final decision. The president's written decision, which should be mailed or personally delivered to the student, should contain a statement of reasons for any determination leading to involuntary withdrawal. The student should also be advised as to when a petition for reinstatement would be considered, along with any conditions for reinstatement.

(l) The decision of the president shall be final and conclusive and not subject to appeal.

(10) Reasonable deviations from these procedures will not invalidate a decision or proceeding unless significant prejudice to a student may result.

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

### NEW SECTION

**WAC 132I-120-435 DISCIPLINE COMMITTEE.** The College Discipline Committee will hear and make recommendations on all disciplinary cases referred to it by the dean of students or appealed to it by students who have been disciplined by the Dean.

(1) The College Discipline Committee will be composed of the following members:

(a) A chairperson will be designated by the president of the college for a period of one year. The chairperson will be non-voting. It is the responsibility of the chairperson to ensure that all procedural guidelines specified in WAC 132I-120-440 are followed, to take whatever steps are necessary during the hearing itself to ensure that the hearing is conducted in a safe and orderly manner, to advise the members of the committee concerning precedents and guidelines affecting the individual case, and to inform the student in writing of the action taken by the College Discipline Committee following the hearing.

(b) Two faculty members recommended by the faculty senate and appointed by the president. Two alternatives shall be recommended and appointed to serve in the event that appointees are unable to serve or complete their term. The committee members shall serve for one year terms.

(c) Two full-time student representatives shall be chosen by the HCSU in such manner as the members thereof shall determine. For the purposes of these rules a full-time student shall be defined as currently enrolled in twelve or more credit hours. Two alternates shall be appointed to serve in the event that members are unable to serve or complete their term.

(2) The committee shall be formed as early as possible in the fall quarter and shall be convened by the dean of students during the first four weeks of fall quarter to discuss these rules. Other meetings may be held as determined by the chairperson or requested by the committee members.

(3) Faculty or student members may be excused from service for the entire year, for a particular period of time, or after a particular case. Replacement of excused members shall be made from respective panels.

### NEW SECTION

**WAC 132I-120-440 PROCEDURE OF THE COLLEGE DISCIPLINE COMMITTEE.** (1) At least ten days prior to the proceeding the student shall be given written notice indicating the nature and basis of the charge and the penalties which may attach thereto.

(2) The student may request that the student members of the College Discipline Committee be excused from the committee in hearing the case.

(3) No member of the College Discipline Committee shall participate in any case in which he/she is the subject, complainant, or witness, in which he/she has direct or personal interest, or in which he/she has acted previously in an advisory capacity. A committee member's

eligibility to participate in the case may be challenged by parties to the case or by other committee members, but decisions in this regard shall be made by the appropriate panel, or by presidential appointment in the case of the chairperson.

(4) The dean of students or the dean's designee shall present the facts supporting the charges of student misconduct.

(5) The student appearing before the committee has the right to be accompanied and represented by a peer, a faculty member or a legal advisor of his/her choice during all stages of the proceeding. Should the student have legal aid appearing on his/her behalf, he/she shall notify the committee of his/her intentions at least three days prior to the scheduled hearing.

(6) During the proceeding, the student shall be given an opportunity to testify and present evidence and witnesses relevant to the charge or possible penalty involved. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the chairperson, is the best evidence reasonable obtainable, having due regard for its necessity, availability, and trustworthiness. In passing upon the admissibility of evidence, the chairperson may give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury in the Superior Court of the State of Washington.

(7) The student or the student's representative shall be given an opportunity to question witnesses. No statements or depositions shall be considered by the committee unless the student has had an opportunity to rebut unfavorable inferences which might otherwise be drawn.

(8) A record of the proceeding shall be made. This may be a tape recording. The student shall be guaranteed access to a copy of this record.

(9) Proceedings will be open to members of the college community. The session may be closed upon request of the student or the College Discipline Committee. The chairperson of the committee may exclude from the hearing those guests who are disruptive of the proceedings. (In addition, to preserve the objectivity of the evidence and testimony, the chairperson of the committee may exclude from the session, except during their actual testimony, those people scheduled to present testimony or evidence.)

(10) The student will be provided with a copy of the findings and with the conclusions and recommendations that the committee makes to the president. The student will also be advised of the right to present, within seven days, a written statement to the president of the college before action is taken on the recommendation.

(11) The college president shall review the record of the case and any statement made by the student as provided in WAC 132I-120-440(10) and shall indicate action taken to the College Discipline Committee which heard the case, the dean of students, and the student. Notice of dismissal or suspension will be signed by the president.

(12) The discipline committee may establish general rules of procedure consistent with the foregoing safeguards. A copy of these shall be given the student in advance of the hearing.

(13) Records of disciplinary cases shall be filed in the office of the dean of students. No record of proceedings wherein the student is exonerated, other than the fact of exoneration, shall be maintained.

NEW SECTION

WAC 132I-120-445 READMISSION AFTER DISMISSAL. A student dismissed from the college may be readmitted only on written petition to the president of the college. Petitions must indicate how specific conditions have been met and reasons which support a reconsideration. The president may use whatever review procedures are at his/her disposal in consideration of readmission. The president shall convey a decision in writing to the student.

NEW SECTION

WAC 132I-120-500 REVIEW OF RULES. These rules will be reviewed annually by the dean of students. A review committee shall convene upon the request of the dean of students.

NEW SECTION

WAC 132I-120-510 MEMBERSHIP OF REVIEW COMMITTEE. (1) The review committee shall be composed of eight members. Four of these members shall be students appointed by the HCSU chairperson. Four members shall be appointed by the dean of students. Each member shall have one vote. The dean of students shall serve as a non-voting chairperson.

(2) The term of office shall be for one academic year starting at the beginning of fall quarter.

NEW SECTION

WAC 132I-120-520 FUNCTION OF THE REVIEW COMMITTEE. (1) The review committee will establish procedures for review and possible revision of these rules.

(2) All proposed amendments shall be submitted to the dean of students, who will send copies of each proposal to members of the review committee for their consideration. The review committee will hear and consider all proposed amendments and publish proposed recommendations for review by the college community.

(3) Recommendations for revision of these rules shall be made to the board of trustees.

(4) These rules shall be published and made available to the college community.

**WSR 88-07-121**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Health)**  
[Filed March 23, 1988]

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 issuance, suspension, denial, revocation and transfer of a certificate of need, amending WAC 248-19-440;

that the agency will at 10:00 a.m., Tuesday, April 26, 1988, in the Auditorium, OB-2, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 27, 1988.

The authority under which these rules are proposed is RCW 70.38.115.

The specific statute these rules are intended to implement is RCW 70.38.115.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 26, 1988.

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

Troyce Warner  
Office of Issuances  
Department of Social and Health Services  
Mailstop OB-33H  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact the Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by March 29, 1988. The meeting site is in a location which is barrier free.

Dated: March 23, 1988  
By: Leslie F. James, Director  
Administrative Services

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.025.  
Re: Amending chapter 248-19 WAC.

Purpose of the Changes: To prohibit transfer of certificates of need issued after the effective date of the change.

These rules are necessary for the orderly administration of the certificate of need program.

Statutory Authority: RCW 70.38.115 and 70.38.135.

Summary of Rule Changes: WAC 248-19-440 Issuance, suspension, denial, revocation, and transfer of a certificate of need; prohibits transfer or assignment of a certificate of need issued after the effective date of the rule; and makes housekeeping changes to improve the readability of the section.

Person or Persons Responsible for the Drafting, Implementation and Enforcement of the Rule: Frank Chestnut, Director, Certificate of Need Program, phone 753-5854, mailstop OB-43E.

These rule changes are not necessary as a result of a federal law, a federal court decision or a state court decision. Certificate of need program staff believe these rule changes will not have an impact on small businesses.

AMENDATORY SECTION (Amending Order 2344, filed 2/28/86)

WAC 248-19-440 ISSUANCE, SUSPENSION, DENIAL, REVOCATION, AND TRANSFER OF A CERTIFICATE OF NEED.  
(1) (~~Issuance of a certificate of need.~~)

~~(a)~~) The secretary's designee shall issue a certificate of need to the ~~(person submitting the certificate of need application)~~ applicant.

~~(a)~~ The secretary's designee shall issue a certificate of need for:

~~(i)~~ The proposed project, or

~~(ii)~~ A separable portion of the proposed project ~~((only if the department's findings and decision are))~~.

~~(b)~~ When the certificate of need is issued for a separable portion of the proposed project, the secretary's designee shall provide written notice to the applicant stating the reasons for the department's action.

~~(c)~~ The secretary's designee shall issue a certificate of need only when the department finds that the project or the separable portion of the proposed project is consistent with the applicable criteria contained in chapter 248-19 WAC.

~~(d)~~ In issuing a certificate of need, the secretary's designee shall:

~~(i)~~ Specify the maximum capital expenditure which may be obligated under the certificate, and

~~(ii)~~ Prescribe the cost components to be included in determining the capital expenditure which may be obligated under such certificate.

~~((b))~~ (2) The secretary's designee may issue a conditional certificate of need for a proposed project ~~((if it is justified only under specific circumstances))~~ or a separable portion of the proposed project.

~~(a)~~ The conditions ~~((specified in a conditional))~~ attached to a certificate of need must directly relate to the project being reviewed ~~((and to))~~:

~~(b)~~ The conditions must directly relate to criteria contained in chapter 248-19 WAC.

~~((2))~~ Suspension of) (3) The department shall apply the following provisions when suspending a certificate of need.

~~(a)~~ ~~((Grounds for which))~~ The secretary's designee may suspend a certificate of need for cause which shall include, but not be limited to ~~(:))~~:

~~(i)~~ Suspicion of fraud,

~~(ii)~~ Misrepresentation,

~~(iii)~~ False statements,

~~(iv)~~ Misleading statements,

~~(v)~~ Evasion or suppression of material fact in the application for a certificate of need or any of its supporting materials.

~~(b)~~ The secretary's designee shall issue an order for any suspension of a certificate of need to the person to whom the certificate of need had been issued.

~~(i)~~ Such order shall state the reason for the suspension.

~~(ii)~~ A copy of such order of suspension shall be sent to the appropriate advisory review agencies.

~~(c)~~ A suspension of a certificate of need shall not exceed one hundred twenty calendar days.

~~(i)~~ Prior to the expiration of the suspension the department shall:

~~(A)~~ Review the facts and circumstances relevant to the suspension ~~((and the secretary's designee shall))~~;

~~(B)~~ Reinstate, amend, or revoke ~~((a))~~ the certificate of need ~~((with-in the one hundred twenty calendar days))~~; and,

~~(ii)~~ ~~((The secretary's designee shall))~~ Send written notice of ~~((his or her))~~ its decision on a suspended certificate of need to:

~~(A)~~ The person to whom the certificate of need had been issued ~~((A copy of such notice shall be sent to))~~, and

~~(B)~~ The appropriate advisory review agencies.

~~((3))~~ Denial of a certificate of need:) (4) The secretary's designee shall send written notification of denial of a certificate of need ~~((for a proposed project or a separable portion of a proposed project))~~ to the ~~((person))~~ applicant submitting the certificate of need application ~~((for the proposed project for which the certificate of need is not issued))~~.

~~(a)~~ Such notification shall state the reasons for the denial ~~((of a certificate of need))~~.

~~(b)~~ Copies of such notification shall be sent to the appropriate advisory review agencies.

~~((4))~~ Continuing effect of a denial:

~~In any case in which))~~ (5) When a proposed project or separable portion of the proposed project ~~((has been))~~ is denied a certificate of need, ~~((another certificate of need application for such proposed project or separable portion thereof))~~ the department shall not ~~((be accepted by the department or reviewed under the provisions of chapter 248-19 WAC following the denial))~~ accept another certificate of need application for the same project or separable portion unless the department determines:

~~(a)~~ There is a substantial change in existing or proposed health facilities or services in the area to be served by the project; or

~~(b)~~ There is a substantial change in the need for the facilities or services of the type proposed in the area to be served by the project; or

~~(c)~~ One year has lapsed since the submission of the application for the certificate of need subject to regular review which was denied or the next scheduled concurrent review cycle permits the submission of applications.

~~((5))~~ (6) The department shall apply the following provisions in the revocation of a certificate of need.

~~(a)~~ The secretary's designee may revoke a certificate of need for cause which shall include the following:

~~(i)~~ Fraud,

~~(ii)~~ Misrepresentation,

~~(iii)~~ False statements,

~~(iv)~~ Misleading statements, and

~~(v)~~ Evasion or suppression of material facts in the application of a certificate of need, or in any of its supporting materials.

~~(b)~~ When the secretary's designee ~~((shall send written notification of a revocation of))~~ revokes a certificate of need ~~((to the person to whom the certificate of need had been issued:))~~, the secretary's designee shall:

~~(i)~~ ~~((The))~~ Provide written notice of revocation ~~((shall include))~~ to the person to whom the certificate of need was issued, including a statement of the reasons for such revocation ~~((:))~~, and

~~(ii)~~ Send a copy of ~~((a))~~ the notice of revocation ~~((shall be sent))~~ to the appropriate advisory review agencies.

