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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.

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CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

WASHINGTON STATE REGISTER

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Dennis W. Cooper
Code Reviser

Gary Reid
Chief Assistant Code Reviser

Susan J. Brooks
Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

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

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

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

(a) **Proposed rules** are those rules pending permanent adoption by an agency and set forth in eight point type.

(b) **Adopted rules** have been permanently adopted and are set forth in ten point type.

(c) **Emergency rules** *have been adopted on an emergency basis and are set forth in ten point oblique type.*

3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

RCW 34.04.058 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

(a) In amendatory sections—
  (i) underlined matter is new matter;
  (ii) deleted matter is ((~~lined out and bracketed between double parentheses~~));

(b) Complete new sections are prefaced by the heading NEW SECTION;

(c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

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

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

5. EFFECTIVE DATE OF RULES

(a) Permanently adopted agency rules take effect thirty days after the rules and the agency order adopting them are filed with the code reviser. This effective date may be delayed, but not advanced, and a delayed effective date will be noted in the promulgation statement preceding the text of the rule.

(b) Emergency rules take effect upon filing with the code reviser and remain effective for a maximum of ninety days from that date.

(c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

6. EDITORIAL CORRECTIONS

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

7. INDEX AND TABLES

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

1985

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

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

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

[2]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.

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

WSR 85-03-001
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF NATURAL RESOURCES
(Board of Natural Resources)
[Memorandum—January 3, 1985]

The first meeting of the Board of Natural Resources in 1985 will be held on January 8 at 9 a.m. in Hearing Room 3 of the Public Lands Building. Thereafter, regular meetings of the Department of Natural Resources, Board of Natural Resources, will be held on the first Tuesday of each month in the Public Lands Building, Olympia, Washington, at 9 a.m.

This schedule is subject to change in the event of urgent or continuing board business or conflicts in scheduling. Alternate dates, places and times will be chosen to provide for monthly meetings unless such meeting is dispensed with in accordance with RCW 43.30.150(5).

WSR 85-03-002
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF COMMUNITY DEVELOPMENT
[Memorandum—January 2, 1985]

The Washington State Department of Community Development (DCD) will hold a public hearing on the proposed change in allocation formula for our community services block grant (CSBG) program. It has been proposed to revise the allocation formula from 100 percent to the 125 percent of poverty level, to correspond with the CSBG state plan allowance of serving clients with incomes up to 125 percent of poverty.

The hearing will be held on Wednesday, February 6, 1985, in the DCD Fifth Floor Conference Room, Ninth and Columbia Building, Fifth Floor, Olympia, Washington. The hearing will begin promptly at 10:00 a.m. and close at 12:00 noon, unless participation requires more time.

Two typewritten copies of all oral testimony are requested. There will be a question and answer period. Written testimony may be submitted until 5:00 p.m. on Tuesday, February 5, 1985, to the attention of Katherine Friedt, Assistant Director, Division for Community Services, Ninth and Columbia Building, Mailstop GH-51, Olympia, Washington 98504-4151.

For additional information regarding the hearing, please contact Will Graham at (206) 753-3403.

WSR 85-03-003
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE CENTER
[Memorandum—December 31, 1984]

The regular meeting location will be the Boardroom of the Washington State Convention and Trade Center, 720 Olive Way, Suite 1520, Seattle, 98101, and the regular meeting time will be 3:00 p.m.

1985 REGULAR MEETING SCHEDULE
WASHINGTON STATE CONVENTION AND TRADE CENTER
BOARD OF DIRECTORS

January 17
February 21
March 28
April 18
May 16
June 20
July 18
August 15
September 19
October 17
November 21
December 19

WSR 85-03-004
ADOPTED RULES
CONVENTION AND TRADE CENTER
[Order 3, Resolution No. 103—Filed January 3, 1985]

Be it resolved by the Washington State Convention and Trade Center, acting at 720 Olive Way, Suite 1515, Seattle, WA, that it does adopt the annexed rules relating to the implementation of the State Environmental Policy Act ("SEPA"), chapter 43.21C RCW. In order to comply with the 1984 SEPA rules adopted by the Department of Ecology (chapter 197-11 WAC), the WSCTC proposes to repeal its existing SEPA guidelines (chapter 140-08 WAC) and adopt new rules. The new proposed rules adopt by reference, specific sections of chapter 197-11 WAC, the DOE SEPA rules. The new proposed rules include sections on: Purpose and authority; general requirements; categorical exemptions and threshold determinations; environmental impact statements; commenting; use of existing environmental documents; SEPA's effect on agency decisions; definitions; categorical exemptions; agency compliance with SEPA; and forms.

This action is taken pursuant to Notice No. WSR 84-22-045 filed with the code reviser on November 17, 1984. 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 43.21C 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 December 20, 1984.

By Peggy Flynn
Corporate Secretary

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 140-08-010 PURPOSE.
WAC 140-08-020 POLICIES.
WAC 140-08-030 ADOPTION BY REFERENCE.
WAC 140-08-040 ADDITIONAL DEFINITIONS.
WAC 140-08-050 DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR THE CORPORATION.
WAC 140-08-060 DESIGNATION OF RESPONSIBLE OFFICIAL.
WAC 140-08-070 SEPA PUBLIC INFORMATION CENTER.
WAC 140-08-080 RESPONSIBILITY OF CORPORATION—PUBLIC INFORMATION.
WAC 140-08-090 NOTICE/STATUTE OF LIMITATIONS.
WAC 140-08-100 SEVERABILITY.
WAC 140-08-110 COMPLIANCE.

Chapter 140-09 WAC
WASHINGTON STATE CONVENTION AND TRADE CENTER—SEPA GUIDELINES

WAC
140-09-010 Authority.
140-09-020 Purpose of this part and adoption by reference.
140-09-030 Additional definitions.
140-09-040 Designation of responsible official.
140-09-050 Lead agency determination and responsibilities.
140-09-058 Additional timing considerations.
140-09-065 Purpose of this part and adoption by reference.
140-09-080 Use of exemptions.
140-09-090 Environmental checklist.
140-09-100 Mitigated DNS.
140-09-110 Purpose of this part and adoption by reference.
140-09-120 Preparation of EIS—Additional considerations.
140-09-128 Adoption by reference.
140-09-130 Public notice.
140-09-140 Designation of official to perform consulted agency responsibilities for the corporation.
140-09-150 Purpose of this part and adoption by reference.
140-09-155 Purpose of this part and adoption by reference.
140-09-160 Substantive authority.
140-09-173 Notice/statute of limitations.
140-09-175 Purpose of this part and adoption by reference.
140-09-180 Adoption by reference.
140-09-185 Purpose of this part and adoption by reference.
140-09-200 Fees.
140-09-220 Severability.
140-09-230 Adoption by reference.

PART ONE - AUTHORITY

NEW SECTION

WAC 140-09-010 AUTHORITY. These rules are promulgated pursuant to the State Environmental Policy Act (SEPA), RCW 43.21C.120, and is intended to administratively implement that statute, as further authorized by WAC 197-11-904. This chapter contains this corporation's SEPA procedures and policies. The SEPA rules, chapter 197-11 WAC, must be used in conjunction with this chapter.

PART TWO - GENERAL REQUIREMENTS

NEW SECTION

WAC 140-09-020 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains the basic requirements that apply to the SEPA process. The corporation adopts the following sections of chapter 197-11 of the Washington Administrative Code by reference:

WAC
197-11-040 Definitions.
197-11-050 Lead agency.
197-11-055 Timing of the SEPA process.
197-11-060 Content of environmental review.
197-11-070 Limitations on actions during SEPA process.
197-11-080 Incomplete or unavailable information.
197-11-090 Supporting documents.
197-11-100 Information required of applicants.

NEW SECTION

WAC 140-09-030 ADDITIONAL DEFINITIONS. In addition to those definitions contained within WAC 197-11-700 through 197-11-799, the following terms shall have the following meanings when used in this chapter, unless the context indicates otherwise:

(1) "Corporation" means the Washington state convention and trade center as established by chapter 67.40 RCW.

(2) "SEPA rules" means chapter 197-11 WAC adopted by the department of ecology.

(3) "Early notice" means the corporation's response to an applicant stating whether it considers issuance of a determination of significance likely for the applicant's proposal (mitigated determination of nonsignificance (DNS) procedures).

NEW SECTION

WAC 140-09-040 DESIGNATION OF RESPONSIBLE OFFICIAL. (1) For those proposals for which the corporation is the lead agency, the responsible official shall be the administrator of the Washington state convention and trade center.

(2) For all proposals for which the corporation is the lead agency, the responsible official shall make the threshold determination, supervise scoping and preparation of any required environmental impact statement (EIS), and perform any other functions assigned to the "lead agency" or "responsible official" by those sections

of the SEPA rules that were adopted by reference in WAC 140-09-020.

(3) The corporation shall retain all documents required by the SEPA rules (chapter 197-11 WAC) and make them available in accordance with chapter 42.17 RCW.

NEW SECTION

WAC 140-09-050 LEAD AGENCY DETERMINATION AND RESPONSIBILITIES. (1) The corporation receiving an application for or initiating a proposal that involves a nonexempt action shall determine the lead agency for that proposal under WAC 197-11-050 and 197-11-922 through 197-11-940.

(2) When the corporation is the lead agency for a proposal, it shall determine the responsible official who shall supervise compliance with the threshold determination requirements, and if an EIS is necessary, shall supervise preparation of the EIS.

(3) When the corporation is not the lead agency for a proposal, the corporation shall use and consider, as appropriate, either the DNS or the final EIS of the lead agency in making decisions on the proposal. The corporation shall not prepare or require preparation of a DNS or EIS in addition to that prepared by the lead agency, unless required under WAC 197-11-600. In some cases, the corporation may conduct supplemental environmental review under WAC 197-11-600.

(4) If the corporation receives a lead agency determination made by another agency that appears inconsistent with the criteria of WAC 197-11-922 through 197-11-940, it may object to the determination. Any objection must be made to the agency originally making the determination and resolved within fifteen days of receipt of the determination, or the corporation must petition the department of ecology for a lead agency determination under WAC 197-11-946 within the fifteen-day time period. Any such petition on behalf of the corporation may be initiated by the administrator of the Washington state convention and trade center.

(5) The corporation is authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; provided that the responsible official approves the agreement.

(6) The corporation, making a lead agency determination for a private project shall require sufficient information from the applicant to identify which other agencies have jurisdiction over the proposal (That is: Which agencies require nonexempt licenses?).

NEW SECTION

WAC 140-09-058 ADDITIONAL TIMING CONSIDERATIONS. If the corporation's only action on a proposal is a decision on a license that requires detailed project plans and specifications, the applicant may request in writing that the corporation conduct environmental review prior to submission of the detailed plans and specifications.

PART THREE - CATEGORICAL EXEMPTIONS AND THRESHOLD DETERMINATIONS

NEW SECTION

WAC 140-09-065 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains the rules for deciding whether a proposal has a "probable significant, adverse environmental impact" requiring an environmental impact statement (EIS) to be prepared. This part also contains rules for evaluating the impacts of proposals not requiring an EIS. The corporation adopts the following sections by reference, as supplemented in this part:

WAC	
197-11-300	Purpose of this part.
197-11-305	Categorical exemptions.
197-11-310	Threshold determination required.
197-11-315	Environmental checklist.
197-11-330	Threshold determination process.
197-11-335	Additional information.
197-11-340	Determination of nonsignificance (DNS).
197-11-350	Mitigated DNS.
197-11-360	Determination of significance (DS)/initiation of scoping.
197-11-390	Effect of threshold determination.

NEW SECTION

WAC 140-09-080 USE OF EXEMPTIONS. (1) When the corporation receives an application for a license or, in the case of governmental proposals, when the corporation initiates the proposal, it shall determine whether the license and/or the proposal is exempt. The corporation's determination that a proposal is exempt shall be final and not subject to administrative review. If a proposal is exempt, none of the procedural requirements of this ordinance apply to the proposal. The corporation shall not require completion of an environmental checklist for an exempt proposal.

(2) In determining whether or not a proposal is exempt, the corporation shall make certain the proposal is properly defined and shall identify the governmental licenses required (WAC 197-11-060). If a proposal includes exempt and nonexempt actions, the corporation shall determine the lead agency, even if the license application that triggers the corporation's consideration is exempt.

(3) If a proposal includes both exempt and nonexempt actions, the corporation may authorize exempt actions prior to compliance with the procedural requirements of this ordinance, except that:

(a) The corporation shall not give authorization for:

(i) Any nonexempt action;

(ii) Any action that would have adverse environmental impact; or

(iii) Any action that would limit the choice of alternatives;

(b) The corporation may withhold approval of an exempt action that would lead to modification of the physical environment, when such modification would serve no purpose if nonexempt action(s) were not approved; and

(c) The corporation may withhold approval of exempt actions that would lead to substantial financial expenditures by a private applicant when the expenditures would serve no purpose if nonexempt action(s) were not approved.

NEW SECTION

WAC 140-09-090 ENVIRONMENTAL CHECKLIST. (1) A completed environmental checklist (or a copy), in the form provided in WAC 197-11-960, shall be filed at the same time as an application for a permit, license certificate, or other approval not specifically exempted in this rule; except, a checklist is not needed if the corporation and applicant agree an EIS is required, SEPA compliance has been completed, or SEPA compliance has been initiated by another agency. The corporation shall use the environmental checklist to determine the lead agency and, if the corporation is the lead agency, for determining the responsible official and for making the threshold determination.

(2) For private proposals, the corporation will require the applicant to complete the environmental checklist, providing assistance as necessary. For corporation proposals, it shall complete the environmental checklist for that proposal.

(3) The corporation may require that it, and not the private applicant, will complete all or part of the environmental checklist for a private proposal, if either of the following occurs:

(a) The corporation has technical information on a question or questions that is unavailable to the private applicant; or

(b) The applicant has provided inaccurate information on previous proposals or on proposals currently under consideration.

NEW SECTION

WAC 140-09-100 MITIGATED DNS. (1) As provided in this section and in WAC 197-11-350, the responsible official may issue a DNS based on conditions attached on the proposal by the responsible official or on changes to, or clarifications of, the proposal made by the applicant.

(2) An applicant may request in writing early notice of whether a DS is likely under WAC 197-11-350. The request must:

(a) Follow submission of a permit application and environmental checklist for a nonexempt proposal for which the corporation is lead agency; and

(b) Precede the corporation's actual threshold determination for the proposal.

(3) The corporation's response shall:

(a) Be written;

(b) State whether the corporation currently considers issuance of a DS likely and, if so, indicate the general or specific area(s) of concern that is/are leading the corporation to consider a DS; and

(c) State that the applicant may change or clarify the proposal to mitigate the indicated impact, revising the environmental checklist and/or permit application as necessary to reflect the change or clarifications.

(4) As much as possible, the corporation should assist the applicant with identification of impacts to the extent necessary to formulate mitigation measures.

(5) When an applicant submits a changed or clarified proposal, along with a revised or amended environmental checklist, the corporation shall base its threshold determination on the changed or clarified proposal.

(a) If the corporation indicated specific mitigation measures in its response to the request for early notice, and the applicant changed or clarified the proposal to include those specific mitigation measures, the corporation shall issue and circulate a DNS under WAC 197-11-340(2).

(b) If the corporation indicated areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the corporation shall make the threshold determination, issuing a DNS or DS as appropriate.

(c) The applicant's proposed mitigation measures (clarifications, changes or conditions) must be in writing and must be specific. For example, proposals to "control noise" or "prevent stormwater runoff" are inadequate, whereas proposals to "muffle machinery to X decibel" or "construct 200-foot stormwater retention pond at Y location" are adequate.

(d) Mitigation measures which justify issuance of a mitigated DNS may be incorporated in the DNS by reference to agency staff reports, studies or other documents.

(6) A mitigated DNS is issued under WAC 197-11-340(2), requiring a fifteen-day comment period and public notice.

(7) Mitigation measures incorporated in the mitigated DNS shall be deemed conditions of approval of the permit decision and may be enforced in the same manner as any term or condition of the permit, or enforced in any manner specifically prescribed by the corporation.

(8) If the corporation's tentative decision on a permit or approval does not include mitigation measures that were incorporated in a mitigated DNS for the proposal, the corporation should evaluate the threshold determination to assure consistency with WAC 197-11-340 (3)(a) (withdrawal of DNS).

(9) The corporation's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the corporation to consider the clarifications or changes in its threshold determination.

PART FOUR - ENVIRONMENTAL IMPACT STATEMENT (EIS)

NEW SECTION

WAC 140-09-110 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains the rules for preparing environmental impact statements. The corporation adopts the following sections by reference, as supplemented by this part:

WAC

197-11-400 Purpose of EIS.
197-11-402 General requirements.
197-11-405 EIS types.
197-11-406 EIS timing.
197-11-408 Scoping.
197-11-410 Expanded scoping. (Optional)
197-11-420 EIS preparation.
197-11-425 Style and size.
197-11-430 Format.
197-11-435 Cover letter or memo.
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197-11-442 Contents of EIS on nonproject proposals.
197-11-443 EIS contents when prior nonproject EIS.
197-11-444 Elements of the environment.
197-11-448 Relationship of EIS to other considerations.
197-11-450 Cost-benefit analysis.
197-11-455 Issuance of DEIS.
197-11-460 Issuance of FEIS.

NEW SECTION

WAC 140-09-120 PREPARATION OF EIS—ADDITIONAL CONSIDERATIONS. (1) Preparation of draft and final EISs (DEIS and FEIS) and draft and final supplemental EISs (SEIS) is the responsibility of the corporation under the direction of the responsible official. Before the corporation issues an EIS, the responsible official shall be satisfied that it complies with this ordinance and chapter 197-11 WAC.

(2) The DEIS and FEIS or draft and final SEIS shall be prepared by the corporation staff, the applicant, or by a consultant selected by the corporation or the applicant. If the responsible official requires an EIS for a proposal and determines that someone other than the corporation will prepare the EIS, the responsible official shall notify the applicant immediately after completion of the threshold determination. The responsible official shall also notify the applicant of the corporation's procedure for EIS preparation, including approval of the DEIS and FEIS prior to distribution.

(3) The corporation may require an applicant to provide information the corporation does not possess, including specific investigations. However, the applicant is not required to supply information that is not required under this chapter or information that is being requested from another agency. (This does not apply to information the corporation may request under another rule or statute.)

PART FIVE - COMMENTING

NEW SECTION

WAC 140-09-128 ADOPTION BY REFERENCE. This part contains rules for consulting, commenting, and responding on all environmental documents under SEPA, including rules for public notice and hearings. The corporation adopts the following sections by reference, as supplemented in this part:

WAC

197-11-500 Purpose of this part.
197-11-502 Inviting comment.
197-11-504 Availability and cost of environmental documents.
197-11-508 SEPA register.
197-11-535 Public hearings and meetings.
197-11-545 Effect of no comment.
197-11-550 Specificity of comments.
197-11-560 FEIS response to comments.
197-11-570 Consulted agency costs to assist lead agency.

NEW SECTION

WAC 140-09-130 PUBLIC NOTICE. (1) Whenever the corporation issues a DNS under WAC 197-11-340(2) or a DS under WAC 197-11-360(3) the corporation shall give public notice as follows:

(a) If public notice is required for a nonexempt license under a statute other than SEPA, the notice shall state whether a DS or DNS has been issued and when comments are due.

(b) If no public notice is required for the nonexempt license under a statute other than SEPA, the corporation shall give notice of the DNS or DS by at least one of the following:

(i) Posting the property, for site-specific proposals;

(ii) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;

(iii) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

(iv) Notifying the news media;

(v) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or

(vi) Publishing notice in agency newsletters and/or sending notice to agency mailing lists (either general lists or lists for specific proposals for subject areas).

(c) Whenever the corporation issues a DS under WAC 197-11-360(3), the corporation shall state the scoping procedure for the proposal in the DS as required in WAC 197-11-408 and in the public notice.

(2) Whenever the corporation issues a DEIS under WAC 197-11-455(5) or a SEIS under WAC 197-11-620, notice of the availability of those documents shall be given by indicating the availability of the DEIS in any public notice required for a nonexempt license; and at least one of the following:

(a) Posting the property, for site-specific proposals;

(b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located;

(c) Notifying public or private groups which have expressed interest in a certain proposal or in the type of proposal being considered;

(d) Notifying the news media;

(e) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and/or

(f) Publishing notices in agency newsletters and/or sending notice to agency mailing lists (general lists or specific lists for proposals or subject areas).

(3) Whenever possible, the corporation shall integrate the public notice required under this section with existing notice procedures for the corporation's nonexempt licenses required for the proposal.

(4) The corporation may require an applicant to complete the public notice requirements for the applicant's proposal at his or her expense.

NEW SECTION

WAC 140-09-140 DESIGNATION OF OFFICIAL TO PERFORM CONSULTED AGENCY RESPONSIBILITIES FOR THE CORPORATION. (1) The administrator of the Washington state convention and trade center shall be responsible for preparation of written comments for the corporation in response to a consultation request prior to a threshold determination, participation in scoping, and reviewing a DEIS.

(2) The responsible official shall be responsible for the corporation's compliance with WAC 197-11-550 whenever the corporation is a consulted agency and is authorized, but not required, to develop operating procedures that will ensure that responses to consultation requests are prepared in a timely fashion and include data from all appropriate departments of the corporation.

PART SIX - USING EXISTING ENVIRONMENTAL DOCUMENTS

NEW SECTION

WAC 140-09-150 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains rules for using and supplementing existing environmental documents prepared under SEPA or National Environmental Policy Act (NEPA) for the corporation's own environmental compliance. The corporation adopts the following sections by reference:

WAC

197-11-600	When to use existing environmental documents.
197-11-610	Use of NEPA documents.
197-11-620	Supplemental environmental impact statement—Procedures.
197-11-625	Addenda—Procedures.
197-11-630	Adoption—Procedures.
197-11-635	Incorporation by reference—Procedures.
197-11-640	Combining documents.

PART SEVEN - SEPA AND AGENCY DECISIONS

NEW SECTION

WAC 140-09-155 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains rules (and policies) for SEPA's substantive authority, such as decisions to mitigate or reject proposals as a result of SEPA. This part also contains procedures for appealing SEPA determinations to agencies or the courts. The corporation adopts the following sections by reference:

WAC

197-11-650	Purpose of this part.
197-11-655	Implementation.
197-11-660	Substantive authority and mitigation.
197-11-680	Appeals.

NEW SECTION

WAC 140-09-160 SUBSTANTIVE AUTHORITY. (1) The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the Washington state convention and trade center.

(2) The corporation may attach conditions to a permit or approval for a proposal so long as:

(a) Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this ordinance; and

(b) Such conditions are in writing; and

(c) The mitigation measures included in such conditions are reasonable and capable of being accomplished; and

(d) The corporation has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and

(e) Such conditions are based on one or more policies in subsection (4) of this section and cited in the license or other decision document.

(3) The corporation may deny a permit or approval for a proposal on the basis of SEPA so long as:

(a) A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this ordinance; and

(b) A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and

(c) The denial is based on one or more policies identified in subsection (4) of this section and identified in writing in the decision document.

(4) The corporation designates and adopts by reference the following policies as the basis for the corporation's exercise of authority pursuant to this section:

(a) The corporation shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(i) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(ii) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(iii) Attain the widest range of beneficial uses of the environment without unreasonable degradation, risk to health or safety, or other undesirable and unintended consequences;

(iv) Preserve when feasible important historic, cultural, and natural aspects of our national heritage;

(v) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(vi) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(vii) Enhance the quality of renewable resources and support recycling of depletable resources.

(b) The corporation recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

(5) To the extent that the appeal provision of RCW 43.21C.060 may be applicable to the corporation, the

corporation hereby eliminates any appeal to the legislative authority of the corporation of decisions to grant, condition, or deny a proposal.

NEW SECTION

WAC 140-09-173 NOTICE/STATUTE OF LIMITATIONS. (1) The corporation, applicant for, or proponent of an action may publish a notice of action pursuant to RCW 43.21C.080 for any action.

(2) The form of the notice shall be substantially in the form provided in WAC 197-11-990. The notice shall be published by the corporation, applicant or proponent pursuant to RCW 43.21C.080.

PART EIGHT - DEFINITIONS

NEW SECTION

WAC 140-09-175 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains uniform usage and definitions of terms under SEPA. The corporation adopts the following sections by reference, as supplemented by WAC 140-09-040:

WAC

197-11-700 Definitions.
197-11-702 Act.
197-11-704 Action.
197-11-706 Addendum.
197-11-708 Adoption.
197-11-710 Affected tribe.
197-11-712 Affecting.
197-11-714 Agency.
197-11-716 Applicant.
197-11-718 Built environment.
197-11-720 Categorical exemption.
197-11-722 Consolidated appeal.
197-11-724 Consulted agency.
197-11-726 Cost-benefit analysis.
197-11-728 County/city.
197-11-730 Decision maker.
197-11-732 Department.
197-11-734 Determination of nonsignificance (DNS).
197-11-736 Determination of significance (DS).
197-11-738 EIS.
197-11-740 Environment.
197-11-742 Environmental checklist.
197-11-744 Environmental document.
197-11-746 Environmental review.
197-11-748 Environmentally sensitive area.
197-11-750 Expanded scoping.
197-11-752 Impacts.
197-11-754 Incorporation by reference.
197-11-756 Lands covered by water.
197-11-758 Lead agency.
197-11-760 License.
197-11-762 Local agency.
197-11-764 Major action.
197-11-766 Mitigated DNS.
197-11-768 Mitigation.
197-11-770 Natural environment.
197-11-772 NEPA.
197-11-774 Nonproject.
197-11-776 Phased review.
197-11-778 Preparation.
197-11-780 Private project.
197-11-782 Probable.
197-11-784 Proposal.
197-11-786 Reasonable alternative.
197-11-788 Responsible official.
197-11-790 SEPA.
197-11-792 Scope.
197-11-793 Scoping.
197-11-794 Significant.
197-11-796 State agency.
197-11-797 Threshold determination.
197-11-799 Underlying governmental action.

PART NINE - CATEGORICAL EXEMPTIONS

NEW SECTION

WAC 140-09-180 ADOPTION BY REFERENCE. The corporation adopts by reference the following rules for categorical exemptions, as supplemented in this chapter:

WAC

197-11-800 Categorical exemptions.
197-11-880 Emergencies.
197-11-890 Petitioning DOE to change exemptions.

PART TEN - AGENCY COMPLIANCE

NEW SECTION

WAC 140-09-185 PURPOSE OF THIS PART AND ADOPTION BY REFERENCE. This part contains rules for agency compliance with SEPA, including rules for charging fees under the SEPA process, listing agencies with environmental expertise, selecting the lead agencies with environmental expertise, selecting the lead agency, and applying these rules to current agency activities. The corporation adopts the following sections by reference, as supplemented by WAC 140-09-050 and 140-09-053 and this part:

WAC

197-11-900 Purpose of this part.
197-11-902 Agency SEPA policies.
197-11-916 Application to ongoing actions.
197-11-920 Agencies with environmental expertise.
197-11-922 Lead agency rules.
197-11-924 Determining the lead agency.
197-11-926 Lead agency for governmental proposals.
197-11-928 Lead agency for public and private proposals.
197-11-930 Lead agency for private projects with one agency with jurisdiction.
197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
197-11-938 Lead agencies for specific proposals.
197-11-940 Transfer of lead agency status to a state agency.
197-11-942 Agreements on lead agency status.
197-11-944 Agreements on division of lead agency duties.
197-11-946 DOE resolution of lead agency disputes.
197-11-948 Assumption of lead agency status.

NEW SECTION

WAC 140-09-200 FEES. The corporation may require the following fees for its activities in accordance with the provisions of this chapter:

The corporation may charge any person for copies of any document prepared under this chapter, and for mailing the document, in a manner provided by chapter 42.17 RCW.

NEW SECTION

WAC 140-09-220 SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

PART ELEVEN - FORMS

NEW SECTION

WAC 140-09-230 ADOPTION BY REFERENCE. The corporation adopts the following forms and sections by reference:

WAC

197-11-960 Environmental checklist.
197-11-965 Adoption notice.
197-11-970 Determination of nonsignificance (DNS).
197-11-980 Determination of significance and scoping notice (DS).
197-11-985 Notice of assumption of lead agency status.
197-11-990 Notice of action.

WSR 85-03-005
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 3, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning food stamps, amending chapter 388-54 WAC;

that the agency will at 10:00 a.m., Tuesday, February 26, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

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

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

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by February 13, 1985. The meeting site is in a location which is barrier free.

Dated: January 3, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.025.

Re: WAC 388-54-660.

Purpose of the Rule or Rule Change: To be in compliance with federal regulations.

The Reason(s) These Rules are Necessary: To comply with 7 CFR 273.2(d)(2) and 275.12(g)(l)(ii).

Statutory Authority: RCW 74.04.510.

Summary of the Rule or Rule Change: Food stamp households refusing to cooperate as a part of a quality control review will be determined ineligible for benefits.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule: Roy Uppendahl, Program Manager, Food Stamp Program, Division of Income Assistance, mailstop OB 31C, phone 753-4382.

These rules are necessary as a result of federal law, 7 CFR 273.2(d)(2) and 275.12(g)(l)(ii).

AMENDATORY SECTION (Amending Order 1959, filed 5/4/83)

WAC 388-54-660 APPLICATION AND PARTICIPATION—SPECIAL CIRCUMSTANCES FOR PARTICIPATION. (1) Delivered meals. In order to purchase meals from a nonprofit meal delivery service authorized by FNS, eligible household members:

(a) Must be sixty years of age or over, or

(b) Must be housebound, physically handicapped or otherwise disabled to the extent household members are unable to adequately prepare all meals, or

(c) Be the spouse of such a person.

(2) Communal dining. Members of eligible households sixty years of age or older and spouses, or members receiving SSI and spouses may use all or any part of coupons to purchase meals prepared especially for the household member at a communal dining facility authorized by FNS for that purpose.

(3) Residents of drug or alcohol treatment and rehabilitation programs. Narcotics addicts or alcoholics regularly participating in a drug or alcoholic treatment and rehabilitation program on a resident basis, may use food coupons to purchase food prepared for or served to the resident during the program, provided:

(a) The program is administered by a private nonprofit organization or institution authorized by FNS as a retailer or certified by the state as providing treatment leading to the rehabilitation of drug addicts or alcoholics pursuant to P.L. 92-255; and

(b) A resident participant shall be certified only under the following conditions:

(i) The resident must voluntarily elect to participate in the food stamp program;

(ii) The resident must be certified through the use of an authorized representative who shall be an employee of, and designated by, the private nonprofit organization administering the treatment and rehabilitation program;

(iii) The resident must be certified as a one-person household.

(c) The drug or alcohol treatment center acting as the authorized representative must agree to the following conditions:

(i) The center must receive and spend the coupon allotment for meals prepared by or served to the addict or alcoholic;

(ii) The center must notify the department of changes in the participant's income, resources or household circumstances and when the addict or alcoholic leaves the treatment center, within ten days of the change;

(iii) The center shall be responsible for and can be penalized or disqualified for any misrepresentation or fraud committed in the certification of center residents and shall assume total liability for food coupons held on behalf of resident participants;

(iv) The treatment center shall provide resident addicts or alcoholics with ID cards and any untransacted FCA cards issued for the household when the household leaves the program;

(v) The treatment center shall provide the household with one-half of the household's monthly coupon allotment when the household leaves the program prior to the sixteenth day of the allotment month;

(vi) The center shall provide the department with a certified list of currently participating residents on a monthly basis;

(vii) The treatment center shall return to the department the household's FCA or coupons received after the household has left the center.

(d) If an alcohol treatment and rehabilitation program is located on an Indian reservation and the department does not certify reservation-based centers, approval to participate shall be granted if the center is funded by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) pursuant to P.L. 91-616, or was so funded and subsequently transferred to Indian Health Services (IHS) funding.

(4) Residents of group living arrangements receiving benefits under Title II or Title XVI of the Social Security Act. A group living arrangement is defined as: A public or private nonprofit residential setting serving no more than sixteen residents certified by the appropriate state agencies under regulations issued under Section 1616(e) of the Social Security Act. The following applies:

(a) The resident must voluntarily apply for the food stamp program;

(b) If the resident makes an application through the use of a group home's authorized representative, the resident's eligibility shall be determined as a one-person household. If the resident applies on his or her own behalf, the household size shall be in accordance with the definition in WAC 388-54-665;

(c) The department shall certify residents of group living arrangements using the same provisions applying to all other households;

(d) The department shall verify the group living arrangement is nonprofit and authorized by FNS or is certified by the appropriate agency or agencies of the state;

(e) The group living arrangement shall provide the department with monthly lists of participating residents signed by a responsible center official. The department shall conduct periodic random on-site visits to assure the accuracy of the lists;

(f) If the resident made an application on his or her own behalf, the household is responsible for reporting changes to the department. If the group living arrangement is acting in the capacity of an authorized representative, the group living arrangement shall notify the department of changes in the household's income or other household circumstances and when the individual leaves the group living arrangement;

(g) The group living arrangement shall return any household's FCA cards or coupons to the department if received after the household has left the group arrangement;

(h) When the household leaves the facility, the group living arrangement shall provide the resident with the ID card and any untransacted FCA cards;

(i) The group living arrangement shall provide the departing household with the full allotment if issued by direct mail and if no coupons have been spent on behalf of the individual household. These provisions are applicable any time during the month. If the coupons have already been issued and any portion spent on behalf of the resident, the group living arrangement shall provide the resident with one-half of the monthly household's coupon allotment when the household leaves the facility prior to the sixteenth day of the allotment month;

(j) If a resident or a group of residents apply on their own behalf and retain the use of the coupons, the individuals are entitled to keep the coupons when leaving;

(k) If the group living arrangement acts as the authorized representative, the facility must be knowledgeable about the household's circumstances and is responsible for any misrepresentation or fraud the facility knowingly commits in the certification of center residents.

(5) Shelters for battered women and children. Effective April 1, 1982, the following provisions apply prior to certifying residents:

(a) The department shall determine the shelter for battered women and children meets the definition in WAC 388-54-665 (6)(d);

(b) Shelters having FNS authorization to redeem at wholesalers shall be considered as meeting the definition for battered women and children;

(c) Shelter residents recently leaving a food stamp household containing a person abusing him or her may apply for and (if otherwise eligible) participate in the program as separate households. Shelter residents included in a previously certified food stamp household shall receive an additional allotment as a separate household only once a month;

(d) Shelter residents applying as separate households shall be certified solely on the basis of income, resources, and the expenses for which the residents are responsible. Residents will be certified without regard to the income, resources, and expenses of the former household;

(e) Jointly held resources shall be considered inaccessible in accordance with WAC 388-54-715. The shelter resident's access to the value of the resources is dependent on the agreement of a joint owner still residing in the former household;

(f) The department shall take prompt action to ensure the former household's eligibility or allotment reflects the change in the household's composition.

(6) Sponsored aliens. The following provisions shall apply to those aliens for whom a sponsor has signed an affidavit of support or similar statement on or after February 1, 1983:

(a) "Sponsored alien" means those aliens lawfully admitted for permanent residence into the United States.

(b) "Sponsor" means a person who executed an affidavit or affidavits of support or similar agreement on behalf of an alien as a condition of the alien's entry or admission into the United States as a permanent resident.

(c) Portions of the gross income and the resources of a sponsor and the sponsor's spouse (if living with the sponsor) shall be deemed to be the unearned income and resources of a sponsored alien for three years following the alien's admission for permanent residence to the United States. The spouse's income and resources will be counted even if the sponsor and spouse were married after the signing of the agreement.

(d) The monthly income of the sponsor and sponsor's spouse deemed to be that of the alien shall be the total monthly earned and unearned income of the sponsor and the sponsor's spouse (if living with the sponsor) at the time the household containing the sponsored alien member applies or is recertified for program participation. Reduce by eighteen percent the earned income amount for that portion of income determined as earned income of the sponsor and the sponsor's spouse. Deduct the monthly gross income eligibility limit for a household equal in size to the sponsor, the sponsor's spouse, and any other person who is claimed by the sponsor or sponsor's spouse as a dependent for federal income tax purposes.

(e) If the alien has already reported gross income information on his or her sponsor due to AFDC's sponsored alien rules, that income amount may be used for food stamp program. However, allowable reductions to be applied to the total gross income of the sponsor and the sponsor's spouse prior to attributing an income amount to the alien, shall be limited to the eighteen percent earned income amount and the food stamp program gross monthly income amount.

(f) Actual money paid to the alien by the sponsor or the sponsor's spouse will not be considered as income to the alien unless the amount paid exceeds the amount attributed to the alien. Only the amount paid that actually exceeds the amount deemed would be considered income to the alien.

(g) Resources of the sponsor and sponsor's spouse to be deemed to be that of the alien shall be the total amount of their resources as determined in accordance with WAC 388-54-695 through 388-54-720, reduced by one thousand five hundred dollars. If the alien has already reported total resource information on his or her sponsor due to AFDC's sponsored alien rules, the resource amount calculated by AFDC as the amount to be attributed to the alien may be used for food stamp program deeming purposes.

(h) The amount of income and resources deemed to be that of the sponsored alien shall be considered in determining the eligibility and benefit level of the household of which the alien is a member.

If a sponsored alien can demonstrate to the state agency's satisfaction his or her sponsor sponsors other aliens, then the income and resources deemed available shall be divided by the number of sponsored aliens applying for or participating in the program.

(i) If the alien switches sponsors during the certification period, then deemed income or resources would be recalculated based on the required information about the new sponsor as soon as possible after the information is supplied by the alien and verified by the state agency.

(j) Exempt aliens. The provisions of subsection (6) of this section do not apply to:

(i) An alien participating in the food stamp program as a member of his or her sponsor's household;

(ii) An alien sponsored by an organization or group as opposed to an individual;

(iii) An alien not required to have a sponsor under the Immigration and Nationality Act, such as, but not limited to, a refugee, a parolee, one granted asylum, and a Cuban or Haitian entrant.

(k) Sponsored alien's responsibility. The sponsored alien and his or her spouse are responsible for providing the state agency with any information or documentation necessary to determine the income and resources of the alien's sponsor and the sponsor's spouse for three years from the alien's date of entry or date of admission as a lawful permanent resident. The alien and his or her spouse shall also be responsible for demonstrating that the sponsor also sponsors other aliens, how many, and for obtaining any necessary cooperation from the sponsor.

(l) Verification. The CSO staff shall obtain from the alien or alien's spouse the following information:

(i) The income and resources of the alien's sponsor and the sponsor's spouse (if living with the sponsor) at the time of the alien's application for food stamp assistance.

(ii) The number of other aliens for whom the sponsor has signed an affidavit of support or similar agreement.

(iii) The provision of the Immigration and Nationality Act under which the alien was admitted.

(iv) The date of the alien's entry or admission as a lawful permanent resident as established by INS.

(v) The alien's date of birth, place of birth, and alien registration number.

(vi) The number of dependents for federal income tax purposes of the sponsor and the sponsor's spouse.

(vii) The name, address, and phone number of the alien's sponsor.

(m) If verification is not received on a timely basis, the sponsored alien and his or her spouse shall be ineligible until such time as all necessary facts are obtained. The eligibility of any remaining household members shall be determined. The income and resources of the ineligible alien and his or her spouse (excluding the attributed income and resources of the alien's sponsor and the sponsor's spouse) shall be treated in the same manner as a disqualified member. If the information or verification is subsequently received, the CSO shall act on the information as a reported change in circumstances. The CSO shall obtain verification of information requested pursuant to subsection (6)(l)(i) and (ii) of this section. The CSO shall verify all other information which the state agency determines is questionable and which affects household eligibility and benefit level.

(7) Households refusing to cooperate with quality control.

(a) A food stamp household refusing to cooperate as a part of a quality control review is ineligible to receive benefits.

(b) The household remains ineligible until the quality control review requirements have been met or ninety-five days from the end of the annual quality control review period, whichever comes first.

(c) If a household reapplies after ninety-five days from the end of the annual quality control review period, a nonexpedited household must provide verification of all eligibility requirements prior to being determined eligible. Households meeting expedited service eligibility must provide verification of all eligibility requirements prior to receiving second month's benefits.

WSR 85-03-006
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Institutions)

[Filed January 3, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning IMR program and reimbursement system, amending chapter 275-38 WAC.

It is the intention of the secretary to adopt these rules on an emergency basis on or about January 3, 1985;

that the agency will at 10:00 a.m., Tuesday, February 26, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

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

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 February 26, 1985.

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

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

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by February 13, 1985. The meeting site is in a location which is barrier free.

Dated: January 3, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending chapter 275-38 WAC.

The Purposes of the Rule Amendments and New Rules: WAC 275-38-001 (amend), to include under the definition of assets that after September 30, 1984, the value of assets acquired in an ownership change will not exceed the acquisition cost of the owner of record as of July 18, 1984; 275-38-745 (amend), to require that after September 30, 1984, interest expense for assets acquired in an ownership change will be disallowed in proportion to the amount by which the loan principal for the acquired assets exceeds the original depreciation base of the owner of the assets as of July 18, 1984; 275-38-785 (amend), to require that after September 30, 1984, the depreciation base of assets acquired in an ownership change will not exceed the acquisition cost base of the owner of the assets as of July 18, 1984; 275-38-831 (amend), to include that WAC 275-38-863 (administration, operation and property cost center rate) will be used to determine a nonstate operated facility's prospective rate; 275-38-850 (amend), to specify that effective January 1, 1985, a contractor's reimbursement rate will be reduced from five to three cost center rates. The three cost centers are: Resident care and habilitation; Administration, operations and property; and Return on equity; 275-38-860 (amend), to change the name of the resident care and habilitative services cost center rate to resident care and habilitation cost center rate; 275-38-863 (new), to create a new cost center rate titled administration, operations and property, effective January 1, 1985. This rate consists of the following July 1, 1984, cost center rates: Food; administration and operations; and property; 275-38-865 (amend), to change the name of the food cost center rate to food rate component in accordance with WAC 275-38-863; 275-38-870 (amend), to change the name of the administration

and operations cost center rate to administration and operations rate component in accordance with WAC 275-38-863; 275-38-875 (amend), to change the name of the property cost center rate to property rate component in accordance with WAC 275-38-863; and 275-38-886 (amend), to require that effective January 1, 1985, a contractor's resident care and habilitation payment will be the lower of their prospective rate or allowable cost; a contractor's administration, operations and property payment will be their prospective rate; and a contractor's return on equity payment will be their prospective rate.

The Reasons These are Necessary: Pursuant to Title XIX, Section 1902(a)(13)(B) of the Social Security Act, IMR reimbursement payment increases solely as a result of a change in ownership must not exceed the increase which would result from applying Section 1861(v)(1)(O) of the Social Security Act. Revise the department's IMR reimbursement system to allow nonstate operated facilities to have cost savings in the administration, operations and property cost center.

Statutory Authority: RCW 74.09.120 and Title XIX, Section 1902(a)(13)(B) of the Social Security Act.

Summary of the New Rules and Changes: WAC 275-38-001 limits the value of assets acquired in an ownership change entered into after September 30, 1984, to not exceed the value of the acquired assets of the owner of record as of July 18, 1984; 275-38-745 limits the amount of allowable interest expense of loan principal for assets acquired in an ownership change entered into after September 30, 1984, to not exceed the original depreciation base of the owner of the assets as of July 18, 1984; 275-38-785 limits the amount of allowable depreciation expense for assets acquired in an ownership change entered into after September 30, 1984, to not exceed the acquisition cost base of the owner of the assets as of July 18, 1984; 275-38-831 identifies the regulations used to establish nonstate operated IMR facility reimbursement to include WAC 275-38-863; 275-38-850 establishes that effective January 1, 1985, there will be three cost center rates instead of five. The cost centers are: Resident care and habilitation; administration, operations and property; and, return on equity; 275-38-860 changes the name of the resident care and habilitative services cost center rate to resident care and habilitation cost center rate; 275-38-863 establishes a new nonstate operated IMR facility cost center rate titled administration, operations and property cost center rate, effective January 1, 1985. This rate consolidates the July 1, 1984, food cost center rate, administration and operations cost center rate, and property cost center rate into a single rate; 275-38-865 changes the name of the food cost center rate to food rate component as a component of the administration, operations and property cost center rate; 275-38-870 changes the name of the administration and operations cost center rate to administration and operations rate component as a component of the administration, operations and property cost center rate; 275-38-875 changes the name of the property cost center rate to property rate component as a component of the administration, operations and property cost center rate; and 275-38-886 eliminates the settlement requirements for nonstate operated facilities' administration, operations and property cost center rate to allow for cost savings.

Person Responsible for Drafting, Implementing and Enforcing the Rules: Roger Gantz, Manager, PSA Reimbursement Section, Division of Developmental Disabilities, Olympia, Washington 98504, mailstop OB-42C, phone (206) 753-4449.

These rules are proposed by the Department of Social and Health Services' Division of Developmental Disabilities.

These are necessary as a result of federal law, Title XIX, Section 1902(a)(13)(B) of the Social Security Act.

Economic Impact on Small Businesses: The rule changes will reduce the revaluation of IMR facility assets as federal law limits the amount of revaluation for Medicaid reimbursement. The department is not able to estimate the fiscal impact of this federal restriction. The rule change will simplify the reimbursement system and reduce reporting requirements by reducing the number of reimbursement cost centers from five to three. The rule change will allow nonstate operated IMRs to receive cost savings, estimated to reduce total IMR settlement repayment, by $70,000 per year.

Emergency adoption justification: The rule changes must be adopted on an emergency basis to ensure that the department is in compliance with the Department of Health and Human Services' State Medicaid Manual, Part 6 – Payment for Services, Section IM 6007. Failure to adopt these rule changes can result in loss of Title XIX Federal Financial Participation.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-001 TERMS. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accrual method of accounting" – A method of accounting where revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period incurred, regardless of when paid.

(2) "Active treatment in institutions for the mentally retarded" requires the following:

(a) The individual's regular participation, in accordance with an individual habilitation plan, in professionally developed and supervised activities, experiences, or therapies.

(b) A written individual habilitation plan setting forth measurable goals or objectives stated in terms of desirable behavior and prescribing an integrated program of activities, experiences, or therapies necessary for the individual to reach the goals or objectives. The overall purpose of the plan is to help the individual function at the greatest physical, intellectual, social, or vocational level he or she can presently or potentially achieve.

(c) An interdisciplinary professional evaluation:

(i) Completed, for a recipient, before admission to the institution but not more than three months before, and for an individual applying for Medicaid after admission, before the institution requests payment;

(ii) Consisting of complete medical, social, psychological diagnosis and evaluations, and an evaluation of the individual's need for institutional care; and

(iii) Made by a physician, a social worker, and other professionals, at least one of whom is a qualified mental retardation professional.

(d) Reevaluation medically, socially, and psychologically at least annually by the staff involved in carrying out the resident's individual plan of care. The reevaluation must include review of the individual's progress toward meeting the plan objectives, the appropriateness of the individual plan of care, assessment of his or her continuing need for institutional care, and consideration of alternate methods of care.

(e) An individual postinstitutionalization plan, as part of the individual plan of care, developed before discharge by a qualified mental retardation professional and other appropriate professionals.

(3) "Allowable costs" – See WAC 275-38-680.

(4) "Appraisal" – The process of establishing the fair market value or reconstruction of the historical cost of an asset acquired in a past period as performed by an individual professionally designated either by the American institute of real estate appraisers as a member, appraisal institute (MAI), or by the society of real estate appraisers as a senior real estate analyst (SREA) or a senior real property appraiser (SRPA). The process includes a systematic, analytic determination, the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(5) "Arm's-length transaction" – A transaction resulting from good-faith bargaining between a buyer and seller, where neither party is legally related to the other party by blood or under law, and having adverse positions in the market place. Sales or exchanges of IMR or nursing home facilities among two or more parties where all parties subsequently continue to own one or more of the facilities involved in the transaction shall not be considered arm's-length transactions. Sale of an IMR facility subsequently leased back to the seller within five years of the date of sale shall not be considered an arm's-length transaction.

(6) "Assets" – Economic resources of the contractor, recognized, and measured in conformity with generally accepted accounting principles. Assets also include certain deferred charges((;)) which are not resources((;)) but ((~~assets~~)) which are recognized and measured in accordance with generally accepted accounting principles. The value of assets acquired in a change of ownership entered into after September 30, 1984, shall not exceed the acquisition cost of the owner of record as of July 18, 1984.

(7) "Bad debts" – Amounts considered to be uncollectable from accounts and notes receivable.

(8) "Beds" – Unless otherwise specified, the number of set-up beds in the IMR facility, not to exceed the number of licensed beds.

(9) "Beneficial owner" – Any person:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power including the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power including the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection (9) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except, any person acquiring an ownership interest or power specified in subsection (9)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest acquired through the exercise or conversion of such ownership interest or power.

(d) Any person in the ordinary course of business having a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary required to declare a default and determine the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised: PROVIDED, That

(i) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection (9) of this section; and

(ii) The pledge agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or direct or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power or powers pursuant to a pledge agreement where credit is extended and where the pledgee is a broker or dealer.

(10) "Boarding home" – Means any home or other institution licensed in accordance with chapter 18.20 RCW.

(11) "Capitalization" – The recording of an expenditure as an asset.

(12) "Capitalized lease" – A lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

(13) "Cash method of accounting" – A method of accounting where revenues are recognized only when cash is received, and expenditures are expensed, and asset items are not recorded until cash is disbursed.

(14) "Change of ownership" – A change in the individual or legal organization responsible for the daily operation of an IMR facility.

(a) Events changing ownership include but are not limited to the following:

(i) The form of legal organization of the owner is changed (such as a sole proprietor forms a partnership or corporation);

(ii) Title to the IMR enterprise is transferred by the contractor to another party;

(iii) The IMR facility is leased, or an existing lease is terminated;

(iv) Where the contractor is a partnership, any event occurs dissolving the partnership;

(v) Where the contractor is a corporation, the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation.

(b) Ownership does not change when the following occurs:

(i) A party contracts with the contractor to manage the enterprise as the contractor's agent, (i.e., subject to the contractor's general approval of daily operating decisions);

(ii) If the contractor is a corporation, some or all of the corporation's stock is transferred.

(15) "Charity allowances" – Reductions in charges made by the contractor because of the indigence or medical indigence of a resident.

(16) "Contract" – A contract between the department and a contractor for the delivery of IMR services to eligible Medicaid recipients in a facility and an entity responsible for operational decisions.

(17) "Contractor" – An entity contracting with the department to deliver IMR services to eligible Medicaid recipients.

(18) "Courtesy allowances" – Reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

(19) "CSO" – The local community services office of the department.

(20) "DDD" – The division of developmental disabilities of the department.

(21) "Department" – The department of social and health services (DSHS) and employees.

(22) "Depreciation" – The systematic distribution of the cost or other base of a tangible asset less salvage, over the estimated useful life of the asset.

(23) "Donated asset" – An asset the contractor acquired without making any payment in the form of cash, property, or services. An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset. An asset purchased using donated funds is not a donated asset.

(24) "Entity" – An individual, partnership, corporation, public institution established by law, or any other association of individuals, capable of entering enforceable contracts.

(25) "Equity capital" – Total tangible and other assets necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

(26) "Facility" – A residential setting certified as an IMR by the department in accordance with federal regulations. A state facility is a state-owned and operated residential habilitation center. A nonstate facility is a residential setting which is not owned and operated by the state and which is licensed in accordance with chapter 18.51 RCW as a nursing home or chapter 18.20 RCW as a boarding home.

(27) "Fair market value" – The price the asset would have been purchased for on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell.

(28) "Fiscal year" – The operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods.

(29) "Generally accepted accounting principles" – Accounting principles currently approved by the financial accounting standard board (FASB).

(30) "Goodwill" – The excess of the price paid for a business over the fair market value of all other identifiable and tangible assets acquired. Also, the excess of the price paid for an asset over fair market value.

(31) "Habilitative services" – Those services required by the individual habilitation plan provided or directed by qualified therapists.

(32) "Historical cost" – The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

(33) "Imprest fund" – A fund regularly replenished in exactly the amount expended from the fund.

(34) "IMR" – When referring to a facility, one certified to provide services to the mentally retarded or persons with related conditions. When referring to a level of care, IMR is a range of services required for the mentally retarded or persons with related conditions. When referring to a person, a recipient requiring IMR services.

(35) "Interest" – The cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

(36) "Joint facility costs" – Any costs representing expenses incurred benefiting more than one facility, or one facility and any other entity.

(37) "Levels of care" – The classification of levels of services provided to residents by a contractor, (e.g., levels A, B, C, D, and E).

(38) "Medicaid program" – The state medical assistance program provided under RCW 74.09.500 or authorized state medical services.

(39) "Medical assistance recipient" – An individual determined eligible for medical assistance by the department for the services provided in chapter 74.09 RCW.

(40) "Nonallowable costs" – Same as "unallowable costs."

(41) "Nonrestricted funds" – Donated funds not restricted to a specific use by the donor, (e.g., general operating funds).

(42) "Nursing home" – A home, place, or institution, licensed in accordance with chapter 18.51 RCW, where skilled nursing, intermediate care, and/or IMR services are delivered.

(43) "Operating lease" – A lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(44) "Owner" – A sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

(45) "Ownership interest" – All interests beneficially owned by a person, calculated in the aggregate, regardless of the form such beneficial ownership takes.

(46) "Per diem (per resident day) costs" – Total allowable costs for a fiscal period divided by total resident days for the same period.

(47) "Prospective daily payment rate" – The daily amount assigned to each contractor, determined by the department to be reasonable to meet the costs of providing services required by law if the contractor provides those services in an economical and efficient manner. Such a rate is a budget for maximum expenditures necessary to provide services required by law.

(48) "Qualified mental retardation professional (QMRP)" – A therapist approved by the department having specialized training and one year's experience in working with the mentally retarded or developmentally disabled.

(49) "Qualified therapist" – Any of the following:

(a) An activities specialist having specialized education, training, or experience as specified by the department.

(b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience.

(c) A dental hygienist as defined by chapter 18.29 RCW.

(d) A dietitian: Eligible for registration by the American dietetic association under requirements in effect on January 17, 1974; or having a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management; having one year supervisory experience in the dietetic service of a health care institution; and participating annually in continuing dietetic education.

(e) An occupational therapist being a graduate of a program in occupational therapy, or having the equivalent of such education or training.

(f) A pharmacist as defined by chapter 18.64 RCW.

(g) A physical therapist as defined by chapter 18.74 RCW.

(h) A physician as defined by chapter 18.71 RCW or an osteopathic physician as defined by chapter 18.57 RCW.

(i) A psychologist as defined by chapter 18.83 RCW.

(j) A qualified mental retardation professional.

(k) A registered nurse as defined by chapter 18.88 RCW.

(l) A social worker who is a graduate of a school of social work.

(m) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience.

(50) "Recipient" – An eligible medical care recipient.

(51) "Regression analysis" – A statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

(52) "Regional services" – Local office division of developmental disabilities.

(53) "Related organization" – An entity which is under common ownership and/or control with, or has control of or is controlled by, the contractor. An entity is deemed to "control" another entity if one entity has a five percent or greater ownership interest in the other, or if an entity has capacity, derived from any financial or other relationship, and whether or not exercised, to influence directly or indirectly the activities of the other.

(54) "Relative" – Spouse; natural parent, child, or sibling; adopted child or adoptive parent; stepparent, stepchild, stepbrother, stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law; grandparent or grandchild; uncle, aunt, nephew, niece, or cousin.

(55) "Resident day" – A calendar day of resident care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the resident was admitted on the same day. A resident is admitted for purposes of this definition when he or she is assigned a bed and a resident record is opened.

(56) "Resident living staff" – Staff whose primary responsibility is the care and development of the residents, including:

(a) Resident activity program;

(b) Domiciliary services; and/or

(c) Habilitative services under the supervision of the QMRP.

(57) "Restricted fund" – A fund where the use of the principal and/or income is restricted by agreement with or direction by the donor to a specific purpose, in contrast to a fund over which the owner has complete control. These generally fall into three categories:

(a) Funds restricted by the donor to specific operating purposes;

(b) Funds restricted by the donor for additions to property, plant, and equipment; and

(c) Endowment funds.

(58) "Secretary" – The secretary of DSHS.

(59) "Start-up costs" – The one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first resident is admitted. Start-up costs include administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, training costs, etc. Start-up costs do not include expenditures for capital assets.

(60) "Title XIX" – The 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

(61) "Unallowable costs" – Costs not meeting every test of an allowable cost, as determined in WAC 275-38-680.

(62) "Uniform chart of accounts" – A list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

(63) "Vendor number" – A number assigned to each contractor delivering IMR services to IMR Medicaid recipients.

(64) "Working capital" – Total current assets necessary, ordinary, and related to resident care as reported in the most recent cost report minus total current liabilities necessary, ordinary, and related to resident care from the most recent cost report.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-745 ALLOWABLE INTEREST. (1) The contractor's necessary and ordinary interest for working capital and capital indebtedness will be allowable.

(a) To be necessary, interest must be incurred in connection with a loan satisfying a financial need of the contractor and be for a purpose related to resident care and training. Interest expense relating to business opportunity or goodwill will not be allowed.

(b) To be ordinary, interest must be at a rate not in excess of what a prudent borrower would have to pay at the time of the loan in an arm's-length transaction in the money market.

(c) Interest expense shall include amortization of bond discounts and expenses related to the bond issue. Amortization shall be over the period from the date of sale to the date of maturity or, if earlier, the date of extinguishment of the bonds.

(d) Interest expense for assets acquired in a change of ownership entered into after September 30, 1984, shall be disallowed in proportion to the amount by which the loan principal for the acquired assets exceeds the original depreciation base of the owner of the assets as of July 18, 1984.

(2) Interest paid to or for the benefit of a related organization will be allowed only to the extent the actual interest does not exceed the cost to the related organization of obtaining the use of the funds.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-785 DEPRECIATION BASE. (1) The depreciation base shall be the historical cost of the contractor in acquiring the asset from an unrelated organization and preparing depreciation base for use, less goodwill and less accumulated depreciation incurred during periods the assets have been used in or as a facility by the contractor, such accumulated depreciation to be measured in accordance with subsection (4) of this section and WAC 275-38-790, 275-38-795, and 275-38-800. If the department challenges the historical cost of an asset or a contractor is not able to provide adequate documentation of the historical cost of an asset, the department may have the fair market value of the asset at the time of purchase established by appraisal. The fair market value of items of equipment will be established by appraisals performed by vendors of the particular type of equipment. When these appraisals are conducted, the depreciation base of the asset will not exceed fair market value. Estimated salvage value shall be deducted from historical cost where the straight-line or sum-of-the-years digits method of depreciation is used.

(2) Effective January 1, 1981, for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."

(3) Effective July 1, 1982, in all cases subsection (1) of this section shall be applied with the phrase "in an arm's-length transaction" replacing the phrase "from an unrelated organization."

(4) Where depreciable assets are acquired from a related organization, the contractor's depreciation base shall not exceed the base the related organization had or would have had under a contract with the department.

(5) The depreciation base for assets acquired in a change of ownership entered into after September 30, 1984, shall not exceed the acquisition cost base of the owner of the assets as of July 18, 1984.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-831 REIMBURSEMENT PRINCIPLES. (1) Medicaid program reimbursement rates established under the provisions of this chapter shall be only for facilities holding appropriate state licenses and certified to provide IMR services in accordance with applicable state and federal laws and regulations.

(2) Rates established shall be reasonable and adequate to meet the costs that must be incurred by economically and efficiently operated facilities to provide services in conformity with applicable state and federal laws and regulations.

(3) For nonstate facilities, final payment shall be the lower of their prospective rate or allowable costs.

(a) Prospective rates for nonstate facilities shall be determined in accordance with WAC 275-38-845, 275-38-846, 275-38-850, 275-38-860, 275-38-863, 275-38-865, 275-38-868, 275-38-869, 275-38-870, 275-38-875, and 275-38-880.

(b) Final payments for nonstate facilities shall be determined in accordance with WAC 275-38-886.

(4) For state facilities, final payment shall be their allowable costs.

(a) Interim rates for state facilities shall be determined in accordance with WAC 275-38-846 and 275-38-890.

(b) Final payments for state facilities shall be determined in accordance with WAC 275-38-892.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-850 COST CENTERS. (1) A contractor's overall reimbursement rate for IMR residents consists of the total of ((~~five~~)) three component rates, each covering one cost center. The five cost centers are: ((~~(1) Residential~~)) Resident care and habilitative services; food; administration and operations; property; and return on equity;

(2) ((~~Food;~~

~~(3) Administration and operations;~~

~~(4) Property; and~~

~~(5) Return on equity~~)) Effective January 1, 1985, a contractor's reimbursement rate for IMR residents consists of the total of three component rates, each covering one cost center. The three cost centers are: Resident care and habilitation; administration, operations, and property; and return on equity.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-860 RESIDENT CARE AND ((~~HABILITATIVE SERVICES~~)) HABILITATION COST CENTER RATE. (1) For C and D level facilities, the resident care and ((~~habilitative services~~)) habilitation cost center will reimburse for resident living services, habilitative and training services, recreation services, and nursing services in accordance with applicable federal and state regulation.

(2) For E level facilities, the resident care and ((~~habilitative services~~)) habilitation cost center will reimburse for resident living services, habilitative and training services, recreation services, and nursing services in accordance with applicable federal and state regulation. The cost center will also reimburse for resident care and training staff performing administration and operations functions specified in WAC 275-38-870.

(3) A facility's resident care and ((~~habilitative services~~)) habilitation cost center rate shall be determined as follows:

(a) The facility's most recent desk-reviewed costs per resident day shall be adjusted for inflation.

(b) A resident care and training (RCT) staff add-on shall be determined by multiplying the number of reimbursed RCT staff hours per resident day reported in the facility's 1983 cost report by sixty-one cents per hour.

(c) The amounts determined in subsections (3)(a) and (3)(b) of this section shall be summed to establish the facility's rate.

NEW SECTION

WAC 275-38-863 ADMINISTRATION, OPERATIONS, AND PROPERTY COST CENTER RATE. Effective January 1, 1985, the administration, operations, and property cost center rate shall consist of the sum of three rate components: Food, administration and operations, and property. The food rate component shall be established pursuant to WAC 275-38-865. The administration and operations rate component shall be established pursuant to WAC 275-38-870. The property rate component shall be established pursuant to WAC 275-38-875.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-865 FOOD ((~~COST CENTER~~)) RATE COMPONENT. (1) The food ((~~cost center~~)) rate component will reimburse for the necessary and ordinary costs of bulk and raw food, dietary supplements, and beverages for meals and between-meal nourishment for residents.

(2) A facility's food ((~~cost center~~)) rate component shall be set at the July 1, 1983, IMR food ((~~cost center~~)) rate component, adjusted for inflation.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-870 ADMINISTRATION AND OPERATIONS ((~~COST CENTER~~)) RATE COMPONENT. (1) The administration and operations ((~~cost center~~)) rate component will include reimbursement for the necessary and ordinary costs of overall administration and management of the facility, operation and maintenance of the physical plant, resident transportation, dietary service (other than the cost of

food and beverages), laundry service, medical and habilitative supplies, taxes, and insurance.

(2) A facility's administration and operations rate component shall be the lesser of:

(a) The facility's most recent desk-reviewed cost per resident day, adjusted for inflation; or

(b) The eighty-fifth percentile ranking of state and nonstate facilities' most recent desk-reviewed cost per resident day, adjusted for inflation. The ranking shall be based on cost reports used for rate determination for facilities having an occupancy level of at least eighty-five percent for the cost report period.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-875 PROPERTY ((~~COST CENTER~~)) RATE COMPONENT. Property reimbursement for both leased and owner-operated facilities will not exceed the predicted cost plus 1.75 standard deviations of the necessary and ordinary costs of depreciation, and interest, of owner-operated facilities utilizing a multiple regression formula developed by the bureau of nursing home affairs pursuant to WAC 388-96-743. Depreciation and interest costs of owner-operated facilities, for mortgages entered into prior to July 1, 1979, will be reimbursed to the extent the depreciation and interest costs do not exceed the reimbursement rate payable for the property cost center as of June 30, 1979, or July 1, 1979, whichever is higher, adjusted to meet any discrepancies as determined by the federal government between the reimbursements made and the approved state Medicaid plan, and adjusted for any approved capitalized additions or replacements. Any leased facility operated as an intermediate care facility for the mentally retarded prior to July 1, 1979, will be reimbursed to the extent that the property cost exceed the upper limit of the multiple regression formula.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-886 SETTLEMENT. (1) ((~~For the~~)) Effective January 1, 1985, a contractor's resident care and habilitation ((~~services~~)) cost center((~~, food cost center, administration and operations cost center, and property cost center,~~)) payment ((~~to contractors~~)) shall ((~~not exceed~~)) be the lower of ((~~the~~)) their prospective rate or ((~~audited~~)) allowable cost. ((~~For each cost center specified in this subsection, a settlement shall be calculated at the lower of the prospective rate or audited allowable costs, except as otherwise provided in this section~~)) A contractor's administration, operations and property cost center payment shall be their prospective rate. A contractor's return on equity payment shall be their prospective rate.

(2) ((~~For calendar year 1981 and subsequent years, in determining a contractor's settlement, if allowable costs were less than the rate in any cost center, savings will be shifted (or "transferred") to cover any deficit in another cost center.~~

~~(a) The amount shifted may not exceed twenty percent of the rate in the cost center into which the shift is made.~~

~~(b) No saving may be shifted in the property or return on equity cost centers.~~

~~(c) Effective July 1, 1984, no saving may be shifted out of the resident care and habilitative services cost center~~)) A contractor's resident care and habilitation cost center payment shall be determined by the settlement procedure prescribed in this section.

(3) The settlement process shall consist of a preliminary settlement and a final settlement.

(4) The preliminary settlement process will be as follows:

(a) Providers are required to submit a proposed settlement report with the cost report.

(b) Within one hundred twenty days after receipt of the proposed settlement, the department shall verify the accuracy of the proposal and shall issue a preliminary settlement substantiating refunds, underpayments, and overpayments.

(5) The final settlement process will be as follows:

(a) After completion of the audit process, including exhaustion or mutual termination of reviews and appeals of audit findings or determinations, the department will submit a final settlement report to the contractor fully substantiating disallowed costs, refunds, underpayments, or adjustments to the contractor's financial statements, cost report, and final settlement.

(b) Where the contractor is pursuing judicial or administrative review or appeal in good faith regarding audit findings or determinations, the department may issue a partial final settlement to recover overpayments based on audit adjustments not in dispute.

(c) A preliminary settlement as issued by the department will become the final settlement if no audit is to be conducted.

(6) Repayment of amounts owed the department shall be as follows:

(a) The contractor shall have thirty days after the date the preliminary or final settlement report is submitted to the contractor to contest a settlement determination under WAC 275-38-960. After the thirty-day period has expired, a preliminary or final settlement will not be subject to review.

(b) A contractor found to have received either overpayments or erroneous payments under a preliminary or final settlement shall refund such payments to the state within thirty days after the date of the preliminary or final settlement report is submitted to the contractor.

(c) In the event the contractor fails to make repayment in the time provided in subsection (6)(b) of this section, the department shall either:

(i) Deduct the amount of refund due plus assessment of interest, at the rate of one percent per month on the unpaid balance, from payment amounts due the contractor; or

(ii) In the instance the contract has been terminated:

(A) Deduct the amount of refund due plus an assessment of interest, at the rate of one percent per month on the unpaid balance, from any payments due; or

(B) Assess the amount due plus interest, at the rate of one percent per month on the unpaid balance, on the amount due.

(iii) Interest on the unpaid balance owed the department shall begin to accrue on the thirty-first day following receipt of written notification to the contractor of the amount owed the department.

(d) Where the facility is pursuing timely filed judicial or administrative remedies in good faith regarding settlement issues, the contractor need not refund nor shall the department withhold from the facility current payment amounts the department claims to be due from the facility but which are specifically disputed by the contractor. If the judicial or administrative remedy sought by the facility is not granted after all appeals are exhausted or mutually terminated, the facility shall make payment of such amounts due plus interest accrued from the date of filing of the appeal, as payable on judgments, within sixty days of the date such decision is made.

(7) Payment of amounts owed the contractor shall be as follows: The department shall make payment of any underpayments within thirty days after the date the settlement report is submitted to the contractor.

WSR 85-03-007
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Institutions)

[Order 2186—Filed January 3, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to IMR program and reimbursement system, amending chapter 275-38 WAC.

I, David A. Hogan, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are necessary to comply with the Deficit Reduction Act of 1984 (DEFRA) (Section 2314).

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

This rule is promulgated pursuant to RCW 74.09.120 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 3, 1985.

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

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-001 TERMS. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accrual method of accounting" – A method of accounting where revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period incurred, regardless of when paid.

(2) "Active treatment in institutions for the mentally retarded" requires the following:

(a) The individual's regular participation, in accordance with an individual habilitation plan, in professionally developed and supervised activities, experiences, or therapies.

(b) A written individual habilitation plan setting forth measurable goals or objectives stated in terms of desirable behavior and prescribing an integrated program of activities, experiences, or therapies necessary for the individual to reach the goals or objectives. The overall purpose of the plan is to help the individual function at the greatest physical, intellectual, social, or vocational level he or she can presently or potentially achieve.

(c) An interdisciplinary professional evaluation:

(i) Completed, for a recipient, before admission to the institution but not more than three months before, and for an individual applying for Medicaid after admission, before the institution requests payment;

(ii) Consisting of complete medical, social, psychological diagnosis and evaluations, and an evaluation of the individual's need for institutional care; and

(iii) Made by a physician, a social worker, and other professionals, at least one of whom is a qualified mental retardation professional.

(d) Reevaluation medically, socially, and psychologically at least annually by the staff involved in carrying out the resident's individual plan of care. The reevaluation must include review of the individual's progress toward meeting the plan objectives, the appropriateness of the individual plan of care, assessment of his or her continuing need for institutional care, and consideration of alternate methods of care.

(e) An individual postinstitutionalization plan, as part of the individual plan of care, developed before discharge by a qualified mental retardation professional and other appropriate professionals.

(3) "Allowable costs" – See WAC 275-38-680.

(4) "Appraisal" – The process of establishing the fair market value or reconstruction of the historical cost of an asset acquired in a past period as performed by an individual professionally designated either by the American institute of real estate appraisers as a member, appraisal institute (MAI), or by the society of real estate appraisers as a senior real estate analyst (SREA) or a senior real property appraiser (SRPA). The process includes a systematic, analytic determination, the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(5) "Arm's-length transaction" – A transaction resulting from good-faith bargaining between a buyer and seller, where neither party is legally related to the other party by blood or under law, and having adverse positions in the market place. Sales or exchanges of IMR or nursing home facilities among two or more parties where all parties subsequently continue to own one or more of the facilities involved in the transaction shall not be considered arm's-length transactions. Sale of an IMR facility subsequently leased back to the seller within five years of the date of sale shall not be considered an arm's-length transaction.

(6) "Assets" – Economic resources of the contractor, recognized, and measured in conformity with generally accepted accounting principles. Assets also include certain deferred charges((;)) which are not resources((;)) but ((~~assets~~)) which are recognized and measured in accordance with generally accepted accounting principles. The value of assets acquired in a change of ownership entered into after September 30, 1984, shall not exceed the acquisition cost of the owner of record as of July 18, 1984.

(7) "Bad debts" – Amounts considered to be uncollectable from accounts and notes receivable.

(8) "Beds" – Unless otherwise specified, the number of set-up beds in the IMR facility, not to exceed the number of licensed beds.

(9) "Beneficial owner" – Any person:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power including the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power including the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection (9) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except, any person acquiring an ownership interest or power specified in subsection (9)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest acquired through the exercise or conversion of such ownership interest or power.

(d) Any person in the ordinary course of business having a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary required to declare a default and determine the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised: PROVIDED, That

(i) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection (9) of this section; and

(ii) The pledge agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or direct or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power or powers pursuant to a pledge agreement where credit is extended and where the pledgee is a broker or dealer.

(10) "Boarding home" – Means any home or other institution licensed in accordance with chapter 18.20 RCW.

(11) "Capitalization" – The recording of an expenditure as an asset.

(12) "Capitalized lease" – A lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

(13) "Cash method of accounting" – A method of accounting where revenues are recognized only when cash is received, and expenditures are expensed, and asset items are not recorded until cash is disbursed.

(14) "Change of ownership" – A change in the individual or legal organization responsible for the daily operation of an IMR facility.

(a) Events changing ownership include but are not limited to the following:

(i) The form of legal organization of the owner is changed (such as a sole proprietor forms a partnership or corporation);

(ii) Title to the IMR enterprise is transferred by the contractor to another party;

(iii) The IMR facility is leased, or an existing lease is terminated;

(iv) Where the contractor is a partnership, any event occurs dissolving the partnership;

(v) Where the contractor is a corporation, the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation.

(b) Ownership does not change when the following occurs:

(i) A party contracts with the contractor to manage the enterprise as the contractor's agent, (i.e., subject to the contractor's general approval of daily operating decisions);

(ii) If the contractor is a corporation, some or all of the corporation's stock is transferred.

(15) "Charity allowances" – Reductions in charges made by the contractor because of the indigence or medical indigence of a resident.

(16) "Contract" – A contract between the department and a contractor for the delivery of IMR services to eligible Medicaid recipients in a facility and an entity responsible for operational decisions.

(17) "Contractor" – An entity contracting with the department to deliver IMR services to eligible Medicaid recipients.

(18) "Courtesy allowances" – Reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

(19) "CSO" – The local community services office of the department.

(20) "DDD" – The division of developmental disabilities of the department.

(21) "Department" – The department of social and health services (DSHS) and employees.

(22) "Depreciation" – The systematic distribution of the cost or other base of a tangible asset less salvage, over the estimated useful life of the asset.

(23) "Donated asset" – An asset the contractor acquired without making any payment in the form of cash, property, or services. An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset. An asset purchased using donated funds is not a donated asset.

(24) "Entity" – An individual, partnership, corporation, public institution established by law, or any other association of individuals, capable of entering enforceable contracts.

(25) "Equity capital" – Total tangible and other assets necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

(26) "Facility" – A residential setting certified as an IMR by the department in accordance with federal regulations. A state facility is a state-owned and operated residential habilitation center. A nonstate facility is a residential setting which is not owned and operated by the state and which is licensed in accordance with chapter 18.51 RCW as a nursing home or chapter 18.20 RCW as a boarding home.

(27) "Fair market value" – The price the asset would have been purchased for on the date of acquisition in an arm's-length transaction between a well-informed buyer

and seller, neither being under any compulsion to buy or sell.

(28) "Fiscal year" – The operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods.

(29) "Generally accepted accounting principles" – Accounting principles currently approved by the financial accounting standard board (FASB).

(30) "Goodwill" – The excess of the price paid for a business over the fair market value of all other identifiable and tangible assets acquired. Also, the excess of the price paid for an asset over fair market value.

(31) "Habilitative services" – Those services required by the individual habilitation plan provided or directed by qualified therapists.

(32) "Historical cost" – The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

(33) "Imprest fund" – A fund regularly replenished in exactly the amount expended from the fund.

(34) "IMR" – When referring to a facility, one certified to provide services to the mentally retarded or persons with related conditions. When referring to a level of care, IMR is a range of services required for the mentally retarded or persons with related conditions. When referring to a person, a recipient requiring IMR services.

(35) "Interest" – The cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

(36) "Joint facility costs" – Any costs representing expenses incurred benefiting more than one facility, or one facility and any other entity.

(37) "Levels of care" – The classification of levels of services provided to residents by a contractor, (e.g., levels A, B, C, D, and E).

(38) "Medicaid program" – The state medical assistance program provided under RCW 74.09.500 or authorized state medical services.

(39) "Medical assistance recipient" – An individual determined eligible for medical assistance by the department for the services provided in chapter 74.09 RCW.

(40) "Nonallowable costs" – Same as "unallowable costs."

(41) "Nonrestricted funds" – Donated funds not restricted to a specific use by the donor, (e.g., general operating funds).

(42) "Nursing home" – A home, place, or institution, licensed in accordance with chapter 18.51 RCW, where skilled nursing, intermediate care, and/or IMR services are delivered.

(43) "Operating lease" – A lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(44) "Owner" – A sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

(45) "Ownership interest" – All interests beneficially owned by a person, calculated in the aggregate, regardless of the form such beneficial ownership takes.

(46) "Per diem (per resident day) costs" – Total allowable costs for a fiscal period divided by total resident days for the same period.

(47) "Prospective daily payment rate" – The daily amount assigned to each contractor, determined by the department to be reasonable to meet the costs of providing services required by law if the contractor provides those services in an economical and efficient manner. Such a rate is a budget for maximum expenditures necessary to provide services required by law.

(48) "Qualified mental retardation professional (QMRP)" – A therapist approved by the department having specialized training and one year's experience in working with the mentally retarded or developmentally disabled.

(49) "Qualified therapist" – Any of the following:

(a) An activities specialist having specialized education, training, or experience as specified by the department.

(b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience.

(c) A dental hygienist as defined by chapter 18.29 RCW.

(d) A dietitian: Eligible for registration by the American dietetic association under requirements in effect on January 17, 1974; or having a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management; having one year supervisory experience in the dietetic service of a health care institution; and participating annually in continuing dietetic education.

(e) An occupational therapist being a graduate of a program in occupational therapy, or having the equivalent of such education or training.

(f) A pharmacist as defined by chapter 18.64 RCW.

(g) A physical therapist as defined by chapter 18.74 RCW.

(h) A physician as defined by chapter 18.71 RCW or an osteopathic physician as defined by chapter 18.57 RCW.

(i) A psychologist as defined by chapter 18.83 RCW.

(j) A qualified mental retardation professional.

(k) A registered nurse as defined by chapter 18.88 RCW.

(l) A social worker who is a graduate of a school of social work.

(m) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience.

(50) "Recipient" – An eligible medical care recipient.

(51) "Regression analysis" – A statistical technique through which one can analyze the relationship between a dependent or criterion variable and a set of independent or predictor variables.

(52) "Regional services" – Local office division of developmental disabilities.

(53) "Related organization" – An entity which is under common ownership and/or control with, or has control of or is controlled by, the contractor. An entity is deemed to "control" another entity if one entity has a five percent or greater ownership interest in the other, or

if an entity has capacity, derived from any financial or other relationship, and whether or not exercised, to influence directly or indirectly the activities of the other.

(54) "Relative" – Spouse; natural parent, child, or sibling; adopted child or adoptive parent; stepparent, stepchild, stepbrother, stepsister; father–in–law, mother–in–law, son–in–law, daughter–in–law, brother–in–law, sister–in–law; grandparent or grandchild; uncle, aunt, nephew, niece, or cousin.

(55) "Resident day" – A calendar day of resident care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the resident was admitted on the same day. A resident is admitted for purposes of this definition when he or she is assigned a bed and a resident record is opened.

(56) "Resident living staff" – Staff whose primary responsibility is the care and development of the residents, including:

(a) Resident activity program;

(b) Domiciliary services; and/or

(c) Habilitative services under the supervision of the QMRP.

(57) "Restricted fund" – A fund where the use of the principal and/or income is restricted by agreement with or direction by the donor to a specific purpose, in contrast to a fund over which the owner has complete control. These generally fall into three categories:

(a) Funds restricted by the donor to specific operating purposes;

(b) Funds restricted by the donor for additions to property, plant, and equipment; and

(c) Endowment funds.

(58) "Secretary" – The secretary of DSHS.

(59) "Start–up costs" – The one–time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first resident is admitted. Start–up costs include administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, training costs, etc. Start–up costs do not include expenditures for capital assets.

(60) "Title XIX" – The 1965 amendments to the Social Security Act, P.L. 89–07, as amended.

(61) "Unallowable costs" – Costs not meeting every test of an allowable cost, as determined in WAC 275–38–680.

(62) "Uniform chart of accounts" – A list of account titles identified by code numbers established by the department for contractors to use in reporting costs.

(63) "Vendor number" – A number assigned to each contractor delivering IMR services to IMR Medicaid recipients.

(64) "Working capital" – Total current assets necessary, ordinary, and related to resident care as reported in the most recent cost report minus total current liabilities necessary, ordinary, and related to resident care from the most recent cost report.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275–38–745 ALLOWABLE INTEREST. (1) The contractor's necessary and ordinary interest for working capital and capital indebtedness will be allowable.

(a) To be necessary, interest must be incurred in connection with a loan satisfying a financial need of the contractor and be for a purpose related to resident care and training. Interest expense relating to business opportunity or goodwill will not be allowed.

(b) To be ordinary, interest must be at a rate not in excess of what a prudent borrower would have to pay at the time of the loan in an arm's–length transaction in the money market.

(c) Interest expense shall include amortization of bond discounts and expenses related to the bond issue. Amortization shall be over the period from the date of sale to the date of maturity or, if earlier, the date of extinguishment of the bonds.

(d) Interest expense for assets acquired in a change of ownership entered into after September 30, 1984, shall be disallowed in proportion to the amount by which the loan principal for the acquired assets exceeds the original depreciation base of the owner of the assets as of July 18, 1984.

(2) Interest paid to or for the benefit of a related organization will be allowed only to the extent the actual interest does not exceed the cost to the related organization of obtaining the use of the funds.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275–38–785 DEPRECIATION BASE. (1) The depreciation base shall be the historical cost of the contractor in acquiring the asset from an unrelated organization and preparing depreciation base for use, less goodwill and less accumulated depreciation incurred during periods the assets have been used in or as a facility by the contractor, such accumulated depreciation to be measured in accordance with subsection (4) of this section and WAC 275–38–790, 275–38–795, and 275–38–800. If the department challenges the historical cost of an asset or a contractor is not able to provide adequate documentation of the historical cost of an asset, the department may have the fair market value of the asset at the time of purchase established by appraisal. The fair market value of items of equipment will be established by appraisals performed by vendors of the particular type of equipment. When these appraisals are conducted, the depreciation base of the asset will not exceed fair market value. Estimated salvage value shall be deducted from historical cost where the straight–line or sum–of–the–years digits method of depreciation is used.

(2) Effective January 1, 1981, for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently, subsection (1) of this section shall be applied with the phrase "in an arm's–length transaction" replacing the phrase "from an unrelated organization."

(3) Effective July 1, 1982, in all cases subsection (1) of this section shall be applied with the phrase "in an arm's–length transaction" replacing the phrase "from an unrelated organization."

(4) Where depreciable assets are acquired from a related organization, the contractor's depreciation base

shall not exceed the base the related organization had or would have had under a contract with the department.

(5) The depreciation base for assets acquired in a change of ownership entered into after September 30, 1984, shall not exceed the acquisition cost base of the owner of the assets as of July 18, 1984.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-831 REIMBURSEMENT PRINCIPLES. (1) Medicaid program reimbursement rates established under the provisions of this chapter shall be only for facilities holding appropriate state licenses and certified to provide IMR services in accordance with applicable state and federal laws and regulations.

(2) Rates established shall be reasonable and adequate to meet the costs that must be incurred by economically and efficiently operated facilities to provide services in conformity with applicable state and federal laws and regulations.

(3) For nonstate facilities, final payment shall be the lower of their prospective rate or allowable costs.

(a) Prospective rates for nonstate facilities shall be determined in accordance with WAC 275-38-845, 275-38-846, 275-38-850, 275-38-860, 275-38-863, 275-38-865, 275-38-868, 275-38-869, 275-38-870, 275-38-875, and 275-38-880.

(b) Final payments for nonstate facilities shall be determined in accordance with WAC 275-38-886.

(4) For state facilities, final payment shall be their allowable costs.

(a) Interim rates for state facilities shall be determined in accordance with WAC 275-38-846 and 275-38-890.

(b) Final payments for state facilities shall be determined in accordance with WAC 275-38-892.

AMENDATORY SECTION (Amending Order 1853, filed 8/3/82)

WAC 275-38-850 COST CENTERS. (1) A contractor's overall reimbursement rate for IMR residents consists of the total of ((five)) three component rates, each covering one cost center. The five cost centers are: ((~~(1) Residential~~)) Resident care and habilitative services; food; administration and operations; property; and return on equity;

(2) ((~~Food;~~

~~(3) Administration and operations;~~

~~(4) Property; and~~

~~(5) Return on equity~~)) Effective January 1, 1985, a contractor's reimbursement rate for IMR residents consists of the total of three component rates, each covering one cost center. The three cost centers are: Resident care and habilitation; administration, operations, and property; and return on equity.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-860 RESIDENT CARE AND ((~~HABILITATIVE SERVICES~~)) HABILITATION COST CENTER RATE. (1) For C and D level facilities, the resident care and ((~~habilitative services~~)) habilitation cost center will reimburse for resident living services, habilitative and training services, recreation services, and nursing services in accordance with applicable federal and state regulation.

(2) For E level facilities, the resident care and ((~~habilitative services~~)) habilitation cost center will reimburse for resident living services, habilitative and training services, recreation services, and nursing services in accordance with applicable federal and state regulation. The cost center will also reimburse for resident care and training staff performing administration and operations functions specified in WAC 275-38-870.

(3) A facility's resident care and ((~~habilitative services~~)) habilitation cost center rate shall be determined as follows:

(a) The facility's most recent desk-reviewed costs per resident day shall be adjusted for inflation.

(b) A resident care and training (RCT) staff add-on shall be determined by multiplying the number of reimbursed RCT staff hours per resident day reported in the facility's 1983 cost report by sixty-one cents per hour.

(c) The amounts determined in subsections (3)(a) and (3)(b) of this section shall be summed to establish the facility's rate.

NEW SECTION

WAC 275-38-863 ADMINISTRATION, OPERATIONS, AND PROPERTY COST CENTER RATE. Effective January 1, 1985, the administration, operations, and property cost center rate shall consist of the sum of three rate components: Food, administration and operations, and property. The food rate component shall be established pursuant to WAC 275-38-865. The administration and operations rate component shall be established pursuant to WAC 275-38-870. The property rate component shall be established pursuant to WAC 275-38-875.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-865 FOOD ((~~COST CENTER~~)) RATE COMPONENT. (1) The food ((~~cost center~~)) rate component will reimburse for the necessary and ordinary costs of bulk and raw food, dietary supplements, and beverages for meals and between-meal nourishment for residents.

(2) A facility's food ((~~cost center~~)) rate component shall be set at the July 1, 1983, IMR food ((~~cost center~~)) rate component, adjusted for inflation.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-870 ADMINISTRATION AND OPERATIONS ((~~COST CENTER~~)) RATE COMPONENT. (1) The administration and operations ((~~cost center~~)) rate component will include reimbursement for the necessary and ordinary costs of overall administration and management of the facility, operation and

maintenance of the physical plant, resident transportation, dietary service (other than the cost of food and beverages), laundry service, medical and habilitative supplies, taxes, and insurance.

(2) A facility's administration and operations rate component shall be the lesser of:

(a) The facility's most recent desk-reviewed cost per resident day, adjusted for inflation; or

(b) The eighty-fifth percentile ranking of state and nonstate facilities' most recent desk-reviewed cost per resident day, adjusted for inflation. The ranking shall be based on cost reports used for rate determination for facilities having an occupancy level of at least eighty-five percent for the cost report period.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-875 PROPERTY ((~~COST CENTER~~)) RATE COMPONENT. Property reimbursement for both leased and owner-operated facilities will not exceed the predicted cost plus 1.75 standard deviations of the necessary and ordinary costs of depreciation, and interest, of owner-operated facilities utilizing a multiple regression formula developed by the bureau of nursing home affairs pursuant to WAC 388-96-743. Depreciation and interest costs of owner-operated facilities, for mortgages entered into prior to July 1, 1979, will be reimbursed to the extent the depreciation and interest costs do not exceed the reimbursement rate payable for the property cost center as of June 30, 1979, or July 1, 1979, whichever is higher, adjusted to meet any discrepancies as determined by the federal government between the reimbursements made and the approved state Medicaid plan, and adjusted for any approved capitalized additions or replacements. Any leased facility operated as an intermediate care facility for the mentally retarded prior to July 1, 1979, will be reimbursed to the extent that the property cost exceed the upper limit of the multiple regression formula.

AMENDATORY SECTION (Amending Order 2150, filed 9/17/84)

WAC 275-38-886 SETTLEMENT. (1) ((~~For the~~)) Effective January 1, 1985, a contractor's resident care and habilitation ((~~services~~)) cost center((~~, food cost center, administration and operations cost center, and property cost center,~~)) payment ((~~to contractors~~)) shall ((~~not exceed~~)) be the lower of ((~~the~~)) their prospective rate or ((~~audited~~)) allowable cost. ((~~For each cost center specified in this subsection, a settlement shall be calculated at the lower of the prospective rate or audited allowable costs, except as otherwise provided in this section~~)) A contractor's administration, operations and property cost center payment shall be their prospective rate. A contractor's return on equity payment shall be their prospective rate.

(2) ((~~For calendar year 1981 and subsequent years, in determining a contractor's settlement, if allowable costs were less than the rate in any cost center, savings will be shifted (or "transferred") to cover any deficit in another cost center.~~

~~(a) The amount shifted may not exceed twenty percent of the rate in the cost center into which the shift is made.~~

~~(b) No saving may be shifted in the property or return on equity cost centers.~~

~~(c) Effective July 1, 1984, no saving may be shifted out of the resident care and habilitative services cost center~~)) A contractor's resident care and habilitation cost center payment shall be determined by the settlement procedure prescribed in this section.

(3) The settlement process shall consist of a preliminary settlement and a final settlement.

(4) The preliminary settlement process will be as follows:

(a) Providers are required to submit a proposed settlement report with the cost report.

(b) Within one hundred twenty days after receipt of the proposed settlement, the department shall verify the accuracy of the proposal and shall issue a preliminary settlement substantiating refunds, underpayments, and overpayments.

(5) The final settlement process will be as follows:

(a) After completion of the audit process, including exhaustion or mutual termination of reviews and appeals of audit findings or determinations, the department will submit a final settlement report to the contractor fully substantiating disallowed costs, refunds, underpayments, or adjustments to the contractor's financial statements, cost report, and final settlement.

(b) Where the contractor is pursuing judicial or administrative review or appeal in good faith regarding audit findings or determinations, the department may issue a partial final settlement to recover overpayments based on audit adjustments not in dispute.

(c) A preliminary settlement as issued by the department will become the final settlement if no audit is to be conducted.

(6) Repayment of amounts owed the department shall be as follows:

(a) The contractor shall have thirty days after the date the preliminary or final settlement report is submitted to the contractor to contest a settlement determination under WAC 275-38-960. After the thirty-day period has expired, a preliminary or final settlement will not be subject to review.

(b) A contractor found to have received either overpayments or erroneous payments under a preliminary or final settlement shall refund such payments to the state within thirty days after the date of the preliminary or final settlement report is submitted to the contractor.

(c) In the event the contractor fails to make repayment in the time provided in subsection (6)(b) of this section, the department shall either:

(i) Deduct the amount of refund due plus assessment of interest, at the rate of one percent per month on the unpaid balance, from payment amounts due the contractor; or

(ii) In the instance the contract has been terminated:

(A) Deduct the amount of refund due plus an assessment of interest, at the rate of one percent per month on the unpaid balance, from any payments due; or

(B) Assess the amount due plus interest, at the rate of one percent per month on the unpaid balance, on the amount due.

(iii) Interest on the unpaid balance owed the department shall begin to accrue on the thirty-first day following receipt of written notification to the contractor of the amount owed the department.

(d) Where the facility is pursuing timely filed judicial or administrative remedies in good faith regarding settlement issues, the contractor need not refund nor shall the department withhold from the facility current payment amounts the department claims to be due from the facility but which are specifically disputed by the contractor. If the judicial or administrative remedy sought by the facility is not granted after all appeals are exhausted or mutually terminated, the facility shall make payment of such amounts due plus interest accrued from the date of filing of the appeal, as payable on judgments, within sixty days of the date such decision is made.

(7) Payment of amounts owed the contractor shall be as follows: The department shall make payment of any underpayments within thirty days after the date the settlement report is submitted to the contractor.

WSR 85-03-008
PROPOSED RULES
HIGHER EDUCATION PERSONNEL BOARD
[Filed January 4, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Higher Education Personnel Board intends to adopt, amend, or repeal rules concerning:

Amd	WAC 251-09-040	Shift differential, to increase the rate of shift differential to 50 cents per hour for any employee working a majority of the time between 5:00 p.m. and 7:00 a.m.
Amd	WAC 251-10-120	Dismissal—Grounds for—Notice, to clarify the procedure for taking dismissal and separation actions;

that the agency will at 9:00 a.m., Friday, February 15, 1985, in the Bookstore Conference Room, Everett Community College, Everett, 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 28B.16.100.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 15, 1985.

Dated: January 4, 1985
By: John A. Spitz
Director

STATEMENT OF PURPOSE

This statement is related to the notice filed with the code reviser on January 4, 1985, and is filed pursuant to RCW 34.04.025.

Rule Affected: WAC 251-09-040 Shift differential.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rules: To establish the rate for and conditions under which shift differential will be paid.

Summary of Proposed Changes: To increase the rate of shift differential to 50 cents per hour for any employee working a majority of the time between 5:00 p.m. and 7:00 a.m.

Agency Person Responsible for Rule: John Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

Organization Proposing Change: Washington Federation of State Employees.

The agency makes no additional comments/recommendations.

The change is not the result of federal law or state court action.

Rule Affected: WAC 251-10-120 Dismissal—Grounds for—Notice.

Statutory Authority: RCW 28B.16.100 to implement the provisions of that section.

Purpose of Existing Rules: To establish the grounds and notice requirements for dismissal actions.

Summary of Proposed Changes: To clarify the procedure for taking dismissal and separation actions. Note: In April 1983, these proposed housekeeping changes were adopted by the board, but were inadvertently omitted from the text subsequently filed with the code reviser. As a result, the board must readopt the language to conform with code reviser requirements.

Agency Person Responsible for Rule: John Spitz, Director, Higher Education Personnel Board, 1202 Black Lake Boulevard, FT-11, Olympia, WA 98504, scan 234-3730 or 753-3730.

Organization Proposing Change: Higher Education Personnel Board staff.

The agency makes no additional comments/recommendations.

The change is not the result of federal law or state court action.

AMENDATORY SECTION (Amending Order 62, filed 8/30/77, effective 10/1/77)

WAC 251-09-040 SHIFT DIFFERENTIAL. (1) Shift differential for employees assigned to ((~~an afternoon~~)) a shift in which the majority of time worked((;)) daily or weekly((;)) is between 5:00 p.m. and ((~~12:00 midnight~~)) 7:00 a.m. shall be((:

~~(a) $.18 per hour or $31.00 per month;~~

~~(b) Registered nurses – $.24 per hour or $42.00 per month.~~

~~(2) Shift differential for employees assigned to a night shift in which the majority of time worked, daily or weekly, is between 12:00 midnight and 7:00 a.m. shall be:~~

~~(a) $.22 per hour or $38.00 per month;~~

~~(b) Registered nurses – $.22 per hour or $38.00 per month~~)) $.50 per hour.

((~~(3)~~)) (2) Shift differential shall be paid for the entire daily or weekly shift which qualifies under subsection (1) ((~~or (2) above~~)) of this section. Shift differential may also be computed and paid at the above monthly rate for employees permanently assigned to a qualifying afternoon or night shift.

((~~(4)~~)) (3) An employee assigned to a shift that qualifies for shift differential pay shall receive the shift differential for authorized periods of paid leave.

((~~(5)~~)) (4) When an employee is regularly assigned to an afternoon or evening shift that qualifies for shift differential, he/she shall continue to receive the shift differential during temporary assignment, not to exceed five working days, to a shift that does not qualify for shift differential.

((~~(6)~~)) (5) Shift differential shall not apply to police officers where salaries are correlated with a rotating shift in accordance with local prevailing rate practice.

AMENDATORY SECTION (Amending Order 105, filed 4/29/83, effective 6/1/83)

WAC 251-10-120 DISMISSAL—GROUNDS FOR—NOTICE. Appointing authorities may dismiss or separate a permanent employee for just cause as specified in WAC 251-10-110. The employee shall be provided written notice of the specified cause(s), specific charges, and the right to appeal the dismissal action to the board. The notice shall be furnished at least fifteen calendar days prior to the effective date of the action (unless the dismissal is to be effective immediately as provided in WAC 251-10-140) and shall be furnished directly to the employee during his/her scheduled working hours, or if this is not possible because of the absence of the employee ((~~on~~)) during his/her regularly scheduled working ((~~day~~)) hours, mailed by certified letter to the employee's last known address. If the notification is furnished directly to the employee, the day it is furnished shall be counted as a day of notice. If the notification is mailed, the notice shall be considered received the same day as it is postmarked and the notice period shall be computed as provided in WAC 251-04-100. A copy of the notice to the employee shall be transmitted to the director.

WSR 85-03-009
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
[Memorandum—January 3, 1985]

The Washington State Human Rights Commission will conduct a special meeting by conference call on January 9, 1985, to discuss compensation of public officials. An executive session will be called to discuss personnel matters if necessary. The call will originate in the Olympia office beginning at 10:30 a.m.

WSR 85-03-010
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
[Memorandum—December 20, 1984]

The Washington State Human Rights Commission will conduct a special meeting, executive session only, to discuss personnel matters on December 24, 1984. The meeting will be held by conference call which will originate in the Olympia office beginning at 10:00 a.m.

WSR 85-03-011
ADOPTED RULES
1989 CENTENNIAL COMMISSION
[Resolution No. 84-2—Filed January 4, 1985]

Be it resolved by the 1989 Washington Centennial Commission, acting at Olympia, that it does adopt the annexed rules relating to administrative procedures of the commission including scheduling of meetings, minutes, personnel actions, contracting, etc.

This action is taken pursuant to Notice No. WSR 84-20-094 filed with the code reviser on October 3, 1984. 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 1989 Washington Centennial Commission as authorized in chapter 27.60 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 November 12, 1984.

By Ralph Munro
Chairman

Chapter 100-100 WAC
CENTENNIAL COMMISSION

NEW SECTION

WAC 100-100-010 THE 1989 WASHINGTON CENTENNIAL COMMISSION—DESCRIPTION. On November 11, 1989, Washington state will celebrate one hundred years of statehood.

The 1989 Washington centennial commission is the agency charged with the development of a comprehensive program for commemorating and celebrating the one hundredth anniversary of Washington's admission to the United States of America in 1889.

The commission consists of fifteen members. Eleven of the members serve as citizen members, appointed by and serving at the pleasure of the governor. The chairperson is appointed by the governor from among the citizen members. Two members are appointed by the speaker of the house of representatives and two members are appointed by the president of the senate.

The commission establishes plans, sets overall centennial program policies and appoints the commission's director.

The commission's major purpose and goal is to develop a program to celebrate the centennial of Washington's admission to the union. The program will encourage the active participation of all interested communities and citizens, and be representative of the contributions of all peoples and cultures to Washington's history as a state. The program will include special events, cultural and historical programs and displays, publications, and scholarly projects, and a variety of similar programs. The commission is particularly desirous of ensuring program elements of long-term value, and, to that end, proposes major centennial funding for the restoration, preservation, development and maintenance of programs and projects with enduring value.

NEW SECTION

WAC 100-100-020 COMMISSION DUTIES. The commission's mandate is to:

(1) Develop a comprehensive plan and program for celebrating the centennial of Washington's admission to the union:

(a) Representing the contributions of all people and cultures to Washington state history; and

(b) Designed to encourage and support participation by every community in the state;

(2) Prepare a report to the governor and the legislature incorporating recommendations of programs and activities for the centennial celebration, no later than December 1 of each year, and including but not limited to:

(a) Restoration of historic properties with emphasis on those properties appropriate for use in the observance of the centennial;

(b) State and local historic preservation programs and activities;

(c) Publications, films and other educational materials, emblems, decals, and/or other symbols;

(d) Bibliographical and documentary projects;

(e) Conferences, lectures, seminars, and other educational programs;

(f) Concerts, dramas, readings, athletic contests, and other participatory activities;

(g) Museum, library, cultural center, and park exhibits, including mobile exhibits; and

(h) Ceremonies and celebrations;

(3) Develop biennial funding proposals for presentation to the legislature, including but not limited to:

(a) A specific proposal for issuance of general obligation bonds;

(b) Development of fund-raising plans requiring legislative authority for this commission to conduct:

(i) Sale of books, documents, and other materials to be published by this commission and/or by contract with private publishers;

(ii) Franchise of uses of emblems, decals, or other symbols;

(iii) Development of subscriptions at various levels; and/or

(iv) Other fund-raising activities or enterprises;

(4) Cooperate with, and coordinate the activities of, state agencies, local governments, historical societies, regional/community/neighborhood groups, nonprofit associations, corporations, labor unions, and other organizations in development of state, regional and local plans for the centennial celebrations, for capital projects both new and especially restorative, and other projects and activities, and assist the foregoing organizations with plans for raising the revenue necessary for their implementation;

(5) Develop a plan of matching grants for historic preservation projects, museums, libraries, parks, and/or other state, regional and local projects intended to be legacies to succeeding generations;

(6) Develop recommendations for matching grants to historic societies, museums, libraries, parks, maritime organizations, and other state, regional and/or local agencies and/or other nonprofit private organizations for exceptional or innovative activities marking the centennial; determine the level of and/or award such grants as may be authorized by statute or executive order;

(7) Sponsor and cooperate with other organizations sponsoring composition of centennial music, creation of works in the plastic arts, drama, fiction, poetry, and other audio-visual media;

(8) Sponsor and cooperate with other organizations sponsoring fun and games, athletic contests, and other participatory activities designed to elicit the widest possible interest in the celebration of the centennial;

(9) Appoint and employ a director and such other personnel as may be required to accomplish the objectives and purposes enumerated herein;

(10) Adopt a preliminary budget for approval of the governor and the legislature and a final budget which complies with legislative appropriations and governor's directives;

(11) Compile and use regularly the widest possible mailing list, including news media, historic societies, government agencies, relevant community groups, and other organizations not only for the purpose of generating interest in the centennial celebration but also as a means of conducting commission business in a public manner;

(12) Establish and maintain close working rapport with the other states whose centennials will occur in 1989;

(13) Establish standing and ad hoc committees as necessary;

(14) Prepare and publish a final report to the legislature and the governor no later than December 31, 1990; and

(15) Conclude commission business on December 31, 1990, in an orderly manner and turn over all documents, records, furniture, equipment, and other assets in accordance with directives from the legislature and governor.

NEW SECTION

WAC 100-100-030 ORGANIZATION. (1) Officers. The officers of the commission shall be chairman, vice chairman, and director who shall function as the secretary of the commission. The chairman is appointed by the governor. The vice chairman shall be a citizen member of the commission, and shall be elected for one year terms by the commission.

(2) Duties of officers.

(a) The chairman shall preside at all meetings of the commission, shall act as an ex officio member of all standing committees, and shall perform such other duties as pertain to the office.

The chairman shall also act as principal spokesman for the commission, appoint standing and ad hoc committees, remove members of committees on the concurrence of two-thirds majority of the commission, and provide a regular report to the commission on the status of the commission's work.

The chairman shall be responsible for the appointment, supervision, and termination of the director, with the concurrence of a two-third majority of the commission prior to action.

(b) The vice chairman shall perform the duties of the chairman in his absence, shall act as an ex officio member of all standing committees and perform any other duties delegated by the chairman or commission.

(c) The director, in addition to duties assigned elsewhere in these rules or by the commission, shall keep a record of the proceedings of the commission, notify all commission members of meetings, and perform such other duties as may be delegated by the chairman or the commission.

(3) Term of office. Term of office for the vice chairman shall be one year beginning July 1 and ending June 30.

(4) Election of officers and committee appointments.

(a) The nominating committee shall present nominations for vice chairman.

(b) The chairman shall appoint a nominating committee no later than April. The nominating committee shall consist of three citizen members and two members from the legislative membership of the commission.

(c) The nominations shall be presented and elections held at the commission's May meeting. The vice chairman shall be elected by majority vote.

(d) Committee appointments to the various standing and ad hoc committees will be made by the chairman in June of each year, and from time to time as the commission's business may require, by and with the advice and consent of the commission.

(5) As used in this chapter, the terms chairman and vice chairman shall refer to persons of either sex.

NEW SECTION

WAC 100-100-040 MEETINGS. (1) Regular meetings. The commission shall meet at least four times each year and at such other times as determined by the chairman, vice chairman or by a majority of the members.

(2) Place of meetings. The meetings of the commission may be held at any place as determined by the chairman.

(3) Notice. Twenty days notice of all meetings shall be given by mailing a copy of the notice and draft agenda to each member and to any person who has made written request to the commission.

(4) Special meetings. The twenty-day notice may be waived for special or emergency meetings upon consent of a majority of the commission. In such cases, the provisions of RCW 42.30.080 will govern due notification of the time, place and business to be transacted.

(5) Executive sessions. An executive session may be called by the chairman or a majority of the commission. No official actions shall be taken at executive sessions which shall be binding without formal action at a regular or special meeting of the commission. Executive sessions shall deal only with matters authorized by RCW 42.30.110.

(6) Agenda. The agenda shall be prepared by the director in consultation with the chairman. Items submitted by commission members to the director at least twenty-five days prior to the commission meetings shall be included on the agenda. Each agenda shall also include provision for public participation.

(7) Attendance of commission members. Each member of the commission is expected to attend all commission and assigned committee meetings. In the event that a member is unable to attend a scheduled meeting, he or she is requested to provide the chairman or the director with the reasons for the absence. If attendance by a legislative member is not possible, a representative may be sent who will be afforded full speaking privileges but shall not be able to move or second motions or vote. In the event of three consecutive absences of a member from regular meetings as described in WAC 100-100-040(1), the chairman shall notify the governor of such absences, in writing, with copies to all members.

(8) Voting procedures. Voting procedures for the commission shall be as follows:

(a) All fifteen members shall have the right to vote.

(b) A quorum shall consist of seven members or two-thirds of the current membership of the commission, whichever is smaller.

(c) The chairman shall have the right to vote on all matters coming before the commission. In the case of a tie, the matter shall be referred to committee for further consideration.

(d) A roll call vote shall be taken on any matter at the request of a member.

(e) There shall be no proxy voting.

(9) Minutes. Insofar as practicable, minutes of all meetings shall be distributed to the members within five days following each meeting.

(10) Public attendance. All regular and special meetings shall be open to the public. All executive sessions shall be closed to the public.

(11) Press releases. All press releases and information concerning commission activities shall be released by the chairman or director except as otherwise authorized.

(12) Public participation. Any person(s) or organization wishing to make a formal presentation at a meeting of the commission shall notify the director in writing at least forty-eight hours prior to the time of the meeting. Such notification shall contain the person's or organization's name, address, and the topic to be presented to the commission.

(13) The chairman may, at his discretion, recognize anyone in the audience who indicates at the time of the meeting a desire to speak, provided that reasonable time limits for such remarks may be established.

(14) Except as otherwise provided herein, Roberts Rules of Order Newly Revised shall serve as parliamentary authority for meetings of the commission or committees thereof insofar as not inconsistent with law.

(15) The Open Public Meetings Act, chapter 42.30 RCW, shall govern the proceedings of the commission.

NEW SECTION

WAC 100-100-050 COMMITTEES. (1) Executive committee.

(a) There shall be an executive committee which shall consist of the chairman, vice chairman, and a third member to be elected by the commission, and shall transact such business as may be necessary between meetings, provided that the executive committee shall

not obligate the commission for expenditures exceeding ten thousand dollars.

(b) Minutes of executive committee meetings will be signed by each member of the executive committee present and circulated to the commission at or before the next regular meeting.

(2) Budget and finance committee. This committee shall be composed of not less than three citizen members and one legislative member. The committee shall assist the commission in the management of its financial affairs, including policy guidance for and approval of biennial budgets, project budgets, review and approval of revenue, contract and grant programs, and general accounting and fiscal overview of the agency.

(3) Administration and personnel committee. This committee shall be composed of not less than three citizen members and one legislative member. The committee shall assist the commission in the management administration of its work, including serving as a screening committee for the selection of the director, establishment of personnel policies, and review of any performance evaluation or disciplinary action with respect to the director.

(4) In addition, the commission may establish such other committees, including internal audit, as may be necessary and appropriate from time to time.

(5) Each committee member shall serve for a term of one year and may be reappointed. Vacancies in any committee shall be filled in the same manner as provided in the original appointment.

NEW SECTION

WAC 100-100-060 PERSONNEL. (1) Director. The chairman shall appoint a director as provided in WAC 100-100-030 (2)(a). The director shall be the executive officer of the commission, and, under the administrative direction of the commission, plan, organize, coordinate, and direct all staff support activities for the commission and its committees; act as liaison between the commission and other agencies and persons; serve as secretary to the commission; be responsible for administering any program or directive of the commission; control, manage, and supervise the staff personnel of the commission; manage necessary administrative functions such as facilities, services, procurement, accounting and payroll functions, and travel expense reimbursement; prepare the budget and allotments, which will be reviewed and approved by the commission; and perform such other duties as may be assigned. The director shall be an exempt position.

(2) Staff. In addition to the director, the commission may employ such other assistants and employees as may be required.

(3) Legal advisor. The attorney general serves as legal advisor to the commission.

NEW SECTION

WAC 100-100-070 OUTSIDE RESOURCES. (1) The commission encourages the use of other state agencies, employees, and outside groups to implement and support the 1989 centennial.

(2) The commission may, from time to time, provide nonfinancial, organizational support and assistance to individuals and groups in the formative stages in order to facilitate the creation of the organizations with structure and characteristics suited to the operation of one or more activities in celebration of the centennial.

(3) The commission may contract with other agencies, persons, and groups in appropriate manner, to accomplish commission activities, in accordance with state law.

NEW SECTION

WAC 100-100-080 PUBLIC RECORDS. The commission's public records shall be in the charge of the director, who shall act as public records officer pursuant to RCW 42.17.310. The commission hereby adopts by reference the records request procedures outlined in chapter 1-06 WAC except that all references to the code reviser shall be deemed to refer to the commission or its chairman.

No fee shall be charged for the inspection of public records. The commission shall charge a fee of twenty-five cents per page, plus necessary postage, for providing copies of public documents, and five dollars for certification if requested.

NEW SECTION

WAC 100-100-090 TRAVEL EXPENSES. (1) Commissioners' travel expenses shall be reimbursed, upon submission of proper voucher, pursuant to RCW 27.60.030.

(2) The director's travel, and other expense reimbursement permitted by state law, shall be approved by the chairman, and other staff travel and expense reimbursement request shall be approved by the director.

NEW SECTION

WAC 100-100-100 INVITATION TO THE PUBLIC. The commission enthusiastically believes the 1989 centennial of Washington's statehood should be an event celebrated by, enjoyed by, participated in, and positively affecting the greatest number and variety of Washingtonians as possible — young, old, of varied ethnic and cultural backgrounds and interests. The commission encourages and actively seeks citizen input, thoughts, and suggestions, to the end that, in 1989, all Washingtonians can join in and say "CELEBRATE! '89" — our state's past and its future.

WSR 85-03-012
NOTICE OF PUBLIC MEETINGS
COMMISSION ON ASIAN AMERICAN AFFAIRS
[Memorandum—December 26, 1984]

Correction to 1985 Meeting Schedule

Our December 10 notice containing the 1985 regular meeting schedule of the Washington State Commission on Asian American Affairs inadvertently listed the September 21 meeting to be held in Spokane. The location

that should have been indicated for that date was Tacoma.

WSR 85-03-013
NOTICE OF PUBLIC MEETINGS
HOSPITAL COMMISSION
[Memorandum—January 4, 1985]

The State Hospital Commission will meet in Seattle at the Seattle Airport Hilton on Thursday, January 24, 1985, at 9:30 a.m. The hospitals scheduled for informal hearing have previously filed with the commission their annual budget and rate requests and their requests for amendments to their previously approved budget and rates. Staff findings and recommendations will be transmitted to the scheduled hospitals and to members of the Hospital Commission in accordance with WAC 261-20-135. Such information is on file in the commission's office and is available for inspection.

Meetings of the State Hospital Commission are also scheduled for February 14, 1985, at the Seattle Airport Hilton and February 28, 1985, at the Vance Airport Inn.

WSR 85-03-014
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
[Memorandum—January 3, 1985]

Board of Trustees
Proposed 1985 Meeting Schedule

Date	Time	Location
Thursday, January 24	10:00 a.m.	Pence Union Building Council Chambers, EWU
Thursday, February 28	10:00 a.m.	Higher Education Center Spokane, WA
Thursday, March 21	10:00 a.m.	Pence Union Building Council Chambers, EWU
Thursday, April 25	10:00 a.m.	Higher Education Center Spokane, WA
Thursday, May 23	10:00 a.m.	Pence Union Building Council Chambers, EWU
Thursday, June 27	10:00 a.m.	Pence Union Building Council Chambers, EWU
Thursday, July 25	10:00 a.m.	Higher Education Center Spokane, WA
Thursday, September 26	10:00 a.m.	Pence Union Building Council Chambers, EWU
Thursday, October 24	10:00 a.m.	Higher Education Center Spokane, WA
Thursday, December 5	10:00 a.m.	Pence Union Building Council Chambers, EWU

WSR 85-03-015
NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGE DISTRICT
[Memorandum—January 3, 1985]

The regular meeting of the Seattle Community College District VI board of trustees scheduled for Monday, January 7, 1985, has been cancelled.

The board of trustees will hold a special meeting on Monday, January 14, 1985, at 4:00 p.m., with King County boards of trustees, at South Seattle Community College, 6000 16th Avenue S.W., Seattle, WA 98106. At 7:00 p.m., the Seattle Community College District VI board of trustees will hold their meeting following the King County boards of trustees meeting at South Seattle Community College.

WSR 85-03-016
ADOPTED RULES
OIL AND GAS CONSERVATION COMMITTEE
[Order 5, Resolution No. 9—Filed January 7, 1985]

Be it resolved by the Oil and Gas Conservation Committee, acting at Olympia, Washington, that it does adopt the annexed rules relating to State Environmental Policy Act procedures and policies for the Oil and Gas Conservation Committee.

This action is taken pursuant to Notice No. WSR 84-21-107 filed with the code reviser on October 23, 1984. 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 43.21C-.120 which directs that the Oil and Gas Conservation Committee has authority to implement the provisions of chapter 43.21C RCW, State Environmental Policy Act.

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 December 20, 1984.

By Stephen M. Ringhoffer
Chairman

CHAPTER 344-18 WAC
GUIDELINES INTERPRETING AND IMPLEMENTING THE STATE ENVIRONMENTAL POLICY ACT

NEW SECTION

WAC 344-18-010 AUTHORITY. These rules are promulgated under RCW 43.21C.120 (the State Environmental Policy Act) and chapter 197-11 WAC (SEPA rules).

NEW SECTION

WAC 344-18-020 ADOPTION BY REFERENCE. Except as modified by this chapter, the committee adopts the SEPA rules, chapter 197-11 WAC, adopted by the Washington department of ecology as modified or amended from time to time.

NEW SECTION

WAC 344-18-030 PURPOSE. This chapter implements the state-wide rules in chapter 197-11 WAC as they apply to the committee.

NEW SECTION

WAC 344-18-040 ADDITIONAL DEFINITIONS. In addition to the definitions contained in WAC 197-11-700 through 197-11-799, the following terms shall have the listed meanings:

(1) Commissioner means the commissioner of public lands who is the administrator of the department of natural resources as established by chapter 43.30 RCW.

(2) Committee means the oil and gas conservation committee.

(3) Department means the Washington state department of natural resources, acting solely as the designated agent of the committee, subject to the direction and control of the committee. All functions carried out under these rules by the department shall be considered those of the committee. Such functions may be directly performed by the committee.

(4) Environmental coordinator means the person who coordinates SEPA compliance procedures for the department and the committee.

(5) Supervisor means the state oil and gas supervisor who is designated by the department and is charged with duties as may be delegated by the department.

NEW SECTION

WAC 344-18-055 TIMING OF THE SEPA PROCESS. (1) Distribution to planning commissions and advisory bodies. Environmental documents required to be submitted to the department of ecology under provisions of WAC 197-11-508 will also be submitted to affected planning commissions and similar advisory bodies within the respective time frames as established by these rules and chapter 197-11 WAC.

(2) Timing of review of proposals. Environmental review will be made upon receipt of a completed license application and environmental checklist.

(3) Additional timing considerations.

(a) Department staff receiving a license application will determine whether the proposal is an "action" and if so, whether it is "categorically exempt" from SEPA. If the proposal is an action and is not exempt, the staff person will ask the applicant to complete an environmental checklist. A checklist is not needed if the department and applicant agree an EIS is required, SEPA compliance has been completed, SEPA compliance has been initiated by another agency, or a checklist is included with the application.

(b) If an action is a decision on a license which requires detailed project plans and specifications, the department shall provide, upon request by the applicant, preliminary environmental review prior to submittal of detailed plans and specifications. This preliminary review will be advisory only and not binding on the department. Final review and determination will be made only upon receipt of detailed project plans and specifications if these are essential to a meaningful environmental analysis.

NEW SECTION

WAC 344-18-350 MITIGATED DNS. (1) An applicant may ask the department whether issuance of a DS is likely for a proposal. This request for early notice must:

(a) Be written;

(b) Follow submission of a license application and environmental checklist for a nonexempt proposal for which the department is lead agency; and

(c) Precede the department's actual threshold determination for the proposal.

(2) The responsible official or designee shall respond to the request; the response shall:

(a) Be written;

(b) State whether the department is considering issuance of a DS;

(c) Indicate the general or specific area(s) of concern that led the department to consider a DS; and

(d) State that the applicant may change or clarify the proposal to mitigate the impacts indicated in the letter, revising the environmental checklist as necessary to reflect the changes or clarifications.

(3) The department shall not continue with the threshold determination until receiving a written response from the applicant changing or clarifying the proposal or asking that the threshold determination be based on the original proposal.

(4) If the applicant submits a changed or clarified proposal, along with a revised environmental checklist, the department will make its threshold determination based on the changed or clarified proposal.

(a) If the department's response to the request for early notice indicated specific mitigation measures that would remove all probable significant adverse environmental impacts, and the applicant changes or clarifies the proposal to include all of those specific mitigation measures, the department shall issue a determination of nonsignificance and circulate the DNS for comments as in WAC 197-11-340(2).

(b) If the department indicated general or specific areas of concern, but did not indicate specific mitigation measures that would allow it to issue a DNS, the department shall determine if the changed or clarified proposal may have a probable significant environmental impact, issuing a DNS or DS as appropriate.

(5) The department or the committee may specify mitigation measures that would allow it to issue a DNS without a request for early notice from an applicant. If it does so, and the applicant changes or clarifies the proposal to include those measures, the department shall issue a DNS and circulate it for review under WAC 197-11-340(2).

(6) When an applicant changes or clarifies the proposal, the clarifications or changes may be included in written attachments to the documents already submitted. If the environmental checklist and supporting documents would be difficult to read and/or understand because of the need to read them in conjunction with the

attachment(s), the department may require the applicant to submit a new checklist.

(7) The department may change or clarify features of its own proposals before making the threshold determination.

(8) The department's written response under subsection (2) of this section shall not be construed as a determination of significance. In addition, preliminary discussion of clarifications or changes to a proposal, as opposed to a written request for early notice, shall not bind the department to consider the clarification or changes in its threshold determination.

(9) When an applicant submits a changed or clarified proposal pursuant to this section, it shall be considered part of the applicant's application for a license for all purposes, including enforcement of the license. Unless the department's decision expressly states otherwise, when a mitigated DNS is issued for a proposal, any decision approving the proposal shall be based on the proposal as changed or clarified pursuant to this section.

NEW SECTION

WAC 344-18-420 EIS PREPARATION. For draft and final EISs and SEISs:

(1) Normally, the department will prepare EISs for its own proposals.

(2) For applicant proposals, the department normally will require the applicant to prepare or help prepare the EIS at the applicant's expense, under provisions of these rules and chapter 197-11 WAC.

(3) The department may require an applicant to provide information that the department does not possess, including specific investigations. The applicant is not required to supply information that is not required under these rules.

NEW SECTION

WAC 344-18-504 AVAILABILITY AND COSTS OF ENVIRONMENTAL DOCUMENTS. (1) SEPA documents required by these rules shall be retained by the department at the department's SEPA public information center.

(2) The department shall make copies of environmental documents available in accordance with chapter 42-.17 RCW, charging only those costs allowed plus mailing costs. Allowable costs for environmental documents may be indicated in the documents and made payable to the department.

NEW SECTION

WAC 344-18-510 PUBLIC NOTICE REQUIREMENTS. (1) The department shall give public notice when issuing a DNS under WAC 197-11-340(2), a mitigated DNS under WAC 344-18-350, a scoping notice under WAC 344-18-360, or a draft EIS under WAC 197-11-455.

(2) Whenever possible, the department shall integrate the public notice required under this section with existing notice procedures for the required license.

(3) The department shall use one or more of the following reasonable methods of public notice, taking into consideration the geographic area affected by the proposal, the size and complexity of the proposal, the public notice requirements for the license, public interest expressed in the proposal, and whether the proposal is a project or regulation:

(a) Notifying persons or groups who have expressed interest in the proposal, in the type of proposal, or proposals in the geographic area in which the proposal will be implemented if approved;

(b) Publication in a newspaper of general circulation in the area in which the proposal will be implemented; and/or

(c) Posting the property.

(4) The department may require an applicant to perform the public notice requirement at his or her expense.

NEW SECTION

WAC 344-18-665 POLICIES FOR CONDITIONING OR DENYING LICENSES. (1) Policies – General. The committee adopts by reference policies of the State environmental policy act as expressed in RCW 43.21C.020.

(2) Policies – Specific. The committee and the department recognize the need to protect the public from oil and gas drilling effects such as but not limited to the contamination of the ground water, the surface water, the possibility of a blowout, fire hazards, drilling fluids contamination, and surface disturbance. The decisionmaker may, when necessary, condition any license to mitigate specific adverse environmental impacts identified in an environmental document on a proposal. The decisionmaker may deny a license for a proposal if reasonable mitigation measures are insufficient to mitigate significant adverse environmental impacts and denial is consistent with the oil and gas conservation act, the State environmental policy act, and the public interest.

NEW SECTION

WAC 344-18-910 DESIGNATION OF RESPONSIBLE OFFICIAL. (1) The responsible official for any action taken by the committee or department in connection with the implementation of chapter 78.52 RCW shall be the supervisor.

NEW SECTION

WAC 344-18-950 SEVERABILITY. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

WSR 85-03-017
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 257—Filed January 8, 1985]

Be it resolved by the Washington State Game Commission, acting at Olympia, (conference call), that it

does adopt the annexed rules relating to regulation change for sport fishing on the Samish River system, WAC 232-28-61406.

We, the Washington State Game 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 the wild steelhead run is projected to be less than the established spawning escapement objective. All further catches must be limited to hatchery origin steelhead.

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

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 December 20, 1984.

By Vern E. Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-28-61406 REGULATION CHANGE FOR SPORT FISHING ON THE SAMISH RIVER SYSTEM. Notwithstanding the provisions of WAC 232-28-614 on the Samish River system, only steelhead with dorsal fins equal to or less than 2.0" in height, as measured while extended, or with missing adipose or ventral fins may be reduced to possession. It is unlawful to possess a steelhead with a dorsal fin measuring greater than 2.0" in height or to possess a steelhead with a freshly cut or mutilated fin effective January 8, 1985 through March 31, 1985.

WSR 85-03-018
ADOPTED RULES
OIL AND GAS CONSERVATION COMMITTEE
[Order 6, Resolution No. 10—Filed January 8, 1985]

Be it resolved by the Oil and Gas Conservation Committee, acting at Olympia, Washington, that it does adopt the annexed rules relating to the implementation, administration and enforcement of the Oil and Gas Conservation Laws, amending chapter 344-12 WAC.

This action is taken pursuant to Notice No. WSR 84-22-041 filed with the code reviser on November 6, 1984. 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 78.52.050 which directs that the Oil and Gas Conservation Committee has authority to implement the provisions of the Oil and Gas Conservation Act, chapter 78.52 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 December 20, 1984.

By Stephen M. Ringhoffer
Chairman

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-015 RULE MAKING. Notice of the intent to and the adoption of rules and regulations and their effective date shall be as provided in chapter 34.04 RCW, and RCW 78.52.050. An oral hearing shall be held for proposed rules and regulations.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-030 HEARINGS—PLACE OF—CONTINUANCES—ACTION ON. (1) Hearings shall be held in Olympia, Washington unless otherwise ordered by the ((~~committee~~)) chairman. After notice of hearing is once given, the hearing may be continued to another day and from day to day and place to place by order of the committee.

(2) Except as otherwise provided by law, upon receipt of a proper request or application for hearing, the committee shall, if in its judgment a hearing is warranted and justifiable, promptly call a hearing, and after such hearing and with all convenient speed, and in any event within twenty days after the conclusion of the hearing, shall take action with regard to the subject matter thereof.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-035 ADMINISTRATIVE ((~~HEAD~~)) AGENT. The ((~~manager, division of geology and earth resources,~~)) department of natural resources((~~; shall be ex officio the state oil and gas supervisor, and shall be~~)) is the designated agent of the committee for the purpose of carrying out the ((~~provisions of the~~)) Oil and Gas Conservation Act. ((~~He~~)) It shall be charged with the duty of administering and enforcing this act ((~~and all rules, regulations, and orders promulgated by the committee~~)) consistent with the policies adopted by the committee. It shall administer and enforce the policies adopted by the committee together with all rules and orders adopted and delegated by the committee including but not limited to issuing permits, enforcement action, and other activity authorized under this chapter. The ((~~oil and gas supervisor, with the concurrence of the committee,~~)) department shall ((~~have the authority, and it shall be his duty, to~~)) designate a ((~~deputy or deputies and to employ all personnel necessary to carry out the~~

~~provisions of this act or of the rules, regulations, or orders of the committee~~)) state oil and gas supervisor.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-040 DEFINITIONS. Unless ((~~the~~)) context otherwise requires, the words defined shall have the ((~~following~~)) meaning set forth in RCW 78.52.010 and in the following definitions when found in these rules and regulations, to wit:

(1) "Barrel" ((~~shall~~)) means 42 United States gallons of oil at a temperature of 60 degrees Fahrenheit at atmospheric pressure.

(2) "Blowout" ((~~shall~~)) means an uncontrolled sudden or violent escape of oil, water, gas, or drilling fluid from a well.

(3) "Blowout preventer" ((~~shall~~)) means an effective casinghead control equipped with special gates, rams, and expansion type preventer which can be closed around the drill pipe, or which completely closes the top of the casing when the pipe is withdrawn.

(4) "Bottom-hole pressure" means the pressure in pounds per square inch or bars at ((~~or near the bottom~~)) the producing interval of an oil or gas well determined by ((~~a~~)) means generally recognized as satisfactory by the oil and gas industry.

(5) "Casing pressure" ((~~shall~~)) means the pressure built up between the casing and tubing when the casing and tubing are packed off at the top of the well, or the pressure within the casing.

(6) "Casinghead gas" ((~~shall~~)) means any gas or vapor, or both gas and vapor, indigenous to an oil stratum and produced from such stratum with oil.

(7) "Christmas tree" ((~~shall~~)) means an assembly of valves and fittings at the head of the casing of a well to control the flow. Also spoken of as "well-head connections."

(8) ((~~"Common accumulation" shall mean a geographic area, zone, or horizon definitely separated from any other such area, zone, or horizon and which contains, or from competent evidence appears to contain, a common source of supply of oil or gas or both; any oil or gas field or part thereof which comprises and includes any area which is underlaid or which from geological or other scientific data or experiments or from drilling operations or other evidence appears to be underlaid by a common pool or source of supply of oil or gas or both oil and gas.~~

~~(9)~~)) "Condensate" ((~~shall~~)) means the liquid hydrocarbons recovered at the surface that result from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir.

((~~(10) "Conservation" shall mean conserving, preserving, guarding, or protecting the oil and gas resources of the state by obtaining the maximum efficiency with a minimum waste in the production, transportation, processing, refining, treating, and marketing of the oil and gas resources of the state.~~

~~(11)~~)) (9) "Cubic foot of gas" ((~~shall~~)) means the volume of gas contained in one cubic foot of space at a standard pressure base and a standard temperature base. The standard pressure base shall be 14.73 pounds per square inch absolute and the standard temperature base shall be 60 degrees Fahrenheit. Conversions of values to conform with standard conditions shall be made in accordance with Ideal Gas Laws, corrected for deviation from Boyle's Gas Law when the pressure at the point of measurement is in excess of 200 psi gauge.

((~~(12)~~)) (10) "Day" ((~~shall~~)) means a period of twenty-four consecutive hours from 7:00 a.m. one day to 7:00 a.m. the following day.

((~~(13) "Development" shall mean any work which is involved in bringing in production.~~

~~(14) "Developed area or developed unit" shall mean a subsurface drainage unit having a well completed thereon which is capable of producing oil or gas in paying quantities; however, in the event it be shown, and the committee finds, that a part of any unit is nonproductive, then the developed part of the unit shall include only that part found to be productive.~~

~~(15) "Drainage unit" shall mean the area in a pool which may be drained efficiently and economically by one well.~~

~~(16) "Field" shall mean the general area which is underlain by at least one pool and shall include the underground reservoir or reservoirs containing oil or gas, or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; however, "field," unlike "pool," may relate to two or more pools.~~

~~(17) "Gas" shall mean all natural gas and other fluid or gaseous hydrocarbons not defined as oil (see below), including wet gas, dry gas, and residue gas as those terms are generally understood in the petroleum industry.~~

~~(18)~~)) (11) "Gas allowable" ((~~shall~~)) means the amount of natural gas authorized to be produced by order of the committee.

((~~(19)~~)) (12) "Gas lift" ((~~shall~~)) means any method of lifting liquid to the surface by injecting gas into the wellbore from which production is obtained.

((~~(20)~~)) (13) "Gas-oil ratio" ((~~shall~~)) means the relation of the gas in cubic feet to the production of oil in barrels, measured concurrently for a limited period; i.e. the number of cubic feet of gas as produced, divided by the number of barrels of oil as produced.

((~~(21) "Gas repressuring" shall mean the injection of gas into a common source of supply to restore or increase the energy of a reservoir.~~

~~(22) "Illegal gas" shall mean gas which has been produced within the state of Washington from any well or wells in excess of the amount allowed by any rule, regulation, or order of the committee, as distinguished from gas produced within the state of Washington not in excess of the amount so allowed, which is "legal gas."~~

~~(23) "Illegal oil" shall mean oil which has been produced within the state of Washington from any well or wells in excess of the amount allowed by any rule, regulation, or order of the committee, as distinguished from oil produced within the state of Washington not in excess of the amount so allowed, which is "legal oil."~~

~~(24) "Illegal product" shall mean any product of oil or gas, any part of which was processed or derived, in~~

~~whole or in part, from illegal oil or illegal gas or from any product thereof, as distinguished from "legal product," which is a product not processed or derived from illegal oil or illegal gas.~~

~~(25) "Lessee" shall mean the lessee under an oil and gas lease, or the owner of any land or mineral rights who conducts or carries on any oil and gas development, exploration, and operation thereon, or any person so operating for himself or others.~~

~~(26)~~)) (14) "Ground waters" means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of this state, whatever may be the geological formation or structure in which such water stands or flows, percolates, or otherwise moves (Regulation of public ground waters, chapter 90.44 RCW).

(15) "Month and calendar month" ((~~shall~~)) means the period or interval of time from 7:00 a.m. on the first day of any month of the calendar to 7:00 a.m. of the first day of the next succeeding month of the calendar.

((~~(27)~~)) (16) "Offset operator" ((~~shall~~)) means the operator, owner, or lessee of land contiguous to or cornering on land involved in oil and gas activities.

((~~(28) "Oil" shall mean crude petroleum oil, and any other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods or which are the result of condensation of gaseous hydrocarbons (condensate) before or after they leave the reservoir, other than gas produced in association with oil and commonly known as wet gas.~~

~~(29)~~)) (17) "Oil allowable" ((~~shall~~)) means the amount of oil authorized to be produced by order of the committee.

((~~(30) "Operator" shall mean any person who, duly authorized, is in charge of the development of a lease or the operation of a producing well.~~

~~(31) "Owner" shall mean the person who has the right to drill into and to produce from a field or pool, and to appropriate the production either to himself or for himself and another or others.~~

~~(32)~~)) (18) "Person" ((~~shall~~)) means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or representative of any kind, and any governmental or political subdivision, or any agency thereof including any local state or federal government agency.

((~~(33) "Pool" shall mean an underground reservoir proven to contain a common accumulation of oil or gas, or both. Each zone of a general structure (or field) which is completely separated from any other zone in the structure is covered by the term "pool" as here used.~~

~~(34)~~)) (19) "Pressure maintenance" ((~~shall~~)) means the introduction of gas or fluid to maintain the pressure of a reservoir.

((~~(35)~~)) (20) "Producer" ((~~shall~~)) means the owner or operator of a well or wells capable of producing oil or gas, or both.

((~~(36)~~)) (21) "Product" ((~~shall mean any commodity made from oil or gas, and shall include~~)) has the meaning set forth in RCW 78.52.010 (18). It includes but is not limited to refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naptha, distillate, propane, butane, gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas((~~, whether hereinabove enumerated or not~~)).

((~~(37)~~)) (22) "Purchaser" ((~~shall~~)) means any person who acquires title to oil or gas by purchase from a producer or other person.

((~~(38)~~)) (23) "Reasonable market demand" as to oil, means the amount of oil reasonably needed for current consumption and use, together with a reasonable amount of oil for storage and working stock; and as to gas, the term means the amount of gas of any type reasonably needed to supply the current consumption and use of such type of gas.

((~~(39)~~)) (24) "Reservoir pressure" means the static or stabilized pressure in pounds per square inch gauge existing at the face of the formation in one or more oil or gas wells as determined by commonly accepted engineering principles.

(25) "Separator" ((~~shall~~)) means an accepted field apparatus used in the industry for separating oil, gas, water, etc., with efficiency as it is produced.

((~~(40)~~)) (26) "Shut in pressure" ((~~shall~~)) means the ((~~stabilized~~)) surface pressure noted at the well head ((~~a reasonable time~~)) after the well is completely shut in.

((~~(41)~~)) (27) "State" ((~~shall~~)) means the state of Washington.

((~~(42)~~)) (28) "String" ((~~shall~~)) means a continuous length of connected sections of casing, liner, drill pipe, or tubing run into the well, including all attached equipment.

((~~(43) "Supervisor" shall mean state oil and gas supervisor.~~

~~(44)~~)) (29) "Surface water" ((~~shall~~)) means standing or free flowing fresh water at or above the ground surface, including springs, seeps, intermittent or perennial streams or creeks, rivers, lakes, ponds or wetlands.

((~~(45)~~)) (30) "Tender" ((~~shall~~)) means a permit or certificate of clearance, approved and issued or registered under the authority of the committee, for the transportation of oil, gas, or products.

((~~(46)~~)) (31) "Transporter" ((~~shall~~)) means and include any person engaged in the transportation of oil or gas.

((~~(47) "Waste" in addition to its ordinary meaning, shall mean "physical waste" as that term is generally understood in the petroleum industry, and shall include:~~

~~(a) The inefficient, excessive, or improper use of, or unnecessary dissipation of, reservoir energy; and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well in a manner which results, or tends to result, in reducing the quantity of oil or gas to be recovered from any pool in this state under operations conducted in accordance with good oil field engineering practices;~~

~~(b) The inefficient above ground storage of oil; and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas;~~

~~(c) Producing oil or gas in such a manner as to cause unnecessary water channeling or coning;~~

~~(d) The operation of an oil well with an inefficient gas-oil ratio;~~

~~(e) The drowning with water of any pool or part thereof capable of producing oil or gas, except insofar as, and to the extent, authorized by the committee hereunder;~~

~~(f) Underground waste;~~

~~(g) The creation of unnecessary fire hazards;~~

~~(h) The escape into the open air, from a well producing oil or gas, of gas in excess of the amount which is reasonably necessary in the efficient development or production of the well;~~

~~(i) The use of gas for the manufacture of carbon black, except as provided in RCW 78.52.140.~~

~~(j) Production of oil and gas in excess of the reasonable market demand.~~

~~(48)~~)) (32) "Underground source of drinking water (USDW)" means ground waters which contain fewer than 10,000 mg/L of total dissolved solids or which are obtainable for beneficial uses.

(33) "Waters of the state" means all lakes, rivers, ponds, streams, inland waters, ground waters, salt waters, and all other waters and water courses within the jurisdiction of the state of Washington.

(34) "Well history" or "well record" ((~~shall~~)) means the chronological written record of all operations, including formation tests, water shut-off tests, description of water, oil, or gas encountered in drilling a well, chemical composition and quantities of materials used in the drilling or treating of a well, with such additional information as to gas volumes, pressures, rate of fill-up, water depths, caving strata, casing record, etc., as is usually recorded in the normal procedure of drilling.

((~~(49)~~)) (35) "Well log" ((~~shall~~)) means a systematic, detailed, and correct record of formations encountered in drilling a well, and shall include all electric, radioactivity, and other logs, if run.

((~~(50)~~)) (36) "Wetlands" ((~~shall~~)) means those areas extending landward for two hundred feet (61 meters) in all directions as measured on a horizontal plane from the ordinary high-water mark; and all marshes, bogs, swamps, floodways, river deltas and floodplains associated with or influenced by any stream, river, lake, or tidal water, or combination thereof.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-045 ((~~WELL SPACING~~)) DEVELOPMENT UNITS. ((~~In the absence of an order by~~)) As determined by competent geological, geophysical, engineering, or other scientific testimony, data, and evidence, the committee ((~~setting spacing~~)) shall fix development units for the pool:

(1) No ((~~well drilled for oil shall be drilled upon any tract of land other than a governmental quarter-quarter section or governmental lot corresponding thereto~~)) development unit in pool, deemed by the committee to be an oil reservoir, shall be larger than 160 acres (65 hectares) nor shall the well be located closer than 500 feet (152 meters) to ((~~any boundary line of a governmental quarter-quarter section or governmental lot corresponding thereto,~~)) the lease line nor closer than 1,000 feet (305 meters) to the nearest well drilling to or capable of producing from the same pool. ((~~No more than one well shall be drilled to the same pool on any such quarter-quarter section or governmental lot corresponding thereto, except by order of the committee, nor shall any well be drilled on any such quarter-quarter section or governmental lot corresponding thereto containing less than 36 acres (15 hectares) except by such order. No well shall be drilled upon any such governmental quarter-quarter section or governmental lot corresponding thereto when the same shall embrace two or more separately owned tracts or where there are separately owned interests in all or a part thereof unless and until the said separately owned tracts or interests shall have been pooled either voluntarily or in accordance with the laws of the state of Washington.~~)) The committee shall have the right to waive these limits in accordance with RCW 78.52.210.

(2) No ((~~well~~)) development unit in a pool, deemed by the committee to be a gas reservoir, shall be ((~~drilled for gas on a tract of land consisting of more than 160 surface contiguous acres (65 hectares) and which is not substantially in the form of a square, in accordance with legal subdivisions of the United States Public Land Surveys, and no well~~)) larger than 640 acres (261 hectares) nor shall the well be ((~~drilled~~)) located closer than 1,000 feet (305 meters) to ((~~any boundary~~)) the lease line ((~~of the tract or~~)) nor closer than 2,000 feet (610 meters) to the nearest well drilling to or capable of producing from the sale pool. ((~~No well shall be drilled upon any such 160-acre (65 hectares) tract when the same shall embrace two or more separately owned tracts or where there are separately owned interests in all or part thereof unless and until the said separately owned tracts or interests shall have been pooled either voluntarily or in accordance with the laws of the state of Washington.~~)) The committee shall have the right to waive these limits in accordance with RCW 78.52.210.

(3) If upon application, and after notice and hearing, the committee shall find that a well drilled at the location prescribed by any applicable rule of the committee would not produce in paying quantities or that surface conditions would substantially add to the burden or hazard of such well, the committee may enter an order permitting the well to be drilled at a location on which the applicant prima facie owns an ownership or contractual right to drill, other than that prescribed and shall include in such order suitable provisions to prevent the production from that well of more than its just and equitable share of the oil and gas in the pool. Application for an exception shall set forth the names of the lessees or owners of contiguous or cornering properties and shall be accompanied by a plat or sketch map drawn to the scale of not smaller than one inch equalling 2,000 feet

(610 meters) or as otherwise required, accurately showing to scale the property for which the exception is sought and accurately showing to scale all other completed and drilling wells on this property and accurately showing to scale all contiguous or cornering surrounding properties and wells. The application shall be verified by some person acquainted with the facts, stating that all facts therein stated are within the knowledge of the affiant and are true, and that the accompanying plat is accurately drawn to scale and correctly reflects pertinent and required data. Upon the filing of such application, the committee shall give notice of such filing by certified mail to all lessees ((~~or~~)) and owners of lands towards whom the well is being moved, if closer to the proposed well than offset distances set forth in subsections (1) and (2) of this section.

(4) In filing a Form-1 (((~~Notice of intention~~)) Application to drill, redrill, or deepen), the surface distance must be shown between the proposed location and other wells within a radius of 1,000 feet (305 meters) for oil tests, and 3,000 feet (914 meters) for gas tests.

(5) When a well completion report, Form-2, has been submitted to the department, and such well is not intended to be plugged or abandoned the department shall determine if a discovery has been made. The department shall forward its determination to the committee. If the department or the committee has determined a discovery has occurred the committee shall hold a hearing pursuant to RCW 78.52.205.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

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) ((~~Notify~~)) Apply to the supervisor of such intent on Form-1 (((~~Notice of intention to drill, redrill, or deepen~~)));

(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 ((~~of one hundred dollars for each such permit~~)), 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. ((~~A fee of one hundred dollars~~)) 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 workover 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 ((~~resolution 3 (see~~)) chapter 344-16 and 173-15 WAC((~~) of the oil and gas conservation committee~~)). 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.

(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.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-060 BOND TO BE FURNISHED. (1) The supervisor, except as hereinafter provided, shall require from the owner before a permit for drilling, redrilling, or deepening will be issued a good and sufficient bond in the sum of not less than $50,000.00 for each well payable to the state of Washington, conditioned on compliance with chapter 78.52 RCW, permit conditions, the rules and regulations and orders of the committee. Said bond shall remain in force and effect until the plugging of said well is approved by the supervisor and all laws, permit conditions, rules and regulations and orders have been complied with. It is provided, however, that any owner in lieu of such bond may file with the supervisor a good and sufficient blanket bond in the principal sum of not less than $250,000.00 covering all wells drilling or to be drilled.

(2) Bond or bonds herein required shall be executed by the owner as principal and by a surety company acceptable to the DNR and authorized to do business in the state of Washington as surety. Should the surety on such bond fail or refuse to require compliance with the conditions of the bond to the satisfaction of the supervisor, such surety shall be liable to the state of Washington in such a sum, within the limits of the sum stated on the face of the bond, as will indemnify the state of Washington for the cost of requiring compliance with the conditions of the bond.

(3) In lieu of the bond required by this section the owner may file with the committee a cash deposit, or an assignment of a savings account or of a certificate of deposit in a Washington bank on an assignment form prescribed by the committee. In the event a certificate of deposit is provided in lieu of a bond the owner shall guarantee payment of principal in the event penalties are assessed for early redemption of the certificate.

(4) The amount of the bond to be furnished for permits required under WAC 344-12-050(3) shall be $20,000.00.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-070 WELL HISTORY OR RECORD AND WELL LOG (FORM-2). (1) During the drilling, redrilling, or deepening of any well, except seismic, that penetrates into the bedrock below the unconsolidated surficial cover, the owner, operator, contractor, driller, or other person responsible for the conduct of the drilling operations shall keep at the well, or at his headquarters in the state, or otherwise conveniently available to the supervisor, a detailed and accurate record of the drilling operations and a log of the strata drilled, reduced to writing from day to day, which shall be accessible to the committee and its agents at all reasonable times. A copy of the well history or record and a copy of the well log shall be furnished to the supervisor upon Form-2, prescribed by the committee, within thirty days after the completion or abandonment of the well. The well history or record shall describe the progress of drilling, the water, oil, or gas encountered, and such additional information as to gas volumes, pressures, rate of fill-up, water depths, caving strata, casing record, shooting, perforating, chemical treatment, general chemical composition, and volumes used of drilling mud, description and results of water-shut-off tests, casing tests, drill-pipe packer tests, and other tests, as are usually recorded in the normal procedure of drilling. The well log shall progressively describe the strata and formations encountered. In the drilling of exploratory wells, a ditch sample shall be collected at ten-foot intervals for the state and furnished to the supervisor within six months after completion of the well as a dry hole or as a producing well. In the drilling of wells within development units, a ditch sample shall be collected as directed by the supervisor and furnished to the supervisor after completion of the well as a dry hole or as a producing well. Any electrical or radioactivity logging or surveying of the well shall also be recorded and a copy furnished the supervisor within six months after completion. A detailed description of lithology shall be furnished to the supervisor within thirty days after completion or abandonment of any exploratory or wildcat well.

(2) All well histories, and records, well logs, ditch samples, results of directional surveys, and other reports submitted under this rule shall be kept confidential by the committee for a period of one year from date of filing if the well is a "wildcat" or "exploratory well" and if the operator so requests. (See RCW 78.52.260.)

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-080 SEALING OFF STRATA. (1) All ((~~fresh waters~~)) underground sources of drinking water of present or potential future use for domestic, municipal, commercial, stock, or agricultural purposes

shall be confined to their respective strata and shall be adequately protected.

(2) All oil, gas, and ((~~water strata~~)) underground sources of drinking water above and below the producing horizon shall be sealed or separated in order to prevent their contents from passing into another stratum.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-087 WELL CASING—CEMENTING. (1) The owner shall case and cement all wells with a sufficient number of strings of casing in a manner necessary to:

(a) Prevent release of fluids from any stratum through the ((~~well bore~~)) wellbore (directly or indirectly) into any waters of the state;

(b) Prevent commingling between separate hydrocarbon-bearing strata ((~~except such strata approved for commingling~~)) and intermingling between hydrocarbon and ((~~water-bearing strata~~)) underground sources of drinking water, and between separate water-bearing strata;

(c) Prevent contamination of potential fresh water strata, gas, or oil zones;

(d) Support unconsolidated sediments; and

(e) Otherwise provide a means of control of the formation pressures and fluids.

The owner shall install casing of sufficient strength and size to provide optimum well control while drilling and to assure safe operations for the life of the well.

(2) Conductor casing. Conductor casing shall be set before drilling into shallow formations known to contain oil or gas, if unknown, upon encountering such formation.

(3) Surface casing. Surface casing holes shall be logged with an induction electric log, or equivalent, prior to running surface casing.

(4) Cementing of casing. Conductor and surface casing strings shall be cemented with sufficient cement to fill the annular space from the shoe to surface. Production casing shall be cemented in a manner necessary to exclude, isolate, or segregate overlying formation fluids from the oil or gas zone and to prevent the movement of fluids into potential ((~~freshwater zones~~)) underground source of drinking water.

A temperature or cement bond log may be required by the supervisor if an unsatisfactory cementing job is indicated.

(5) Pressure testing. Prior to drilling out the casing shoe after cementing, all casing strings set to a depth of 500 feet (152 meters) or less except for conductor casing, shall be pressure tested to a minimum pressure of 500 psi (35 bars). Casing strings set to a depth of 500 feet (152 meters) or greater shall be pressure tested to a minimum pressure of 1,000 psi (69 bars) or 0.2 psi/ft (0.045 bars/meter) whichever is greater. Such test shall not exceed the rated working pressure of the casing or the blowout preventer stack assembly, whichever is less.

Unless otherwise provided by specific order of the supervisor for a particular well or wells or for a particular pool or parts thereof, cemented casing string shall stand under pressure until the cement has reached a compressive strength of 300 pounds per square inch (21 bars): PROVIDED, HOWEVER, That no further operation shall be commenced until the cement has been in place for at least eight hours. The term "under pressure" as used herein shall be complied with if one float valve is used or if pressure is otherwise held.

All casing pressure tests shall be recorded in the driller's log.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-098 DRILLING FLUID. The properties, use, and testing of drilling fluids and the conduct of related drilling procedures shall be such as are necessary to prevent the blowout of any well. Sufficient drilling fluid materials to insure well control shall be maintained in the field area readily accessible for use at all times.

(1) Drilling fluid control. Before pulling drill pipe, the drilling fluid shall be properly conditioned or displaced. The hole shall be kept reasonably full at all times. Proper techniques shall be utilized when necessary to maintain mud characteristics for well control and hole conditioning. The conditions herein shall not apply when drilling with air or aerated fluids.

(2) Drilling fluid testing. Mud testing and treatment consistent with good operating practice shall be performed daily or more frequently as conditions warrant. The following drilling fluid system monitoring or recording devices shall be installed and operated continuously during drilling operations, with mud, occurring below the shoe of the conductor casing:

(a) High-low level mud pit indicator including a visual and audio-warning device, if applicable.

(b) A hydrogen sulfide indicator and alarm shall be installed in areas suspected or known by the supervisor to contain hydrogen sulfide gas which may reach levels considered to be dangerous to the health and safety of personnel in the area.

((~~No exceptions to these requirements will be allowed without the specific prior permission of the supervisor.~~))

(c) Degassers shall be required if applicable, and below 7,500 feet (2286 meters) or in areas of known high pressure desilters and desanders if required for solids control.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-112 AGENTS TO HAVE ACCESS TO ALL WELLS, WELL RECORDS, WITNESS TESTS OR WELL PRODUCTION. All operators of oil and gas exploratory and producing wells are required to permit the agents of the supervisor and the committee to witness all tests that may be required by the supervisor on any and all wells. The agents of the supervisor shall have access to all well records, and shall be permitted to come upon any lease or property to inspect any and all wells and to witness gauging of production therefrom at all times. All such information, at the moment obtained, shall be presumed to have been required,

filed, and requested to be kept confidential within the meaning of RCW 78.52.260, and shall by all such persons so obtaining such information, be reported only to the supervisor and the committee, and shall be kept confidential in the same manner as provided in RCW 78-.52.260 and WAC 344-12-070(2).

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-125 NOTICE OF INTENTION TO ABANDON AND PLUG (FORM-3). (1) The owner or operator shall not permit any well drilled for oil, gas, salt-water disposal, injection or any other purpose in connection with the exploration or production of oil and gas, to remain unplugged, except as otherwise provided in WAC 344-12-140, after such well is no longer to be used for the purpose for which it was drilled or converted.

(2) Before any work is commenced to abandon any well drilled for oil or gas, including any well drilled below the ((~~fresh-water level~~)) underground source of drinking water, the owner or operator thereof shall, prior to beginning operations of plugging the well, give notice to the supervisor or his representative of his intention to abandon such well, such notice shall be written, on Form-3 (Notice of intention to abandon and plug well), except that it shall be permissible to give oral notice followed within 24 hours by written confirmation on Form-3. Upon receipt of such notice, the supervisor or his duly authorized representative may elect to be present at the time indicated in such notice, to witness the plugging of the well.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-131 PROCEDURE FOR PLUGGING. Each abandoned well drilled for the discovery of oil or gas or for any other purpose related to the exploration including seismic and core holes or production of oil and gas shall be plugged by or on behalf of the owner, operator, or producer who is in charge of the well or wells and responsible therefor. In general, cement plugs will be placed across specified intervals to protect oil and gas zones, to prevent degradation of potentially usable waters, and to protect surface conditions. Subject to approval of the supervisor, cement may be mixed with or replaced by other substances with adequate physical properties. The owner shall submit the proposed method and procedure for plugging to the supervisor on Form-3 (Notice of intention to abandon and plug well). Unless otherwise approved by the supervisor the method and procedure shall be as follows:

(1) Hole fluid. Drilling fluid having the proper weight and consistency to prevent movement of other fluids into the ((~~well bore~~)) wellbore shall be placed in all intervals not plugged with cement, and shall be surface poured into all open annuli where required.

(2) Plugging by bailer. Placing of a cement plug by bailer shall not be permitted at a depth greater than 3,000 feet (914 meters). Water is the only permissible hole fluid in which a cement plug shall be placed by bailer.

(3) Surface pours. A surface cement-pour shall be permitted in an empty hole with a diameter of not less than 5 inches (12.7 centimeters). Depth limitations shall be determined on an individual well basis by the supervisor.

(4) Blowout prevention equipment. Blowout prevention equipment may be required during plugging and abandonment operations. Any blowout prevention equipment and inspection requirements deemed necessary by the supervisor shall appear on the approval issued by the supervisor.

(5) Junk in hole. Diligent effort shall be made to recover junk when such junk may prevent proper abandonment either in open hole or inside casing. In the event that junk cannot be removed from the hole and freshwater-saltwater contacts or oil or gas zones penetrated below cannot therefore be properly abandoned, cement shall be down-squeezed through or past the junk or a 100-foot (30-meter) cement plug shall be placed on top of the junk.

(6) A cement plug not less than 25 feet (7.6 meters) shall be placed in the hole and all annuli at the surface. All well casing shall be cut off at least 5 feet (1.5 meters) below the surface of the ground.

(7) Open hole.

(a) A cement plug shall be placed to extend from the total depth or at least 100 feet (30 meters) below the bottom of each oil or gas zone, whichever is less, to at least 100 feet (30 meters) above the top of each zone.

(b) A minimum 200-foot (61-meter) cement plug shall be placed across all ((~~freshwater-saltwater~~)) underground source of drinking water-saltwater interfaces.

(c) An interface plug may be placed wholly within a thick shale if such shale separates the freshwater sands from the brackish or saltwater sands.

(d) The hole may be filled between plugs up to the base of the surface string, if this reaches below the freshwater zone, with approved heavy mud.

(8) Cased hole.

(a) All perforations shall be plugged with cement, and the plug shall extend 100 feet (30 meters) above the top of a landed liner, the uppermost perforations, the casing cementing point, or water shut-off holes, whichever is highest.

(b) If there is cement behind the casing across the ((~~freshwater-saltwater~~)) underground source of drinking water-saltwater interface, a 100-foot (30-meter) cement plug shall be placed inside the casing across the interface.

(c) If the top of the cement behind the casing is below the top of the highest saltwater sands, squeeze-cementing shall be required through perforations to protect the ((~~freshwater zones~~)) underground source of drinking water. In addition, a 100-foot (30-meter) cement plug shall be placed inside the casing across the ((~~freshwater-saltwater~~)) underground source of drinking water-saltwater interface. Notwithstanding other provisions of this section, the supervisor may approve a cavity shot followed by cementing operations at the base of the ((~~freshwater~~)) underground source of drinking water

sands. The cavity shall be filled with cement and capped with a cement plug extending 100 feet (30 meters) above the cavity shot.

(9) Special requirements.

(a) Where geologic or ((~~groundwater~~)) ground water conditions dictate, special plugging procedures shall be required to prevent contamination of potentially usable waters by downward percolation of poor quality waters, and to separate water zones of varying quality, or varying hydrostatic pressure, and to isolate dry permeable strata that are brought into hydraulic continuity with ((~~groundwater~~)) ground water aquifers.

(b) The supervisor may set forth other plugging and abandonment requirements or may establish field rules for the plugging and abandonment of wells. Such cases include, but are limited to:

(i) The plugging of a high-pressure saltwater zone.

(ii) Perforating and squeeze-cementing previously uncemented casing within and above a hydrocarbon zone.

(10) In all holes open below the casing shoe, a cement plug shall extend from at least 50 feet (15 meters) below to at least 50 feet (15 meters) above the shoe of any cemented casing. If the hole cannot be cleaned out to 50 feet (15 meters) below the shoe, a 100-foot (30-meter) cement plug shall be placed as deep as possible.

(11) A steel plate at least one-quarter inch (0.64 centimeter) thick shall be welded to the top of the surface string of casing. The steel plate shall bear the drilling permit number and date of abandonment.

(12) Within thirty days after plugging of any well, the owner, operator, or producer responsible therefor who plugged or caused to be plugged the well shall file with the supervisor an affidavit on Form-4 (report on results of plugging well) setting forth in detail the method used in plugging the well.

(13) Inspection of plugging and abandonment operations. All plugging and abandonment operations shall be witnessed and approved as deemed necessary by the supervisor.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-140 WELLS USED FOR ((~~FRESH WATER~~)) UNDERGROUND SOURCE OF DRINKING WATER. When the well to be plugged may safely be used as ((~~a fresh water~~)) an underground source of drinking water well and such utilization is desired by the landowner and is authorized by the operator, the cement plug normally required at the top of the surface casing may be waived, and the well need not be filled above the required sealing plug set below ((~~fresh water~~)) underground source of drinking water: PROVIDED, That written authority for such conversion is supplied by the landowner and authorization is obtained by the landowner from the state department of ecology and filed with the supervisor. Approval by the supervisor of the plugging accomplished or notice from the department of ecology of approval of the landowner's authorization as provided herein shall relieve the operator of further responsibility under the Oil and Gas Conservation Act and the supervisor shall release the bond once a water well has been satisfactorily completed.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-205 TUBING. Each flowing well shall be produced through tubing and shall be equipped with a master valve; however, a ((~~dual~~)) multiple completion is permissible when the production from each zone is kept separate.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-230 NOTIFICATION OF FIRE, BREAKS, LEAKS, OR BLOWOUTS. All persons controlling or operating any oil and gas wells, or receiving tanks, storage tanks, or receiving and storage receptacles into which crude oil is produced, received, or stored, shall make all reasonable efforts to immediately notify the supervisor by telephone followed by a letter giving full details concerning all fires which occur at such oil or gas wells or tanks or receptacles on their property, and all such persons shall make all reasonable efforts to immediately report all tanks or receptacles struck by lightning and any other fire which destroys oil or gas, and shall make all reasonable efforts to immediately report any breaks, blowouts, or leaks in or from tanks or receptacles and gathering pipe lines from which oil or gas is escaping or has escaped. In all such reports of fires, breaks, leaks, or escapes, or other accidents of this nature, the location of the well, tank receptacle, or line break shall be given by section, township, range, and property so that the exact location thereof can be readily located on the ground. Such report shall likewise specify what steps have been taken or are in progress to remedy the situation reported and shall detail the quantity of oil or gas lost, destroyed, or permitted to escape. In case any tank or receptacle is permitted to run over, the escape thus occurring shall be reported as in the case of a leak. The report hereby required as to oil losses shall be necessary only in case such oil loss exceeds ten barrels in the aggregate. Compliance with this section does not relieve such persons from taking appropriate action and reporting oil or chemical spills or leaks as required by chapter 90.48 RCW and other applicable state and federal laws.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-235 PRODUCING FROM DIFFERENT STRATA THROUGH THE SAME CASING STRING. No well shall be permitted to produce either oil or gas from different strata through the same string of casing without first receiving written permission from the ((~~supervisor~~)) committee.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-245 DETERMINING AND NAMING POOLS. Wells shall be classified as to the pool

from which they produce, and pools shall be determined by the committee and named by the supervisor: PROVIDED, That in the event any person is dissatisfied with any such classification or determination, an application may be made to the committee for such ((~~classification~~)) reclassification or determination as the applicant deems proper, and the committee will hear and determine the same.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-260 ((~~INJECTION OF FLUIDS INTO GEOLOGICAL FORMATIONS~~)) DISPOSING OF UNWANTED FLUIDS ENCOUNTERED IN OIL AND GAS DRILLING AND PRODUCTION. Prior to ((~~approval for injection~~)) disposing of unwanted fluids the operator shall identify geological formations to be used, maximum bottom hole pressure in pounds per square inch or bars and maximum rate of injection in barrels of liquid per day or cubic feet of gas per day, detailed identification of materials to be injected, including additives, filters, if any, the entire casing and cementing record of the wells to be used for injection, packers, and any special downhole equipment, certification that the mechanical integrity of the well has been tested, and facilities or systems to protect the integrity of geological target formation or to prevent fracturing of the confining strata. ((~~Injection proposals are also subject to review and approval in accordance with chapter 90.48 RCW and other applicable state and federal laws.~~)) Prior to injection, the operator shall notify the supervisor. On acceptance of a completed permit application by the supervisor, the Washington department of ecology shall review, evaluate, and act upon the application in accordance with the rules of WAC 173-218-060. The applicant shall have approval to operate when the Washington department of ecology has approved the permit.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-262 UNDERGROUND INJECTION CONTROL. Injection of any fluids to enhance ((~~secondary~~)) recovery of oil or gas or for storage of liquid hydrocarbons is prohibited until such time as an application is made to do so. At that time the oil and gas conservation committee will promulgate rules and regulations that will conform with the underground injection control (UIC) ((~~regulations~~)) program, chapter 173-218 WAC, which implement portions of the Safe Drinking Water Act (Public Law ((~~93-253~~)) 93-523 as amended by Public Law ((~~95-190~~)) 96-502).