~~((6))~~ Transfer) (7) The department shall apply the following procedures in transferring or ~~((assignment of))~~ assigning a certificate of need. ~~((A certificate of need issued to one person shall not be transferred or assigned to another person without the written approval of the secretary's designee:))~~

~~(a)~~ The department shall consider a request to transfer or assign a certificate of need valid only when:

~~(i)~~ The person to whom the certificate of need was originally issued ~~((shall submit))~~ submits to the department a written request that the certificate of need be transferred to another person and ~~((give))~~ gives the full name and complete address of the other person ~~((:-(b)))~~; and

~~(ii)~~ The person to whom the current holder of the certificate of need wishes to transfer the certificate ~~((shall send a written request))~~ sends an application for such transfer on a form and in such a manner as prescribed and published by the department.

~~(b)~~ The department shall review applications for transfer or assignment of a certificate of need according to the expedited review procedures in WAC 248-19-340.

~~(c)~~ The secretary's designee ~~((after the department's consultation with the appropriate advisory review agencies:))~~ shall ~~((:~~

~~(i)~~ Transfer the certificate of need;

~~(ii)~~ Deny the transfer of the certificate of need and send written notice of the denial and the reasons for such denial to the persons requesting the transfer; or

~~(iii)~~ If the person wishing to receive the certificate of need plans to modify the project for which the certificate was issued, notify such person that an application for a new or amended certificate of need is necessary.

~~(d)~~ Approval or denial of a request for) base his or her decision to approve or deny an application to transfer or ~~((assignment of))~~ assign a certificate of need ~~((shall be based))~~ on:

~~(i)~~ The demonstrated ability of the person wishing to acquire the certificate of need to undertake, complete, and operate the project in accordance with the following review criteria ~~((m))~~:

~~(A)~~ WAC 248-19-380 (1) and (3), and

~~(B)~~ WAC 248-19-390 (1), (3), and (5) ~~((and on))~~.

~~(ii)~~ The continuing conformance of the project with all other applicable review criteria ~~((Requests for transfer or assignment of a certificate of need shall be reviewed according to the expedited review process in WAC 248-19-340))~~; and

~~(iii)~~ The comments and recommendations of the appropriate advisory review agency.

~~(d)~~ When the person submitting an application to transfer or assign a certificate of need proposes to modify the project description or the maximum capital expenditure, the department shall inform in writing such person that a new or amended certificate of need is required.

~~(e)~~ When the department denies an application for transfer or assignment of a certificate of need, the department shall inform in writing the person who submitted the application of the reasons for such denial.

~~(f)~~ The department shall not transfer or assign any certificate of need issued after June 1, 1988.

~~((7))~~ Secretary's designee's failure to act:

~~(f))~~ (8) When the secretary's designee fails to issue or deny a certificate of need ~~((in accordance with the provisions of chapter 248-19~~

WAC), the applicant (~~for the certificate of need~~) may seek a writ of mandamus from superior court pursuant to chapter 7.16 RCW.

**WSR 88-07-122**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Institutions)**  
 [Filed March 23, 1988]

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 IMR program and reimbursement system, amending chapter 275-38 WAC;

that the agency will at 10:00 a.m., Tuesday, May 26, 1988, in the Auditorium, Office Building 2, 12th and Franklin, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on May 26, 1988.

The authority under which these rules are proposed is RCW 74.09.120.

The specific statute these rules are intended to implement is RCW 74.09.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before May 26, 1988.

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

Troyce Warner  
 Office of Issuances  
 Department of Social and Health Services  
 Mailstop OB-33H  
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Office of Issuances, State Office Building #2, 12th and Franklin, Olympia, WA, phone (206) 753-7015 by May 12, 1988. The meeting site is in a location which is barrier free.

Dated: March 23, 1988

By: Leslie F. James, Director  
 Administrative Services

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.025.

Re: Amend Chapter 275-38 WAC.

Purpose of this Rule Change: To require contractors to give the department sixty days notice of contract termination for any reason rather than the previous thirty day notice; allow the department to estimate the amount owed to the state by a terminating contractor and to withhold that amount from payments due the contractor, accept other forms of security, or file a lien against real property, if payments and other forms of security are not sufficient; provide contractors be notified within 120 days after a cost report is filed whether the contractor will be audited by the department and that such audits will be completed within 1 year for nonstate contractors and

within 3 years for state facilities; change the record retention period for both the department and contractors, including records for trust fund, from 3 years to 5 years; limit allowable costs where travel is involved to include travel only within Washington, Oregon, Idaho, and the Province of British Columbia; include indirect and overhead costs related to general management and central offices in any limits applied to the total cost of such services; eliminate the requirement for advance disclosure by contractors and approval by the department of joint facility costs; allow nonprofit corporations to retain interest earned on certain unrestricted donations rather than reducing their allowable costs by the interest; eliminate legal/consultant costs in connection with an action taken against the department as an allowable expense; expand the scope of the department's desk review of annual cost reports to include exemption profiling and so the department can use desk reviewed data as it deems necessary; change the rate methodology for computing the rate for resident care and habilitation so that it is based on the contractor's actual prior year's costs (desk reviewed) rather than certain staff hours worked being multiplied by \$7.29 per hour; change the rate of return for the return on equity rate calculation from 12% to the December 31 prior year's Medicare rate of return; add the provision for receivership; delete the existing provision that contractors may appeal their reimbursement rate at any time and added a provision that contractors may appeal their reimbursement rate if certain conditions are met such as being required for license, certification, as a result of survey, or for program changes required by the department; change the administrative review process so that appeals made for audit findings and issues are directed to the director of the audit division rather than the director of the division of developmental disabilities; and make other changes for definitions and clarification of current rules.

Reason this Rule Change is Necessary: To bring our current rules into compliance with federal Medicaid rules; and make our rules reflective of current audit practices and timeframes, consistent with regulatory changes regarding the recovery of overpayments due to the state.

Statutory Authority: RCW 74.09.120.

Summary of the Rule Change: To make our rules consistent with legislative funding levels and generally consistent with current nursing home rules which serve as a model for intermediate care facilities for the mentally retarded reimbursement program.

Person Responsible for Drafting, Implementation, and Enforcement of the Rule: Corki Hirsch, Residential Reimbursement Program Manager, Division of Developmental Disabilities, Department of Social and Health Services, phone (206) 753-4449, Mailstop OB-42C, Olympia, Washington 98504.

Person or Organization Other than DSHS who Proposed These Rules: None.

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

Reviser's note: The material contained in this filing will appear in the 88-08 issue of the Register as it was received after the applicable

closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

**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
- REMOV = Removal of rule pursuant to RCW 34.04.050(5)
- 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.

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4-25-181	REP	88-06-021	16-228-490	NEW-E	88-07-033	16-232-040	REP-E	88-07-038
4-25-190	NEW	88-06-021	16-228-500	NEW-E	88-07-033	16-232-130	REP-P	88-06-071
16-28-010	REP	88-05-003	16-228-510	NEW-E	88-07-033	16-232-130	REP-E	88-07-038
16-28-020	REP	88-05-003	16-228-520	NEW-E	88-07-033	16-232-230	REP-P	88-06-071
16-28-030	REP	88-05-003	16-230-030	AMD-P	88-05-055	16-232-230	REP-E	88-07-038
16-28-040	REP	88-05-003	16-230-079	NEW-P	88-05-055	16-232-320	REP-P	88-06-071
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16-28-060	REP	88-05-003	16-230-475	NEW-E	88-07-038	16-232-950	NEW-P	88-06-071
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16-156-040	NEW-P	88-04-073	16-231-845	REP-E	88-07-038	16-602-005	NEW	88-07-018
16-156-040	NEW	88-07-024	16-231-912	AMD	88-05-033	16-602-010	AMD-P	88-03-058
16-156-050	NEW-P	88-04-073	16-231-940	REP-P	88-06-071	16-602-010	AMD	88-07-018
16-156-050	NEW	88-07-024	16-231-940	REP-E	88-07-038	16-602-020	AMD-P	88-03-058
16-156-060	NEW-P	88-04-073	16-231-950	NEW-P	88-06-071	16-602-020	AMD	88-07-018
16-156-060	NEW	88-07-024	16-231-950	NEW-E	88-07-038	16-602-030	AMD-P	88-03-058
16-228-400	NEW-E	88-07-033	16-232-010	AMD	88-05-033	16-602-030	AMD	88-07-018
16-228-410	NEW-E	88-07-033	16-232-015	AMD	88-05-033	16-620-240	AMD-P	88-07-096
16-228-420	NEW-E	88-07-033	16-232-020	AMD	88-05-033	16-620-260	AMD-P	88-07-096
16-228-430	NEW-E	88-07-033	16-232-025	AMD	88-05-033	16-620-265	REP-P	88-07-096
16-228-440	NEW-E	88-07-033	16-232-027	NEW	88-05-033	16-750-001	NEW-P	88-03-057
16-228-450	NEW-E	88-07-033	16-232-035	AMD-P	88-06-071	16-750-001	NEW-E	88-03-059
16-228-460	NEW-E	88-07-033	16-232-035	AMD-E	88-07-038	16-750-001	NEW	88-07-016
16-228-470	NEW-E	88-07-033	16-232-038	AMD	88-05-033	16-750-005	NEW-P	88-03-057