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-265 GAS WELL OPEN FLOW POTENTIAL TEST. Initial potential tests may be reported on forms furnished by the supervisor using the "one-point" method with a 45 degree slope for the plot. After a market is obtained and a pipe line is connected to the well, upon request of the supervisor, an operator shall make a "four-point" potential test and report on forms furnished by the supervisor. To establish comparable open flow capacity the "four-point" back pressure flows shall be taken in sequence from low to high flow. In the event the supervisor approves an alternate method of testing, all wells producing from a ((~~common source of supply~~)) pool shall be tested in a uniform and comparable manner. In a like manner all natural gas wells hereafter completed shall be tested and the potential test reported. Where it has been determined that a natural gas well in any pool has a potential of 400,000 cubic feet per day or less, further potential tests shall not be required provided the operator periodically reports the shut-in pressure of the well.

AMENDATORY SECTION (Amending Order 3, Resolution No. 7, filed 6/1/82)

WAC 344-12-275 GAS TO BE METERED. (1) Meters. All gas when produced or sold shall be metered with an approved meter of sufficient capacity, provided that gas may be metered from a lease or unitized property as a whole if it is shown that ratable taking can be maintained((~~: PROVIDED, That meters shall not be required for gas produced and used on the lease for development purposes and lease operations~~)).

(2) Meter charts and records. Purchasers shall keep, in a permanent file, for a period of at least two years, meter charts and records on gas purchased, and such information shall be made available to the supervisor.

(3) Bypasses. Bypasses shall not be connected around meters in such manner as to permit the improper taking of gas.

WSR 85-03-019
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Filed January 8, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Labor and Industries intends to adopt, amend, or repeal rules concerning procedures for the deregistration of registered vocational rehabilitation counselors or firms who provide vocational rehabilitation services to industrially injured workers;

that the agency will at 9:00 a.m., Friday, March 1, 1985, in the Auditorium, Department of Social and Health Services, Building OB II, 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 March 15, 1985.

The authority under which these rules are proposed is RCW 51.04.020(4), 51.04.030 and 51.41.090.

The specific statute these rules are intended to implement is chapter 51.41 RCW.

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

Dated: January 8, 1985
By: Sam Kinville
Director

STATEMENT OF PURPOSE

The proposals for rule changes which follow amend portions of chapter 296-18 WAC. This title pertains to the delivery of vocational rehabilitation service to qualified industrially injured workers.

The Purpose of These Proposed Rules: To delete the provision for immediate deregistration of vocational rehabilitation counselors or firms without due process; establish and identify categories of violations in order of seriousness; establish fact finding hearing to determine if violations exist and, if so, the degree of seriousness; establish probation as an alternative to deregistration; and establish an appeal process pursuant to the Administrative Procedure Act for persons or firms that have been deregistered.

Statutory Authority: RCW 51.04.020(4), 51.04.030 and 51.41.090.

In Summary, the Following Changes are Accomplished by the Proposed Rules: Capability for the deregistration of vocational rehabilitation counselors or firms is retained; categories of violations by degree of seriousness are established; notice to violators and fact finding hearings are established; and appeal pursuant to the Administrative Procedure Act is established.

The Agency Personnel Responsible for Drafting: Richard A. Slunaker, Assistant Director for Industrial Insurance, 753-6308; Dean F. Matthews, Rehabilitation Consultant, 753-0418; Christine Russell Volo, Acting Rehabilitation Review Administrator, 753-0556; Implementation and Enforcement: Richard A. Slunaker, Assistant Director for Industrial Insurance, 753-6308; Christine Russell Volo, Acting Rehabilitation Review Administrator, 753-0556; and other industrial insurance personnel.

These rule changes are proposed by the Department of Labor and Industries, an agency of the state of Washington.

The proposing agency has no comments regarding statutory language, implementation, enforcement or fiscal matters beyond those appearing above in this statement.

These rules are not necessitated by any federal law or federal or state court action.

Small Business Economic Impact Statement: This statement pertains to revisions to chapter 296-18 WAC, proposed by the Department of Labor and Industries to become effective March 15, 1985, and is prepared to conform with section 3(2) and section 4 of the Regulatory Fairness Act (chapter 6, Laws of 1982).

Existing Rules: Chapter 296-18 WAC presently permits the department to deregister vocational rehabilitation counselors or private firms without due process in some circumstances.

Treatment of Small Business Under Existing Rules: Chapter 296-18 WAC presently permits the department, through its Office of Rehabilitation Review, to immediately deregister (remove from the approved list) individual vocational rehabilitation counselors or firms without prior notice. Immediate deregistration may occur by violation of one or more circumstances set forth in existing rules. The action is accomplished by an order entered by the department. No provision for appeal of immediate deregistration is made in current rules. Private vocational counselors and/or firms could be removed from ability to practice by unilateral action of the department. In the event that deregistration is brought about as a result of a performance audit for cause or on the department's own motion, a notice of intent to deregister is issued. A petition for reconsideration may be filed with the supervisor of industrial insurance. Review of the facts and findings is done internally within the Industrial Insurance Division. Appeal is allowed to the Board of Industrial Insurance Appeals.

Effect of Proposed Revisions: Violations are classified as general, serious or critical by the Office of Rehabilitation Review after investigation based on a fact finding hearing or performance evaluation. For general violations, the counselor or firm is first given a notice of violation with opportunity for correction by the party(s). Failure or refusal to correct may lead to probation or deregistration. A serious violation shall result in a notice of deregistration which shall include a notice of the right to appeal. A critical violation must include a finding that the public health, safety or welfare imperatively requires immediate action, shall result in immediate deregistration and includes the right to appeal. All appeals are made to the director of the department pursuant to the Administrative Procedure Act, chapter 34.04 RCW. Through these revisions small businesses are removed from the effect of unilateral action by the department and are assured of due process.

AMENDATORY SECTION (Amending Order 82-40, filed 11/30/82)

WAC 296-18-040 DEFINITIONS. (1) "Firm" means any entity registered by the office of rehabilitation review, whether sole proprietorship, partnership, or corporation.

(2) A "qualified injured worker" means an employee who because of the effects of work-related injury or disease, whether or not combined with the effects of a prior industrial injury or disability:

(a) Is permanently precluded or likely to be precluded from engaging in the usual occupation or position in which the worker was engaged at the time of injury; and

(b) Can reasonably be expected to benefit from rehabilitation services which would significantly reduce or eliminate the decrease in the worker's employability.

(3) "Vocational rehabilitation services" means services that are required to determine an employee's eligibility as a qualified injured worker, and services that are designed to return an individual to suitable gainful employment. The services may include, but not be limited to medical evaluation and physical rehabilitation provided by qualified health care providers; and vocational evaluation counseling, job analysis, job modification, on-the-job training or short-term training programs with job placement services provided pursuant to this chapter.

(4) "Suitable gainful employment" means employment pursuant to the priorities established in WAC 296-18-180 which offers an opportunity to restore the injured worker as soon as possible to employment. Consideration shall be given to the worker's residual skills, aptitudes and interests, physical and mental capabilities, and earnings at the time of injury.

(5) "Vocational rehabilitation plan" means a written document completed by a registered vocational rehabilitation counselor (in cooperation with the qualified injured worker and employer) that either:

(a) Describe in detail those vocational rehabilitation services recommended to return the injured worker to suitable gainful employment; or

(b) Describe in detail why vocational rehabilitation services are not necessary to return the injured worker to suitable gainful employment.

(6) "Return to work summary report" means a document required by WAC 296-18-140 prescribed by the department, and completed by a self-insurer, that describes those vocational rehabilitation services necessary to return the claimant to employment consistent with priority (a), (b), or (c) of WAC 296-18-180.

(7) "Performance Evaluation" means a review of an individual or firm registered with the office of rehabilitation review which review (shall/may) include a determination of the adequacy of facilities, appropriateness and effectiveness of services provided, accuracy of records and accuracy of billing for services.

(8) General Violation - A violation of chapter 51.41. RCW or these rules, such as, but not limited to reporting irregularities, or other violations which do not have a major impact on the vocational services provided the injured worker.

(9) Serious Violation - A violation of chapter 51.41 RCW or these rules, or a series of general violations when considered in total, which impacts the delivery of vocational services provided the injured worker or, a failure to timely correct a notice of violation pursuant to WAC 296-18-350(1)(b)(iii) or failure to correct violations during a probationary period pursuant to WAC 296-18-350(3).

(10) Critical Violation - A violation of chapter 51.41 RCW or these rules, so severe as to pose an immediate threat to the health, safety or welfare of injured workers or the public.

(11) "Fact Finding Hearing" means an informal hearing held by the office of rehabilitation review for the purpose of determining if any violation(s) exists, and if so, whether the actions of the vocational rehabilitation counselor/firm constitute a general, serious or critical violation(s).

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending Order 82-40, filed 11/30/82)

WAC 296-18-340 ((~~IMMEDIATE DEREGISTRATION. The office of rehabilitation review may immediately remove a vocational rehabilitation counselor or firm from the register for any combination of, but not limited to, the following:~~)) If the office of rehabilitation review becomes aware of a possible violation by an individual and/or firm the office of rehabilitation review may conduct an investigation of the individual and/or firm which may include but is not limited to an informal fact finding hearing, or performance evaluation. If violation(s) exist the office of rehabilitation review shall determine if they are general, serious, or critical in nature. A violation of this chapter by the individual or firm may include but is not limited to one or any combination of the following actions:

(1) Knowingly providing false or misleading information during the registration process;

(2) Failure, neglect, or refusal to comply with the statutes;

(3) Failure, neglect, or refusal to comply with department rules, policies, and orders;

(4) Failure, neglect, or refusal to submit complete, adequate, and detailed reports as required in this chapter;

(5) Failure, neglect, or refusal to respond to requests for additional reports;

(6) Intentional submission of false or misleading reports;

(7) Collusion with any other person, including workers, to submit false or misleading information;

(8) Submission of inaccurate or misleading bills;

(9) Intentional submission of false or erroneous recommendations;

(10) Charging or attempting to charge eligible injured worker for services authorized by the department or self-insurer;

(11) Persistent use of controversial, experimental, contraindicative, or unsatisfactory regimens not previously authorized by the department;

(12) Conviction in any court for any offense involving moral turpitude, in which case the record of such conviction constitutes conclusive evidence;

(13) Acts of gross misconduct in the service of vocational rehabilitation;

(14) Acts that involve conflicts of interest;

(15) Declaration of mental incompetence by a court of competent jurisdiction; or

(16) Conviction in any court of a felony.

((~~The department will issue an order pursuant to RCW 51.52.050 notifying the vocational rehabilitation counselor or firm of deregistration, the reasons for it, including the finding that the public health, safety, or welfare imperatively requires emergency action, and the length of time before the vocational rehabilitation counselor or firm may re-register.~~))

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.

NEW SECTION

WAC 296-18-345 If the office of rehabilitation review determines a registered individual employed by the department, has committed a general, serious or critical violations it shall report such violation to the director of labor and industries. The director shall begin to take appropriate action within five (5) working days. Such action shall be pursuant to the merit system rules, agency policies and procedures and collective bargaining agreements.

AMENDATORY SECTION (Amending Order 82-40, filed 11/30/82)

WAC 296-18-350 ((~~PERFORMANCE EVALUATIONS AND DEREGISTRATION. Upon petition, or upon its own initiative, the department may periodically, or for cause, perform an on-site evaluation of each vocational rehabilitation firm. The purpose of the evaluation is to determine the adequacy of the facilities, and the appropriateness and effectiveness of services, the accuracy of records, and accuracy of billing for services.~~

~~(1) If the conditions are such that the services and performance of a registered vocational rehabilitation counselor or firm are found to be unsatisfactory, the vocational rehabilitation counselor or firm will be informally notified. The vocational rehabilitation counselor or firm will be provided up to thirty days to correct the deficiencies. In the event the deficiencies are not corrected in the time provided, the vocational rehabilitation counselor or firm will be given a formal notice of intent to remove the vocational rehabilitation counselor or firm from the register. The notice will be in the form of a departmental order, and contain the reasons for removal, and the length of time before the vocational rehabilitation counselor or firm may reregister.~~

~~(2) In the case of a registered vocational rehabilitation counselor employed by the department, the office of rehabilitation review shall report the findings resulting from a performance evaluation of the work of a department registered vocational rehabilitation counselor to the director for appropriate action as provided by merit system rules, agency policies and procedures and collective bargaining agreements.~~))

General violation. (1) After the office of rehabilitation review conducts an investigation or performance evaluation or fact finding hearing and determines that a general violation(s) exists, the office of rehabilitation review may issue to the individual/firm registered with the office of rehabilitation review a notice of violation.

(a) The notice shall state the nature of the violation(s), the actions which must be taken to correct the violation(s), and the time period for correction. The office of rehabilitation review will conduct a follow-up investigation to insure the correction(s) has been made;

(b) If an individual/firm has received a notice of violation and fails to correct the violation(s) within the time period set forth in the notice of violation, the office of rehabilitation review may:

i conduct a performance evaluation and/or either

ii place the individual/firm on probation pursuant to WAC 296-18-350(2), or,

iii treat the violation(s) as a serious violation. The department may then deregister the vocational rehabilitation counselor/firm under the provisions of WAC 296-18-360 (serious violation).

(2) If after an investigation, performance evaluation or fact finding hearing the office of rehabilitation review finds the individual/firm has committed a violation(s), the office of rehabilitation review may place the individual/firm on probation for a period not to exceed six months. The office of rehabilitation review shall notify the individual/firm in

writing of the probation, the reason for the probation and the time period of the probation. During the period of probation the office of rehabilitation review may require the individual/firm to comply with certain conditions in order to correct the violation(s) and monitor the conduct of the individual/firm during the probationary period to determine if the violation(s) has been corrected.

(3) If the individual/firm fails to correct the violation(s) during the probationary period, the office of rehabilitation review may treat the violation(s) as a serious violation. The office of rehabilitation review may then deregister the individual/firm under the provisions of WAC 296-18-360 (serious violation).

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: 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 82-40, filed 11/30/82)

WAC 296-18-360 ((~~PETITION FOR RECONSIDERATION OF THE INTENT TO REMOVE. Pursuant to WAC 296-18-350 a vocational rehabilitation counselor or firm has been notified by the office of rehabilitation review of the intent to remove the vocational rehabilitation counselor or firm from the register, the vocational rehabilitation counselor or firm may petition the supervisor of industrial insurance for reconsideration. The petition must be made within sixty days of receiving the notice of intent. If no petition is made the notice the intent to deregister is final.~~

~~In the event a vocational rehabilitation counselor or firm petitions the supervisor of industrial insurance for a reconsideration of the intent by the office of rehabilitation review to deregister the vocational rehabilitation counselor or firm, the supervisor shall schedule an informal hearing within thirty days after the petition. The supervisor shall issue a final order fifteen days after the hearing.~~

~~Pursuant to RCW 51.52.050, the vocational rehabilitation counselor or firm may appeal the supervisor's decision to the board of industrial insurance appeals.~~)) Serious violation. If the office of rehabilitation review determines an individual/firm has committed a serious violation, the office of rehabilitation review shall issue a notice of deregistration which shall include a description of the nature of the violation(s), the period of deregistration, including the commencement date of the deregistration, and date the individual or firm may reregister. The notice shall advise the individual/firm of the right to appeal pursuant to the provisions of this WAC 296-18-380. The notice shall be sent by certified mail.

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 82-40, filed 11/30/82)

WAC 296-18-370 ((~~PERIOD OF DEREGISTRATION. Vocational rehabilitation counselors or firms deregistered pursuant to this chapter may be deregistered for a period not to exceed two years. A vocational rehabilitation counselor or firm may petition for reregistration after the period of deregistration expires.~~)) Critical violation. If the office of rehabilitation review determines an individual/firm has committed a critical violation(s), the office of rehabilitation review shall issue a notice of immediate deregistration which shall include a description of the violation(s), the period of deregistration, and a finding that the public health, safety, or welfare imperatively requires immediate action. The notice shall advise the individual/firm of the right to appeal pursuant to the provisions of WAC 296-18-380. The notice shall be sent by certified mail.

NEW SECTION

WAC 296-18-380 APPEALS. (1) Any appeal from a notice of deregistration or notice of immediate deregistration must be in writing, and received by the Director, Department of Labor and Industries, General Administration Building, Olympia, Washington 98504, within fifteen (15) working days of receipt of the notice. Upon receipt of an appeal, the Director shall conduct a hearing pursuant to the provisions of the Administrative Procedure Act, chapter 34.04, 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.

NEW SECTION

WAC 296-18-390 DEREGISTRATION. (1) Any individual/firm deregistered by the office of rehabilitation review shall, within three working days (from the effective date of the deregistration), return such files to the referral source as the referral source may request and may not accept any referrals or provide vocational rehabilitation services to any worker covered by Title 51 during the period of deregistration. The referral source shall re-refer the worker to a new registered VRC within three (3) working days from receipt of the file.

2) The filing of a timely appeal by a individual/firm shall not stay the deregistration of the individual/firm. The director, in his discretion may issue a stay during the pendency of the appeal at the administrative level.

3) Individuals or firms deregistered pursuant to this chapter may be deregistered for a period not to exceed two years. An individual or firm may reapply for reregistration after the period of deregistration expires.

WSR 85-03-020
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 8, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning administrative hearings, amending WAC 388-54-817.

It is the intention of the secretary to adopt these rules on an emergency basis on January 8, 1985;

that the agency will at 10:00 a.m., Tuesday, February 26, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

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

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

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by

February 13, 1985. The meeting site is in a location which is barrier free.

Dated: January 8, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: WAC 388-54-817(2).

Purpose of the Rule or Rule Change: The U.S. Department of Agriculture has determined that current Washington administrative disqualification hearings procedural rules do not comply with their interpretation of the federal law a state must follow for federal financial participation in the food stamp program. The proposed changes are intended to bring the procedures into compliance and to preserve a fair and efficient hearings system. The proposed amendments are necessary for federal financial participation in the food stamp program.

Statutory Authority: RCW 74.04.500 and 74.04.510.

Summary of the Rule Change: If the hearing is scheduled to be conducted by telephone it shall be converted to an in person hearing upon filing a motion with the administrative law judge at least one week before the original hearing date. It may be converted to an in person when the request is filed a week or less before the original hearing date. The decision rendering procedure will be changed from the initial decision process to the proposal for decision — exception and argument — administrative decision process of WAC 388-08-406.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: David L. Henry, Chief, Office of Administrative Regulations and Hearings, mailstop OB 43, phone (206) 753-3898.

These rules are necessary as a result of a federal audit, 7 CFR 273.16.

Economic Impact on Small Businesses: None.

AMENDATORY SECTION (Amending Order 2032, filed 10/6/83)

WAC 388-54-817 ADMINISTRATIVE HEARINGS. Fair hearings in the food stamp program are governed by chapters 10-08, 388-08 WAC, and this section.

(1) This subsection governs a food stamp applicant's or recipient's appeal of a department action or decision that aggrieves him or her.

(a) An applicant or participant in the food stamp program has the right to a fair hearing:

(i) On an action by the department or loss of benefits which occurred in the prior ninety days;

(ii) On a denial of a request for restoration of any benefits lost more than sixty days, but less than a year prior to the request;

(iii) At any time within a certification period to dispute the household's current level of benefits.

(b) The appellant must make the request for a hearing within ninety days of receipt of the decision he or she wishes to appeal.

(c) The final administrative decision is to be made within sixty days of the department's receipt of the request for hearing.

(i) The decision-rendering time is extended by as many days as the hearing is continued by a continuance or continuances made on motion by or with the assent of the appellant.

(ii) A hearing request from a household ((~~that plans~~)) planning to move from the state before the hearing decision would normally be entered shall be expedited.

(d) Before and during the hearing, the appellant or his or her representative with appellant's written authorization, may inspect the department file or files containing information related to the issue raised in the request for hearing. WAC 388-08-435 states the right of access to, and procedures for disclosure of, investigative and intelligence files.

(e) The hearing is conducted in the county of the appellant's residence unless the appellant moves for or assents to the hearing being conducted in another county. When the hearing is conducted by telephone, for the purposes of this rule the hearing is conducted in the appellant's county of residence when the appellant participates in the hearing from a location in his or her county of residence regardless of the location or locations from which the department's representative and/or the presiding and review officer participate in the hearing.

(f) The decision-rendering procedure is the initial decision, petition for review, and review decision procedure described in WAC 388-08-409 and 388-08-413, except the period to timely file a petition for review is ten days from the date the initial decision was mailed.

(g) The department is responsible for carrying out the hearing decision.

(i) If the hearing authority determines a household was incorrectly denied program benefits or was issued a lesser allotment than was due, lost benefits shall be provided to the household.

(ii) If the hearing authority determines a household is entitled to an increase in benefits, the increase shall be reflected in the coupon allotment within ten days of the receipt of the hearing decision even if the department must provide a supplementary FCA or otherwise provide the household with the opportunity to obtain the allotment outside of the normal issuance cycle.

(iii) If the hearing authority determines a household is entitled to a decrease in benefits, the decrease shall be reflected in the next scheduled issuance following entry of the final decision.

(iv) If the hearing authority determines the department's action was correct, a claim against the household for any overissuances shall be prepared and processed.

(h) A copy of the tape recording of the hearing is provided at no cost to the appellant upon written request. The request must be made within one year of the hearing and made to the office of hearings.

(2) Administrative disqualification hearings are governed by this subsection.

(a) The individual alleged to have committed an act of intentional program violation shall be given at least thirty days advance notice of the hearing date.

(b) The notice of hearing shall be served on the individual alleged to have committed intentional program violation by a method which obtains proof of receipt.

(c) The notice of hearing shall comply with WAC 10-08-040 and the notice, and/or the complaint accompanying the notice, shall contain the following information necessary to comply with federal requirements:

(i) The allegations against the individual;

(ii) A summary of the department's evidence and how and where the evidence can be examined;

(iii) A statement that if the individual or his or her representative fails without good cause to appear at the hearing, a decision will be made based solely on the evidence and argument the department presents((:

~~(iv)~~)) and a statement that the individual has ten days from the date of the scheduled hearing to file a motion with the presiding officer showing good cause for the failure to appear and seeking a new hearing.

(iv) A statement that if the hearing is scheduled to be conducted by telephone, the individual can have it changed to an in-person hearing by filing a motion so requesting with the administrative law judge at least one week before the day the hearing is scheduled to be conducted.

(d) The individual, or his or her representative, has the right to one continuance of up to thirty days upon request, provided the motion for the continuance is filed at least ten days in advance of the hearing date.

(e) If the individual alleged to have committed intentional program violation, or his or her representative, fails to appear at the hearing without good cause, the hearing shall be conducted without the individual or representative.

(i) The decision shall be based solely on the evidence and argument the department presents.

(ii) The individual has ten days from the date of the scheduled hearing to file a motion with the presiding officer showing good cause for failure to appear and requesting that the hearing be reinstated.

(f) If the hearing is scheduled to be conducted by telephone and the individual requests it to be changed to an in-person hearing by motion filed at least one week before the day the hearing is originally scheduled to be conducted, the administrative law judge shall grant the motion. If the motion is filed one week or less before the hearing is

originally scheduled to be conducted, the administrative law judge shall grant the motion if the moving party shows good cause for having the hearing conducted in person. See WAC 10-08-180.

(g) When the individual appears at the disqualification hearing, the presiding officer shall advise the individual that he or she may refuse to answer questions during the hearing.

((~~(g)~~)) (h) The burden of showing intentional program violation is on the department. The burden of proof is clear and convincing evidence.

(i) The decision-rendering procedure is the proposal for decision, exception and argument, administrative decision procedure described in WAC 388-08-406.

((~~(h)~~)) (j) The final administrative decision shall be entered within ninety days of the date the individual receives the notice of hearing((; ~~the final decision shall be entered~~)).

(3) When a food stamp overpayment allegation is combined with a disqualification allegation, subsections (2) and (3) of this section govern the hearing.

(a) The department may combine a food stamp overpayment allegation and an administrative disqualification allegation into a single hearing when the facts alleged for each arise out of the same or related circumstances.

(b) When the overpayment and disqualification allegations are combined into a single hearing, the department must give the individual alleged to have committed intentional program violation and the person or persons alleged to be liable for the overpayment prior notice. Such notice may be given in the notice or notices of hearing or other written document which apprises the individual that the hearings have been combined.

(c) When the overpayment and the disqualification hearings are combined, the hearing procedures and time frames shall be those applicable to a disqualification hearing.

(d) When the overpayment allegation and the disqualification allegation hearings are combined, the household loses its right to a subsequent fair hearing on the overpayment allegation.

WSR 85-03-021
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2187—Filed January 8, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to administrative hearings, amending WAC 388-54-817.

I, David A. Hogan, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are being adopted on an emergency basis to prevent loss of federal dollars used for administration of the food stamp program. In April 1984, the department was advised that its food stamp fraud hearing procedures were not in compliance with federal regulations. In September 1984, the department was given until November 26, 1984, to make those changes in the food stamp fraud hearing system necessary to meet federal requirements. This deadline was subsequently extended to January 15, 1985. Failure to meet the deadline will result in the department's being cited for a compliance issue with a consequent fiscal sanction.

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

This rule is promulgated under the general rule-making authority of the Department of Social and Health Services as authorized in RCW 74.04.510.

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 8, 1985.

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

AMENDATORY SECTION (Amending Order 2032, filed 10/6/83)

WAC 388-54-817 ADMINISTRATIVE HEARINGS. Fair hearings in the food stamp program are governed by chapters 10-08, 388-08 WAC, and this section.

(1) This subsection governs a food stamp applicant's or recipient's appeal of a department action or decision that aggrieves him or her.

(a) An applicant or participant in the food stamp program has the right to a fair hearing:

(i) On an action by the department or loss of benefits which occurred in the prior ninety days;

(ii) On a denial of a request for restoration of any benefits lost more than sixty days, but less than a year prior to the request;

(iii) At any time within a certification period to dispute the household's current level of benefits.

(b) The appellant must make the request for a hearing within ninety days of receipt of the decision he or she wishes to appeal.

(c) The final administrative decision is to be made within sixty days of the department's receipt of the request for hearing.

(i) The decision-rendering time is extended by as many days as the hearing is continued by a continuance or continuances made on motion by or with the assent of the appellant.

(ii) A hearing request from a household ((~~that plans~~)) planning to move from the state before the hearing decision would normally be entered shall be expedited.

(d) Before and during the hearing, the appellant or his or her representative with appellant's written authorization, may inspect the department file or files containing information related to the issue raised in the request for hearing. WAC 388-08-435 states the right of access to, and procedures for disclosure of, investigative and intelligence files.

(e) The hearing is conducted in the county of the appellant's residence unless the appellant moves for or assents to the hearing being conducted in another county. When the hearing is conducted by telephone, for the purposes of this rule the hearing is conducted in the appellant's county of residence when the appellant participates in the hearing from a location in his or her county of residence regardless of the location or locations from which the department's representative and/or the presiding and review officer participate in the hearing.

(f) The decision-rendering procedure is the initial decision, petition for review, and review decision procedure described in WAC 388-08-409 and 388-08-413, except the period to timely file a petition for review is ten days from the date the initial decision was mailed.

(g) The department is responsible for carrying out the hearing decision.

(i) If the hearing authority determines a household was incorrectly denied program benefits or was issued a lesser allotment than was due, lost benefits shall be provided to the household.

(ii) If the hearing authority determines a household is entitled to an increase in benefits, the increase shall be reflected in the coupon allotment within ten days of the receipt of the hearing decision even if the department must provide a supplementary FCA or otherwise provide the household with the opportunity to obtain the allotment outside of the normal issuance cycle.

(iii) If the hearing authority determines a household is entitled to a decrease in benefits, the decrease shall be reflected in the next scheduled issuance following entry of the final decision.

(iv) If the hearing authority determines the department's action was correct, a claim against the household for any overissuances shall be prepared and processed.

(h) A copy of the tape recording of the hearing is provided at no cost to the appellant upon written request. The request must be made within one year of the hearing and made to the office of hearings.

(2) Administrative disqualification hearings are governed by this subsection.

(a) The individual alleged to have committed an act of intentional program violation shall be given at least thirty days advance notice of the hearing date.

(b) The notice of hearing shall be served on the individual alleged to have committed intentional program violation by a method which obtains proof of receipt.

(c) The notice of hearing shall comply with WAC 10-08-040 and the notice, and/or the complaint accompanying the notice, shall contain the following information necessary to comply with federal requirements:

(i) The allegations against the individual;

(ii) A summary of the department's evidence and how and where the evidence can be examined;

(iii) A statement that if the individual or his or her representative fails without good cause to appear at the hearing, a decision will be made based solely on the evidence and argument the department presents((;

~~(iv)~~)) and a statement that the individual has ten days from the date of the scheduled hearing to file a motion with the presiding officer showing good cause for the failure to appear and seeking a new hearing.

(iv) A statement that if the hearing is scheduled to be conducted by telephone, the individual can have it changed to an in-person hearing by filing a motion so requesting with the administrative law judge at least one week before the day the hearing is scheduled to be conducted.

(d) The individual, or his or her representative, has the right to one continuance of up to thirty days upon request, provided the motion for the continuance is filed at least ten days in advance of the hearing date.

(e) If the individual alleged to have committed intentional program violation, or his or her representative, fails to appear at the hearing without good cause, the hearing shall be conducted without the individual or representative.

(i) The decision shall be based solely on the evidence and argument the department presents.

(ii) The individual has ten days from the date of the scheduled hearing to file a motion with the presiding officer showing good cause for failure to appear and requesting that the hearing be reinstated.

(f) If the hearing is scheduled to be conducted by telephone and the individual requests it to be changed to an in-person hearing by motion filed at least one week before the day the hearing is originally scheduled to be conducted, the administrative law judge shall grant the motion. If the motion is filed one week or less before the hearing is originally scheduled to be conducted, the administrative law judge shall grant the motion if the moving party shows good cause for having the hearing conducted in person. See WAC 10-08-180.

(g) When the individual appears at the disqualification hearing, the presiding officer shall advise the individual that he or she may refuse to answer questions during the hearing.

((~~(g)~~)) (h) The burden of showing intentional program violation is on the department. The burden of proof is clear and convincing evidence.

(i) The decision-rendering procedure is the proposal for decision, exception and argument, administrative decision procedure described in WAC 388-08-406.

((~~(h)~~)) (j) The final administrative decision shall be entered within ninety days of the date the individual receives the notice of hearing((~~; the final decision shall be entered~~)).

(3) When a food stamp overpayment allegation is combined with a disqualification allegation, subsections (2) and (3) of this section govern the hearing.

(a) The department may combine a food stamp overpayment allegation and an administrative disqualification allegation into a single hearing when the facts alleged for each arise out of the same or related circumstances.

(b) When the overpayment and disqualification allegations are combined into a single hearing, the department must give the individual alleged to have committed intentional program violation and the person or persons alleged to be liable for the overpayment prior notice. Such notice may be given in the notice or notices of hearing or other written document which apprises the individual that the hearings have been combined.

(c) When the overpayment and the disqualification hearings are combined, the hearing procedures and time frames shall be those applicable to a disqualification hearing.

(d) When the overpayment allegation and the disqualification allegation hearings are combined, the household loses its right to a subsequent fair hearing on the overpayment allegation.

WSR 85-03-022
ATTORNEY GENERAL OPINION
Cite as: AGO 1985 No. 1
[January 7, 1985]

OFFICES AND OFFICERS—STATE—LEGISLATOR—APPOINTMENT OF COUNTY COMMISSIONER TO VACANCY IN MULTI-COUNTY LEGISLATIVE POSITION

If a vacancy occurs in one position of a House of Representatives district which encompasses two counties and part of a third county, the boards of county commissioners of the three counties, acting jointly pursuant to Wash. Const. Art. II, § 15 (Amendment 52), may not appoint one of their own members to fill such vacancy.

Requested by:
Honorable Robert K. Leick
Prosecuting Attorney
Skamania County
Courthouse Building
Stevenson, Washington 98648

WSR 85-03-023
EMERGENCY RULES
DEPARTMENT OF GENERAL ADMINISTRATION
(Division of Savings and Loan Associations)
[Order 85-1—Filed January 9, 1985]

I, R. H. "Bob" Lewis, Supervisor, Division of Savings and Loan, do promulgate and adopt at Olympia, Washington, the annexed rules relating to fees for branch application of foreign associations, amending WAC 419-14-075.

I, R. H. "Bob" Lewis, Supervisor, Division of Savings and Loan, 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 amendment to WAC 419-14-075 is necessary to correct language which was intended to appear but was inadvertently omitted from the rule. Failure to amend WAC 419-14-075 on an emergency basis would result in an extraordinary charge to any foreign association making application for multiple branches.

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

This rule is promulgated pursuant to RCW 33.08.110 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 8, 1985.

By R. H. "Bob" Lewis
Supervisor

AMENDATORY SECTION (Amending Order 84-4, filed 5/30/84 [5/31/84])

WAC 419-14-075 BRANCH APPLICATION FEE—FOREIGN ASSOCIATIONS The fee required by RCW 33.08.110 to be submitted in connection with an application to establish a branch office of a foreign association in this state shall be two thousand five hundred dollars, nonrefundable for the first branch and five hundred dollars for each additional branch. In the event the actual costs of the investigation with respect to a particular application exceed the amount of the fee, such difference between the fee and the actual costs shall be paid by the applicant. For the purposes of this section, actual costs shall include travel and per diem expenses paid to division personnel in connection with the investigation.

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

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 85-03-024
ADOPTED RULES
GAMBLING COMMISSION
[Order 142—Filed January 9, 1985]

Be it resolved by the Washington State Gambling Commission, acting at Union, Washington, that it does adopt the annexed rules relating to amendatory sections WAC 230-04-201, 230-30-070, 230-30-102, 230-30-104 and new section WAC 230-30-999.

Amendatory section WAC 230-04-201 Fees, this action is being taken to correct typographical error in Table 2, Class D; amendatory section WAC 230-30-070 Control of prizes, proposed by Sam Sarama to restrict the public from viewing the personal information of recorded winners of prizes from punchboards and pull tabs. The staff concurs on the security of the personal information; amendatory section WAC 230-30-102 Pull tab series assembly and packaging, clarifies the distribution of winning pull tabs within the pull tab series and instructions on identifying each pull tab series; amendatory section WAC 230-30-104 Possession or sale of pull tab series in which winners or location of winners may be determined in advance—Prohibited, a companion rule change to WAC 230-30-102 above; and new section WAC 230-30-999 Test of continuous play/open ended pull tab series, provides authority to conduct test for open end pull tab system.

This action is taken pursuant to Notice No. WSR 84-14-035 filed with the code reviser on June 28, 1984. 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 August 10, 1984.

By Alan B. Brooks
Assistant Director, Administration

AMENDATORY SECTION (Amending Order 140, filed 6/15/84)

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	$ 150
		Renewal	75
4.	CARD GAMES		
	Class A	General (Fee to play charged)	$ 500
	Class B	Limited card games - to hearts, rummy, 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	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.	PUNCHBOARDS/ PULL TABS	(Fee based on annual gross receipts)	
	Class A	Up to $50,000	$ 450
	Class B	$50,001 to 100,000	950
	Class C	$100,001 to 200,000	1,350
	Class D	$200,001 to 300,000	1,750
	Class E	$300,001 to 500,000	2,150
	Class F	Over $500,000	3,000
9.	RAFFLES	(Fee based on annual net receipts)	
	Class C	$500 or less	$ 50
	Class D	$501 - 5,000	100
	Class E	$5,001 - 15,000	400
	Class F	Over $15,000	600
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)	
	IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-30-015 and WAC 230-30-030)	

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, coon-can and/or cribbage	$ 150
	Class C	Tournament only, no more than ten consec. days per tournament	150
	Class D	General (No fee to play charged)	((~~75~~)) 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 CLASSIF.	(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
	REPLACEMENT IDENTIFICATION STAMPS	(See WAC 230-30-016)	25
	LICENSE TRANSFERS	(See WAC 230-04-125, WAC 230-04-340 and WAC 230-04-350)	50
3.	DISTRIBUTOR	Original	$2,500
		Renewal	1,250
4.	DISTRIBUTOR'S REPRESENT-ATIVE	Original	$ 200
		Renewal	100
5.	MANUFACTURER	Original	$3,000
		Renewal	1,500
6.	MANUFACTURER'S REPRESENT-ATIVE	Original	$ 200
		Renewal	100
7.	PERMITS	Agriculture 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 $50,000	$ 450
	Class B	$50,001 to 100,000	950
	Class C	$100,001 to 200,000	1,350
	Class D	$200,001 to 300,000	1,750
	Class E	$300,001 to 500,000	2,150
	Class F	Over $500,000	3,000
10.	SPECIAL FEES		
	INVESTIGATION	(See WAC 230-04-240)	
	IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-30-015 and WAC 230-30-030)	
11.	SPECIAL LOCATION AMUSEMENT GAMES	(Fee based on annual net receipts)	
	Class A	One event per year lasting no longer than 12 consec. 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

AMENDATORY SECTION (Amending Order 116, filed 1/18/82)

WAC 230-30-070 CONTROL OF PRIZES. (1) All prizes from the operation of punchboards and pull tabs shall be awarded in cash or in merchandise. Prizes may not involve the opportunity of taking an additional chance or chances on another punchboard or of obtaining another pull tab or pull tabs. Where the prize involves the opportunity to punch again on the same punchboard, a prize must be awarded for each such punch which is not less than the highest amount of money, or worth not less than the most valuable merchandise prize, which might otherwise have been won by the punch for which the opportunity to take the second punch was awarded. No punchboard which offers as a prize the opportunity to take another punch on that board shall be sold or placed out for play unless that particular style and type of step-up board has been approved in advance by the commission. Each such board must clearly indicate on its face the terms and conditions under which the opportunity to obtain the second, or step-up punch, may be obtained and the prizes which may be won by the step-up punch.

(2)(a) All prizes shall be displayed in the immediate vicinity of the punchboard or pull tab device and such prizes shall be in full view of any person prior to that person purchasing the opportunity to play.

(b) When the prize is cash it shall be displayed as follows:

(i) If the punchboard or pull tab series contains the opportunity to win both cash and merchandise prizes, the money itself shall not be displayed, but a coupon designating the cash available to be won shall be substituted; and

(ii) If the only prizes which may be won are cash prizes, they shall be clearly and fully described or represented by a coupon displayed upon the prize flare attached to the face or displayed in the immediate vicinity of the pull tab dispensing device.

(c) The licensee shall display prizes so arranged that a customer can easily determine which prizes are available from any particular punchboard or pull tab series or device operated or located upon the premises.

(3) Upon a determination of a winner of a merchandise prize, the licensee shall immediately remove that prize from any display and present it to the winner.

Immediately upon determining the winner of any cash prize of five dollars or more, or of any merchandise prize with a retail value of five dollars or more, but prior to award of the prize, the licensee shall conspicuously delete all references to that prize being available to players from any flare, punchboard or pull tab dispensing device upon which such reference may appear, and from any other list, sign, or notice which may be posted, in such a manner that all future customers will know the prize is no longer available. The prize shall then be paid or delivered to the winner forthwith. The licensee must pay or award to the customer or player playing the punchboard or pull tab series all such prizes that have not been deleted from the flare of the punchboard or pull tab series when the punchboard or pull tab series is completely played out.

(4) No licensee shall offer to pay cash in lieu of merchandise prizes which may be won.

(5) When any person wins a cash prize of over twenty dollars or wins a merchandise prize with a retail value of more than twenty dollars from the play of any punchboard or pull tab series, the licensee or licensee's representative shall make a record of the win. ((The record)) The record of the win ((shall be made)) shall be made in a standard format prescribed by the commission and shall disclose at minimum the following information:

(a) The Washington state identification stamp number of the punchboard or pull tab series from which the prize was won;

(b) The series number of the pull tab series or punchboard from which the prize was won;

(c) The name of the punchboard or pull tab series;

(d) The date the pull tab series or punchboard was placed out for play;

(e) The date the pull tab series or punchboard was removed from play;

(f) The month, day and year of the win;

(g) If the prize is cash, the amount of the prize won;

(h) If the prize is merchandise, a description of the prize won and its retail value;

(i) The printed full name of the winner;

(j) The current address of the winner which will include the street address, the city and the state.

It shall be the responsibility of the licensee to determine the identity of the winner and the licensee shall require such proof of identification as is necessary to properly establish the winner's identity. The licensee shall not pay out any prize unless and until the winner has fully and accurately furnished to the licensee all information required by this rule to be maintained in the ((licensee licensee's)) licensee record of the win.

(6) Every licensee shall keep the record of all prizes awarded in excess of twenty dollars, containing all of the information required in subsection (5) above, and all winning pull tabs or punchboard punches of five dollars or more for a period of six months and shall display the same to any ((~~member of the public,~~)) representative of the commission or law enforcement officials upon demand.

(7) For the purposes of this rule, the retail value of a merchandise prize shall be the amount actually paid therefor by the licensed operator plus 50 percent of that actual cost.

(8) Spindle-type pull tab series which award only merchandise prizes valued at no more than five dollars, are hereby permitted to employ schemes whereby certain predesignated pull tabs are free or the player is otherwise reimbursed the actual cost of said pull tabs. Flares for spindle-type pull tabs operated in this manner shall designate the total number of pull tabs in the series and the total number of pull tabs designated as free or reimbursable. Free or reimbursable pull tabs in these types of pull tab series shall not constitute a prize or prizes nor shall monies collected and later reimbursed constitute revenue for the purposes of determining gross receipts.

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 43 [78], filed 11/28/75 [11/17/77])

WAC 230-30-102 PULL TAB SERIES ASSEMBLY AND PACKAGING. (1) Manufacturers of pull tabs shall manufacture, assemble, and package each pull tab series in such a manner that none of the winning pull tabs, nor the location or approximate location of any of the winning pull tabs can be determined, in advance of opening the pull tabs in any manner or by any device, including but not limited to any pattern in manufacture, assembly, packaging, markings, or by the use of a light.

(2) Winning pull tabs shall be ((~~randomly~~)) evenly distributed and mixed among all other pull tabs in the series. The series shall be assembled and packaged with special care so as to eliminate any pattern as between series, or portions of series, from which the location or approximate location of any of the winning tabs may be determined.

(3) When the series is packaged in more than one package, box or other container, the entire series of individual pull tabs shall be mixed in such a manner that no person can determine the position or approximate location of any of the winning pull tabs or determine whether any one package or portion of a series contains a larger or smaller percentage of winning pull tabs than the balance of the series. The packages, boxes or other containers shall not be numbered as to distinguish one from the other ((~~and have no marking other than the series number~~)). Each series of pull tabs shall contain a packing slip placed inside the package containing the name of manufacturer, series number, date the series was packaged, and the name or identification of the person who packaged the series: PROVIDED, That this information may be printed on the back of the flare or the outside of at least one of the packages, boxes or containers in which the pull tabs are packed.

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

AMENDATORY SECTION (Amending Order 78, filed 11/17/77)

WAC 230-30-104 POSSESSION OR SALE OF PULL TAB SERIES IN WHICH WINNERS OR LOCATION OF WINNERS MAY BE DETERMINED IN ADVANCE—PROHIBITED. (1) No operator, distributor or manufacturer, or representative thereof, with knowledge or in circumstances whereunder he reasonably should have known, shall possess, display, put out for play, sell or otherwise furnish to any person any pull tab series or pull tab from any series:

(a) In which the winning tabs have not been ((~~completely and randomly~~)) evenly distributed and mixed among all other tabs in the series; or

(b) In which the location, or approximate location, of any of the winning tabs can be determined in advance of opening the tabs in any manner or by any device, including but not limited to, any pattern in the manufacture, assembly or packaging of the tabs by the manufacturer, by any markings on the tabs or container, or by the use of a light; or

(c) Which does not conform in any other respect to the requirements of these rules as to manufacture, assembly, or packaging of pull tabs.

(2) No manufacturer or distributor or representative thereof shall use as a sales promotion any statement, demonstration, or implication that any certain portion of a series of pull tabs contains more winners than other portions of the series or that any series of pull tabs may be sold by the operator in a particular manner that would give the operator any advantage in selling more of the pull tabs before having to pay out winners.

NEW SECTION

WAC 230-30-999 TEST OF CONTINUOUS PLAY/OPEN ENDED PULL TAB SERIES. (1) For purposes of regulating and establishing the type, scope, and manner of conducting gambling activities, the commission shall conduct a test of the operation of continuous play/open ended pull tab series.

During this test the following definitions shall apply:

(a) "Continuous play/open ended pull tab series" are those which:

(i) Are identical as to manufacturer, manufacturer form number, sales price per pull tab, winning symbols, prize amounts, and number of pull tabs; and

(ii) Do not award a prize for the purchase of the last tab.

(b) "Continuous play/open ended pull tab sets" are:

(i) Those pull tabs which are operated as a continuous set by adding "continuous play/open ended pull tab series" to the dispensing device without first closing out any previously added pull tab series; and

(ii) No winning pull tabs are marked off the flare.

(2) Participation in the test will be limited to those licensees who voluntarily agree to conduct the test and abide by criteria set by the commission, in cooperation with the participants. All approvals to participate will be in writing and will be revokable by either the commission or the licensee by giving three days written notice. A copy of the approval shall be maintained on the premises, any time the activity is operated, and be made available to representatives of the commission and law enforcement officers.

(3) For the purposes of this test all rules of the commission will apply: Provided, That participants in the test must comply with the following rules, as modified, for continuous play/open end pull tab operations only:

(a) WAC 230-08-010(5) - A substitute monthly record format, prescribed by the commission, will be used. Whenever any portion of a series is added to a dispensing device, the unused pull tabs from that series must be first added to that dispensing device before any other pull tab series. Each series shall be entered on the monthly record immediately after any pull tab from the series has been added to the dispensing device and will include the following information:

(i) The name of the pull tab series:

(ii) The Washington state identification stamp number issued by the commission;

(iii) The series number assigned by the manufacturer;

(iv) The date the first pull tab was added to the dispensing device;

(v) The color;

(vi) The total number of tabs in the pull tab series;

(vii) The manufacturers name;

(viii) The manufacturers assigned form number;

(ix) The cost to the players to purchase one pull tab; and

(x) The gross receipts.

Net cash and winning pull tabs from each dispensing device will be maintained separately. A form will be provided by the commission to reconcile winning tabs, prizes paid, cash receipts, and deposits. Licensees must complete this form at least weekly and charitable and non profit organizations will deposit receipts as required by WAC 230-12-020.

After the close of business on the last day of each month, a cut-off count and cash reconciliation will be made of each dispensing device. All unsold tabs from any series started in the device will be counted and recorded in the monthly record as one total.

At the end of the test or when a set is permanently removed from play, all remaining pull tabs shall be counted and a reconciliation of cash made. Each set of pull tabs permanently removed from play shall be maintained as a separate group and retained for at least six months. Each set permanently removed will be labeled with at least the date pulled; manufacturers name; and manufacturers form number.

(b) WAC 230-08-170 and 230-30-080(4) - Additional reasons pull tabs, temporarily removed, may be returned to play:

(i) Mixing with new pull tabs being added to the dispensing device;

(ii) Monthly reconciliation; and

(iii) Unsold pull tabs from alternate sales locations.

(c) WAC 230-08-170 and WAC 230-30-070(6) - All winning pull tabs must be retained, and within twenty four hours the licensee shall mark or perforate the winning pull tab in such a manner that the pull tab can not be presented again for payment. Winning tabs shall be retained for six months following the month the tabs were presented for payment.

(d) WAC 230-30-015(2) and WAC 230-30-130 - The substitute flare used for continuous play/open end pull tabs need not display the series number or the Washington state identification stamp for the series in play.

(e) WAC 230-30-050(3) - All receipts, records, and reports, including pull tab series flares with Washington state identification stamp affixed, must be retained on the premises at least nine months after the series is placed into play, and be made available on demand to law enforcement officers and representatives of the commission.

(f) WAC 230-30-070(3) - References to prizes entered on the flare shall not be deleted at any time.

(g) WAC 230-30-070(5)(e) - The licensee's record of pull tab winners shall not contain the date an open end pull tab series was removed from play.

(h) WAC 230-30-080(3) - This section shall not apply. See (1)(b) and (3)(b) above.

(i) WAC 230-30-106(3) - The flare advertising prizes available from the operation of any sets of pull tabs shall display the numbers or symbols for winning prizes and the total number available of each class of prize, for each individual series added to the set.

(4) An information sign explaining the test, shall be provided by the commission, and posted for public view, in close proximity to the dispensing device.

(5) All other rules of the commission, unless exempted above, will apply.

WSR 85-03-025
ADOPTED RULES
GAMBLING COMMISSION
[Order 143—Filed January 9, 1985]

Be it resolved by the Washington State Gambling Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to amendatory sections WAC 230-08-260, 230-25-065 and 230-40-030.

Amendatory section WAC 230-08-260 Fund raising events—Activity report required, this adds a requirement for supplemental activity report from each organization participating in a joint fund raising event; amendatory section WAC 230-25-065 Licensees may join together to conduct a fund raising event, this clarifies operating instructions and recordkeeping requirements for a joint fund raising event; and amendatory section WAC 230-40-030 Number of tables and players limited, this allows no more than 10 players to participate at any one table at any given time.

This action is taken pursuant to Notice No. WSR 84-17-060 filed with the code reviser on August 14, 1984. 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 9.46.010, 9.46.070 (8) 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 September 20, 1984.

By Alan B. Brooks
Assistant Director, Administration

AMENDATORY SECTION (Amending Order 78, filed 11/17/77)

WAC 230-08-260 FUND RAISING EVENTS—ACTIVITY REPORT REQUIRED. (1) Each ((~~licensee for the operation of~~)) organization licensed to conduct a fund raising event((s)) and each lead organization for a joint fund raising event, shall submit an activity report to the commission concerning the operation of the licensed activities and other matters set forth below for the period of each event.

The report shall include among other items, the following information:

(a) Revenue per records for each gambling activity;

(b) Gross receipts and prizes paid for bingo, raffles, lotteries, and drawings;

(c) Adjustments to net receipts (i.e., discounts on foreign currency and cash over/short);

(d) Annual net receipts reconciliation (this item need not be completed on a joint event report submitted by the lead organization for the total event); and

(e) Full details of all expenses directly related to each event.

(2) Each participating licensee in a joint fund raising event shall submit a Joint Fund Raising Event Supplemental Report which shall include among other items, the following information:

(a) Percentage of adjusted net receipts and expenses per Joint Fund Raising Event Agreement;

(b) Dollar amounts allocated to your organization for adjusted net receipts, expenses, and net income; and

(c) Annual net receipts reconciliation.

Each of the above reports shall be received in the office of the commission no later than 30 days following the authorized operating days or day. The report shall be signed by the president, or equivalent officer, and shall be submitted on a form to be provided by the commission. If the report is prepared by someone other than the president or equivalent officer of the organization, then the preparer shall sign the report also. ((~~The report shall include, among other items, the following information:~~

~~(1) The gross receipts from each separate gambling activity;~~

~~(2) Total cash prizes actually paid out and the total of the cost to the licensee of all merchandise prizes actually given out for each separate gambling activity;~~

~~(3) The net receipts for each separate gambling activity;~~

~~(4) The total net receipts;~~

~~(5) Full details of all expenses directly related to each event.~~))

AMENDATORY SECTION (Amending Order 140, filed 6/15/84)

WAC 230-25-065 LICENSEES MAY JOIN TOGETHER TO CONDUCT A FUND RAISING EVENT. (1) Organizations holding a license to conduct a fund raising event may join together with other organizations holding such a license to jointly conduct a fund raising event providing that the following conditions are met:

(a) Prior approval to do so is received by each licensee from the Commission for that particular fund raising event;

(b) The method by which ((~~the~~)) any income or losses and expenditures will be received, expended, and apportioned among the licensees conducting the fund raising event is disclosed in writing to the Commission, together with the application for the fund raising event. Changes to the original application must be approved by the commission;

(c) The percentage of income or loss agreed to by any organization shall not be greater than the percentage needed for them to reach the maximum of $10,000 for the calendar year;

(d) A lead organization and an event manager are designated in the application, with the lead organization having the responsibility for the central accounting system required by WAC 230-25-070, ((~~the activity report to the commission required by WAC 230-08-260;~~)) and compliance with WAC 230-25-030(3) regarding the distribution of receipts beyond those permitted in (2) below((~~.~~));

((~~(d) Records are kept by each of the participating licensees which clearly disclose the amount of money received and expended in connection with the joint fund raising event;~~))

(e) Each licensee shall prepare a list of all persons from their organization taking part in the management or operation of the fund raising event. Such list shall be available on the premises and contain, at a minimum, the name, address, telephone number, and a brief statement signed by the chief executive officer certifying that each member listed is a bona fide member as specified in RCW 9.46.020(15) and WAC 230-25-260.

(f) A Fund Raising Event Report will be prepared and submitted by the lead organization as required by WAC 230-08-260 (1) and each participating licensee, including the lead organization, shall submit a Joint Fund Raising Event Supplemental Report as required by WAC 230-08-260 (2); and

(g) Records are kept by each of the participating licensees which clearly disclose the amount of money received and expended in connection with the joint fund raising event;

(2) The amount of income derived from the joint fund raising event will not exceed the event limit of $10,000. In addition, each participating organization must comply with annual limits imposed by RCW 9.46.020(23) and WAC 230-25-030. The joint fund raising event shall count against only the lead organization or organizations receiving fifty percent or more of the allowable proceeds for the purposes of determining the number of such events an organization may conduct each year.

(3) The lead organization will be responsible for the deposit of the ending cash on hand and must comply with WAC 230-25-070(12). All funds due to any participating organization must be made by check and disbursed within 30 days following the end of the event.

AMENDATORY SECTION (Amending Order 23, filed 9/23/74)

WAC 230-40-030 NUMBER OF TABLES AND PLAYERS LIMITED. (1) No licensee to allow a public card room on its premises shall allow more than five separate tables at which card games are played, nor shall allow more than (~~eight~~)) ten players to participate at any one table at any given time.

(2) No licensee to allow a social card room on its premises shall allow more than ((~~eight~~)) ten players to participate at any one table at any given time.

(3) The commission may permit a licensee to exceed these limits on specific occasions for good cause shown. Requests to exceed the limit shall be submitted to the commission in writing not less than 30 days preceding

the date upon which the licensee wishes to exceed the limit. The request shall indicate the date(s) involved, the reasons why the request is made, and the number of games and players in the games which the licensee desires to allow on that occasion.

WSR 85-03-026
ADOPTED RULES
GAMBLING COMMISSION
[Order 144—Filed January 9, 1985]

Be it resolved by the Washington State Gambling Commission, acting at Yakima, Washington, that it does adopt the annexed rules relating to amendatory sections WAC 230-02-020, 230-04-230, 230-04-325, 230-08-095, 230-08-120, 230-12-020, 230-40-050 and new section WAC 230-40-055.

This action is taken pursuant to Notice Nos. WSR 84-17-061 and 84-20-004 filed with the code reviser on August 14, 1984, and September 21, 1984. 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 9.46.020 (20)(d), 9.46.050(3) and 9.46.070 (1), (2), (5), (8), (9), (11) and (12) 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 November 8, 1984.

By Alan B. Brooks
Assistant Director, Administration

AMENDATORY SECTION (Amending Order 78, filed 11/17/77)

WAC 230-02-020 TIME AND PLACE OF MEETINGS. Regular public meetings of the commission shall normally be held ((~~upon~~)) in ((~~the second Friday of~~)) March, June, September, and December((~~, or the preceding business day if that Friday is a holiday~~)). Each such regular meeting shall be held in ((~~Olympia City Hall, Council Chambers, 8th and Plum,~~)) Olympia, Washington, beginning at the hour of 10:00 a.m., date and place to be set by the commission with at least two weeks advance notice. Additional public meetings necessary to discharge the business of the commission may be called from time to time.

AMENDATORY SECTION (Amending Order 139, filed 12/12/83)

WAC 230-04-230 INTENTIONALLY UNDERSTATING ANTICIPATED REVENUE—PROHIBITED. It shall constitute grounds for revocation or suspension of a license if any applicant ((~~for license to conduct bingo, raffles and/or amusement games shall~~)) intentionally understates the anticipated gross or net receipts from ((~~the~~)) a licensed activity for any purpose.

AMENDATORY SECTION (Amending Order 112 [140], filed 9/15/81 [6/15/84])

WAC 230-04-325 CANCELLATION, CHANGE OF TIME, DATE, OR LOCATION OF FUND RAISING EVENT. A cancellation or a change in time, date, and/or location of a fund raising event as defined in RCW 9.46.020 requires:

(1) For cancellation, the licensee shall notify the commission and the appropriate law enforcement agency in advance of the date upon which the event is scheduled.

(2) For change of time, date, or location, the licensee shall:

(a) Give at least ten days written notice to the commission in advance of the new time, date, or location change, together with a signed statement from the chief executive officer that the appropriate law enforcement agency has been notified of the change;

(b) Pay a fee ((~~of twenty dollars~~)) as required by WAC 230-04-201 to the commission for each such time, date, or location change.

(3) For a cancellation of change in time, date, and/or location, the ((~~permit form~~)) license authorizing the event for the specific time, date, or location shall be returned to the commission.

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

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending Order 45, filed 12/30/75)

WAC 230-08-095 MINIMUM STANDARDS FOR CLASS C AND LARGER BINGO GAMES—MONTHLY AND ANNUAL ACCOUNTING RECORDS. A double entry accounting system shall be maintained by all bingo licensees, except Class A and B:

(1) This system shall include all receipts and disbursements of the licensee, including but not limited to, those related to bingo, and shall conform to generally accepted accounting principles, except as modified by other commission rules or instructions for activity reports. ((~~The system shall be the same system as the licensee uses as the basis for its reporting to the U.S. Internal Revenue Service on its form 990.~~))

The preferable method of accounting shall be the accrual method. The cash basis or modified cash basis shall be acceptable accounting system methods only as long as they accurately represent the results of operations. ((~~The preferable method of accounting shall be the accrual method.~~)) The accrual method is mandatory where the licensee has substantial ((~~or material~~)) liabilities or substantial expenses not requiring a current outlay of cash, such as depreciation or amortization expenses.

At minimum, the double entry system shall include ((~~a general ledger,~~)) all records required by other sections of this WAC, a monthly cash disbursements journal (check register), ((~~and~~)) a monthly sales journal (cash receipts journal), plus a listing of all assets and liabilities. Licensees with substantial assets and liabilities or licensed to receive more than $300,000 bingo gross receipts must have a complete general ledger system.

(2) All expenditures by the licensee((~~, both respecting its expenditures~~)) relating to gambling((~~, and nongambling~~)) activities, shall be sufficiently documented ((~~by~~)) in the following manner:

(a) ((~~i~~))Invoices or other appropriate supporting documents from commercial vendors or service agencies should contain at least the following details:

(i) The name of the person or entity selling the goods or providing the service;

(ii) A complete description of goods or services purchased;

(iii) The amount of each product sold or service provided;

(iv) The price of each unit;

(v) The total dollar amount billed; and

(vi) The date of the transaction.

(b) Disbursements, in excess of twenty-five dollars, made directly to individuals, who do not furnish normal, business type, invoices or statements, should be supported by other written documentation indicating at least the following details:

(i) The name of the person receiving the payment;

(ii) The amount;

(iii) The date; and

(iv) The purpose.

(c) Normally, cancelled checks and/or statements without further support, such as listed in (2)(a) and (2)(b) above, are not considered sufficient documentation.

(3) All expenditures by the licensee relating to non-gambling activities shall be sufficiently documented to provide an audit trail and will conform to generally accepted accounting principals.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending Order 127, filed 3/2/83)

WAC 230-08-120 QUARTERLY ACTIVITY REPORT BY OPERATORS OF BINGO GAMES (LICENSE CLASS C AND ABOVE). Each licensee for the operation of bingo games (license Class C and above) conducted by bona fide charitable or nonprofit organizations, shall submit an activity report to the commission concerning the licensed activity and other matters set forth below during each of the following periods of the year:

January 1st through March 31st
April 1st through June 30th
July 1st through September 30th
October 1st through December 31st

If the licensee does not renew his license, then he shall file a report for the period between the previous report filed and the expiration date of his license.

Each report shall be received in the office of the commission or postmarked no later than 30 days following the end of the period for which it is made.

The report shall be signed by the president, or equivalent officer and shall be submitted upon a form to be obtained from the commission. If the report is prepared by someone other than the licensee or his employee, then the preparer shall also sign the report. The report shall include, among other items, the following:

(1) The gross receipts from bingo by month.

(2) The total amount of cash prizes actually paid out and the total of the cost to the licensee of all merchandise prizes actually paid out by month.

(3) The net receipts by month.

(4) Full details on all expenses directly related to bingo, including all compensation paid by the licensee to each person for any work connected with the management, promotion, conduct or operation of bingo including a description of the work performed by that person.

(5) The net income.

(6) The total number of customers participating.

(7) The total number of sessions held.

AMENDATORY SECTION (Amending Order 130, filed 4/1/83)

WAC 230-12-020 GAMBLING RECEIPTS DEPOSIT REQUIRED BY ALL BONA FIDE CHARITABLE AND NONPROFIT ORGANIZATIONS. (1) Every licensed bona fide charitable or nonprofit organization shall keep a separate gambling receipts' account in a ((~~reorganized~~)) recognized Washington state depository authorized to receive funds, which shall be kept separate and apart and actually segregated from the licensee's general funds: PROVIDED, That if such activities are conducted on the United States' portion of the Point Roberts Peninsula, Washington, the deposit may be made in a British Columbia branch of a Canadian bank. Licensees are not limited to a single gambling receipts account as long as a minimum of one separate account is maintained. The following conditions of deposit will be met:

(a) No expenditures other than for prizes shall be made from the receipts of any licensed gambling activity until such receipts have first been deposited in the gambling receipts account: PROVIDED, That bingo receipts may be withheld from deposits for jar, pig, or other similar special game prizes if:

(i) The total of all such prize funds does not accumulate to exceed $200.00;

(ii) The amount withheld each session is entered in the bingo daily record; and

(iii) A reconciliation of the special game fund is made of the bingo daily record;

(b) All net receipts from the operation of bingo which are being held pending disbursement shall be deposited

in the licensee's gambling receipts account not later than the second banking day following receipt thereof;

(c) All net receipts from the operation of card rooms, punchboards, pull tabs, raffles (Class D and above), and amusement games (Class B and above) shall be deposited in the licensees gambling receipts account at least once each week; and

(d) All deposits from bingo net receipts made to the gambling receipts account shall be made separately from all other deposits, and the validated deposit receipt shall be kept with the daily records as required by WAC 230-08-080.

(2) Bona fide charitable or nonprofit organizations that conduct only one or more of the following activities and do not possess any other licenses issued by the gambling commission are exempt from this rule:

(a) Raffles under the provisions of RCW 9.46.030(2);

(b) Bingo, raffles, or amusement games under the provisions of RCW 9.46.030(3);

(c) Class A or B bingo game;

(d) Class C raffle; or

(e) Class A amusement game.

(3) Bona fide charitable or nonprofit organizations who conduct only fund raising events or membership raffles and have no other gambling licenses are exempt from having a separate gambling receipts account, but must meet the following conditions of deposit:

(a) No expenditures other than for prizes shall be made until such receipts have first been deposited in the licensee's bank account;

(b) All net receipts shall be deposited within two banking days following receipt thereof; and

(c) The validated deposit receipt shall be kept with the licensee's gambling records.

AMENDATORY SECTION (Amending Order 138, filed 11/15/83)

WAC 230-40-050 FEES FOR CARD PLAYING. No fee shall be charged a person, directly or indirectly, to play in a card game in excess of those fees set forth below:

(1) For all card games, except as provided in (2) below, the fee shall not exceed $1.00 per half hour, or portion thereof, per player.

The fee charged shall be collected by the licensee in cash, or in wagering chips, directly from the player upon each half hour only. No player shall be required to pay for or purchase any other goods or services as a condition of playing cards beyond the $1.00 per half hour per player except under section (3) below. The fee schedule applicable to the type of games and number of tables in the card room shall be conspicuously posted on the premises where it can be clearly seen by the players in the card games.

(2) ((~~The fee for entry into a tournament for prizes shall not exceed $25.00, including all separate fees which might be paid by a player for various phases or events of the tournament. The licensee shall maintain a record of all such fees collected, by date of collection, for each such tournament held.~~

~~(3)~~)) A person requesting a new deck of cards beyond those regularly furnished by the operator as required by WAC 230-40-070(2) may be charged a fee not to exceed the actual cost to the licensee of the deck. Further, Class D licensees may charge a fee not to exceed actual cost to the licensee per deck for each deck of playing cards furnished to a table as required by these rules, or as requested by any player at the table. The fee shall be collected in cash directly from the players, or the player requesting the deck, at the time the deck is introduced into the game.

((~~(4)~~)) (3) This rule shall not prevent a bona fide nonprofit or charitable organization which has been established and operated for purposes other than card playing from charging its usual membership fee to belong to the organization.

((~~(5)~~)) (4) The licensee shall collect the same fee from all players at a table except licensed card room employees or the licensed owner. If he elects to allow free play, then all players at a table must be allowed to play for free.

The amount collected each half hour shall be recorded by the licensee immediately following the collection of the fees on a standard card room format prescribed and supplied by the commission to the licensee. All records required by this rule shall be maintained for a period of three years from the end of the licensee's fiscal year for which the record is kept.

NEW SECTION

WAC 230-40-055 CARD TOURNAMENTS FOR FEE AND PRIZES. (1) A card tournament wherein a fee is charged to the participants and prizes are awarded to the winning players shall be licensed by the Commission. Card room licensees with a Class A, B, or E license may conduct a card tournament for a fee without obtaining a card tournament license: PROVIDED, That Class B licensees are limited to only those card games authorized under their licensing class. Card room licensees with a Class D or R license must first obtain a card tournament license before they can conduct a card tournament in which the players are charged a fee to enter. The licensee shall notify the Commission ten (10) days in advance of any card tournament where the players are charged a fee to enter. A card tournament shall not exceed ten (10) consecutive calendar days.

(2) The fee for a player to enter a card tournament for prizes shall not exceed $25.00, including all separate fees which might be paid by a player for various phases or events of the tournament. There shall be no buy-ins or additional opportunities allowing the players to purchase additional chips beyond those provided with the $25.00 entry fee.

(3) The chips used in card tournaments shall have no monetary value and may be redeemed only for prizes established by the licensee. The licensee may award prizes in excess of those entry fees collected as authorized in paragraph two (2) above.

(4) The licensee may adopt house rules to facilitate the operation of card tournaments: PROVIDED, That all house rules must be submitted to the Commission for approval and posted where all tournament participants can see and read the rules.

(5) The licensee shall maintain a record of all such fees collected and the number of participants for each tournament conducted. This information shall be entered on the card room daily control sheet for the time and date the tournament begins.

(6) The licensee shall maintain a record of all prizes awarded to include the amount the licensed operator actually paid for each prize and the name and complete address of each winning participant.

WSR 85-03-027
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE LIBRARY
(Library Commission)
[Memorandum—January 8, 1985]

Meeting Dates - 1985

March 14, 1985
June 13, 1985
September 12, 1985
December 5, 1985

WSR 85-03-028
EMERGENCY RULES
GAMBLING COMMISSION
[Order 142—Filed January 10, 1985]

Be it resolved by the Washington State Gambling Commission, acting at Union, Washington, that it does adopt the annexed rules relating to amendatory sections WAC 230-04-201, 230-30-070, 230-30-102, 230-30-104 and new section WAC 230-30-999.

We, the Washington State Gambling 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 amendatory section WAC 230-04-201 Fees, this action is being taken to correct typographical error in Table 2, Class D; amendatory section WAC 230-30-070 Control of prizes, this was proposed by Sam Sarama to restrict the public from viewing the personal information of recorded winners of prizes from punchboards and pull tabs. The staff concurs on the security of the personal information; amendatory section WAC 230-30-102 Pull tab series assembly and packaging, clarifies the distribution of winning pull tabs within the pull tab series and instructions on identifying each pull tab series; amendatory section WAC 230-30-104 Possession or sale of pull tab series in which winners or location of winners may be determined in advance—Prohibited, a companion rule change to WAC 230-30-102 above; and new section WAC 230-30-999 Test of continuous play/open ended pull tab series, provides authority to conduct test for open end pull tab system.

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

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 August 10, 1984.

By Ronald O. Bailey
Deputy Director

AMENDATORY SECTION (Amending Order 140, filed 6/15/84)

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	$ 150
		Renewal	75
4.	CARD GAMES		
	Class A	General (Fee to play charged)	$ 500
	Class B	Limited card games – to hearts, rummy, 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	(See WAC 230–04–290	25
	REPLACEMENT 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	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.	PUNCHBOARDS/ PULL TABS	(Fee based on annual gross receipts)	
	Class A	Up to $50,000	$ 450
	Class B	$50,001 to 100,000	950
	Class C	$100,001 to 200,000	1,350
	Class D	$200,001 to 300,000	1,750
	Class E	$300,001 to 500,000	2,150
	Class F	Over $500,000	3,000
9.	RAFFLES	(Fee based on annual net receipts)	
	Class C	$500 or less	$ 50
	Class D	$501 - 5,000	100
	Class E	$5,001 - 15,000	400
	Class F	Over $15,000	600
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)	
	IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-30-015 and WAC 230-30-030)	

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, coon-can and/or cribbage	$ 150
	Class C	Tournament only, no more than ten consec. days per tournament	150
	Class D	General (No fee to play charged)	((~~75~~)) 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 CLASSIF.	(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
	REPLACEMENT IDENTIFICATION STAMPS	(See WAC 230-30-016)	25
	LICENSE TRANSFERS	(See WAC 230-04-125, WAC 230-04-340 and WAC 230-04-350)	50
3.	DISTRIBUTOR	Original	$2,500
		Renewal	1,250
4.	DISTRIBUTOR'S REPRESENT-ATIVE	Original	$ 200
		Renewal	100
5.	MANUFACTURER	Original	$3,000
		Renewal	1,500
6.	MANUFACTURER'S REPRESENT-ATIVE	Original	$ 200
		Renewal	100
7.	PERMITS	Agriculture 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 $50,000	$ 450
	Class B	$50,001 to 100,000	950
	Class C	$100,001 to 200,000	1,350
	Class D	$200,001 to 300,000	1,750
	Class E	$300,001 to 500,000	2,150
	Class F	Over $500,000	3,000
10.	SPECIAL FEES		
	INVESTIGATION	(See WAC 230-04-240)	
	IDENTIFICATION AND INSPECTION STAMP	(See WAC 230-30-015 and WAC 230-30-030)	
11.	SPECIAL LOCATION AMUSEMENT GAMES	(Fee based on annual net receipts)	
	Class A	One event per year lasting no longer than 12 consec. 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

AMENDATORY SECTION (Amending Order 116, filed 1/18/82)

WAC 230-30-070 CONTROL OF PRIZES. (1) All prizes from the operation of punchboards and pull tabs shall be awarded in cash or in merchandise. Prizes may not involve the opportunity of taking an additional chance or chances on another punchboard or of obtaining another pull tab or pull tabs. Where the prize involves the opportunity to punch again on the same punchboard, a prize must be awarded for each such punch which is not less than the highest amount of money, or worth not less than the most valuable merchandise prize, which might otherwise have been won by the punch for which the opportunity to take the second punch was awarded. No punchboard which offers as a prize the opportunity to take another punch on that board shall be sold or placed out for play unless that particular style and type of step-up board has been approved in advance by the commission. Each such board must clearly indicate on its face the terms and conditions under which the opportunity to obtain the second, or step-up punch, may be obtained and the prizes which may be won by the step-up punch.

(2)(a) All prizes shall be displayed in the immediate vicinity of the punchboard or pull tab device and such prizes shall be in full view of any person prior to that person purchasing the opportunity to play.

(b) When the prize is cash it shall be displayed as follows:

(i) If the punchboard or pull tab series contains the opportunity to win both cash and merchandise prizes, the money itself shall not be displayed, but a coupon designating the cash available to be won shall be substituted; and

(ii) If the only prizes which may be won are cash prizes, they shall be clearly and fully described or represented by a coupon displayed upon the prize flare attached to the face or displayed in the immediate vicinity of the pull tab dispensing device.

(c) The licensee shall display prizes so arranged that a customer can easily determine which prizes are available from any particular punchboard or pull tab series or device operated or located upon the premises.

(3) Upon a determination of a winner of a merchandise prize, the licensee shall immediately remove that prize from any display and present it to the winner.

Immediately upon determining the winner of any cash prize of five dollars or more, or of any merchandise prize with a retail value of five dollars or more, but prior to award of the prize, the licensee shall conspicuously delete all references to that prize being available to players from any flare, punchboard or pull tab dispensing device upon which such reference may appear, and from any other list, sign, or notice which may be posted, in such a manner that all future customers will know the prize is no longer available. The prize shall then be paid or delivered to the winner forthwith. The licensee must pay or award to the customer or player playing the punchboard or pull tab series all such prizes that have not been deleted from the flare of the punchboard or pull tab series when the punchboard or pull tab series is completely played out.

(4) No licensee shall offer to pay cash in lieu of merchandise prizes which may be won.

(5) When any person wins a cash prize of over twenty dollars or wins a merchandise prize with a retail value of more than twenty dollars from the play of any punchboard or pull tab series, the licensee or licensee's representative shall make a record of the win. ((The record)) The record of the win ((shall be made)) shall be made in a standard format prescribed by the commission and shall disclose at minimum the following information:

(a) The Washington state identification stamp number of the punchboard or pull tab series from which the prize was won;

(b) The series number of the pull tab series or punchboard from which the prize was won;

(c) The name of the punchboard or pull tab series;

(d) The date the pull tab series or punchboard was placed out for play;

(e) The date the pull tab series or punchboard was removed from play;

(f) The month, day and year of the win;

(g) If the prize is cash, the amount of the prize won;

(h) If the prize is merchandise, a description of the prize won and its retail value;

(i) The printed full name of the winner;

(j) The current address of the winner which will include the street address, the city and the state.

It shall be the responsibility of the licensee to determine the identity of the winner and the licensee shall require such proof of identification as is necessary to properly establish the winner's identity. The licensee shall not pay out any prize unless and until the winner has fully and accurately furnished to the licensee all information required by this rule to be maintained in the ((licensee licensee's)) licensee record of the win.

(6) Every licensee shall keep the record of all prizes awarded in excess of twenty dollars, containing all of the information required in subsection (5) above, and all winning pull tabs or punchboard punches of five dollars or more for a period of six months and shall display the same to any ((~~member of the public,~~)) representative of the commission or law enforcement officials upon demand.

(7) For the purposes of this rule, the retail value of a merchandise prize shall be the amount actually paid therefor by the licensed operator plus 50 percent of that actual cost.

(8) Spindle-type pull tab series which award only merchandise prizes valued at no more than five dollars, are hereby permitted to employ schemes whereby certain predesignated pull tabs are free or the player is otherwise reimbursed the actual cost of said pull tabs. Flares for spindle-type pull tabs operated in this manner shall designate the total number of pull tabs in the series and the total number of pull tabs designated as free or reimbursable. Free or reimbursable pull tabs in these types of pull tab series shall not constitute a prize or prizes nor shall monies collected and later reimbursed constitute revenue for the purposes of determining gross receipts.

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 43 [78], filed 11/28/75 [11/17/77])

WAC 230-30-102 PULL TAB SERIES ASSEMBLY AND PACKAGING. (1) Manufacturers of pull tabs shall manufacture, assemble, and package each pull tab series in such a manner that none of the winning pull tabs, nor the location or approximate location of any of the winning pull tabs can be determined, in advance of opening the pull tabs in any manner or by any device, including but not limited to any pattern in manufacture, assembly, packaging, markings, or by the use of a light.

(2) Winning pull tabs shall be ((~~randomly~~)) evenly distributed and mixed among all other pull tabs in the series. The series shall be assembled and packaged with special care so as to eliminate any pattern as between series, or portions of series, from which the location or approximate location of any of the winning tabs may be determined.

(3) When the series is packaged in more than one package, box or other container, the entire series of individual pull tabs shall be mixed in such a manner that no person can determine the position or approximate location of any of the winning pull tabs or determine whether any one package or portion of a series contains a larger or smaller percentage of winning pull tabs than the balance of the series. The packages, boxes or other containers shall not be numbered as to distinguish one from the other ((~~and have no marking other than the series number~~)). Each series of pull tabs shall contain a packing slip placed inside the package containing the name of manufacturer, series number, date the series was packaged, and the name or identification of the person who packaged the series: PROVIDED, That this information may be printed on the back of the flare or the outside of at least one of the packages, boxes or containers in which the pull tabs are packed.

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

AMENDATORY SECTION (Amending Order 78, filed 11/17/77)

WAC 230-30-104 POSSESSION OR SALE OF PULL TAB SERIES IN WHICH WINNERS OR LOCATION OF WINNERS MAY BE DETERMINED IN ADVANCE—PROHIBITED. (1) No operator, distributor or manufacturer, or representative thereof, with knowledge or in circumstances whereunder he reasonably should have known, shall possess, display, put out for play, sell or otherwise furnish to any person any pull tab series or pull tab from any series:

(a) In which the winning tabs have not been ((~~completely and randomly~~)) evenly distributed and mixed among all other tabs in the series; or

(b) In which the location, or approximate location, of any of the winning tabs can be determined in advance of opening the tabs in any manner or by any device, including but not limited to, any pattern in the manufacture, assembly or packaging of the tabs by the manufacturer, by any markings on the tabs or container, or by the use of a light; or

(c) Which does not conform in any other respect to the requirements of these rules as to manufacture, assembly, or packaging of pull tabs.

(2) No manufacturer or distributor or representative thereof shall use as a sales promotion any statement, demonstration, or implication that any certain portion of a series of pull tabs contains more winners than other portions of the series or that any series of pull tabs may be sold by the operator in a particular manner that would give the operator any advantage in selling more of the pull tabs before having to pay out winners.

NEW SECTION

WAC 230-30-999 TEST OF CONTINUOUS PLAY/OPEN ENDED PULL TAB SERIES. (1) For purposes of regulating and establishing the type, scope, and manner of conducting gambling activities, the commission shall conduct a test of the operation of continuous play/open ended pull tab series.

During this test the following definitions shall apply:

(a) "Continuous play/open ended pull tab series" are those which:

(i) Are identical as to manufacturer, manufacturer form number, sales price per pull tab, winning symbols, prize amounts, and number of pull tabs; and

(ii) Do not award a prize for the purchase of the last tab.

(b) "Continuous play/open ended pull tab sets" are:

(i) Those pull tabs which are operated as a continuous set by adding "continuous play/open ended pull tab series" to the dispensing device without first closing out any previously added pull tab series; and

(ii) No winning pull tabs are marked off the flare.

(2) Participation in the test will be limited to those licensees who voluntarily agree to conduct the test and abide by criteria set by the commission, in cooperation with the participants. All approvals to participate will be in writing and will be revokable by either the commission or the licensee by giving three days written notice. A copy of the approval shall be maintained on the premises, any time the activity is operated, and be made available to representatives of the commission and law enforcement officers.

(3) For the purposes of this test all rules of the commission will apply: Provided, That participants in the test must comply with the following rules, as modified, for continuous play/open end pull tab operations only:

(a) WAC 230-08-010(5) – A substitute monthly record format, prescribed by the commission, will be used. Whenever any portion of a series is added to a dispensing device, the unused pull tabs from that series must be first added to that dispensing device before any other pull tab series. Each series shall be entered on the monthly record immediately after any pull tab from the series has been added to the dispensing device and will include the following information:

(i) The name of the pull tab series:

(ii) The Washington state identification stamp number issued by the commission;

(iii) The series number assigned by the manufacturer;

(iv) The date the first pull tab was added to the dispensing device;

(v) The color;

(vi) The total number of tabs in the pull tab series;

(vii) The manufacturers name;

(viii) The manufacturers assigned form number;

(ix) The cost to the players to purchase one pull tab; and

(x) The gross receipts.

Net cash and winning pull tabs from each dispensing device will be maintained separately. A form will be provided by the commission to reconcile winning tabs, prizes paid, cash receipts, and deposits. Licensees must complete this form at least weekly and charitable and non profit organizations will deposit receipts as required by WAC 230-12-020.

After the close of business on the last day of each month, a cut-off count and cash reconciliation will be made of each dispensing device. All unsold tabs from any series started in the device will be counted and recorded in the monthly record as one total.

At the end of the test or when a set is permanently removed from play, all remaining pull tabs shall be counted and a reconciliation of cash made. Each set of pull tabs permanently removed from play shall be maintained as a separate group and retained for at least six months. Each set permanently removed will be labeled with at least the date pulled; manufacturers name; and manufacturers form number.

(b) WAC 230-08-170 and 230-30-080(4) - Additional reasons pull tabs, temporarily removed, may be returned to play:

(i) Mixing with new pull tabs being added to the dispensing device;

(ii) Monthly reconciliation; and

(iii) Unsold pull tabs from alternate sales locations.

(c) WAC 230-08-170 and WAC 230-30-070(6) - All winning pull tabs must be retained, and within twenty four hours the licensee shall mark or perforate the winning pull tab in such a manner that the pull tab can not be presented again for payment. Winning tabs shall be retained for six months following the month the tabs were presented for payment.

(d) WAC 230-30-015(2) and WAC 230-30-130 - The substitute flare used for continuous play/open end pull tabs need not display the series number or the Washington state identification stamp for the series in play.

(e) WAC 230-30-050(3) - All receipts, records, and reports, including pull tab series flares with Washington state identification stamp affixed, must be retained on the premises at least nine months after the series is placed into play, and be made available on demand to law enforcement officers and representatives of the commission.

(f) WAC 230-30-070(3) - References to prizes entered on the flare shall not be deleted at any time.

(g) WAC 230-30-070(5)(e) - The licensee's record of pull tab winners shall not contain the date an open end pull tab series was removed from play.

(h) WAC 230-30-080(3) - This section shall not apply. See (1)(b) and (3)(b) above.

(i) WAC 230-30-106(3) - The flare advertising prizes available from the operation of any sets of pull tabs shall display the numbers or symbols for winning prizes and the total number available of each class of prize, for each individual series added to the set.

(4) An information sign explaining the test, shall be provided by the commission, and posted for public view, in close proximity to the dispensing device.

(5) All other rules of the commission, unless exempted above, will apply.

WSR 85-03-029
EMERGENCY RULES
GAMBLING COMMISSION
[Order 143—Filed January 10, 1985]

Be it resolved by the Washington State Gambling Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to amendatory sections WAC 230-08-260, 230-25-065 and 230-40-030.

We, the Washington State Gambling 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 amendatory section WAC 230-08-260 Fund raising events—Activity report required, this adds a requirement for supplemental activity report from each organization participating in a joint fund raising event; amendatory section WAC 230-25-065 Licensees may join together to conduct a fund raising event, this clarifies operating instructions and recordkeeping requirements for a joint fund raising event; and amendatory section WAC 230-40-030 Number of tables and players limited, this allows no more than 10 players to participate at any one table at any given time.

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

This rule is promulgated pursuant to RCW 9.46.010 and 9.46.070 (8) 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 September 20, 1984.

By Ronald O. Bailey
Deputy Director

AMENDATORY SECTION (Amending Order 78, filed 11/17/77)

WAC 230-08-260 FUND RAISING EVENTS—ACTIVITY REPORT REQUIRED. (1) Each ((~~licensee for the operation of~~)) organization licensed to conduct a fund raising event((s)) and each lead organization for a

joint fund raising event, shall submit an activity report to the commission concerning the operation of the licensed activities and other matters set forth below for the period of each event.

The report shall include among other items, the following information:

(a) Revenue per records for each gambling activity;

(b) Gross receipts and prizes paid for bingo, raffles, lotteries, and drawings;

(c) Adjustments to net receipts (i.e., discounts on foreign currency and cash over/short);

(d) Annual net receipts reconciliation (this item need not be completed on a joint event report submitted by the lead organization for the total event); and

(e) Full details of all expenses directly related to each event.

(2) Each participating licensee in a joint fund raising event shall submit a Joint Fund Raising Event Supplemental Report which shall include among other items, the following information:

(a) Percentage of adjusted net receipts and expenses per Joint Fund Raising Event Agreement;

(b) Dollar amounts allocated to your organization for adjusted net receipts, expenses, and net income; and

(c) Annual net receipts reconciliation.

Each of the above reports shall be received in the office of the commission no later than 30 days following the authorized operating days or day. The report shall be signed by the president, or equivalent officer, and shall be submitted on a form to be provided by the commission. If the report is prepared by someone other than the president or equivalent officer of the organization, then the preparer shall sign the report also. ((~~The report shall include, among other items, the following information:~~

~~(1) The gross receipts from each separate gambling activity;~~

~~(2) Total cash prizes actually paid out and the total of the cost to the licensee of all merchandise prizes actually given out for each separate gambling activity;~~

~~(3) The net receipts for each separate gambling activity;~~

~~(4) The total net receipts;~~

~~(5) Full details of all expenses directly related to each event.~~))

AMENDATORY SECTION (Amending Order 140, filed 6/15/84)

WAC 230-25-065 LICENSEES MAY JOIN TOGETHER TO CONDUCT A FUND RAISING EVENT. (1) Organizations holding a license to conduct a fund raising event may join together with other organizations holding such a license to jointly conduct a fund raising event providing that the following conditions are met:

(a) Prior approval to do so is received by each licensee from the Commission for that particular fund raising event;

(b) The method by which ((~~the~~)) any income or losses and expenditures will be received, expended, and apportioned among the licensees conducting the fund raising event is disclosed in writing to the Commission, together with the application for the fund raising event. Changes to the original application must be approved by the commission;

(c) The percentage of income or loss agreed to by any organization shall not be greater than the percentage needed for them to reach the maximum of $10,000 for the calendar year;

(d) A lead organization and an event manager are designated in the application, with the lead organization having the responsibility for the central accounting system required by WAC 230-25-070, ((~~the activity report to the commission required by WAC 230-08-260;~~)) and compliance with WAC 230-25-030(3) regarding the distribution of receipts beyond those permitted in (2) below((~~;~~));

((~~(d) Records are kept by each of the participating licensees which clearly disclose the amount of money received and expended in connection with the joint fund raising event;~~))

(e) Each licensee shall prepare a list of all persons from their organization taking part in the management or operation of the fund raising event. Such list shall be available on the premises and contain, at a minimum, the name, address, telephone number, and a brief statement signed by the chief executive officer certifying that each member listed is a bona fide member as specified in RCW 9.46.020(15) and WAC 230-25-260.

(f) A Fund Raising Event Report will be prepared and submitted by the lead organization as required by WAC 230-08-260 (1) and each participating licensee, including the lead organization, shall submit a Joint Fund Raising Event Supplemental Report as required by WAC 230-08-260 (2); and

(g) Records are kept by each of the participating licensees which clearly disclose the amount of money received and expended in connection with the joint fund raising event;

(2) The amount of income derived from the joint fund raising event will not exceed the event limit of $10,000. In addition, each participating organization must comply with annual limits imposed by RCW 9.46.020(23) and WAC 230-25-030. The joint fund raising event shall count against only the lead organization or organizations receiving fifty percent or more of the allowable proceeds for the purposes of determining the number of such events an organization may conduct each year.

(3) The lead organization will be responsible for the deposit of the ending cash on hand and must comply with WAC 230-25-070(12). All funds due to any participating organization must be made by check and disbursed within 30 days following the end of the event.

AMENDATORY SECTION (Amending Order 23, filed 9/23/74)

WAC 230-40-030 NUMBER OF TABLES AND PLAYERS LIMITED. (1) No licensee to allow a public card room on its premises shall allow more than five separate tables at which card games are played, nor shall allow more than ((~~eight~~)) ten players to participate at any one table at any given time.

(2) No licensee to allow a social card room on its premises shall allow more than ((~~eight~~)) ten players to participate at any one table at any given time.

(3) The commission may permit a licensee to exceed these limits on specific occasions for good cause shown. Requests to exceed the limit shall be submitted to the commission in writing not less than 30 days preceding the date upon which the licensee wishes to exceed the limit. The request shall indicate the date(s) involved, the reasons why the request is made, and the number of games and players in the games which the licensee desires to allow on that occasion.

WSR 85-03-030
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 258—Filed January 10, 1985]

Be it resolved by the Washington State Game Commission, acting at Olympia, (conference call), that it does adopt the annexed rules relating to regulation change for sport fishing on the Puyallup River system, WAC 232-28-61405.

We, the Washington State Game 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 the wild steelhead run is projected to be less than the established spawning escapement objective. All further catches must be limited to hatchery origin steelhead.

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

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 December 20, 1984.

By Vern E. Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-28-61405 REGULATION CHANGE FOR SPORT FISHING ON THE PUYALLUP RIVER SYSTEM. Notwithstanding the provisions of WAC 232-28-614 on the Puyallup River system, only steelhead with dorsal fins equal to or less than 2.0" in height, as measured while extended, or with missing adipose or ventral fins may be reduced to possession. It is unlawful to possess a steelhead with a dorsal fin measuring greater than 2.0" in height or to possess a steelhead with a freshly cut or mutilated fin effective January 10, 1985 through March 31, 1985.

WSR 85-03-031
ADOPTED RULES
DEPARTMENT OF TRANSPORTATION
[Order 94—Filed January 10, 1985]

I, Duane Berentson, secretary of the Department of Transportation, do promulgate and adopt at Room 1D-9, Transportation Building, Olympia, Washington 98504, the annexed rules relating to Highway Advertising Control Act, chapter 468-66 WAC, and motorist information signs, chapter 468-70 WAC.

This action is taken pursuant to Notice No. WSR 84-18-047 filed with the code reviser on September 4, 1984. 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 47.42.060 which directs that the Department of Transportation has authority to implement the provisions of chapter 47.42 RCW, Highway Advertising Control Act—Scenic Vistas Act.

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 10, 1985.

By Duane Berentson
Secretary

AMENDATORY SECTION (Amending Order 56, filed 5/19/80)

WAC 468-66-010 DEFINITIONS. The following terms when used in these regulations shall have the following meanings:

(1) Abandoned. A sign for which neither sign owner nor land owner claim any responsibility.

(2) "Act" shall mean the Highway Advertising Act of 1961, as amended and embodied in chapter 47.42 RCW.

(3) "Centerline of the highway" means a line equidistant from the edges of the median separating the main-traveled ways of a divided highway, or the centerline of the main-traveled way of a nondivided highway.

(4) "Commercial and industrial areas" means any area zoned commercial or industrial by a county or municipal code, or if unzoned by a county or municipal code, that area occupied by three or more separate and distinct commercial and/or industrial activities within a space of five hundred feet and the area within five hundred feet of such activities on both sides of the highway. The area shall be measured from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activity and not from the property lines of the parcels upon which such activities are located. Measurements shall be along or parallel to the edge of the main-traveled way of the highway. The following shall not be considered commercial or industrial activities:

(a) Agricultural, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(b) Transient or temporary activities;

(c) Railroad tracks and minor sidings;

(d) Signs;

(e) Activities more than six hundred and sixty feet from the nearest edge of the right of way;

(f) Activities conducted in a building principally used as a residence.

Should any commercial or industrial activity, which has been used in defining or delineating an unzoned area, cease to operate for a period of six continuous months, any signs located within the former unzoned area shall become nonconforming and shall not be maintained by any person after May 10, 1974.

(5) "Commission" means the Washington state transportation commission.

(6) Discontinued. A sign shall be considered discontinued if, after receiving notice of absence of advertising content for one hundred twenty days, the permit holder fails to put advertising content on the sign for a period of twelve months. Six months after the beginning of this twelve-month period, the permit holder shall receive a second copy of the original notice.

(7) "Entrance roadway" means any public road or turning roadway including acceleration lanes, by which traffic may enter the main-traveled way of a controlled access highway from the general road system within the state, including rest areas, view points, and sites used by the general public, irrespective of whether traffic may also leave the main-traveled way by such road or turning roadway.

(8) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(9) "Exit roadway" means any public road or turning roadway including deceleration lanes, by which traffic may leave the main-traveled way of a controlled access highway to reach the general road system within the state, including rest areas, view points, and sites used by the general public, irrespective of whether traffic may also enter the main-traveled way by such road or turning roadway.

(10) "Interstate system" means any state highway which is or does become part of the national system of interstate and defense highways as described in section 103(d) of Title 23, United States Code.

(11) "Legible" means capable of being read without visual aid by a person of normal visual acuity.

(12) "Maintain" means to allow to exist. A sign loses its right to remain as a nonconforming sign if its size is increased more than fifteen percent over its size on the effective date of the Scenic Vistas Act on May 10, 1971, or the effective date of control of a given route, whichever is applicable.

(13) "Main-traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, entrance roadways, exit roadways, or parking areas.

(14) "Person" means this state or any public or private corporation, firm, partnership, association, as well as any individual, or individuals.

(15) "Primary system" means any state highway which is or does become part of the federal-aid primary system as described in section 103(b) of Title 23, United States Code.

(16) "Scenic system" means:

(a) Any state highway within any public park, federal forest area, public beach, public recreation area, or national monument;

(b) Any state highway or portion thereof outside the boundaries of any incorporated city or town designated by the legislature as a part of the scenic system; or

(c) Any state highway or portion thereof, outside the boundaries of any incorporated city or town, designated by the legislature as a part of the scenic and recreational highway system except for the sections of highways specifically excluded in section 2, chapter 62, Laws of 1971 ex. sess.

(17) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the interstate system or other state highway.

(18) "Trade name" shall include brand name, trademark, distinctive symbol, or other similar device or thing used to identify particular products or services.

(19) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(20) "Turning roadway" means a connecting roadway for traffic turning between two intersection legs of an interchange.

(21) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(22) "Electronic sign" means an outdoor advertising sign, display, or device whose message may be changed by electrical or electronic process, and includes the device known as the electronically changeable message center for advertising on-premise activities (WAC 468-66-070).

(23) "Public service information" means a message on an electronic sign which provides the time, date, temperature, weather, or similar information.

AMENDATORY SECTION (Amending Order 52, filed 4/1/80)

WAC 468-66-030 GENERAL PROVISIONS. Notwithstanding any other provision of the act or these regulations, no signs visible from the main-traveled way of the interstate system, primary system, or scenic system which have any of the following characteristics shall be erected or maintained:

(1) Signs advertising activities that are illegal under state or federal laws or regulations in effect at the location of such signs or at the location of such activities.

(2) Illegal, destroyed, abandoned, discontinued or obsolete signs.

(3) Signs that are not clean and in good repair.

(4) Signs that are not securely affixed to a substantial structure.

(5) Signs which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

(6) Signs which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(7) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights (except those ((~~having flashing, intermittent, or moving lights~~)) signs giving public service information ((~~such as time, date, temperature, weather, or similar information~~))).

(8) Signs which use any lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the highway or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(9) Signs which move or have any animated or moving parts (except revolving signs giving public service information ((~~such as time, date, temperature, weather, or similar information~~))).

(10) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(11) Signs which exceed twenty feet in length, width or height, or one hundred fifty square feet in area, including border and trim but excluding supports, except:

(a) Larger signs as permitted within commercial and industrial areas adjacent to the primary system pursuant to RCW 47.42.062; and

(b) Type 3 signs not more than fifty feet from the advertised activity.

(12) Electronic signs may be used only to advertise activities conducted or goods and services available on the property on which the signs are located or to present public service information.

(a) Advertising messages may contain words, phrases, sentences, symbols, trade-marks, and logos. A single message or a segment of a message must have a display time of at least two seconds including the time to move onto the sign board, with all segments of the total message to be displayed within ten seconds. A message consisting of only one segment may remain on the sign board as long as desired.

(b) Electronic signs requiring more than four seconds to change from one single message display to another shall be turned off during the change interval.

(c) Displays traveling horizontally across the sign board must move between sixteen and thirty-two light columns per second. Displays can scroll onto the sign board but must hold for two seconds including scrolling.

(d) Sign displays shall not include any art animations or graphics that portray motion, except for movement of graphics onto or off of the sign board as previously described.

(e) No electronic sign lamp may be illuminated to a degree of brightness that is greater than necessary for adequate visibility. Signs found to be too bright shall be adjusted in accordance with the instructions of the department.

(f) As on-premise signs, electronic signs are subject to the provisions of RCW 47.42.045 and 47.42.062.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution 13, filed 12/20/78)

WAC 468-70-050 BUSINESS ELIGIBILITY. (1) To be eligible for placement of a business sign on a specific information panel a motorist activity must conform to the following standards:

(a) Gas activity:

(i) Provide vehicle services ((~~such as~~)) including fuel, oil, lubrication, tire repair and water; and

(ii) Be in continuous operation at least sixteen hours a day, seven days a week; and

(iii) Provide restroom facilities, drinking water and a telephone access;

(iv) Specific information panels may be installed and existing signing will not be removed when the service facility is closed for a short period of time or when its hours of operation have been reduced as a result of a shortage of gasoline;

(v) Facilities not meeting the requirements of (i) of this subsection but have at least gas, oil, and water may qualify for signing provided that other facilities meeting the requirements of (i) of this subsection are available within the distances from the interchange as specified in subsection (3)(a) of this section.

(b) Food activity:

(i) Be licensed or approved by the Washington department of social and health services or county health office; and

(ii) Be in continuous operation for a minimum of twelve hours a day to serve three meals a day, breakfast, lunch, and dinner seven days a week; and

(iii) Have seats for a minimum of twenty patrons and/or parking and drive-in facilities for a minimum of ten vehicles; and

(iv) Provide telephone and restroom facilities.

(c) Lodging activity:

(i) Be licensed or approved by the Washington department of social and health services or county health office; and

(ii) Consist of at least twelve units available for daily rental, each having a private bath and access to telephone service: PROVIDED, That a lodging activity on a highway with partial access control or no access control with fewer than twelve units will be eligible for a business sign if otherwise qualified and there are fewer than three lodging activities within the distances prescribed in subsection (3)(c) of this section which have twelve or more units.

(d) Camping activity (applicable only for activities on fully controlled limited access highways):

(i) Be licensed or approved by the Washington department of social and health services or county health office;

(ii) Consist of at least twenty camping spaces, at least fifty percent of which will accommodate tents, and have adequate parking, modern sanitary and drinking water facilities for such spaces; and

(iii) Have an attendant on duty to manage and maintain the facility twenty-four hours a day while in operation.

(e) Recreation activity (applicable only for activity on scenic system or primary system highways with partial access control or no access control):

(i) Consist of activities and sports of interest to family groups and the public generally in which people participate for purposes of active physical exercise, collective amusement or enjoyment of nature; e.g., hiking, golfing, skiing, boating, swimming, picnicking, camping, fishing, tennis, horseback riding, ice skating and gun clubs; and

(ii) Be licensed or approved by the state or local agency regulating the particular type of business; and

(iii) When the recreational activity is a campground, it must meet the criteria specified in WAC ((~~252-42-040~~)) 468-70-050 (1)(d)(i) thru (iii).

(2) Distances prescribed herein will be measured ((~~by road miles from the center of terminus of the exit ramp or intersection to the activity~~)) from the center of the interchange or intersection along the centerline of the most direct public road to the facility access.

(3) The maximum distance that GAS, FOOD, LODGING, CAMPING or RECREATIONAL activities can be located on either side of an interchange or intersection to qualify for a business sign shall be as follows:

(a) From an interchange on a fully controlled limited access highway, GAS, FOOD and LODGING activities shall be located within one mile in either direction ((~~and~~)). For any one of the activities, where there are less than three qualifying activities of that type within the first mile, one additional mile may be used to complete the balance of allowable signs specified in WAC 468-70-060 (3)(a). CAMPING activities shall be located within five miles in either direction;

(b) From an interchange or intersection on a highway with partial access control or no access control, GAS and FOOD activities shall be located within five miles in either direction.

(c) From an interchange or intersection on a highway with partial access control or no access control, LODGING activities shall be located within five miles in either direction. If within such five mile limit there are fewer than three LODGING activities available, then activities of such type located within a ten mile limit shall qualify. If within such ten mile limit there are fewer than three LODGING activities available, then activities of such type located within a fifteen mile limit shall qualify.

(d) From an interchange or intersection on a highway with partial access control or no access control, CAMPING and RECREATIONAL activities shall be located within ten miles in either direction. If within such ten mile limit there are fewer than three CAMPING and RECREATIONAL activities available, then activities of such type located within a fifteen mile limit shall qualify.

(4) A GAS, FOOD, LODGING, CAMPING or RECREATIONAL activity visible from a highway which has no access control shall not qualify for a business sign on such highway.

(5) To be eligible for business sign placement or supplemental direction panel the activity must be eligible for specific information panel placement.

(6) When an activity qualifies for business sign placement on more than one type of information panel, placement will be made on that type of panel which, as determined by the department, best describes the main product or service.

(7) When appropriate, the department may require an applicant activity to file written assurances that adequate follow-through signing, as specified by the department, will be erected and maintained.

(8) Where operations are seasonal, business signs for each specific location shall be removed or covered during the appropriate period as determined by the department.

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution 13, filed 12/20/78)

WAC 468-70-060 SIGNING DETAILS. (1) Specifications. All specific information panels, supplemental directional panels, and business signs shall be constructed in accordance with the Washington state standard specifications, standard plans and amendments thereto. All business signs shall be constructed of a single piece of 0.080 inch thick aluminum. All panels and business signs shall be fully reflectorized to show the same shape and color both by day and night.

(2) Color of panels and signs:

(a) The background color for GAS, FOOD LODGING and CAMPING (and GAS-FOOD-LODGING) specific information panels and supplemental directional panels shall be blue. The background color for RECREATION specific information panels and supplemental directional panels shall be brown. The border and lettering on all such signs shall be white.

(b) The background color for business signs shall be blue or brown (only if for a recreation activity) with a white message and border, except that colors consistent with customary use should be used with nationally recognized or locally known symbols or trademarks.

(3) Composition of specific information panels:

(a) Interstate ((~~and~~)), primary, and scenic highways which are expressways or freeways:

(i) For single exit interchange, GAS specific information panels shall be limited to six business signs, FOOD, LODGING, CAMPING (in the case of interstate highway) and RECREATION (in the case of primary/scenic) shall be limited to four business signs each. The business signs shall be arranged on the panel, with maximum of two horizontal rows. These signs are to be mounted on the panel in the order of the travel distance, the closest at the top left, the next closest at the bottom left. When the number of business signs is half or less of the maximum permitted, the arrangement shall be in one horizontal row reading from left to right in order of travel distance.

(ii) For double exit interchanges and at grade intersections, the specific information panels will consist of two sections (piggy-back) where the same type of motorist services are to be signed for each exit. The top section of the panel will display the signs for the first exit and shall display a directional legend "next right" (interchanges) or "next left" (intersections). The lower section of the panel will display the business signs of the second exit with the directional legend "second right" (for interchanges) or "next right" (for intersections).

The number of business signs on this type of panel shall be limited to three for GAS and two each for FOOD, LODGING, CAMPING and RECREATION, for each exit. The arrangement shall follow the same pattern as for single exit.

(b) Primary and scenic highways which are conventional roads:

(i) "GAS-FOOD-LODGING" specific information panels shall be limited to a total of four business signs for GAS and two each for FOOD and LODGING for each intersection. If there are more than two qualified business activities for either FOOD or LODGING and not two of the other, any combination up to a total of four business signs may be provided. These signs will be mounted in order of travel distance, reading from left to right. The bottom line of the specific information panel shall contain the directional legend, "next left" or "next right," as required.

(ii) Specific information panels for CAMPING or RECREATION shall be limited to four business signs. The business signs shall be arranged in two vertical rows with the left row for RECREATION to the left and the right row for RECREATION to the right. These business signs will be mounted on the panel in order of travel distance, with the closest at the top. The directional legend, "next left" and "next right" shall be placed above the corresponding vertical row of business.

(iii) For qualifying businesses located more than one mile from the intersection, the mileage to the business shall be shown to the nearest mile on the business sign.

(4) Composition of supplemental directional panels.

(a) When required, placement on a supplemental directional panel shall be limited to six business signs for GAS and four each for FOOD, LODGING and CAMPING. The business signs shall be arranged in three horizontal rows, with the top row for GAS, the center row for FOOD, and the third row for LODGING. These signs will be mounted on the panel in order of travel distance, reading left to right. The bottom line shall display an arrow showing the direction of the services.

(b) The supplemental directional panel for RECREATION or CAMPING shall be limited to four business signs. The business signs shall be arranged in two vertical rows with the left row for RECREATION or CAMPING to the left and the right row for RECREATION or CAMPING to the right and shall include the appropriate directional arrow below each vertical row. These signs are to be mounted on the panel in order of travel distance, with the closest at the top.

(c) For activities located more than one mile from the interchange, the mileage to the nearest mile shall be shown on business signs mounted on the supplemental directional panel.

(5) Panel, sign and legend size: (NOTE: Reference is to outside dimensions including border.)

(a) Specific information panels – Interstate ((~~and scenic/primary~~)), primary, and scenic freeways and expressways.

(i) Single-exit interchange: 13 feet wide (15 feet wide for GAS) by 10 feet high (11 1/2 feet high for RECREATION). Minimum 13 feet wide (15 feet wide for GAS) by 6 feet high (7 1/2 feet high for RECREATION).

(ii) Double-exit interchange 13 feet wide (14 feet wide for LODGING and CAMPING and 15 feet for GAS) by 6 feet high for single (8 feet high for RECREATION) and 12 feet high for double (14 feet high for RECREATION).

(iii) The words GAS, FOOD, LODGING, CAMPING, RECREATION and directional message shall be ten-inch capital letters.

(b) Specific information panels – conventional roads.

(i) Standard – 8 feet wide by 6 1/2 feet high. (NOTE: The minimum and maximum panel size shall be as required to accommodate the required business signs.)

(ii) The words GAS, FOOD, LODGING, CAMPING, RECREATION and the directional message shall be six-inch capital letters.

(c) Supplemental directional panels – expressways and freeways:

(i) Standard size for the GAS-FOOD-LODGING panels shall be 10 feet wide by 6 feet high. The standard size for RECREATION or CAMPING shall be 6 feet wide by 5 feet high. (NOTE: The minimum and maximum panel size shall be as required to accommodate the required information.)

(ii) The words, GAS, FOOD, LODGING, CAMPING and RECREATION will be six-inch capital letters.

(d) Business signs – interstate ((~~and primary/scenic~~)), primary, and scenic freeway and expressways for mounting on specific information panels:

(i) "GAS" signs – 48 inches wide by 36 inches high.

(ii) "FOOD," "LODGING," "CAMPING" and "RECREATION" signs – 60 inches wide by 36 inches high (including border).

(iii) The principal legend height shall be at least ten inches whether capitals or lower case. (NOTE: Where the symbol or trademark is used alone, any legend on the symbol shall be in proportion to the size of the symbol, consistent with customary use.)

(e) Business signs – conventional roads:

(i) "GAS" signs – 24 inches wide by 16 inches high.

(ii) "FOOD," "LODGING," ((~~and~~)) "CAMPING," and "RECREATION" signs – 36 inches wide by 16 inches high (including border).

(iii) Principal legend height shall be at least 6 inches (4-inch minimum with 2 lines) whether capital or lower case. (NOTE: Where the symbol or trademark is used alone, any legend on the symbol shall be in proportion to the size of the symbol, consistent with customary use.)

(f) Business signs – mounted on supplemental directional panels:

(i) "GAS" signs – 18 inches wide by 12 inches high.

(ii) "FOOD," "LODGING," "CAMPING" and "RECREATION" signs – 24 inches wide by 12 inches high.

(iii) The principal legend height shall be at least 6 inches (4-inch minimum with 2 lines).

AMENDATORY SECTION (Amending DOT Order 10 and Comm. Order 1, Resolution 13, filed 12/20/78)

WAC 468-70-080 FEE SCHEDULE. (1) Manufacturing and installation charge.

(a) Interstate ((~~highways and~~)), primary, and scenic freeways and expressways.

(i) "GAS" – pictorial business sign to be installed on a specific information panel $180.00

(ii) "GAS" – pictorial business sign to be installed on a supplemental information panel ..... $ 40.00

(iii) "GAS" – lettered business sign to be installed on a specific information panel $110.00

(iv) "GAS" – lettered business sign to be installed on a supplemental directional panel ..... $ 25.00

(v) "FOOD, LODGING, CAMPING or RECREATION" – pictorial business sign to be installed on a specific information panel $200.00

(vi) "FOOD, LODGING, CAMPING or RECREATION" – pictorial business sign to be installed on a supplemental directional panel .... $ 50.00

(vii) "FOOD, LODGING, CAMPING or RECREATION" – lettered business sign to be installed on a specific information panel $125.00

(viii) "FOOD, LODGING, CAMPING or RECREATION" – lettered business sign to be installed on a supplemental directional panel .... $ 30.00

(b) Primary or scenic highways that are conventional roads.

(i) "GAS" – pictorial business sign to be installed on a specific information panel ..... $ 90.00

(ii) "GAS" – lettered business sign to be installed on a specific information panel ..... $ 65.00

(iii) "FOOD, LODGING, or RECREATION" – pictorial business sign to be installed on a specific information panel $100.00

(iv) "FOOD, LODGING or RECREATION" – lettered business sign to be installed on a specific information panel ..... $ 70.00

(2) The following schedule is the annual maintenance charge.

(a) Interstate ((~~highways and~~)), primary, and scenic freeways and expressways.

(i) "GAS" – pictorial business sign on a specific information panel ..... $ 45.00

(ii) "GAS" – pictorial business sign on a supplemental directional panel ..... $ 20.00

(iii) "GAS" – lettered business sign on a specific information panel ..... $ 30.00

(iv) "GAS" – lettered business sign on a supplemental directional panel ..... $ 20.00

(v) "FOOD, LODGING, CAMPING or RECREATION" – pictorial business sign on a specific information panel ..... $ 50.00

(vi) "FOOD, LODGING, CAMPING or RECREATION" – pictorial business sign on a supplemental directional panel ..... $ 25.00

(vii) "FOOD, LODGING, CAMPING or RECREATION" – lettered sign on a specific information panel ..... $ 30.00

(viii) "FOOD, LODGING, CAMPING or RECREATION" – lettered sign on a supplemental directional panel ..... $ 20.00

(b) Primary or scenic highways that are conventional roads.

(i) "GAS" – pictorial business sign on a specific information panel ..... $ 25.00

(ii) "GAS" – lettered business sign on a specific information panel ..... $ 20.00

(iii) "FOOD, LODGING or RECREATION" – pictorial business sign on a specific information panel ..... $ 30.00

(iv) "FOOD, LODGING or RECREATION" – lettered business sign on a specific information panel ..... $ 20.00

WSR 85-03-032
PROPOSED RULES
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Filed January 10, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Office of Minority and Women's Business Enterprises intends to adopt, amend, or repeal rules concerning:

Amd	WAC 326-20-170	Decision.
New	WAC 326-20-185	Renewal of certification.
Amd	WAC 326-20-190	State MWBE directory.
Rep	WAC 326-20-210	Reconsideration of decision.
Amd	WAC 326-40-020	Criteria for bid specifications—Averaging MWBE participation;

that the agency will at 1:00 p.m., Tuesday, March 5, 1985, in the Office Building 2 Auditorium, 12th and Franklin Streets, 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 March 8, 1985.

The authority under which these rules are proposed is chapter 39.19 RCW.

The specific statute these rules are intended to implement is chapter 39.19 RCW.

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

Dated: January 10, 1985
By: C. V. Patton
Director

STATEMENT OF PURPOSE

Title: WAC 326-20-170 Decision; 326-20-185 Renewal of certification; 326-20-190 State MWBE directory; 326-20-210 Reconsideration of decision; and 326-40-020 Criteria for bid specifications—Averaging MWBE participation.

Description of Purpose: WAC 326-20-170 Decision, eliminates reconsideration provision in order to be consistent with repeal of WAC 326-20-210; 326-20-185 Renewal of certification, WAC 326-20-180(3) requires the office to renew certification annually, this new section provides a procedure for annual renewal of certification and establishes time limits for business response to renewal statement; 326-20-190 State MWBE directory, requires the office to include a list of MWBEs, removed from the list of certified firms at the conclusion of the administrative hearing process, in the supplements to the state MWBE directory. This ensures that all directory holders have accurate information regarding certified MWBE firms; 326-20-210 Reconsideration of

decision, repeals this section. Appeals of denial of certification will be resolved by the administrative hearing process. This will eliminate one step – the information reconsideration conference – in the appeal process; and 326-40-020 Criteria for bid specifications—Averaging MWBE participation, allows award to be made to the lowest otherwise responsive bidder where no bid meets the criteria related to MWBE participation requirements.

Statutory Authority: Chapter 39.19 RCW.

Specific Statute Rule is Intended to Implement: Chapter 39.19 RCW.

Summary of Rule: WAC 326-20-170 eliminates reconsideration language; 326-20-185 provides procedure for annual renewal of certification and establishes time limit for business response to renewal statement; 326-20-190 requires the office to include a list of MWBEs removed from the list of certified firms at the conclusion of the administrative hearing process in the supplements to the state MWBE directory; 326-20-210 repeals this section; and 326-40-020 allows award to be made to the lowest otherwise responsive bidder where no bid meets the criteria established related to MWBE participation requirement.

Agency Personnel Responsible for Drafting: Carolyn V. Patton, Director, Office of Minority and Women's Business Enterprises; Implementation: State agencies and educational institutions; and Enforcement: Carolyn V. Patton, Office of Minority and Women's Business Enterprises and staff.

Person or Organization Proposing Rule: The Washington State Office of Minority and Women's Business Enterprises.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement, Fiscal Matters: None.

The rule is not necessary to comply with a federal law or a federal or state court decision.

Small Business Economic Impact Statement: WAC 326-20-170, the rule to notify applicants on the granting or denial of certification will have no economic impact on the small business community; 326-20-185, the renewal of certification rule will not have an economic impact on the small business community. Securing current information on certified firms will assure that only bona fide firms will remain in the state directory of Minority and Women's Business Enterprises; 326-20-190, the rule on maintaining a state MWBE directory will not have an economic impact on the small business community. The periodic updates to the directory will assure current information on certified Minority and Women's Business Enterprises for state contracting; 326-20-210, the repeal of the reconsideration rule will not have an economic impact on the small business community. The rules on hearing procedures, chapter 326-08 WAC, provide procedures for reviewing contested cases of OMWBE decisions to deny or revoke certification of a business as a MBE or WBE; and 326-40-020, the amendment to the rule on averaging MWBE participation will not have an economic impact on the small business community. The rule will eliminate the need for the rebidding process where MBE and/or WBE requirements are not met.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-170 DECISION. The office shall notify the applicant business by mail of its decision to grant or deny certification promptly after the decision has been made. The decision shall indicate whether the certification is for the state program, a federal program or both. Where the office has denied the application, the decision shall set forth the bases for denial. Where the office has denied certification because the women or minority owners did not meet the ownership criteria, this shall not preclude the office from denying the application on additional bases following resubmittal ((~~or reconsideration~~)).

NEW SECTION

WAC 326-20-185 RENEWAL OF CERTIFICATION. Each certified firm must submit a statement of present status prior to renewal of certification. The statement form will be provided to the certified business 60 days before expiration of its certification. Failure to return the completed form within 30 days may lead to decertification.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-190 STATE MWBE DIRECTORY. The office will maintain a directory of certified MWBE's as follows:

(1) The office will maintain a complete directory of all MWBE's certified by the office for state projects and for federally-funded projects.

(2) The office will update and compile the directory into a form suitable for distribution ((~~at least semi~~)) annually and may issue supplements on a more frequent basis. The office will include in the supplements a list of those MWBEs removed from the list of certified firms at the conclusion of the administrative hearing process.

(3) The state MWBE directory will be available for purchase from the office at a reasonable cost. One copy will be made available to each state agency and educational institution at no charge. Copies will be provided to the state library.

(4) Bidders and others proposing to enter into contracts with state agencies and educational institutions shall have the responsibility of ensuring that firms proposed to be used by them toward MWBE goals are certified. State agencies and educational institutions contracting directly with a purported MWBE shall have the responsibility of ensuring that the firm is certified.

(5) Information concerning the status of a firm as a MWBE may be obtained by contacting the office during designated working hours.

REPEALER

The following sections of the Washington Administrative Code are each repealed:

WAC 326-20-210 RECONSIDERATION OF DECISION.

AMENDATORY SECTION (Amending Order 84-3, filed February 22, 1984)

WAC 326-40-020 CRITERIA FOR BID SPECIFICATIONS – AVERAGING MWBE PARTICIPATION. Where a contract for the purpose of goods and services is to be awarded on the basis of competitive bidding, and includes goals for MBE and WBE participation, and no bidder whose bid is within the range established under section 326-40-010 meets the goals established for such contract, the agency shall treat as responsive any bid which is in all other respects responsive and is within the range established under section 326-40-010, and includes MBE and WBE participation equal to or greater than the average participation included in all competitive bids. Competitive bids shall include all otherwise responsive bids which are within 25% of the lowest otherwise responsive bid. Where no bid meets the criteria established above, an award may be made to the lowest otherwise responsive bidder who does not meet the MBE and/or WBE requirements.

WSR 85-03-033
NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE
[Memorandum—January 8, 1985]

Listed below is the regular meeting schedule of the board of trustees of Shoreline Community College, District Number Seven for 1985:

All regular meetings of the board commence at 8:00 a.m. and are held in the Board Room of the Administration Building on the College Campus, 16101 Greenwood Avenue North.

Friday, January 18, 1985*
Friday, February 15, 1985
Friday, March 15, 1985
Friday, April 19, 1985
Friday, May 17, 1985
Friday, June 21, 1985
Friday, July 19, 1985
Friday, August 16, 1985
Friday, September 20, 1985
Friday, October 18, 1985
Friday, November 15, 1985
Friday, December 20, 1985

*This meeting has been changed to a special meeting on Thursday, January 17, 1985, at 7:30 a.m. since the college observes the Martin Luther King Holiday on January 18.

WSR 85-03-034
NOTICE OF PUBLIC MEETINGS
WASHINGTON LIBRARY NETWORK
(Washington Library Network Computer Service Council)
[Memorandum—January 9, 1985]

1985 Meeting Dates

March 12, 1985
June 11, 1985
September 10, 1985
December 3, 1985

WSR 85-03-035
ADOPTED RULES
INSURANCE COMMISSIONER
[Order R 85-1—Filed January 10, 1985]

I, Dick Marquardt, Insurance Commissioner, do promulgate and adopt at Olympia, Washington, the annexed rules relating to standards for conversion plans mandated by chapter 190, Laws of 1984, applicable to insurers, health care service contractors and health maintenance organizations, amending WAC 284-52-050 and 284-52-060.

This action is taken pursuant to Notice No. WSR 84-24-022 filed with the code reviser on November 29, 1984. 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 48.02.060, 48.44.050 and 48.46.200 which directs that the Insurance Commissioner has authority to implement the provisions of RCW 48.21.270, 48.44.380 and 48.46.460.

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 10, 1985.

Dick Marquardt
Insurance Commissioner
By Robert E. Johnson
Deputy Commissioner

AMENDATORY SECTION (Amending Order R 84-4, filed 9/19/84)

WAC 284-52-050 MAJOR MEDICAL PLAN. A major medical plan shall have an annual deductible amount of no less than one thousand dollars or more than five thousand dollars per person and shall provide at least the following benefits:

(1) A lifetime maximum amount of benefits of two hundred fifty thousand dollars.

(2) Payment of at least seventy-five percent of the usual and customary charges for the following:

(a) Daily hospital room and board expenses not less than the semi-private room rate or less than one hundred twenty days per calendar or contract year.

(b) Ancillary hospital expenses.

(c) Surgeons' fees.

(d) Assistant surgeons' fees.

(e) Anesthesiologists' and anesthetists' fees.

(f) Inpatient and outpatient physician services.

((~~(g) Prescription drugs.~~
~~(h) Prescribed durable medical equipment.~~))

AMENDATORY SECTION (Amending Order R 84-4, filed 9/19/84)

WAC 284-52-060 COMPREHENSIVE MEDICAL PLAN. Except as provided in subsection (3) of this section, a comprehensive medical plan shall have an annual deductible amount of five hundred dollars per person and shall provide at least the following benefits:

(1) A lifetime maximum amount of benefits of five hundred thousand dollars per person.

(2) Payment of at least eighty percent of the usual and customary charges for the following:

(a) Daily hospital room and board expenses not less than the semi-private room rate nor less than one hundred eighty days per calendar or contract year.

(b) Ancillary hospital expenses.

(c) Surgeons' fees.

(d) Assistant surgeons' fees.

(e) Anesthesiologists' and anesthetists' fees.

(f) Inpatient and outpatient physician services.

((~~(g) Prescription drugs.~~
~~(h) Prescribed durable medical equipment.~~))

(3) A health maintenance organization's comprehensive medical plan may provide for no deductible amount or a deductible in any amount not exceeding five hundred dollars.

WSR 85-03-036
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 85-02—Filed January 10, 1985]

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

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is Area 13A is closed because the late-timed chum run is completed. All other marine and freshwater areas are closed to prevent overharvest.

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 January 10, 1985.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-47-931 PUGET SOUND ALL-CITIZEN COMMERCIAL SALMON FISHERY. Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately or possess salmon for commercial purposes taken from the following Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the following restrictions:

**Area 13A (excluding the following portions: (1) Burley Lagoon north of State Route 302; (2) waters within a 100-yard radius from the outer oyster stakes off Minter Creek and all of Minter Creek Bay; and (3) waters westerly of a line drawn true north from Thompson Spit at the mouth of Glen Cove and all of Glen Cove) - Closed except gill nets using 6-inch minimum mesh may fish from 3:00 PM to 9:00 AM nightly through the morning of January 11, and purse seines using the 5-inch strip may fish from 5:00 AM to 8:00 PM daily through January 10.*

Areas 4B, 5, 6, 6A, 6B, 6C, 6D, 7, 7A, 7B, 7C, 7D, 8, 8A, 9, 9A, 10, 10A, 10C, 10D, 10E, 10F, 10G, 11, 11A, 12, 12A, 12B, 12C, 12D, 13, 13C, 13D, 13E, 13F, 13G, 13H, 13I, 13J, and 13K and all freshwater areas - closed.

REPEALER

The following sections of the Washington Administrative Code are repealed effective immediately.

WAC 220-47-930 PUGET SOUND COMMERCIAL FISHERY RESTRICTIONS (84-219)

WSR 85-03-037
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 85-03—Filed January 10, 1985]

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

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is steelhead management needs prevail.

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 January 10, 1985.

By Russell W. Cahill
for William R. Wilkerson
Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-28-440 PUGET SOUND COMMERCIAL FISHERY RESTRICTIONS (84-222)

WSR 85-03-038
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 10, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning ownership of income, new WAC 388-95-335.

It is the intention of the secretary to adopt these rules on an emergency basis on or about January 10, 1985;

that the agency will at 10:00 a.m., Tuesday, February 26, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

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

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

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

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

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

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by February 13, 1985. The meeting site is in a location which is barrier free.

Dated: January 10, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: New WAC 388-95-335.

Purpose of the Rule: To change regulations for determining ownership of income.

The Reason this Rule is Necessary: To comply with the summary judgment of Washington State Superior Court for Thurston County.

Statutory Authority: RCW 74.08.090.

Summary of the Rule: It will divide the community income equally between the husband and wife in determining income eligibility for an applicant in a nursing home.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule: Jim Sparks, Program Manager, Division of Medical Assistance, mailstop LK-11, phone 3-7316.

This rule is necessary as a result of state court decision, *Purser v. Rahm*, Case No. 83-2-00952-6.

NEW SECTION

WAC 388-95-335 OWNERSHIP OF INCOME. (1) Community property law as defined in RCW 26.16.030 shall be followed in determining ownership of income for purposes of Medicaid eligibility.

(2) All income received after marriage by either husband or wife or both is presumed to be community income.

(3) The total of the community income, received by the husband and the wife, shall be divided by two with one-half of the total assigned to each individual, as their income.

WSR 85-03-039
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 2188—Filed January 10, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to ownership of income, new WAC 388-95-335.

I, David A. Hogan, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is these rules are necessary to implement a court order in the case of *Purser v. Rahm*, Case No. 83-2-00952-6.

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

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

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

APPROVED AND ADOPTED January 10, 1985.

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

NEW SECTION

WAC 388-95-335 OWNERSHIP OF INCOME. (1) Community property law as defined in RCW 26.16-.030 shall be followed in determining ownership of income for purposes of Medicaid eligibility.

(2) All income received after marriage by either husband or wife or both is presumed to be community income.

(3) The total of the community income, received by the husband and the wife, shall be divided by two with one-half of the total assigned to each individual, as their income.

WSR 85-03-040
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 11, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Food stamps—Issuance—Replacement allotments, amending WAC 388-54-800;

that the agency will at 10:00 a.m., Tuesday, February 26, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 74.04.510.

The specific statute these rules are intended to implement is RCW 74.04.510.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

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

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

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by February 13, 1985. The meeting site is in a location which is barrier free.

Dated: January 9, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: WAC 388-54-800 (2)(a)(h).

The Purpose of the Rule Change: To provide for replacement of mutilated food coupon authorization cards (FCA's).

The Reason These Rules are Necessary: A policy memorandum from the food and nutrition services (FNS).

Statutory Authority: RCW 74.04.510.

Summary of the Rule Change: The department may replace FCA's if the card can be identified as belonging to the requesting party and the request is within the period of intended use.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule Change: Dan Ohlson, Program Manager, Food Stamp Program, Division of Income Assistance, mailstop OB 31C, phone 753-1354.

These rules are necessary as a result of federal law, Policy Memorandum of October 11, 1984.

AMENDATORY SECTION (Amending Order 1962, filed 5/19/83)

WAC 388-54-800 ISSUANCE—REPLACEMENT ALLOTMENTS. (1) Effective January 1, 1982, households may request a replacement for that portion of food coupons received, but subsequently destroyed by a household disaster, such as fire or flood and not to exceed one month food stamp allotment.

The following applies:

(a) The household shall report the destruction to the department within ten days of the incident or within the period of intended use, whichever is earlier.

(b) The household shall sign an affidavit attesting to the destruction.

(c) The disaster shall be verified through either a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or through a home visit.

(d) Replacement of coupons reported as destroyed subsequent to receipt shall be made only once in a six-month period. The department shall deny the request for replacement if in the previous five-month period the household has been issued a replacement for either coupons or an FCA reported as destroyed subsequent to receipt.

(e) The department shall issue replacement coupons, if warranted, within ten days of request for replacement.

(f) The department shall not issue a replacement of coupons if lost or misplaced after receipt.

(g) In a FNS declared disaster, the household shall not receive both the disaster allotment and a replacement allotment.

(2) Within the period of intended use, households may request a replacement for an FCA received but mutilated or subsequently destroyed in a household disaster, such as a fire or flood or stolen. The following applies:

(a) The household shall report the theft ((or)), destruction, or mutilation to the department within ten days of the incident or within the period of the FCA's intended use, whichever is earlier.

(b) The household shall sign an affidavit with the department attesting to the theft or destruction.

(c) The department shall verify the disaster or theft through either a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or through a home visit.

(d) Replacement of an FCA reported stolen subsequent to receipt shall be made only once in a six-month period. Replacement of an FCA or coupons reported as destroyed subsequent to receipt shall be made only once in a six-month period. If, in the previous five months, the household has been issued a replacement for an FCA reported stolen subsequent to receipt, then a request for a replacement of a stolen FCA shall be denied. If, in the previous five months, the household has been issued a replacement of an FCA or coupons reported as destroyed, then the request for a replacement of a destroyed FCA shall be denied.

(e) The department shall issue a replacement, if warranted, within ten days of receipt of requests.

(f) Replacement of the FCA shall be denied or delayed when documentation exists substantiating the request for replacement is fraudulent. The household shall be informed of the household's right to a fair hearing to contest the denial or delay of the replacement of the FCA. The denial or delay of the replacement shall remain in effect pending the hearing decision.

(g) The department shall not issue a replacement FCA or coupons if lost or misplaced after receipt.

(h) The department shall determine that a mutilated FCA is identifiable as belonging to the household requesting the replacement. An unidentifiable FCA shall be treated the same as an FCA which has been lost after receipt.

(3) The department shall issue a replacement FCA stolen or lost in the mail prior to receipt when reported in the period of the FCA's intended use and the household has not been issued two replacements in the previous five months. The following applies:

(a) The department shall determine if the FCA was valid when issued, actually mailed, and if sufficient time has elapsed for delivery.

(b) The household shall sign an affidavit attesting to the nonreceipt of the FCA.

(c) The department shall issue a replacement FCA no more than ten days after report of nondelivery has been received.

(d) The department shall deny or delay the FCA replacement if documentation indicates the request is fraudulent. The household shall be informed of the right to a fair hearing. The denial or delay of the FCA replacement remains in effect pending the hearing decision.

(e) The department shall utilize other delivery methods after two requests are received for replacement of an original or replacement FCA in a six-month period.

(4) The department shall issue replacement coupons only if the coupons are reported stolen from the mail or lost in the mail prior to receipt in the period of intended use, and the household has not been issued two replacements in the previous five months. The following applies:

(a) The department shall determine if the coupons were validly issued, actually mailed, and if sufficient time had elapsed for delivery.

(b) The household shall sign an affidavit attesting to the nondelivery.

(c) The department shall issue replacement coupons no more than ten calendar days after the report of nondelivery of first class mail has been received.

(d) Certified mail coupons.

(i) The department shall deny the request for replacement for coupons mailed by certified mail if a signed receipt of delivery is obtained by the post office from any person residing or visiting at the address provided by the household. These coupons are not replaceable as they are considered stolen after receipt.

(ii) In any other certified mail replacement circumstance, the department will use prudent judgment to determine whether coupons were lost or stolen before or after receipt.

(iii) The department will replace coupons, if otherwise eligible, within ((~~fifteen~~)) ten calendar days after household reports nondelivery of certified mail.

(e) The department shall utilize other delivery methods after one report of nondelivery of either full or partial allotments in a six-month period.

(f) If delivery of a partial allotment is reported, the department shall determine the value of coupons and ((~~corroborated~~)) corroborate by evidence that the coupon loss was due to damage in the mail before delivery or a discrepancy in the issuance unit's inventory. If receipt of a partial allotment is due to an error in issuance unit, the remainder of the allotment shall be issued regardless of the number of times the household has received replacements in the past five months.

(5) The department shall replace food purchased with food coupons when destroyed in a disaster affecting a participating household, not to exceed one month's food coupon allotment when reported within ten days of the loss. The following applies:

(a) The department shall verify the disaster through a collateral contact, a community organization such as the fire department, Red Cross, or a home visit.

(b) The department shall issue a replacement allotment no more than ten days after report of the loss.

(c) The household shall not receive both an FNS declared disaster allotment and a replacement allotment under this provision.

WSR 85-03-041
ADOPTED RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 240—Filed January 11, 1985]

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

New	WAC 232-28-61401	Amendment to 1985 Washington Game Fish Seasons and Catch Limits—Lake Washington and Wenatchee Lake.
New	WAC 232-28-61402	Amendment to 1985 Washington Game Fish Seasons and Catch Limits—Deep Lake (Thurston County).

This action is taken pursuant to Notice No. WSR 84-23-065 filed with the code reviser on November 21, 1984. 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 January 7, 1985.

By Vern Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-28-61401 AMENDMENT TO 1985 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—LAKE WASHINGTON AND WENATCHEE LAKE. Notwithstanding the provisions of WAC 232-28-614, the following language is added to the existing year-around regulations for Lake Washington, including that portion of the Sammamish River from the 68th Avenue Northeast bridge downstream, and Wenatchee Lake: Kokanee/sockeye under 20" will be considered kokanee and under the jurisdiction of Department of Game while those 20" and over will be considered sockeye salmon and under the jurisdiction of Department of Fisheries.

NEW SECTION

WAC 232-28-61402 AMENDMENT TO 1985 WASHINGTON GAME FISH SEASONS AND CATCH LIMITS—DEEP LAKE (THURSTON COUNTY). Notwithstanding the provisions of WAC 232-28-614, the fishing season opening date for Deep Lake in Thurston County is changed from April 15, 1985 to May 11, 1985 and the fishing season is extended to September 30, 1985.

WSR 85-03-042
ADOPTED RULES
DEPARTMENT OF LICENSING
(Securities Division)
[Order SDO-1-85—Filed January 11, 1985]

I, John Gonsalez, director of the Department of Licensing, do promulgate and adopt at 1800 Quince Street, Olympia, WA 98504, the annexed rules relating to the regulation of investment advisors and investment advisor salespersons.

This action is taken pursuant to Notice No. WSR 84-24-051 filed with the code reviser on December 4, 1984. 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 21.20.450 and is intended to administratively implement that statute.

This rule, WAC 460-20A-405, is promulgated pursuant to RCW 21.20.450 which directs that the director of the Department of Licensing has authority to implement the provisions of chapter 21.20 RCW.

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 11, 1985.

By John Gonsalez
Director

NEW SECTION

WAC 460-20A-405 RECEIPT OF BOTH SECURITIES SALES COMMISSION AND INVESTMENT ADVISOR FEES (1) It shall constitute a violation of RCW 21.20.010 and RCW 21.20.020 for any person to receive both a sales commission for the purchase or sale of any security and compensation for rendering investment advice concerning said security; provided, however, receipt of both a sales commission and advisory compensation shall not constitute such violation if either:

(a) Such person provides to each customer receiving advice a disclosure of conflict of interest on a form promulgated by the Administrator to be given to the customers at least 48 hours before the customer agrees to have the person render the advice; or

(b) The Administrator by rule or order waives the necessity of such disclosure on said form as not being necessary in the public interest for the protection of investors.

(2) The purposes of this provision, the term "person" shall include all "affiliates" of such person as defined in WAC 460-10A-060.

(3) In lieu of giving disclosure 48 hours before the agreement, the customer may be given the disclosure document simultaneous to the signing of the agreement so long as the customer is also given five days to cancel the agreement.

WSR 85-03-043
EMERGENCY RULES
OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES
[Order 85-1—Filed January 11, 1985]

I, Carolyn V. Patton, director of the Office of Minority and Women's Business Enterprises, do promulgate and adopt at 406 South Water Street, Olympia, WA 98504, the annexed rules relating to:

Amd	WAC 326-20-170	Decision.
New	WAC 326-20-185	Renewal of certification.
Amd	WAC 326-20-190	State MWBE directory.
Amd	WAC 326-40-020	Criteria for bid specifications—Averaging MWBE participation.

I, Carolyn V. Patton, 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 provide flexibility for awarding state contracts and enhances the integrity of the certification process via the certification renewal and the appeal procedures.

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

This rule is promulgated pursuant to chapter 39.19 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 January 11, 1985.

By C. V. Patton
Director

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-170 DECISION. The office shall notify the applicant business by mail of its decision to grant or deny certification promptly after the decision has been made. The decision shall indicate whether the certification is for the state program, a federal program or both. Where the office has denied the application, the decision shall set forth the bases for denial. Where the office has denied certification because the women or minority owners did not meet the ownership criteria, this shall not preclude the office from denying the application on additional bases following resubmittal ((or reconsideration)).

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 326-20-185 RENEWAL OF CERTIFICATION. Each certified firm must submit a statement of present status prior to renewal of certification. The statement form will be provided to the certified business 60 days before expiration of its certification. Failure to return the completed form within 30 days may lead to decertification.

AMENDATORY SECTION (Amending Order 83-3, filed 10/28/83)

WAC 326-20-190 STATE MWBE DIRECTORY. The office will maintain a directory of certified MWBE's as follows:

(1) The office will maintain a complete directory of all MWBE's certified by the office for state projects and for federally-funded projects.

(2) The office will update and compile the directory into a form suitable for distribution ((at least semi)) annually and may issue supplements on a more frequent basis. The office will include in the supplements a list of

those MWBEs removed from the list of certified firms at the conclusion of the administrative hearing process.

(3) The state MWBE directory will be available for purchase from the office at a reasonable cost. One copy will be made available to each state agency and educational institution at no charge. Copies will be provided to the state library.

(4) Bidders and others proposing to enter into contracts with state agencies and educational institutions shall have the responsibility of ensuring that firms proposed to be used by them toward MWBE goals are certified. State agencies and educational institutions contracting directly with a purported MWBE shall have the responsibility of ensuring that the firm is certified.

(5) Information concerning the status of a firm as a MWBE may be obtained by contacting the office during designated working hours.

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.

REPEALER

The following sections of the Washington Administrative Code are each repealed:

WAC 326-20-210 RECONSIDERATION OF DECISION.

AMENDATORY SECTION (Amending Order 84-3, filed February 22, 1984)

WAC 326-40-020 CRITERIA FOR BID SPECIFICATIONS - AVERAGING MWBE PARTICIPATION. Where a contract for the purpose of goods and services is to be awarded on the basis of competitive bidding, and includes goals for MBE and WBE participation, and no bidder whose bid is within the range established under section 326-40-010 meets the goals established for such contract, the agency shall treat as responsive any bid which is in all other respects responsive and is within the range established under section 326-40-010, and includes MBE and WBE participation equal to or greater than the average participation included in all competitive bids. Competitive bids shall include all otherwise responsive bids which are within 25% of the lowest otherwise responsive bid. Where no bid meets the criteria established above, an award may be made to the lowest otherwise responsive bidder who does not meet the MBE and/or WBE requirements.

WSR 85-03-044
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 85-01—Filed January 11, 1985]

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

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is a large run of smelt is anticipated and a weekly closed period is not necessary.

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 January 10, 1985.

By William R. Wilkerson
Director

NEW SECTION

WAC 220-32-04200F SMELT—WEEKLY PERIOD. Notwithstanding the provisions of WAC 220-32-042, effective immediately until further notice, there is no weekly closed period for the taking of smelt for commercial purposes in the Columbia River and its tributaries.

WSR 85-03-045
ADOPTED RULES
DEPARTMENT OF LICENSING
[Order PL 506—Filed January 11, 1985]

I, John Gonsalez, director of the Department of Licensing, do promulgate and adopt at Olympia, the annexed rules relating to auctioneers, amending WAC 308-11-010, 308-11-050, 308-11-100 and 308-11-120.

This action is taken pursuant to Notice No. WSR 84-21-074 filed with the code reviser on October 17, 1984. 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 18.11.120 and 18.11.200 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 January 10, 1985.

By John Gonsalez
Director

AMENDATORY SECTION (Amending Order PL 413, filed 11/9/82)

WAC 308-11-010 DEFINITIONS. Words and terms used in these rules shall have the same meaning as each has under chapter ((~~205, Laws of 1982~~)) 18.11 RCW, unless otherwise specifically provided in these

rules or the context in which they are used clearly indicates that they be given some other meaning.

AMENDATORY SECTION (Amending Order PL 413, filed 11/9/82)

WAC 308-11-050 SURETY BOND OR TRUST ACCOUNT REQUIRED. (1) An auctioneer's license shall not be issued by the department unless the applicant has first filed with the department an approved surety bond, or has established an approved trust account in lieu of bond ((~~in the minimum amount of five thousand dollars in conformance with the requirements of section 10, chapter 205, Laws of 1982, and the requirements of this chapter.~~)) in an amount not less than five thousand dollars and not more than twenty-five thousand dollars. The amount of the bond or trust account required shall be based upon the value of the goods and real estate sold at auctions conducted by the auctioneer in the previous calendar year or, for a new auctioneer, the estimated value of the goods and real estate to be sold at auctions conducted by the auctioneer during the next calendar year. The value of sales and the corresponding bond or trust account amount required shall be based on the following scale:

SALES			BOND/TRUST AMOUNT
$ 0.00	to	$ 24,999.00	$ 5,000.00
$ 25,000.00	to	$ 49,999.00	$10,000.00
$ 50,000.00	to	$ 99,000.00	$15,000.00
$100,000.00	to	$499,999.00	$20,000.00
$500,000.00	&	Above	$25,000.00

The department shall provide a financial certification affidavit form to all licensed auctioneers by December 31 of each year. Auctioneers will complete and return that form by April 15 of the following year, and it will be the basis for the department's approval of the licensee's bond amount for the following year. Licensees whose sales category increases in the above scale will be required to procure the associated increased bond/trust amount and file that bond or proof of the establishment of the required trust account with the department by April 15, along with the financial certification affidavit form indicating the need for the increase in bonding amount. Licensees whose sales category decreases may decrease their bond or trust account in a like manner. The department will also provide new license applicants with financial certification affidavit forms and will provide instructions for estimating the value of goods or real estate to be sold the next year.

(2) Each licensee must maintain such a surety bond, or trust account, in an active status at all times during the period of licensure.

(3)(a) No bond filed shall be approved unless it expressly provides that it will be effective for one year following the effective date of its cancellation or termination, whether because of expiration, suspension, or revocation of the license, or otherwise, as to any covered act or acts and omission or omissions of the licensee occurring on, or prior to, the effective date of cancellation or termination.

(b) No trust account shall satisfy the requirements of ((~~section 10, chapter 205, Laws of 1982~~)) chapter 18.11 RCW, unless by the express terms of the trust the trust account shall remain open and active, and ((~~at least five thousand dollars~~)) shall remain on deposit therein, for not less than one year following the effective date of its cancellation or termination, whether because of the expiration, suspension or revocation, or otherwise, as to any covered act or acts or omission or omissions of the licensee occurring on, or prior to, the effective date of cancellation or termination.

(c) Subject to the requirement of subsection (b) above, each surety bond or trust account shall be deemed terminated upon the expiration or revocation of the license in connection with which the bond was issued, or the account created: PROVIDED, That for the purposes only of this section a license shall not be deemed expired, suspended, or revoked so long as the licensee may continue to act as an auctioneer pursuant to the provisions of chapter 34.04 RCW or any court order issued pursuant thereto.

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 PL 413, filed 11/9/82)

WAC 308-11-100 RECORDS. The following requirements and prohibitions apply to all records and documents required to be maintained by chapter ((~~205, Laws of 1982~~)) 18.11 RCW, or elsewhere in these rules.

(1) They shall be maintained in accordance with generally accepted accounting practices.

(2) No person shall make any false or misleading statement, or make any false or misleading entry, or wilfully fail to make any entry required to be maintained or made, in any such record or document.

(3) No person shall wilfully fail to produce any such record or document for inspection by the department.

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 PL 413, filed 11/9/82)

WAC 308-11-120 INSPECTION AND AUDIT. All records required to be maintained by an auctioneer by chapter ((~~205, Laws of 1982~~)) 18.11 RCW, or these rules, together with any other business or other types of records of the auctioneer which may be related to activity as an auctioneer or necessary to a full understanding of such records, and any auction mart or other premise used for the purpose of conducting an auction, together with any personal property which may be the subject of, or related to, an auction shall be subject to inspection and audit at any reasonable time, with or without notice upon demand by the department, for the purposes of determining compliance or noncompliance with the provisions of chapter ((~~205, Laws of 1982~~)) 18.11 RCW, and these rules.

If records requested by the department are not immediately available because they are not physically present upon the premises at the time the demand is made, they

shall be procured and produced to the department as soon as possible, but in any event within twenty-four hours, by the licensee.

A reasonable time for the conduct of such inspection and audit shall be:

(1) If the records or items to be inspected or audited are located anywhere upon a premise any portion of which is open for business or to the public (or members and guests), then at any time the premises are so open, or at which they are usually open; or

(2) If the records or items to be inspected or audited are not located upon a premise set out in section (1) above, then any time between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

WSR 85-03-046
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed January 11, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning Whatcom County, WAC 173-19-450.

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

The authority under which these rules are proposed is RCW 90.58.120 and 90.58.200.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before January 14, 1985.

This notice is connected to and continues the matter in Notice No. WSR 84-22-057 filed with the code reviser's office on November 7, 1984.

Dated: January 10, 1985
By: Donald W. Moos
Director

WSR 85-03-047
EMERGENCY RULES
DEPARTMENT OF PERSONNEL
(Personnel Board)
[Order 213—Filed January 14, 1985]

Be it resolved by the State Personnel Board, acting at the Department of Personnel, 600 South Franklin, Olympia, WA 98504, that it does adopt the annexed rules relating to split shift provisions and compensation, amending WAC 356-15-070.

We, the State Personnel 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 clarification of the above rule is necessary to facilitate the Park and Recreation Commissions' training sessions, which will begin on February 1, 1985.

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

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 January 10, 1985.

By Leonard Nord
Secretary

AMENDATORY SECTION (Amending Order 98, filed 1/13/77, effective 2/13/77)

WAC 356-15-070 SPLIT SHIFT PROVISIONS AND COMPENSATION. When an employee's assigned workshift is split ((~~(e.g., 6 a.m. to 10 a.m., 4 p.m. to 8 p.m.)~~)) with ((~~the~~)) a minimum of four intervening hours not worked((~~)~~)), she/he shall receive the premium rate set in the shift differential schedule for all hours worked. The provisions of WAC 356-15-060 (2) through (4) shall apply to employees working split shifts.

WSR 85-03-048
ADOPTED RULES
THE EVERGREEN STATE COLLEGE
[Order 85-1, Resolution No. 85-5—Filed January 14, 1985]

Be it resolved by the board of trustees of The Evergreen State College, acting at Olympia, Washington, that it does adopt the annexed rules relating to the parking policy, amending WAC 174-116-040.

This action is taken pursuant to Notice No. WSR 84-24-045 filed with the code reviser on December 4, 1984. 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 Evergreen State College as authorized in RCW 28B.40.120(11).

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 January 9, 1985.

By Rita Grace
for Acting President

AMENDATORY SECTION (Amending Order 84-2, Resolution No. 84-28, filed 6/19/84)

WAC 174-116-040 PARKING PERMITS—GENERAL INFORMATION. (1) Parking permits are

issued by the security and parking office following application and the payment of the appropriate fees. All privately-owned motor vehicles parked or left standing unattended on college property are required to display a currently valid Evergreen parking permit during the hours of 7:00 a.m. to ((~~7:00~~)) 5:00 p.m., Monday through Friday, and at such other times as the college may designate.

(2) Fees for parking permits are as follows:

	Automobile	Motorcycle
Quarterly	22.00	11.00
Annual	54.00	27.00
Daily	.75	.75

WSR 85-03-049
PROPOSED RULES
DEPARTMENT OF GENERAL ADMINISTRATION
(Division of Savings and Loan Associations)
[Filed January 14, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of General Administration, Division of Savings and Loan, intends to adopt, amend, or repeal rules concerning fees for branch application of foreign associations, amending WAC 419-14-075;

that the agency will at 4:00 p.m., Tuesday, March 5, 1985, in the Office of the Supervisor, 217-C General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 33.08.110.

Dated: January 10, 1985
By: R. H. "Bob" Lewis
Supervisor

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

RCW 33.08.110 establishes authority for the supervisor to collect from each savings and loan association a sum adequate to cover investigation costs of a branch application. This regulation establishes the method of collecting those costs.

This regulation is drafted and proposed by R. H. "Bob" Lewis, Supervisor, Division of Savings and Loan, 217-C General Administration Building, Olympia, Washington 98504.

The supervisor will be responsible for enforcement of this regulation.

AMENDATORY SECTION (Amending Order 84-4, filed 5/30/84 [5/31/84])

WAC 419-14-075 BRANCH APPLICATION FEE—FOREIGN ASSOCIATIONS The fee required by RCW 33.08.110 to be submitted in connection with an application to establish a branch office of a foreign association in this state shall be two thousand five hundred dollars, nonrefundable for the first branch and five hundred dollars for each additional branch. In the event the actual costs of the investigation with respect to a particular application exceed the amount of the fee, such difference between the fee and the actual costs shall be paid by the applicant. For the purposes of this section, actual costs shall include travel and per diem expenses paid to division personnel in connection with the investigation.

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

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 85-03-050
PROPOSED RULES
DEPARTMENT OF GENERAL ADMINISTRATION
(Division of Savings and Loan Associations)
[Filed January 14, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of General Administration, Division of Savings and Loan, intends to adopt, amend, or repeal rules concerning examination and supervision fees for Savings and Loan Associations, amending WAC 419-14-030, 419-14-040, 419-14-100 and 419-14-110;

that the agency will at 1:30 p.m., Tuesday, March 5, 1985, in the Office of the Supervisor, 217-C General Administration Building, Olympia, Washington, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 33.28.020.

Dated: January 8, 1985
By: R. H. "Bob" Lewis
Supervisor

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

RCW 31.12.545(1) requires that the supervisor collect from each credit union the actual cost for examination and supervision of its condition. This regulation establishes the methods of collecting those costs.

These regulations are drafted and proposed by R. H. "Bob" Lewis, Supervisor, Division of Savings and Loan, 217-C General Administration Building, Olympia, Washington 98504, phone 753-5597.

The supervisor will be responsible for enforcement of this regulation.

AMENDATORY SECTION (Amending Order 82-4 [84-4], filed 6/7/82 [5/31/84])

WAC 419-14-030 HOURLY CHARGE FOR EXAMINATIONS. The hourly charge for hours spent by personnel of the Division of Savings and Loan in conducting examinations shall be assessed as follows:

(1) for division personnel classified as Examiner I, ((~~$16.88~~)), $27.50 per hour;

(2) for division personnel classified as Examiner II, ((~~$21.88~~)), $31.00 per hour;

(3) for division personnel classified as Examiner III ((~~or above, $24.75~~)), $34.00 per hour; and

(4) for division personnel classified as Examiner IV or above, $35.00 per hour.

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

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 82-4, filed 6/7/82)

WAC 419-14-040 SEMIANNUAL ASSET CHARGE. The semiannual asset charge will be assessed at a rate of three ((~~and one-half~~)) cents per thousand dollars ((of total assets)) on the first twenty five million dollars of assets, and two and three-fourths cents per thousand dollars on the next twenty-five million dollars of assets, and two and one-half cents per thousand dollars of assets on all remaining assets; except that a minimum charge of one thousand dollars will be charged to all associations and no association will be charged more than seven thousand five hundred dollars. Asset fees will be computed on assets as of June 30 and December 31 of each calendar year, and payable no later than July 15 and January 15 next following the respective assessment dates.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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

AMENDATORY SECTION (Amending Order 83-5, filed 9/23/83 [9/26/83])

WAC 419-14-100 SUPERVISORY REVIEW OF EXAMINATION. Upon completion of each examination the examiners' report shall be reviewed and an examination letter prepared by administrative personnel. The hourly charge for the review and preparation of the examination letter shall be assessed at the rate of ((~~$30.00~~)) $35.00 per hour.

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

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order 83-5, filed 9/23/83 [9/26/83])

WAC 419-14-110 SPECIAL EXAMINATIONS. Special examinations shall be assessed at the rate of ((~~$30.00~~)) $35.00 per hour per examiner. Special examinations shall include, but not be limited to, electronic data processing examinations and other special examinations and reviews the supervisor deems necessary.

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

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 85-03-051
PROPOSED RULES
DEPARTMENT OF GENERAL ADMINISTRATION
(Division of Savings and Loan Associations)
[Filed January 14, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of General Administration, Division of Savings and Loan, intends to adopt, amend, or repeal rules concerning examination and supervision fees for credit unions, amending WAC 419-18-030, 419-18-040, 419-18-060 and 419-18-070;

that the agency will at 2:30 p.m., Tuesday, March 5, 1985, in the Office of the Supervisor, 217-C General Administration, 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 31.12.545(1).

Dated: January 8, 1985
By: R. H. "Bob" Lewis
Supervisor

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

RCW 31.12.545(1) requires that the supervisor collect from each credit union the actual cost for examination and supervision of its condition. This regulation establishes the methods of collecting those costs.

These regulations are drafted and proposed by R. H. "Bob" Lewis, Supervisor, Division of Savings and Loan, 217-C General Administration Building, Olympia, Washington 98504, phone 753-5597.

The supervisor will be responsible for enforcement of this regulation.

AMENDATORY SECTION (Amending Order 82-5, filed 6/7/82)

WAC 419-18-030 HOURLY CHARGE FOR EXAMINATIONS. The hourly charge for hours spent by personnel of the Division of Savings and Loan in conducting examinations shall be assessed as follows:

(1) for division personnel classified as Examiner I, ((~~$16.88~~)) $24.75 per hour;

(2) for division personnel classified as Examiner II, ((~~$21.88~~)) $28.75 per hour;

(3) for division personnel classified as Examiner III ((~~or above, $24.75~~)) $31.25 per hour; and

(4) for division personnel classified as Examiner IV or above, $35.00 per hour.

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 82-5 [83-4], filed 9/23/84 [9/26/83])

WAC 419-18-040 SEMIANNUAL ASSET CHARGE. The semiannual asset charge will be assessed at a rate of three ((~~and one-half~~)) cents per thousand dollars of total assets, computed on assets as of June 30 and December 31 of each calendar year, and payable no later than July 15 and January 15 next following the respective assessment dates. Those credit unions the total assets of which are less than two hundred thousand dollars as of a particular assessment date shall

not be required to pay an asset charge for the semiannual period immediately preceding such assessment date.

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

WAC 419-18-060 SUPERVISORY REVIEW OF EXAMINATIONS. Upon completion of each examination the examiners' report shall be reviewed and an examination letter prepared by administrative personnel. The hourly charge for the review and preparation of the examination letter shall be assessed at the rate of ((~~$30.00~~)) $35.00 per hour.

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 83-4, filed 9/23/83 [9/26/83])

WAC 419-18-070 SPECIAL EXAMINATIONS. Special examinations shall be assessed at the rate of ((~~$30.00~~)) $35.00 per hour, per examiner. Special examinations shall include, but not be limited to, electronic data processing examinations and other special examinations as the supervisor deems necessary.

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

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 85-03-052
ATTORNEY GENERAL OPINION
Cite as: AGO 1985 No. 2
[January 11, 1985]

INDUSTRIAL INSURANCE—WORKERS' COMPENSATION—MINIMUM WAGE—APPLICABILITY OF MINIMUM WAGE LAW TO VOCATIONAL REHABILITATION TRAINEES

When an industrially-injured worker continues to receive temporary total disability compensation from the Department of Labor and Industries while participating in an approved vocational rehabilitation plan consisting of on-the-job training and there is no payment of wages by the training employer to the worker, court decisions support the proposition that state or federal minimum wage laws generally will not be applicable; nevertheless, if sufficient other indicia of an employer-employee relationship are present a court could still find an on-the-job trainee to have crossed the line to becoming an employee for minimum wage law purposes.

Requested by:
Honorable Sam Kinville
Director, Department of Labor
& Industries
General Administration Building
Olympia, Washington 98504

WSR 85-03-053
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 85-04—Filed January 14, 1985]

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

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is this rule conforms marginal charter fishing standards recommendations of the Buy-Back Advisory Board, and WAC 220-95-016, previously amended.

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 January 14, 1985.

By Russell W. Cahill
for William R. Wilkerson
Director

NEW SECTION

WAC 220-95-01200A MARGINAL PRODUCTION. Notwithstanding the provisions of WAC 220-95-012, effective immediately until further notice, in order to sell license, gear and vessel to the program, a salmon charter license holder must document, in the form of income tax records, a level of income derived from charter fishing generated by the license for sale of at least $4,000 in Washington State in any one of the years 1981, 1982, or 1983. Charter salmon license holders with an income of less than $4,000 for 1981, 1982, or 1983 are eligible to sell only licenses to the program.

WSR 85-03-054
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 14, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Standards—Eligibility, amending chapter 388-29 WAC;

that the agency will at 10:00 a.m., Tuesday, February 26, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

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

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

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

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

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

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Office of Administrative Regulations, at State Office Building #2, 12th and Franklin, Olympia, Phone (206) 753-7015, by February 13, 1985. The meeting site is in a location which is barrier free.

Dated: January 9, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

Re: Amending chapter 388-29 WAC.

The Purpose of the Rule or Rule Change: To adopt new standards for additional requirements and supplemental security income (SSI).

The Reasons These Rules are Necessary: To improve program management and implement federal law change.

Statutory Authority: RCW 74.08.090.

Summary of the Rule or Rule Change: Round additional requirement amounts to nearest dollar; increase SSI standards.

Person Responsible for the Drafting, Implementing and Enforcement of the Rule Change: Steve Asher, Administrator; Fiscal, Research and Data Analysis Section, Division of Income Assistance, mailstop OB-31C, phone scan 234-3696.

These rules are partially necessary as a result of federal law, SSI standards.

The department has evaluated the fiscal impact of these changes and determined an economic impact statement is not required.