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
16-750-005	NEW-E	88-03-059	132E-112-060	REP-P	88-06-020	132I-120-305	NEW	88-07-120
16-750-005	NEW	88-07-016	132E-112-070	REP-P	88-06-020	132I-120-310	NEW-P	88-03-048
16-750-010	REP-P	88-03-057	132E-112-080	REP-P	88-06-020	132I-120-310	NEW	88-07-120
16-750-010	REP-E	88-03-059	132E-112-090	REP-P	88-06-020	132I-120-315	NEW-P	88-03-048
16-750-010	REP	88-07-016	132E-112-100	REP-P	88-06-020	132I-120-315	NEW	88-07-120
16-750-011	NEW-P	88-03-057	132E-112-110	REP-P	88-06-020	132I-120-320	NEW-P	88-03-048
16-750-011	NEW-E	88-03-059	132E-112-120	REP-P	88-06-020	132I-120-320	NEW	88-07-120
16-750-011	NEW	88-07-016	132E-112-130	REP-P	88-06-020	132I-120-325	NEW-P	88-03-048
16-750-015	NEW-P	88-03-057	132E-112-140	REP-P	88-06-020	132I-120-325	NEW	88-07-120
16-750-015	NEW-E	88-03-059	132E-112-150	REP-P	88-06-020	132I-120-330	NEW-P	88-03-048
16-750-015	NEW	88-07-016	132E-112-160	REP-P	88-06-020	132I-120-330	NEW	88-07-120
16-750-900	NEW-P	88-03-057	132E-112-170	REP-P	88-06-020	132I-120-335	NEW-P	88-03-048
16-750-900	NEW-E	88-03-059	132E-112-180	REP-P	88-06-020	132I-120-335	NEW	88-07-120
16-750-900	NEW	88-07-016	132E-112-190	REP-P	88-06-020	132I-120-340	NEW-P	88-03-048
16-752-001	AMD	88-04-044	132E-112-200	REP-P	88-06-020	132I-120-340	NEW	88-07-120
16-752-115	NEW	88-04-044	132E-112-210	REP-P	88-06-020	132I-120-345	NEW-P	88-03-048
16-752-120	NEW	88-04-044	132E-112-220	REP-P	88-06-020	132I-120-345	NEW	88-07-120
16-752-125	NEW	88-04-044	132E-112-230	REP-P	88-06-020	132I-120-400	NEW-P	88-03-048
16-752-130	NEW	88-04-044	132F-120-090	AMD-P	88-03-044	132I-120-400	NEW	88-07-120
16-752-135	NEW	88-04-044	132H-105-140	AMD-P	88-06-058	132I-120-405	NEW-P	88-03-048
16-752-140	NEW	88-04-044	132H-105-140	AMD-P	88-07-089	132I-120-405	NEW	88-07-120
16-752-145	NEW	88-04-044	132H-200-200	NEW-P	88-04-059	132I-120-410	NEW-P	88-03-048
16-752-150	NEW	88-04-044	132H-200-200	NEW	88-07-036	132I-120-410	NEW	88-07-120
16-752-155	NEW	88-04-044	132H-200-250	NEW-P	88-07-088	132I-120-415	NEW-P	88-03-048
16-752-160	NEW	88-04-044	132I-14-010	REP-P	88-03-047	132I-120-415	NEW	88-07-120
16-752-165	NEW	88-04-044	132I-14-010	REP	88-07-119	132I-120-420	NEW-P	88-03-048
16-752-170	NEW	88-04-044	132I-14-020	REP-P	88-03-047	132I-120-420	NEW	88-07-120
16-752-200	NEW	88-04-044	132I-14-020	REP	88-07-119	132I-120-425	NEW-P	88-03-048
16-752-201	NEW	88-04-044	132I-14-030	REP-P	88-03-047	132I-120-425	NEW	88-07-120
16-752-202	NEW	88-04-044	132I-14-030	REP	88-07-119	132I-120-430	NEW-P	88-03-048
16-752-203	NEW	88-04-044	132I-14-040	REP-P	88-03-047	132I-120-430	NEW	88-07-120
16-752-204	NEW	88-04-044	132I-14-040	REP	88-07-119	132I-120-435	NEW-P	88-03-048
44-10-040	NEW	88-04-081	132I-14-050	REP-P	88-03-047	132I-120-435	NEW	88-07-120
44-10-050	AMD	88-04-081	132I-14-050	REP	88-07-119	132I-120-440	NEW-P	88-03-048
44-10-055	NEW	88-04-081	132I-14-060	REP-P	88-03-047	132I-120-440	NEW	88-07-120
44-10-060	NEW	88-04-081	132I-14-060	REP	88-07-119	132I-120-445	NEW-P	88-03-048
44-10-070	NEW	88-04-081	132I-14-070	REP-P	88-03-047	132I-120-445	NEW	88-07-120
44-10-080	NEW	88-04-081	132I-14-070	REP	88-07-119	132I-120-500	NEW-P	88-03-048
44-10-110	NEW	88-04-081	132I-14-080	REP-P	88-03-047	132I-120-500	NEW	88-07-120
44-10-130	NEW	88-04-081	132I-14-080	REP	88-07-119	132I-120-510	NEW-P	88-03-048
44-10-160	NEW	88-04-081	132I-14-090	REP-P	88-03-047	132I-120-510	NEW	88-07-120
44-10-165	NEW-P	88-04-078	132I-14-090	REP	88-07-119	132I-120-520	NEW-P	88-03-048
44-10-165	NEW-E	88-04-079	132I-14-100	REP-P	88-03-047	132I-120-520	NEW	88-07-120
44-10-180	NEW	88-04-081	132I-14-100	REP	88-07-119	132P-40-0119	NEW-P	88-04-024
44-10-200	NEW	88-04-081	132I-14-110	REP-P	88-03-047	132T-05-060	AMD-P	88-03-045
44-10-210	NEW	88-04-081	132I-14-110	REP	88-07-119	132T-05-060	AMD	88-07-019
44-10-215	NEW-P	88-03-063	132I-14-120	REP-P	88-03-047	132T-128-010	REP-P	88-03-046
44-10-215	NEW-E	88-03-064	132I-14-120	REP	88-07-119	132T-128-010	REP	88-07-020
44-10-220	NEW-P	88-03-063	132I-14-130	REP-P	88-03-047	132T-128-020	REP-P	88-03-046
44-10-220	NEW-E	88-03-064	132I-14-130	REP	88-07-119	132T-128-020	REP	88-07-020
44-10-230	NEW-P	88-03-063	132I-14-140	REP-P	88-03-047	132T-128-030	REP-P	88-03-046
44-10-230	NEW-E	88-03-064	132I-14-140	REP	88-07-119	132T-128-030	REP	88-07-020
44-10-240	NEW-P	88-03-063	132I-14-150	REP-P	88-03-047	132T-128-040	REP-P	88-03-046
44-10-240	NEW-E	88-03-064	132I-14-150	REP	88-07-119	132T-128-040	REP	88-07-020
67-10-020	AMD-P	88-04-016	132I-14-160	REP-P	88-03-047	132T-128-050	REP-P	88-03-046
67-10-030	AMD-P	88-04-016	132I-14-160	REP	88-07-119	132T-128-050	REP	88-07-020
67-10-040	AMD-P	88-04-016	132I-14-170	REP-P	88-03-047	132T-128-060	REP-P	88-03-046
67-10-060	AMD-P	88-04-016	132I-14-170	REP	88-07-119	132T-128-060	REP	88-07-020
67-25-120	AMD-P	88-04-016	132I-14-180	REP-P	88-03-047	132T-128-070	REP-P	88-03-046
67-25-400	AMD-P	88-04-016	132I-14-180	REP	88-07-119	132T-128-070	REP	88-07-020
67-25-404	AMD-P	88-04-016	132I-14-190	REP-P	88-03-047	132T-128-080	REP-P	88-03-046
67-25-570	AMD-P	88-04-016	132I-14-190	REP	88-07-119	132T-128-080	REP	88-07-020
98-11-005	NEW-P	88-03-062	132I-14-200	REP-P	88-03-047	132T-128-090	REP-P	88-03-046
98-11-005	NEW	88-07-032	132I-14-200	REP	88-07-119	132T-128-090	REP	88-07-020
98-40-050	AMD-P	88-03-062	132I-14-210	REP-P	88-03-047	132U-04-100	REP-P	88-07-029
98-40-050	AMD	88-07-032	132I-14-210	REP	88-07-119	132U-04-110	REP-P	88-07-029
106-116-850	NEW-P	88-07-017	132I-120-010	NEW-P	88-03-048	132U-10-100	REP-P	88-07-029
106-116-853	NEW-P	88-07-017	132I-120-010	NEW	88-07-120	132U-10-110	REP-P	88-07-029
106-116-856	NEW-P	88-07-017	132I-120-020	NEW-P	88-03-048	132U-10-120	REP-P	88-07-029
106-116-859	NEW-P	88-07-017	132I-120-020	NEW	88-07-120	132U-10-130	REP-P	88-07-029
106-116-901	AMD-P	88-07-017	132I-120-030	NEW-P	88-03-048	132U-10-140	REP-P	88-07-029
113-12-200	AMD-P	88-05-058	132I-120-030	NEW	88-07-120	132U-10-150	REP-P	88-07-029
132E-112-010	REP-P	88-06-020	132I-120-100	NEW-P	88-03-048	132U-10-160	REP-P	88-07-029
132E-112-020	REP-P	88-06-020	132I-120-100	NEW	88-07-120	132U-10-170	REP-P	88-07-029
132E-112-030	REP-P	88-06-020	132I-120-300	NEW-P	88-03-048	132U-10-180	REP-P	88-07-029
132E-112-040	REP-P	88-06-020	132I-120-300	NEW	88-07-120	132U-10-190	REP-P	88-07-029
132E-112-050	REP-P	88-06-020	132I-120-305	NEW-P	88-03-048	132U-10-200	REP-P	88-07-029

**Table of WAC Sections Affected**

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
132U-10-210	REP-P	88-07-029	132U-120-120	NEW-P	88-07-029	154-120-045	NEW-P	88-07-104
132U-10-220	REP-P	88-07-029	132U-120-130	NEW-P	88-07-029	154-120-050	NEW-P	88-07-104
132U-10-230	REP-P	88-07-029	132U-120-140	NEW-P	88-07-029	154-120-055	NEW-P	88-07-104
132U-10-240	REP-P	88-07-029	132U-120-150	NEW-P	88-07-029	154-130-010	NEW-P	88-07-104
132U-36-010	REP-P	88-07-029	132U-120-160	NEW-P	88-07-029	154-130-020	NEW-P	88-07-104
132U-40-010	REP-P	88-07-029	132U-120-170	NEW-P	88-07-029	154-130-030	NEW-P	88-07-104
132U-40-020	REP-P	88-07-029	132U-120-180	NEW-P	88-07-029	154-140-010	NEW-P	88-07-104
132U-40-030	REP-P	88-07-029	132U-120-190	NEW-P	88-07-029	154-140-020	NEW-P	88-07-104
132U-40-040	REP-P	88-07-029	132U-120-200	NEW-P	88-07-029	154-140-030	NEW-P	88-07-104
132U-40-050	REP-P	88-07-029	132U-120-210	NEW-P	88-07-029	154-150-010	NEW-P	88-07-104
132U-40-060	REP-P	88-07-029	132U-120-220	NEW-P	88-07-029	154-150-020	NEW-P	88-07-104
132U-40-070	REP-P	88-07-029	132U-120-230	NEW-P	88-07-029	154-150-030	NEW-P	88-07-104
132U-40-080	REP-P	88-07-029	132U-120-240	NEW-P	88-07-029	154-150-040	NEW-P	88-07-104
132U-40-090	REP-P	88-07-029	132U-120-250	NEW-P	88-07-029	154-150-050	NEW-P	88-07-104
132U-40-100	REP-P	88-07-029	132U-120-260	NEW-P	88-07-029	154-160-010	NEW-P	88-07-104
132U-40-110	REP-P	88-07-029	132U-120-270	NEW-P	88-07-029	154-160-020	NEW-P	88-07-104
132U-40-120	REP-P	88-07-029	132U-120-280	NEW-P	88-07-029	154-170-010	NEW-P	88-07-104
132U-40-130	REP-P	88-07-029	132U-120-290	NEW-P	88-07-029	154-180-010	NEW-P	88-07-104
132U-40-140	REP-P	88-07-029	132U-120-300	NEW-P	88-07-029	154-180-020	NEW-P	88-07-104
132U-52-010	NEW-E	88-02-047	132U-120-310	NEW-P	88-07-029	154-180-030	NEW-P	88-07-104
132U-52-010	NEW-P	88-04-070	132U-120-320	NEW-P	88-07-029	154-180-040	NEW-P	88-07-104
132U-52-010	NEW	88-07-057	132U-120-330	NEW-P	88-07-029	154-180-050	NEW-P	88-07-104
132U-80-010	REP-P	88-07-029	132U-122-010	NEW-P	88-07-029	154-180-060	NEW-P	88-07-104
132U-80-020	REP-P	88-07-029	132U-122-020	NEW-P	88-07-029	154-180-070	NEW-P	88-07-104
132U-80-030	REP-P	88-07-029	132U-140-010	NEW-P	88-07-029	154-190-010	NEW-P	88-07-104
132U-80-060	REP-P	88-07-029	132U-140-020	NEW-P	88-07-029	154-200-010	NEW-P	88-07-104
132U-80-065	REP-P	88-07-029	132U-140-030	NEW-P	88-07-029	154-200-020	NEW-P	88-07-104
132U-80-070	REP-P	88-07-029	132U-140-040	NEW-P	88-07-029	154-200-030	NEW-P	88-07-104
132U-80-080	REP-P	88-07-029	132U-140-050	NEW-P	88-07-029	154-200-040	NEW-P	88-07-104
132U-80-090	REP-P	88-07-029	132U-140-060	NEW-P	88-07-029	173-14	AMD-C	88-04-091
132U-80-100	REP-P	88-07-029	132U-140-070	NEW-P	88-07-029	173-14-030	AMD-W	88-07-006
132U-80-105	REP-P	88-07-029	132U-276-100	NEW-P	88-07-029	173-14-060	AMD-W	88-07-006
132U-80-110	REP-P	88-07-029	132U-276-110	NEW-P	88-07-029	173-14-061	NEW-W	88-07-006
132U-80-115	REP-P	88-07-029	132U-276-120	NEW-P	88-07-029	173-18-280	AMD	88-03-070
132U-80-125	REP-P	88-07-029	132U-276-130	NEW-P	88-07-029	173-19-130	AMD	88-07-009
132U-80-200	REP-P	88-07-029	132U-276-140	NEW-P	88-07-029	173-19-220	AMD-P	88-03-069
132U-80-205	REP-P	88-07-029	132U-276-150	NEW-P	88-07-029	173-19-2507	AMD-C	88-04-092
132U-80-210	REP-P	88-07-029	132U-276-160	NEW-P	88-07-029	173-19-2507	AMD	88-07-008
132U-80-220	REP-P	88-07-029	132U-276-170	NEW-P	88-07-029	173-19-310	AMD-W	88-02-053
132U-80-230	REP-P	88-07-029	132U-276-180	NEW-P	88-07-029	173-19-310	AMD-P	88-02-054
132U-80-235	REP-P	88-07-029	132U-276-190	NEW-P	88-07-029	173-19-310	AMD	88-07-010
132U-80-240	REP-P	88-07-029	132U-276-200	NEW-P	88-07-029	173-19-3302	AMD	88-02-064
132U-80-245	REP-P	88-07-029	132U-276-210	NEW-P	88-07-029	173-19-3501	AMD-P	88-05-066
132U-80-250	REP-P	88-07-029	132U-276-220	NEW-P	88-07-029	173-19-3512	AMD-C	88-02-063
132U-80-255	REP-P	88-07-029	132U-276-230	NEW-P	88-07-029	173-19-3512	AMD-C	88-04-093
132U-80-265	REP-P	88-07-029	132U-276-240	NEW-P	88-07-029	173-19-3512	AMD	88-07-007
132U-80-300	REP-P	88-07-029	132U-280-010	NEW-P	88-07-029	173-22-0648	AMD	88-03-070
132U-80-310	REP-P	88-07-029	132U-280-015	NEW-P	88-07-029	173-158-010	NEW-P	88-05-042
132U-80-320	REP-P	88-07-029	132U-280-020	NEW-P	88-07-029	173-158-020	NEW-P	88-05-042
132U-80-330	REP-P	88-07-029	132U-280-025	NEW-P	88-07-029	173-158-030	NEW-P	88-05-042
132U-80-340	REP-P	88-07-029	132U-280-030	NEW-P	88-07-029	173-158-040	NEW-P	88-05-042
132U-80-350	REP-P	88-07-029	132U-280-035	NEW-P	88-07-029	173-158-050	NEW-P	88-05-042
132U-80-360	REP-P	88-07-029	132U-300-010	NEW-P	88-07-029	173-158-060	NEW-P	88-05-042
132U-80-370	REP-P	88-07-029	132U-300-020	NEW-P	88-07-029	173-158-070	NEW-P	88-05-042
132U-104-010	NEW-P	88-07-029	132U-325-010	NEW-P	88-07-029	173-158-080	NEW-P	88-05-042
132U-104-020	NEW-P	88-07-029	132Y-20-010	REP-P	88-06-023	173-158-090	NEW-P	88-05-042
132U-104-030	NEW-P	88-07-029	132Y-140-001	REP-P	88-06-024	173-158-100	NEW-P	88-05-042
132U-116-010	NEW-E	88-02-047	132Y-140-101	REP-P	88-06-024	173-158-110	NEW-P	88-05-042
132U-116-010	NEW-P	88-04-070	132Y-140-108	REP-P	88-06-024	173-158-120	NEW-P	88-05-042
132U-116-010	NEW	88-07-057	132Y-140-112	REP-P	88-06-024	173-160	AMD-C	88-04-071
132U-116-020	NEW-E	88-02-047	132Y-140-116	REP-P	88-06-024	173-162	AMD-C	88-04-071
132U-116-020	NEW-P	88-04-070	136-130-060	AMD	88-05-040	173-201	AMD	88-02-058
132U-116-020	NEW	88-07-057	136-130-070	AMD	88-05-040	173-201-010	AMD	88-02-058
132U-116-030	NEW-E	88-02-047	136-160-050	AMD	88-05-040	173-201-025	AMD	88-02-058
132U-116-030	NEW-P	88-04-070	136-160-065	NEW	88-05-040	173-201-035	AMD	88-02-058
132U-116-030	NEW	88-07-057	137-60-040	AMD-W	88-04-043	173-201-045	AMD	88-02-058
132U-120-010	NEW-P	88-07-029	154-110-010	NEW-P	88-07-104	173-201-047	NEW	88-02-058
132U-120-020	NEW-P	88-07-029	154-110-015	NEW-P	88-07-104	173-201-070	AMD	88-02-058
132U-120-030	NEW-P	88-07-029	154-110-020	NEW-P	88-07-104	173-201-080	AMD	88-02-058
132U-120-040	NEW-P	88-07-029	154-110-030	NEW-P	88-07-104	173-201-090	AMD	88-02-058
132U-120-050	NEW-P	88-07-029	154-120-010	NEW-P	88-07-104	173-201-100	AMD	88-02-058
132U-120-060	NEW-P	88-07-029	154-120-015	NEW-P	88-07-104	173-216-130	AMD-P	88-07-103
132U-120-070	NEW-P	88-07-029	154-120-020	NEW-P	88-07-104	173-220-150	AMD-P	88-07-103
132U-120-080	NEW-P	88-07-029	154-120-025	NEW-P	88-07-104	173-222-015	AMD-P	88-07-103
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132U-120-100	NEW-P	88-07-029	154-120-035	NEW-P	88-07-104	173-223-020	NEW-P	88-07-103
132U-120-110	NEW-P	88-07-029	154-120-040	NEW-P	88-07-104	173-223-030	NEW-P	88-07-103