NEW SECTION

WAC 388-29-001 DEFINITIONS. (1) "Assistance unit" means a person or members of a family eligible to be included in a single categorical grant.

(2) "Board and room" means a living arrangement in which an individual purchases their food, shelter, and household maintenance requirements from a single vendor.

(3) Boarding home" means any place where one or more persons purchases their food, shelter, and household maintenance requirements from a single vendor.

(4) "Consolidated standards of need" means combining individual requirement amounts into a single dollar value.

(5) "Household maintenance" means the requirements for space heating, water heating, cooking, lights, refrigeration, household supplies, garbage pickup, sewage disposal, and water.

(6) "Life estate" means the right to use property for the duration of a specific person's life time.

(7) "Living in own home" means a living arrangement not involving boarding and rooming or care in a hospital, nursing home, or another institution.

(8) "Maximum" means no incremental increase in the payment standard for additional members of an assistance unit beyond a designated size.

(9) "Medical institution" means an institution where professional personnel provide medical, nursing, or convalescent care.

(10) "Need" means the difference between the payment standard and the applicant's or recipient's available income, if any.

(11) "Payment standard" means the amount to which the applicant's or recipient's available income and resources are compared in determining financial eligibility.

(12) "Rateable reduction" means the percentage difference between the need standard and the payment standard.

(13) "Requirement" means an item or service recognized by the department as essential to the welfare of an individual.

(a) "Additional requirement" means a requirement which is essential to some clients under specified conditions.

(b) "Basic requirements" means food, clothing, shelter, transportation, household maintenance, personal maintenance, and necessary incidentals.

(14) "Standards of need" or "need standard" means the income required by an applicant or recipient to maintain a minimum and adequate level of living.

(15) "Supplied shelter" or "shared living" means housing is furnished to the applicant or recipient without cost or work on their part.

NEW SECTION

WAC 388-29-005 FAIR HEARING. An applicant or recipient aggrieved by a decision made by the department and based upon the rules in this chapter can request a fair hearing as provided for in chapter 388-08 WAC.

AMENDATORY SECTION (Amending Order 1961, filed 5/9/83)

WAC 388-29-010 STANDARDS ((~~FOR REQUIREMENTS—PERSON IN OWN HOME~~)) OF ASSISTANCE. (See RCW 74.04.770)

(1) The public assistance law directs the department to establish a standard for use in determining whether or not an applicant needs money and if so how much he or she needs.

(2) The law specifies that grants shall be awarded on a state-wide basis in accordance with standards of assistance established by the department and may vary by geographical areas.

(3) ((~~(a)~~)) The law requires that the secretary establish consolidated standards of assistance each ((~~biennium, and~~)) fiscal year.

((~~(b)~~)) (4) State supplements for supplemental security income recipients shall be no less than the levels specified in 42 U.S.C. Section 1618.

((~~(4)~~)) (5) The department may prescribe grant maximums and ((~~prescribe~~)) rateable reductions ((~~for grants~~)).

((~~(5)~~)) (6) The amount of the grant which is given is the difference between the ((~~monthly~~)) dollar value of the monthly payment standard adjusted for the maximum grant limitation when in effect, and the resource value or income which the applicant or recipient possesses, or can obtain.

AMENDATORY SECTION (Amending Order 1241, filed 9/23/77)

WAC 388-29-020 STANDARDS OF ASSISTANCE—FAMILY RELATIONSHIPS. (1) The law specifies who is eligible to receive assistance in ((~~his~~)) his or her own right. The law does not always specify, except in general terms, which other persons may be included in the grant made to the primary person. The department, therefore, defines those who in addition to the primary person may have their requirements computed with the requirements of the primary applicant. Such family groupings are called "assistance units." The persons whose needs are included in the need of the primary applicant are those for whose support the applicant is legally responsible.

(2) ((~~Groupings (units) used in computing the requirements of individual members of assistance units are shown in WAC 388-29-025 through 388-29-100~~)) If an individual is receiving benefits under Title XVI of the Social Security Act, such individual shall not be regarded as a member of a family or assistance unit for purposes of determining eligibility and amount of an aid to families with dependent children grant.

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-080 ((~~MONTHLY COST OF~~)) STANDARDS OF ASSISTANCE—BASIC REQUIREMENTS((~~—MAXIMUMS—PERSON IN OWN HOME—PERSON IN MEDICAL INSTITUTION~~)). (1) The standards for basic requirements ((~~in WAC 388-29-100~~)) apply to a person in his or her own home.

(2) The standards ((~~in WAC 388-29-150 through 388-29-230 are~~)) for additional requirements ((~~for~~)) apply to persons with circumstances ((~~as~~)) specified in this chapter.

((~~(2)~~)) (3) Individuals ((~~in~~)) eligible for an AFDC or ((~~continuing GA~~)) general assistance ((~~unit~~)) grant shall be provided the basic requirements.

((~~(3)~~)) (4) ((~~Basic requirements for a person in his or her own home are food, clothing, personal maintenance and necessary incidentals, shelter, household maintenance, and energy.~~)) The monthly payment standard and maximums thereto, if in effect, are based upon the number of recipients in the assistance unit.

((~~(4)~~)) (5) When a person is in a medical institution, basic requirements of food, shelter, and household maintenance are not computed in the grant but are paid as a medical care cost.

((~~(5)~~)) (6) ((~~The monetary allowance for the basic requirements, as determined by the standards in WAC 388-29-100, shall be reduced to the amounts in WAC 388-29-110 when maximum amounts are in effect~~)) When two or more assistance units share a common dwelling, the monthly standard for each is based upon the number of members of that assistance unit.

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-100 ((~~MONTHLY~~)) STANDARDS OF ASSISTANCE—((~~AFDC AND CONTINUING GENERAL ASSISTANCE~~)) BASIC REQUIREMENTS. (1) Effective July 1, 1984, the state-wide monthly need standards for ((~~food, clothing, personal maintenance, and necessary incidentals, household maintenance, shelter, and transportation for those owning (including life estate), buying, or renting an apartment or house~~)) basic requirements are:

(a) Household with shelter costs.

Recipients in Household	Need Standard
1	$ 491
2	621
3	768
4	904
5	((~~1,008~~)) 1,041
6	1,182
7	1,365
8	1,511
9	1,659
10 or more	1,803

(b) Household with supplied shelter.

The monthly standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, household maintenance, and transportation.

Recipients in Household	Need Standard
1	$ 181
2	263
3	348
4	433
5	518
6	603
7	688
8	773
9	858
10 or more	943

(2) Effective November 1, 1984, one hundred eighty-five percent of the state-wide monthly need standard for basic requirements is:

(a) Household with shelter costs.

Recipients in Household	185% of Need Standard
1	$ 908
2	1,149
3	1,421
4	1,672
5	1,926
6	2,187
7	2,525
8	2,795
9	3,069
10 or more	3,336

(b) Household with supplied shelter.

Recipients in Household	185% of Need Standard
1	$ 335
2	487
3	644
4	801
5	958
6	1,116
7	1,273
8	1,430
9	1,587
10 or more	1,745

(3) Effective July 1, 1984, the state-wide monthly payment standard reflecting a rateable reduction of 37.9 percent of the need standards shall be:

(a) Household with shelter costs.

Recipients in Household	Payment Standard
1	$ 304
2	385
3	476
4	561
5	646
6	731
7	847
8	936
9	1,028
10 or more	1,117

(b) Household with supplied shelter.

The monthly payment standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, transportation, and household maintenance.

Recipients in Household	Payment Standard
1	$ 181
2	263
3	348
4	433
5	518
6	603
7	688
8	773
9	858
10 or more	943

((~~(3) In computing the grant amount, nonexempt income and resources available to meet need shall be deducted from the monthly payment standard specified in subsection (2) of this section.~~))

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-110 STANDARDS OF ASSISTANCE—GRANT MAXIMUMS ((~~TO MONTHLY STANDARDS~~)). (1) Grants to families of eight or more shall not exceed the following maximums. In computing the grant amount, nonexempt income (and resources; general assistance only) available to meet need shall be deducted from the monthly payment standard specified in ((~~WAC 388-29-100~~)) this chapter.

(2) Effective July 1, 1984, the maximum is:

Number in household	Maximum
8 or more	$ 936

((~~Maximums~~ ~~$ 936~~))

((~~(2) This rule is effective July 1, 1984.~~))

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-112 STANDARDS OF ASSISTANCE—CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM (CEAP)((~~—STANDARDS OF ASSISTANCE~~)). The state-wide standards for the consolidated emergency assistance program shall be paid in the amount necessary to meet allowable emergent needs with the issuance of not more than one hundred percent of the payment ((~~level~~)) standard. ((~~Following are payment maximums:~~))

(1) ((~~Number in household~~)) Maximum grant.

Recipients in Household	Maximum Grant
1	$ 304
2	385
3	476
4	561
5	646
6	731
7	847
8 or more	936

(2) ((~~The following are~~)) Payment maximums for individual emergent need items ((~~payable under consolidated emergency assistance program (CEAP)~~)).

	1	2	3	4	5	6	7	8 (or more)
Food	$166	$210	$260	$306	$352	$400	$462	$511
Shelter	186	235	291	342	394	447	516	571
Clothing	22	27	34	40	46	52	60	67
Minor Medical	128	162	201	236	272	308	356	394
Utilities	43	55	68	80	92	105	121	134
Household Maint.	54	69	85	100	115	131	151	167

Job-related transportation – as needed not to exceed the grant maximum. Transportation of a child to home – as needed not to exceed the grant maximum.

(3) These standards are effective July 1, 1984.

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-125 ((~~COST~~)) STANDARDS ((~~FOR REQUIREMENTS~~)) OF ASSISTANCE—PERSONS IN MEDICAL INSTITUTIONS. ((~~(1)~~)) Effective July 1, 1984, the monthly ((~~cost~~)) standard for clothing, personal maintenance, and necessary incidentals for ((~~a~~)) an eligible person ((~~eligible for AFDC, Supplemental Security Income, or the "H" medical care program who is~~)) in a skilled nursing home, a public nursing home, a general or tuberculosis hospital, or an intermediate care facility shall be thirty-five dollars and fifty-five cents.

((~~(2) The monthly cost standard for clothing, personal maintenance, and necessary incidentals for a person eligible for continuing general assistance who is in an institution specified in subsection (1) of this section shall be thirty-five dollars and fifty-five cents.~~

~~(3) These standards are effective July 1, 1984.~~))

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-130 ((~~COST~~)) STANDARDS ((~~FOR REQUIREMENTS~~)) OF ASSISTANCE—PERSONS IN CONGREGATE CARE ((~~FACILITY~~)) FACILITIES. (1) The ((~~cost~~)) standard for congregate care shall be ((~~the rate~~)) established by the department for payment to specific congregate care facilities.

(2) Regular rates
(a) 1-15 beds, existing facilities $19.09/day
(b) 1-15 beds, new facilities 16.80/day
(c) 16 or more beds 16.80/day
(3) Mental health
(a) 1-15 beds, existing facilities $21.99/day
(b) ((~~16 or more beds~~)) 1-15 beds, new facilities 19.70/day
(c) ((~~New small facilities~~)) 16 or more beds 19.70/day
(4) Intensive alcohol treatment
(a) Board and room $16.80/day
(b) Treatment, 1-15 beds 28.42/day
(c) Treatment, 16 or more beds 21.31/day
(5) Long-term inpatient alcohol treatment $19.70/day
(6) Alcohol recovery house
(a) 1-15 beds $24.65/day
(b) 16 or more beds 19.70/day
(7) Residential drug treatment
(a) 1-15 beds $21.75/day
(b) 16 or more beds 16.80/day
(8) COPES add-ons
(a) Three hours ..... $ 3.61/day
(b) Four hours 4.41/day
(c) Five hours 5.20/day

(9) Congregate care facility residents receiving SSI or GA-U benefits are entitled to the earned and unearned income exemptions applicable to those programs. Any remaining nonexempt income shall be applied first toward the monthly cost standard for clothing, personal maintenance, and necessary incidentals, and then toward the cost of care. SSI grant deductions for overpayments shall first reduce the money available for clothing, personal maintenance, and necessary incidentals, and then reduce the money available to meet the cost of CCF care. The department shall not pay the difference toward cost of care caused by the SSI reduction.

(10) The monthly ((~~cost~~)) standard for clothing, personal maintenance, and necessary incidentals for a person in a congregate care facility shall be thirty-five dollars and fifty-five cents.

(11) These standards are effective July 1, 1984.

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-145 ((~~MONTHLY~~)) STANDARDS ((~~FOR BASIC REQUIREMENTS~~)) OF ASSISTANCE—AFDC—CHILD IN NEED OF SPECIALIZED EDUCATION OR TRAINING. (1) A child attending school under temporary absence provisions according to chapter 388-24 WAC ((~~388-24-125 (3)(b)~~)) is eligible for clothing, personal maintenance, and necessary incidentals only.

(2) Effective July 1, 1984, the monthly standard shall be thirty-five dollars and fifty-five cents.

(3) The child shall not be included as a member of the household in computing the requirements for the household.

((~~(2) These standards are effective July 1, 1984.~~))

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-146 ((~~MONTHLY~~)) STANDARDS ((~~FOR BASIC REQUIREMENTS~~)) OF ASSISTANCE—FOSTER CARE. (1) The monthly standard for a foster care ((~~children~~)) child under twelve is thirty-nine dollars and five cents.

(2) The monthly standard for a foster care ((~~children~~)) child twelve and over is forty-two dollars and ninety cents.

(3) ((~~Those~~)) These standards are effective July 1, 1984.

AMENDATORY SECTION (Amending Order 1355, filed 11/3/78)

WAC 388-29-150 STANDARDS ((~~FOR~~)) OF ASSISTANCE—ADDITIONAL REQUIREMENTS ((~~UNDER SPECIFIED CIRCUMSTANCES~~)). (1) Additional requirements ((~~under specified circumstances shall be handled as follows, except for the additional requirements for emergent situations in AFDC, which are set forth in WAC 388-29-270~~)) are provided under the circumstances and limitations specified in this chapter.

((~~(1) The basic requirements provide the majority of eligible persons with all essential items of maintenance. Some persons, however, have~~

~~particular needs of an essential nature which cannot be met within the basic requirements. For this reason~~))

(2) The department's standards provide for certain additional requirements when the individual's circumstances are such that the item((~~(s)~~)) is essential in accordance with the ((~~criteria herein~~)) established criteria. The need of these items must be verified in each case where any are included. When the requirement is ongoing, it is added to the ((~~adjusted~~)) basic requirements of the ((~~appropriate~~)) assistance unit.

((~~(2)~~)) (3) The circumstances which give rise to an additional requirement may regularly recur or be nonrecurring depending on the nature of the item. In determining whether an additional requirement exists, the total case situation shall be taken into account, i.e., the changes which have occurred in health or living conditions and, if the problem is not new, how it was met in the past.

((~~(3) The reasons for including an additional item, i.e., factual findings supporting the need (or continuing need) for the requirement inconsistent with the criteria herein, shall be recorded in the case narrative.~~))

(4) A plan for periodically reviewing the necessity for continuing the allowance for an ongoing additional requirement shall be established in each case, taking into account the change in the individual's living arrangements, health, and any other factor which has a bearing on the need for the item.

(5) The need for any ongoing additional requirement must be reestablished as often as the case plan indicates, but at least semiannually, except where it is established ((~~that~~)) there is a continuing need that is likely not subject to change.

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-160 ((~~STANDARDS FOR~~)) ADDITIONAL REQUIREMENTS ((~~UNDER SPECIFIC CIRCUMSTANCES~~))—RESTAURANT MEALS. (1) Restaurant meals shall be an additional requirement only when:

(a) The individual is physically or mentally unable to prepare any of his or her meals, and

(b) Board, or board and room, is not available or the use of such facilities is not feasible for an individual.

(2) Effective November 1, 1984, the monthly ((~~additional requirement~~)) standard for restaurant meals shall be one hundred ((~~sixty-two~~)) sixty-three dollars ((~~and fifty cents, or five dollars and thirty-five cents per day.~~

~~(3) These standards are effective July 1, 1984~~)).

AMENDATORY SECTION (Amending Order 1701, filed 9/23/81)

WAC 388-29-180 ADDITIONAL REQUIREMENTS—HOME-DELIVERED MEALS (MEALS-ON-WHEELS). (1) For some recipients who cannot be expected to prepare all of their own meals, prepared and home-delivered meals may be available.

(2) ((~~Where a CSO approved home delivery service of prepared meals is available recipients who need and would benefit from such service should be encouraged, authorized, and assisted, if necessary, to obtain it.~~

~~(3) Standards and~~)) Criteria used to authorize the service are as follows:

(a) The recipient requires help in preparation of some ((~~of his~~)) meals and would benefit nutritionally or otherwise from home-delivered meals,

(b) Such help is not reasonably available without cost to the recipient,

(c) Board (or board and room) is not available, feasible, or ((~~possible~~)) is costlier for the recipient((;)).

((~~(4)~~)) (3) When a plan for use of this service is approved ((~~by the CSO~~)), the ((~~cost~~)) monthly standard ((~~to be used for the total food requirement of the recipient using the service~~)) shall be established by the department((~~'s office of budget and program analysis at the CSO's request~~)).

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-200 ((~~STANDARDS FOR~~)) ADDITIONAL REQUIREMENTS ((~~UNDER SPECIFIED CIRCUMSTANCES~~))—FOOD FOR GUIDE DOG. (1) The cost of food for a guide dog shall be an additional requirement when an applicant ((~~for SSI~~)) or ((~~an assistance grant~~)) recipient has a guide dog assigned to him or her by an accredited guide dog organization.

(2) Effective November 1, 1984, the monthly standard for food for a guide dog shall be ((~~thirty-one~~)) thirty-two dollars ((~~and eighty-five cents.~~

~~(2) These standards are effective July 1, 1984~~)).

AMENDATORY SECTION (Amending Order 1241, filed 9/23/77)

WAC 388-29-210 ADDITIONAL REQUIREMENTS—TELEPHONE. (1) Telephone service is an additional requirement only when the lack of a telephone would endanger life or make a more expensive type of care necessary. Telephone service is not allowed when the function of a telephone can be performed by other means, including the help of neighbors, relatives, or other community service.

(2) The monthly standard for telephone is the minimum residential rate available in the area for the service.

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-220 ((~~STANDARDS FOR~~)) ADDITIONAL REQUIREMENTS ((~~UNDER SPECIFIED CIRCUMSTANCES~~))—LAUNDRY. (1) Laundry is an additional requirement when:

(a) The applicant or recipient is physically unable to do his or her laundry, and

(b) He or she has no one able to perform this service for him or her.

(2) Effective November 1, 1984, the monthly ((~~cost~~)) standard for laundry shall be ((~~eight~~)) nine dollars ((~~and eighty cents~~)).

((~~(3) These standards are effective July 1, 1984.~~))

AMENDATORY SECTION (Amending Order 1701, filed 9/23/81)

WAC 388-29-230 ADDITIONAL REQUIREMENTS—WINTERIZING HOMES—AFDC. (1) Repairs ((~~of~~)) to homes owned or being purchased by AFDC recipients((~~, to a maximum of five hundred dollars for any one home,~~)) are an additional requirement under the following circumstances:

(a) The primary purpose of the repairs is to minimize heat loss or otherwise increase the efficiency of the home heating system((;));

(b) The repairs are necessary to render the home habitable((;));

(c) Lack of repairs would require the assistance unit to move to rental quarters((;));

(d) The rental costs expended by the assistance unit over a period of two years would exceed the costs, including repairs, attributable to continued occupancy of the home((;)); and

(e) No expenditures for repair of the home have been made previously under the policies outlined in ((~~subdivisions~~)) subsection (1)(a) through (d) of this ((~~subsection~~)) section.

(2) All expenditures for repairs shall be paid by vendor payments when there is sufficient recorded evidence that the home repair was performed.

(3) The maximum allowance for winterizing a home is five hundred dollars.

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-260 ((~~REQUIREMENTS OF~~)) STANDARDS OF ASSISTANCE—PERSONS IN BOARDING HOMES—((~~CONTINUING~~)) GENERAL ASSISTANCE. (1) The monthly standard for board and room shall be two hundred eighteen dollars and fifty cents or seven dollars and twenty cents per day.

(2) The monthly standard for clothing and personal maintenance and necessary incidentals shall be thirty-five dollars and fifty-five cents.

(3) These standards are effective July 1, 1984.

AMENDATORY SECTION (Amending Order 1877, filed 9/17/82)

WAC 388-29-270 ADDITIONAL REQUIREMENTS ((~~FOR~~))—EMERGENT SITUATIONS—AFDC. (1) Additional ((~~requirements~~)) assistance shall be ((~~allowed~~)) available to AFDC recipients in the following emergent situations((~~. In no instances is the payment under this section to exceed one month's payment standard as set in WAC 388-29-100 for renting, owning, or buying.~~)):

(a) To secure housing and necessary clothing in the event of a natural disaster such as flood or fire and relief is not available under ((~~WAC 388-53-010 et seq.~~)) chapter 388-53 WAC;

(b) To prevent imminent eviction, where a formal notice of eviction has been received, only in an amount needed to prevent the eviction or to secure new housing, ((~~but~~)) and only if the basis of eviction is not a delinquency in payment resulting from a fault of the client;

(c) To correct sudden malfunction resulting in loss of heat, water, electricity, or cooking facilities ((~~and~~)) when the recipient is legally responsible for the repairs and winterization funds are not available; limited to actual costs of repairs or replacement when there is no other alternative;

(d) To prevent utility shut-off when a notice ((~~of impending utility shutoff~~)) has been issued by the company providing the service, and only in the amount needed to prevent ((~~shutoff~~)) shut-off; ((~~or it is otherwise verified by the CSO that the applicant or recipient is without~~))

(e) To provide necessary fuel for heating or cooking and only in the amount to meet the emergent need((~~. Assistance is~~)); limited to situations where the emergent need occurred due to conditions beyond the control of the recipient;

((~~(e)~~)) (f) To meet housing needs caused by an abusive spouse ((~~will be~~)); limited to established fees paid to shelters especially for abused spouses;

((~~(f)~~)) (g) To repair an inoperable vehicle which is necessary to continue employment and where public transportation is not available; limited to actual costs of repairs.

(2) ((~~Emergency assistance as defined in WAC 388-24-260;~~)) Additional requirements for emergent needs shall be provided to AFDC recipients from another state only when ((~~it is determined that~~)):

(a) Such individuals are detained in Washington for reasons beyond their control and as a result of events which could not have been reasonably anticipated; or

(b) They have decided to become residents.

(3) Assistance shall be provided only in the amount needed to meet the emergency and in no case to exceed the monthly payment standard for households with shelter costs.

AMENDATORY SECTION (Amending Order 2104, filed 6/18/84)

WAC 388-29-280 STANDARDS OF ASSISTANCE—ADULT FAMILY HOME CARE((~~—COST STANDARDS~~)). (1) The basic monthly standard for adult family home care shall be three hundred fifty-four dollars and fifty-five cents.

(2) The monthly standard for clothing and personal maintenance and necessary incidentals for a person in an adult family home shall be thirty-five dollars and fifty-five cents.

(3) ((~~These standards are effective July 1, 1984.~~)) Activities of daily living add-ons

(a) 1-3	activities	$36.58
(b) 4-7	activities	$54.85
(c) 8-12	activities	$79.23

(4) Health-related services, maximum of nine.....each..... $24.38

(5) Respite care..... $11.57.

(6) These standards are effective July 1, 1984.

AMENDATORY SECTION (Amending Order 2095, filed 4/18/84)

WAC 388-29-295 STANDARDS OF ASSISTANCE ((~~FOR THE~~))—SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM. ((~~(1)~~)) Effective January 1, 1985, standards of SSI assistance paid to eligible individuals and couples ((~~by SSA~~)) are:

	Standard	Federal ((~~SSI~~)) Benefit	State Supplement
Area I			
Living alone			
Individuals	((~~$352.30~~	~~$314.00~~))	
	$363.30	$325.00	$ 38.30
Couples			
Both eligible	((~~508.40~~	~~472.00~~	~~36.40~~))
	525.40	488.00	37.40
With essential person	((~~508.40~~	~~471.00~~))	
	525.40	488.00	37.40
With ineligible spouse	((~~508.40~~	~~314.00~~	~~194.40~~))
	525.40	325.00	200.40
Area II			
Living alone			
Individuals	((~~331.85~~	~~314.00~~))	
	342.85	325.00	17.85
Couples			
Both eligible	((~~478.45~~	~~472.00~~	~~6.45~~))
	495.45	488.00	7.45
With essential person	((~~478.45~~	~~471.00~~))	
	495.45	488.00	7.45
With ineligible spouse	((~~478.45~~	~~314.00~~	~~164.45~~))
	495.45	325.00	170.45
Shared living			
Individuals	((~~222.02~~	~~209.34~~))	
	229.35	216.67	12.68
Couples			
Both eligible	((~~330.57~~	~~314.67~~	~~15.90~~))
	341.91	325.34	16.57
With essential person	((~~330.57~~	~~314.00~~))	
	341.91	325.34	16.57
With ineligible spouse	((~~330.57~~	~~209.34~~	~~121.23~~))
	341.91	216.67	125.24

((~~(2) These standards are effective January 1, 1984.~~))

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-29-025 LIMITATIONS ON REQUIREMENTS.

WAC 388-29-030 ASSISTANCE UNIT—SUPPLEMENTAL SECURITY INCOME BENEFICIARY EXCLUDED.

WAC 388-29-040 HOUSEKEEPER.

WAC 388-29-135 COST STANDARDS FOR REQUIREMENTS—MATERNITY HOME CARE.

WSR 85-03-055

EMERGENCY RULES

BOARD OF HEALTH

[Order 282—Filed January 14, 1985]

Be it resolved by the Washington State Board of Health, acting at Tacoma, Washington, that it does adopt the annexed rules relating to Immunization requirements—Schools, amending WAC 248-100-163 and 248-100-164.

We, the Washington State Board of Health, 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 shortage of diptheria-tetanus-pertussis vaccine in the United States (DTP vaccine).

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

This rule is promulgated pursuant to RCW 28A.31-.100 - 28A.31.120 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Washington State Board of Health as authorized in RCW 43.20.050.

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 January 9, 1985.

By John A. Beare, MD
Director

AMENDATORY SECTION (Amending Order 181, filed 7/5/79)

WAC 248-100-163 IMMUNIZATION OF SCHOOL CHILDREN AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES. (1) Definitions.

(a) "Chief administrator" means the person with the authority and responsibility for the immediate supervision of the operation of a school or, in the alternative, such other person as may be designated in writing for the purpose of carrying out the requirements of this statute by the statutory or corporate board of directors of the school district or school or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district or school.

(b) "Full immunization" means immunization against the following vaccine-preventable diseases: Diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, measles (rubeola), rubella (German measles), and mumps in accordance with schedules and with immunizing agents approved by the state board of health in these regulations.

(c) "Local health department" means the city, town, county, district, or combined city-county health department, board of health, or health officer ((~~which provides~~)) providing health services.

(d) "School" means and includes each building, facility, and location at or within which any or all portions of a preschool, kindergarten, and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.04.120(4) and 28A.02.201 through 28A.02.260.

(e) "Immunizing agents" means any vaccine or other biologic currently licensed and approved by the Bureau of Biologics, United States Public Health Service, for immunization of persons against diphtheria, pertussis (whooping cough), tetanus (DTP, DT, Td), measles (rubeola), rubella (German measles), mumps, and poliomyelitis Types I, II, and III (TOPV, IPV).

(f) "Student" means a person under eighteen years of age admitted to any preschool, kindergarten, and grades one through twelve program of education in any public school district or in any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.04.120(4) and 28A.02.201 through 28A.02.260.

(g) "Transfer student" means a student ((~~who~~)) previously enrolled in grades kindergarten through twelve who moves from one school district or system to another at any time during the school year. Students transferring within a district or system are not considered transfer students for the purposes of these regulations: PROVIDED, That the school transfers records within the district.

(h) "Immunization requirement" means the minimal acceptable schedule of immunizing agents as defined by the state board of health in these regulations for attendance of a child at any public or private school.

(i) "Initiation of a schedule of immunization" is defined as the process of beginning or continuing a course of immunizations. The immunizing agents administered as part of this process must have been provided not later than forty-five calendar days of the child's first day of attendance.

(2) Immunization requirements.

The Washington state board of health requires the following minimum immunization requirements for compliance with the school immunization law RCW 28A.31.118.

Effective September 1, 1979, and thereafter:

(a) Children attending kindergarten through sixth grade must present proof of the following no later than forty-five days after the child's first day of attendance:

At least ((3)) three doses of either DTP, DT, or Td vaccine ((~~provided that the last dose was administered at or after age 4~~));

At least ((3)) three doses of trivalent poliomyelitis vaccine provided ((~~that~~)) the last dose was administered at or after age ((4)) four;

One dose of live virus measles vaccine administered at or after one year of age. A student meets the measles immunization requirement as a result of having had measles (rubeola) disease. In such instances, a physician must document and certify the month and year of disease occurrence.

One dose of live virus rubella vaccine administered at or after one year of age((;)), except for females twelve years of age or older.

One dose of live virus mumps vaccine administered at or after one year of age for students in kindergarten or first grade, whichever is the entry level.

Effective September 1, 1980, and thereafter:

(b) Students in grades seven through twelve must present proof of the following no later than forty-five days after a student's first day of attendance:

At least ((3)) three doses of either DTP, DT, or Td vaccine ((~~provided that the last dose was administered at or after age 4~~));

At least ((3)) three doses of trivalent poliomyelitis vaccine provided ((~~that~~)) the last dose was administered at or after age ((4)) four;

One dose of live virus measles vaccine administered at or after one year of age. A student meets the measles immunization requirement as a result of having had measles (rubeola) disease. In such instances, a physician must document and certify the month and year of disease occurrence.

One dose of live virus rubella vaccine administered at or after one year of age, except for females twelve years of age or older.

One or more doses of tetanus toxoid (without diphtheria toxoid) administered for wound management will not fulfill the DTP/DT/Td requirements.

(3) Initiation and continuation of a schedule of immunization.

(a) Attendance at a school by a child who has not received full immunization shall be conditioned upon the presentation of proof that the child's immunization schedule has been initiated according to subsection (1)(i) of ((~~these regulations~~)) this section.

(b) Admission in subsequent year. A student ((~~who is~~)) admitted conditionally as provided in subsection (3)(a) of this section((;)) shall present proof of completion of the required ((~~immunization(s)~~)) immunization or immunizations as soon as possible and not later than on the student's first day of attendance in the following school year. If the student has not completed the required schedule of immunization by the first day of attendance in the following school year, there shall be no forty-five day grace period. The "chief administrator" of the school shall immediately notify the local health department of the name and address of the student along with a report of the status of the student's immunization schedule and when the student was first conditionally admitted to school. If there has been a sufficient period of time to reasonably permit the student to have completed the required immunization schedule, the health department shall issue an order of exclusion in the manner required by subsection (7) of this section. If there has not been sufficient time to complete the schedule, the health department shall notify the student's parents and the "chief administrator" of the school as to when the schedule must be completed. If the schedule is not completed by that date, the health department shall issue an order of exclusion.

(4) Documentary proof.

(a) Proof of full immunization, initiation or continuation of a schedule, or exemptions shall be documented on a certificate of immunization status. Immunization data on the certificate of immunization status form shall be based on a written personal immunization record given to the person immunized or to his or her parent or guardian by the physician or agency administering the immunization. This personal immunization record shall not be surrendered to school authorities and shall not substitute for the certificate of immunization status form.

(b) The certificate of immunization status form shall include((;)) at least the following information required to fulfill the intent of RCW 28A.31.118.

(i) Name of the person;

(ii) Birthdate;

(iii) Sex;

(iv) Type of vaccine administered;

(v) Date of each dose of vaccine, specifying month and year;

(vi) Signature of parent, legal guardian, or adult in loco parentis.

(c) The revised certificate of immunization status form, DSHS 13-263, shall be provided by the department of social and health services and will be the only acceptable form for all new enrollees registering in kindergarten through sixth grade after September 1, 1979, and for new enrollees in all grades after September 1, 1980, and thereafter. For students already registered or enrolled in schools prior to enactment of these regulations, previous certificates of immunization status (e.g., DSHS 13-263) or locally developed forms approved by DSHS shall be acceptable as the official certificate of immunization status: PROVIDED, That dates for the latest doses of DTP/Td and poliomyelitis vaccines are indicated and that dates (month and year) are provided for each dose of measles, rubella, and mumps vaccine if required. Students meet minimum immunization requirements if the last of three or more doses of DTP/Td and trivalent poliomyelitis vaccines were administered at or after age four and if requirements for measles, rubella, and mumps are met.

(d) Proof in subsequent years. Once proof of full immunization or proof of exemption from immunization has been presented, no further proof shall be required as a condition to attendance at a particular school provided ((~~that~~)) the certificate of immunization status form on such a child remains on file at the school.

(5) Medical exemptions.

(a) Certification of medical contraindication for one or more ((~~immunization(s)~~)) immunization or immunizations shall be provided on the certificate of immunization status form, certified and signed by a licensed physician.

(b) A student ((~~who is~~)) temporarily exempt from immunization for medical reasons shall be admitted on condition ((~~that~~)) required immunizations are obtained at the termination of the duration of exemption. If the medical condition is permanent or ((~~life-long~~)) lifelong, the student shall be admitted and the certificate of immunization status filed on each such student.

(6) Religious, philosophical, personal exemptions.

(a) A student may be exempt from immunization because of religious, philosophical, or personal objections. These exempt children shall be admitted to school and the fact of the exemption shall be recorded on the certificate of immunization status form signed by the parent, guardian, or adult in loco parentis.

(b) Each school shall keep on file the certificate of immunization status form for each child so enrolled.

(7) Exclusion from school.

(a) Conditions for attendance not fulfilled. Any student in attendance at a school ((~~who fails~~)) failing to provide documentary proof of full immunization((;)), or proof of initiation or continuation of a schedule of immunization((;)), or proof of either medical, religious, philosophical, or personal objection((;)), no later than forty-five calendar days after the child's first day of attendance, shall be excluded from school until an acceptable certificate of immunization status form is submitted to the "chief administrator" of the school.

(b) Notification to local health department. The "chief administrator" of a school shall collect at the end

of the forty-five day grace period and within five working days the names and addresses of students in schools ((~~who do~~)) not ((~~comply~~)) complying with the requirements of these regulations and forward the names to the local health department.

(c) Exclusion order from local health department. Upon receipt of ((~~name(s)~~)) the name or names and ((~~address(es)~~)) address or addresses of ((~~student(s)~~)) student or students failing to comply with the provisions for attendance at school from the "chief administrator" of a school, the local health department shall notify the "chief administrator" and provide the "chief administrator" with a written order to exclude the ((~~student(s)~~)) student or students failing to comply with requirements of these regulations.

(d) Exclusion letter to parents of children failing to comply. Pursuant to the written exclusion order to the "chief administrator" from the local health department, the local health department will provide a standard exclusion notification letter to parents of children failing to comply with attendance requirements. This exclusion notification letter shall be of a form approved by the department of social and health services and signed by the local health officer. This shall serve as the written notice to ((~~parent(s)~~)) parent or parents or legal ((~~guardian(s)~~)) guardian or guardians of each child or to the ((~~adult(s)~~)) adult or adults in loco parentis to each child((~~, who is~~)) not in compliance with the requirements of these regulations. The notice shall fully inform such ((~~person(s)~~)) person or persons of the following:

(i) The requirements established by and pursuant to RCW 28A.31.118;

(ii) The fact that the child will be prohibited from further attendance at the school until requirements are met;

(iii) Due process for exclusion of the child pursuant to the state board of education's rules and regulations;

(iv) The immunization services ((~~that are~~)) available from or through the local health department and other public agencies.

(e) List of children excluded.

The "chief administrator" of a school shall retain a record at the school of the name, address, and date of exclusion of each child excluded from school pursuant to the requirements of these regulations for not less than three years following the date of a child's exclusion.

(f) A student in attendance in a school by virtue of presenting proof of "initiation of a schedule of immunization" or by presenting documentation of medical, religious, philosophical, or personal objection may be subject to exclusion in the event of exposure to a communicable disease in a school.

(8) Records.

(a) The official proof for documentation of compliance with these regulations shall be the certificate of immunization status form. The revised certificate of immunization status form will be required of all new enrollees registering in kindergarten through sixth grade after September 1, 1979, and for all new enrollees in all grades after September 1, 1980, and thereafter.

If a child was enrolled in a school prior to the effective date of these regulations, the certificate of immunization status DSHS 13-263, or approved locally-developed forms, on file will serve as documentary proof for admittance if requirements are met.

Schools shall have on file an approved certificate of immunization status form for every child enrolled. When a child withdraws, transfers, or is promoted to a new school within a school district or between school districts, the chief administrator shall return the certificate of immunization status to the parent, guardian, or adult in loco parentis, or it may be transferred with the child's records to the new school.

(b) The "chief administrator" of a school shall allow agents of state and local health departments access during business hours to the health records retained on each student or child enrolled.

(c) Personal immunization record. The immunizations required by these regulations may be obtained from any private or public source desired provided ((~~that~~)) the immunization is administered and records are made in accordance with these regulations. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco parentis to the child, with a written record of immunization, the content of which the state board of health has prescribed.

(9) Reporting.

(a) The "chief administrator" of a school shall file a written annual report (multiple carbonized form) with the department of social and health services and local health departments on the immunization status of students in school by November ((~~1~~)) 1st of each year and on forms prescribed by the department of social and health services. In the event of a late school opening, the report will be required sixty days after the first day of school.

(b) The annual report from schools shall reflect the status of all students enrolled in September 1979, in kindergarten through sixth grade; in September 1980, the annual report will include the status of new admissions and transfer students in grades kindergarten through seven and all students in grades eight through twelve; in 1981((;)) and thereafter, the annual report will cover only new admissions and transfer students in all grades.

AMENDATORY SECTION (Amending Order 185, filed 9/11/79)

WAC 248-100-164 IMMUNIZATION OF CHILDREN ATTENDING DAY CARE CENTERS AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES. (1) DEFINITIONS.

(a) "Chief administrator" means the person with the authority and responsibility for the immediate supervision of the operation of a day care center or, in the alternative, such other person as may be designated in writing for the purpose of carrying out the requirements of these regulations by the statutory or corporate board of directors of the day care center, or, if none, such other persons or person with the authority and responsibility

for the general supervision of the operation of the day care center.

(b) "Full immunization" means immunization against the following vaccine-preventable diseases: Diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, measles (rubeola), rubella (German measles), and mumps in accordance with schedules and with immunizing agents approved by the state board of health in these regulations. Full immunization applies only to children age four and older ((~~who meet~~)) meeting requirements as stipulated in subsection (2) of this section.

(c) "Local health department" means the city, town, county, district, or combined city-county health department, board of health, or health officer ((~~which provides~~)) providing health services.

(d) "Day care center" means an agency ((~~which~~)) regularly ((~~provides~~)) providing care for a group of thirteen or more children for periods of less than twenty-four hours and ((~~is~~)) licensed pursuant to chapter 74.15 RCW.

(e) "First day of attendance" means September 1, 1979, for all children enrolled in a day care center on or before that date and the actual date of first attendance for children enrolled thereafter.

(f) "Immunizing agents" means any vaccine or other biologic currently licensed and approved by the Bureau of Biologics, United States Public Health Service, for immunization of persons against diphtheria, pertussis (whooping cough), tetanus, (DTP, DT, Td), measles (rubeola), rubella (German measles), mumps, and poliomyelitis Type I, II, and III (TOPV, IPV).

(g) "Immunization requirement" means the minimal acceptable schedule of immunizing agents as defined by the state board of health in these regulations for attendance of a child at a day care center.

(h) "Initiation of a schedule of immunization" is defined as the process of beginning or continuing a course of immunizations. All children who have not had three doses each of DTP/DT and polio vaccines with the last doses after the fourth birthday, and one dose each of measles, mumps, and rubella vaccines are to be considered "initiating or continuing" a schedule of immunization. Children ((~~who do~~)) not ((~~meet~~)) meeting the requirements for their age group must receive at least one dose of vaccine within forty-five calendar days of the child's first day of attendance.

(2) IMMUNIZATION REQUIREMENTS.

Children must meet the following immunization requirements for each age:

DTP/DT/Td VACCINE

AGE	REQUIREMENT
2 months	1 dose
4 months	2 doses
6 - 17 months	3 doses
((~~18 - 47 months~~	~~4 doses~~))
4 years and older	At least 3 doses ((~~provided that the last dose was administered at or after age 4~~)).

TRIVALENT POLIO VACCINE - (TOPV) (IPV)

AGE	REQUIREMENT
2 months	1 dose
4 - 17 months	2 doses
18 - 47 months	3 doses
4 years and older	At least 3 doses provided that the last dose was administered at or after age 4.

MEASLES*, MUMPS, AND RUBELLA VACCINES

AGE	REQUIREMENT
Under 15 months	None
15 months or older	1 dose of each administered at or after 12 months of age.

* NOTE: (1) Any child who is 15 months of age or older must have:

(a) One dose of measles vaccine by the 45th day after the child's first day of attendance, or

(b) One dose of measles vaccine within 45 days after the child becomes 15 months of age.

The above conditions do not apply to a child who is exempt for measles vaccine. Any child not meeting the measles requirement will be excluded from the day care center in the manner required by subsection (7) of this section.

(2) Measles vaccine is not recommended prior to 15 months of age unless there is an earlier threat of exposure to measles.

(3) A child meets the measles immunization requirement as a result of having had measles (rubeola) disease. In such instances, a physician must document and certify the month and year of disease occurrence.

(3) INITIATION AND CONTINUATION OF A SCHEDULE OF IMMUNIZATION.

(a) Attendance at a day care center by a child ((~~who has~~)) not ((~~received~~)) receiving full immunization shall be conditioned upon the presentation of proof ((~~that~~)) the child has initiated or is continuing on a schedule of immunization according to subsection (1)(h) of this section.

(b) Admission in subsequent ((~~year(s)~~)) year or years. A child ((~~who is~~)) admitted conditionally as provided in subsection (3)(a) of this section((~~,~~)) shall present proof of completion of each dose of vaccine required in subsection (2) of this section as soon as possible and not later than twelve calendar months from the time the child is admitted conditionally. This process shall be continued until the child is fully immunized. If the child has not completed the required schedule of immunization within the required time period, the "chief administrator" of the day care center shall immediately notify

the local health department of the name and address of the child along with a report of the status of the child's immunization schedule and when the child was first admitted to the day care center. If there has been a sufficient period of time to reasonably permit the child to have completed the required immunization schedule, the health department shall issue an order of exclusion in the manner required in subsection (7) of this section. If there has not been sufficient time to complete the schedule, the health department shall notify the child's parents and the "chief administrator" of the day care center as to when the schedule must be completed. If the schedule is not completed by that date, the health department shall issue an order of exclusion pursuant to subsection (7) of this section.

(4) DOCUMENTARY PROOF.

(a) Proof of full immunization, initiation or continuation of a schedule, or exemptions shall be entered by the parent on a certificate of immunization status form (DSHS 13-263). Immunization data on the certificate of immunization status form shall be based on a written personal immunization record given to the person immunized or to his or her parent or guardian by the physician or agency administering the immunization. This personal immunization record shall not be surrendered to day care center authorities and shall not substitute for the certificate of immunization status form.

(b) The certificate of immunization status form shall include at least the following information required to fulfill the intent of RCW 28A.31.118:

(i) Name of person;

(ii) Birthdate;

(iii) Sex;

(iv) Type of vaccine administered;

(v) Date of each dose of vaccine, specifying month and year;

(vi) Signature of parent, legal guardian, or adult in loco parentis.

(c) The revised certificate of immunization status form (DSHS 13-263) shall be provided to licensed day care centers by the department of social and health services and will be the only acceptable form for all new registrants after September 1, 1979. For the child already registered or enrolled in a day care center prior to enactment of these regulations, previous certificates of immunization status (e.g., DSHS 13-263) or locally developed forms approved by DSHS shall be acceptable as the official certificate of immunization status: PROVIDED, That dates for the latest doses of DTP/Td and poliomyelitis vaccines are indicated and that dates (month and year) are provided for each dose of measles, rubella, and mumps vaccine, if required.

(d) Proof in subsequent years. Once proof of full immunization or proof of exemption from the immunization law has been presented, no further proof shall be required as a condition to attendance at a particular center provided ((~~that~~)) the certificate of immunization status form on such a child remains on file at the day care center.

(5) MEDICAL EXEMPTIONS.

(a) Certification of medical contraindication for one or more ((~~immunization(s)~~)) immunization or immunizations shall be provided on the certificate of immunization status form, certified and signed by a licensed physician.

(b) A child ((~~who is~~)) temporarily exempt from immunization for medical reasons may be admitted on condition ((~~that~~)) required immunizations are obtained at the termination of the duration of exemption. If the medical condition is permanent or ((~~life-long~~)) lifelong, the student may be admitted and the certificate of immunization status filed on each child.

(6) RELIGIOUS, PHILOSOPHICAL, PERSONAL EXEMPTIONS.

(a) A child ((~~who is~~)) exempt from immunization because of religious, philosophical, or personal objections may be admitted to a day care center and the fact of the exemption shall be recorded on the certificate of immunization status form signed by the parent, guardian, or adult in loco parentis.

(b) Each day care center shall keep on file the certificate of immunization status form for each child so enrolled.

(7) EXCLUSION FROM DAY CARE CENTER.

(a) Conditions for attendance not fulfilled. Any child in attendance at a day care center ((~~who fails~~)) failing to provide documentary proof of full immunization, or proof of initiation or continuation of a schedule of immunization, or proof of either medical, religious, philosophical, or personal objection, within forty-five calendar days after the child's first day of attendance((~~,~~)) shall be excluded from the day care center by the "chief administrator" of the day care center until an acceptable certificate of immunization status form is submitted to the "chief administrator."

(b) Notification to local health department. The "chief administrator" of a day care center shall collect, at the end of the forty-five day grace period and within five working days, the name and address of each child ((~~who does~~)) not ((~~comply~~)) complying with the requirements of these regulations and ((~~forward~~)) forwarding the ((~~name(s)~~)) name or names to the local health department.

(c) Exclusion order from local health department. Upon receipt of ((~~name(s)~~)) the name or names and ((~~address(es)~~)) address or addresses of each child failing to comply with the provisions for attendance at a day care center from the "chief administrator," the local health department shall notify the "chief administrator" and provide the "chief administrator" with a written order to exclude the children failing to comply with requirements of these regulations.

(d) Exclusion letter to parents of children failing to comply. Pursuant to the written exclusion order to the "chief administrator" from the local health department, the local health department will provide a standard exclusion notification letter to parents of children failing to comply with attendance requirements. This exclusion notification letter shall be of a form approved by the department of social and health services and signed by the local health officer. This shall serve as the written notice to ((~~parent(s)~~)) the parent or parents or legal

((~~guardian(s)~~)) guardian or guardians of each child or to the ((~~adult(s)~~)) adult or adults in loco parentis to each child((~~, who is~~)) not in compliance with the requirements of these regulations. The notice shall fully inform such ((~~person(s)~~)) person or persons of the following:

(i) The requirements established by and pursuant to RCW 28A.31.118;

(ii) The fact ((~~that~~)) the child will be prohibited from further attendance at the day care center until requirements are met;

(iii) The immunization services ((~~that are~~)) available from or through the local health department and other public agencies.

(e) A child in attendance in a day care center by virtue of presenting proof of "initiation or continuation of a schedule of immunization" or by presenting documentation of medical, religious, philosophical, or personal objection may be subject to exclusion in the event of exposure in the day care center to a communicable disease for which the child is unimmunized.

(8) RECORDS.

(a) The official proof for documentation of compliance with these regulations shall be the certificate of immunization status form. The revised certificate of immunization status form will be required of all new registrants after September 1, 1979.

If a child was enrolled in a day care center prior to the effective date of these regulations, the certificate of immunization status form DSHS 13-263, or approved locally developed forms on file will serve as documentary proof for admittance if requirements are met.

Day care centers shall have on file an approved certificate of immunization status form for every child enrolled. When a child withdraws or transfers to a new day care center, the administrator shall return the certificate of immunization status form to the parent.

(b) The "chief administrator" of a day care center shall allow agents of state and local health departments access during business hours to the immunization records retained on each child enrolled.

(c) Personal immunization record. The immunizations required by these regulations may be obtained from any private or public source desired, provided ((~~that~~)) the immunization is administered and records are made in accordance with these regulations. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco parentis to the child, with a written record of immunization, the content of which the state board of health has prescribed.

(9) REPORTING.

The "chief administrator" of a day care center shall file a written annual report (multiple carbonized form) with the department of social and health services and local health departments on the immunization status of children by November ((~~1~~)) 1st of each year and on forms prescribed by the department of social and health services.

WSR 85-03-056
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 260—Filed January 14, 1985]

Be it resolved by the State Game Commission, acting at Olympia, Washington, by conference call, that it does adopt the annexed rules relating to emergency declaration, dogs may be taken into custody or destroyed, WAC 232-12-04504. Dogs pursuing, harassing, attacking or killing deer or elk in certain counties may be taken into custody or destroyed.

We, the State Game 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 deep and crusted snow has moved deer and elk into lowland areas and made them vulnerable to pursuit, harassment, attack or being killed by dogs running loose. Instances of deer being killed by dogs have been documented.

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

This rule is promulgated pursuant to RCW 77.12.315 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 14, 1985.

By Vern E. Ziegler
Chairman, Game Commission

NEW SECTION

WAC 232-12-04504 EMERGENCY DECLARATION, DOGS MAY BE TAKEN INTO CUSTODY OR DESTROYED. Pursuant to the determination by the Director of Game that a severe problem exists in Pierce County, the State Game Commission declares that an emergency exists, and that effective January 14, 1985, it is lawful for wildlife agents to take into custody, or destroy if necessary, any dog found pursuing, harassing, attacking or killing deer or elk within the following described boundary:

> *From a point of beginning at Highway 410 and the Mt. Rainier Park boundary; thence westerly along the park boundary to the west fork of the White River; thence northerly along the west fork of the White River to the point of joining with the White River; thence westerly along the White River to the Weyerhaeuser Bridge on the Mainline 8000 line; thence northerly and easterly on the Weyco Mainline 8000 line to the Greenwater River; thence easterly and southerly*

along the Greenwater River to the headwaters at Hidden Lake; thence southerly and westerly along USFS Trail 1176 to Corral Pass; thence southerly along Corral Pass Road to Highway 410; thence easterly along Highway 410 to the point of beginning.

Wildlife agents who take into custody or destroy a dog pursuant to this rule and RCW 77.12.315 are immune from civil or criminal liability arising from their actions.

WSR 85-03-057
NOTICE OF PUBLIC MEETINGS
OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
(Heritage Council)
[Memorandum—January 9, 1985]

The January 24 meeting of the Heritage Council in Anacortes has been cancelled. The council will resume its regular meeting schedule with the February 21 meeting in Olympia.

WSR 85-03-058
PROPOSED RULES
GAMBLING COMMISSION
[Filed January 15, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning amendatory section WAC 230-60-015;

that the agency will at 10:00 a.m., Thursday, March 14, 1985, in the Tyee Motor Inn, 500 Tyee Drive, Olympia, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 9.46.070 (7), (13) and (18).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 14, 1985.

Dated: January 15, 1985
By: Ronald O. Bailey
Deputy Director

STATEMENT OF PURPOSE

Title: Amendatory section WAC 230-60-015, Description of central and field organization of the Gambling Commission.

Description of Purpose: Amends rule to correct addresses of Gambling Commission offices.

Statutory Authority: RCW 9.46.070 (7), (13) and (18).

Summary of Proposed Rules and Reasons Supporting Action: WAC 230-60-015 corrects addresses of the Gambling Commission offices.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules: Keith Kisor, Director, 234-0865 scan, 753-0865 comm, and Ronald O. Bailey, Deputy Director, 234-1075 scan, 753-1075 comm, Jefferson Building, 1110 South Jefferson, Olympia, WA 98504.

Proponents and Opponents: Gambling Commission staff proposes this rule amendment.

Agency Comments: The agency believes the proposed rule amendment is self-explanatory and needs no further comment.

This rule was not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: This agency has determined that there would be no economic impact upon small businesses in the state of Washington by the adoption of this amendment.

AMENDATORY SECTION (Amending Order 108, filed 5/19/81)

WAC 230-60-015 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION OF THE GAMBLING COMMISSION. The administrative office of the commission and its staff is located in the ((~~capital plaza~~)) Jefferson building, 1110 South Jefferson, Olympia, 98504. Commission offices located in other cities are as follows:

CITY	ENFORCEMENT SERVICES (See Notes)
Eastern Region	
Spokane 99205 123 East Indiana	1,2
Moses Lake 98337 Ahlers Building, Suite A 310 S. Balsam	1
Yakima 98901 1106 ((~~A~~))B West Lincoln	1,2
Northwest Region	
Seattle ((~~98115~~)) 98134 ((~~444 N.E. Ravenna Blvd.~~)) 666 S. Dearborn International Bldg.	1,2
Southwest Region	
Tacoma 98405 The Pettibon Office Bldg. 1201 S. Proctor	1,2
Vancouver 98663 Suite 5, Angelo Plaza 1801 D Street	1

NOTES

1 – Information, inspection, investigation, training, and intergovernmental liaison.
2 – Audit.
All records of the commission are maintained in the administrative office in Olympia.

WSR 85-03-059
ADOPTED RULES
GAMBLING COMMISSION
[Order 146—Filed January 15, 1985]

Be it resolved by the Washington State Gambling Commission, acting at Seattle, Washington, that it does

adopt the annexed rules relating to amendatory section WAC 230-25-120, limits upon amount for rent, lease or similar payments for fund raising events, this revises fees for leasing or rental of equipment for fund raising events.

This action is taken pursuant to Notice No. WSR 84-23-016 filed with the code reviser on November 9, 1984. 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 (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 January 10, 1985.

By Ronald O. Bailey
Deputy Director

AMENDATORY SECTION (Amending Order 111, filed 9/15/81)

WAC 230-25-120 LIMITS UPON AMOUNT FOR RENT, LEASE OR SIMILAR PAYMENTS FOR FUND RAISING EVENTS. ((~~No 1~~)) Licensees shall not expend for rent or lease (or similar arrangements) of premises in which to hold a fund raising event, or for any equipment or service in connection with the fund raising event, an amount that exceeds the local prevailing or market price for such premises, equipment or service.

Maximum rental limits shall be:

(1) Premises and other goods or services: Not more than two hundred dollars for all, or any portion, of any twenty-four hour period.

This maximum fee shall include in addition to the use of the premises themselves any and all goods or services of any kind furnished by the person renting the premises to the licensee, or furnished by anyone with a substantial interest in, or immediate family relationship with, that person: PROVIDED, That the limit shall not include (a) fees for gambling equipment which are governed by the maximums set out in (2) below; or (b) charges for food or drink to the licensee or patrons of the fund raising event when the purchase of such food or drink is not, directly or indirectly, a condition of rental of the premises and the licensee may elect to bring in food and drink from an outside source.

(2) Gambling devices and equipment:

(a) Not more than ((~~three~~)) four hundred ((~~and fifty~~)) dollars from each licensee for all, or any portion of, the first twenty-four hour period for all gambling devices and related equipment to conduct the event, including, but not limited to, cards, dice, cash boxes, shoes, chips, delivery thereof and any schooling in its use.

(b) Not more than two hundred and twenty-five dollars from each licensee for each succeeding twenty-four hour period, or any portion thereof, for the same kinds of items set out in (a) above.

(3) Individual gambling station:

(a) Not more than ((~~twenty-five~~)) thirty dollars for all of the equipment needed to set up each single specific gambling station (such as a single twenty-one table), except for a craps table or a roulette wheel station which shall not exceed ((~~$50~~)) $55 or for a station showing horse racing films with advance betting on the outcome of the races which shall not exceed $250, for the first twenty-four hour period, or any portion thereof, including, but not limited to, the equipment, delivery and schooling in its use, to an overall maximum for all items of ((~~$350~~)) $400, for each licensee as set out in (2)(a) above.

(b) Not more than ((~~fifteen~~)) twenty dollars for each successive twenty-four hour period or any portion thereof, for the equipment needed to establish each single specific gambling station as set out in (a) above, to an overall maximum of ((~~$200~~)) $225 for each licensee as set out in (2)(b) above.

(4) The maximum charges or limits set out in subsections (1) through (3) above include any amount paid to reserve the use of applicable premises, services or equipment.

No more than 50% of the total allowable fees or charges may be paid in advance of the event. Advance payment shall be made only by check which shall not be drawn or paid more than 90 days prior to the event.

The limits in subsections (2) and (3) above shall not apply to expenditures by the licensee for purchases outright, or construction by the licensee of, gambling equipment.

WSR 85-03-060
ADOPTED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Order 85-3—Filed January 15, 1985]

I, Sam Kinville, director of the Department of Labor and Industries, do promulgate and adopt at Room 334, General Administration Building, Olympia, Washington 98504, the annexed rules pertaining to definitions of terms contained in chapter 7.68 RCW, commonly known as the Crime Victims Act; explanation of the application of certain statute sections to claim management; distribution of funds received pursuant to third party recoveries; establishment of criteria for payment by the department of certain charges incurred by certain sexual assault victims; allowance of treatment by and establishment of maximum fees for certain practitioners.

This action is taken pursuant to Notice No. WSR 84-23-025 filed with the code reviser on November 14, 1984. 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 7.68 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 January 3, 1985.

By Sam Kinville
Director

Chapter 296-30

RULES AND REGULATIONS FOR THE ADMINISTRATION OF THE CRIME VICTIM COMPENSATION PROGRAM

WAC

296-30-010	Definitions
296-30-020	Vehicular assault and vehicular homicide
296-30-050	Distribution of third party recoveries
296-30-060	Requirement to report criminal acts
296-30-080	Medical aid
296-30-130	Lump sum benefits
296-30-170	Medical benefits
296-30-900	Effective date of amendatory acts

NEW SECTION

WAC 296-30-010 DEFINITIONS. Whenever in these rules and regulations, the following words shall have these meanings:

(1) "Innocent victim" means any person whose injury was not the direct, proximate result of his or her consenting to, provoking, or inciting the criminal act which resulted in the injury.

(2) "Bodily injury" means any harmful or offensive touching, and is to include severe emotional distress where no touching takes place when:

(a) Claimant is not the object of the criminal act and:

(i) The distress is intentionally or recklessly inflicted;

(ii) The distress is inflicted by extreme or outrageous conduct;

(iii) The claimant has a reasonable apprehension of imminent bodily harm;

(iv) The claimant is in the immediate vicinity of the criminal act at the time the criminal act takes place.

(b) Claimant is the victim of the criminal act and:

(i) The distress is intentionally inflicted;

(ii) The distress is inflicted by outrageous or extreme conduct; and

(iii) The claimant had a reasonable apprehension of imminent bodily harm.

(3) "Private insurance" means sources of recompense available by contract, such as life and/or disability insurance.

(4) "Public insurance" means any state or federal statutory welfare and insurance plan which provides recompense to victims or their beneficiaries as a result of the claimed injury or death. This does not include state, federal, or private deferred income retirement plans.

(5) The test used to define "the result of" as used in RCW 7.68.070 is two pronged. First, it must be determined that Cause in Fact exists, and second, it must them be determined that Proximate Cause exists.

(a) Cause-in-fact exists if "but-for" the acts of the victim the injury producing crime would not have occurred.

(b) Proximate cause exists if, once cause-in-fact is found, it is determined that the acts of the victim:

(i) Resulted in a foreseeable injury to the victim;

(ii) Played a substantial role in the injury; and

(iii) Were the direct cause of the injury.

(6) "Institutions maintained and operated by Department of Social and Health Services" shall mean those institutions in which the Department of Social and Health Services assumes responsibility for medical coverage of the institution's residents.

(7) "Reasonable cooperation" generally exists when the claimant is:

(a) Willing to talk to police and give information to aid in the investigation; and

(b) Willing to assist in the prosecution of the alleged criminal.

(8) "First two hundred dollars" means that the claimant is not reimbursed for the first two hundred dollars of loss sustained and the claimant must suffer two hundred dollars in damages before she or he is eligible for benefits. The loss is the first $200.00 of loss that is incurred by the claimant. If the $200.00 includes both time loss and medical costs, the Department will deduct the $200.00 from the time loss. This provision does not apply to costs covered by RCW 7.68.170.

NEW SECTION

WAC 296-30-020 VEHICULAR ASSAULT AND VEHICULAR HOMICIDE. The Crime Victim's Act shall cover those people killed or injured as a result of a vehicular homicide or vehicular assault only after the July 24, 1983 effective date if there has been a conviction for the vehicular assault or vehicular homicide. Eligibility under this section occurs when the claimant's injury results in the assailant's conviction for vehicular assault or vehicular homicide, or when the claimant's injury is a direct result of the collision which led to the vehicular assault or vehicular homicide conviction. The claimant's injury need not be the one which led to the conviction.

NEW SECTION

WAC 296-30-050 DISTRIBUTION OF THIRD PARTY RECOVERIES. (1) Prior to July, 1977. Any claimant who receives Crime Victim's benefits is required to fully reimburse the Department for all benefits paid to the claimant under this Act if the claimant recovers damages from the person or persons who committed the criminal act. The reimbursement is limited to that amount recovered by the victim.

(2) After July, 1977 and before April 1, 1980. Any claimant who receives Crime Victim's benefits is required to fully reimburse the Department for all benefits paid to the claimant under this Act if the claimant recovers damages from any liable party. The reimbursement is limited to that amount recovered by the victim.

(3) Injury/death occurred on or after April 1, 1980 and any recovery made before July 24, 1983. This

amendment incorporated the Industrial Insurance third party recovery statutes RCW 51.24.050–.100 into the Crime Victim's Act. The amendment changed the Department's entitlement to reimbursement. For those victims injured or killed on or after April 1, 1980, and for any recovery made prior to July 24, 1983, disbursement of any award or settlement is as follows:

(a) Reasonable attorney's fees.

(b) Victim receives 25% of the balance.

(c) The Department shall receive the balance to the extent necessary to reimburse the Department for benefits paid.

(d) Any remaining balance is paid to the victim.

(e) If any remaining balance is paid to the victim, no further crime victim benefits will be paid to the victim until the amount of benefits she or he continued to be eligible for equals the remaining balance paid at the time of settlement or award.

(4) Recoveries made on or after July 24, 1983. This section applies to all claimants who receive an award or settlement from a liable third party on or after July 24, 1983. These awards shall be disbursed as follows:

(a) Costs and reasonable attorney's fees paid proportionately by the victim and the Department.

(b) Victim then receives 25% of the balance.

(c) Department receives the balance to the extent necessary to reimburse the Department for its lien minus attorney's fees.

(d) Any remaining balance goes to the victim.

(e) The Department may compromise its lien for injuries which were sustained on or after April 1, 1980.

(5) Steps for determining proportionate attorney's fees:

(a) Determine the settlement/award obtained by the claimant.

(b) Determine attorney's fees and costs.

(c) For an open claim, determine the amount of the Department's lien at the time of settlement/award. If the claim is closed at the time of the recovery, determine the claimant's full entitlement from the Department.

(6) Calculate what percent of the total recovery equals the Department's lien for open cases, and the claimant's entitlement for closed claims. This percent is the Department's proportionate share.

Ex.:	$1,000	Recovery
	$ 200	Attorney's fees and costs
	$ 100	Department lien
	$ 20	Department's proportionate share of attorney's fees and costs.
	$ 100	Equals 10% of the total recovery, thus the Department's proportionate share of attorney's fees and costs is 10%.

(7) Once the claim is closed, the Department shall reexamine its proportionate share. If the claimant's final entitlement is greater than the amount of the Department's lien at the time of recovery, the Department shall reimburse the claimant for the Department's increased percentage of the attorney's fees and costs.

Ex.:	$1,000	Recovery
	$ 200	Attorney's fees and costs
	$ 100	Department's lien at time of recovery
	$ 20	Attorney's fees and costs paid at time of recovery
	$ 500	Claimant's total entitlement (50% of total recovery.
	$ 100	Department's full proportionate share of attorney's fees and costs (50%, that amount determined by the claimant's entitlement).
	$ 80	The amount that the Department must reimburse the claimant for attorney's fees and costs.

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 296-30-060 REQUIREMENT TO REPORT CRIMINAL ACTS. (1) The following are examples under which the seventy-two hour reporting requirement in RCW 7.68.060(2) will be tolled:

(a) Coma of victim.

(b) Youth of victim (because of age victim is unaware that a crime has been committed against her).

(c) Rape Trauma Syndrome.

(d) A report of an assault against a child made to Children's Protective Services when such report is made within seventy-two hours of when it reasonably could have been made.

(2) This list is not and should not be considered exhaustive but is for illustrative purposes.

NEW SECTION

WAC 296-30-080 MEDICAL AID. RCW 7.68-.080 is hereby interpreted to allow treatment as follows:

(1) Evaluation and counseling by a counselor with a MSW or equivalent degree in a related discipline. 45–50 minutes, with report . . . . 40 units.

NEW SECTION

WAC 296-30-130 LUMP SUM BENEFITS. (1) Lump sum benefits paid to the survivor(s) of an unemployed victim will be paid on a monthly basis if the survivor(s) is entitled to private or public death benefits. The death benefit payments will be deducted each month from the crime victim's death benefits. Crime victim's benefit payments will continue until the combined public or private death benefits and the crime victim's death benefits equal the total amount that the survivor(s) is eligible for under the Crime Victim's Act.

(2) The amount of the monthly payments will be based on the state's average monthly wage and will be determined by the percentages established in RCW 51.32.050.

(3) This lump sum payment will be adjusted upward by a factor of 8% to reflect the present and future value of the money.

(4) The survivor(s) of an employed victim are entitled to a maximum of ten thousand dollars in death benefits. These benefits will be paid in the same manner as the benefits paid to the survivor(s) of an unemployed victim except that the monthly rate shall be determined by the deceased's regular rate of pay.

(5) This procedure was adopted to ensure equal treatment of survivor(s) in like circumstances.

NEW SECTION

WAC 296-30-170 MEDICAL BENEFITS. (1) Victims of sexual assault shall be entitled to benefits under this statute regardless of whether she or he qualifies for benefits under this Act, Provided, the hospital or emergency medical facility proves to the department that:

(a) The care was provided/

(b) The victim was not billed; and

(c) The examination was performed for the purpose of gathering medical evidence for possible prosecution of the assailant.

NEW SECTION

WAC 296-30-900 EFFECTIVE DATE OF AMENDATORY ACTS. (1) The statute in effect at the time the criminally caused injury occurred is the controlling law.

WSR 85-03-061
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed January 15, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules relating to the use of biological products in animal health care, chapter 16-42 WAC.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on April 25, 1985.

The authority under which these rules are proposed is chapter 16.36 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before April 8, 1985.

This notice is connected to and continues the matter in Notice No. WSR 84-24-063 filed with the code reviser's office on December 5, 1984.

Dated: January 15, 1985
By: Mike Willis
Assistant Director

WSR 85-03-062
PROPOSED RULES
BOARD OF HEALTH
[Filed January 15, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Health intends to adopt, amend, or repeal rules concerning an amendment to WAC 248-100-163, immunization requirements in schools, WAC 248-100-164;

that the agency will at 9:30 a.m., Wednesday, March 13, 1985, in the Yakima County Health District, Basement Conference Room, 104 North First Street, Yakima, 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 28A.31.100 - 28A.31.120.

The specific statute these rules are intended to implement is RCW 28A.31.100 - 28A.31.120.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 13, 1985.

Dated: January 9, 1985
By: John A. Beare, MD
Director

STATEMENT OF PURPOSE

Amending WAC 248-100-163 and 248-100-164.

Title and Purpose: The title is reduction of school and day care immunization requirements. The purpose of this amendment is to reduce the requirements for DTP (diphtheria, tetanus and pertussis) immunization for school and day care center children during a temporary shortage of DTP vaccine. This rule also contains nonsubstantive changes to improve readability.

Statutory Authority: RCW 28A.31.100 through 28A-.31.120 (School Immunization Law) and RCW 43.20-.050 (State Board of Health).

Summary of Rule: Changes WAC 248-100-163(2) and 248-100-164(2) by deleting requirement that last dose of DTP vaccine be administered at or after age four; retains requirement that child have at least three doses; reduces utilization of vaccine by delaying administration of the recommended fourth and fifth doses; and facilitates giving priority to infants and young children for available DTP vaccine, thus protecting those at greater risk of these diseases.

Responsible Person: Eileen Keith, Head, Communicable Disease Control Section, LP-16, Olympia, Washington 98504, (206) 753-3493.

Responsible Organization: Department of Social and Health Services, Division of Health, Office of Preventive Health Services.

Rule is not necessary as a result of federal law or federal or state court action.

There is no economic impact on small business.

AMENDATORY SECTION (Amending Order 181, filed 7/5/79)

WAC 248-100-163 IMMUNIZATION OF SCHOOL CHILDREN AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES. (1) Definitions.

(a) "Chief administrator" means the person with the authority and responsibility for the immediate supervision of the operation of a school or, in the alternative, such other person as may be designated in writing for the purpose of carrying out the requirements of this statute by the statutory or corporate board of directors of the school district or school or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district or school.

(b) "Full immunization" means immunization against the following vaccine-preventable diseases: Diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, measles (rubeola), rubella (German measles), and mumps in accordance with schedules and with immunizing agents approved by the state board of health in these regulations.

(c) "Local health department" means the city, town, county, district, or combined city-county health department, board of health, or health officer ((~~which provides~~)) providing health services.

(d) "School" means and includes each building, facility, and location at or within which any or all portions of a preschool, kindergarten, and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.04.120(4) and 28A.02.201 through 28A.02.260.

(e) "Immunizing agents" means any vaccine or other biologic currently licensed and approved by the Bureau of Biologics, United States Public Health Service, for immunization of persons against diphtheria, pertussis (whooping cough), tetanus (DTP, DT, Td), measles (rubeola), rubella (German measles), mumps, and poliomyelitis Types I, II, and III (TOPV, IPV).

(f) "Student" means a person under eighteen years of age admitted to any preschool, kindergarten, and grades one through twelve program of education in any public school district or in any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.04.120(4) and 28A.02.201 through 28A.02.260.

(g) "Transfer student" means a student ((~~who~~)) previously enrolled in grades kindergarten through twelve who moves from one school district or system to another at any time during the school year. Students transferring within a district or system are not considered transfer students for the purposes of these regulations: PROVIDED, That the school transfers records within the district.

(h) "Immunization requirement" means the minimal acceptable schedule of immunizing agents as defined by the state board of health in these regulations for attendance of a child at any public or private school.

(i) "Initiation of a schedule of immunization" is defined as the process of beginning or continuing a course of immunizations. The immunizing agents administered as part of this process must have been provided not later than forty-five calendar days of the child's first day of attendance.

(2) Immunization requirements.

The Washington state board of health requires the following minimum immunization requirements for compliance with the school immunization law RCW 28A.31.118.

Effective September 1, 1979, and thereafter:

(a) Children attending kindergarten through sixth grade must present proof of the following no later than forty-five days after the child's first day of attendance:

At least ((~~3~~)) three doses of either DTP, DT, or Td vaccine ((~~provided that the last dose was administered at or after age 4~~));

At least ((~~3~~)) three doses of trivalent poliomyelitis vaccine provided ((~~that~~)) the last dose was administered at or after age ((~~4~~)) four;

One dose of live virus measles vaccine administered at or after one year of age. A student meets the measles immunization requirement as a result of having had measles (rubeola) disease. In such instances, a physician must document and certify the month and year of disease occurrence.

One dose of live virus rubella vaccine administered at or after one year of age((;)), except for females twelve years of age or older.

One dose of live virus mumps vaccine administered at or after one year of age for students in kindergarten or first grade, whichever is the entry level.

Effective September 1, 1980, and thereafter:

(b) Students in grades seven through twelve must present proof of the following no later than forty-five days after a student's first day of attendance:

At least ((~~3~~)) three doses of either DTP, DT, or Td vaccine ((~~provided that the last dose was administered at or after age 4~~));

At least ((~~3~~)) three doses of trivalent poliomyelitis vaccine provided ((~~that~~)) the last dose was administered at or after age ((~~4~~)) four;

One dose of live virus measles vaccine administered at or after one year of age. A student meets the measles immunization requirement as a result of having had measles (rubeola) disease. In such instances, a physician must document and certify the month and year of disease occurrence.

One dose of live virus rubella vaccine administered at or after one year of age, except for females twelve years of age or older.

One or more doses of tetanus toxoid (without diphtheria toxoid) administered for wound management will not fulfill the DTP/DT/Td requirements.

(3) Initiation and continuation of a schedule of immunization.

(a) Attendance at a school by a child who has not received full immunization shall be conditioned upon the presentation of proof that the child's immunization schedule has been initiated according to subsection (1)(i) of ((~~these regulations~~)) this section.

(b) Admission in subsequent year. A student ((~~who is~~)) admitted conditionally as provided in subsection (3)(a) of this section((;)) shall present proof of completion of the required ((~~immunization(s)~~)) immunization or immunizations as soon as possible and not later than on the student's first day of attendance in the following school year. If the student has not completed the required schedule of immunization by the first day of attendance in the following school year, there shall be no forty-five day grace period. The "chief administrator" of the school shall immediately notify the local health department of the name and address of the student along with a report of the status of the student's immunization schedule and when the student was first conditionally admitted to school. If there has been a sufficient period of time to reasonably permit the student to have completed the required immunization schedule, the health department shall issue an order of exclusion in the manner required by subsection (7) of this section. If there has not been sufficient time to complete the schedule, the health department shall notify the student's parents and the "chief administrator" of the school as to when the schedule must be completed. If the schedule is not completed by that date, the health department shall issue an order of exclusion.

(4) Documentary proof.

(a) Proof of full immunization, initiation or continuation of a schedule, or exemptions shall be documented on a certificate of immunization status. Immunization data on the certificate of immunization status form shall be based on a written personal immunization record given to the person immunized or to his or her parent or guardian by the physician or agency administering the immunization. This personal immunization record shall not be surrendered to school authorities and shall not substitute for the certificate of immunization status form.

(b) The certificate of immunization status form shall include((;)) at least the following information required to fulfill the intent of RCW 28A.31.118.

(i) Name of the person;

(ii) Birthdate;

(iii) Sex;

(iv) Type of vaccine administered;

(v) Date of each dose of vaccine, specifying month and year;

(vi) Signature of parent, legal guardian, or adult in loco parentis.

(c) The revised certificate of immunization status form, DSHS 13-263, shall be provided by the department of social and health services and will be the only acceptable form for all new enrollees registering in kindergarten through sixth grade after September 1, 1979, and for new enrollees in all grades after September 1, 1980, and thereafter. For students already registered or enrolled in schools prior to enactment of these regulations, previous certificates of immunization status (e.g., DSHS 13-263) or locally developed forms approved by DSHS shall be acceptable as the official certificate of immunization status: PROVIDED, That dates for the latest doses of DTP/Td and poliomyelitis vaccines are indicated and that dates (month and year) are provided for each dose of measles, rubella, and mumps vaccine if required. Students meet minimum immunization requirements if the last of three or more doses of DTP/Td and trivalent poliomyelitis vaccines were administered at or after age four and if requirements for measles, rubella, and mumps are met.

(d) Proof in subsequent years. Once proof of full immunization or proof of exemption from immunization has been presented, no further proof shall be required as a condition to attendance at a particular school provided ((~~that~~)) the certificate of immunization status form on such a child remains on file at the school.

(5) Medical exemptions.

(a) Certification of medical contraindication for one or more ((~~immunization(s)~~)) immunization or immunizations shall be provided on the certificate of immunization status form, certified and signed by a licensed physician.

(b) A student ((~~who is~~)) temporarily exempt from immunization for medical reasons shall be admitted on condition ((~~that~~)) required immunizations are obtained at the termination of the duration of exemption. If the medical condition is permanent or ((~~life-long~~)) lifelong, the student shall be admitted and the certificate of immunization status filed on each such student.

(6) Religious, philosophical, personal exemptions.

(a) A student may be exempt from immunization because of religious, philosophical, or personal objections. These exempt children shall be admitted to school and the fact of the exemption shall be recorded on the certificate of immunization status form signed by the parent, guardian, or adult in loco parentis.

(b) Each school shall keep on file the certificate of immunization status form for each child so enrolled.

(7) Exclusion from school.

(a) Conditions for attendance not fulfilled. Any student in attendance at a school ((~~who fails~~)) failing to provide documentary proof of full immunization((;)), or proof of initiation or continuation of a schedule of immunization((;)), or proof of either medical, religious, philosophical, or personal objection((;)), no later than forty-five calendar days after the child's first day of attendance, shall be excluded from school until an acceptable certificate of immunization status form is submitted to the "chief administrator" of the school.

(b) Notification to local health department. The "chief administrator" of a school shall collect at the end of the forty-five day grace period and within five working days the names and addresses of students in schools ((~~who do~~)) not ((~~comply~~)) complying with the requirements of these regulations and forward the names to the local health department.

(c) Exclusion order from local health department. Upon receipt of ((~~name(s)~~)) the name or names and ((~~address(es)~~)) address or addresses of ((~~student(s)~~)) student or students failing to comply with the provisions for attendance at school from the "chief administrator" of a school, the local health department shall notify the "chief administrator" and provide the "chief administrator" with a written order to exclude the ((~~student(s)~~)) student or students failing to comply with requirements of these regulations.

(d) Exclusion letter to parents of children failing to comply. Pursuant to the written exclusion order to the "chief administrator" from the local health department, the local health department will provide a standard exclusion notification letter to parents of children failing to comply with attendance requirements. This exclusion notification letter shall be of a form approved by the department of social and health services and signed by the local health officer. This shall serve as the written notice to ((~~parent(s)~~)) parent or parents or legal ((~~guardian(s)~~)) guardian or guardians of each child or to the ((~~adult(s)~~)) adult or adults in loco parentis to each child((~~, who is~~)) not in compliance with the requirements of these regulations. The notice shall fully inform such ((~~person(s)~~)) person or persons of the following:

(i) The requirements established by and pursuant to RCW 28A.31.118;

(ii) The fact that the child will be prohibited from further attendance at the school until requirements are met;

(iii) Due process for exclusion of the child pursuant to the state board of education's rules and regulations;

(iv) The immunization services ((~~that are~~)) available from or through the local health department and other public agencies.

(e) List of children excluded.

The "chief administrator" of a school shall retain a record at the school of the name, address, and date of exclusion of each child excluded from school pursuant to the requirements of these regulations for not less than three years following the date of a child's exclusion.

(f) A student in attendance in a school by virtue of presenting proof of "initiation of a schedule of immunization" or by presenting documentation of medical, religious, philosophical, or personal objection may be subject to exclusion in the event of exposure to a communicable disease in a school.

(8) Records.

(a) The official proof for documentation of compliance with these regulations shall be the certificate of immunization status form. The revised certificate of immunization status form will be required of all new enrollees registering in kindergarten through sixth grade after September 1, 1979, and for all new enrollees in all grades after September 1, 1980, and thereafter.

If a child was enrolled in a school prior to the effective date of these regulations, the certificate of immunization status DSHS 13-263, or approved locally-developed forms, on file will serve as documentary proof for admittance if requirements are met.