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173-223-060	NEW-P	88-07-103	180-78-074	NEW	88-07-002	180-79-131	NEW	88-05-047
173-223-070	NEW-P	88-07-103	180-78-075	NEW	88-07-002	180-79-135	REP	88-05-047
173-223-080	NEW-P	88-07-103	180-78-080	NEW	88-07-002	180-79-136	NEW	88-05-047
173-223-090	NEW-P	88-07-103	180-78-085	NEW	88-07-002	180-79-140	NEW	88-05-047
173-223-100	NEW-P	88-07-103	180-78-090	NEW	88-07-002	180-79-150	REP	88-05-047
173-223-120	NEW-P	88-07-103	180-78-095	NEW	88-07-002	180-79-155	REP	88-05-047
173-303	AMD-C	88-03-074	180-78-100	NEW	88-07-002	180-79-160	REP	88-05-047
173-303	AMD-C	88-06-041	180-78-105	NEW	88-07-002	180-79-170	REP	88-05-047
173-303-120	AMD	88-07-039	180-78-110	NEW	88-07-002	180-79-175	REP	88-05-047
173-303-140	AMD	88-02-057	180-78-115	NEW	88-07-002	180-79-185	REP	88-05-047
173-303-170	AMD	88-02-057	180-78-120	NEW	88-07-002	180-79-190	REP	88-05-047
173-303-280	AMD	88-02-057	180-78-125	NEW	88-07-002	180-79-195	REP	88-05-047
173-303-284	NEW	88-07-039	180-78-130	NEW	88-07-002	180-79-200	REP	88-05-047
173-303-285	NEW	88-07-039	180-78-140	NEW	88-07-002	180-79-205	REP	88-05-047
173-303-286	NEW	88-07-039	180-78-145	NEW	88-07-002	180-79-210	REP	88-05-047
173-303-400	AMD	88-02-057	180-78-150	NEW	88-07-002	180-79-215	REP	88-05-047
173-303-420	AMD	88-07-039	180-78-155	NEW	88-07-002	180-79-230	AMD	88-05-047
173-303-430	AMD	88-07-039	180-78-160	NEW	88-07-002	180-79-245	AMD	88-05-047
173-303-440	AMD	88-07-039	180-78-165	NEW	88-07-002	180-79-250	REP	88-05-047
173-303-510	AMD	88-07-039	180-78-170	NEW	88-07-002	180-80-205	REP	88-05-048
173-303-520	AMD	88-07-039	180-78-175	NEW	88-07-002	180-80-210	REP	88-05-048
173-303-560	AMD	88-07-039	180-78-180	NEW	88-07-002	180-80-215	REP	88-05-048
173-303-600	AMD	88-07-039	180-78-185	NEW	88-07-002	180-80-280	REP	88-05-048
173-303-650	AMD	88-07-039	180-78-190	NEW	88-07-002	180-80-285	REP	88-05-048
173-303-665	AMD	88-02-057	180-78-193	AMD	88-07-002	180-80-290	REP	88-05-048
173-303-800	AMD	88-07-039	180-78-194	AMD	88-07-002	180-80-295	REP	88-05-048
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173-303-805	AMD	88-07-039	180-78-205	NEW	88-07-002	180-80-301	REP	88-05-048
173-303-806	AMD	88-07-039	180-78-210	NEW	88-07-002	180-80-302	REP	88-05-048
173-303-901	NEW	88-07-039	180-78-215	NEW	88-07-002	180-80-303	REP	88-05-048
173-303-910	AMD	88-02-057	180-78-220	NEW	88-07-002	180-80-312	REP	88-05-048
173-304-100	AMD-P	88-04-074	180-78-225	NEW	88-07-002	180-80-530	REP	88-05-048
173-304-400	AMD-P	88-04-074	180-78-230	NEW	88-07-002	180-80-705	REP	88-05-048
173-304-405	AMD-P	88-04-074	180-78-235	NEW	88-07-002	180-84-015	REP	88-05-049
173-304-407	NEW-P	88-04-074	180-78-240	NEW	88-07-002	180-84-020	REP	88-05-049
173-304-430	AMD-P	88-04-074	180-78-245	NEW	88-07-002	180-84-025	REP	88-05-049
173-304-450	AMD-P	88-04-074	180-78-250	NEW	88-07-002	180-84-050	REP	88-05-049
173-304-460	AMD-P	88-04-074	180-78-255	NEW	88-07-002	180-84-055	REP	88-05-049
173-304-467	NEW-P	88-04-074	180-78-260	NEW	88-07-002	180-84-060	REP	88-05-049
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173-340-010	NEW-E	88-07-106	180-78-275	NEW	88-07-002	180-84-090	REP	88-05-049
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173-340-030	NEW-E	88-07-106	180-78-295	NEW	88-07-002	180-110-020	NEW	88-06-002
173-340-040	NEW-P	88-07-105	180-78-300	NEW	88-07-002	180-110-030	NEW	88-06-002
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173-340-050	NEW-E	88-07-106	180-78-315	NEW	88-07-002	180-110-045	NEW	88-06-002
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180-16-223	AMD-P	88-05-050	180-78-325	NEW	88-07-002	180-110-052	NEW	88-06-002
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180-78-010	AMD	88-07-002	180-79-014	REP	88-05-047	180-115-005	NEW-E	88-05-046
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180-78-050	REP	88-07-002	180-79-116	NEW-P	88-05-051	180-115-035	NEW-E	88-05-046
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180-78-060	AMD	88-07-002	180-79-122	NEW	88-05-047	180-115-040	NEW-P	88-05-052
180-78-063	NEW	88-07-002	180-79-125	AMD	88-05-047	180-115-045	NEW-E	88-05-046
180-78-065	NEW	88-07-002	180-79-127	NEW	88-05-047	180-115-045	NEW-P	88-05-052
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180-115-060	NEW-P	88-05-052	212-17-352	NEW-P	88-03-014
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192-28-120	AMD-P	88-07-109	220-55-085	REP	88-05-002
192-28-130	NEW-P	88-07-109	220-55-090	AMD	88-05-002
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248-54-105	AMD	88-05-057	248-100-176	NEW-P	88-03-022	251-12-290	AMD-P	88-06-063
248-54-115	REP	88-05-057	248-100-176	NEW	88-07-063	251-14-020	AMD-P	88-02-072
248-54-125	AMD	88-05-057	248-100-181	NEW-P	88-03-022	251-14-020	AMD-C	88-06-062
248-54-131	NEW	88-05-057	248-100-181	NEW	88-07-063	251-14-020	AMD-P	88-06-075
248-54-135	AMD	88-05-057	248-100-186	NEW-P	88-03-022	251-14-030	AMD-P	88-02-072
248-54-145	AMD	88-05-057	248-100-186	NEW	88-07-063	251-14-052	AMD-P	88-02-072
248-54-155	AMD	88-05-057	248-100-191	NEW-P	88-03-022	251-14-052	AMD-C	88-06-062
248-54-165	AMD	88-05-057	248-100-191	NEW	88-07-063	251-14-052	AMD-P	88-06-075
248-54-175	AMD	88-05-057	248-100-196	NEW-P	88-03-022	251-14-054	AMD-P	88-02-072
248-54-185	AMD	88-05-057	248-100-196	NEW	88-07-063	251-14-054	AMD-C	88-06-062
248-54-194	NEW	88-05-057	248-100-201	NEW-P	88-03-022	251-14-054	AMD-P	88-06-075
248-54-195	REP	88-05-057	248-100-201	NEW	88-07-063	251-14-056	AMD-P	88-04-069
248-54-196	NEW	88-05-057	248-100-231	AMD-P	88-03-022	251-14-058	AMD-P	88-02-072
248-54-201	NEW	88-05-057	248-100-231	AMD	88-07-063	251-14-058	AMD-C	88-06-062
248-54-205	AMD	88-05-057	248-100-236	AMD-P	88-03-022	251-14-058	AMD-P	88-06-075
248-54-215	AMD	88-05-057	248-100-236	AMD	88-07-063	260-16-090	NEW	88-06-017
248-54-225	AMD	88-05-057	248-100-440	REP-P	88-03-022	260-20-170	AMD	88-06-017
248-54-235	AMD	88-05-057	248-100-440	REP	88-07-063	260-34-010	NEW-P	88-06-052
248-54-255	AMD	88-05-057	248-100-450	REP-P	88-03-022	260-34-020	NEW-P	88-06-052
248-54-265	AMD	88-05-057	248-100-450	REP	88-07-063	260-34-030	NEW-P	88-06-052
248-54-275	REP	88-05-057	248-100-452	REP-P	88-03-022	260-34-040	NEW-P	88-06-052
248-54-285	AMD	88-05-057	248-100-452	REP	88-07-063	260-34-050	NEW-P	88-06-052
248-54-291	NEW	88-05-057	248-172-101	NEW	88-04-090	260-34-060	NEW-P	88-06-052
248-63	AMD-P	88-06-092	248-172-201	NEW	88-04-090	260-34-070	NEW-P	88-06-052
248-63-001	AMD-P	88-06-092	248-172-202	NEW	88-04-090	260-34-080	NEW-P	88-06-052
248-63-010	AMD-P	88-06-092	248-172-203	NEW	88-04-090	260-34-090	NEW-P	88-06-052
248-63-020	REP-P	88-06-092	248-172-204	NEW	88-04-090	260-34-100	NEW-P	88-06-052
248-63-025	NEW-P	88-06-092	248-172-205	NEW	88-04-090	260-34-110	NEW-P	88-06-052
248-63-030	REP-P	88-06-092	248-172-206	NEW	88-04-090	260-34-120	NEW-P	88-06-052
248-63-035	NEW-P	88-06-092	248-172-301	NEW	88-04-090	260-34-130	NEW-P	88-06-052
248-63-040	REP-P	88-06-092	248-172-302	NEW	88-04-090	260-34-140	NEW-P	88-06-052
248-63-045	NEW-P	88-06-092	248-172-303	NEW	88-04-090	260-34-150	NEW-P	88-06-052
248-63-050	REP-P	88-06-092	248-172-304	NEW	88-04-090	260-34-160	NEW-P	88-06-052
248-63-055	NEW-P	88-06-092	248-172-401	NEW	88-04-090	260-34-170	NEW-P	88-06-052
248-63-060	REP-P	88-06-092	248-172-402	NEW	88-04-090	260-34-180	NEW-P	88-06-052
248-63-065	NEW-P	88-06-092	250-20-021	AMD-P	88-06-089	261-40-150	REVIEW	88-03-065
248-63-070	REP-P	88-06-092	250-20-031	AMD-P	88-06-089	275-27-220	AMD	88-05-004
248-63-075	NEW-P	88-06-092	250-40-030	AMD-P	88-06-090	275-27-223	NEW	88-05-004
248-63-080	REP-P	88-06-092	250-40-040	AMD-P	88-06-090	275-27-400	AMD	88-05-004
248-63-085	NEW-P	88-06-092	250-40-050	AMD-P	88-06-090	275-38-001	AMD-P	88-07-122
248-63-090	REP-P	88-06-092	250-60-020	AMD-P	88-06-091	275-38-005	AMD-P	88-07-122
248-63-095	NEW-P	88-06-092	250-60-030	AMD-P	88-06-091	275-38-520	AMD-P	88-07-122
248-63-100	REP-P	88-06-092	250-60-040	AMD-P	88-06-091	275-38-525	AMD-P	88-07-122
248-63-105	NEW-P	88-06-092	250-60-050	AMD-P	88-06-091	275-38-530	AMD-P	88-07-122
248-63-110	REP-P	88-06-092	250-60-060	AMD-P	88-06-091	275-38-535	AMD-P	88-07-122
248-63-115	NEW-P	88-06-092	250-60-070	AMD-P	88-06-091	275-38-540	AMD-P	88-07-122
248-63-120	REP-P	88-06-092	250-60-080	AMD-P	88-06-091	275-38-545	AMD-P	88-07-122
248-63-125	NEW-P	88-06-092	250-60-090	AMD-P	88-06-091	275-38-546	NEW-P	88-07-122
248-63-130	REP-P	88-06-092	250-60-100	AMD-P	88-06-091	275-38-550	AMD-P	88-07-122
248-63-135	NEW-P	88-06-092	250-60-110	AMD-P	88-06-091	275-38-555	AMD-P	88-07-122
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248-63-145	NEW-P	88-06-092	250-65-010	NEW	88-03-008	275-38-565	AMD-P	88-07-122
248-63-150	REP-P	88-06-092	250-65-020	NEW	88-03-008	275-38-570	AMD-P	88-07-122
248-63-155	NEW-P	88-06-092	250-65-030	NEW	88-03-008	275-38-575	REP-P	88-07-122
248-63-160	REP-P	88-06-092	250-65-040	NEW	88-03-008	275-38-585	AMD-P	88-07-122
248-63-165	NEW-P	88-06-092	250-65-050	NEW	88-03-008	275-38-586	NEW-P	88-07-122
248-63-170	REP-P	88-06-092	250-65-060	NEW	88-03-008	275-38-600	AMD-P	88-07-122
248-63-175	NEW-P	88-06-092	251-01-018	NEW-P	88-02-072	275-38-605	AMD-P	88-07-122
248-63-180	REP-P	88-06-092	251-01-255	REP-P	88-02-071	275-38-610	AMD-P	88-07-122
248-100-011	AMD-P	88-03-022	251-01-258	NEW-P	88-02-072	275-38-615	AMD-P	88-07-122
248-100-011	AMD	88-07-063	251-01-258	NEW-C	88-06-062	275-38-620	AMD-P	88-07-122
248-100-025	REP-P	88-03-022	251-01-258	NEW-P	88-06-075	275-38-650	AMD-P	88-07-122
248-100-025	REP	88-07-063	251-01-367	NEW-P	88-02-072	275-38-655	AMD-P	88-07-122
248-100-026	NEW-P	88-03-022	251-01-367	NEW-C	88-06-062	275-38-660	AMD-P	88-07-122
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248-100-036	NEW-P	88-03-022	251-01-445	REP-P	88-02-072	275-38-680	AMD-P	88-07-122
248-100-036	NEW	88-07-063	251-01-445	AMD-P	88-06-075	275-38-685	AMD-P	88-07-122
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248-100-050	REP	88-07-063	251-01-455	REP-P	88-02-072	275-38-695	AMD-P	88-07-122
248-100-163	REP-P	88-03-022	251-01-455	REP-P	88-06-075	275-38-700	AMD-P	88-07-122
248-100-163	REP	88-07-063	251-10-170	AMD-P	88-02-072	275-38-705	AMD-P	88-07-122
248-100-164	REP-P	88-03-022	251-10-170	AMD-C	88-06-062	275-38-706	NEW-P	88-07-122
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275-38-745	AMD-P	88-07-122	296-17-580	AMD-P	88-06-072	296-116-083	NEW-P	88-06-067
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275-38-775	AMD-P	88-07-122	296-17-598	REP-P	88-06-072	296-116-300	AMD	88-05-039
275-38-780	AMD-P	88-07-122	296-17-598	REP-P	88-06-076	296-116-320	REP-P	88-06-068
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275-38-790	AMD-P	88-07-122	296-17-643	AMD-P	88-06-072	296-116-370	NEW-P	88-06-069
275-38-800	AMD-P	88-07-122	296-17-64901	AMD-P	88-06-072	296-116-400	NEW-C	88-05-020
275-38-812	AMD-P	88-07-122	296-17-64902	AMD-P	88-06-072	296-116-410	NEW-C	88-05-021
275-38-815	AMD-P	88-07-122	296-17-677	AMD-P	88-06-072	296-116-420	NEW-P	88-06-070
275-38-820	AMD-P	88-07-122	296-17-680	AMD-P	88-06-072	296-155-425	REP-P	88-06-073
275-38-840	AMD-P	88-07-122	296-17-731	AMD-P	88-06-076	296-155-426	NEW-P	88-06-073
275-38-845	AMD-P	88-07-122	296-17-73101	NEW-P	88-06-076	296-155-428	NEW-P	88-06-073
275-38-846	AMD-P	88-07-122	296-17-73102	NEW-P	88-06-076	296-155-429	NEW-P	88-06-073
275-38-860	AMD-P	88-07-122	296-17-73103	NEW-P	88-06-076	296-155-430	REP-P	88-06-073
275-38-869	AMD-P	88-07-122	296-17-73104	NEW-P	88-06-076	296-155-432	NEW-P	88-06-073
275-38-880	AMD-P	88-07-122	296-17-736	AMD-P	88-06-072	296-155-434	NEW-P	88-06-073
275-38-886	AMD-P	88-07-122	296-17-757	AMD-P	88-06-072	296-155-435	REP-P	88-06-073
275-38-887	NEW-P	88-07-122	296-17-758	AMD-P	88-06-072	296-155-437	NEW-P	88-06-073
275-38-888	NEW-P	88-07-122	296-17-759	AMD-P	88-06-072	296-155-440	REP-P	88-06-073
275-38-889	NEW-P	88-07-122	296-17-760	AMD-P	88-06-072	296-155-441	NEW-P	88-06-073
275-38-890	AMD-P	88-07-122	296-17-761	AMD-P	88-06-072	296-155-444	NEW-P	88-06-073
275-38-892	AMD-P	88-07-122	296-17-762	AMD-P	88-06-072	296-155-447	NEW-P	88-06-073
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275-38-903	NEW-P	88-07-122	296-17-76202	NEW-P	88-06-072	296-155-450	REP-P	88-06-073
275-38-905	REP-P	88-07-122	296-17-76203	NEW-P	88-06-072	296-155-452	NEW-P	88-06-073
275-38-906	NEW-P	88-07-122	296-17-76204	NEW-P	88-06-072	296-155-455	REP-P	88-06-073
275-38-925	AMD-P	88-07-122	296-17-76205	NEW-P	88-06-072	296-155-456	NEW-P	88-06-073
275-38-940	AMD-P	88-07-122	296-17-76206	NEW-P	88-06-072	296-155-459	NEW-P	88-06-073
275-38-945	AMD-P	88-07-122	296-17-76207	NEW-P	88-06-072	296-155-462	NEW-P	88-06-073
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296-14-910	NEW-P	88-04-050	296-17-895	AMD-P	88-02-060	308-42-015	NEW-P	88-03-033
296-14-920	NEW-P	88-04-050	296-17-895	AMD	88-06-047	308-51	AMD-P	88-06-034
296-14-930	NEW-P	88-04-050	296-17-895	AMD-P	88-06-072	308-51-010	AMD-P	88-06-034
296-14-940	NEW-P	88-04-050	296-17-895	AMD-P	88-06-076	308-51-020	REP-P	88-06-034
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296-14-960	NEW-P	88-04-050	296-18A-445	AMD-P	88-07-100	308-51-050	AMD-P	88-06-034
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296-15-023	AMD-P	88-07-100	296-20-045	AMD-C	88-04-051	308-51-080	REP-P	88-06-034
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296-15-065	AMD-P	88-07-100	296-21-128	AMD	88-04-052	308-51-110	AMD-P	88-06-034
296-15-070	AMD-P	88-07-100	296-23-620	REP-C	88-04-051	308-51-125	AMD-P	88-06-034
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296-15-215	AMD-P	88-07-100	296-24-590	REP-P	88-06-073	308-51-220	NEW-P	88-06-034
296-15-250	AMD-P	88-07-100	296-24-605	REP-P	88-06-073	308-52-138	AMD	88-06-008
296-17-310	AMD-P	88-06-072	296-24-68203	AMD-P	88-06-073	308-52-139	AMD	88-06-008
296-17-349	NEW-P	88-02-059	296-24-78009	AMD-P	88-06-073	308-52-140	AMD	88-06-008
296-17-349	NEW	88-06-048	296-45-65025	REP-P	88-06-073	308-52-147	NEW	88-06-008
296-17-350	AMD-C	88-06-046	296-45-65026	NEW-P	88-06-073	308-52-148	NEW	88-06-008
296-17-350	AMD-P	88-06-076	296-45-65037	AMD-P	88-06-073	308-52-149	NEW	88-06-008
296-17-450	AMD-P	88-06-072	296-62-07336	NEW-P	88-06-073	308-53-010	AMD-P	88-03-071
296-17-455	AMD-P	88-06-072	296-62-07337	NEW-P	88-06-073	308-53-010	AMD	88-07-047
296-17-519	AMD-P	88-06-072	296-62-07338	NEW-P	88-06-073	308-53-030	AMD-P	88-03-071
296-17-520	AMD-P	88-06-072	296-62-07339	NEW-P	88-06-073	308-53-030	AMD	88-07-047
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296-17-52106	NEW-P	88-06-072	296-62-07341	REP-P	88-06-073	308-53-100	AMD	88-07-047
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308-61-050	REP	88-06-025	308-91-060	AMD-P	88-03-067	308-171-010	AMD-P	88-05-061
308-61-108	AMD-E	88-04-026	308-91-060	AMD	88-06-061	308-171-020	AMD-P	88-05-061
308-61-108	AMD	88-06-025	308-91-070	AMD-E	88-03-030	308-180-120	AMD-P	88-02-061
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308-61-135	AMD	88-06-025	308-91-070	AMD	88-06-061	308-180-210	AMD-P	88-02-061
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308-61-240	AMD-E	88-04-026	308-91-100	REP-E	88-03-030	308-180-270	NEW	88-07-031
308-61-240	AMD	88-06-025	308-91-100	REP-P	88-03-067	308-180-280	NEW-P	88-02-061
308-61-260	AMD-E	88-04-026	308-91-100	REP	88-06-061	308-180-280	NEW	88-07-031
308-61-260	AMD	88-06-025	308-91-110	REP-E	88-03-030	308-190-030	NEW-P	88-05-059
308-61-330	AMD-E	88-04-026	308-91-110	REP-P	88-03-067	308-190-040	NEW-P	88-05-059
308-61-330	AMD	88-06-025	308-91-110	REP	88-06-061	308-190-050	NEW-P	88-05-059
308-61-430	AMD-E	88-04-026	308-91-120	NEW-E	88-03-030	308-195-020	NEW-P	88-03-034
308-61-430	AMD	88-06-025	308-91-120	NEW-P	88-03-067	308-195-030	NEW-P	88-03-034
308-72-502	NEW-P	88-04-029	308-91-120	NEW	88-06-061	308-195-040	NEW-P	88-03-034
308-72-502	NEW	88-07-095	308-91-130	NEW-E	88-03-030	308-195-050	NEW-P	88-03-034
308-72-504	NEW-P	88-04-029	308-91-130	NEW-P	88-03-067	308-195-060	NEW-P	88-03-034
308-72-504	NEW	88-07-095	308-91-130	NEW	88-06-061	308-195-070	NEW-P	88-03-034
308-72-506	NEW-P	88-04-029	308-91-140	NEW-E	88-03-030	308-195-080	NEW-P	88-03-034
308-72-506	NEW	88-07-095	308-91-140	NEW-P	88-03-067	308-195-090	NEW-P	88-03-034
308-72-508	NEW-P	88-04-029	308-91-140	NEW	88-06-061	308-195-100	NEW-P	88-03-034
308-72-508	NEW	88-07-095	308-91-150	NEW-E	88-03-030	308-195-110	NEW-P	88-03-034
308-72-512	NEW-P	88-04-029	308-91-150	NEW-P	88-03-067	308-210-010	NEW-P	88-05-060
308-72-512	NEW	88-07-095	308-91-150	NEW	88-06-061	308-210-020	NEW-P	88-05-060
308-72-540	AMD-P	88-04-029	308-91-160	NEW-E	88-03-030	308-210-030	NEW-P	88-05-060
308-72-540	AMD	88-07-095	308-91-160	NEW-P	88-03-067	308-210-040	NEW-P	88-05-060
308-90-010	REP-E	88-03-001	308-91-160	NEW	88-06-061	308-210-050	NEW-P	88-05-060
308-90-010	REP	88-03-038	308-91-170	NEW-E	88-03-030	308-210-060	NEW-P	88-05-060
308-90-020	REP-E	88-03-001	308-91-170	NEW-P	88-03-067	308-220-010	NEW-P	88-05-062
308-90-020	REP	88-03-038	308-91-170	NEW	88-06-061	308-220-020	NEW-P	88-05-062
308-90-030	AMD-E	88-03-001	308-96A-065	AMD-P	88-07-116	308-220-030	NEW-P	88-05-062
308-90-030	AMD	88-03-038	308-96A-066	NEW-P	88-07-116	308-220-040	NEW-P	88-05-062
308-90-040	AMD-E	88-03-001	308-117-030	AMD-P	88-04-077	308-220-050	NEW-P	88-05-062
308-90-040	AMD	88-03-038	308-117-080	AMD	88-05-011	308-220-070	NEW-P	88-05-062
308-90-050	REP-E	88-03-001	308-120-186	AMD	88-05-010	308-220-080	NEW-P	88-05-062
308-90-050	REP	88-03-038	308-120-335	AMD	88-07-049	308-230-010	NEW-P	88-05-063
308-90-060	AMD-E	88-03-001	308-122-200	AMD-P	88-06-007	308-230-020	NEW-P	88-05-063
308-90-060	AMD	88-03-038	308-122-215	AMD-P	88-06-007	308-230-030	NEW-P	88-05-063
308-90-070	AMD-E	88-03-001	308-122-235	NEW-P	88-06-007	308-230-040	NEW-P	88-05-063
308-90-070	AMD	88-03-038	308-122-640	AMD-P	88-06-007	308-230-050	NEW-P	88-05-063
308-90-080	AMD-E	88-03-001	308-122-720	NEW-P	88-06-007	308-410-010	NEW	88-03-037
308-90-080	AMD	88-03-038	308-124A-130	AMD-P	88-02-051	308-410-020	NEW	88-03-037
308-90-090	AMD-E	88-03-001	308-124A-130	AMD	88-06-039	308-410-030	NEW	88-03-037
308-90-090	AMD	88-03-038	308-124B-010	REP-E	88-02-050	308-410-040	NEW	88-03-037
308-90-110	AMD-E	88-03-001	308-124B-010	REP-P	88-02-051	308-410-050	NEW	88-03-037
308-90-110	AMD	88-03-038	308-124B-010	REP	88-06-039	308-410-060	NEW	88-03-037
308-90-120	NEW-E	88-03-001	308-124B-130	AMD-E	88-02-050	308-410-070	NEW	88-03-037
308-90-120	NEW	88-03-038	308-124B-130	AMD-P	88-02-051	314-08-080	AMD-P	88-06-056
308-90-130	NEW-E	88-03-001	308-124B-130	AMD	88-06-039	314-12-037	NEW-P	88-05-012
308-90-130	NEW	88-03-038	308-124B-150	NEW-E	88-02-050	314-12-038	NEW-P	88-06-054
308-90-140	NEW-E	88-03-001	308-124B-150	NEW-P	88-02-051	314-12-100	AMD	88-04-028
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308-90-150	NEW-E	88-03-001	308-124E-011	REP-P	88-02-049	314-12-145	AMD-P	88-07-091
308-90-150	NEW	88-03-038	308-124E-011	REP	88-06-040	314-16-190	AMD-P	88-04-082
308-90-160	NEW-E	88-03-001	308-124E-012	NEW-P	88-02-049	314-16-190	AMD	88-07-058
308-90-160	NEW	88-03-038	308-124E-012	NEW	88-06-040	314-22-010	NEW-P	88-05-007
308-91-010	AMD-E	88-03-030	308-124E-013	NEW-P	88-02-049	314-22-010	NEW	88-07-090
308-91-010	AMD-P	88-03-067	308-124E-013	NEW	88-06-040	314-36-010	AMD-P	88-04-087
308-91-010	AMD	88-06-061	308-124E-014	NEW-P	88-02-049	314-36-010	AMD	88-07-025
308-91-020	REP-E	88-03-030	308-124E-014	NEW	88-06-040	314-36-020	AMD-P	88-04-087
308-91-020	REP-P	88-03-067	308-138-055	AMD-P	88-03-035	314-36-020	AMD	88-07-025
308-91-020	REP	88-06-061	308-138-320	AMD-P	88-03-035	314-36-030	AMD-P	88-04-087
308-91-030	AMD-E	88-03-030	308-138A-020	AMD-P	88-03-035	314-36-030	AMD	88-07-025
308-91-030	AMD-P	88-03-067	308-138A-025	AMD-P	88-03-035	314-36-040	AMD-P	88-04-087
308-91-030	AMD	88-06-061	308-150-013	AMD-P	88-05-041	314-36-040	AMD	88-07-025
308-91-040	AMD-E	88-03-030	308-151-080	AMD-P	88-05-041	314-36-050	AMD-P	88-04-087
308-91-040	AMD-P	88-03-067	308-151-090	AMD-P	88-05-041	314-36-050	AMD	88-07-025
308-91-040	AMD	88-06-061	308-153-020	AMD-P	88-05-041	314-36-060	AMD-P	88-04-087
308-91-050	AMD-E	88-03-030	308-153-030	AMD-P	88-05-041	314-36-060	AMD	88-07-025
308-91-050	AMD-P	88-03-067	308-156-060	AMD-P	88-05-041	314-36-070	AMD-P	88-04-087

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314-36-080	AMD-P	88-04-087	352-74-040	AMD-P	88-04-075	356-42-055	AMD-C	88-07-043
314-36-080	AMD	88-07-025	352-74-040	AMD	88-04-074	356-42-060	AMD-C	88-07-044
314-36-090	AMD-P	88-04-087	352-74-060	AMD-P	88-04-075	356-42-070	AMD-C	88-07-044
314-36-090	AMD	88-07-025	352-74-060	AMD	88-04-074	356-42-082	AMD-C	88-07-043
314-36-100	AMD-P	88-04-087	352-74-070	AMD-P	88-04-075	356-42-084	AMD-C	88-07-043
314-36-100	AMD	88-07-025	352-74-070	AMD	88-04-074	356-42-105	NEW-C	88-07-043
314-36-110	AMD-P	88-04-087	356-05-005	REP-P	88-04-066	356-46-125	NEW	88-03-042
314-36-110	AMD	88-07-025	356-05-123	NEW	88-03-040	356-47-030	AMD-P	88-04-068
314-36-120	REP-P	88-04-087	356-05-123	NEW-C	88-06-014	356-47-045	AMD-P	88-04-068
314-36-120	REP	88-07-025	356-05-123	NEW-C	88-07-040	360-08-005	NEW-P	88-03-036
314-36-130	AMD-P	88-04-087	356-05-128	NEW	88-03-042	360-08-006	NEW	88-06-026
314-36-130	AMD	88-07-025	356-05-145	REP-P	88-04-066	360-08-030	REP-P	88-03-036
314-40-040	AMD-P	88-04-083	356-05-311	NEW-P	88-04-032	360-08-030	REP	88-06-026
314-40-040	AMD	88-07-060	356-05-311	NEW-C	88-07-041	360-08-070	REP-P	88-03-036
314-40-080	AMD-P	88-06-055	356-05-320	AMD-P	88-04-068	360-08-070	REP	88-06-026
314-52-114	AMD-P	88-04-060	356-05-330	REP-P	88-04-066	360-08-080	REP-P	88-03-036
314-52-114	AMD-E	88-06-031	356-05-360	AMD	88-03-041	360-08-080	REP	88-06-026
314-52-114	AMD	88-07-026	356-05-415	AMD-P	88-04-068	360-08-090	REP-P	88-03-036
315-11-310	NEW-P	88-02-062	356-05-450	REP-C	88-07-044	360-08-090	REP	88-06-026
315-11-310	NEW	88-06-031	356-05-451	NEW-C	88-07-044	360-08-100	REP-P	88-03-036
315-11-311	NEW-P	88-02-062	356-05-452	NEW-C	88-07-044	360-08-100	REP	88-06-026
315-11-311	NEW	88-06-031	356-05-455	REP-C	88-07-044	360-08-110	REP-P	88-03-036
315-11-312	NEW-P	88-02-062	356-05-456	NEW-C	88-07-044	360-08-110	REP	88-06-026
315-11-312	NEW	88-06-031	356-05-460	REP-C	88-07-044	360-08-120	REP-P	88-03-036
315-11-320	NEW-P	88-06-049	356-05-461	NEW-C	88-07-044	360-08-120	REP	88-06-026
315-11-321	NEW-P	88-06-049	356-15-020	AMD	88-05-028	360-08-130	REP-P	88-03-036
315-11-322	NEW-P	88-06-049	356-15-085	AMD-P	88-04-035	360-08-130	REP	88-06-026
315-20-090	AMD-P	88-02-062	356-15-085	AMD-C	88-07-042	360-08-140	REP-P	88-03-036
315-20-090	AMD	88-06-031	356-15-100	AMD-P	88-04-033	360-08-140	REP	88-06-026
315-30-080	AMD-P	88-02-062	356-15-110	AMD-P	88-04-033	360-08-410	REP-P	88-03-036
315-32-050	AMD-P	88-02-066	356-15-115	NEW-P	88-04-033	360-08-410	REP	88-06-026
315-32-050	AMD	88-05-030	360-18-020	AMD	88-07-011	360-08-430	REP-P	88-03-036
316-02-350	AMD-P	88-06-057	360-18-025	NEW	88-07-011	360-08-430	REP	88-06-026
316-02-820	AMD-P	88-06-057	356-18-030	AMD-P	88-06-022	360-08-440	REP-P	88-03-036
316-45-110	AMD-P	88-06-057	356-18-114	NEW-P	88-04-032	360-08-440	REP	88-06-026
316-45-550	AMD-P	88-06-057	356-18-114	NEW-C	88-07-041	360-08-450	REP-P	88-03-036
320-16-020	NEW	88-04-080	356-18-120	AMD-P	88-04-034	360-08-450	REP	88-06-026
326-20-090	REP-E	88-06-029	356-18-120	AMD	88-07-046	360-08-460	REP-P	88-03-036
326-20-090	REP	88-06-030	356-18-130	REP-E	88-04-030	360-08-460	REP	88-06-026
326-20-091	NEW-E	88-06-043	356-18-130	REP-P	88-04-065	360-08-470	REP-P	88-03-036
326-20-091	NEW-P	88-06-074	356-18-130	REP	88-07-045	360-08-470	REP	88-06-026
326-20-092	NEW-E	88-06-043	356-18-190	AMD-P	88-04-068	360-08-480	REP-P	88-03-036
326-20-092	NEW-P	88-06-074	356-26-050	AMD-P	88-04-068	360-08-480	REP	88-06-026
326-20-093	NEW-E	88-06-043	356-26-060	AMD-P	88-04-031	360-08-490	REP-P	88-03-036
326-20-093	NEW-P	88-06-074	356-26-080	AMD-P	88-04-068	360-08-490	REP	88-06-026
326-20-094	NEW-E	88-06-043	356-30-015	AMD-P	88-04-068	360-08-500	REP-P	88-03-036
326-20-094	NEW-P	88-06-074	356-30-020	REP-P	88-04-066	360-08-500	REP	88-06-026
326-20-095	NEW-E	88-06-043	356-30-030	REP-P	88-04-066	360-08-510	REP-P	88-03-036
326-20-095	NEW-P	88-06-074	356-30-040	REP-P	88-04-066	360-08-510	REP	88-06-026
326-20-096	NEW-E	88-06-043	356-30-050	REP-P	88-04-066	360-10-010	AMD	88-06-060
326-20-096	NEW-P	88-06-074	356-30-065	AMD-P	88-04-068	360-10-050	AMD	88-06-060
326-20-097	NEW-E	88-06-043	356-30-067	NEW-P	88-04-068	360-10-060	AMD	88-06-060
326-20-097	NEW-P	88-06-074	356-30-070	REP-P	88-04-066	360-13-066	AMD-P	88-07-097
326-20-098	NEW-E	88-06-043	356-30-080	REP-P	88-04-066	360-18-020	AMD-P	88-03-066
326-20-098	NEW-P	88-06-074	356-30-140	AMD-P	88-04-068	360-18-020	AMD	88-07-011
326-20-171	AMD-P	88-06-074	356-30-145	AMD-P	88-04-068	360-18-025	NEW-P	88-03-066
326-20-172	AMD-P	88-06-074	356-30-260	AMD-C	88-03-039	360-18-025	NEW	88-07-011
326-20-180	AMD-P	88-06-074	356-30-260	AMD	88-06-001	360-36-425	NEW	88-06-060
326-20-185	AMD-P	88-06-074	356-30-305	AMD-C	88-03-039	360-36-425	AMD-P	88-07-097
344-12-043	NEW-P	88-07-115	356-30-305	AMD	88-06-001	360-60-010	NEW-P	88-03-036
344-12-050	AMD-P	88-07-115	356-30-330	AMD-P	88-04-068	360-60-010	NEW	88-06-026
344-12-064	NEW-P	88-07-115	356-34-010	AMD-P	88-04-067	360-60-020	NEW-P	88-03-036
344-12-145	AMD-P	88-07-115	356-34-020	AMD	88-03-043	360-60-020	NEW	88-06-026
352-12-010	AMD-P	88-04-075	356-34-030	AMD	88-03-043	360-60-030	NEW-P	88-03-036
352-12-010	AMD	88-07-074	356-34-040	AMD	88-03-043	360-60-030	NEW	88-06-026
352-12-020	AMD-P	88-04-075	356-34-045	NEW	88-03-043	360-60-040	NEW-P	88-03-036
352-12-020	AMD	88-07-074	356-34-050	AMD	88-03-043	360-60-040	NEW	88-06-026
352-32-035	AMD-P	88-04-075	356-42-010	AMD-C	88-07-044	365-180-010	NEW	88-02-042
352-32-035	AMD	88-07-074	356-42-020	AMD-C	88-07-043	365-180-020	NEW	88-02-042
352-32-045	AMD-P	88-04-075	356-42-042	NEW-C	88-07-043	365-180-030	NEW	88-02-042
352-32-045	AMD	88-07-074	356-42-043	AMD-C	88-07-043	365-180-040	NEW	88-02-042
352-32-15001	NEW-P	88-06-095	356-42-043	AMD-C	88-07-044	365-180-050	NEW	88-02-042
352-32-250	AMD-P	88-04-075	356-42-045	AMD-C	88-07-043	365-180-060	NEW	88-02-042
352-32-250	AMD	88-07-074	356-42-045	AMD-C	88-07-044	365-180-070	NEW	88-02-042
352-36-040	AMD-P	88-06-095	356-42-047	AMD-C	88-07-044	365-180-080	NEW	88-02-042
352-74-030	AMD-P	88-04-075	356-42-049	NEW-C	88-07-043	365-180-090	NEW	88-02-042