Schools shall have on file an approved certificate of immunization status form for every child enrolled. When a child withdraws, transfers, or is promoted to a new school within a school district or between school districts, the chief administrator shall return the certificate of immunization status to the parent, guardian, or adult in loco parentis, or it may be transferred with the child's records to the new school.

(b) The "chief administrator" of a school shall allow agents of state and local health departments access during business hours to the health records retained on each student or child enrolled.

(c) Personal immunization record. The immunizations required by these regulations may be obtained from any private or public source desired provided ((~~that~~)) the immunization is administered and records are made in accordance with these regulations. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco parentis to the child, with a written record of immunization, the content of which the state board of health has prescribed.

(9) Reporting.

(a) The "chief administrator" of a school shall file a written annual report (multiple carbonized form) with the department of social and health services and local health departments on the immunization status of students in school by November ((1)) 1st of each year and on forms prescribed by the department of social and health services. In the event of a late school opening, the report will be required sixty days after the first day of school.

(b) The annual report from schools shall reflect the status of all students enrolled in September 1979, in kindergarten through sixth grade; in September 1980, the annual report will include the status of new admissions and transfer students in grades kindergarten through seven and all students in grades eight through twelve; in 1981((;)) and thereafter, the annual report will cover only new admissions and transfer students in all grades.

AMENDATORY SECTION (Amending Order 185, filed 9/11/79)

WAC 248-100-164 IMMUNIZATION OF CHILDREN ATTENDING DAY CARE CENTERS AGAINST CERTAIN VACCINE-PREVENTABLE DISEASES. (1) DEFINITIONS.

(a) "Chief administrator" means the person with the authority and responsibility for the immediate supervision of the operation of a day care center or, in the alternative, such other person as may be designated in writing for the purpose of carrying out the requirements of these regulations by the statutory or corporate board of directors of the day care center, or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the day care center.

(b) "Full immunization" means immunization against the following vaccine-preventable diseases: Diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, measles (rubeola), rubella (German measles), and mumps in accordance with schedules and with immunizing agents approved by the state board of health in these regulations. Full immunization applies only to children age four and older ((~~who meet~~)) meeting requirements as stipulated in subsection (2) of this section.

(c) "Local health department" means the city, town, county, district, or combined city-county health department, board of health, or health officer ((~~which provides~~)) providing health services.

(d) "Day care center" means an agency ((~~which~~)) regularly ((~~provides~~)) providing care for a group of thirteen or more children for periods of less than twenty-four hours and ((~~is~~)) licensed pursuant to chapter 74.15 RCW.

(e) "First day of attendance" means September 1, 1979, for all children enrolled in a day care center on or before that date and the actual date of first attendance for children enrolled thereafter.

(f) "Immunizing agents" means any vaccine or other biologic currently licensed and approved by the Bureau of Biologics, United States

Public Health Service, for immunization of persons against diphtheria, pertussis (whooping cough), tetanus, (DTP, DT, Td), measles (rubeola), rubella (German measles), mumps, and poliomyelitis Type I, II, and III (TOPV, IPV).

(g) "Immunization requirement" means the minimal acceptable schedule of immunizing agents as defined by the state board of health in these regulations for attendance of a child at a day care center.

(h) "Initiation of a schedule of immunization" is defined as the process of beginning or continuing a course of immunizations. All children who have not had three doses each of DTP/DT and polio vaccines with the last doses after the fourth birthday, and one dose each of measles, mumps, and rubella vaccines are to be considered "initiating or continuing" a schedule of immunization. Children ((~~who do~~)) not ((~~meet~~)) meeting the requirements for their age group must receive at least one dose of vaccine within forty-five calendar days of the child's first day of attendance.

(2) IMMUNIZATION REQUIREMENTS.

Children must meet the following immunization requirements for each age:

DTP/DT/Td VACCINE

AGE	REQUIREMENT
2 months	1 dose
4 months	2 doses
6 – 17 months	3 doses
((~~18 – 47 months~~	~~4 doses~~))
4 years and older	At least 3 doses ((~~provided that the last dose was administered at or after age 4~~)).

TRIVALENT POLIO VACCINE – (TOPV) (IPV)

AGE	REQUIREMENT
2 months	1 dose
4 – 17 months	2 doses
18 – 47 months	3 doses
4 years and older	At least 3 doses provided that the last dose was administered at or after age 4.

MEASLES*, MUMPS, AND RUBELLA VACCINES

AGE	REQUIREMENT
Under 15 months	None
15 months or older	1 dose of each administered at or after 12 months of age.

* NOTE: (1) Any child who is 15 months of age or older must have:

(a) One dose of measles vaccine by the 45th day after the child's first day of attendance, or

(b) One dose of measles vaccine within 45 days after the child becomes 15 months of age.

The above conditions do not apply to a child who is exempt for measles vaccine. Any child not meeting the measles requirement will be excluded from the day care center in the manner required by subsection (7) of this section.

(2) Measles vaccine is not recommended prior to 15 months of age unless there is an earlier threat of exposure to measles.

(3) A child meets the measles immunization requirement as a result of having had measles (rubeola) disease. In such instances, a physician must document and certify the month and year of disease occurrence.

(3) INITIATION AND CONTINUATION OF A SCHEDULE OF IMMUNIZATION.

(a) Attendance at a day care center by a child ((~~who has~~)) not ((~~received~~)) receiving full immunization shall be conditioned upon the presentation of proof ((~~that~~)) the child has initiated or is continuing on a schedule of immunization according to subsection (1)(h) of this section.

(b) Admission in subsequent ((~~year(s)~~)) year or years. A child ((~~who is~~)) admitted conditionally as provided in subsection (3)(a) of this section((;)) shall present proof of completion of each dose of vaccine required in subsection (2) of this section as soon as possible and not later than twelve calendar months from the time the child is admitted conditionally. This process shall be continued until the child is fully immunized. If the child has not completed the required schedule of immunization within the required time period, the "chief administrator" of the day care center shall immediately notify the local health department of the name and address of the child along with a report of the status of the child's immunization schedule and when the child was first admitted to the day care center. If there has been a sufficient period of time to reasonably permit the child to have completed the required immunization schedule, the health department shall issue an order of exclusion in the manner required in subsection (7) of this section. If there has not been sufficient time to complete the schedule, the health department shall notify the child's parents and the "chief administrator" of the day care center as to when the schedule must be completed. If the schedule is not completed by that date, the health department shall issue an order of exclusion pursuant to subsection (7) of this section.

(4) DOCUMENTARY PROOF.

(a) Proof of full immunization, initiation or continuation of a schedule, or exemptions shall be entered by the parent on a certificate of immunization status form (DSHS 13-263). Immunization data on the certificate of immunization status form shall be based on a written personal immunization record given to the person immunized or to his or her parent or guardian by the physician or agency administering the immunization. This personal immunization record shall not be surrendered to day care center authorities and shall not substitute for the certificate of immunization status form.

(b) The certificate of immunization status form shall include at least the following information required to fulfill the intent of RCW 28A.31.118:

(i) Name of person;

(ii) Birthdate;

(iii) Sex;

(iv) Type of vaccine administered;

(v) Date of each dose of vaccine, specifying month and year;

(vi) Signature of parent, legal guardian, or adult in loco parentis.

(c) The revised certificate of immunization status form (DSHS 13-263) shall be provided to licensed day care centers by the department of social and health services and will be the only acceptable form for all new registrants after September 1, 1979. For the child already registered or enrolled in a day care center prior to enactment of these regulations, previous certificates of immunization status (e.g., DSHS 13-263) or locally developed forms approved by DSHS shall be acceptable as the official certificate of immunization status: PROVIDED, That dates for the latest doses of DTP/Td and poliomyelitis vaccines are indicated and that dates (month and year) are provided for each dose of measles, rubella, and mumps vaccine, if required.

(d) Proof in subsequent years. Once proof of full immunization or proof of exemption from the immunization law has been presented, no further proof shall be required as a condition to attendance at a particular center provided ((~~that~~)) the certificate of immunization status form on such a child remains on file at the day care center.

(5) MEDICAL EXEMPTIONS.

(a) Certification of medical contraindication for one or more ((~~immunization(s)~~)) immunization or immunizations shall be provided on the certificate of immunization status form, certified and signed by a licensed physician.

(b) A child ((~~who is~~)) temporarily exempt from immunization for medical reasons may be admitted on condition ((~~that~~)) required immunizations are obtained at the termination of the duration of exemption. If the medical condition is permanent or ((~~life-long~~)) lifelong, the student may be admitted and the certificate of immunization status filed on each child.

(6) RELIGIOUS, PHILOSOPHICAL, PERSONAL EXEMPTIONS.

(a) A child ((~~who is~~)) exempt from immunization because of religious, philosophical, or personal objections may be admitted to a day care center and the fact of the exemption shall be recorded on the certificate of immunization status form signed by the parent, guardian, or adult in loco parentis.

(b) Each day care center shall keep on file the certificate of immunization status form for each child so enrolled.

(7) EXCLUSION FROM DAY CARE CENTER.

(a) Conditions for attendance not fulfilled. Any child in attendance at a day care center ((~~who fails~~)) failing to provide documentary proof of full immunization, or proof of initiation or continuation of a schedule of immunization, or proof of either medical, religious, philosophical, or personal objection, within forty-five calendar days after the child's first day of attendance((,)) shall be excluded from the day care center by the "chief administrator" of the day care center until an acceptable certificate of immunization status form is submitted to the "chief administrator."

(b) Notification to local health department. The "chief administrator" of a day care center shall collect, at the end of the forty-five day grace period and within five working days, the name and address of each child ((~~who does~~)) not ((~~comply~~)) complying with the requirements of these regulations and ((~~forward~~)) forwarding the ((~~name(s)~~)) name or names to the local health department.

(c) Exclusion order from local health department. Upon receipt of ((~~name(s)~~)) the name or names and ((~~address(es)~~)) address or addresses of each child failing to comply with the provisions for attendance at a day care center from the "chief administrator," the local health department shall notify the "chief administrator" and provide the "chief administrator" with a written order to exclude the children failing to comply with requirements of these regulations.

(d) Exclusion letter to parents of children failing to comply. Pursuant to the written exclusion order to the "chief administrator" from the local health department, the local health department will provide a standard exclusion notification letter to parents of children failing to comply with attendance requirements. This exclusion notification letter shall be of a form approved by the department of social and health services and signed by the local health officer. This shall serve as the written notice to ((~~parent(s)~~)) the parent or parents or legal ((~~guardian(s)~~)) guardian or guardians of each child or to the ((~~adult(s)~~)) adult or adults in loco parentis to each child((~~, who is~~)) not in compliance with the requirements of these regulations. The notice shall fully inform such ((~~person(s)~~)) person or persons of the following:

(i) The requirements established by and pursuant to RCW 28A.31.118;

(ii) The fact ((~~that~~)) the child will be prohibited from further attendance at the day care center until requirements are met;

(iii) The immunization services ((~~that are~~)) available from or through the local health department and other public agencies.

(e) A child in attendance in a day care center by virtue of presenting proof of "initiation or continuation of a schedule of immunization" or by presenting documentation of medical, religious, philosophical, or personal objection may be subject to exclusion in the event of exposure in the day care center to a communicable disease for which the child is unimmunized.

(8) RECORDS.

(a) The official proof for documentation of compliance with these regulations shall be the certificate of immunization status form. The revised certificate of immunization status form will be required of all new registrants after September 1, 1979.

If a child was enrolled in a day care center prior to the effective date of these regulations, the certificate of immunization status form DSHS 13-263, or approved locally developed forms on file will serve as documentary proof for admittance if requirements are met.

Day care centers shall have on file an approved certificate of immunization status form for every child enrolled. When a child withdraws or transfers to a new day care center, the administrator shall return the certificate of immunization status form to the parent.

(b) The "chief administrator" of a day care center shall allow agents of state and local health departments access during business hours to the immunization records retained on each child enrolled.

(c) Personal immunization record. The immunizations required by these regulations may be obtained from any private or public source desired, provided ((~~that~~)) the immunization is administered and records are made in accordance with these regulations. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco parentis to the child, with a written record of immunization, the content of which the state board of health has prescribed.

(9) REPORTING.

The "chief administrator" of a day care center shall file a written annual report (multiple carbonized form) with the department of social and health services and local health departments on the immunization status of children by November ((~~1~~)) 1st of each year and on forms prescribed by the department of social and health services.

WSR 85-03-063
ADOPTED RULES
BOARD OF HEALTH
[Order 279—Filed January 15, 1985]

Be it resolved by the Washington State Board of Health, acting at Tacoma, Washington, that it does adopt the annexed rules relating to kidney centers, amending chapter 248-30 WAC.

This action is taken pursuant to Notice No. WSR 84-24-062 filed with the code reviser on December 5, 1984. 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 Health as authorized in RCW 43.20.050.

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 January 9, 1985.

By John A. Beare, MD, MPH
Secretary

AMENDATORY SECTION (Amending Order 265, filed 8/25/83)

WAC 248-30-080 DEFINITIONS. For the purposes of administering the state kidney disease program, the following shall apply:

(1) "End stage renal disease (ESRD)" ((~~shall~~)) means that stage of renal impairment which is virtually always irreversible and permanent, and requires dialysis or kidney transplantation to ameliorate uremic symptoms and maintain life;

(2) "Patient" ((~~shall~~)) means resident of the state with a diagnosis of ESRD;

(3) "Kidney center" ((~~shall~~)) means those facilities as defined and certified by the federal government to provide ESRD services and which provide the services specified in WAC 248-30-090 and which promote and encourage home dialysis for patients when medically indicated;

(4) "Affiliate" ((~~shall~~)) means a facility, hospital, unit, business, or individual which has an agreement with a kidney center to provide specified services to ESRD patients;

(5) "Department" ((~~shall~~)) means the Washington state department of social and health services;

(6) "State kidney disease program" ((~~shall~~)) means state general funds appropriated to the department to assist persons with ESRD to meet the cost of their medical care;

(7) "Application for eligibility" ((~~shall~~)) means the form provided by the department which the patient must complete and submit to determine eligibility;

(8) "Certification" or "certified" ((~~shall~~)) means the signed approval by the department of a patient's eligibility for the state kidney disease program pursuant to WAC 248-30-110;

(9) "Application period" ((~~shall~~)) means the time between the date of application and certification;

(10) "Resources" means income or assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

(11) "Fair market value" means the current market value of a resource at the time of transfer or contract for sale, if earlier, or time of application.

(12) "Adequate consideration" means that the reasonable value of the goods or services received in exchange for the transferred property approximates the reasonable value of the property transferred.

(13) "Transfer" means any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person.

(14) "Reasonable value" means a reasonable value of the property transferred and the reasonable value of the goods or services received in exchange for the transferred property.

AMENDATORY SECTION (Amending Order 265, filed 8/25/83)

WAC 248-30-110 ELIGIBILITY. The kidney center shall review at least annually the eligibility of an individual patient for the state kidney disease program according to procedures outlined in WAC 248-30-130. Generally a patient shall be considered eligible if he or she has exhausted or is ineligible for all other resources providing similar benefits to meet the costs of ESRD related medical care. Resources shall include:

(1) Income in excess of a level necessary to maintain a moderate standard of living, as defined by the department, using accepted national standards;

(2) Savings, property, and other assets;

(3) Government and private medical insurance programs;

(4) Government or private disability programs;

(5) Local funds raised for the purpose of providing financial support for a specified ESRD patient: PROVIDED, That in determining eligibility the following resources shall be exempt:

(a) A home, defined as real property owned by a patient as a principle place of residence together with the property surrounding and contiguous thereto not to exceed five acres. Commercial property or property used for the purpose of producing income shall be considered excess property and subject to the limitations of subsection (5)(d) of this section;

(b) Household furnishings;

(c) An automobile; and

(d) Savings, property, or other assets, the value not to exceed the sum of five thousand dollars.

NEW SECTION

WAC 248-30-115 TRANSFER OF RESOURCES WITHOUT ADEQUATE CONSIDERATION. An individual is ineligible for the program if the person knowingly and willfully assigns or transfers nonexempt resources at less than fair market value for the purpose of qualifying or continuing to qualify for the program within two years preceding the date of application. Two years must expire between the date of transfer and reapplication.

AMENDATORY SECTION (Amending Order 265, filed 8/25/83)

WAC 248-30-130 PROCEDURES FOR ELIGIBILITY DETERMINATION. The following procedures will be followed to determine eligibility:

(1) The department shall provide the necessary forms and instructions;

(2) The kidney center shall inform the patient of the requirements for eligibility as defined in WAC 248-30-110 and 248-30-130;

(3) The kidney center shall provide to the patient the necessary forms and instructions in a timely manner;

(4) Patients shall complete and submit the application for eligibility form and any necessary documentation to the kidney center in the manner and form prescribed by the department;

(5) New patients shall apply for medical assistance (Medicaid) at the local office of the department and shall obtain and send to the kidney center a ((~~letter~~)) written documentation of eligibility or denial;

(6) The kidney center shall review the application and documentation for completeness and accuracy according to instructions provided by the department;

(7) The kidney center shall forward to the department the application and any documentation needed to approve or deny eligibility. The department shall review the application and documentation and notify the kidney center the patient has been certified or denied; or request additional information as needed;

(8) The application period shall be limited to one hundred twenty days. The kidney center may request an extension if there are extenuating circumstances prohibiting the patient from completing the application process within the allowed time. The department, at its discretion, may grant and specify the limits of the extension;

(9) The patient shall be eligible for a period of one year from the ((~~date~~)) first day of the month of application unless his or her resources or income increase or decrease substantially, in which case the patient must complete a new application for eligibility;

(10) Eligibility effective date is the first day of the month of application if the individual was eligible at any time during that month. The effective date of eligibility shall be no earlier than four months before the month of application provided that:

(a) The medical services received were covered.

(b) The individual would have been eligible had he/she applied.

(11) Patients currently eligible must be recertified prior to the end of their eligibility period.

Patients who seek continued program services do not need to reapply for medicaid (medical assistance) unless there has been a substantial reduction in resources during the year. A "substantial reduction" means:

(a) The elimination of patient's required monthly copayment; or

(b) The reduction of resources to below fifteen hundred dollars.

WSR 85-03-064
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
[Memorandum—January 15, 1985]

The Washington Association of Human Rights Agencies, the Statewide Networking Group recently formed by the State Human Rights Commissioners, will meet on Wednesday, February 6, 1985, at the Executive Inn, 5700 Pacific Highway East, Tacoma, (Fife), beginning at 6:30 p.m. The agenda will include discussion regarding the creation of the association.

WSR 85-03-065
ADOPTED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Order 85-4—Filed January 16, 1985]

I, Sam Kinville, director of the Department of Labor and Industries, do promulgate and adopt at Room 334, General Administration Building, Olympia, Washington 98504, the annexed rules pertaining to definitions of terms contained in chapter 49.38 RCW commonly known as the Theatrical Enterprises Act; explanation of the definitions used in the act; requirement of a cash deposit or bond to ensure payment of wages; action required to ensure posting of deposit or bond; method of taking action against cash deposit or bond and limitations thereof.

This action is taken pursuant to Notice No. WSR 84-24-056 filed with the code reviser on December 5, 1984. 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 49.38.070 which directs that the Department of Labor and Industries has authority to implement the provisions of chapter 49.38 RCW, Theatrical Enterprises Act.

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 15, 1985.

By Sam Kinville
Director

Chapter 296-124

RULES AND REGULATIONS FOR THE ADMINISTRATION OF THE THEATRICAL ENTERPRISE ACT

WAC

296-124-010	Definitions
296-124-020	Bond or cash deposit
296-124-021	Statement of intent to hire
296-124-022	Filing claim for wages against bond or cash deposit
296-124-040	Multiple events
296-124-040	Failure to post bond

NEW SECTION

WAC 296-124-010 DEFINITIONS. As used in this chapter:

(1) "Theatrical enterprise" means the production of any circus, vaudeville, carnival, revue, variety show, musical comedy, operetta, opera, drama, endurance contest, marathon, walkathon, or any other entertainment event where persons are a part of the enterprise's presentation. Theatrical enterprise does not include a program of a radio or television station operating pursuant to a license issued by the Federal Communications Commission or any event produced by a nonprofit cultural or artistic organization that has been located in a community for at least two years.

(2) "Department" means the Department of Labor and Industries.

(3) "Director" means the Director of the Department of Labor and Industries or his duly authorized deputy or representative.

(4) "Assistant Director" means the supervisor of industrial relations for the Department of Labor and Industries or his duly authorized deputy or representative.

(5) "Promoter" includes any individual, firm, partnership, association or corporation giving employment to individuals involved with the production of a theatrical enterprise.

(6) "Employee" means an employee who is employed in the business of his employer whether by way of manual labor or otherwise.

NEW SECTION

WAC 296-124-020 BOND OR CASH DEPOSIT. (1) Any persons engaged in the business of promoting a theatrical enterprise in this state shall deposit with the Department the cash or bond issued by a surety company authorized to do business in this state in an amount determined sufficient by the Department to pay the wages of every person involved in the production of the theatrical enterprise for the period for which a single payment of wages is made, but not to exceed one week.

(2) The deposit required under subsection (1) of this section shall be on file with the Department seven calendar days before the commencement of the theatrical enterprise.

(3) The deposit required under subsection (1) shall be in existence for a period of at least one year after conclusion of the event.

(4) A cash deposit may be made with the Department in lieu of a bond.

(5) An assigned savings account may be left with the Department in lieu of the bond.

NEW SECTION

WAC 296-124-021 STATEMENT OF INTENT TO HIRE. In addition to the Bond or cash deposit there

shall be filed, on a form supplied by the Department, a notarized statement of intent to hire which shall include:

(1) Name and address (current and permanent) of the person(s) promoting the theatrical enterprise.

(2) The promoters' bank account location.

(3) Proof of the promotors' industrial insurance coverage for workers.

(4) Name of event sponsor, if applicable.

(5) Date, time period and location of event.

(6) Classification of workers employed.

(7) Approximate number of workers and hourly rate to be paid each classification of workers.

(8) Total estimate of weekly payroll for the event.

(9) Copy of this intent shall be on file at the site of the event.

NEW SECTION

WAC 296-124-022 FILING CLAIM FOR WAGES AGAINST BOND OR CASH DEPOSIT. An employee may make claim against bond or cash deposit by:

(1) Filing suit in superior or district court in the county where the event was performed or where employer or principle owner resides; and,

(2) The employee shall file notice of court action with the Department within 20 days of the conclusion of the suit; or,

(3) An employee may file a wage claim assignment with the Department in accordance with RCW 49.48-.040 within 90 days of the conclusion of the event.

NEW SECTION

WAC 296-124-040 MULTIPLE EVENTS. In the case of multiple events only one bond or cash deposit and statement of intent to hire must be filed by the promoter, providing that the bond or cash deposit and other information required by this Chapter is sufficient for all events covered.

NEW SECTION

WAC 296-124-050 FAILURE TO POST BOND. Failure to conform with provisions of these regulations may result in the Department bringing legal action to cause compliance and/or the closure of the business.

WSR 85-03-066
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LABOR AND INDUSTRIES
[Memorandum—January 11, 1985]

The Department of Labor and Industries gives notice that it will conduct a public meeting on May 8, 1985, at 10:00 a.m. in the Main Conference Room, General Administration Building, Olympia, Washington.

The purpose of the meeting is to consider public comments on proposed rule changes to WAC 296-128-050 through 296-128-090, inclusive. Representatives of the National Federation of the Blind have petitioned the Department of Labor and Industries to amend or repeal those WAC rules cited above. The Department of Labor and Industries takes no position supporting or opposing the proposed changes by the National Federation of the Blind now, but will do so after considering the public response to the proposed changes. The text of the proposed rule changes will be available at the public meeting.

WSR 85-03-067
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 17, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning retrospective budgeting and prospective eligibility, amending WAC 388-28-483;

that the agency will at 10:00 a.m., Tuesday, February 26, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

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

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

The specific statute these rules are intended to implement is chapter 74.12 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

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

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

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations, State Office Building #2, 12th and Franklin, Olympia, WA, Phone (206) 753-7015 by February 13, 1985. The meeting site is in a location which is barrier free.

Dated: January 16, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-28-483 (4)(b).

Purpose of the Rule: To revise the consideration of income received before the date of application during the first month of retrospective budgeting.

The Reason These Rules are Necessary: To bring the WAC into compliance with the Code of Federal Regulations.

Statutory Authority: RCW 74.08.090.

Summary of Rule: All income received during the calendar month of application approval shall be considered for retrospective budgeting purposes.

Person Responsible for Drafting, Implementation and Enforcement of the Rule: MaryRose Trepanier, Program Manager, Division of Income Assistance, mailstop OB 31C, phone 753-3177.

Economic Impact on Small Business: None.

This rule change is necessary as a result of federal law, 45 CFR, section 233.35.

AMENDATORY SECTION (Amending Order 2049, filed 11/16/83)

WAC 388-28-483 RETROSPECTIVE BUDGETING, PROSPECTIVE BUDGETING, AND PROSPECTIVE ELIGIBILITY. (1) The CSO shall determine eligibility based on the best estimate of income and circumstances which will exist in the month for which the assistance payment is made.

(2) For the first two months of initial eligibility, all income shall be budgeted prospectively. (See subsection (3) of this section for exceptions.) The CSO shall compute the amount of the assistance payment based on the expected income and circumstances which will exist in the month for which the assistance payment is made.

(3) Retrospective budgeting shall be used for the first two months of initial eligibility when:

(a) There has been less than one month's break in assistance (i.e., the applicant received assistance in the preceding month, or would have received assistance except for the prohibition on payments less than ten dollars).

(b) Assistance had been suspended due to an extra pay day for the month prior to the month of application, assistance had been terminated at the end of the month of suspension, and the applicant's circumstances for the initial authorization month have not changed significantly from those prior to termination.

(c) A case is reopened as terminated in error.

(4) After the first two months of initial eligibility, all income shall be budgeted retrospectively.

(a) The CSO shall compute the amount of assistance based on the income and circumstances which existed in the second month preceding the month for which the payment is made.

(b) All income received ((~~before~~)) during the ((~~date~~)) calendar month of application approval shall ((~~not~~)) be considered for retrospective budgeting purposes.

(c) Nonrecurrent income which is budgeted prospectively during the first two months of eligibility shall not be budgeted again when retrospective budgeting begins.

(d) Definitions:

(i) The calendar month for which payment is made shall be called the payment month.

(ii) The second calendar month preceding the payment month shall be called the budget/report month.

(iii) The calendar month between the budget/report month and the payment month shall be called the process month.

(5) See WAC 388-33-140 for effective date of increase or decrease of the grant. See WAC 388-33-135 for effective dates of ineligibility.

WSR 85-03-068
ADOPTED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2189—Filed January 17, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Alien sponsorship—Deeming of income and resources—Overpayments, amending WAC 388-28-590.

This action is taken pursuant to Notice No. WSR 84-24-049 filed with the code reviser on December 4, 1984. 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 rulemaking authority of the Department of Social and Health Services as authorized in RCW 74.08.090.

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

APPROVED AND ADOPTED January 16, 1985.

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

AMENDATORY SECTION (Amending Order 1942, filed 2/2/83)

WAC 388-28-590 ALIEN SPONSORSHIP—DEEMING OF INCOME AND RESOURCES—OVERPAYMENTS. (1) The following rules shall apply to an alien ((~~who applies~~)) applying for AFDC for the first time after September 30, 1981, and to his or her sponsor.

(2) A sponsor is defined as any person ((~~who executed~~)) or public or private organization executing an ((~~affidavit(s)~~)) affidavit or affidavits of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States.

(3) Any alien whose sponsor is a public or private agency or organization is ineligible for assistance for three years from the date of entry into the United States, unless the agency or organization is either no longer in existence or has become unable to meet the alien's needs.

(4) For a period of three years following entry into the United States, ((a)) an individually sponsored alien shall provide the state agency with any information and documentation necessary to determine the income and resources of the sponsor that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

((~~(4)~~)) (5) For all subsections in this section, the income and resources of ((a)) an individual sponsor (and the sponsor's spouse if living with the sponsor) shall be deemed to be the unearned income and resources of an alien for three years following the alien's entry into the United States.

((~~(5)~~)) (6) Monthly income deemed available to the alien from the individual sponsor or the sponsor's spouse not receiving AFDC or SSI shall be:

(a) The sponsor's total monthly unearned income, added to the sponsor's total monthly earned income reduced by twenty percent (not to exceed one hundred seventy-five dollars) of the total of any amounts received by the sponsor in the month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred in producing self-employment income in the month.

(b) The amount described in subsection ((~~(5)(a)~~)) (6)(a) of this section reduced by:

(i) The basic requirements standard for a family of the same size and composition as the sponsor and those other people living in the same household as the sponsor ((~~who are~~)) claimed by the sponsor as dependents to determine his or her federal personal income tax liability but who are not AFDC recipients;

(ii) Any amounts actually paid by the sponsor to people not living in the household ((~~who are~~)) claimed by the sponsor as dependents to determine his or her federal personal income tax liability; and

(iii) Actual payments of alimony or child support, with respect to individuals not living in the sponsor's household.

((~~(6)~~)) (7) Monthly resources deemed available to the alien from the sponsor shall be the total amount of the resources of the sponsor determined as if he or she was applying for AFDC in his or her state of residence, less one thousand five hundred dollars.

((~~(7)~~)) (8) In any case where a person is the sponsor of two or more aliens, the income and resources of the sponsor to the extent they would be deemed the income and resources of any one of the aliens under the provisions of this section shall be divided equally among the aliens.

((~~(8)~~)) (9) Income and resources which are deemed to a sponsored alien shall not be considered in determining the need of other unsponsored members of the alien's family except to the extent the income or resources are actually available.

((~~(9)~~)) (10) The provisions of this section shall not apply to any alien who:

(a) Meets the definition of refugee in WAC 388-55-010; or

(b) Is the dependent child of the sponsor or sponsor's spouse.

((~~(10)~~)) (11) Any sponsor of an alien and the alien shall be jointly and individually liable for any overpayment of assistance made to the alien during the three years after the alien's entry into the United States due to the sponsor's failure to provide correct information, except where such sponsors were without fault or where good cause existed.

(a) When a sponsor is found to have good cause or be without fault for not providing information to the agency, the sponsor will not be held liable for the overpayment and recovery will not be made.

(b) Good cause and no fault shall be defined as any circumstance beyond the control of the sponsor.

WSR 85-03-069
ADOPTED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2190—Filed January 17, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to long-term care ombudsman program, new chapter 388-18 WAC.

This action is taken pursuant to Notice No. WSR 84-23-020 filed with the code reviser on November 13, 1984. 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 43.190 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 January 16, 1985.

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

Chapter 388-18 WAC
LONG-TERM CARE OMBUDSMAN PROGRAM

NEW SECTION

WAC 388-18-010 PURPOSE. The purpose of this chapter is to implement the long-term care ombudsman program as provided for in chapter 43.190 RCW, RCW 36.39.060, RCW 74.38.040, and RCW 74.38.050.

NEW SECTION

WAC 388-18-020 DEFINITIONS. When used in this chapter, unless otherwise required from the context:

(1) "Administrative action" means any action or decision made by an agent of a facility as defined in RCW 43.190.020 affecting the provisions of service to residents but does not include complaints of negligence or other tortious conduct of direct-care staff.

(2) "Legal representative" includes attorneys at law, attorneys in fact, trustees, and, in the case of the estate of a decedent, personal representatives as defined by RCW 11.02.005(1).

(3) "Long-term care facility" is defined under RCW 43.190.020.

(4) "Ombudsman" means any long-term care ombudsman, including the director of the long-term care ombudsman project, ombudsmen employed by the state office, ombudsmen employed by local ombudsman programs authorized by RCW 36.39.060(2) or RCW 74.38.040(9).

(5) "Resident" means any client, patient, or other resident of a facility.

(6) "State office" means the office of the state long-term care ombudsman.

(7) "Volunteer ombudsmen" means any volunteer ombudsman certified by the ombudsman program.

NEW SECTION

WAC 388-18-030 DUTIES—STATE OMBUDSMAN. (1) Investigate and resolve complaints on behalf of long-term care residents.

(2) Monitor laws, regulations, and policies affecting the residents of long-term care facilities.

(3) Provide the public with information and education programs about long-term care facilities.

(4) Promote the development of consumer organizations, i.e., resident councils, family councils, family support groups, citizen advocacy groups, etc.

(5) Identify major issues relating to long-term care.

(6) Assist in recruiting and training of volunteer ombudsmen.

(7) Coordinate the activities of long-term care ombudsmen throughout the state.

(8) Establish procedures for ombudsmen access to long-term care facilities.

(9) Establish a state-wide uniform complaint reporting system.

(10) Establish procedures to ensure confidentiality of complaint files and appropriate release of file content.

(11) Prepare an annual report by January 1st of each year.

(12) Carry out such activities as the secretary deems appropriate.

NEW SECTION

WAC 388-18-040 DUTIES—LOCAL OMBUDSMAN. (1) Investigate and resolve complaints on behalf of long-term care residents.

(2) Monitor laws, regulations, and policies affecting the residents of long-term care facilities.

(3) Provide the public with information and education programs about long-term care facilities.

(4) Promote the development of consumer organizations, i.e., resident councils, family councils, family support groups, citizen advocacy groups, etc.

(5) Identify major issues relating to long-term care.

(6) Recruit and train volunteer ombudsmen.

(7) Submit monthly reports to the state ombudsman office.

(8) Carry out such activities as the state ombudsman deems appropriate.

NEW SECTION

WAC 388-18-050 DUTIES—CERTIFIED VOLUNTEER OMBUDSMEN. (1) Act as an information liaison between the community and the ombudsman.

(2) May participate in resident councils.

(3) May participate in family councils.

(4) Make regular visits to long-term care facilities including:

(a) Meeting new residents;

(b) Visiting residents, per request of residents' family, staff, or others;

(c) Linking/referring long-term care residents and family members to appropriate long-term care services and assisting them to obtain needed information/help.

(5) Refer complaints requiring investigation or arbitration to appropriate ombudsman.

(6) Participate in training programs provided by state and local ombudsmen.

(7) Submit monthly activity reports to the volunteer coordinator.

NEW SECTION

WAC 388-18-060 CERTIFICATION PROCEDURES FOR VOLUNTEER OMBUDSMEN. (1) All prospective volunteer ombudsmen shall be screened by a local screening committee.

(2) Selected applicants shall receive thirty hours of training provided by the state ombudsman office.

(3) Upon successful completion, the ombudsman office shall issue a certificate of completion and a picture identification card.

(a) Local ombudsman programs certifying their own volunteers shall issue their own certificate which will be signed by the local ombudsman office director.

(b) State-certified volunteer ombudsmen shall receive a certificate and picture identification card from DSHS. The identification card shall be signed by the division director.

NEW SECTION

WAC 388-18-070 ACCESS TO RESIDENTS, FACILITIES, AND RECORDS. (1) All ombudsmen and volunteer ombudsmen shall have appropriate access to residents and facilities.

(2) The following times are necessary and reasonable for ombudsman access to residents, facilities, and records:

(a) Any time during a facility's regular business day, regular visiting hours, or other period the facility is open to the public.

(b) Any other time access may be required by the particular condition to be investigated or monitored.

(3) Prior to seeking access to a facility, resident, or record at a time provided for in subsection (2)(b) of this section, the ombudsman shall make a written entry in an ombudsmen program file of the reason or reasons a particular condition requires access at such time.

(4) Resident visits by an ombudsman may be restricted or terminated by the resident without cause. A facility may restrict or terminate such visits only upon a documented physician's order so providing in express terms which shall be placed in the resident's file. However, if a resident freely and knowingly chooses to disregard such an order and to request continued visits, the ombudsman will honor the resident's choice. In such a case, the ombudsman may request the resident to sign a written statement indicating the resident's choice and stating the choice was freely and knowingly made.

(5) The ombudsman shall have access to a resident's records only after obtaining written consent from the resident, or the resident's guardian, limited guardian, or legal representative.

(6) Upon the resident's request, the volunteer ombudsman shall assist the resident or resident's representative to obtain appropriate access to his or her records.

(7) Ombudsmen shall not seek access to resident records if, in so doing, there is a reasonable likelihood the resident's identity may be disclosed without authorization in accordance with the provisions of this chapter.

(8) Ombudsmen and volunteer ombudsmen shall treat all information contained in residents' records as confidential.

NEW SECTION

WAC 388-18-080 REPORTING REQUIREMENTS. (1) All local ombudsmen programs shall submit monthly reports to the state ombudsman office. All ombudsmen programs shall use the reporting forms provided by the state ombudsman office.

(2) Volunteer ombudsmen shall submit monthly activity reports to the volunteer coordinator.

(3) The volunteer coordinator shall submit volunteer ombudsmen activity reports to the state ombudsman.

(4) Failure to submit monthly reports to the state ombudsman office shall be a sufficient reason to revoke certification status.

NEW SECTION

WAC 388-18-090 FACILITY ENTRY—REPORT AND IDENTIFICATION—DISCLOSURE OF PURPOSE. (1) Upon reporting to a facility or as soon as is practicable after entering a facility, all ombudsmen and volunteer ombudsmen will report their presence to the facility administration and present identification issued and certified by the appropriate ombudsman office.

(2) Ombudsman and volunteer ombudsman picture identification shall be issued by the ombudsman office and include at least the following information:

(a) The name of the ombudsman;

(b) The name, address, and telephone number of the agency with which the ombudsman is associated; and

(c) The ombudsman's status as a volunteer ombudsman, if applicable.

(3) Nothing in this section shall be construed as authorizing disclosure of identities or other confidential information without authorization of the resident, guardian, or personal representative.

NEW SECTION

WAC 388-18-100 PRIVACY DURING OMBUDSMAN VISITS. (1) The provisions of this section apply to ombudsman visits to residents for the purpose of hearing, investigating and resolving complaints, or rendering advice.

(2) When making such visits, ombudsmen and volunteer ombudsmen will take appropriate measures to secure privacy for the visit.

(3) Generally, securing privacy during such visits will require the visit be conducted as a one-to-one conference between an ombudsman or volunteer ombudsman and a resident out of the presence of facility staff and any other person except the guardian or personal representative. By way of example, such conferences may be conducted in the following settings:

(a) A resident's enclosed, private room;

(b) A resident's shared room, when roommates or others are not present;

(c) A facility common area if adequate safeguards against inadvertent or other disclosure exist; or

(d) A facility office or other room if made available by the facility under conditions ensuring privacy.

(4) Conferences between an ombudsman and two or more residents or residents and facility administration may be necessary or appropriate to carry out the provisions of this chapter and applicable law. The ombudsman shall have discretion to seek such a conference, provided that, if there is a reasonable likelihood private, privileged, or confidential information may be revealed at the conference, the ombudsman shall obtain written authorization for release of such information, signed by appropriate parties in accordance with the provisions of this chapter and applicable law, before proceeding with the conference.

(5) Ombudsman and volunteer ombudsman shall comply with the expressed wishes or preferences of residents with regard to visits and shall exercise due regard for the rights of other residents and facility schedules and routines, subject only to the requirements of this chapter and applicable law.

NEW SECTION

WAC 388-18-110 CONFIDENTIALITY OF INFORMATION. (1) The following limitations on disclosure shall be strictly observed:

(a) No records or files of ombudsmen relating to any complaint or investigation shall be disclosed unless disclosure is authorized by the resident or by the resident's guardian, limited guardian, or legal representative.

(b) The identity of any complainant, witness, patient, or resident shall not be disclosed unless:

(i) Such informant or guardian, limited guardian, or legal representative thereof, consents in writing to such disclosure; or

(ii) The disclosure is required by court order.

(2) The files and records of all ombudsmen programs shall be kept locked at all times when not in use, and access to these files shall be limited to ombudsmen.

(3) Each ombudsman program shall designate one or more ombudsmen to have authority over the disposition of records and files.

(4) All ombudsmen programs shall have and keep in force written procedures and forms relating to the disclosure of confidential information. Such procedures and forms shall be reviewed by and subject to the approval of the state ombudsman office.

NEW SECTION

WAC 388-18-120 REFERRALS. (1) The state office shall develop procedures to be followed by all ombudsmen and ombudsmen programs with regard to referrals to other public and private agencies.

(2) No referral shall be made to any public or privacy agency in a manner compromising any individual's rights to anonymity, privacy, or confidentiality unless authorized in accordance with the provisions of this chapter and applicable law.

(3) The ombudsman office shall make appropriate referrals to other public and private agencies.

NEW SECTION

WAC 388-18-130 POSTING REQUIREMENTS. (1) Every long-term care facility shall post in a conspicuous location a notice of the nursing home complaint toll-free number and the name, address, and telephone

number of the office of the long-term care ombudsman and a description of the services provided by the office.

(2) The office shall provide a form of the notice approved by the office and the bureau of nursing home affairs.

(3) If a long-term care facility wishes to post a different form of the notice rather than the one provided, the facility must receive prior approval from the office and the bureau of nursing home affairs, and in the meantime, the facility must post the approved form of the notice described in this subsection.

(4) This information shall also be distributed to the residents, family members, and legal guardians upon the resident's admission to the facility.

WSR 85-03-070
ADOPTED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 2191—Filed January 17, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to persons eligible for medically needy assistance, amending WAC 388-99-010.

This action is taken pursuant to Notice No. WSR 84-23-019 filed with the code reviser on November 13, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED January 16, 1985.

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

AMENDATORY SECTION (Amending Order 1725, filed 12/3/81)

WAC 388-99-010 PERSONS ELIGIBLE FOR MEDICALLY NEEDY ASSISTANCE. ((~~(1)~~)) Medically needy refers to a resident of the state of Washington whose income and/or resources are above the limits prescribed for the categorically needy and who meets the resource limits of the SSI program and is:

((~~(a)~~)) (1) Related to aid to families with dependent children (AFDC). See chapter 388-83 WAC.

((~~(b)~~)) (2) Related to supplemental security income (SSI). See chapter 388-92 WAC.

((~~(c)~~)) (3) Related to state supplementary payment program (SSP).

((~~(d) A financially eligible person~~)) (4) Under age twenty-one ((~~who is~~)) and in:

((~~(i)~~)) (a) Foster care, or

((~~(ii)~~)) (b) Subsidized adoption, or

((~~(iii)~~)) (c) Skilled nursing facility, intermediate care facility, intermediate care facility/mentally retarded,

((~~(iv)~~)) (d) An approved inpatient psychiatric facility.

((~~(e)~~)) (5) Aged, blind, ((~~and~~)) or disabled ((~~individuals~~)) and residing in a medical facility ((~~whose~~)) with income ((~~is~~)) above the three hundred percent of the SSI benefit cap.

((~~(2) Groups defined as categorically needy rather than medically needy are:~~

~~(a) Those described in chapters 388-82 and 388-93 WAC, and~~

~~(b) SSI presumptively eligible.~~)) (6) A child under five years of age, born after September 30, 1983.

WSR 85-03-071
ADOPTED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Commission for Vocational Rehabilitation)
[Order 2193—Filed January 17, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Vocational rehabilitation services—Physical and mental restoration, amending WAC 490-500-385.

This action is taken pursuant to Notice No. WSR 84-23-018 filed with the code reviser on November 13, 1984. 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 74.29.025 which directs that the Department of Social and Health Services has authority to implement the provisions of chapter 74.29 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 January 16, 1985.

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

AMENDATORY SECTION (Amending Order 1050, filed 8/29/75)

WAC 490-500-385 VOCATIONAL REHABILITATION SERVICES—PHYSICAL AND MENTAL RESTORATION. (1) Physical and mental restoration shall be provided to a client to the extent necessary to achieve his vocational rehabilitation objective provided the clinical status of his condition is stable or slowly progressive, and provided that physical and mental restoration services may be expected to eliminate or substantially reduce the handicapping condition within a reasonable period of time.

(2) Physical and mental restoration services shall be provided to a client accepted for extended evaluation to

the extent necessary to complete the evaluation, regardless of whether his condition is stable or slowly progressive.

(3) Physical and mental restoration services shall include all medical and related services exclusive of organ transplantation and experimental procedures by means of which a physical, mental, or emotional disability may be rendered less incapacitating, such as:

(a) Medical treatment including but not limited to therapeutic programs under medical supervision, necessary laboratory work, and necessary medication,

(b) Surgical treatment; surgery for cardiac or gynecological conditions shall be provided only if approved by the ((~~state~~)) regional medical consultant,

(c) Psychiatric treatment only when the diagnostic study clearly indicates a favorable prognosis for relatively short term therapy. A program of psychiatric treatment which will extend beyond twelve months must have the prior approval of the ((~~state~~)) regional medical consultant,

(d) Dental treatment only when it will significantly increase employability or remove an established vocational handicap, or in emergency situations involving pain, acute infections, or injury. Examples of disabling dental conditions for which restorative services may be authorized include widespread ulceration of teeth, destruction of tooth structures, decay which seriously affects the individual's ability to eat, badly malformed or positioned teeth, or rejection of the individual from employment on the basis of his appearance. Restorative dental services will not be provided when the restoration will not directly affect employability;

(e) Nursing services,

(f) Hospital (either inpatient or outpatient care) and clinic services,

(g) Convalescent, nursing, or rest home care only when there is an expectation of a normal period of convalescence after which other appropriate services leading to the rehabilitation of the client may be initiated or resumed. Such care shall not be provided by the division as a long-term process for conditions not expected to improve,

(h) Drugs and supplies,

(i) Prosthetic, orthoptic or other assistive devices essential to obtaining or retaining employment,

(j) Eyeglasses and visual services,

(k) Podiatry;

(l) Physical therapy; physical therapy shall consist of the employment of the physically beneficial properties of light, heat, cold, water, electricity, massage, manipulation, exercise, and mechanical devices as treatment of disease or injury.

(m) Occupational therapy; occupational therapy shall include all manual skills and recreational activities which provide specific active exercise for physical disabilities and and shall include psychologic rehabilitation techniques,

(n) Medical or medically related social work services,

(o) Medically directed speech or hearing therapy,

(p) Treatment of medical applications and emergencies, either acute or chronic, which are associated with or arise out of the provision of physical restoration services, or are inherent in the condition under treatment, and

(q) ((~~Special services for the treatment of individuals suffering from end-stage renal disease, including transplantation, dialysis, artificial kidneys and supplies, and~~

~~(r)~~)) Short term treatment of minor or temporary illness which, if not cared for, would constitute a hazard to the achievement of the vocational objective (or to the completion of extended evaluation); such short term medical treatment shall not exceed thirty days in the case of any one illness,

(4) Physical and mental restoration services shall be provided by persons licensed to practice in the field of their specialties. It shall be required that physicians providing medical and/or surgical treatment services shall demonstrate eligibility for or certification by the appropriate medical specialty board. Any exceptions to this policy can only be made by the state medical consultant. The state medical consultant for the department shall be responsible for establishing standards of competence for vendors of physical restoration services provided clients of the department where licensure or other regulatory standards have not been established in the Washington Administrative Code, as amended.

(5) The provision of physical and mental restoration services shall be conditioned on the economic need of the client.

WSR 85-03-072
ADOPTED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2194—Filed January 17, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd	WAC 388-83-017	Social Security number.
Amd	WAC 388-92-050	Limitation of resources.
Amd	WAC 388-95-390	Limitation of resources.
Amd	WAC 388-99-035	Resource standards.

This action is taken pursuant to Notice No. WSR 84-23-017 filed with the code reviser on November 13, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED January 16, 1985.

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

AMENDATORY SECTION (Amending Order 1646, filed 4/27/81)

WAC 388-83-017 SOCIAL SECURITY NUMBER. (1) ((~~A categorically needy applicant shall be encouraged to provide a Social Security number on the application form and shall be assisted to secure such number if he/she wishes to secure one.~~

~~(2) There is no Title XIX enumeration requirement.~~)) As a condition of eligibility each applicant for or recipient of medical assistance shall be required to:

(a) Furnish social security numbers for all persons for whom assistance is being requested or,

(b) Apply for social security numbers if they are unknown or have not been issued.

(c) In the case of a child born to a woman eligible for and receiving medical assistance, on the date of the child's birth, medical assistance may be provided for the child before application for a social security number for a period of one year if:

(i) The child remains a member of the mother's household, and

(ii) The mother remains eligible for medical assistance.

(2) The applicant/recipient has the responsibility to report promptly and accurately any new social security number within twenty days of its receipt.

(3) Assistance will not be denied, delayed or terminated pending issuance of social security numbers if the applicant/recipient provides verification that he/she has met the requirement in subsection (1)(b) of this section.

(4) If the applicant or recipient fails or refuses to comply with the requirement in subsection (1) of this section for each person included in the assistance unit, eligibility for such person(s) cannot be determined and they shall be excluded from the assistance unit and denied medical assistance.

(5) The department shall assist the applicant in obtaining a social security number by referring him or her to the nearest social security office and by furnishing to the client from department records any verification requested by the social security administration.

(6) These rules shall be effective April 1, 1985.

AMENDATORY SECTION (Amending Order 1646, filed 4/27/81)

WAC 388-92-050 LIMITATION OF RESOURCES. The total value of resources allowed and not otherwise excluded shall not exceed ((~~$1,500~~)) the dollar amount in subsection (1) of this section for a single individual or ((~~$2,250~~)) the dollar amount in subsection (2) of this section for a couple.

(1) The resource limitation for a single individual shall be $1,500 prior to January 1, 1985 and shall be increased to $1,600 on January 1, 1985, to $1,700 on January 1, 1986, to $1,800 on January 1, 1987, to $1,900 on January 1, 1988 and to $2,000 on January 1,1989.

(2) The resource limitation for a couple shall be $2,250 prior to January 1, 1985, and shall be increased to $2,400 on January 1, 1985, to $2,550 on January 1, 1986, to $2,700 on January 1, 1987, to $2,850 on January 1, 1988, and to $3,000 on January 1, 1989.

AMENDATORY SECTION (Amending Order 1964, filed 6/1/83)

WAC 388-95-390 LIMITATION OF RESOURCES. The total value of resources allowed and not otherwise excluded shall not exceed ((~~$1,500~~)) the dollar amount in subsection (1) of this section for a single individual or ((~~$2,250~~)) the dollar amount in subsection (2) of this section for a couple.

(1) The resource limitation for a single individual shall be $1,500 prior to January 1, 1985 and shall be increased to $1,600 on January 1, 1985, to $1,700 on January 1, 1986, to $1,800 on January 1, 1987, to $1,900 on January 1, 1988 and to $2,000 on January 1, 1989.

(2) The resource limitation for a couple shall be $2,250 prior to January 1, 1985, and shall be increased to $2,400 on January 1, 1985, to $2,550 on January 1, 1986, to $2,700 on January 1, 1987, to $2,850 on January 1, 1988, and to $3,000 on January 1, 1989.

AMENDATORY SECTION (Amending Order 1972, filed 6/16/83)

WAC 388-99-035 RESOURCE STANDARDS. (1) The total value of resources allowed and not otherwise excluded shall not exceed ((~~$1,500~~)) the dollar amount in (a) of this subsection for a single individual or ((~~$2,250~~)) the dollar amount in (b) of this subsection for a couple. This amount is increased by $50 for each additional family member in the household. If applicant has resources in excess of the standards the individual is not eligible and the application is denied.

(a) The resource limitation for a single individual shall be $1,500 prior to January 1, 1985 and shall be increased to $1,600 on January 1, 1985, to $1,700 on January 1, 1986, to $1,800 on January 1, 1987, to $1,900 on January 1, 1988 and to $2,000 on January 1, 1989.

(b) The resource limitation for a couple shall be $2,250 prior to January 1, 1985, and shall be increased to $2,400 on January 1, 1985, to $2,550 on January 1, 1986, to $2,700 on January 1, 1987, to $2,850 on January 1, 1988, and to $3,000 on January 1, 1989.

(2) See WAC 388-92-043 for regulations on transfer of resources without adequate consideration.

WSR 85-03-073
ADOPTED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 2195—Filed January 17, 1985]

I, David A. Hogan, director of the Division of Administration and Personnel, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Payment—Hospital care, amending WAC 388-87-070.

This action is taken pursuant to Notice No. WSR 84-23-038 filed with the code reviser on November 16, 1984. These rules shall take effect thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

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

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

APPROVED AND ADOPTED January 16, 1985.

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

AMENDATORY SECTION (Amending Order 2162, filed 10/18/84)

WAC 388-87-070 PAYMENT—HOSPITAL CARE. (1) The department will pay hospital costs of eligible persons who are patients in general hospitals when such hospitals meet the criteria as defined in RCW 70.41.020.

Recipients must have been approved as financially and medically eligible for hospitalization. They are:

(a) Categorically needy recipients;

(b) Limited casualty program recipients;

(i) Medically needy recipients;

(ii) Medically indigent recipients;

(c) Recipients of continuing general assistance.

(2) For hospital admissions and outpatient services occurring between July 1, 1982, and ((~~September 30~~)) December 31, 1984, and for services described in subsections (5)(a), (b) and (6) of this section, except for nonallowable revenue codes, reimbursable cost will be determined by the application of the ratio of hospital commission approved operating expense and total rate setting revenue. For all administrative days, days of hospitalization in which medical necessity is below that appropriate for acute hospital care, the departments maximum reimbursement level will be the adjusted state-wide average per diem rate for skilled nursing facilities.

(3) However, for the period February 15, 1983, through June 30, 1983, reductions in the payment rate will be applied to services provided to persons eligible for the medically indigent component of the limited casualty program and recipients of continuing general assistance. For these two eligibility groups, hospitals will be statistically clustered into groupings on their base of full-charge paying patients. A different reduction in the payment rate will be applied to each group of hospitals as follows:

Hospital Group	Percent Revenue from Full-Charge Paying Patients	Percentage Point Reduction in Payment Rate	Percent Reduction Total Rate Setting Revenue
1	40.33 or less	4.4	0.30
2	40.34 - 45.98	17.9	0.36
3	45.99 - 57.28	18.7	0.42
4	57.29 - 68.59	28.0	0.48
5	68.60 or more	20.1	0.54

(4) However, for the period April 1, 1984, through ((~~September 30~~)) December 31, 1984, and for services described in subsection (5)(a) through (d) of this section reductions in the payment rate will be applied to services provided to persons eligible for the medically indigent component of the limited casualty program and recipients of continuing general assistance. For these two eligibility groups, hospitals will be statistically clustered into groupings on their base of full-charge paying patients. A different reduction in the payment rate will be applied to each group of hospitals as follows:

Hospital Group	Percent Revenue from Full-Charge Paying Patients	Percentage Point Reduction in Payment Rate	Percent Reduction Total Rate Setting Revenue
1	39.39 or less*	2.7	0.274
2	39.40 - 44.48	11.5	0.313
3	44.49 - 48.51	10.2	0.352
4	48.52 - 56.28	17.8	0.391
5	56.29 or more	22.9	0.430

* Plus Psychiatric Hospitals

(5) For inpatient hospital discharges related to admissions occurring on or after ((~~October 1, 1984~~)) January 1, 1985, payment amounts will be determined according to a diagnosis-related group based pricing system. Payment amounts will be based upon historical average costs per discharge adjusted for case mix and indexed to the current period, with the following exceptions:

(a) The payment rates for certain rehabilitation, pain treatment, psychiatric, alcoholism treatment and detoxification, and long-term hospital-level care services will be determined in accordance with the methods described in subsections (2) and (4) of this section.

(b) The payment rate for services provided to patients occupying beds utilized by the Fred Hutchinson Cancer Research Center bone marrow transplant program will be determined by multiplying the applicable ratio of operating expense to revenue times allowable charges and applying the reduction described in subsection (4) of this section, as appropriate.

(c) The payment rate for children's hospitals will be determined by computing the ratio of indexed historical cost to total rate setting revenue, not to exceed the hospital commission approved ratio of operating expense to total rate setting revenue. This ratio shall be multiplied times allowable charges. As appropriate, the reduction described in subsection (4) of this section will be applied.

(d) The payment rates for cases meeting the criteria of cost outlier will be set at eighty percent of the rates determined in accordance with the methods described in subsections (2) and (4) of this section.

(e) For the period ((~~October 1, 1984~~)) January 1, 1985, through June 30, 1985, reductions in the payment rate will be applied to services which are provided to persons eligible for the medically indigent component of the limited casualty program and recipients of continuing general assistance and are not covered under (a), (b), (c), or (d) of this subsection. For these two eligibility groups, hospitals will be statistically clustered into groupings on their base of full-charge paying patients. A different reduction in the per-case payment rate will be applied to each group of hospitals as follows:

Hospital Group	Percent Revenue from Full-Charge Paying Patients	Percentage Reduction in Payment Rate	Percent Reduction Total Rate-Setting Revenue
1	39.39 or less	2.7	0.274
2	39.40 - 44.48	11.5	0.313
3	44.49 - 48.51	10.2	0.352

Hospital Group	Percent Revenue from Full-Charge Paying Patients	Percentage Reduction in Payment Rate	Percent Reduction Total Rate-Setting Revenue
4	48.52 - 56.28	17.8	0.391
5	56.29 or more	22.9	0.430

(6) For outpatient hospital services provided on or after ((~~October 1, 1984~~)) January 1, 1985, payment rates will be determined in accordance with subsection (2) of this section.

WSR 85-03-074
EMERGENCY RULES
DEPARTMENT OF FISHERIES
[Order 85-05—Filed January 17, 1985]

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

I, William R. Wilkerson, find that an emergency exists and that this order is necessary for the preservation 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 salmon stocks are no longer 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 January 16, 1985.

By Russell W. Cahill
for William R. Wilkerson
Director

REPEALER

The following sections of the Washington Administrative Code are repealed effective 11:59 p.m. January 31, 1985:

WAC 220-57-28000F HOQUIAM RIVER (84-202)

WAC 220-57-52000F WISHKAW RIVER (84-202)

WAC 220-57-52500F WYNOOCHEE RIVER (84-202)

WSR 85-03-075
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
[Order DE 85-01—Filed January 17, 1985]

I, Donald W. Moos, director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, Washington, the annexed rules relating to the adopting of chapter 173-144 WAC, administration of the flood control assistance account program, regarding grant assistance to counties and municipal corporations for flood control maintenance projects.

I, Donald W. Moos, 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 needed to establish standards, criteria and requirements which are needed to complete work and make decisions regarding approval of flood control maintenance projects. This must be completed for submission to the 1985 legislature.

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

This rule is promulgated pursuant to chapter 86.26 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 January 16, 1985.

By Donald W. Moos
Director

Chapter 173-144 WAC
ADMINISTRATION OF THE FLOOD CONTROL ASSISTANCE ACCOUNT PROGRAM

NEW SECTION

WAC 173-144-010 AUTHORITY AND PURPOSE. Chapter 212, Laws of 1984, Regular Session, amended chapter 86.26 RCW, State participation in flood control maintenance (the Act); RCW 86.26.010 provides that the department of ecology (WDOE) shall administer and enforce the flood control assistance account program (FCAAP) established by the Act. This chapter describes the manner in which WDOE will implement the provisions of the Act.

NEW SECTION

WAC 173-144-020 ELIGIBILITY CRITERIA FOR FCAAP FUNDS. The following criteria will be used for approval by WDOE of a maintenance project application for flood control assistance funds.

(1) Eligible municipal corporations. Municipal corporations which are eligible to receive FCAAP grant funds include but are not limited to counties, cities,

towns, conservation districts, and special districts which have flood control responsibilities.

(2) Public benefit. It shall be clearly demonstrated that the projects shall display a general public and state interest as differentiated from a private interest and they shall bring about public benefits commensurate with the FCAAP funds provided.

(3) Permit requirements. Prior to construction, the project must meet all applicable local, state, and federal regulation and permit requirements.

(4) Comprehensive flood control management plan. The county or municipal corporation in which the project is located must either have a comprehensive flood control management plan completed and adopted or in preparation by the appropriate local authority and to be completed and adopted within three years of the date of certification by the county engineer that a comprehensive flood control management plan is being prepared. The project shall be consistent with and conform to the comprehensive flood control management plan.

(5) Project cost. The project grant application shall include the estimated project cost.

(6) Project benefits. The project benefits shall be clearly identified and described.

(7) National flood insurance program (NFIP) requirements. The unincorporated county or incorporated city or town in which the project is located shall be participating in the NFIP and shall be meeting the NFIP regulation requirements.

(8) Legislative approval. Nonemergency projects shall not be funded from the FCAAP without approval by the legislature.

(9) Budget report. Any municipal corporation seeking FCAAP funds shall submit its annual budget for flood control purposes to the county engineer within thirty days after final adoption. The budget reports for municipal corporations and for the county shall be submitted to WDOE by the county engineer not later than March 1 of every year.

(10) Eligible project costs. Only that work which is conducted during project construction shall be eligible from payment for FCAAP funds.

NEW SECTION

WAC 173-144-030 DEFINITIONS. Following are the FCAAP definitions of words and phrases:

(1) "Emergency funds." That portion of the four million dollar biennial appropriation set aside to perform emergency work.

(2) "Emergency work." Work which must be done immediately to protect life and property when an imminent flood threat exists or immediately after a flooding situation to prevent further losses.

(3) "Maintenance work." The work necessary to keep in good condition, repair and preservation of the natural condition or man-made flood control facilities which are subject to damage or destruction from flooding by action of erosion, by stream flow, by sheet runoff, or other damage by the sea or other bodies of water.

(4) "Restoring." The work necessary to bring an existing condition or man-made facility or other works back to its former or natural condition by repairing, rebuilding, or altering.

NEW SECTION

WAC 173-144-040 FCAAP PROJECT APPLICATION AND APPROVAL PROCESS. The project application and approval process for the municipal corporation application shall include the following in the general sequence given.

(1) The applicant shall prepare the project application to comply with the provisions of chapter 86.26 RCW and this chapter. The application shall be made on a form furnished by WDOE. In addition to the completed form, the application shall including the following:

(a) A detailed written description of the project;

(b) A vicinity map and sketch to identify water body name, stream river mile, section-township-range, etc.;

(c) A general plan drawing of the project on an 8 1/2" x 11" or 8 1/2" x 14" sheet; and

(d) A description of the project benefits which describe how the project will mitigate flood damage and describe development which exists on adjacent and nearby lands which are protected by the facility.

(2) The applicant and county engineer shall review the preliminary project plans with the Washington departments of fisheries and game.

(3) The applicant shall indicate the priority of the project applications if more than one is submitted.

(4) The applicant shall submit a prioritized list of project applications to the county engineer.

(5) The county engineer shall certify the status of the comprehensive flood control management plan and shall submit a prioritized list of all project applications within the county to WDOE.

(6) WDOE will analyze all projects for compliance with the requirements pursuant to this chapter and chapter 86.26 RCW and give priority to projects based on the criteria defined in WAC 173-144-050.

(7) WDOE submits the list of projects to the legislature for approval.

(8) The applicant and/or county shall acquire the necessary federal, state, and local permits along with any other permission required to complete the project.

(9) WDOE shall consult with the departments of fisheries and game regarding the list of projects.

(10) WDOE shall prepare and finalize the cooperative agreements with the counties.

(11) The construction plans and specifications shall be prepared by the applicant for approval by the county engineer prior to submission to WDOE for review of each project for compliance with all requirements.

(12) The county engineer shall supervise and direct each project.

(13) WDOE shall monitor each project for compliance with the provisions of the cooperative agreement.

NEW SECTION

WAC 173-144-050 PRIORITY OF NONEMERGENCY FCAAP PROJECTS. The priority given to nonemergency projects by WDOE, the counties, and

other municipal corporations shall involve consideration to the following criteria:

(1) The public benefits from the project shall be commensurate with the amount of FCAAP funds granted for the project.

(2) An evaluation of the findings that the county, city, or town in which the project is located is engaging in appropriate floodplain management activities in the one-hundred-year flood plan.

(3) An evaluation of the status and adequacy of the comprehensive flood control management plan for the project basin, county or municipality.

(4) The priority given to the projects by WDOE shall consider the priority which has already been established by each county.

(5) An evaluation of the magnitude of potential public damage that might occur without the project.

(6) An evaluation of the project urgency.

NEW SECTION

WAC 173-144-060 FLOOD CONTROL ASSISTANT ACCOUNT CONTRIBUTION AND MATCH REQUIREMENTS FOR NONEMERGENCY PROJECTS. The following criteria shall be used regarding the FCAAP funding for all nonemergency projects:

(1) The maximum contribution from the flood control assistance account toward the cost of any project shall be five hundred thousand dollars per project.

(2) The amount of FCAAP contribution for any nonemergency project shall not exceed fifty percent of the total project cost.

(3) The total FCAAP contribution for all projects in any county shall not exceed five hundred thousand dollars per biennium.

NEW SECTION

WAC 173-144-070 EMERGENCY PROJECT FUND ADMINISTRATION. The following criteria shall be the basis of allocating the emergency fund moneys:

(1) Appropriation from the FCAAP fund for emergency projects will require the declaration of an emergency by the county commission or the county executive.

(2) Application for emergency funds must be made on the same form used for nonemergency fund application.

(3) Payment of FCAAP funds for the emergency project will be based on actual project costs.

(4) Payment of money from the emergency fund shall be allocated on a first-come first-serve basis and shall not be based on any priority system.

(5) Emergency project grants shall not require legislative approval but shall be approved by the director of the department of ecology.

(6) The maximum amount of money allocated to the emergency project fund shall be five hundred thousand dollars per biennium and will be so identified with the list of projects submitted to the legislature for appropriation.

(7) The flood control assistance account contribution shall not exceed eighty percent of the eligible project cost.

NEW SECTION

WAC 173-144-080 MULTI-YEAR PROJECTS. Legislative approval will only be required once for a project which continues more than one year, but funding after the first year is subject to further FCAAP appropriation by the legislature.

NEW SECTION

WAC 173-144-090 WORK STANDARDS FOR ALL FCAAP PROJECTS. All work which is funded from the flood control assistance account shall conform to the standards and specifications of the United States Army Corps of Engineers, the United States Department of Agriculture Soil Conservation Service or the county engineer.

WSR 85-03-076
PROPOSED RULES
CRIMINAL JUSTICE TRAINING COMMISSION
[Filed January 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Criminal Justice Training Commission intends to adopt, amend, or repeal rules concerning description of central and field organization, amending WAC 139-04-010;

that the agency will at 10:00 a.m., Thursday, March 7, 1985, in the Criminal Justice Training Center, 2450 South 142nd, Seattle, WA 98168, 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 43.101.080(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 6, 1985.

Dated: January 4, 1985
By: James C. Scott
Executive Director

STATEMENT OF PURPOSE

Rule: Amendments to WAC 139-04-010, Description of central and field organization.

Agency: Washington State Criminal Justice Training Commission.

General Purpose of Rule: Generally, the rule shown below has been adopted to update the existing rule.

Description and Summary for this Rule: Amendments to WAC 139-04-010 delete reference to the Board on Judicial Training Standards and Education, and provide additional and update information.

Statutory Authority: RCW 42.17.250.

Responsible Agency Personnel: The following personnel of the Washington State Criminal Justice Training Commission have responsibility for drafting, implementing and enforcing this rule: James C. Scott, Executive Director, and Garry E. Wegner, Assistant Director,

Washington State Criminal Justice Training Commission, Mailstop PW-11, Olympia, WA 98504, (206) 459-6342.

AMENDATORY SECTION (Amending Order 6-A, filed 1/17/78)

WAC 139-04-010 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION. The Washington state criminal justice training commission consists of ((~~the commission and its personnel~~)) staff, twelve commissioners, the board on law enforcement training standards and education, the board on prosecutor training standards and education, and the board on correctional training standards and education((~~, and the board on judicial training standards and education~~)). The primary responsibility of the boards is the recommendation to the commission of training standards, goals, ((~~and~~)) programs, and budget for criminal justice personnel within their specific purview. Recommendations for training pursuant to commission adopted goals and standards may be approved by the executive director of the commission. Other board recommendations will be reviewed by the commission for approval or rejection. Approved recommendations and other matters of the commission necessitating implementation or staff involvement will be assigned by the executive director to appropriate personnel.

The central office of the commission is located on the campus of St. Martin's College, Olympia, Washington. It is maintained by the commission's executive director and staff from 8:00 a.m. to 5:00 p.m., Monday through Friday, and serves as a central repository for the commission's records of administration and operation.

The Criminal Justice Training Center, 2450 So. 142nd, Seattle, Washington, serves as the commission's primary training site. Other training is conducted locally, regionally, or at centralized locations state-wide, as determined by staff.

WSR 85-03-077
PROPOSED RULES
CRIMINAL JUSTICE TRAINING COMMISSION
[Filed January 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Criminal Justice Training Commission intends to adopt, amend, or repeal rules concerning amending and repealing sections in chapter 139-08 WAC and adding new section WAC 139-08-600;

that the agency will at 10:00 a.m., Thursday, March 7, 1985, in the Criminal Justice Training Center, 2450 South 142nd, Seattle, WA 98168, 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 43.101.080(2).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 6, 1985.

Dated: January 4, 1985
By: James C. Scott
Executive Director

STATEMENT OF PURPOSE

Rule: Chapter 139-08 WAC, Practice and procedure.

Action: Repealing and amending sections in chapter 139-08 WAC and adding new section WAC 139-08-600.

General Purpose of Rule: Proposed repeal of certain portions of chapter 139-08 WAC deletes regulatory provisions which are unnecessary or inapplicable to commission operation; proposed amendment of certain portions will update chapter 139-08 WAC and degender text throughout; and proposed new section will supplant deletions by providing and describing an appeal process for an individual requesting administrative review of any agency action which directly and adversely affects such individual.

Description, Summary, and Statutory Authority for Rule: Repeal or amendment of existing regulations and adoption of new regulation will be considered under the commission's authority of RCW 43.101.080(2). Proposal will update, degender, and delete unnecessary or inapplicable practice and procedure. Additionally, new section will provide a simplified appeal process for an individual requesting administrative review of any agency action which directly and adversely affects such individual; describes role and relationship of advisory boards and training commission within that process; specifies the process of requesting review and the information which can be considered subsequently.

Responsible Agency Personnel: The following personnel of the Washington State Criminal Justice Training Commission have responsibility for drafting, implementing and enforcing this rule: James C. Scott, Executive Director, and Garry E. Wegner, Assistant Director, Washington State Criminal Justice Training Commission, Mailstop PW-11, Olympia, WA 98504, phone (206) 459-6342, scan 585-6342.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-005 "COMMISSION" DEFINED. As used in this chapter "commission" means the Washington state criminal justice training commission and, where applicable, the board on law enforcement training standards and education, the board on prosecutor training standards and education, ((~~the board on judicial training standards and education,~~)) and the board on correctional training standards and education.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-040 APPEARANCE AND PRACTICE BEFORE COMMISSION—APPEARANCE BY FORMER EMPLOYEE OF BOARD OR FORMER MEMBER OF ATTORNEY GENERAL'S STAFF. No member of the attorney general's staff assigned to represent the commission or a hearing committee of said commission may at any time after severing ((~~his~~)) employment with the attorney general appear, except with the written permission of the commission, in a representative capacity on behalf of other parties in a formal proceeding wherein ((~~he~~)) the staff member previously took an active part in the investigation as a representative of the commission or a hearing committee of said commission.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-090 SERVICE OF PROCESS—SERVICE UPON PARTIES. The final order, and any other paper required to be served by the commission upon a party, shall be served upon such party or upon the agent designated by ((~~him~~)) the party or by law to receive service of such papers, and a copy shall be furnished to counsel of record.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-130 SUBPOENAS—WHERE PROVIDED BY LAW—FORM. Every subpoena shall state the name of the commission and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce

designated books, documents or things under ((~~his~~)) such person's control at a specified time and place.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-150 SUBPOENAS—SERVICE. Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering ((~~him~~)) on demand the fees for one day's attendance and the mileage allowed by law.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-240 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—AUTHORIZATION. A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the commission and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify ((~~him~~)) the person or the particular class or group to which ((~~he~~)) the person belongs. On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-270 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—RECORDATION. The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under ((~~his~~)) the officer's direction and in ((~~his~~)) the officer's presence, record the testimony by typewriter directly or by transcription from stenographic notes, wire or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-280 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—SIGNING ATTESTATION AND RETURN. (1) When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by ((~~him~~)) the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress, the commission holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(2) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the commission, or its designated hearing officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-290 DEPOSITIONS AND INTERROGATORIES IN CONTESTED CASES—USE AND EFFECT. Subject to ruling by the hearing officer upon objections, a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the hearing officer upon his own motion or the motion of any party. Except by agreement of the parties or ruling of the hearing officer, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness ((~~his~~)) the party's witness by taking ((~~his~~)) the other party's deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by ((~~him~~)) the party or any other party.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-320 DEPOSITIONS UPON INTERROGATORIES—INTERROGATION. Where the interrogatories are forwarded to an officer authorized to administer oaths as provided in WAC 139-08-230 the officer taking the same, after duly swearing the deponent, shall read to ((~~him~~)) the deponent seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the succeeding interrogatory is asked. No one except the deponent, the officer and the court reporter or stenographer recording and transcribing it shall be present during the interrogation.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-330 DEPOSITIONS UPON INTERROGATORIES—ATTESTATION AND RETURN. The officer before whom interrogatories are verified or answered shall (1) certify under ((~~his~~)) official signature and seal that the deponent was duly sworn ((~~by him~~)), that the interrogatories and answers are a true record of the deponent's testimony, that no one except deponent, the officer and the stenographer were present during the taking, and that neither ((~~he~~)) the officer nor the stenographer((~~, to his knowledge,~~)) is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send by registered or certified mail the original copy of the deposition and exhibits with ((~~his~~)) attestation to the commission, or its designated hearing officer, one copy to the counsel who submitted the interrogatories and another copy to the deponent.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-350 OFFICIAL NOTICE—MATTERS OF LAW. The ((~~hearing officer~~)) commission, upon request made before or during a hearing, will officially notice:

(1) Federal law. The United States Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register;

(2) State law. The constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) Governmental organization. Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, the several states and foreign nations;

(4) Commission organization. The commission organization, administration, officers, personnel, official publications, and practitioners before its bar.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-360 OFFICIAL NOTICE—MATERIAL FACTS. ((~~In the absence of controverting evidence,~~)) The commission ((~~and its hearing officers, upon request made before or during a hearing,~~)) may officially notice:

(1) Commission proceedings. The pendency of, the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the commission;

(2) Business customs. General customs and practices followed in the transaction of business;

(3) Notorious facts. Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute, or specific facts which are capable of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department, or agency;

(4) Technical knowledge. Matters within the technical knowledge of the commission as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction;

(5) Request or suggestion. Any party may request, or the hearing officer or the commission may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any prehearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum, or brief served upon all parties, at any time prior to a final decision;

(6) Statement. Where an initial or final decision of the commission rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the hearing officer ((~~of~~)) or the commission may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence;

(7) Controversion. Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision;

(8) Evaluation of evidence. Nothing herein shall be construed to preclude the commission or its authorized agents from utilizing their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-370 PRESUMPTIONS. Upon proof of the predicate facts specified in the following six subdivisions hereof without substantial dispute and by direct, clear, and convincing evidence, the commission, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

(1) Continuity. That a fact of a continuous nature, proved to exist at a particular time, continues to exist as of the date of the presumption, if the fact is one which usually exists for at least that period of time;

(2) Identity. That persons and objects of the same name and description are identical;

(3) Delivery. Except in a proceeding where the liability of the carrier for nondelivery is involved, that mail matter, communications, express or freight, properly addressed, marked, billed and delivered respectively to the post office, telegraph, cable or radio company, or authorized common carrier of property with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business;

(4) Ordinary course. That a fact exists or does not exist, upon proof of the existence or nonexistence of another fact which in the ordinary and usual course of affairs, usually and regularly coexists with the fact presumed;

(5) Acceptance of benefit. That a person for whom an act is done or to whom a transfer is made has, does or will accept same where it is clearly ((~~in his own~~)) a matter of self-interest so to do;

(6) Interference with remedy. That evidence, with respect to a material fact which in bad faith is destroyed, eloigned, suppressed or withheld by a party in control thereof, would if produced, corroborate the evidence of the adversary party with respect to such fact.

AMENDATORY SECTION (Amending Order 2, filed 1/22/75)

WAC 139-08-570 FORMS. Any interested person petitioning the commission for a declaratory ruling pursuant to RCW 34.04.080 shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "Before the Washington state criminal justice training commission." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory ruling." Opposite the foregoing caption shall appear the word "petition."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by commission rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

Petitions shall be dated and signed by the person or entity named in the first paragraph or by ((~~his~~)) the petitioner's attorney. The original and two legible copies of the petition shall be filed with the commission. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

NEW SECTION

WAC 139-08-600 APPEAL. (1) Any action which directly and adversely effects an individual's interest under this title or chapter 43-.101 RCW is appealable at the request of such individual, or the head of such individual's employing agency, and shall be considered in accordance with the process hereinafter provided. If such action was taken by a commission employee or representative, the appeal shall be considered by the board on training standards and education having primary responsibility in the matter as determined by the executive director of the commission. If such responsibility cannot be determined, or if the action from which appeal is taken was initiated by, or originated with, any board, the appeal shall be considered by the commission only.

(2) An individual requesting appeal shall submit a request in writing to the executive director and shall therein specify and include, where applicable:

(a) The action from which appeal is taken, identified by date and description of action;

(b) The direct and adverse effects of such action upon the individual appealing or for whom appeal is taken;

(c) The corrective or remedial action or other relief sought;

(d) Whether appeal is to be considered in executive (closed) or public (open) session, provided that, approval and/or conduct of any executive session pursuant to an appeal shall be subject to applicable provisions of this state's open public meetings act (chapter 42.30 RCW);

(e) The name and mailing address of the appealing party and of any person who will personally appear in support of the appeal, including legal counsel;

(f) A statement that the person signing the notice of appeal has read it and that to the best of his or her knowledge or information and belief the contents thereof are true; and

(g) The signature by the appealing party and/or the party's authorized representative.

(3) Upon receipt of an appeal which fully satisfies the requirements of subsection (2) of this section, the executive director shall schedule the appeal for full consideration at the next meeting of the responsible board or the commission, as provided in subsection (1) of this section. If the executive director determines that exigent and attendant circumstances exist, such director may, in his/her discretion, schedule a special meeting of a board or, where applicable, of the commission, for the sole purpose of considering the appeal.

(4) Whenever sitting as an appellate body, a board or the commission may consider any information or testimony determined by its chairperson to be relevant to full consideration of the matter for which appeal is brought. In each instance of, and at least for five days prior to, such sitting, commission staff shall provide to the individual by whom appeal is brought, a complete listing of those individuals who are expected to provide testimony, and a copy of any document or other written material which will be offered in consideration of the appeal; provided that additional witnesses and written materials may be submitted at the time of the proceeding if there is a showing of good cause for the failure to provide prior notice of such additional evidence and witnesses. Each appellate proceeding, whether conducted in executive or public session, shall be recorded electronically. Thereafter such recording shall be transcribed in writing if requested by a party or if directed by the commission, board or staff.

(5) After full consideration of the matter, the appellate body shall affirm, rescind, or otherwise modify the action from which appeal is taken. In any instance wherein a board sits as the appellate body, appeal of such determination may be taken to the training commission at its next meeting following receipt by the executive director of a written appeal from the involved individual or the head of such individual's employing agency. In considering such appeal, the commission shall not be bound by any previous action or determination and may take any action it deems necessary and appropriate to the matter, provided that, for this purpose, the commission may consider only the record of the matter consisting of the transcript of the board proceeding and any written materials considered by the board, as well as any information requested or deemed relevant by the commission chairperson, and provided further that a complete copy of such record shall be provided to the appellant at least five days prior to its consideration by the commission, provided further that additional written materials may be submitted at the time of the proceeding if there is a showing of good cause for the failure to provide prior notice of such additional evidence and witnesses. As a matter of discretion, the chairperson may allow oral presentation by the appellant or appellant's representative and by commission staff.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 139-08-010 APPEARANCE AND PRACTICE BEFORE COMMISSION—WHO MAY APPEAR.
WAC 139-08-020 APPEARANCE AND PRACTICE BEFORE COMMISSION—SOLICITATION OF BUSINESS UNETHICAL.
WAC 139-08-030 APPEARANCE AND PRACTICE BEFORE COMMISSION—STANDARDS OF ETHICAL CONDUCT.
WAC 139-08-060 NOTICE AND OPPORTUNITY FOR HEARING IN CONTESTED CASES.
WAC 139-08-390 FORM AND CONTENT OF DECISIONS IN CONTESTED CASES.
WAC 139-08-400 DEFINITION OF ISSUES BEFORE HEARING.
WAC 139-08-410 PREHEARING CONFERENCE RULE—AUTHORIZED.
WAC 139-08-420 PREHEARING CONFERENCE RULE—RECORD OF CONFERENCE ACTION.
WAC 139-08-430 SUBMISSION OF DOCUMENTARY EVIDENCE IN ADVANCE.
WAC 139-08-440 EXCERPTS FROM DOCUMENTARY EVIDENCE.
WAC 139-08-450 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—NUMBER AND QUALIFICATIONS OF WITNESSES.
WAC 139-08-460 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—WRITTEN SWORN STATEMENTS.
WAC 139-08-470 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—SUPPORTING DATA.
WAC 139-08-480 EXPERT OR OPINION TESTIMONY AND TESTIMONY BASED ON ECONOMIC AND STATISTICAL DATA—EFFECT OF NONCOMPLIANCE WITH WAC 139-08-450 OR 139-08-460.
WAC 139-08-490 CONTINUANCES.
WAC 139-08-510 RULES OF EVIDENCE—TENTATIVE ADMISSION—EXCLUSION—DISCONTINUANCE—OBJECTIONS.

WSR 85-03-078
NOTICE OF PUBLIC MEETINGS
COMMISSION FOR VOCATIONAL EDUCATION
[Memorandum—January 16, 1985]

A special meeting of the Washington State Commission for Vocational Education, previously scheduled for Tuesday, January 29, 1985, in the Board Room of Educational Services District 113, has been canceled.

WSR 85-03-079
BOARD OF PRISON TERMS AND PAROLES
[Filed January 18, 1985]

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.

BOARD OF PRISON TERMS AND PAROLES

Rule 2.092 DEFERRED DECISIONS In those cases where the Board panel conducting the minimum term meeting cannot agree as to the minimum term, a deferred decision shall occur and such cases will be referred to the full Board for resolution. No decision will be communicated until all seven Board members have voted. In addition, the panel may take a deferred decision in cases where more information is required prior to setting the minimum term.

Adopted October, 1984

New Section In establishing minimum terms after January 1, 1985, the Board shall give reasons for all minimum term set.

Amended December 17, 1984

Rule 2.100 PRE-MINIMUM TERM CONFERENCES PROHIBITED No member or members of the Board of Prison Terms and Paroles shall engage in a personal conference with anyone regarding a convicted and committed person prior to the Board fixing a minimum term. The Board will accept written statements from anyone regarding such convicted and committed persons, however.

Adopted December 17, 1984

Rule 4.150 RULES OF EVIDENCE - ADMISSIBILITY

New Section Confidential informant testimony alone may form the basis for a finding of guilty where such testimony is supported on the record by evidence of its credibility and reliability.

Amended December 17, 1984

Rule 5.150 RULES OF EVIDENCE - ADMISSIBILITY

New Section

Confidential informant testimony alone may form the basis for a finding of guilty where such testimony is supported on the record by evidence of its credibility and reliability.

Amended December 17, 1984

Rule 6.400 RULES OF EVIDENCE - ADMISSIBILITY

New Section

Confidential informant testimony alone form the basis for a finding of guilty where such testimony is supported on the record by evidence of its credibility and reliability.

Amended December 17, 1984

WSR 85-03-080
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 18, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning patient overutilization, amending WAC 388-86-008;

that the agency will at 10:00 a.m., Tuesday, February 26, 1985, in the Auditorium, Office Building #2, Olympia, Washington, conduct a public hearing on the proposed rules.

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

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

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

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

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

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

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact Administrative Regulations Section, State Office Building #2, 12th and Franklin, Olympia, WA, Phone (206) 753-7015 by February 13, 1985. The meeting site is in a location which is barrier free.

Dated: January 16, 1985
By: David A. Hogan, Director
Division of Administration and Personnel

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Re: Amending WAC 388-86-008.

Purpose of the Rule Change: To establish effective controls on patient overutilization.

The Reason this Rule Change is Necessary: To better regulate the program.

Statutory Authority: RCW 74.08.090.

Summary of the Rule Change: Will place limitations on how often and under what conditions a restricted recipient may change providers and establish an automatic review for removing recipients from the restricted program.

Person Responsible for the Drafting, Implementation and Enforcement of the Rule Change: Jim Sparks, Program Manager, Division of Medical Assistance, mailstop LK-11, phone 3-7316.

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

AMENDATORY SECTION (Amending Order 1865, filed 8/18/82)

WAC 388-86-008 PATIENT OVERUTILIZATION. (1) Whenever payment records and other information indicate that recipient utilization is excessive or inappropriate with reference to medical need, the department may require an individual to designate a primary physician and/or a single pharmacy for exclusive provider service in an effort to:

(a) Protect the individual's health and safety;

(b) Provide continuity of medical care;

(c) Avoid duplication of service by providers;

(d) Avoid inappropriate or unnecessary utilization of medical assistance as defined by community practices and standards;

(e) Avoid excessive utilization of prescription medications.

Excessive utilization of prescription medications will be determined from published current medical and pharmacological references to include Physicians' Desk Reference published by Medical Economics Company, Oradell, New Jersey 07649; or Facts and Comparisons published by Facts and Comparisons, Inc., 12011 Marine Avenue, Suite 220, St. Louis, Mo 63141; or The Pharmacological Basis of Therapeutics published by Macmillan Publishing Co., 866 Third Avenue, New York, NY 10022.

(2) The individual will be given written notice of his/her excessive or inappropriate utilization and will be requested to select a single physician and/or pharmacy within thirty days. The notice will include the individual's right to request a fair hearing within ninety days if he/she disagrees with the department's action. The notice will also advise the individual that failure to cooperate in this procedure will necessitate the department designating a physician and/or pharmacy for the individual or redirecting the individual's medical coupons to the CSO until selection of a physician and/or pharmacy is made. Medical coupons issued to the individuals will be imprinted with the message "RESTRICTED" to facilitate identification by providers. This restriction will be extended to all individuals listed on the "RESTRICTED" coupons.

(3) After an individual has selected a physician and a pharmacy and the selections have been confirmed by the department, a change of physician or pharmacy may not be requested for a minimum of one hundred eighty days with the following exceptions:

(a) If the individual moves to a new residence which would be considered outside the normal service area of the selected physician and pharmacy, he/she may request to designate different providers in the area of his/her new residence.

(b) Whenever the selected physician or pharmacy refuses to continue as a designated provider, the individual will be notified that he/she has thirty days to select a new physician or pharmacy.

(4) Medical services received by restricted individuals will be monitored and payment for services and prescriptions denied unless authorized by the selected designated physician. Providers may bill recipients for these denied services.

((~~(4)~~)) (5) In the event of a bona fide emergency, the individual may be seen by a physician other than the one selected. The primary physician may also refer the individual to a specialist when necessary.

(6) When the individual has been restricted under the provisions of this section for a period of two years, the department will conduct a review of that person's medical service utilization to determine whether the restriction should be terminated. The review will include contact with the primary physician for comment and recommendation. The department will then determine whether the individual shall:

(a) Remain restricted, with an annual review thereafter; or

(b) Have the restriction terminated and be subject to periodic review of medical service utilization. If utilization is subsequently determined to be excessive or inappropriate the individual may again be restricted under the provisions of this section.

WSR 85-03-081
PROPOSED RULES
DEPARTMENT OF SERVICES FOR THE BLIND
[Filed January 18, 1985]

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

New	WAC 67-25-257	Prevocational skills assessment.
Amd	WAC 67-25-005	Definitions.
Amd	WAC 67-25-420	Vocational rehabilitation services—Rehabilitation teaching services;

that the agency will at 10 a.m., Tuesday, February 26, 1985, in the Director's Office, 3411 South Alaska Street, Seattle 98118, 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 74.18 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

Dated: January 18, 1985
By: Paul Dziedzic
Director

STATEMENT OF PURPOSE

Title: Describes the prevocational services offered to clients of the department.

Description of Purpose: Describes the skills assessment and training which are necessary for blind persons to function independently.

Statutory Authority: RCW 74.18.140.

Summary of Rules: States what prevocational services are available and the format for incorporating the necessary training in their individual written rehabilitation plan.

Reasons Supporting Proposed Action: Regardless of their vocational goal, blind persons need to learn alternative skills in order to carry out activities of daily living. Prevocational services systematically assess seven major areas of a client's skills and provide services or training as needed.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: Paul Dziedzic, Director.

Person or Organization Proposing Rule: Department of Services for the Blind, 921 Lakeridge Drive, Olympia, WA, a state governmental agency.

Agency Comments or Recommendations Regarding Statutory Language, Implementation, Enforcement or Fiscal Matters: Will result in no fiscal impact, but will formalize the way these services have been provided during the past few months.

Small Business Economic Impact: None.

NEW SECTION

WAC 67-25-257 PREVOCATIONAL SKILLS ASSESSMENT. (1) There will be an assessment of each individual's prevocational skills prior to the development of an individual written rehabilitation plan. The results of the prevocational assessment will be incorporated into a plan of training as part of the individual written rehabilitation plan.

(2) The prevocational assessment may include any combination of the following skill areas. Training in these skills will be provided according to the plan developed with each individual client:

(a) Communications, including braille;
(b) Personal management;
(c) Orientation and mobility;
(d) Home management;
(e) Activities of daily living;
(f) Personal adjustment;
(g) Degree and use of residual vision.

AMENDATORY SECTION (Amending Order 83-08, filed 12/15/83)

WAC 67-25-420 VOCATIONAL REHABILITATION SERVICES—REHABILITATION TEACHING SERVICES. (1) The department will provide or cause to be provided rehabilitation teaching services to clients by rehabilitation teachers in the employ of the department. Such services may be purchased by the department from vendors who meet standards for these services when they are not otherwise available to a client. Rehabilitation teaching services include training in prevocational skills and home management.

(2) Rehabilitation teaching services ((~~include specific and identifiable teaching methods that are used to assist blind individuals in acquiring skills in manual dexterity, communication, home orientation, home management and general self-management.~~

~~(3)~~)) are provided to persons whose vocational goal is "homemaker." Such persons meet vocational rehabilitation eligibility requirements and are subject to all other provisions of this chapter. Clients with a vocational goal of "homemaker" receive home management as their preliminary vocational training. They also receive prevocational services, equipment, and aids as necessary to participate in a full range of activities.

(3) Rehabilitation teaching services are provided to persons whose vocational goal is other than "homemaker." Such persons may receive home management as a prevocational skill.

(4) Rehabilitation teaching services may be provided during all phases of the vocational rehabilitation process wherever there is a documented need for them for diagnostic purposes and under a client's individualized written rehabilitation program.

AMENDATORY SECTION (Amending Order 84-04, filed 9/6/84)

WAC 67-25-005 DEFINITIONS. (1) "Accepted for services" shall mean that the department has determined that the applicant has been certified as eligible to receive vocational rehabilitation services.

(2) "Act" means the Rehabilitation Act of 1973 (29 U.S.C. chapter 16).

(3) "Applicant" shall mean an individual who has submitted to the department a letter or application requesting vocational rehabilitation services which:

(a) Has been signed by the individual, his/her parents or guardian or other representative; and

(b) Sets forth the name, address, age, sex, and nature of disability of the requesting individual and source of referral.

(4) "Blind or visually impaired" for purposes of this chapter is a physical disability defined as follows:

(a) Central visual acuity of 20/200 or less in the better eye with correcting lenses or a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance of no greater than 20°; or

(b) Vision so defective as to prevent the performance of ordinary activities for which eyesight is essential; or

(c) An eye condition of a progressive nature which may lead to blindness.

(5) "Client" shall mean any handicapped individual:

(a) Who has applied for services from the department; and

(b) For whom services have not been denied or terminated by the department.

(6) "Department of services for the blind" shall mean the legal authority in its entirety:

(a) "Advisory council" shall mean the members appointed by the governor as the advisory body.

(b) "Department" shall mean the agency which carries out the operations of the Washington department of services for the blind.

(7) "Director," except when the context indicates otherwise, means the director of the department of services for the blind.

(8) "Eligible" or "eligibility," when used in relation to an individual's qualification for vocational rehabilitation services, refers to a certification that:

(a) The individual has blindness and may also have a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(b) Vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

(9) "Employability" refers to a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his/her capacities and abilities in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.

(10) "Evaluation of rehabilitation potential" means, as appropriate, in each case:

(a) A preliminary diagnostic study to determine:

(i) That an individual has blindness and may also have a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(ii) That vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability, and that the individual is eligible therefore for vocational rehabilitation services;

(b) A thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors, which bear on the individual's handicap to employment and rehabilitation potential, and an appraisal of the individual's work behavior and ability to develop work patterns suitable for successful job performance in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability;

(c) Any other goods or services provided for the purposes of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability;

(d) The provision of vocational rehabilitation services to an individual for a total period of extended evaluation not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual for whom a vocational goal is feasible, including the initiation and continuing development of an individual written rehabilitation program, and a periodic assessment of the results of the provision of such services to ascertain whether an individual is an eligible individual for whom a vocational goal is feasible.

(11) "Family member" or "member of the family" means:

(a) Any relative by blood or marriage of a handicapped individual; and

(b) Other individuals living in the same household with whom the handicapped individual has a close interpersonal relationship.

(12) "Handicapped individual" means an individual:

(a) Who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(b) Who is expected to benefit in terms of employability from the provision of vocational rehabilitation services, or for whom an extended evaluation of rehabilitation potential is necessary for the purpose of determining whether he might benefit in terms of employability from the provision of vocational rehabilitation services.

(13) "Medical consultant" shall mean a physician licensed pursuant to chapters 18.57 and 18.71 RCW employed by the department to provide consultation to rehabilitation counselors and rehabilitation teachers concerning the medical aspects of rehabilitation, usually reviewing and discussing medical problems of individual clients.

(14) "Ophthalmological consultant" shall mean a physician licensed pursuant to chapters 18.57 and 18.71 RCW specializing in diseases of the eye employed by the department to provide consultation to rehabilitation counselors and rehabilitation teachers regarding procedures and prognosis relating to eye conditions.

(15) "Physical and mental restoration services" means those services which are necessary to correct or substantially modify within a reasonable period of time a physical or mental condition which is stable or slowly progressive.

(16) "Physical or mental disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's activities or functioning. The term "physical disability" includes blindness and/or visual impairment.

(17) "Public safety officer" means a person serving the United States or a state or unit of general local government, with or without compensation, in any activity pertaining to:

(a) The enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the national guard or the armed forces;

(b) A correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees;

(c) A court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees;

(d) Firefighting, fire prevention, or emergency rescue missions.

(18) "Referral" is defined as any individual who applied or has been referred to a department office by letter, telephone, direct contact or by any other means for whom the minimum information has been furnished:

(a) Name and address;

(b) Disability;

(c) Age and sex;

(d) Date of referral; and

(e) Source of referral.

(19) "Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals and which provides one or more of the following services for handicapped individuals:

(a) Vocational rehabilitation services which shall include under one management, medical, psychological, social, and vocational services;

(b) Testing, fitting, or training in the use of prosthetic and orthoptic devices;

(c) Prevocational conditioning or recreational therapy;

(d) Physical and occupational therapy;

(e) Speech and hearing therapy;

(f) Psychological and social services;

(g) Evaluation of rehabilitation potential;

(h) Personal and work adjustment;

(i) Orientation and mobility training and other adjustment services;

(j) Braille instruction;

(k) Evaluation or control of specific disabilities;

(l) Transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market provided that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the state.

(20) "Rehabilitation teacher" (RT) shall refer to an employee of the department who has responsibility to determine eligibility, and to develop and implement individual written rehabilitation programs leading to a vocational outcome of homemaker. The full range of vocational rehabilitation services may be provided or purchased as determined by the needs of the individual written rehabilitation program.

(21) "Similar benefits" is a financial resource for which a client is legally qualified, or entitled, or meets the criteria for obtaining without undue contingencies. The financial resource must be an organized, ongoing form of service or financial assistance, whether public or private.

It must be free or may require a deductible, coinsurance feature, token payment or personal claim.

(22) "Prevocational services" includes assessment and training in the skills which are necessary for blind persons to function independently in all settings as distinguished from the vocational skills necessary to perform a specific occupation. The prevocational services provided by the department include communications, personal management, orientation and mobility, personal adjustment, home management, activities of daily living, and client's use of residual vision.

(23) "Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance, by preventing his/her obtaining, retaining, or preparing for employment consistent with his/her capacities and abilities.

((~~(23)~~)) (24) "Vocational rehabilitation counselor" (VRC) shall refer to an employee of the department who has direct responsibility for providing, or supervising the provision of all vocational rehabilitation services to a client of the department.

((~~(24)~~)) (25) "Vocational rehabilitation services," shall mean any of the following:

(a) Any goods or services provided to a client that is likely to enable him/her to enter or retain employment consistent with his/her capacities and abilities in the competitive labor market.

(b) Any goods or services provided to a client for the purpose of extended evaluation to determine his/her rehabilitation potential.

(c) The establishment, construction, development, operation, and maintenance of workshops and rehabilitation facilities.

(d) The provision of any facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the rehabilitation program.

((~~(25)~~)) (26) "Workshop" means a rehabilitation facility, or that part of a rehabilitation facility, engaged in a production or service operation and which is operated for the primary purpose of providing gainful employment or professional services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist.

WSR 85-03-082
EMERGENCY RULES
DEPARTMENT OF LICENSING
[Order 85-1—Filed January 18, 1985]

I, Theresa Anna Aragon, director of the Department of Licensing, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Appointment of director—Agency documents, amending WAC 308-04-001.

I, Theresa Anna Aragon, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is to avoid the loss of thousands of dollars worth of preprinted forms due to the appointment of a new director of the Department of Licensing.

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

This rule is promulgated under the general rule-making authority of the Department of Licensing as authorized in RCW 46.01.110 and 43.17.060.

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 January 17, 1985.

By Theresa Anna Aragon
Director

AMENDATORY SECTION (Amending Order DOL 622, filed 3/16/81)

WAC 308-04-001 APPOINTMENT OF DIRECTOR—AGENCY DOCUMENTS. ((~~John Gonsalez~~)) Theresa Anna Aragon was appointed director of the department of licensing on January ((~~14, 1981~~)) 16, 1984. All documents issued after that date in the name of the director in the disposition and performance of the official business of the department of licensing shall be considered to have been issued by ((~~him~~)) her or at ((~~his~~)) her direction whether ((~~his~~)) her name, or the name of the former director, appears on the document.

This rule is adopted to ratify the use of thousands of forms now in the department's inventory which have been preprinted with the ((~~name of the~~)) former director's name, the replacement of which would result in the unnecessary expenditure of state funds.

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

WSR 85-03-083
ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Medical Examiners)
[Order PL 507—Filed January 18, 1985]

Be it resolved by the Washington State Board of Medical Examiners, acting at Seattle, Washington, that it does adopt the annexed rules relating to the amending of WAC 308-52-138.

This action is taken pursuant to Notice No. WSR 84-15-067 filed with the code reviser on July 18, 1984. 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 18.71A-.020 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 September 7, 1984.

By Barbara S. Schneidman, MD
Chairman

AMENDATORY SECTION (Amending Order PL 421, filed 1/14/83)

WAC 308-52-138 PHYSICIAN ASSISTANTS—PROGRAM APPROVAL. No physician shall be entitled to register a physician assistant who has not successfully completed a program of training approved by the board in accordance with these rules.

(1) Standards. The board will establish standards by which programs designed to produce the various types of physician assistants shall be judged. If the council of medical education of the American medical association has defined "essentials" for such program, these shall be regarded as minimal criteria.

(2) Procedure.

(a) In order for a program for training physician assistants to be considered for approval by the board, the director of the program shall submit to the board a description of the course of training offered, including subjects taught and methods of teaching, entrance requirements, clinical experience provided, etc. The director of the program shall also advise the board concerning the medical skills which are attained in such course, and the methods by which the proficiency of the students in those skills was tested or ascertained. The board may require such additional information from program sponsors as it desires.

(b) The board will approve programs in terms of the skills attained by its graduates and the specialty for which the physician assistant is trained.

(c) Reapproval. Programs maintaining standards as defined in the "essentials" of the council of medical education of the American medical association will continue to be approved by the board without further review. Each approved program not maintaining the standards as defined in the "essentials" of the council of medical education of the American medical association will be reexamined at intervals, not to exceed three years. Approval will be continued or withdrawn following each reexamination.

(d) Registry. A registry of approved programs shall be maintained by the board at the division of professional licensing in Olympia, Washington, which shall be available upon request to interested persons.

(3)(a) Where an application for program approval has been pending for one year and has not been approved due to the absence of program standards promulgated by the board, a program may apply for provisional approval.

(b) Such approval is solely for the limited purpose of availing the program's students of the exemption contained in RCW 18.71.030(8) and shall end when the board makes a final determination as to program approval pursuant to this section.

(c) Provisional approval as defined in subsection (b) above can be granted if the program:

(i) needs such approval in order for the clinical elements of its educational regimen to proceed on schedule;

(ii) has established the likelihood of satisfying the relevant program approval guidelines in their current form;

(iii) will otherwise comply with the terms of RCW 18.71.030(8); and

(iv) agrees to such other safeguards as the board may stipulate to ensure patient safety.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 85-03-084
ADOPTED RULES
DEPARTMENT OF LICENSING
(Board of Medical Examiners)

[Order PL 508—Filed January 18, 1985]

Be it resolved by the Washington State Board of Medical Examiners, acting at Seattle, Washington, that it does adopt the annexed rules relating to the amending of WAC 308-52-260 and 308-52-270.

This action is taken pursuant to Notice No. WSR 84-23-063 filed with the code reviser on November 21, 1984. 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 Board of Medical Examiners as authorized in RCW 18.71.017.

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 4, 1985.

By Barbara S. Schneidman, MD
Chairman

AMENDATORY SECTION (Amending Order PL 304, filed 5/23/79)

WAC 308-52-260 EXAMINATION SCORES. Examinations given by the Washington state board of medical examiners:

(a) The board adopts the examination of the federation of state licensing boards as the examination given by the board.

(b) The minimal passing scores for each component of the FLEX I and II examinations shall be ((a FLEX weighted average of)) seventy-five percent. An applicant who choses to take both components of the examination in a single three day sitting must obtain a passing score on both components; or receive a passing score on the FLEX I component in order for a passing score on FLEX II to be valid. A passing score on FLEX II will not be accepted if FLEX I has not been passed.

(c) An applicant must pass both components of the examination within seven years. An applicant will be required to demonstrate evidence of completion of a remedial or refresher medical course after three failures of a single component.

(d) Applicants will be eligible to take FLEX I after completion of medical school and satisfactory verification of good standing in a board-approved postgraduate

training program. FLEX II may only be taken after passing FLEX I and having completed or substantially completed the first year of postgraduate training: PROVIDED, That after completing or substantially completing one year of a board-approved postgraduate training program, an applicant has the option of taking FLEX II or taking both FLEX I and FLEX II in a single sitting.

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

AMENDATORY SECTION (Amending Order PL 284, filed 3/14/78)

WAC 308-52-270 EXAMINATIONS ACCEPTED FOR RECIPROCITY OR WAIVER. (1) The board of medical examiners may accept certain examinations as a basis for reciprocity of waiver of examination. These include the examinations given by the federation of state licensing boards (FLEX), and those given by other states. ((~~In addition, the board may accept the examinations given by the medical council of Canada (LMCC) as a basis for reciprocity for days II and III of the Washington examination.~~)) The minimum passing score will depend upon the quality of the examination using the FLEX I and II examination as a guide.

(2) An applicant who has satisfactorily passed examinations given by the national board of medical examiners may be granted a license without examination: PROVIDED, That the applicant has not previously failed to pass an examination held in this state.

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 85-03-085
ADOPTED RULES
DEPARTMENT OF LICENSING
(Veterinary Board of Governors)
[Order PL 509—Filed January 18, 1985]

Be it resolved by the Washington State Veterinary Board of Governors, acting at Seattle, Washington, that it does adopt the annexed rules relating to:

Amd	WAC 308-151-080	Examination procedures.
Amd	WAC 308-151-100	Examination results.
Amd	WAC 308-156-070	Grading of examinations.

This action is taken pursuant to Notice No. WSR 84-24-073 filed with the code reviser on December 5, 1984. 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 18.92.030 and is intended to administratively implement that statute.

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

APPROVED AND ADOPTED January 9, 1985.

By Stanley B. Coe
Chairman

AMENDATORY SECTION (Amending Order PL 429, filed 3/18/83)

WAC 308-151-080 EXAMINATION PROCEDURES. (1) The examination consists of three parts: the National Board Examination for Veterinary Medical Licensing (NBE), the Clinical Competency Test (CCT), and the Washington state examination. No part of ((~~T~~)) the examination may ((~~not~~)) be taken prior to ((~~three~~)) six months preceding graduation from a course of instruction as described in WAC 308-151-050.

(2) All applicants will be required to present a notice of eligibility to the test proctors upon admission to the test. Each applicant will also be asked to present one piece of positive identification which bears a recent photograph of the applicant. Failure to produce the eligibility notice and identification required may result in the applicant's being refused admission to the written test and rescheduled at a later date.

(3) Applicants will be required to refrain from talking to other examinees during the examination unless specifically directed or permitted to do so by a test proctor. Any applicant observed talking or attempting to give or receive information, or using unauthorized materials during any portion of the exam will be expelled from the examination and not allowed to complete it.

(4) Failure to follow written or oral instructions relative to the conduct of the examination, including termination times of the examination will be considered grounds for expulsion from the examination.

AMENDATORY SECTION (Amending Order PL 332 [429], filed 12/21/79 [3/18/83])

WAC 308-151-100 EXAMINATION RESULTS. (1) In order to pass the examination for licensure as a veterinarian, the applicant must attain a minimum grade of:

(a) 1.5 standard deviations below the national mean of the criterion population ((~~converted to 70~~)) on the ((~~n~~)) National Board ((~~e~~)) Examination, and

(b) 1.5 standard deviations below the national mean of the criterion population on the Clinical Competency Test, and

(c) 70% in the Washington state examination.

(2) Applicants who fail ((~~either~~)) the ((~~n~~)) National Board ((~~e~~)) Examination, the Clinical Competency Test, or the Washington state examination may retake the examination that they failed (((~~national~~)) NBE, CCT or state) by again completing an application and by submitting the reexamination fee to the division of professional licensing.

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

AMENDATORY SECTION (Amending Order PL 332 [445], filed 12/21/79 [9/19/83])

WAC 308-156-070 GRADING OF EXAMINATIONS. (1) The grading of the written and practical portions of the animal technician examination will be based on a possible score of 100 percent and the minimum passing score will be ((~~75~~)) 70 percent.

(2) Each applicant must obtain a final grade of ((~~75~~)) 70 percent or better on both the written and the practical portions of the examination to be considered technically qualified and approved for registration by the board.

(3) All scores shall be expressed in whole numbers, ((~~[and] [any]~~)) fractions being rounded to the closest whole number.

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

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

WSR 85-03-086
PROPOSED RULES
CENTRAL WASHINGTON UNIVERSITY
[Filed January 21, 1985]

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 student rights and responsibilities policy, chapter 106-120 WAC;

that the institution will at 1:30 p.m., Tuesday, March 12, 1985, in the Kachess Room, Samuelson Union Building, CWU, 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.19.050 and 28B.35.120(11).

Dated: January 17, 1985
By: Judy Couture
Administrative Secretary

STATEMENT OF PURPOSE

Title and Number of Rule Sections or Chapters: Chapter 106-120 WAC, Student rights and responsibilities policy.

Statutory Authority: RCW 28B.19.050 and 28B.35.120(11).

Summary of Rules: These rules delineate proscribed conduct, applicable sanctions, membership and responsibilities of the campus judicial council, the process for dealing with alleged misconduct, and the appeal and hearing process available to students against whom charges have been made.

Description of the Purpose of the Rules: These rules were established to afford due process to students in the event of alleged violations of university standards, rules and requirements governing academic and social conduct of students.

Reasons Supporting the Rules: While the university recognizes a responsibility to resolve behavior problems informally if possible, it also recognizes that rules are necessary when formal procedures are required.

Agency Personnel Responsible for Drafting: Gregory Trujillo, Associate Dean of Admissions and Records and Director of Institutional Research, Central Washington University, Ellensburg, WA 98926; Implementation and Enforcement: Donald E. Guy, Dean of Students, Central Washington University, Ellensburg, WA 98926, (509) 963-1515 or scan 453-1515.

Name of Organization Proposing Rule: Central Washington University.

Agency Comments or Recommendations, if any, Regarding Statutory Language, Implementation, Enforcement and Fiscal Matters Pertaining to the Rule: None.

These rules were not mandated by statute.

AMENDATORY CHAPTER TITLE

CHAPTER 106-120 WAC
((~~STUDENT RIGHTS AND RESPONSIBILITIES POLICY~~))
STUDENT JUDICIAL CODE

NEW SECTION

WAC 106-120-003 PURPOSE. The students of Central Washington University are responsible for complying with policies, standards, rules, and requirements for academic and social behavior formulated by the university for the maintenance of and orderly and responsible functioning of the university community. At the same time, students have protection through orderly procedures against arbitrary or capricious actions or decisions by university authorities. Due process is recognized as essential to the proper enforcement of university rules. The purpose of this chapter is to provide a procedure and rules by which a student will be afforded due process in the matter of alleged violations of university standards, rules and requirements governing academic and social conduct of students.

The university recognizes a responsibility to resolve behavior problems before they escalate into serious problems requiring the application of these rules. Therefore, the dean shall generally review and/or investigate student behavioral problems which are referred by university community members or any subsidiary judicial agencies to the Campus Judicial Council, or which otherwise come to the attention of the dean through Campus Safety reports or other official university reports. The Dean shall be as proactive as is possible concerning the resolution of student behavioral problems and use reasonable arbitration and conflict resolution methods in order to prevent such problems from further interfering with the university community or the student's own educational progress.

NEW SECTION

WAC 106-120-004 DEFINITIONS. (1) "University" shall mean Central Washington University.

(2) "Dean" shall mean the dean of students of the university or the dean's designee.

(3) "Student" shall mean a person enrolled at the university either full or part-time, pursuing undergraduate, graduate, or extension studies, or a person accepted for admission or readmission to the university.

(4) "University community" shall include the employees and students of Central Washington University and all property and equipment of the university.

NEW SECTION

WAC 106-120-005 PROVISION FOR DUE PROCESS. The dean shall provide for due process for students throughout the behavioral problem solving intervention by following the proper steps related

to the initiation, investigation, and disposition of complaints against a student which is outlined in WAC 106-120-131.

NEW SECTION

WAC 106-120-006 STUDENTS SUBJECT TO JUDICIAL CODE. Any student is subject to these rules, independent of any other status the individual may have with the university. Any action taken against a student under these rules shall be independent of other actions taken by virtue of another relationship with the university in addition to that of student.

NEW SECTION

WAC 106-120-007 COOPERATION WITH LAW ENFORCEMENT AGENCIES. Central Washington University distinguishes its responsibility for student conduct from the controls imposed by the larger community beyond the university, and of which the university is a part. The university does not have the responsibilities of a parent for the conduct of students, and is not responsible for conduct of students off campus. When students are charged with violations of laws of the nation or state, or ordinances of the county or city, the university will neither request nor agree to special consideration for students because of their status as students, but the university will cooperate with law enforcement agencies, courts, and any other agencies in programs for rehabilitation of students.

Central Washington University reserves the right to impose the provisions of this chapter and apply further sanctions before or after law enforcement agencies, courts, and other agencies have imposed penalties or otherwise disposed of a case.

NEW SECTION

WAC 106-120-021 CAMPUS JUDICIAL COUNCIL. The Campus Judicial Council shall be the principal campus-wide judicial body with jurisdiction over all students, whether graduate or undergraduate, and student organizations and authority to hear all charges of misconduct. It has authority to impose the sanctions described in WAC 106-120-032.

NEW SECTION

WAC 106-120-022 SUBSIDIARY JUDICIAL AGENCIES. Other divisions of the university may elect to establish subsidiary judicial agencies over which the Campus Judicial Council will have appellate jurisdiction. Subsidiary judicial agencies or persons levying sanctions should devise sanctions which are in proportion to both the nature and extent of the misconduct, and which redress injury, damage, expense, inconvenience and/or grievance as far as possible. Appeal from subsidiary councils or agencies must be made within five working days from the time of publication of findings by said subsidiary judicial agency. Failure to file such an appeal will constitute and be construed as full acceptance by all parties of the findings.

NEW SECTION

WAC 106-120-023 CAMPUS JUDICIAL COUNCIL—MEMBERSHIP. The campus judicial council shall consist of three faculty members holding the rank of assistant professor or above, and six students, at least one of whom should be a graduate student if a graduate student files for appointment to the council.

(1) The faculty members of the council shall be designated in accordance with procedures established by the Faculty Senate.

(2) The student members of the council shall be selected in accordance with procedures established by the constitution of the Associated Students of Central. Six student members shall be appointed, each student being appointed for a term of one calendar year. Terms of office for students begin with the first day of instruction of the academic year for which the student is appointed.

NEW SECTION

WAC 106-120-024 CAMPUS JUDICIAL COUNCIL—CHAIR. A campus judicial council chair shall be elected at the first meeting each academic year and shall continue in office until the person resigns or is recalled. The duties of the chair are as follows:

(1) To call regular and special meetings of the council by notification to members at least twenty-four hours in advance of the meeting time, except in bona fide emergency situations.

(2) To preside over all regular and special meetings.

(3) To act as hearing officer at all meetings of the hearing board.

NEW SECTION

WAC 106-120-025 CAMPUS JUDICIAL COUNCIL—QUORUM. Two of the faculty members and three of the student members of the council shall constitute a quorum.

NEW SECTION

WAC 106-120-026 CAMPUS JUDICIAL COUNCIL—ADVISOR. The dean shall appoint a faculty member as a Judicial Council Advisor whose duties shall be to convene the Council, and advise the council during all meetings and hearings.

NEW SECTION

WAC 106-120-027 PROSCRIBED CONDUCT. A student shall be subject to disciplinary action or sanction upon violation of any of the following conduct proscriptions:

(1) Disruptive and disorderly conduct which interferes with the rights and opportunities of other students to pursue their academic studies.

(2) Academic dishonesty in all its forms including, but without being limited to:

(a) Cheating on tests.

(b) Copying from another student's test paper.

(c) Using materials during a test not authorized by the person giving the test.

(d) Collaboration with any other person during a test without authority.

(e) Knowingly obtaining, using, buying, selling, transporting, or soliciting in whole or in part the contents of an unadministered test or information about an unadministered test.

(f) Bribing any other person to obtain an unadministered test or information about an unadministered test.

(g) Substitution for another student or permitting any other person to substitute for oneself to take a test.

(h) "Plagiarism" which shall mean the appropriation of any other person's work and the unacknowledged incorporation of that work in one's own work offered for credit.

(i) "Collusion" which shall mean the unauthorized collaboration with any other person in preparing work offered for credit.

(3) Filing a formal complaint with the dean of students with the intention of falsely accusing another with having violated a provision of this code.

(4) Furnishing false information to the Campus Judicial Council with the intent to deceive, the intimidation of witnesses, the destruction of evidence with the intent to deny its presentation to the Campus Judicial Council or the willful failure to appear before the Campus Judicial Council when properly notified to appear.

(5) Intentionally setting off a fire alarm or reporting a fire or other emergency or tampering with fire or emergency equipment except when done with the reasonable belief in the existence of a need therefore.

(6) Forgery, alteration, or misuse of university documents, records, or identification cards.

(7) Physically abusing or intentionally inflicting severe emotional distress upon another person, whether a member or nonmember of the university community, whether occurring on or off campus.

(8) Theft or malicious destruction, damage or misuse of university property, private property of another member of the university community, whether occurring on or off campus; or theft or malicious destruction, damage or misuse on campus of property of a nonmember of the university community.

(9) Unauthorized seizure or occupation or unauthorized presence in any university building or facility.

(10) Intentional disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other university activities or programs whether occurring on or off campus or of activities or programs authorized or permitted by the university to be conducted on campus.

(11) Intentional participation in a demonstration which is in violation of rules and regulations governing demonstrations promulgated by the university pursuant to the provisions of this document.

(12) Unauthorized entry upon the property of the university or into a university facility or any portion thereof which has been reserved,

restricted in use, or placed off limits; unauthorized presence in any university facility after closing hours; or unauthorized possession or use of a key to any university facility.

(13) Possession or use on campus of any firearm, dangerous weapon or incendiary device or explosive unless such possession or use has been authorized by the university.

(14) Possession, use, or distribution on campus of any controlled substance as defined by the laws of the United States or the State of Washington except as expressly permitted by law.

(15) Violation of the university policy on alcoholic beverages which states:

(a) Persons twenty-one years of age or older may possess and/or consume alcoholic beverages within the privacy of their residence hall rooms or apartments. Washington State law provides severe penalties for the possession or consumption of alcoholic beverages by persons under twenty-one years of age and for persons who furnish alcoholic beverages to minors. All university students should be aware of these laws and the possible consequences of violations.

(b) The university does not condone the consumption of alcoholic beverages by minors at functions sponsored by Central Washington University organizations. Organizations are held responsible for the conduct of their members at functions sponsored by the organization and for failure to comply with Washington State law.

(c) The Campus Judicial Council may place on probation any organization or prohibit a specific campus social function when the consumption of alcoholic beverages has become a problem of concern to the university.

(d) Violation of clearly stated proscriptions in any published rule or regulation promulgated by any official campus committee or commission or council acting within the scope of its authority.

(e) Violation on campus of any state or federal law or violation of any state or federal law off campus while participating in any university sponsored activity.

NEW SECTION

WAC 106-120-028 DISCIPLINARY SANCTIONS. The following definitions of disciplinary terms have been established and may be the sanctions imposed by the dean or by the Campus Judicial Council.

(1) Warning. Notice in writing that the student has violated university rules or regulations or has otherwise failed to meet the university's standard of conduct. Such warning will contain the statement that continuation or repetition of the specific conduct involved or other misconduct will normally result in one of the more serious disciplinary actions described below.

(2) Disciplinary probation. Formal action specifying the conditions under which a student may continue to be a student at the university including limitation of specified activities, movement, or presence on the CWU campus. The conditions specified may be in effect for a period of time or for the duration of the student's attendance at the university.

(3) Restitution. An individual student may be required to make restitution for damage or loss to university or other property and for injury to persons. Failure to make restitution will result in suspension for an indefinite period of time as set forth in subsection (4) below provided that a student may be reinstated upon payment.

(4) Suspension. Dismissal from the university and from status as a student for a stated period. The notice suspending the student will state in writing the term of the suspension and any condition(s) that must be met before readmission is granted. The student so suspended must demonstrate that the conditions for readmission have been met. There is to be no refund of fees for the quarter in which the action is taken, but fees paid in advance for a subsequent quarter are to be refunded.

(5) Deferred Suspension. Notice of suspension from the university with the provision that the student may remain enrolled contingent on meeting a specified condition. Not meeting the contingency shall immediately invoke the suspension for the period of time and under the conditions originally imposed.

(6) Expulsion. The surrender of all rights and privileges of membership in the college community and exclusion from the campus without any possibility for return.

NEW SECTION

WAC 106-120-033 READMISSION AFTER SUSPENSION. Any student suspended from the university under the provisions of the Student Judicial Code may be readmitted upon expiration of the time period specified in the document of original suspension.

If circumstances warrant reconsideration of the suspension prior to its time of expiration, the student may be readmitted following approval of a written petition submitted to the dean. Such petitions must state reasons which either provide new evidence concerning the situation which resulted in the suspension, or demonstrate that earlier readmission is in the best interest of the student and the university. Approval for such readmission must be given by the dean or by the Campus Judicial Council.

Students who have been suspended and whose suspension upon appeal is found to have been unwarranted shall be provided full opportunity to reestablish their academic and student standing to the extent possible within the abilities of the university, including an opportunity to retake examinations or otherwise complete course offerings missed by reason of such action.

NEW SECTION

WAC 106-120-131 INITIATION, INVESTIGATION, AND DISPOSITION OF COMPLAINTS. The following rules will govern the processing of alleged violations of the proscribed conduct listed in the Campus Judicial Code.

(1) A complaint alleging misconduct against any student at the university may be filed by anyone at the office of the dean. Students, faculty members, administrators and other employees of the university shall have concurrent authority to request the commencement of the disciplinary proceedings provided for in this chapter. A person filing a complaint shall be complainant of record.

(2) Any student charged in a complaint shall receive oral or written notification from the dean. Such notice shall:

(a) Inform the student that a complaint has been filed alleging that the student violated specific provisions of the Students Judicial Code and the date of the violation(s); and

(b) Set forth those provisions allegedly violated; and

(c) Specify a time and date the student is required to meet with the dean; and

(d) Inform the student that failure to appear at the appointed time at the dean's office may subject the student to suspension from the university.

(3) When the dean meets with the student, the dean shall:

(a) Provide for the student a copy of the Student Judicial Code;

(b) Review the facts of the alleged violation with the student; and

(c) Conduct an investigation into the alleged violation.

(4) Upon completion of the review with the student and/or the investigation, the dean may:

(a) Drop the charges, when they appear to be invalid or without substance or capricious;

(b) Issue a verbal warning;

(c) Apply any of the sanctions as outlined in WAC 106-120-032 if such sanction is warranted by the evidence;

(d) Refer the case to the Campus Judicial Council; or

(e) Invoke the summary suspension procedure as outlined in WAC 106-120-143 when deemed appropriate.

The dean shall inform the student that the dean's sanction may be appealed to the Campus Judicial Council, and that if an appeal is made, the dean shall take no action nor make any determination, except for summary suspension, in the matter other than to inform the student of the time, date, and location of the hearing by the Campus Judicial Council.

NEW SECTION

WAC 106-120-132 PROCEDURES FOR HEARING BEFORE THE CAMPUS JUDICIAL COUNCIL. (1) When a case is referred to the Campus Judicial Council the dean shall forward to the council:

(a) A statement describing the alleged misconduct;

(b) The name and address of the complainant;

(c) The name and address of the student charged; and

(d) All relevant facts and statements.

(2) The council chair shall call a special meeting of the council and arrange for a hearing in the following manner:

(a) The council shall determine the time and place of the hearing, which shall be at least ten days after delivery of written notice to the student. Time and place shall be set to make the least inconvenience for all interested parties. The chair may change the time and place of the hearing for sufficient cause.

(b) The council shall draw lots to determine a hearing board, consisting of four student members and two faculty members of the council, and the Chair acting as hearing officer.

(c) No case shall be heard unless the full membership of the hearing board is present.

(d) All cases will be heard de novo, whether the case be an appeal from a subsidiary judicial body or is heard as an original complaint.

(3) The council chair shall send written notice by certified mail of the hearing to the student to the student's last known address. The notice shall contain:

(a) A statement of the date, time, place and nature of the hearing;

(b) To the extent known, a list of witnesses who will appear; and

(c) A summary description of any documentary or other physical evidence that would be presented by the university.

(4) The student shall have all authority possessed by the university to obtain information he/she specifically describes in writing and tenders to the council chair no later than two days prior to the hearing or to request the presence of witnesses, or the production of other evidence relevant to the hearing. However, the university shall not be liable for information requested by the student or the presence of any witnesses when circumstances beyond the control of the university prevent the obtaining of such information or the attendance of such witnesses at the hearing.

(5) Hearings will ordinarily be held in closed session unless the Hearing Board determines there is a compelling reason for the hearing to be open, or the student requests an open hearing. A closed hearing shall include only members of the Hearing Board, persons directly involved in the hearing as parties and persons called as witnesses.

(6) The hearing shall be audio tape recorded, and the tape shall be on file at the office of the dean for a period of three years.

(7) The university shall be represented by the dean who shall present the university's case against the student.

(8) The student may be accompanied by counsel, or another third party, who may offer advice. If the student utilizes an attorney as advisor, the student must give to the dean two days notice of intent to do so. If the student elects to be advised by an attorney, the dean may elect to have the university advised by an assistant attorney general.

(9) The council chair shall insure that:

(a) The hearing is held in an orderly manner giving full care that the rights of all parties to a full, fair and impartial hearing are maintained.

(b) The charges and supporting evidence or testimony shall be presented first, and that there is full opportunity for the accused student to challenge the testimony and/or evidence, and to cross examine appropriately.

(c) The student charged shall next present evidence or testimony to refute the charge, and that there is full opportunity for the accuser to challenge testimony and/or evidence, and to cross examine appropriately.

(d) Only those materials and matters presented at the hearing will be considered as evidence. The hearing officer shall exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

(10) Any person disruptive of the hearing or any other procedure described in this document may be excluded from the process by the chair of the Campus Judicial Council or by the dean, using such means as are necessary to insure an orderly process. Any student engaging in such interference shall be in contempt and may be summarily suspended from the university by the Campus Judicial Council or the dean immediately. The student shall be subject to a suspension or any lesser sanction as may be determined by the Campus Judicial Council or the dean at the time the interference takes place or within fifteen working days thereafter.

(11) The student has a right to a fair and impartial hearing, but the student's failure to cooperate with or attend a hearing procedure shall not preclude the committee from making its finding of facts, conclusions, and recommendations. Failure by the student to cooperate may be taken into consideration by the Campus Judicial Council and the dean in deciding the appropriate disciplinary action.

(12) Upon conclusion of the hearing, the hearing board in closed session shall consider all the evidence presented and decide by majority vote to exonerate the student or to impose one of the sanctions authorized by this document.

(13) The student shall be provided with a copy of the board's findings of fact and conclusions regarding whether the student did violate any rule or rules of the Student Judicial Code and the board's decision as to the appropriate sanction to be imposed.

(14) If a student charged with misconduct under this code has been charged with a crime for the same act or closely related acts by federal, state, or local authorities, or if it appears that such criminal charge is under consideration, the Campus Judicial Council may postpone action on the complaint until there has been a disposition of the criminal charge or of the consideration of filing such charge. However, prior to action by other agencies, the council may proceed to hear and decide the case if in the judgment of the council, the nature of the alleged misconduct and the circumstances surrounding it pose a serious risk to the health or well being of the student or other members of the university. If there is a determination of guilt by the council and if the subsequent criminal proceedings result in a judgment of acquittal, the student may petition the Campus Judicial Council for a rehearing.

NEW SECTION

WAC 106-120-143 SUMMARY SUSPENSION PROCEEDINGS. The dean may summarily suspend any student from the university pending investigation, action of prosecution of charges of an alleged proscribed conduct violation or violations, if the dean has reason to believe that the student's physical or emotional safety and well-being, or the safety and well-being of other university community members, or the protection of property requires such suspension.

(1) If the dean finds it necessary to exercise the authority to summarily suspend a student the dean shall:

(a) Give to the student an oral or written notice of intent to determine if summary suspension is an appropriate action;

(b) Give an oral or written notice of the alleged misconduct and violation(s) to the student;

(c) Give an oral or written explanation of the evidence in support of the charge(s) to the student;

(d) Give an oral or written notice of the time and place of the summary suspension hearing before the dean; and

(e) Determine a time for the summary suspension hearing to be held within 36 hours;

(f) Give an oral or written explanation of the summary suspension which may be imposed on the student.

(2) At the place and time designated for the summary suspension hearing, the dean shall:

(a) Consider the evidence relating specifically to the probability of danger to the student, to others on the campus, or to property;

(b) Provide the student with an opportunity to show why continued presence on campus does not constitute a danger to the physical and emotional well being of self or others, or a danger to property;

(c) Give immediate oral notice of his decision to the student to be followed by written notice; and

(d) If summary suspension is warranted, summarily suspend the the student for no more than 15 working days with a Judicial Council Hearing of the allegations to have commenced by the end of the suspension period.

(3) If a student has been instructed by the dean to appear for summary suspension proceedings and then fails to appear at the time designated, the dean may suspend the student from the university, and shall given written notice of suspension to the student at his last address of record on file with the university.

(4) During the period of summary suspension, the suspended student shall not enter the campus of the university other than to meet with the dean. However, the dean may grant the student special permission for the express purpose of meeting with faculty, staff, or students in preparation for a hearing before the Campus Judicial Council.

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.

REPEALER

The following sections of the Washington Administration Code are each REPEALED:

(1) WAC 106-120-001 RIGHTS AND RESPONSIBILITIES.
(2) WAC 106-120-010 RIGHTS AND RESPONSIBILITIES OF STUDENTS.
(3) WAC 106-120-011 INTERNAL SOLUTION TO PROBLEMS.
(4) WAC 106-120-013 DEFINITIONS.
(5) WAC 106-120-020 PROSCRIBED CONDUCT.
(6) WAC 106-120-030 DISCIPLINARY SANCTIONS.

(7) WAC 106-120-031 READMISSION AFTER SUSPENSION.
(8) WAC 106-120-032 READMISSION AFTER SUSPENSION—REESTABLISHMENT OF ACADEMIC STANDING.
(9) WAC 106-120-040 COMPLAINTS—DISPOSITION.
(10) WAC 106-120-041 COMPLAINTS—DISPOSITION—PENDING CRIMINAL PROCEEDINGS FOR THE CAMPUS JUDICIAL COUNCIL.
(11) WAC 106-120-042 NOTICE REQUIREMENTS.
(12) WAC 106-120-043 MEETING WITH THE DEAN OF STUDENT DEVELOPMENT.
(13) WAC 106-120-050 CAMPUS JUDICIAL COUNCIL.
(14) WAC 106-120-051 MEMBERSHIP IN CAMPUS JUDICIAL COUNCIL.
(15) WAC 106-120-053 QUORUM.
(16) WAC 106-120-055 PROCEDURES FOR HEARING.
(17) WAC 106-120-056 PROCEDURES FOR HEARING—ADMISSIBLE EVIDENCE.
(18) WAC 106-120-057 PROCEDURES FOR HEARING—INTERFERENCE WITH PROCEEDINGS.
(19) WAC 106-120-058 DECISION BY THE HEARING BOARD.
(20) WAC 106-120-060 INITIATION OF SUMMARY SUSPENSION PROCEEDINGS.
(21) WAC 106-120-061 PERMISSION TO ENTER OR REMAIN ON CAMPUS.
(22) WAC 106-120-062 NOTICE OF SUMMARY SUSPENSION PROCEEDINGS.
(23) WAC 106-120-064 DECISION BY DEAN.
(24) WAC 106-120-066 SUSPENSION FOR FAILURE TO APPEAR.
(25) WAC 106-120-200 PURPOSE OF THE RESIDENCE HALL ARBITRATION COUNCIL.
(26) WAC 106-120-210 THE RESIDENCE HALL ARBITRATION COUNCIL.
(27) WAC 106-120-220 MEMBERSHIP OF THE RESIDENCE HALL ARBITRATION COUNCIL.
(28) WAC 106-120-230 HEARING PROCEDURES.
(29) WAC 106-120-240 DISRUPTIONS OF A COUNCIL HEARING.
(30) WAC 106-120-250 ANNUAL REVIEW OF THE RESIDENCE HALL ARBITRATION COUNCIL.
(31) WAC 106-120-700 DEMONSTRATIONS ON CAMPUS.
(32) WAC 106-120-800 RIGHT TO FORM ORGANIZATION.
(33) WAC 106-120-900 STUDENT GOVERNMENT.

WSR 85-03-087
ADOPTED RULES
PARKS AND RECREATION COMMISSION
[Order 87—Filed January 21, 1985]

Be it resolved by the Washington State Parks and Recreation Commission, acting at Olympia, Washington, that it does adopt the annexed rules relating to the state boating safety grant and contract program, chapter 352-64 WAC.

This action is taken pursuant to Notice No. WSR 84-24-074 filed with the code reviser on December 5, 1984. 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 43.51.400 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 18, 1985.

By Jack Gustafson
Chairperson

Chapter 352-64 WAC
THE STATE BOATING SAFETY GRANT AND CONTRACT PROGRAM

WAC

352-64-010	Purpose.
352-64-020	Definitions.
352-64-030	Boating safety grant and contract program.
352-64-040	Grant eligibility.
352-64-050	Application process.
352-64-060	Funding guidelines.
352-64-070	Procedures for review and disbursement of funds.
352-64-080	Accountability.

NEW SECTION

WAC 352-64-010 PURPOSE. The state boating safety grant and contract program was established to provide local and state agencies and private organizations with a comprehensive biennial plan for boating safety programs and to establish procedures by which the Washington state parks and recreation commission would allocate moneys to boating safety programs and projects of local and state agencies and private organizations in accordance with RCW 43.51.400.

NEW SECTION

WAC 352-64-020 DEFINITIONS. When used in this chapter, the following words and phrases shall have the meanings designated in this section unless a different meaning is expressly provided or unless the context clearly indicates otherwise.

"Commission" means the seven-member Washington state parks and recreation commission policy-making body created pursuant to RCW 43.51.020.

"Agency" means the operating arm of the Washington state parks and recreation commission, which is responsible for implementation of commission programs established pursuant to statute or policy.

"Director" means the director of the Washington state parks and recreation commission, pursuant to RCW 43.51.060(8).

"Boating safety task force" means the volunteer advisory body created by the agency to advise on matters related to the state boating program, and composed of representatives of Washington's boating community and other concerned interests.

NEW SECTION

WAC 352-64-030 BOATING SAFETY GRANT AND CONTRACT PROGRAM. The boating safety grant and contract program is composed of the biennial boating safety plan and the disbursement of boating safety funds.

The biennial boating safety plan will be developed by the agency in cooperation with local and state agencies to provide comprehensive guidelines for the uniform implementation and operation of boating safety efforts statewide.

Boating safety funds will be disbursed to local and state agencies and private organizations by the commission to initiate or supplement boating safety activities and to promote uniformity in boating safety services in accordance with the Federal Boating Safety Act of 1971. The funds may be used for programs which include planning, development, and operation of programs for boating safety, safety education, and enforcement of boating laws, rules and regulations. Program elements may include: Dissemination of information related to safe boat operation; training of boating safety professionals; purchase of boats and related equipment for boating safety programs; program administration; and, the maintenance of a safe boating environment.

The boating safety grant and contract program will be administered to initiate or enhance programs for boating safety, safety education and enforcement of boating laws, rules and regulations, and will not be used to supplant existing contributions and efforts toward safe boating.

NEW SECTION

WAC 352-64-040 GRANT ELIGIBILITY. Any state or local public agency or private organization is eligible to apply for grants or contracts for boating safety or safety education. A state or local public agency having jurisdiction over waters used for recreational boating and possessing the authority to enforce the Revised Code of Washington and the Washington Administrative Code is eligible to apply for grants for programs of enforcement of boating laws, rules, and regulations.

Each successful applicant must provide a minimum of fifty percent match through program expenditures, in kind services, and/or volunteer contributions to the program.

NEW SECTION

WAC 352-64-050 APPLICATION PROCESS. In order to be considered by the commission for receipt of boating safety funds an eligible agency or organization must:

(1) Complete an application on a form prescribed by the agency and file the application by September 15 of the year prior to the year for which funds are being requested, except that for programs to be implemented in 1985, applications must be filed by February 1, 1985.

(2) Provide a statement of intent from the governing body of the requesting agency or organization that the necessary matching funds or in-kind contributions will be made available for the program as described in the application.

(3) Agree to:

(a) File an annual report and other reports, as may be specified in the agreement, on a form provided by the agency. Include accomplishments, all activities, a summary of in-kind contributions, and total expenses incurred by the program or project.

(b) Refund to the commission any unexpended funds received from the commission which remain at the completion or termination of the agreement and reimburse the commission for any unauthorized expenditures.

NEW SECTION

WAC 352-64-060 FUNDING GUIDELINES. Following is a list of the funding guidelines which will be considered in determining the allocation of available boating safety funds, in order of priority.

(1) Assist programs which are designed to prevent boating accidents through education and/or enforcement of safe boating laws.

(2) Assist in the training of personnel and in the operation of boater assistance and rescue programs.

(3) Assist development of state-wide boater safety information programs.

(4) Assist development of other programs which promote or enhance safe boating opportunities in Washington state.

NEW SECTION

WAC 352-64-070 PROCEDURES FOR REVIEW AND DISBURSEMENT OF FUNDS. Following is a description of procedures which will be used by the commission in the review and disbursement of boating safety funds.

(1) Applications will be reviewed by agency staff and scored by the boating safety task force to determine consistency with the funding guidelines and the biennial boating safety plan.

(2) The director will receive and consider the recommendations of the boating safety task force for the disbursement of boating safety funds in developing final recommendations for presentation to the commission.

(3) Applications for funds will be approved by the commission prior to January 31 of the year in which funds are being requested, except for special provisions effecting the 1985 funding year. No grant expenditures may be made until such approval is received.

(4) The successful applicant will receive funds:

(a) As reimbursement for approved expenditures following receipt of documentation by the agency which indicates satisfactory compliance with the agreement; or

(b) Through an advance payment upon recommendation of the boating safety task force and written approval by the director.

(5) The applicant and the agency will execute an agreement which specifies the duties and obligations of each party and requires the applicant's compliance with specified policies and procedures.

(6) The program will be subject to review at predetermined intervals to insure compliance with program policies and procedures.

NEW SECTION

WAC 352-64-080 ACCOUNTABILITY. Recipients of boating safety funds shall maintain accurate accounting records on the expenditure of funds, provide the director with these records consistent with the agreement or upon request, and permit the agency to audit the use of the funds in accordance with generally accepted audit practices and standards.

The commission reserves the right to terminate its participation in any program for failure to perform according to the requirements of the agreement.

WSR 85-03-088
NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGE DISTRICT
[Memorandum—January 4, 1985]

This is the revised meeting schedule for the Seattle Community College District VI board of trustees for 1985:

January 14, 1985	7:00 p.m.	South Seattle Community College
February 4	6:30 p.m.	North Seattle Community College
March 4	6:30 p.m.	Seattle Central Community College
April 1	6:30 p.m.	South Seattle Community College
May 6	6:30 p.m.	North Seattle Community College
June 3	6:30 p.m.	Seattle Central Community College
July-August 5	6:30 p.m.	South Seattle Community College
September 9*	6:30 p.m.	North Seattle Community College
October 7	6:30 p.m.	Seattle Central Community College
November 4	6:30 p.m.	South Seattle Community College
December 2	6:30 p.m.	North Seattle Community College

*Schedule changed due to holiday

WSR 85-03-089
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed January 21, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning loose apples and/or pears, repealing WAC 16-400-020 and adding new definition section WAC 16-400-007 to chapter 16-400 WAC;

that the agency will at 10:00 a.m., Tuesday, February 26, 1985, in the Franklin County P.U.D., 1411 West Clark, Pasco, WA 99301, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on February 28, 1985.

The authority under which these rules are proposed is chapter 15.17 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

Dated: January 21, 1985
By: Norval G. Johanson
Assistant Director

STATEMENT OF PURPOSE

Title: Horticultural inspection fees.

Purpose: Further clarifies the definition of district offices and repeals duplicate fees already established in WAC 16-400-010.

Statutory Authority: Chapter 15.17 RCW.

Specific Statute Rule is Intended to Implement: Chapter 15.17 RCW.

Summary of Rule: These rules establish fee rates for inspections.

Reasons Supporting Proposed Action: Further clarifies the definition of district offices and repeals duplicate fees already established in WAC 16-400-010.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: James R. Archer, Program Supervisor, Washington State Department of Agriculture, Commodities Inspection Division, 406 General Administration Building, AX-41, Olympia, Washington 98504, phone (206) 753-5052.

These rules are proposed by the Department of Agriculture.

Agency Comment: None.

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

Small Business Impact Statement: None.

NEW SECTION

WAC 16-400-007 DEFINITION. For the purposes of this chapter districts one, two, three, and four are defined in chapter 16-458 WAC horticultural inspection district boundaries.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-400-020 LOOSE APPLES AND/OR PEARS.

WSR 85-03-090
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed January 21, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules concerning standards for asparagus, chapter 16-409 WAC;

that the agency will at 10:00 a.m., Tuesday, February 26, 1985, in the Franklin County P.U.D., 1411 West Clark, Pasco, WA 99301, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 15, 1985.

The authority under which these rules are proposed is chapter 15.17 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

Dated: January 21, 1985
By: Norval G. Johanson
Assistant Director

STATEMENT OF PURPOSE

Title: Standards for asparagus.

Purpose: Amends standards to comply with industry practices.

Statutory Authority: Chapter 15.17 RCW.

Specific Statute Rule is Intended to Implement: Chapter 15.17 RCW.

Summary of Rule: These rules establish grades and standards for asparagus.

Reasons Supporting Proposed Action: This will bring standards in compliance with industry practices.

Agency Personnel Responsible for Drafting, Implementation and Enforcement: James R. Archer, Program Supervisor, Washington State Department of Agriculture, Commodities Inspection Division, 406 General Administration Building, AX-41, Olympia, Washington 98504, phone (206) 753-5052.

These rules are proposed by the asparagus industry.

Agency Comment: None.

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

Small Business Impact Statement: None.

Chapter 16-409 WAC
STANDARDS FOR ASPARAGUS

WAC

16-409-015	Definitions.
16-409-020	Washington standards—((~~Washington No. 1~~)) Grades.
16-409-030	Tolerances for defects, color, diameter and ((~~length~~)) trim.
16-409-035	Application of tolerances.
16-409-060	Washington standards—Size ((~~classifications~~)) designations.
16-409-065	Containers.
16-409-070	Marking requirements.
16-409-075	Exemption.
16-409-085	Adoption of United States standards as Washington state standards.

AMENDATORY SECTION (Amending Order 1787, filed 3/1/83)

WAC 16-409-015 DEFINITIONS. (1) "Clean" means that the asparagus is free from excessive dirt, dust, residue or foreign matter.

(2) "Fresh" means that the stalk is not limp or flabby.

(3) "Well trimmed" means that at least two-thirds of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container and that the butt is not stringy or frayed.

(4) "Fairly well trimmed" means that at least one-third of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container and that the butt is not badly stringy or frayed.

(5) "Diameter" means the greatest thickness of the stalk measured at a point approximately one inch from the butt.

((~~(4)~~)) (6) "Fairly uniform in length" means that stalks within a container shall vary not more than one and one-half inches in length.

((~~(5)~~)) (7) "White" means that portion of the stalk near the butt, which is white in color or light purple over white. White is measured from the extreme tip of the butt to the point of beginning of green color.

((~~(6)~~)) (8) "Green" means that portion of the stalk having green color, purplish-green or greenish-purple color, and purple at the tip.

((~~(7)~~)) (9) "Damage" means any defect, or combination of defects, which materially ((~~affects~~)) detracts from the appearance, or the edible or marketing quality of the stalk.

((~~(8)~~)) (10) "Serious damage" means any defect, or combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the stalk.

((~~(9)~~)) (11) "Badly misshapen" means the stalk is so badly flattened, crooked or otherwise so badly deformed that its appearance is seriously affected.

((~~(10)~~)) (12) "Fresh asparagus" as used in the standards means a lot of asparagus marketed for the purpose of fresh consumption.

((~~(11)~~)) (13) "Lot" means any number of containers of fresh asparagus being offered as a unit for the purpose of inspection, sale, or shipment.

((~~(12)~~)) (14) "Shipment" means any number of containers of fresh asparagus transported on a single conveyance from the area of production.

((~~(13)~~)) (15) "Field container" means an open lug made of wood, plastic, or similar material and used repetitively for field harvesting.

AMENDATORY SECTION (Amending Order 1787, filed 3/1/83)

WAC 16-409-020 WASHINGTON STANDARDS—((~~WASHINGTON NO. 1~~)) GRADES. (1) Washington ((~~No. 1~~)) extra fancy shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, ((~~which are not~~)) well trimmed, fairly straight, not wilted ((~~or crooked;~~)), and which are free from decay and damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means. ((~~Each~~)) Stalks shall ((~~show not more than one and one-half inches of white~~)) have at least eighty-five percent green color.

(b) ((~~Each stalk shall have a diameter of not less than three-eighths of an inch~~)) Stalks within individual containers shall meet one of the following designated sizes: Jumbo, large, standard, or small.

(2) Washington ((~~No. 2~~)) fancy shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, ((~~which are~~)) fairly well trimmed not wilted and not badly misshapen((;)), and which are free from decay and serious damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall ((~~show not more than two inches of white~~)) have at least eighty-five percent green color.

(b) Each stalk shall have a diameter of not less than ((~~one-fourth~~)) four-sixteenths inch.

(3) Washington consumer pack shall consist of:

(a) Clean, fresh stalks of asparagus ((~~and may be of random length;~~)) which are fairly straight not wilted ((~~or crooked;~~)) and which are free from decay and damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall show not more than two inches of white on those stalks having a diagonal cut at the butt, nor more than one and one-half inches of white on those stalks which have been trimmed and which meet the requirements of fairly well trimmed or well trimmed.

(b) Each stalk shall have a diameter of not less than ((~~one-fourth~~)) four-sixteenths inch.

(c) Stalks shall be not less than seven inches nor more than eleven inches in length.

(4) Culls.

(a) Asparagus which is not graded in conformity with Washington ((~~No. 1~~)) extra fancy, Washington ((~~No. 2~~)) fancy, or, Washington consumer pack, ((~~U.S. No. 1, or U.S. No. 2~~)) shall be designated as "culls."

(b) Culls shall not be marketed if more than ten percent by count of the stalks show white in excess of two inches.

(5) Any lot of fresh asparagus, including "culls" marketed within the state of Washington, shall have not more than ten percent of stalks with white in excess of two inches, nor more than ten percent of stalks which are less than four-sixteenths inch in diameter.

AMENDATORY SECTION (Amending Order 1787, filed 3/1/83)

WAC 16-409-030 TOLERANCES FOR DEFECTS, COLOR, DIAMETER AND ((~~LENGTH~~)) TRIM. (1) In order to allow for variations incident to proper grading and handling in the Washington ((~~No. 1~~)) extra fancy, Washington ((~~No. 2~~)) fancy, and Washington consumer pack grades, the following tolerances are provided as specified:

(a) Ten percent, by count, for stalks failing to meet the requirements of the grade other than for trim and color requirements, including therein, not more than one percent for stalks affected by decay.

(b) An additional ten percent, by count, for stalks ((~~showing excessive white~~)) having less than the specified amount of green color.

(c) An additional ten percent, by count, for stalks not meeting trim requirements.

(2) In order to allow for variations in diameter and length incident to proper sizing in the Washington ((~~No. 1~~)) extra fancy, Washington ((~~No. 2~~)) fancy, and Washington consumer pack grades, the following tolerance is provided as specified: Ten percent, by count, for stalks failing to meet the required minimum and maximum diameter, and/or length, as defined under, "fairly uniform in length" and "size designations."

AMENDATORY SECTION (Amending Order 1787, filed 3/1/83)

WAC 16-409-035 APPLICATION OF TOLERANCES. Individual samples are subject to the following limitations: PROVIDED, That the averages for the entire lot are within the tolerances specified for the grade.

(1) For a tolerance of ten percent or more, individual samples shall contain not more than one and one-half times the tolerance specified.

(2) For a tolerance of less than ten percent, individual samples shall contain not more than double the tolerance specified.

(3) One decayed or otherwise defective stalk, one poorly trimmed stalk, one poorly colored, and one off-size stalk shall be permitted in any sample.

AMENDATORY SECTION (Amending Order 1787, filed 3/1/83)

WAC 16-409-060 WASHINGTON STANDARDS—SIZE ((~~CLASSIFICATIONS~~)) DESIGNATIONS. In addition to the statement of grade((~~, any lot of asparagus may be classified as Washington small or Washington large, if eighty percent, by count, of the stalks in any lot conform to the following diameters for such classifications:~~

~~Washington Small (4/16) 1/4 inch diameter and larger~~ ~~Washington Large (6/16) 3/8 inch diameter and larger~~)):

(1) Washington extra fancy grade lots shall be designated as Washington extra fancy jumbo or Washington jumbo, Washington extra fancy large or Washington large, Washington extra fancy standard or Washington standard, or Washington extra fancy small or Washington small. Ninety percent, by count, of the stalks in any lot shall conform to the following diameters for such designations:

(a) Washington extra fancy jumbo or Washington jumbo shall be stalks thirteen-sixteenths inch in diameter or larger.

(b) Washington extra fancy large or Washington large shall be stalks seven-sixteenths inch in diameter or larger.

(c) Washington extra fancy standard or Washington standard shall be stalks six-sixteenths inch in diameter or larger.

(d) Washington extra fancy small or Washington small shall be stalks four-sixteenths inch in diameter or larger.

(2) Washington fancy grade lots shall be designated by minimum diameter: PROVIDED, That when at least ninety percent, by count, of the stalks in any lot are four-sixteenths inch in diameter or larger, the lot may be designated as Washington fancy small or Washington small.

(3) Washington consumer pack grade lots shall be designated by minimum diameter. Stalks shall be four-sixteenths inch in diameter or larger.

AMENDATORY SECTION (Amending Order 1787, filed 3/1/83)

WAC 16-409-065 CONTAINERS. (1) Fresh asparagus shall be marketed in containers which are clean and free from dirt, trash, and visible contaminates.

(2) Fresh asparagus of the Washington ((~~No. 1~~)) extra fancy, Washington ((~~No. 2~~)) fancy, ((~~Washington consumer pack, U.S. No. 1, and U.S. No. 2~~)) grades shall be marketed in pyramid type containers with ((~~a~~)) moisture ((~~pad, or~~)) pads.

(3) Pyramid type containers shall contain thirty pounds, fifteen pounds, or six kilograms net weight.

(4) Fresh asparagus of the Washington consumer pack grade shall be marketed in fibre-board ((~~of~~)) or wooden "western lug" containers having inside dimensions of approximately seven, by eleven and one-half, by eighteen inches, or capacity of thirteen hundred fifty to fifteen hundred fifty cubic inches.

(5) Western lugs shall contain not less that twenty pounds net weight.

((~~(3)~~)) (6) Culls shall be marketed in wooden pyramid ((~~type~~)) containers with moisture pads.

((~~(4)~~)) (7) Fresh asparagus in field containers shall not be marketed.

((~~(5)~~)) (8) The director may allow the use of containers not specified in subsections (2) ((~~and~~)), (3), (4), (5), and (6) of this section, as experimental containers for the purpose of test or trial marketing.

AMENDATORY SECTION (Amending Order 1787, filed 3/1/83)

WAC 16-409-070 MARKING REQUIREMENTS. (1) ((~~Open or closed~~)) Containers shall be conspicuously and legibly marked with the name and address of the grower, packer, or distributor, the grade, and net weight, and a size designation or diameter size as defined in WAC 16-409-060 (1), (2), and (3).

(2) The grade and size designation shall be marked in letters at least three-eighths inch in height.

(3) The following abbreviations of grade and size designation shall be acceptable: Washington may be abbreviated as Wash. or WA. Extra fancy may be abbreviated as ex fcy or extra fcy. Fancy may be abbreviated as fcy. Large may be abbreviated as lge. Standard may be abbreviated as std.

(4) The use of U.S. No. 1 or U.S. No. 2 grade markings shall be permitted subject to WAC 16-409-085.

(5) If culls are marketed, the word "culls" shall be conspicuously and legibly marked in letters at least one inch in height and shall be predominant in size over other markings.

((~~(4)~~)) (6) All required markings shall be placed on one end of the container, and may be duplicated on opposite end of container.

AMENDATORY SECTION (Amending Order 1787, filed 3/1/83)

WAC 16-409-075 EXEMPTION. Any individual shipment of fresh asparagus shall be exempted from the requirements of WAC ((~~16-409-015~~)) 16-409-020 through 16-409-060, 16-409-065((~~(1),~~)) (2), (3) ((~~and~~)), (4), (5), (6), and (8); and 16-409-070 when:

(1) The shipment consists of asparagus for home use and not for resale.

(2) The shipment does not exceed two hundred fifty pounds net weight.

AMENDATORY SECTION (Amending Order 1787, filed 3/1/83)

WAC 16-409-085 ADOPTION OF UNITED STATES STANDARDS AS WASHINGTON STATE STANDARDS. In addition to the standards for asparagus as set forth in this chapter the United States standards for grades of fresh asparagus, as they apply to U.S. No. 1 and U.S. No. 2, are hereby adopted as additional standards for the state of Washington for asparagus: PROVIDED, That U.S. No. 1 shall meet or exceed Washington extra fancy grade and U.S. No. 2 shall meet or exceed Washington fancy grade.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-409-120 UNITED STATES STANDARDS FOR FRESH ASPARAGUS—AMOUNT OF GREEN COLOR.

WSR 85-03-091
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—January 18, 1985]

The regular meetings of the board of regents will be held on the following dates in 1985, subject to change, providing that due notice is given by the secretary of the board in accordance with the bylaws of the board of regents:

February 8, 1985
March 15
April 19
May 17
June 14
July 12
August 16
September 20
October 18
November 22
December 13

Time: 10:00 a.m., unless public notice is given to the contrary.

Place: Room 301 Administration Building (except as otherwise noted).

Any changes in the above schedule will be noted at least 24 hours before the time of the scheduled regular meeting.

WSR 85-03-092
NOTICE OF PUBLIC MEETINGS
GREEN RIVER COMMUNITY COLLEGE
[Memorandum—January 4, 1985]

The board of trustees will meet the third Thursday of each month as follows:

January 17	July 18
February 21	August 15
March 21	September 19
April 18	October 17
May 16	November 21
June 20	December 19

The board of trustees of Community College District No. 10 does hereby set the regular meeting dates for the board of trustees on the third Thursday of each month, commencing at 4:00 p.m. in the Board Room of the Administration Building, Green River Community College, 12401 S.E. 320th Street, Auburn, WA 98002.

WSR 85-03-093
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed January 22, 1985]

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 Issuance fee—Restrictions, WAC 314-18-040;

that the agency will at 10:00 a.m., Wednesday, February 27, 1985, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 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 RCW 66.08.030, 66.98.070 and chapter 34.04 RCW.

The specific statute these rules are intended to implement is RCW 66.08.010, 66.08.030 (1) and (2) and 66.20.010(3).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 27, 1985.

Dated: January 22, 1985
By: Robert D. Hannah
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-18-040 Issuance fee—Restrictions.

Description of Purpose: New subsection (6) expands on the issuance criteria for banquet permits where such permits are issued for a liquor event held on a vessel under the control of the Washington state ferry system; and subsections (6), (7), (8) and (9) are renumbered as subsections (7), (8), (9) and (10) respectively.

Statutory Authority: RCW 66.08.030, 66.98.070 and chapter 34.04 RCW.

Statutes Implemented by the Rule: RCW 66.08.010, 66.08.030 (1) and (2) and 66.20.010(3).

Summary of Rule: In order to obtain a banquet permit for a liquor event to be held on a vessel under the control of the Washington state ferry system, the banquet permit applicant must furnish the written approval of a Washington state ferry system official to the Liquor Control Board (any liquor store or liquor agency).

Reason Supporting Proposed Action: The board received a formal request on behalf of Washington state ferries for prior approval of permits issued for liquor events on ferry system vessels. The ferry system found control to be a major problem when they had no prior knowledge of the event. Also it is very difficult to hold such functions in a private area of a public vessel.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Robert D. Obenland, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, (206) 753-6270; Gary W. Gilbert, Assistant Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, (206) 753-6274; Ray Hensel, Supervisor, License Division, Capital Plaza Building, Olympia, WA 98504, (206) 753-6259; and Lowell Hanson, Supervisor, Stores and Agencies, 4401 East Marginal Way South, Seattle, WA 98134, (206) 464-6860.

Person or Organization Proposing Rule: This rule was proposed by the Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: This rule was not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: Cost impact for both large and small businesses is estimated to be minimal to zero.

AMENDATORY SECTION (Amending Order 140, Resolution No. 149, filed 4/11/84)

WAC 314-18-040 ISSUANCE FEE—RESTRICTIONS. (1) Banquet permits may be issued by the board's stores and agencies to qualified applicants on forms provided by the board; the fee for each banquet permit will be ten dollars.

(2) Except for outdoor areas, banquet permits will only be issued for use at premises that are or can be arranged so that the general public can be excluded therefrom.

(3) Where the application is for a banquet to be held either partially or wholly out-of-doors, the following restrictions will apply:

(a) State parks: State parks are exempt from the law requiring a license or permit to consume liquor in a public place (RCW 66.04.011). Banquet permits shall not be issued for the service and consumption of liquor in state parks.

(b) City and county parks: Applicants will be issued banquet permits only upon presentation of written approval from the appropriate local authority for the banquet applied for.

(c) Commercial parks (privately owned and operated): Store and agency managers may issue banquet permits for use in such commercial parks even though the event is to be held partly or wholly out-of-doors.

(d) All other outdoor areas: Issuance is conditioned upon approval of the area liquor enforcement officer.

(4) Where the application is for a banquet permit for an event to be held on a college or university campus or upon the premises of an elementary or high school, public or private; permits will be issued provided that approval, in writing, by an appropriate official of the college, university, elementary, or high school is furnished with the application.

(5) When the application is for a banquet permit for an event to be held in or at a state armory used for military purposes, permits will be issued provided that approval, in writing, by the adjutant general or his/her designee is furnished by the applicant to the board and to the chief of police of the incorporated city or town in which the armory is located or to the county sheriff if the armory is located outside the boundaries of incorporated cities or towns.

(6) Banquet permits will not be issued:

(a) For use at premises that have a license issued by the board that is or will be suspended on the date of the scheduled banquet.

(b) For functions held in a tavern.

(7) The event for which the banquet permit application is made cannot be open to the public through general admission ticket sales.

(8) The event for which the banquet permit application is made cannot be open to the public or advertised to the public.

(9) Approval of the area enforcement officer is required for banquet permits intended for use in the cocktail lounge facilities or tap rooms of Class A, C, D, or H licensed premises, including hotels, restaurants, and clubs, unless the entire premises under the control of the licensee is devoted to the banquet, and then only if all licensee liquor is removed from view and securely isolated.

(10) Where the application is for a banquet permit for an event to be held on a vessel under the jurisdiction of the Washington state ferry system; permits will be issued provided that approval, in writing, by an appropriate official of the Washington state ferry system is furnished with the application.

WSR 85-03-094
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed January 22, 1985]

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 Guest and courtesy cards—Visitors, WAC 314-40-040;

that the agency will at 9:30 a.m., Wednesday, February 27, 1985, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 1021 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 RCW 66.08.030, 66.98.070 and chapter 34.04 RCW.

The specific statute these rules are intended to implement is RCW 66.08.010, 66.08.030 (2)(q) and 66.24.450.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 27, 1985.

Dated: January 22, 1985
By: Robert D. Hannah
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-40-040 Guest and courtesy cards—Visitors.