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388-14-010	AMD	88-07-012	388-15-715	NEW	88-03-020	388-57-120	AMD	88-07-055
388-14-020	AMD-P	88-02-055	388-24-040	AMD-P	88-04-036	388-57-121	REP	88-07-055
388-14-020	AMD-E	88-02-056	388-24-040	AMD-E	88-04-039	388-57-123	AMD	88-07-055
388-14-020	AMD	88-07-012	388-24-050	AMD-P	88-04-036	388-57-124	AMD	88-07-055
388-14-030	AMD-P	88-02-055	388-24-050	AMD-E	88-04-039	388-57-125	AMD	88-07-055
388-14-030	AMD-E	88-02-056	388-24-074	AMD	88-06-084	388-77-005	NEW-P	88-04-089
388-14-030	AMD	88-07-012	388-24-074	AMD	88-07-056	388-77-010	NEW-P	88-04-089
388-14-200	AMD-P	88-02-055	388-24-090	AMD	88-06-084	388-77-015	NEW-P	88-04-089
388-14-200	AMD-E	88-02-056	388-24-090	AMD	88-07-056	388-77-020	NEW-P	88-04-089
388-14-200	AMD	88-07-012	388-24-107	AMD	88-06-084	388-77-025	NEW-P	88-04-089
388-14-205	AMD-P	88-02-055	388-24-107	AMD	88-07-056	388-77-030	NEW-P	88-04-089
388-14-205	AMD-E	88-02-056	388-24-125	AMD-P	88-04-036	388-77-035	NEW-P	88-04-089
388-14-205	AMD	88-07-012	388-24-125	AMD-E	88-04-039	388-77-040	NEW-P	88-04-089
388-14-210	AMD-P	88-02-055	388-28-435	AMD	88-05-013	388-77-045	NEW-P	88-04-089
388-14-210	AMD-E	88-02-056	388-28-440	AMD-P	88-04-045	388-77-055	NEW-P	88-04-089
388-14-210	AMD	88-07-012	388-28-440	AMD	88-07-052	388-77-065	NEW-P	88-04-089
388-14-220	AMD-P	88-02-055	388-28-475	AMD-P	88-04-045	388-77-200	NEW-P	88-04-089
388-14-220	AMD-E	88-02-056	388-28-475	AMD	88-07-052	388-77-210	NEW-P	88-04-089
388-14-220	AMD	88-07-012	388-28-480	AMD	88-07-117	388-77-215	NEW-P	88-04-089
388-14-270	AMD-P	88-02-055	388-28-482	AMD	88-07-117	388-77-240	NEW-P	88-04-089
388-14-270	AMD-E	88-02-056	388-28-483	AMD	88-07-117	388-77-245	NEW-P	88-04-089
388-14-270	AMD	88-07-012	388-28-560	AMD	88-04-018	388-77-255	NEW-P	88-04-089
388-14-302	AMD-P	88-02-055	388-29-100	AMD	88-04-019	388-77-270	NEW-P	88-04-089
388-14-302	AMD-E	88-02-056	388-29-125	AMD	88-04-019	388-77-275	NEW-P	88-04-089
388-14-302	AMD	88-07-012	388-29-130	AMD	88-04-019	388-77-280	NEW-P	88-04-089
388-14-305	AMD-P	88-02-055	388-29-145	REP-P	88-04-037	388-77-285	NEW-P	88-04-089
388-14-305	AMD-E	88-02-056	388-29-145	REP-E	88-04-040	388-77-310	NEW-P	88-04-089
388-14-305	AMD	88-07-012	388-29-145	REP	88-07-062	388-77-320	NEW-P	88-04-089
388-14-310	AMD-P	88-02-055	388-29-146	REP	88-04-019	388-77-330	NEW-P	88-04-089
388-14-310	AMD-E	88-02-056	388-29-280	AMD	88-04-019	388-77-335	NEW-P	88-04-089
388-14-310	AMD	88-07-012	388-33-135	AMD	88-07-117	388-77-340	NEW-P	88-04-089
388-14-320	REP-P	88-02-055	388-38-110	AMD-P	88-04-038	388-77-350	NEW-P	88-04-089
388-14-320	REP-E	88-02-056	388-38-110	AMD	88-07-118	388-77-355	NEW-P	88-04-089
388-14-320	REP	88-07-012	388-40-080	AMD-P	88-07-053	388-77-360	NEW-P	88-04-089
388-14-325	REP-P	88-02-055	388-40-080	AMD-E	88-07-054	388-77-365	NEW-P	88-04-089
388-14-325	REP-E	88-02-056	388-40-090	AMD-P	88-07-053	388-77-370	NEW-P	88-04-089
388-14-325	REP	88-07-012	388-40-090	AMD-E	88-07-054	388-77-375	NEW-P	88-04-089
388-14-370	AMD-P	88-02-055	388-40-100	AMD-P	88-07-053	388-77-500	NEW-P	88-04-089
388-14-370	AMD-E	88-02-056	388-40-100	AMD-E	88-07-054	388-77-505	NEW-P	88-04-089
388-14-370	AMD	88-07-012	388-40-110	NEW-P	88-07-053	388-77-510	NEW-P	88-04-089
388-14-385	AMD-P	88-02-055	388-40-110	NEW-E	88-07-054	388-77-515	NEW-P	88-04-089
388-14-385	AMD-E	88-02-056	388-49-020	AMD-P	88-06-079	388-77-520	NEW-P	88-04-089
388-14-385	AMD	88-07-012	388-49-410	AMD-P	88-06-080	388-77-525	NEW-P	88-04-089
388-14-405	AMD-P	88-02-055	388-49-470	AMD-P	88-05-005	388-77-530	NEW-P	88-04-089
388-14-405	AMD-E	88-02-056	388-49-470	AMD-E	88-05-006	388-77-545	NEW-P	88-04-089
388-14-405	AMD	88-07-012	388-49-470	AMD-P	88-06-081	388-77-550	NEW-P	88-04-089
388-14-415	AMD-P	88-02-055	388-49-500	AMD-P	88-06-082	388-77-555	NEW-P	88-04-089
388-14-415	AMD-E	88-02-056	388-49-505	NEW	88-04-042	388-77-560	NEW-P	88-04-089
388-14-415	AMD	88-07-012	388-49-640	AMD-P	88-04-088	388-77-600	NEW-P	88-04-089
388-14-420	NEW-P	88-02-055	388-49-660	AMD-P	88-04-046	388-77-605	NEW-P	88-04-089
388-14-420	NEW-E	88-02-056	388-57-010	REP	88-07-055	388-77-610	NEW-P	88-04-089
388-14-420	NEW	88-07-012	388-57-011	NEW	88-07-055	388-77-615	NEW-P	88-04-089
388-14-425	NEW-P	88-02-055	388-57-015	REP	88-07-055	388-77-640	NEW-P	88-04-089
388-14-425	NEW-E	88-02-056	388-57-020	REP	88-07-055	388-77-700	NEW-P	88-04-089
388-14-425	NEW	88-07-012	388-57-028	REP	88-07-055	388-77-710	NEW-P	88-04-089
388-14-430	NEW-P	88-02-055	388-57-032	REP	88-07-055	388-77-720	NEW-P	88-04-089
388-14-430	NEW-E	88-02-056	388-57-036	REP	88-07-055	388-77-725	NEW-P	88-04-089
388-14-430	NEW	88-07-012	388-57-040	AMD	88-07-055	388-77-730	NEW-P	88-04-089
388-15-207	AMD-P	88-02-065	388-57-045	REP	88-07-055	388-77-735	NEW-P	88-04-089
388-15-207	AMD	88-06-088	388-57-056	REP	88-07-055	388-77-737	NEW-P	88-04-089
388-15-208	AMD-P	88-02-065	388-57-057	AMD	88-07-055	388-77-740	NEW-P	88-04-089
388-15-208	AMD	88-06-088	388-57-059	NEW	88-07-055	388-77-745	NEW-P	88-04-089
388-15-209	AMD-P	88-02-065	388-57-061	REP	88-07-055	388-77-750	NEW-P	88-04-089
388-15-209	AMD	88-06-088	388-57-063	NEW	88-07-055	388-77-755	NEW-P	88-04-089
388-15-212	AMD-P	88-02-065	388-57-064	REP	88-07-055	388-77-760	NEW-P	88-04-089
388-15-212	AMD	88-06-088	388-57-066	NEW	88-07-055	388-77-765	NEW-P	88-04-089
388-15-213	AMD-P	88-02-065	388-57-067	NEW	88-07-055	388-77-770	NEW-P	88-04-089
388-15-213	AMD	88-06-088	388-57-070	REP	88-07-055	388-77-780	NEW-P	88-04-089
388-15-214	NEW-P	88-02-065	388-57-071	NEW	88-07-055	388-77-810	NEW-P	88-04-089
388-15-214	NEW	88-06-088	388-57-074	NEW	88-07-055	388-77-815	NEW-P	88-04-089
388-15-215	AMD-P	88-02-065	388-57-090	REP	88-07-055	388-77-820	NEW-P	88-04-089
388-15-217	AMD-P	88-02-065	388-57-097	AMD	88-07-055	388-77-825	NEW-P	88-04-089
388-15-690	NEW	88-03-020	388-57-100	AMD	88-07-055	388-77-830	NEW-P	88-04-089
388-15-695	NEW	88-03-020	388-57-105	NEW	88-07-055	388-77-835	NEW-P	88-04-089
388-15-700	NEW	88-03-020	388-57-112	NEW	88-07-055	388-77-870	NEW-P	88-04-089

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-77-880	NEW-P	88-04-089	391-45-013	REP-P	88-07-082	392-121-245	NEW	88-03-013
388-77-900	NEW-P	88-04-089	391-45-260	NEW-P	88-07-082	392-121-250	NEW	88-03-013
388-77-905	NEW-P	88-04-089	391-55-002	AMD-P	88-07-083	392-121-255	NEW	88-03-013
388-77-915	NEW-P	88-04-089	391-55-033	REP-P	88-07-083	392-121-257	NEW	88-03-013
388-77-920	NEW-P	88-04-089	391-55-071	NEW-P	88-07-083	392-121-260	NEW	88-03-013
388-77-925	NEW-P	88-04-089	391-55-400	AMD-P	88-07-083	392-121-265	NEW	88-03-013
388-77-930	NEW-P	88-04-089	391-55-410	AMD-P	88-07-083	392-121-267	NEW	88-03-013
388-77-940	NEW-P	88-04-089	391-55-415	AMD-P	88-07-083	392-121-268	NEW	88-03-013
388-77-945	NEW-P	88-04-089	391-55-420	AMD-P	88-07-083	392-121-270	NEW	88-03-013
388-77-975	NEW-P	88-04-089	391-55-425	AMD-P	88-07-083	392-121-272	NEW	88-03-013
388-78-005	NEW-P	88-06-078	391-55-430	AMD-P	88-07-083	392-121-280	NEW	88-03-013
388-78-010	NEW-P	88-06-078	391-55-435	AMD-P	88-07-083	392-121-285	NEW	88-03-013
388-78-015	NEW-P	88-06-078	391-55-440	AMD-P	88-07-083	392-121-290	NEW	88-03-013
388-78-020	NEW-P	88-06-078	391-55-445	AMD-P	88-07-083	392-121-295	NEW	88-03-013
388-78-100	NEW-P	88-06-078	391-55-450	AMD-P	88-07-083	392-121-297	NEW	88-03-013
388-78-120	NEW-P	88-06-078	391-55-455	AMD-P	88-07-083	392-121-299	NEW	88-03-013
388-78-205	NEW-P	88-06-078	391-55-505	REP-P	88-07-083	392-121-400	NEW	88-03-013
388-78-210	NEW-P	88-06-078	391-65-050	AMD-P	88-07-084	392-121-405	NEW	88-03-013
388-78-215	NEW-P	88-06-078	391-65-074	REP-P	88-07-084	392-121-415	NEW	88-03-013
388-78-220	NEW-P	88-06-078	391-65-094	REP-P	88-07-084	392-121-420	NEW	88-03-013
388-81-047	NEW	88-03-050	391-95-010	AMD-P	88-07-085	392-121-425	NEW	88-03-013
388-82-010	AMD-P	88-06-077	391-95-030	AMD-P	88-07-085	392-121-430	NEW	88-03-013
388-82-115	AMD-P	88-06-077	391-95-230	AMD-P	88-07-085	392-121-440	NEW	88-03-013
388-86-005	AMD-P	88-03-021	392-121-001	NEW	88-03-013	392-121-442	NEW	88-03-013
388-86-005	AMD	88-06-083	392-121-003	NEW	88-03-013	392-121-445	NEW	88-03-013
388-86-050	AMD	88-04-048	392-121-007	NEW	88-03-013	392-121-460	NEW	88-03-013
388-86-051	NEW	88-04-048	392-121-021	NEW	88-03-013	392-126-003	NEW	88-03-003
388-86-085	AMD-P	88-03-021	392-121-031	NEW	88-03-013	392-127-003	NEW	88-03-004
388-86-085	AMD	88-06-083	392-121-033	NEW	88-03-013	392-130-005	NEW	88-04-001
388-86-086	NEW-P	88-03-021	392-121-101	REP	88-03-013	392-130-010	NEW	88-04-001
388-86-086	NEW	88-06-083	392-121-103	REP	88-03-013	392-130-015	NEW	88-04-001
388-87-010	AMD-P	88-03-021	392-121-105	REP	88-03-013	392-130-020	NEW	88-04-001
388-87-010	AMD	88-06-083	392-121-106	NEW	88-03-013	392-130-025	NEW	88-04-001
388-87-013	AMD	88-04-048	392-121-107	NEW	88-03-013	392-130-030	NEW	88-04-001
388-87-027	AMD-P	88-03-021	392-121-108	NEW	88-03-013	392-130-035	NEW	88-04-001
388-87-027	AMD	88-06-083	392-121-110	REP	88-03-013	392-130-040	NEW	88-04-001
388-87-035	AMD-P	88-03-021	392-121-111	NEW	88-03-013	392-130-045	NEW	88-04-001
388-87-035	AMD	88-06-083	392-121-115	REP	88-03-013	392-130-050	NEW	88-04-001
388-87-036	NEW-P	88-03-021	392-121-120	REP	88-03-013	392-130-055	NEW	88-04-001
388-87-036	NEW	88-06-083	392-121-121	REP	88-03-013	392-130-060	NEW	88-04-001
388-87-070	AMD	88-04-048	392-121-122	NEW	88-03-013	392-130-065	NEW	88-04-001
388-88-050	AMD	88-04-041	392-121-123	NEW	88-03-013	392-130-070	NEW	88-04-001
388-88-101	AMD	88-04-041	392-121-125	REP	88-03-013	392-130-075	NEW	88-04-001
388-92-045	AMD-P	88-03-072	392-121-126	REP	88-03-013	392-130-080	NEW	88-04-001
388-92-045	AMD	88-06-087	392-121-127	REP	88-03-013	392-130-085	NEW	88-04-001
388-95-380	AMD-P	88-03-072	392-121-128	REP	88-03-013	392-130-090	NEW	88-04-001
388-95-380	AMD	88-06-087	392-121-129	REP	88-03-013	392-130-095	NEW	88-04-001
388-96-771	NEW-E	88-03-052	392-121-130	REP	88-03-013	392-130-100	NEW	88-04-001
388-96-771	NEW-P	88-03-053	392-121-131	REP	88-03-013	392-130-105	NEW	88-04-001
388-96-771	NEW	88-06-085	392-121-133	NEW	88-03-013	392-130-110	NEW	88-04-001
388-98-005	NEW-E	88-03-051	392-121-135	REP	88-03-013	392-130-115	NEW	88-04-001
388-98-005	NEW-P	88-03-054	392-121-136	NEW	88-03-013	392-130-120	NEW	88-04-001
388-98-005	NEW	88-06-086	392-121-140	REP	88-03-013	392-130-125	NEW	88-04-001
388-98-010	NEW-E	88-03-051	392-121-145	REP	88-03-013	392-130-130	NEW	88-04-001
388-98-010	NEW-P	88-03-054	392-121-150	REP	88-03-013	392-130-135	NEW	88-04-001
388-98-010	NEW	88-06-086	392-121-155	REP	88-03-013	392-130-140	NEW	88-04-001
388-98-015	NEW-E	88-03-051	392-121-160	REP	88-03-013	392-130-145	NEW	88-04-001
388-98-015	NEW-P	88-03-054	392-121-161	NEW	88-03-013	392-130-150	NEW	88-04-001
388-98-015	NEW	88-06-086	392-121-165	REP	88-03-013	392-130-155	NEW	88-04-001
388-98-020	NEW-E	88-03-051	392-121-170	REP	88-03-013	392-130-160	NEW	88-04-001
388-98-020	NEW-P	88-03-054	392-121-175	REP	88-03-013	392-130-165	NEW	88-04-001
388-98-020	NEW	88-06-086	392-121-176	REP	88-03-013	392-130-170	NEW	88-04-001
388-99-010	AMD-P	88-06-077	392-121-177	REP	88-03-013	392-130-175	NEW	88-04-001
388-99-020	AMD	88-05-056	392-121-180	REP	88-03-013	392-130-180	NEW	88-04-001
390-20-022	NEW-C	88-04-062	392-121-181	NEW	88-03-013	392-130-185	NEW	88-04-001
390-20-022	NEW	88-06-019	392-121-182	NEW	88-03-013	392-130-190	NEW	88-04-001
390-20-056	NEW-P	88-04-063	392-121-183	NEW	88-03-013	392-130-195	NEW	88-04-001
391-08-120	AMD-P	88-07-079	392-121-185	REP	88-03-013	392-130-200	NEW	88-04-001
391-25-090	AMD-P	88-07-080	392-121-186	REP	88-03-013	392-130-205	NEW	88-04-001
391-25-110	AMD-P	88-07-080	392-121-190	REP	88-03-013	392-139-001	AMD	88-03-007
391-25-140	NEW-P	88-07-080	392-121-195	REP	88-03-013	392-139-005	AMD	88-03-007
391-25-190	AMD-P	88-07-080	392-121-200	NEW	88-03-013	392-139-007	NEW	88-03-007
391-25-290	AMD-P	88-07-080	392-121-205	NEW	88-03-013	392-139-010	REP	88-03-007
391-25-390	AMD-P	88-07-080	392-121-210	NEW	88-03-013	392-139-016	REP	88-03-007
391-25-470	AMD-P	88-07-080	392-121-215	NEW	88-03-013	392-139-017	REP	88-03-007
391-35-020	NEW-P	88-07-081	392-121-220	NEW	88-03-013	392-139-018	REP	88-03-007
391-35-300	NEW-P	88-07-081	392-121-225	NEW	88-03-013	392-139-021	REP	88-03-007



Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
392-220-110	NEW-P	88-03-011	434-19-012	NEW-P	88-05-054
392-220-110	NEW-E	88-03-012	434-19-013	NEW-P	88-05-054
392-220-115	NEW-P	88-03-011	434-19-014	NEW-P	88-05-054
392-220-115	NEW-E	88-03-012	434-19-015	NEW-P	88-05-054
392-220-120	NEW-P	88-03-011	434-19-016	NEW-P	88-05-054
392-220-120	NEW-E	88-03-012	434-19-017	NEW-P	88-05-054
392-220-125	NEW-P	88-03-011	434-19-018	NEW-P	88-05-054
392-220-125	NEW-E	88-03-012	434-19-020	NEW-P	88-05-054
392-220-130	NEW-P	88-03-011	434-19-050	NEW-P	88-05-054
392-220-130	NEW-E	88-03-012	434-19-051	NEW-P	88-05-054
392-220-135	NEW-P	88-03-011	434-19-052	NEW-P	88-05-054
392-220-135	NEW-E	88-03-012	434-19-053	NEW-P	88-05-054
392-220-140	NEW-P	88-03-011	434-19-054	NEW-P	88-05-054
392-220-140	NEW-E	88-03-012	434-19-055	NEW-P	88-05-054
392-220-145	NEW-P	88-03-011	434-19-056	NEW-P	88-05-054
392-220-145	NEW-E	88-03-012	434-19-059	NEW-P	88-05-054
392-220-150	NEW-P	88-03-011	434-19-060	NEW-P	88-05-054
392-220-150	NEW-E	88-03-012	434-19-065	NEW-P	88-05-054
392-220-155	NEW-P	88-03-011	434-19-075	NEW-P	88-05-054
392-220-155	NEW-E	88-03-012	434-19-077	NEW-P	88-05-054
392-310-010	NEW-P	88-03-073	434-19-078	NEW-P	88-05-054
392-310-010	NEW-E	88-04-002	434-19-080	NEW-P	88-05-054
392-310-010	NEW	88-06-042	434-19-081	NEW-P	88-05-054
392-310-015	NEW-P	88-03-073	434-19-082	NEW-P	88-05-054
392-310-015	NEW-E	88-04-002	434-19-083	NEW-P	88-05-054
392-310-015	NEW	88-06-042	434-19-084	NEW-P	88-05-054
392-310-020	NEW-P	88-03-073	434-19-086	NEW-P	88-05-054
392-310-020	NEW-E	88-04-002	434-19-087	NEW-P	88-05-054
392-310-020	NEW	88-06-042	434-19-088	NEW-P	88-05-054
392-310-025	NEW-P	88-03-073	434-19-090	NEW-P	88-05-054
392-310-025	NEW-E	88-04-002	434-19-100	NEW-P	88-05-054
392-310-025	NEW	88-06-042	434-19-101	NEW-P	88-05-054
399-30-040	AMD-P	88-06-045	434-19-102	NEW-P	88-05-054
400-12	NEW-C	88-04-023	434-19-105	NEW-P	88-05-054
400-12-100	NEW	88-06-053	434-19-110	NEW-P	88-05-054
400-12-110	NEW	88-06-053	434-19-113	NEW-P	88-05-054
400-12-120	NEW	88-06-053	434-19-114	NEW-P	88-05-054
400-12-200	NEW	88-06-053	434-19-115	NEW-P	88-05-054
400-12-210	NEW	88-06-053	434-19-116	NEW-P	88-05-054
400-12-220	NEW	88-06-053	434-19-118	NEW-P	88-05-054
400-12-300	NEW	88-06-053	434-19-190	NEW-P	88-05-054
400-12-310	NEW	88-06-053	434-19-191	NEW-P	88-05-054
400-12-320	NEW	88-06-053	434-19-192	NEW-P	88-05-054
400-12-400	NEW	88-06-053	434-19-193	NEW-P	88-05-054
400-12-410	NEW	88-06-053	434-19-194	NEW-P	88-05-054
400-12-420	NEW	88-06-053	434-19-195	NEW-P	88-05-054
400-12-500	NEW	88-06-053	434-19-230	NEW-P	88-05-054
400-12-510	NEW	88-06-053	434-40-005	NEW	88-03-019
400-12-520	NEW	88-06-053	434-40-010	NEW	88-03-019
400-12-530	NEW	88-06-053	434-40-020	NEW	88-03-019
400-12-540	NEW	88-06-053	434-40-030	NEW	88-03-019
400-12-550	NEW	88-06-053	434-40-040	NEW	88-03-019
400-12-560	NEW	88-06-053	434-40-050	NEW	88-03-019
400-12-570	NEW	88-06-053	434-40-060	NEW	88-03-019
400-12-600	NEW	88-06-053	434-40-070	NEW	88-03-019
400-12-610	NEW	88-06-053	434-40-080	NEW	88-03-019
400-12-620	NEW	88-06-053	434-40-090	NEW	88-03-019
400-12-630	NEW	88-06-053	434-40-100	NEW	88-03-019
400-12-640	NEW	88-06-053	434-40-110	NEW	88-03-019
400-12-650	NEW	88-06-053	434-40-120	NEW	88-03-019
400-12-660	NEW	88-06-053	434-40-130	NEW	88-03-019
400-12-700	NEW	88-06-053	434-40-140	NEW	88-03-019
400-12-710	NEW	88-06-053	434-40-150	NEW	88-03-019
400-12-720	NEW	88-06-053	434-40-160	NEW	88-03-019
419-56-010	NEW	88-02-068	434-40-170	NEW	88-03-019
419-56-020	NEW	88-02-068	434-40-180	NEW	88-03-019
419-56-030	NEW	88-02-068	434-40-190	NEW	88-03-019
419-56-040	NEW	88-02-068	434-40-200	NEW	88-03-019
419-56-050	NEW	88-02-068	434-40-210	NEW	88-03-019
419-56-060	NEW	88-02-068	434-40-220	NEW	88-03-019
419-56-070	NEW	88-02-068	434-40-230	NEW	88-03-019
419-56-080	NEW	88-02-068	434-40-240	NEW	88-03-019
419-56-090	NEW	88-02-068	434-40-250	NEW	88-03-019
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