Description of Purpose: The addition of paragraph (6) to the rule would allow a private liquor licensed club to hold one open to the public membership function per calendar year at which the club could furnish, without charge, club liquor to those persons attending.

Statutory Authority: RCW 66.08.030, 66.98.070 and chapter 34.04 RCW.

Statutes Implemented by the Rule: RCW 66.08.010, 66.08.030 (2)(q) and 66.24.450.

Summary of Rule: A private club may hold one open house per calendar year at which club liquor may be provided without charge to the attendees.

Reason Supporting Proposed Action: The board has always viewed private clubs as a person's (members) second home with the family being an integral part of the club structure. As such, the introduction of the general public into the club, especially in the area of liquor service, has been very restrictive. The primary purpose of the amendment is to enhance a club's ability to recruit new members and build club membership.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Robert D. Obenland, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, (206) 753-6270; Gary W. Gilbert, Assistant Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, (206) 753-6274; and Ray Hensel, Supervisor, License Division, Capital Plaza Building, Olympia, WA 98504, (206) 753-6259.

Person or Organization Proposing Rule: This rule was proposed by the Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: This rule was not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: Since the rule will allow membership recruitment under less stringent guidelines, this impact would appear to be favorable.

AMENDATORY SECTION (Amending Order 92, Resolution No. 101, filed 1/27/82)

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(1)(a) and (b) 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 (1) and (2) shall not apply to members of such organizations.

(4) Persons who are members in good standing of a licensed golf, tennis, or yacht club may enjoy the privileges of any other licensed golf, tennis, or yacht club, respectively: PROVIDED, That the bylaws of such clubs authorize reciprocal privileges: PROVIDED FURTHER, That WAC 314-40-040 (1) and (2) 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 to those attending as a part of the membership drive activities.

WSR 85-03-095
ADOPTED RULES
BUILDING CODE ADVISORY COUNCIL
[Order 85-01—Filed January 22, 1985]

Be it resolved by the State Building Code Advisory Council, acting at the Sea-Tac Airport Fire Station Conference Room, that it does adopt the annexed rules relating to an amendment to state regulations for barrier-free facilities, chapter 51-10 WAC.

This action is taken pursuant to Notice No. WSR 84-21-133 filed with the code reviser on October 24, 1984. 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 chapters 19.27 and 70.92 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 December 21, 1984.

By Lynn Carmichael
Chairman

Reviser's note: The amendments to the state regulations for barrier-free facilities filed with this permanent order are not capable of being reproduced in the Register and are therefore omitted pursuant to RCW 34.04.050(3). Copies may be obtained from the Department of Community Development, Ninth and Columbia Building, MS: GH-51, Olympia, Washington 98504.

WSR 85-03-096
NOTICE OF PUBLIC MEETINGS
LIQUOR CONTROL BOARD
[Memorandum—January 18, 1985]

Pursuant to RCW 42.30.075, notice is hereby given that the Liquor Control Board will hold regular meetings on Monday through Friday of each week, except on holidays, beginning at 9:30 a.m. or as soon thereafter as a quorum is assembled, at its offices on the Fifth Floor, Capitol Plaza Building, 1025 East Union Avenue, Olympia, Washington.

WSR 85-03-097
EMERGENCY RULES
DEPARTMENT OF GAME (Game Commission)
[Order 261—Filed January 23, 1985]

Be it resolved by the Washington State Game Commission, acting at Olympia, that it does adopt the annexed rules relating to regulation change for sport fishing on the Skokomish, Tahuya and Dewatto River systems, WAC 232-28-61408.

We, the Washington State Game 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 the wild steelhead run is projected to be less than the established spawning escapement objective. All further catch must be limited to hatchery-origin steelhead.

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

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 January 23, 1985.

By Jack S. Wayland
Director

NEW SECTION

WAC 232-28-61408 REGULATION CHANGE FOR SPORT FISHING ON THE SKOKOMISH, TAHUYA AND DEWATTO RIVER SYSTEMS. Notwithstanding the provisions of WAC 232-28-614 on the Skokomish, Tahuya and Dewatto river systems, only steelhead with dorsal fins equal to or less than 2.0 inches in height, as measured while fully extended, or with missing adipose or ventral fins may be reduced to possession. It is unlawful to possess a steelhead with a dorsal fin measuring greater than 2.0 inches in height or to possess a steelhead with a freshly cut or mutilated fin effective February 4, 1985.

WSR 85-03-098
EMERGENCY RULES
DEPARTMENT OF GAME
(Game Commission)
[Order 262—Filed January 23, 1985]

Be it resolved by the Washington State Game Commission, acting at Olympia, that it does adopt the annexed rules relating to regulation change for sport fishing on the Green River system, WAC 232-28-61409.

We, the Washington State Game 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 the total wild steelhead allocation is projected to be taken by the end of January. All further catch must be limited to hatchery-origin steelhead.

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

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 January 23, 1985.

By Jack S. Wayland
Director

NEW SECTION

WAC 232-28-61409 REGULATION CHANGE FOR SPORT FISHING ON THE GREEN RIVER SYSTEM. Notwithstanding the provisions of WAC 232-28-614 on the Green River System, only steelhead with dorsal fins equal to or less than 2.0" in height, as measured while fully extended, or with missing adipose or ventral fins may be reduced to possession. It is unlawful to possess a steelhead with a dorsal fin measuring greater than 2.0" in height or to possess a steelhead with a freshly cut or mutilated fin effective February 1, 1985.

WSR 85-03-099
PROPOSED RULES
LOTTERY COMMISSION
[Filed January 23, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Lottery intends to adopt, amend, or repeal rules concerning:

Amd	WAC 315-02-020	Time and place of meetings.
New	WAC 315-11-140	Definitions for Instant Game Number 14.
New	WAC 315-11-141	Criteria for Instant Game 14.
New	WAC 315-11-142	Ticket validation requirements for Instant Game 14;

that the agency will at 10:00 a.m., Friday, March 1, 1985, in the Commission Conference Room, 108 Park Village Plaza, 1200 Cooper Point Road S.W., Olympia, WA 98502, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 67.70.040.

The specific statute these rules are intended to implement is RCW 67.70.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 1, 1985.

Dated: January 23, 1985
By: Elwin Hart
Deputy Director

STATEMENT OF PURPOSE

Title and Number of Rule Section(s) or Chapter(s): WAC 315-02-020 Time and place of meetings; 315-11-140 Definitions for Instant Game Number 14 ("Win for Life"); 315-11-141 Criteria for Instant Game Number 14; and 315-11-142 Ticket validation requirements for Instant Game Number 14.

Statutory Authority: RCW 67.70.040.

Specific Statute that Rules are Intended to Implement: RCW 67.70.040.

Summary of the Rule(s): WAC 315-02-020 specifies when and where regular public meetings of the Washington State Lottery Commission will be held; 315-11-140 provides definitions of the terms used in Instant Game Number 14 rules; 315-11-141 sets forth criteria for Instant Game Number 14; and 315-11-142 states the ticket validation requirements for Instant Game Number 14.

Reasons Supporting the Proposed Rule(s): WAC 315-02-020, this new language removes any uncertainty as to when and where regular public meetings of the Washington State Lottery Commission will be held; 315-11-140, certain terms need to be defined in order to provide consistency in understanding and interpreting the rules and regulations under WAC 315-11-141 and 315-11-142; 315-11-141, licensed agents and players of Instant Game Number 14 need to know how the game will function. Specifying the criteria which apply to Instant Game 14 will provide this information; and 315-

11-142, tickets for Instant Game Number 14 which are found to be counterfeit or tampered with will be declared void by the lottery and no prize(s) will be paid. Rigid validation requirements are set forth to discourage persons from tampering with tickets and to prevent the lottery from paying out prize money on invalid tickets.

The Agency Personnel Responsible for Drafting: Frank Edmondson/Duane Kovacevich, Contracts Specialist 2, Office of the Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 754-1482, 754-1088; Implementation and Enforcement: Washington State Lottery Commission, P.O. Box 9770, Olympia, WA 98504, (206) 753-1412, Mary G. Faulk, Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3330, Elwin Hart, Deputy Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3334, William Robinson, Assistant Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-1414, and Jamie Bailey, Assistant Director, Washington State Lottery, P.O. Box 9770, Olympia, WA 98504, (206) 753-3384.

Name of Person or Organization, Whether Private, Public, or Governmental, that is Proposing this Rule: Washington State Lottery Commission.

Agency Comments or Recommendations, if any, Regarding the Statutory Language, Implementation, Enforcement, and Fiscal Matters Pertaining to the Rule: None.

The rule is not necessary to comply with federal law or a federal state court decision.

Any Other Information that may be of Assistance in Identifying the Rule or its Purpose: None.

Small Business Economic Impact Statement Requirement: The Office of the Director, Washington State Lottery, has reviewed the requirements to file a small business economic impact statement and has determined that such a statement is not required for the rules proposed by the Washington State Lottery Commission for the following reason: These rules will only affect those businesses large and small, which voluntarily apply to be licensed agents for the sale of lottery tickets or contractors who provide other services to the Office of the Director, Washington State Lottery or who voluntarily interact with the Office of the Director, Washington State Lottery. No business or industry will be required to comply with these rules unless they wish to provide services to or interact with the Office of the Director, Washington State Lottery.

NEW SECTION

WAC 315-11-140 DEFINITIONS FOR INSTANT GAME NUMBER 14 ("WIN FOR LIFE"). (1) Play symbols: The following are the "play symbols": "TICKET", "$2.00", "$5.00", "50.00", "$1000", and "$LIFE". One of these play symbols appears under each of the six rub-off spots on the front of the ticket.

(2) Validation number: The unique nine-digit number on the front of the ticket below the latex covered area.

(3) Pack-ticket number: The ten-digit number of the form 4000001-000 printed on the back of the ticket. The first seven digits of the pack-ticket number for Instant Game Number 14 constitute the "pack number" which starts at 4000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 399 within each pack of tickets.

(4) Captions: The small printed characters appearing below each play symbol which verifies and corresponds with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. For Instant Game Number 14, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
TICKET	TICKET
$2.00	TWO$
$5.00	FIVE$
50.00	FIFTY$
$1000	THOUSAND
$LIFE	THOU-MON

(5) Agent verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the licensed agent uses to verify instant winners below $25. For Instant Game Number 14, the agent verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The agent verification codes used by the licensed agent to verify lower tier prizes are:

VERIFICATION CODE	PRIZE
TIC	FREE TICKET
TWO	$2.00
FIV	$5.00

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

NEW SECTION

WAC 315-11-141 CRITERIA FOR INSTANT GAME NUMBER 14. (1) The price of each instant game ticket shall be $1.00.

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

(a) The bearer of a ticket having a TICKET, $2.00, $5.00, 50.00, $1000, or $LIFE as a play symbol in any three of the six spots beneath the removable covering on the front of the ticket shall win the following prize:

Three TICKET play symbols - Win one free ticket
Three $2.00 play symbols - Win $2.00
Three $5.00 play symbols - Win $5.00
Three 50.00 play symbols - Win $50.00
Three $1000 play symbols - Win $1,000
Three $LIFE play symbols - Win $1,000 per month for life

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

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

(4) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 14 set forth in WAC 315-11-142, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

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

(6) Grand prize drawing for Instant Game Number 14: The grand prize drawing process shall be conducted as follows:

(a) There will be preliminary drawings from entries containing five valid nonwinning "WIN FOR LIFE" tickets conducted at dates, times, places and in a manner to be announced by the director.

(b) The director shall establish the procedure for the conduct of the preliminary drawings and the grand prize drawing.

(c) Fifty names will be selected in each of five preliminary drawings. In each drawing, one will be named a finalist in the grand prize drawing and forty-nine will receive a prize of $1,000.

(d) To be eligible for entry into a preliminary drawing, an entrant must:

(i) Be eligible to win a prize pursuant to chapter 67.70 RCW and Title 315 WAC.

(ii) Collect five valid nonwinning "WIN FOR LIFE" instant game tickets. A valid nonwinning ticket is a ticket which meets all the requirements of these rules and regulations but which does not otherwise qualify for any other prize established in this section.

(iii) Write or print legibly, the entrant's name and address on the back of at least one of the five tickets or on a separate sheet of paper. An entry containing more than one name and/or address shall be disqualified.

(iv) Place the five tickets in a single envelope. An envelope which contains extraneous material or which has had the exterior altered for the apparent sole purpose of making the envelope more prominent shall be disqualified.

(v) Mail the envelope with proper postage and a legible return address of the entrant to the address specified on the back of the ticket and in the player's brochure ("WIN FOR LIFE" Preliminary Drawing, Tacoma, WA 98455), or deliver it in person during normal business hours to:

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

(e) There is no limit to the number of entries a person may submit, but each entry must be submitted in a separate envelope and both the entry and the entrant of each must meet the qualifications set forth above.

(f) Entries received by the lottery by 9:00 a.m. local time on the day of a preliminary drawing shall be entitled to participation in that drawing; except for the final preliminary drawing for which entries must be received no later than fourteen days after the announced end of game. The director reserves the right to place an entry which was entitled to, but which was not entered into a drawing, into a subsequent preliminary drawing. The deadline for entry and the date of preliminary drawings may vary at the discretion of the director.

(g) An entry which contains one or more stolen tickets may be disqualified by the director.

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

(i) The lottery shall not be responsible for any other material, including winning tickets, mailed or delivered to the "WIN FOR LIFE" preliminary drawing. All mail not drawn will be incinerated unopened.

(7) There will be one grand prize drawing for Instant Game Number 14. It will be conducted at a time and place and pursuant to procedures to be established and announced by the director. The prizes awarded at the grand prize drawing will be: First prize, $50,000 a year for life, with the prize payment starting at age eighteen or older, and with a minimum of $1,000,000 guaranteed; second prize, $50,000; third prize $25,000; fourth and fifth prizes, $10,000 each. In the event that an entry is not included in the preliminary grand prize drawing process and the director determines that the entry was entitled to participation in the process, the director reserves the right to place that entry into a subsequent preliminary grand prize drawing process.

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

(a) Vary the length of Instant Game Number 14 and/or

(b) Vary the number of tickets sold in Instant Game Number 14 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

NEW SECTION

WAC 315-11-142 TICKET VALIDATION REQUIREMENTS FOR INSTANT GAME NUMBER 14. (1) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 14 all of the following validation requirements apply.

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

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

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

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

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

(e) Each of the play symbols must be exactly one of those described in WAC 315-11-140(1) and each of the captions must be exactly one of those described in WAC 315-11-140(4).

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

AMENDATORY SECTION (Amending Order 36, filed 9/12/83)

WAC 315-02-020 TIME AND PLACE OF MEETINGS. (1) Regular public meetings of the commission shall be held ((~~upon~~)) on the first Friday of ((~~every other month, beginning with the month of February in any year~~)) March, June, September, and December, or the preceding business day if that Friday is a holiday. ((~~The location and time of~~)) Each such regular ((~~session~~)) meeting shall be ((~~as follows:~~

~~TIME:~~ ~~10:00 a.m.~~

~~LOCATION:~~ ~~Washington State Lottery~~
~~Olympia Regional Office Conference Room~~
~~108 Park Village Plaza~~
~~1200 Cooper Point Road S.W.~~
~~Olympia, Washington~~))

held in the Washington State Lottery, Olympia Regional Office Conference Room, 108 Park Village Plaza, 1200 Cooper Point Road S.W., Olympia, Washington at 10:00 a.m.

(2) Additional public meetings necessary to discharge the business of the commission may be called from time to time by the chairman or by a quorum of the commission.

WSR 85-03-100
NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE
[Memorandum—January 22, 1985]

Please substitute the regular meeting date for February 1985 as follows: From February 11, 1985, to February 25, 1985.

The meeting place remains the same.

WSR 85-03-101
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed January 23, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Agriculture intends to adopt, amend, or repeal rules relating to the use of restricted use herbicides in Columbia County and Klickitat County, chapter 16-231 WAC;

that the agency will at 1 p.m., Wednesday and Thursday, February 27, 1985, and February 28, 1985, in the Columbia County Fairgrounds Youth Building, Dayton, Washington, (2/27/85), and Don Mercer Shop, Sonova Road, Concrete, (2/28/85), conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 5, 1985.

The authority under which these rules are proposed is chapters 17.21 and 15.58 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 27, 1985.

Dated: January 23, 1985
By: Art G. Losey
Assistant Director

STATEMENT OF PURPOSE

This rule relates to the use and application of restricted use herbicides in Columbia and Klickitat counties.

Statutory Authority: Chapters 17.21 and 15.58 RCW.

The sections codified under chapter 16-231 WAC are established to regulate the use of restricted use herbicides to protect susceptible crops from drift of such herbicides.

Agency Personnel Responsible for Drafting and Implementation: Art G. Losey, Assistant Director, Washington Department of Agriculture, 406 General Administration Building, AX-41, Olympia, Washington 98504, phone (206) 753-5064; and Enforcement: F. Clarke Brown, Compliance Chief, Washington Department of Agriculture, 2015 South First Street, Yakima, Washington 98903, phone (509) 575-2746.

Proponents: Department of Agriculture.

Agency Comments or Recommendations: None.

Rule is not necessary as a result of federal law or federal or state court action.

Economic Impact Statement: None.

NEW SECTION

WAC 16-231-413 AREA 1. (1) Area 1 description. That area within a distance of one-half mile of the city limits of Dayton.

(2) Area 1 restrictions. Aircraft applications of restricted use herbicides are prohibited.

NEW SECTION

WAC 16-231-613 AREA 1. (1) Area 1 description. (East end of Klickitat County). Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 34, 35, 36, Township 6, Range 23; Sections 1, 2, 11, 12, 13, 14, 21, 22, 23, 24, 25, 26, 27, 28, 34, 35, 36, Township 5, Range 23; Sections 21, 22, 25, 26, 27, 28, 33, 34, west half of Sections 23 and 25, Township 5, Range 22; Sections 1, 2, 11, 12, Township 4, Range 23.

(2) Area 1 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides shall be prohibited on and after April 15 through October 31.

(b) On and after April 15 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 April 15 through October 31, ground applications of restricted use herbicides shall be made using danger area restrictions (see WAC 16-230-675): PROVIDED, That aircraft applications shall be prohibited within one mile of commercial vineyards and within one-half mile of other susceptible crops. On and after November 1 through April 14 of the following year, aircraft applications shall be made using caution area restrictions (see WAC 16-230-675).

AMENDATORY SECTION (Amending Order 1668, filed 2/20/80)

WAC 16-231-615 AREA 3. (1) Area 3 description. All remaining lands within the boundaries of Klickitat County.

(2) Area 3 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides shall be prohibited on and after May 1 through September 30 of each year: PROVIDED, That on and after May 1 through May 14 of each year, low volatile formulations shall be considered through written request to the department of agriculture.

(b) On and after May 1 through September 30, ground applications of restricted use herbicides shall be made with nozzles having a minimum orifice diameter of 0.031 inches.

(c) On and after May 1 through September 30, aircraft applications of restricted use herbicides shall be made using the caution area restrictions (see WAC 16-230-675).

WSR 85-03-102
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
(Noxious Weed Control Board)

[Filed January 23, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the State Noxious Weed Control Board intends to adopt, amend, or repeal rules concerning proposed noxious weed list, chapter 16-750 WAC;

that the agency will at 1:30 p.m., Wednesday, February 27, 1985, in the Office Building II Auditorium, 12th Avenue and Jefferson Street, Olympia, WA 98504, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 7, 1985.

The authority under which these rules are proposed is chapter 17.10 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 27, 1985.

Dated: January 22, 1985
By: Michael V. Schwisow
Deputy Director

STATEMENT OF PURPOSE

Title: Amending WAC 16-750-010.

Description of Purpose: Amend proposed noxious weed list.

Statutory Authority: RCW 17.10.080.

Summary of Rule: Proposed list must be adopted annually, other weeds may be either added to or deleted from the list at the hearing.

Reasons Supporting Proposed Action: RCW 17.10-.080 states that the state Noxious Weed Control Board shall each year or more often, following a hearing, adopt a list comprising the names of those plants which it finds to be injurious to crops, livestock, or other property. At such hearing, any county Noxious Weed Control Board may request the inclusion of any plant to the list to be adopted by the state board.

Agency Personnel Responsible for Drafting: Donald G. Alexander, Noxious Weed Control Program Coordinator, Chemical and Plant Division, Washington State Department of Agriculture, 406 General Administration Building, Olympia, WA 98504, (206) 753-0364; Implementation and Enforcement: Each activated county Noxious Weed Control Board.

Persons Proposing Rule: State Noxious Weed Control Board.

Agency Comments or Recommendations: None.

Rule is not necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: No impact, none required.

WAC 16-750-010 PROPOSED NOXIOUS WEED LIST. In accordance with RCW 17.10.080, a proposed noxious weed list comprising the names of those plants which the noxious weed control board finds to be injurious to crops, livestock, or other property is hereby adopted as follows:

ENGLISH OR COMMON NAME	BOTANICAL OR SCIENTIFIC NAME
Perennial Weeds	
Austrian fieldcress	Rorippa austriaca
Austrian peaweed	Sphaerophysa salsula
Baby's Breath	Gypsophila paniculata
Bindweed, field	Convolvulus arvensis
Bindweed, hedge	Convolvulus sepium
Blue Lettuce	Lactuca pulchella
Blueweed, Texas	Helianthus ciliaris
Bracken, western	Pteridium aguilinum
Camelthorn	Alhagi camelorum
Canada Thistle	Cirsium arvense
Dalmation Toadflax	Linaria dalmatica
Gorse	Ulex europaeus
Hairy whitetop	Cardaria pubescens
Hoary Cress or White Top	Cardaria draba
Johnsongrass	Sorghum halepense
Knapweed, complex	Centaurea spp.
Leafy Spurge	Euphorbia esula
Lupine, broadleaf	Lupinus latifolius
Lupine, grassland	Lupinus laxiflorus
Lupine, low	Lupinus pusillus
Lupine, sabin's	Lupinus sabinii
Lupine, silky	Lupinus sericeus
Lupine, sulfur	Lupinus sulphureus
Lupine, tailcup	Lupinus caudatus
Lupine, velvet	Lupinus leucophyllus
Nightshade, bitter	Solanum dulcamara
Nightshade, silverleaf	Solanum elaeagnifolium
Nutsedge, yellow	Cyperus esculentus
Oxeye Daisy	Chrysanthemum leucanthemum
Pepperweed, perennial	Lepidium latifolium
Quackgrass	Agropyron repens
Rush Skeletonweed	Chondrilla juncea
St. Johnswort	Hypericum perforatum
Scotch Broom	Cytisus scoparius
Sowthistle, perennial	Sonchus arvensis
Tansy, common	Tanacetum vulgare
Waterhemlock, western	Cicuta douglasii
Watermilfoil, Eurasian	Myriophyllum spicatum
Wormwood, Absinthe	Artemisia absinthium
Yellow Toadflax	Linaria vulgaris
Biennial Weeds	
Bull Thistle	Cirsium vulgare
Houndstongue	Cynoglossum officinale
Knapweed, spotted	Centaurea maculosa
Musk Thistle	Carduus nutans L.
Plumeless Thistle	Carduus acanthoides
Poison Hemlock	Conium maculatum
Scotch Thistle	Onopordum acanthium
Tansy Ragwort	Senecio jacobaea
Annual Weeds	
Cocklebur	Xanthium spp.
Dodder	Cuscuta spp.
Goatgrass, jointed	Aegilops cylindrica
Hemp (Marijuana)	Cannabis sativa
Kochia	Kochia scoparia
Medusahead	Taeniatherum asperum
Puncturevine	Tribulus terrestris
Rye	Secale cereale L.
Sandbur, longspine	Cenchrus longispinus
Yellow Starthistle	Centaurea solstitialis

Reviser's note: No amendments were proposed in the above section. The section is shown exactly as filed by the agency pursuant to the requirements of RCW 34.08.040.

WSR 85-03-103
PROPOSED RULES
DEPARTMENT OF CORRECTIONS
[Filed January 23, 1985]

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

Amd WAC 137-70-060 Billing procedure.
Amd WAC 137-70-070 Department review committee.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 11, 1985.

The authority under which these rules are proposed is RCW 72.72.040.

The specific statute these rules are intended to implement is chapter 72.72 RCW.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

Dated: January 22, 1985
By: Amos E. Reed
Secretary

STATEMENT OF PURPOSE

Title and Purpose of Rule: To amend chapter 137-70 WAC, Reimbursement for criminal justice costs and contingency plan expenses.

Statutory Authority: RCW 72.72.040.

Statute Implemented: Chapter 72.72 RCW.

Summary of Rule and Reason for Proposed Change: A new form has been adopted for use by political subdivisions requesting reimbursement for criminal justice costs under chapter 72.72 RCW and chapter 137-70 WAC which will expedite and simplify the reimbursement process. The purpose of this amendment is to change existing procedures to permit the use of the new form.

Person Responsible for Drafting the Rule: Robert W. Sampson, Administrator, Office of Contracts and Regulations, Department of Corrections, FN-61, Olympia, Washington 98504, (206) 753-5770; Implementing and Enforcing: Robert E. Trimble, Deputy Secretary, Department of Corrections, P.O. Box 9699, FN-61, Olympia, Washington 98504, (206) 753-1508.

Person or Organization Proposing the Rule: Department of Corrections.

Agency Comments and Recommendations: None.

The amendment of this rule is not necessitated by federal law or federal or state court action.

The amendment of this rule will have no economic impact on small businesses.

AMENDATORY SECTION (Amending Order 84-06, filed 5/14/84)

WAC 137-70-060 BILLING PROCEDURE. (1) All requests for reimbursement under this chapter must be submitted on a standard Washington State Invoice Voucher Form, A-19, in triplicate, ((~~signed by the political subdivisions responsible fiscal officer,~~)) showing the total reimbursement requested, accompanied by a completed request for a reimbursement form issued by the department. The vouchers and form should be mailed or delivered to the Department of Corrections, Division of Management and Budget, Office of Contracts and Regulations, P.O. Box 9699, FN-61, Olympia, Washington 98504.

(2) ((~~All requests for criminal justice cost reimbursement must be accompanied by a narrative explanation of all costs incurred. This narrative must include at least the following information:~~

~~(a) Full name and DOC identification number of inmate;~~

~~(b) Institution to which the inmate is assigned or from which he/she escaped;~~

~~(c) Incident requiring the political subdivision's assistance, i.e. escape, investigation and dates;~~

~~(d) Costs incurred broken down into the categories of reimbursable costs allowed in WAC 137-70-040 and hourly rate used;~~

~~(e) Admission and release dates if applicable;~~

~~(f) Other supporting information or documentation.~~

~~(3) All requests for contingency plan expense reimbursement must be accompanied by a narrative explanation of all expenses incurred. This narrative must include at least the following information:~~

~~(a) Names and titles of personnel providing assistance during a disturbance covered by a contingency plan, the dates and hours served in such capacity by such personnel, and their salaries or rates of pay;~~

~~(b) If the claim is for reimbursement of costs incurred under chapter 41.26 RCW, a description of the nature of the physical injury sustained and a description of the location where and the circumstances under which it was sustained;~~

~~(c) With respect to material provided in carrying out a contingency plan, (i) its acquisition cost, if acquired solely for use in carrying out the contingency plan and no other purpose; (ii) its market value both before and after the disturbance for which it was provided, if it suffered damage beyond normal wear and tear during the disturbance; and (iii) its market value at the time of its loss or destruction, if lost or destroyed during the disturbance for which it was provided;~~

~~(d) A description of other expenses, incurred in carrying out the contingency plan;~~

~~(e) Such other documentation and information necessary to support the claim~~)) The department may require the requesting political subdivision to submit such other documentation and information the department deems necessary to further support or explain the request.

AMENDATORY SECTION (Amending Order 84-06, filed 5/14/84)

WAC 137-70-070 DEPARTMENT REVIEW COMMITTEE. (1) All requests for reimbursement shall be reviewed by a department committee composed of the following individuals or their designees:

(a) Deputy secretary;

(b) Director, division of management and budget;

(c) Director, division of community services;

(d) Director, division of prisons;

((~~(d)~~)) (e) Contracts and regulations administrator;

((~~(e)~~)) (f) Capital programs administrator; and the

((~~(f)~~)) (g) Senior assistant attorney general assigned to the department.

(2) The review committee shall approve or disapprove the requests for payment. If a request is disapproved in total or in part, the committee shall send a letter to the requesting political subdivision with the reasons for disapproval.

(3) The committee decision shall be final unless appealed to the secretary within twenty days after a political subdivision receives notice of disapproval.

WSR 85-03-104
PROPOSED RULES
DEPARTMENT OF CORRECTIONS
[Filed January 23, 1985]

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

New	ch. 137-52 WAC	Residents of adult correctional institution escorted leave of absence.
Rep	ch. 275-85 WAC	Resident of adult correctional institution escorted leave of absence.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 1, 1985.

The authority under which these rules are proposed is RCW 72.01.380.

The specific statute these rules are intended to implement is RCW 72.01.370, 72.01.375 and 72.01.380.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 26, 1985.

Dated: January 14, 1985
By: Amos E. Reed
Secretary

STATEMENT OF PURPOSE

Title and Number of Rule: Adopting chapter 137-52 WAC, Residents of adult correctional institution escorted leave of absence, and repealing chapter 275-85 WAC, Resident of adult correctional institution escorted leave of absence.

Statutory Authority: RCW 72.01.380.

Summary and Purpose: The purpose of this rule is to set forth the reasons for and the conditions under which a superintendent of an adult correctional institution may grant escorted leaves of absence to inmates confined in such institution.

Agency Personnel Responsible for Drafting and Adoption: Gary L. Banning, Assistant Administrator, Office of Contracts and Regulations, Division of Management and Budget, mailstop FN-62, scan 234-5770; Implementation and Enforcement: Walter L. Kautzky, Director, Division of Prisons, Department of Corrections, mailstop FN-61, scan 234-1502.

No other person or organization other than the Department of Corrections is proposing this rule.

This rule is not necessary to comply with a federal law or a federal or state court decision.

This rule does not have an impact on small business.

Chapter 137-52 WAC
RESIDENTS OF ADULT CORRECTIONAL INSTITUTION ESCORTED LEAVE OF ABSENCE

NEW SECTION

WAC 137-52-005 PURPOSE. The purpose of this chapter is to set forth the reasons for and conditions under which a superintendent may extend the limits of confinement under the authority of RCW 72.01.370.

NEW SECTION

WAC 137-52-010 DEFINITIONS. (1) "Escorted leave" is an approved leave of absence by an inmate from a correctional facility under the continuous supervision of trained correctional staff.

(2) "Immediate family" includes an inmate's parents, stepparents, parent surrogates, legal guardians, spouse, brothers, sisters, half or step-brothers or sisters, children, stepchildren, and dependents whether or not in direct lineal relationship to the inmate.

(3) "Indigent" shall be understood to mean an inmate who has not been credited with five dollars or more total from any source(s) for deposit to the inmate's trust fund account during the thirty days preceding the request for an escorted leave and has less than a five dollar balance in his/her trust fund account on the day the escorted leave is requested, or together with his/her immediate family cannot post a five hundred dollar bond to secure the repayment of the expenses of the escorted leave on the day the escorted leave is requested. A declaration of indigency shall be signed by the inmate and the inmate's family on forms provided by the department.

(4) "Director" means the director of the division of prisons or his/her designee(s).

(5) "Superintendent" means the superintendent of a state correctional institution, state honor camp, or other penal institutions as now or hereafter established under the jurisdiction of the department of corrections pursuant to law or his/her designee.

(6) "Department" means the department of corrections.

(7) "Secretary" means the secretary of the department of corrections or his/her designee(s).

(8) "Nonviolent offender" means any person convicted of a felony not classified as a violent offense under chapter 9.94A RCW.

NEW SECTION

WAC 137-52-015 REASONS ALLOWED. An escorted leave may be granted by the superintendent to extend limits of confinement into the community to permit an inmate to:

(1) Receive necessary medical or dental care which is not available in the institution;

(2) Visit a seriously ill member of the inmate's immediate family or attend the funeral of a member of the inmate's immediate family upon verification, by the superintendent, of such illness or death;

(3) Participate in athletic contests as a member of a group or team only if the inmate is in minimum custody; or

(4) Participate in supervised work of the department to include industrial, educational, and agricultural programs;

(5) Participate as a volunteer in community service work projects, which are approved by the superintendent for selected minimum custody nonviolent offenders, if such work project is requested by the local community.

NEW SECTION

WAC 137-52-020 CONDITIONS. (1) An escorted leave shall be authorized only for trips within the boundaries of the state of Washington.

(2) The duration of an escorted leave to the bedside of a seriously ill member of the inmate's immediate family or attendance at a funeral shall not exceed forty-eight hours unless otherwise approved by the superintendent.

(3) The duration of escorted leaves granted for reasons other than those mentioned in WAC 137-52-015(2) shall not exceed the normal work day (eight hours) with the exception of extended medical treatment requiring placement at a local hospital.

(4) The inmate shall be in the visual or auditory contact of an approved correctional staff member at all times and shall be considered under the custody of the superintendent.

(5) The inmate shall be housed in a city or county jail or state institution at all times when not in transit or actually engaged in the activity for which the escorted leave was granted.

(6) An agreement for reimbursement for expenses not to be paid by the state and escort arrangements must be established in advance of the requested date of escorted leave.

(7) County and city law enforcement agencies with jurisdiction in the area of the inmate's destination shall be notified by the superintendent before allowing any escorted leave of absence under RCW 72.01.375.

NEW SECTION

WAC 137-52-025 APPLICATION REQUESTS FOR ESCORTED LEAVE. The superintendent of each institution shall establish procedures governing the method of handling requests by individual inmates or the institution for an escorted leave of absence. Each leave request will be evaluated within forty-eight hours. If the leave request is initiated by the institution, the superintendent will advise the inmate of the reason for the escorted leave, including leaves for family emergency or medical requirement.

NEW SECTION

WAC 137-52-030 APPROVAL. Escorted leaves for medium and minimum custody inmates shall be approved or denied by the superintendent. Escorted leaves for close and maximum custody inmates, with the exception of emergency medical or dental treatment, shall be approved by the secretary. In approving a request for escorted leave, the following factors will be considered:

(1) The nature of the emergency or request for escorted leave;

(2) The community risk associated with granting the request for an escorted leave based on the security or escape risk;

(3) The inmate's overall history of stability and any tendencies toward violent disruptive behavior;

(4) Any history of unusual disciplinary problems;

(5) The inmate's degree of trustworthiness as demonstrated by his/her performance in work assignments and maintenance of a clear disciplinary record;

(6) Any significant health problems that might be aggravated as a result of the leave; and

(7) Such other information as may be deemed relevant.

NEW SECTION

WAC 137-52-035 ESCORT PROCEDURES. (1) Only correctional staff approved by the superintendent will be authorized to serve as escorts. Single escorts must have attained permanent employee status. At least one experienced, permanent status employee will accompany all inmates on escorted leave.

(2) Medium and close custody inmates shall be escorted by at least two correctional staff. No more than five medium/close inmates may be escorted with two correctional staff. Maximum custody inmates will be escorted in ratio of two staff to one inmate. Medium, close, and maximum custody inmates shall be escorted in hand and leg restraints. Inmates in these custody levels shall be escorted with at least one staff member carrying a sidearm and safely separated from a second officer who will be the immediate escort for the inmate. The unarmed officer may be the immediate supervisor, counselor, or other state correctional staff approved by the superintendent. Only with the approval of the superintendent will escorts remove waist and leg restraints from inmates.

(3) Minimum custody inmates shall be escorted under circumstances deemed appropriate by the superintendent. Correctional staff may be instructed to wear their uniforms and sidearms in appropriate circumstances.

(4) A correctional officer serving as escort may wear civilian clothing when escorting an inmate to a bedside visit or a funeral unless otherwise directed by the superintendent.

(5) Reclassified inmates returning from minimum custody facilities to a more secure facility may be escorted in hand and leg restraints by unarmed correctional staff at the discretion of the superintendent.

NEW SECTION

WAC 137-52-040 EXPENSES. (1) Correctional staff assigned escort duties shall be authorized per diem reimbursement for meals, lodging, and transportation at the rate established by the departmental travel policy.

(2) Correctional staff assigned escort responsibility shall receive appropriate compensation at regular salary or overtime for all hours spent in actual escort of the inmate, but not including hours sleeping or not engaged in direct supervision of the inmate. The salary shall be paid at the appropriate straight time and overtime rates as provided in the Merit System Rules.

(3) Cost of housing the inmate in a city or county jail when not in transition or actually engaged in the activity for which the escorted leave was granted shall be charged the inmate in accordance with WAC 137-52-045.

NEW SECTION

WAC 137-52-045 EXPENSES—PAID BY INMATE. (1) The expenses of the escorted leave as enumerated in WAC 137-52-040 shall be reimbursed by the inmate or his/her immediate family unless the superintendent has authorized payment at state expense in accordance with WAC 137-52-050.

(2) Payments by the inmate, inmate's immediate family, or bonding company shall be made to the institution's business office and applied to the appropriate fund as defined by law, applicable provisions of the Washington Administrative Code, or department policy.

NEW SECTION

WAC 137-52-050 EXPENSES—PAID BY DEPARTMENT. The expenses of the escorted leave shall be absorbed by the state if:

(1) The inmate and his/her immediate family are indigent in accordance with WAC 137-52-010(3); or

(2) The expenses were incurred for the purpose of the inmate's participation in a program activity, academic or vocational activity, work activity, or to secure medical care; or

(3) The expenses were incurred as a result of a reclassification of an inmate and the return of such inmate from a minimum custody facility to a more secure facility.

WSR 85-03-105
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed January 23, 1985]

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 Service limited to license and order—Removal of liquor in open containers—Room service—Price list, WAC 314-16-040;

that the agency will at 10:30 a.m., Wednesday, February 27, 1985, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 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 RCW 66.08.030.

The specific statute these rules are intended to implement is chapter 78, Laws of 1984.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before February 27, 1985.

Dated: January 22, 1985
By: Robert D. Hannah
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-16-040 Service limited to license and order—Removal of liquor in open containers—Room service—Price list.

Description of Purpose: The amendment to WAC 314-16-040 will remove the requirement for obtaining an RCW 66.20.010(5) permit in order to possess spirituous liquor on the premises of a beer or wine licensed premises for certain purposes.

Statutory Authority: RCW 66.08.030.

Statutes Implemented by the Rule: Chapter 78, Laws of 1984.

Summary of Rule: The amendment of WAC 314-16-040 replaces the requirement for obtaining a permit pursuant to RCW 66.20.010(5) with a requirement to obtain prior board permission if spirituous liquor is to be kept on the premises of a beer or wine licensed premises. Such liquor is generally prohibited on such premises.

Reasons Supporting Proposed Action: The present requirement of WAC 314-16-040(2) is that a beer or wine licensee must obtain a permit under RCW 66.20.010(5) if he or she wishes to keep spirituous liquor on the licensed premises. Since the permit under RCW 66.20.010(5) is not required to engage in the business of manufacturing confections or food products using liquor so long as chapter 78, Laws of 1984 is complied with, it would not appear appropriate to require it to keep liquor on a licensed premises for that purpose. The regulatory objectives of the board (i.e. preventing spirituous liquor from being consumed on premises not so licensed) can be adequately achieved through requiring written permission without the obtaining of the permit.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Robert D. Obenland, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6270; and Ray Hensel, Supervisor, License Division, Capital Plaza Building, Olympia, WA 98504, phone (206) 753-6259.

Person or Organization Proposing Rule: This rule amendment was proposed by the Washington State Liquor Control Board.

Agency Comments: None.

Necessity of Rule: This rule amendment was not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: Cost impact for both small and large businesses would be minimal to zero.

AMENDATORY SECTION (Amending Order 142, Resolution No. 151, filed 5/23/84)

WAC 314-16-040 SERVICE LIMITED TO LICENSE AND ORDER—REMOVAL OF LIQUOR IN OPEN CONTAINERS—ROOM SERVICE—PRICE LIST. (1) No retail licensee shall possess or allow any person to consume or possess any liquor other than that permitted by his license in or on the licensed premises, or on any public premises adjacent thereto which are under his control except under authority of a banquet permit.

(2) Beer and/or wine only licensees may keep spirituous liquor on the premises for use in the manufacture of confection or food products provided ((~~a permit is obtained pursuant to RCW 66.20.010(5)~~)) that prior written permission of the board is obtained, all confection or food products manufactured contain one percent or less of alcohol by weight, and customers are made aware that such confection or food products contain liquor and the alcohol content is one percent or less of the weight of the product.

(3) No retail licensee or employee thereof shall permit the removal of any liquor in an open container from the licensed premises except that liquor brought on a licensed premises under authority of a banquet permit shall be recorked, recapped or resealed in its original container and shall be removed at the termination of such banquet permit function. Further, wine may be removed as authorized by RCW 66-.24.340 and 66.24.400.

(4) No holder of a Class H license shall be permitted to hold any other class of retail license covering the premises so licensed. Upon the granting of a Class H license, all other classes of retail licenses which may be held by such new Class H licensee at that time at the premises to be so licensed must be surrendered to the board for cancellation.

(5) Hotel room service is included in on-premises licenses.

(6) No Class H licensee shall sell or serve any spirituous liquor other than ordered, or substitute a nonalcoholic beverage when an alcoholic beverage has been ordered. Such licensee shall display prices for all liquor either by posting a price list or by using menus listing such prices, or by both.

(7) No holder of a Class C license shall advertise for sale, nor sell, any mixed drink under the name of "Old Fashioned," "Whiskey Sour," "Singapore Sling," "Martini," "Manhattan," nor any other name which, by long and general usage, has become associated in the public mind as being the name of a mixed drink made from spirituous liquor, nor under any name which is so similar to the above prohibited names as to be readily confused therewith in the public mind. Nor shall any holder of a Class C license, in the mixing or compounding of any mixed drink, use any mixer or other substance whatsoever which contains any of the aromatic compounds and/or essential oils which give to any spirituous liquor its distinctive characteristics of aroma, bouquet and flavor. Nothing in this section shall deny to any holder of a Class C license the right to advertise for sale, mix, compound or sell

upon order, mixed drinks made from one or more wines under a name which does not conflict with this section.

WSR 85-03-106
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed January 23, 1985]

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:

Amd	WAC 314-44-005	Agent's license required—Eligible employers defined—Certain classes limited—Bona fide entity defined—Prohibited practices.
Amd	WAC 314-52-015	General.
Amd	WAC 314-52-030	Liquor advertising prohibited in school publications—Campus representatives prohibited;

that the agency will at 9:30 a.m., Wednesday, March 6, 1985, in the Office of the Liquor Control Board, 5th Floor, Capital Plaza Building, 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 RCW 66.08.060.

The specific statute these rules are intended to implement is RCW 66.08.010 and 66.08.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 6, 1985.

Dated: January 22, 1985
By: Robert D. Hannah
Chairman

STATEMENT OF PURPOSE

Title: WAC 314-44-005 Agent's license required—Eligible employers defined—Certain classes limited—Bona fide entity defined—Prohibited practices; 314-52-015 General; and 314-52-030 Liquor advertising prohibited in school publications—Campus representatives prohibited.

Description of Purpose: WAC 314-44-005 to prohibit distillers, manufacturers, importers, wholesalers or distributors, or their agents, from engaging in alcoholic beverage promotions aimed at the students of colleges or universities through making gifts to campus or other nonlicensed organizations of which a majority of the members are under the legal age to consume alcoholic beverages; 314-52-015 to prohibit the depiction of driving while intoxicated in connection with liquor advertising which could imply that driving while intoxicated is an acceptable form of behavior; and 314-52-030 to include colleges and universities, and the students of them within the prohibition of liquor advertising and to prohibit the use of campus representatives for the purpose of conducting promotional activities directed at schools, colleges or universities or students of them.

Statutory Authority: RCW 66.08.060.

Statutes Implemented by the Rule: RCW 66.08.010 and 66.08.060.

Summary of Rule: WAC 314-44-005 prohibits distillers, manufacturers, importers, wholesalers, or distributors or agents thereof from giving, or offering to give to fraternities, sororities or other organizations associated with any institution of higher education or to any other unlicensed group containing a majority of under age members, any gift, etc. for the purpose of conducting promotions of alcoholic beverages; 314-52-015 is amended to prohibit the depiction of alcoholic beverages in advertising in connection with the operation of a motor vehicle, boat, aircraft or other transportation conveyance; and 314-52-030 is amended to include within the prohibition on liquor advertising those publications connected or affiliated with institutions of higher learning or directed principally to the students thereof as well as those connected or affiliated with elementary or secondary schools. Subsection (2) prohibits manufacturers, importers, wholesalers, retailers or agents thereof from appointing or employing campus representatives for the purpose of conducting promotional activities directed at any elementary or secondary school or education of higher learning, or at any student of either of them.

Reason Supporting Proposed Action: WAC 314-44-005, presently various members of the liquor industry have been promoting liquor through the mechanism of making gifts to fraternities, sororities and other organizations on college and university campuses. Since the majority of students in these institutions of higher education are under the legal age of 21 years, the board does not believe it is appropriate to direct liquor promotions to a group the majority of which cannot legally purchase or consume alcoholic beverages; 314-52-015, this amendment will prohibit advertising which implies that driving while intoxicated is a form of acceptable behavior. Since driving while intoxicated is a serious offense having a direct affect on the welfare, peace and safety of the public, any advertising which could in any way promote this activity should not be permitted; and 314-52-030, recently, the board has become aware of advertising campaigns by members of the liquor industry directed toward students at institutions of higher education through the use of "campus representatives" and through placing of advertising in publications directed principally to the institutions or their students. Since the majority of students in institutions of higher education are under the legal drinking age of 21 years, the board does not believe it is appropriate to direct advertising to this group in promotion of an activity in which the majority cannot legally engage.

Agency Personnel Involved: In addition to the board, the following agency personnel have responsibility for drafting, implementing and enforcing this rule: Robert D. Obenland, Chief, Enforcement Division, Capital Plaza Building, Olympia, WA 98504, (206) 753-6270; and Dick Given, Assistant Supervisor, Manufacturers, Importers and Wholesalers Division, Capital Plaza Building, Olympia, WA 98504, (206) 753-6273.

Person or Organization Proposing Rule: Dr. Abraham B. Bergman, M.D. on behalf of the Washington State Society of Pediatrics and Washington State Medical

Association filed a petition to amend various portions of chapter 314-52 WAC. The items in this notice of rule making are derived from portions of that petition. The majority of the items suggested in connection with the petition were rejected by the board for various legal reasons.

Agency Comments: None.

Necessity of Rule: These rule amendments were not made necessary as a result of federal law or federal or state court action.

Small Business Economic Impact Statement: Cost impact for both small and large businesses would be minimal to zero.

AMENDATORY SECTION (Amending Order 93, Resolution No. 102, filed 1/27/82)

WAC 314-44-005 AGENT'S LICENSE REQUIRED—ELIGIBLE EMPLOYERS DEFINED—CERTAIN CLASSES LIMITED—BONA FIDE ENTITY DEFINED—PROHIBITED PRACTICES. (1) No person shall canvass for, solicit, receive or take orders for the purchase or sale of any liquor, or act as the agent for the purchase or sale of liquor, nor contact any licensees of the board in goodwill activities, unless such person is holder of an agent's license as provided in RCW 66.24.310, and this regulation.

(2) An agent's license may be issued to the accredited representative of a person, firm, or corporation holding a certificate of approval issued pursuant to RCW 66.24.270 or 66.24.206, a beer wholesaler's license, a brewer's license, a beer importer's license, a domestic winery license, a wine importer's license, or a wine wholesaler's license within the state of Washington, or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor, or foreign produced beer or wine. A person, firm, or corporation so qualified, is herein defined to be an eligible employer. Such employer shall apply to the board for such an agent's license for his accredited representatives on application forms prescribed and furnished by the board.

(3) Every firm which applies for an agent's license under the provisions of this section shall furnish the board with satisfactory proof that such firm is in fact a bona fide business entity.

(4) Only the licensed agent of a distiller, manufacturer, importer, or distributor of spirituous liquor may contact retail licensees in goodwill activities when such contacts pertain to spirituous liquor products.

(5) No distiller, manufacturer, importer, wholesaler or distributor of liquor, or agent thereof, shall solicit either in person, by mail or otherwise, any liquor vendor or employee of the board, except the purchasing agent thereof, for the purpose or with the intent of furthering the sale of a particular brand or brands of merchandise as against another brand or brands of merchandise.

(6) No distiller, manufacturer, importer, wholesaler or distributor of liquor, or agent thereof, shall visit any state liquor store or agency except for the purpose of making a purchase in the usual manner, as any other customer, and such person shall not enter any warehouse, store or agency of the board for the purpose of sales promotion or to secure information regarding inventory or any other matter relating to sales.

(7) No distiller, manufacturer, importer, wholesaler, or distributor of liquor, or agent thereof, shall give or offer to any employee of the board any entertainment, gratuity or other consideration for the purpose of inducing or promoting the sale of merchandise.

(8) No distiller, manufacturer, importer, wholesaler, or distributor, or agent thereof, shall allow, pay or rebate, directly or indirectly, any cash or merchandise to any retail licensee to induce or promote the sale of liquor, including the payment of tips to such licensees or their employees and the purchasing of drinks "for the house." Such persons, firms and licensees must operate in conformity with WAC 314-12-140, RCW 66.28.010, 66.28.040, and other applicable laws and rules.

(9) No distiller, manufacturer, importer, wholesaler, or distributor or agent thereof, shall give, or offer to give to any fraternity, sorority, or other organization associated with any institution of higher education or to any other unlicensed group or organization of which a majority of the members are under the legal age to consume alcoholic beverages, any entertainment, gratuity, services, equipment, or other consideration for the purpose of promoting alcoholic beverage product identification or inducing the sale or consumption of alcoholic beverages.

(10) Upon the infraction of any law or regulation by any distiller, manufacturer, importer, wholesaler, distributor, or agent, the board may, in addition to imposing other penalties as prescribed by law, remove such firm's products from the sales list of the board, and/or prohibit the sale of any brand or brands of beer or wine involved as provided in RCW 66.28.030.

((~~(10)~~)) (11) Upon the termination of the employment of a licensed agent, his employer shall immediately notify the board and with such notice return to the board the agent's license issued to such person.

AMENDATORY SECTION (Amending Order 108, Resolution No. 117, filed 8/11/82)

WAC 314-52-015 GENERAL. Institutional advertising shall mean advertising which promotes company or brand name identification, but does not directly solicit purchase or consumption of liquor. Educational advertising shall mean factual information on liquor, its manufacture, history, consumption and methods of ascertaining the quality of various types of liquors such as German wines, French cognacs, or other classifiable types of product. All liquor advertising shall be modest, dignified and in good taste and shall not contain:

(1) Any statement or illustration that is false or misleading in any material particular.

(2) Any statement, picture, or illustration which promotes overconsumption.

(3) Any statement, picture, illustration, design, device, or representation which is undignified, obscene, indecent, or in bad taste.

(4) Any statement, design, device, or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer.

(5) Any statement, design, device, or representation of or relating to any guaranty, irrespective of falsity, which is likely to mislead the consumer.

Nothing in this section shall prohibit the use of any enforceable guaranty in substantially the following form: "We will refund the purchase price to the purchaser if he is in any manner dissatisfied with the contents of this package."

(6) Any statement that the product is produced, blended, made, bottled, packed or sold under, or in accordance with, any authorization, law, or regulation of any municipality, county, or state, federal or foreign government unless such statement is required or specifically authorized by the laws or regulations of such government; and if municipal, state or federal permit number is stated, such permit number shall not be accompanied by any additional statement relating thereto.

(7) Any statement, design or device representing that the use of liquor has curative or therapeutic effects, if such statement is untrue in any particular, or tends to create a misleading impression.

(8) Any statement, picture, or illustration implying that the consumption of liquor enhances athletic prowess, or any statement, picture, or illustration referring to any known athlete, if such statement, picture, or illustration implies, or if the reader may reasonably infer, that the use of liquor contributed to such known athlete's athletic achievements.

(9) Any depiction of a child or other person under legal age to consume liquor; any depiction of objects, such as toys, suggestive of the presence of a child, nor any other depiction designed in any manner as to be especially appealing to children or other persons under legal age to consume liquor.

(10) Any reference to any religious character, sign or symbol, except in relation to kosher wines or where such are a part of an approved label.

(11) Any depiction of alcoholic beverages being used in connection with the operation of a motor vehicle.

AMENDATORY SECTION (Amending Order 108, Resolution No. 117, filed 8/11/82)

WAC 314-52-030 LIQUOR ADVERTISING PROHIBITED IN SCHOOL PUBLICATIONS—CAMPUS REPRESENTATIVES PROHIBITED. (1) No liquor advertising shall be carried in any publication connected or affiliated with any elementary or secondary school((~~s~~)), college or university, or directed principally to the students thereof; nor shall any liquor advertising be ((~~connected with such schools when~~)) associated with any activity of any elementary or secondary school, college or university when that activity is broadcast over radio or television: PROVIDED, That institutional advertising, as defined in WAC 314-52-015, may be carried, if the board advertising coordinator interposes no objection.

(2) No manufacturer, importer, wholesaler, retailer, or agent thereof shall conduct promotional activities directed at any elementary or secondary school, college or university, or at any student thereof, through the appointment or employment of "campus representatives" or otherwise.

WSR 85-03-107
PROPOSED RULES
DEPARTMENT OF LICENSING
(Physical Therapy Board)
[Filed January 23, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Physical Therapy Board intends to adopt, amend, or repeal rules concerning approved physical therapy schools and the supervision of physical therapy assistants;

that the agency will at 9:30 a.m., Thursday, February 28, 1985, in the Airport Hilton, Columbia Room, 17620 Pacific Highway South, 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 18.74.023.

The specific statute these rules are intended to implement is RCW 18.74.023.

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

Dated: January 23, 1985
By: John H. Keith
Board Counsel

STATEMENT OF PURPOSE

Name of Agency: State of Washington Board of Physical Therapy.

Purpose and Reason Proposed: WAC 308-42-122 is proposed to implement RCW 18.74.030 regarding the qualifications of license applicants; and 308-42-136 is proposed to further the protection of the public by setting standards for the number of physical therapy assistants that can be supervised.

Summary: WAC 308-42-122 adopts the standards of the American Physical Therapy Association for the approval of physical therapy schools; and 308-42-136 sets the maximum number of physical therapy assistants that can be supervised.

Statutory Authority: RCW 18.74.023.

Responsible Departmental Personnel: In addition to members of the Physical Therapy Board, the following Department of Licensing personnel have knowledge of and responsibility for drafting, implementing and enforcing these rules: Barbara Johnson, Executive Secretary, 1300 Quince Street S.E., Olympia, WA, 234-1153 scan, 753-1153 comm.

Proponents: The subject matter of this rule hearing has been proposed by the Washington State Board of Physical Therapy.

Small Business Economic Impact Statement: Not required since these rules do not impact small businesses as that term is defined by RCW 43.31.920.

NEW SECTION

WAC 308-42-122 APPROVED PHYSICAL THERAPY SCHOOLS. The board adopts the standards of the American Physical Therapy Association for the approval of physical therapy schools. Individuals who have a baccalaureate degree in physical therapy or who have a baccalaureate degree and a certificate or advanced degree from an institution of higher learning accredited by the American Physical Therapy Association will be considered qualified under RCW 18.74.030(2).

NEW SECTION

WAC 308-42-136 PHYSICAL THERAPY ASSISTANT SUPERVISION RATIO. The number of full time equivalent physical therapy assistants utilized in any physical therapy practice shall not exceed twice in number the full time equivalent licensed physical therapists practicing therein.

WSR 85-03-108
PROPOSED RULES
DEPARTMENT OF LICENSING
(Veterinary Board of Governors)
[Filed January 23, 1985]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Veterinary Board of Governors intends to adopt, amend, or repeal rules concerning examination results, WAC 308-151-100.

A copy of the proposed amendments are shown below, however, changes may be made at the hearing;

that the agency will at 9:00 a.m., Wednesday, March 6, 1985, in the Vance Airport Inn, Seattle Room, 18220 Pacific Highway South, Seattle, WA, conduct a public hearing on the proposed rules.

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

The authority under which these rules are proposed is RCW 18.92.030.

The specific statute these rules are intended to implement is RCW 18.92.030.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 6, 1985.

Dated: January 21, 1985
By: Yvonne Braeme
Executive Secretary

STATEMENT OF PURPOSE

Name of Agency: Washington State Veterinary Board of Governors.

Purpose of Proposed Amendment: To amend provisions relating to the requirements for passing and retaking the veterinary examination.

Statutory Authority: RCW 18.92.030.

Summary of the Rule: WAC 308-151-100 Examination results.

Reason for Proposed Amendment: To clarify the acceptance of examination scores.

Responsible Personnel: The Washington State Veterinary Board of Governors and the executive secretary for the board have the responsibility for drafting, implementing and enforcing this rule. The executive secretary is Yvonne Braeme, 1300 Quince Street S.E., Olympia, WA 98504, telephone (206) 753-3576 comm, 234-3576 scan.

Proponents of the Proposed Amendment: The amendment has been proposed by the Washington State Veterinary Board of Governors.

Federal Law or State Court Requirements: The proposed amendment is not necessitated as the result of federal or state court action.

Small Business Economic Impact Statement: Not required since the amendment does not impact small businesses as that term is defined in RCW 43.31.920.

AMENDATORY SECTION (Amending Order PL 509, filed 1/18/85)

WAC 308-151-100 EXAMINATION RESULTS. (1) In order to pass the examination for licensure as a veterinarian, the applicant must attain a minimum grade of:

(a) 1.5 standard deviations below the national mean of the criterion population on the National Board Examination, and

(b) 1.5 standard deviations below the national mean of the criterion population on the Clinical Competency Test, and

(c) 70% in the Washington state examination.

(2) Applicants who fail the National Board Examination, the Clinical Competency Test, or the Washington state examination may retake the examination that they failed (NBE, CCT or state) by again completing an application and by submitting the reexamination fee to the division of professional licensing: Provided, however, that a passing CCT score remains acceptable only if obtained within the last five years at the time of application and if taken after 1983, and that only the most recently obtained CCT and NBE scores will be considered in an application.

WSR 85-03-109
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed January 23, 1985]

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 personal use rules;

that the agency will at 10:00 a.m., Saturday, March 2, 1985, in the Large Conference Room, General Administration Building, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 8, 1985.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 2, 1985.

Dated: January 23, 1985
By: Bette M. Johnson
for William R. Wilkerson
Director

STATEMENT OF PURPOSE

Title: WAC 220-56-335.

Description of Purpose: Modify size restriction on crabs for selected area.

Authority: RCW 75.08.080.

Summary of Rule: Sets 6 1/4 inch minimum size limit for personal use crab fishery in Punch Card Area 7.

Reasons Supporting Proposed Action: This proposal will insure an adequate spawning stock of Puget Sound Dungeness crab.

Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 754-2429; Implementation: Ronald E. Westley, 115 General Administration Building, Olympia, Washington, 753-6772; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, 753-6585.

This rule is proposed by the Washington Department of Fisheries.

Comments: None.

This proposal is not the result of federal law or court order.

Small Business Economic Impact Statement: No effect, this proposal regards recreational harvest of crab only.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80)

WAC 220-56-335 CRAB—UNLAWFUL ACTS. (1) It (~~shall be~~) is unlawful for any person to take(~~, fish for~~) or possess for personal use any female Dungeness crabs(~~, and~~).

(2) It (~~shall be~~) is unlawful to take(~~, fish for~~) or possess any male Dungeness crabs which measure less than 6 inches taken for personal use from the waters of the Pacific Ocean, Grays Harbor, Willapa Bay, the waters at the mouth of the Columbia River inside Buoy 10, or Puget Sound, except for the waters inside Punch Card Area 7.

(3) It is unlawful to take or possess any male Dungeness crab which measure less than 6 and 1/4 inches taken for personal use from the waters of Punch Card Area 7.

(4) All measurement shall be made horizontally across the back (caliper measurement) immediately in front of the points.

((~~(2)~~)) (5) It (~~shall be~~) is unlawful to possess in the field any crab or parts thereof without retaining the back shell.

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

WSR 85-03-110
PROPOSED RULES
DEPARTMENT OF FISHERIES
[Filed January 23, 1985]

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 personal use rules;

that the agency will at 10:00 a.m., Saturday, March 2, 1985, in the Large Conference Room, General Administration Building, Olympia, conduct a public hearing on the proposed rules.

The formal decision regarding adoption, amendment, or repeal of the rules will take place on March 8, 1985.

The authority under which these rules are proposed is RCW 75.08.080.

The specific statute these rules are intended to implement is RCW 75.08.080.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency before March 2, 1985.

Dated: January 23, 1985
By: Bette M. Johnson
for William R. Wilkerson
Director

STATEMENT OF PURPOSE

Title: WAC 220-12-020, 220-16-340, 220-20-010, 220-56-100, 220-56-105, 220-56-115, 220-56-116, 220-56-126, 220-56-128, 220-56-156, 220-56-180, 220-56-185, 220-56-190, 220-56-195, 220-56-197, 220-56-198, 220-56-199, 220-56-201, 220-56-235, 220-56-240, 220-56-320, 220-56-330, 220-56-400, and chapters 220-57 and 220-57A WAC.

Description of Purpose: Modify rules affecting recreational fisheries for 1985-1986 season.

Statutory Authority: RCW 75.08.080.

Summary of Rule: WAC 220-12-020 classifies additional species of macoma clams; 220-16-340 exempts shiner perch from bottomfish; 220-20-010 extends restriction on possession while fishing to recreational fishery; 220-56-100 defines "freshwater area"; 220-56-105 redefines mouth of Skagit River; 220-56-115 conforms bottomfish number of rods to salmon; 220-56-116 extends barbless hook requirement to bottomfish; 220-56-126 renumbers Duwamish Waterway provisions; 220-56-128 extends Hanford Reach closure; 220-56-156 requires proof of Canadian landing for Canadian origin fish entry; 220-56-180 provides options for 1985 Puget Sound salmon season; clarifies possession law; 220-56-185 redefines boundaries for Punch Card Areas 6, 7, 8, and 9; 220-56-190 conforms Grays Harbor and Willapa Bay bag limits to Pacific Ocean bag limit; 220-56-195 extends Bellingham Bay closure; 220-56-197 establishes coho salmon closure in Skagit Bay; 220-56-198 repealed, identical wording now appears as WAC 220-56-126; 220-56-199 establishes chinook salmon closure in Port Susan; 220-56-201 repealed; 220-56-235 establishes minimum size for lingcod; 220-56-240 restricts sturgeon bag and size limit in selected waters; 220-56-320 changes shellfish gear marking requirement; 220-56-330 changes shellfish pot closed gear period; 220-56-400 restricts abalone harvesting methods; chapter 220-57 WAC modifies salmon stream regulations; and chapter 220-57A WAC modifies salmon lake regulations.

Reasons Supporting Proposed Action: WAC 220-12-020, three species of macoma clams are currently being harvested by sportsmen, and all should be included in the bag limit; 220-16-340, there is no biological reason to restrict the harvest to 15 of this extremely abundant and prolific species; 220-20-010, prohibiting possession of fish that would be in violation if caught in the area while fishing allows finer tuning of the management options, eases enforcement needs, and makes this requirement equal for both sport and commercial gear; 220-56-100, this definition clarifies the intent of regulations that address freshwater fisheries; 220-56-105, the present definition is outdated, and makes reference to markers no longer in existence; 220-56-115, this regulation allows fishermen to take bottomfish while fishing for salmon with two rods in selected areas; 220-56-116, barbless hooks have shown to be effective in all mobile fisheries, and only still fishing and bait jigging need to use barbs to retain the fish during capture; 220-56-126, this is a housekeeping change only; 220-56-128, June is a key spawning month for white sturgeon, and the additional closed period provides protection; 220-56-156, proof of Canadian landing precludes harvest in Washington waters during closed periods under the guise of Canadian origin; 220-56-180, the alternate subsections provide management options to correct chinook imbalances; 220-56-185, standardization of boundary lines between the sport and commercial fisheries allows for better management by separation of stocks and effort; 220-56-190, coordinated gear and bag restrictions simplify the harvest requirements between the ocean and Grays and Willapa harbors and prevent misunderstanding of regulations; 220-56-195, studies have shown that chinook salmon are present in Bellingham Bay later than was thought, and additional protection is needed; 220-56-197, this measure would protect coho salmon returning to the Skagit River; 220-56-198, housekeeping change, section moved to WAC 220-56-126; 220-56-199, this proposal would protect returning Stillaguamish River origin chinook; 220-56-201, this regulation proved ineffective; 220-56-235, establishing a minimum size limit for anglers of 22 inches would increase the catch of trophy size fish and allow for at least one spawning cycle. The spearfishing reduction in limit offsets the lack of a minimum size, which would be difficult for divers to determine; 220-56-240, this proposal would protect decreased numbers of mainstem sturgeon in the upper Columbia and Snake River sturgeon; 220-56-320, the permanent mailing address allows contact by mail, if needed; 220-56-330, allows management option of date opening depending on the numbers of hard shelled crabs; 220-56-400, prevents abalone culling; chapter 220-57 WAC, these changes reflect anticipated 1985 run conditions; and chapter 220-57A WAC, opening day changes reflect seasons set by the Game Department, while the closure of Armstrong Lake is due to the absence of harvestable planted fish.

Agency Personnel Responsible for Drafting: Evan S. Jacoby, 115 General Administration Building, Olympia, Washington, 754-2429; Implementation: Edward P. Manary, Ron Westley, and Gene DiDonato, 115 General Administration Building, Olympia, Washington, 753-6600; and Enforcement: James W. McKillip, 115 General Administration Building, Olympia, Washington, 753-6585.

These rules are proposed by the Washington State Department of Fisheries.

Comments: None.

These rules are not the result of federal law or court order, with the exception of rules effecting the harvest of salmon in Puget Sound, *Order in U.S. v. Washington*, Civ. No. 9213 (W.D. Wash., Apr. 12, 1982).

Small Business Economic Impact Statement: No effect, these proposals regard recreational angling.

AMENDATORY SECTION (Amending Order 84-214, filed 12/7/84)

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	Haliotis refescens
Kamschatka	Haliotis kamtschatkana
Clams	
Bent nose clam	Macoma secta
All other macoma clams	Macoma spp.
Butter clam	Saxidomus giganteus
Common cockle	Clinocardium nuttalli
Geoduck	Panope generosa
Horse clam	Schizothaerus nuttalli, Schizothaerus capax
Mud or soft shell clam	Mya arenaria
Manila clam	Venerupis japonica
Piddock	Zirfaea pilsbryi
Razor clam	Siliqua patula
Rock or native little neck clam	Protothaca staminea
Mussel	
Blue mussel	Mytilis edulis
California mussel	Mytilis californianus
Crab	
Dungeness or Pacific	Cancer magister
Red Crab	Cancer productus
Tanner Crab	Chionoecetes tanneri
Crawfish	
Crawfish	Astacus leniusculus
Crawfish	Astacus trowbridgii
Crawfish	Astacus klamathensis
Octopus	Octopus hongkongensis
Squid	
Pacific Coast squid	Loligo opalescens
Squid	Onychoteuthis borealijaponica
Squid	Ommastrephes bartramai
All other squid	(Decapoda)
Oysters	
Eastern oyster	Crassostrea virginica
Olympia or native oyster	Ostrea lurida
Pacific oyster	Crassostrea gigas
Kumamoto oyster	Crassostrea gigas kumamoto
European oyster	Ostrea edulis
All other oysters	(Ostreidae)
Scallops	
Pacific pink scallop	Chlamys hastata hericia
Sea scallop	Pecten caurinus
Rock scallop	Hinnites multirugosus
Hinds' scallop	Chlamys hindsi
Shrimp	
Dock shrimp	Pandalus danae
Coonstripe shrimp	Pandalus goniurus
Coonstripe shrimp	Pandalus hypsinotus
Ocean Pink shrimp	Pandalus jordani
Pink shrimp	Pandalus borealis
Sidestripe shrimp	Pandalopsis dispar
Spot shrimp	Pandalus platyceros
Sea cucumber	Stichopus californicus
	Cucumaria miniata
Sea urchin	
Green urchin	Strongytocentrotus droebachiensus
Red urchin	Strongytocentrotus franciscanus
Purple urchin	Strongytocentrotus purpuratus

AMENDATORY SECTION (Amending Order 83-200, filed 11/30/83, effective 1/1/84)

WAC 220-16-340 GENERAL DEFINITIONS—BOTTOMFISH. The term "bottomfish," unless otherwise provided, is defined as including Pacific cod, Pacific tomcod, Pacific hake, walleye pollock all species of dabs, sole and flounders (except Pacific halibut), lingcod and all other species of greenling, ratfish, sablefish, cabezon, buffalo sculpin, great sculpin, red Irish lord, brown Irish lord, Pacific staghorn sculpin, wolf-eel, giant wry mouth, plainfin midshipman, spiny dogfish, six gill shark, soupfin shark and all other species of shark, and all species of skate, rockfish, rattails and surfperches except shiner perch.

AMENDATORY SECTION (Amending Order 84-24, filed 3/27/84)

WAC 220-20-010 GENERAL PROVISIONS—LAWFUL AND UNLAWFUL ACTS—SALMON, OTHER FOOD FISH AND SHELLFISH. (1) It shall be unlawful to take, fish for, possess or transport for any purpose food fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department of fisheries.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the director of fisheries, unless otherwise provided.

(3) It shall be lawful to fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided; that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

Pacific halibut	(Hippoglossus stenolepis)
Pacific herring	(Clupea harengus pallasi)
(except as prescribed in WAC 220-49-020)	
Salmon	
Chinook	(Oncorhynchus tshawytscha)
Coho	(Oncorhynchus kisutch)
Chum	(Oncorhynchus keta)
Pink	(Oncorhynchus gorbuscha)
Sockeye	(Oncorhynchus nerka)
Masu	(Oncorhynchus masu)

(4) It shall be unlawful for any person ((~~while commercially fishing in an area~~)) to fish for ((~~or possess~~)) food fish or shellfish while in possession in the field of food fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked with a buoy to which shall be affixed in a visible and legible manner the department of fisheries approved and registered buoy brand provided that:

(a) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(b) When two or more shellfish pots are attached to a common ground line the number of pots so attached must be clearly labeled on the required buoy.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided; that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department of fisheries, provided further that it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47° 20' from August 15 through November 30 except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department of fisheries.

(8) It shall be unlawful for any person taking or possessing food fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington or the Pacific Ocean for any purpose to fail to submit such food fish or shellfish for inspection by authorized representatives of the department of fisheries.

(9) It shall be unlawful for any person licensed under the fisheries code of Washington to fail to make any report or return required of him by the department of fisheries relative to the taking, selling, possessing, transporting, processing, freezing and storing of food fish or shellfish whether taken within the jurisdiction of the state of Washington or beyond or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for or possess or to injure, kill or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, shoot, snag, snare, dip net, harass, spear, stone or otherwise molest, injure, kill or destroy any food fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession: PROVIDED, That it shall be lawful to use a dip net, gaff or club in the landing of food fish taken by personal-use angling.

(12) It shall be unlawful to take or possess for any purpose any food fish or shellfish smaller than the lawful minimum size limits. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish and it shall be unlawful to allow undersized salmon entangled in commercial nets to pass through a power block or onto a power reel or drum.

(13) It shall be unlawful to possess aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, length, weight, or sex limit is prescribed for said species.

(14) It shall be unlawful in any area to use, operate or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department of fisheries.

(15) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director of fisheries, or to perform any act not specifically authorized in said document or in the regulations of the director of fisheries.

(16) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting food fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director of fisheries.

(17) It shall be unlawful to test commercial fishing gear except as follows:

(a) Bellingham Bay – inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances in waters 10 fathoms and deeper.

(b) Boundary Bay – north of a line from Birch Point to Point Roberts and south of the international boundary in waters 10 fathoms and deeper during times not under IPSFC control.

(c) San Juan Channel – within a 1 mile radius of Point Caution during times not under IPSFC control.

(d) Port Angeles – inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner – within a 2 mile radius of the entrance to Everett breakwater in waters 10 fathoms and deeper.

(f) Central Puget Sound – between lines from Meadow Point to Point Monroe and Skiff Point to West Point in waters 50 fathoms and deeper.

(g) East Pass – between lines from Point Robinson true east to the mainland and from Dash Point to Point Piner in waters 50 fathoms and deeper.

(h) Port Townsend – westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Codends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fisheries patrol office in Olympia prior to testing.

(18) It is unlawful for any person or corporation licensed by the department of fisheries to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from food fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other food fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-56-100 DEFINITIONS—PERSONAL USE. (1) "Personal-use possession" and "daily bag limits" are defined as the numbers or pounds of food fish or shellfish which may be taken in a single day or held in possession at one time, unless otherwise provided.

(2) A "single hook" is defined as a hook having a single point or barb; a "double hook" as a hook having two points or barbs on a common shank; and a "treble hook" as a hook having three points or barbs on a common shank.

(3) A "lure" is defined as any object made of animal, vegetable or mineral materials which has attached thereto one or more hooks and is used as bait while angling for food fish.

(4) The term "processed fish" is defined as salmon or other food fish which has been processed by heat for human consumption as kippered, smoked, or canned fish and is exclusive of iced, frozen, or salted fish.

(5) The term "fresh fish" is defined as salmon or other food fish which has not been processed by heat for human consumption and is inclusive of iced, frozen, or salted fish except that fresh fish as provided in WAC 220-56-180 shall not include frozen.

(6) "Hook and line" or "angling" shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with one lure in the act of fishing for personal use and not for sale or barter, to be attached to a pole held in hand while landing fish, or the use of a hand-operated line without rod or reel, to which may be attached not more than one lure. When fishing for bottomfish, "angling" and "jigging" shall be identical in meaning.

(7) The term "snag or snagging" is defined as any method of taking or attempting to take food fish with one or more hooks in such a manner that the fish does not take the hook or hooks voluntarily in its mouth.

(8) The term "underwater spearfishing" is defined as any method of taking or attempting to take food fish by using any object or objects to impale or hook fish while the fisherman is swimming or floating in the water.

(9) The term "bow and arrow fishing" is defined as any method of taking, or attempting to take, food fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisherman is above the surface of the water.

(10) The term "natural bait," unless otherwise provided, is defined as a lure consisting of an animal or part of an animal with one single hook.

(11) The term "freshwater area" means, for purposes of this chapter:

(a) Within any freshwater river, lake, stream, or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream, or pond.

(c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream, or pond.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-105 RIVER MOUTH DEFINITIONS. When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those waters of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

Abernathy Creek – Highway 4 Bridge.
Bear River – Highway 101 Bridge.
Bone River – Highway 101 Bridge.
Chehalis River – U.P. Railway Bridge in Aberdeen.
Chinook River – The tide gates at the Highway 101 Bridge.
Cowlitz River – A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.
Duwamish River – First Avenue South Bridge.
Elk River – Highway 105 Bridge.
Entiat River – Highway 97 Bridge.
Germany Creek – Highway 4 Bridge.
Hoquiam River – Highway 101 Bridge.
Humptulips River – Mouth of Jessie Slough.
Johns River – Highway 105 Bridge.
Lake Washington Ship Canal – Line 400 feet below the fish ladder at the Chittenden Locks.
Lewis River – A straight line running from a marker on Austin Point south across the Lewis River to a marker on the opposite shore.
Methow River – Highway 97 Bridge.

Mill Creek – Highway 4 Bridge.
Naselle River – Highway 101 Bridge.
North Nemah River – Line from markers approximately one-half mile below the Highway 101 Bridge.
Niawiakum River – Highway 101 Bridge.
North River – Highway 105 Bridge.
Palix River – Highway 101 Bridge.
Puyallup River – 11th Street Bridge.
Samish River – The Samish Island Bridge (Bayview-Edison Road).
Sammamish River – Kenmore Highway Bridge.
Skagit River (((~~North Fork~~))) – A line projected from the ((~~white monument on the easterly end of Ika Island to the~~)) terminus of the jetty with McGlinn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.
((~~Skagit River (South Fork) – A line projected from the flashing red four-second navigational light true north to its intersection with the old jetty shown on U.S.C.G.S. chart No. 6450.~~))
Skamokawa Creek – Highway 4 Bridge.
Snohomish River – Burlington Northern Railway Bridges crossing main river and sloughs.
South Nemah River – Lynn Point 117 degrees true to the opposite shore.
Tucannon River – State Highway 261 Bridge.
Washougal River – A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.
White Salmon River – Highway 14 Bridge.
Little White Salmon River – At boundary markers on river bank downstream from the federal salmon hatchery.
Willapa River – Highway 101 Bridge.
Yakima River – Highway 240 Bridge.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-115 ANGLING—LAWFUL AND UNLAWFUL ACTS. (1) It is unlawful for any person to use more than one line with one lure at any one time while angling for food fish for personal use except:

(a) It is lawful to use two natural baits per line while angling in freshwater.

(b) It is lawful to use two lures per line while angling in marine waters for food fish other than salmon.

(c) A second line using baitfish jigger gear is lawful while angling in the Strait of Juan de Fuca east of the mouth of the Sekiu river, Georgia Strait, the San Juan Islands, and Puget Sound.

(d) It is lawful for each angler to use one line with two lures or two lines with one lure per line while fishing ((~~for salmon~~)) in all of Punch Card Area 12((;)) and that portion of Punch Card Area 8 lying southeasterly of a line between East Point on Whidbey Island and the flashing light north of Lowell Point on Camano Island((~~, and that portion of Area 9 including waters of Possession Sound lying northerly of a line running 90 degrees true east from Possession Point~~)).

(2) It shall be unlawful for any person to take, fish for or possess food fish for personal use by any means other than angling with a line attached to a pole held in hand while landing the fish or with a hand-operated line without rod or reel not utilizing power to retract the line in either case, except as provided in subsections (3) and (4) of this section.

(3) It shall be lawful, while angling for food fish in saltwater from shore, piers, jetties or docks, for an individual to:

(a) Leave the pole in a pole holder while playing or landing the fish. The pole holder may be affixed to a bench, pier railing, wheelchair or other solid object.

(b) Use a power-operated reel attached to a pole.

All other provisions of this section shall apply.

(4) It shall be unlawful to take, fish for or possess salmon taken for personal use with hand lines (lines not attached to a handheld pole) in those waters west of the mouth of the Sekiu River, Pacific Ocean, Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10, Grays Harbor, and Willapa Bay.

(5) It shall be unlawful for any person while angling for food fish to fail to keep his angling gear under his direct and immediate physical control.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-116 ((~~SALMON—LAWFUL GEAR~~)) HOOK REGULATIONS—MARINE WATER FOOD FISH ANGLING. It is unlawful to use barbed ((~~fishing~~)) hooks while ((~~angling for salmon~~)) fishing for food fish in all ((~~contiguous marine~~)) waters ((~~easterly~~)) of ((~~a line projected true north from the mouth of the Sekiu River~~)) Puget Sound, the Pacific Ocean, Grays Harbor, Willapa Bay, and waters at the mouth of the Columbia River westerly of a line drawn true north-south through Buoy 10, except while jigging for baitfish or fishing for bottomfish from shore, piers, jetties, or docks. ((~~(~~))Barbless hooks are hooks on which the barb has been filed off, removed, pinched down, or deleted when manufactured.((~~)~~)) Baitfish as used here means herring and herring-like fishes, including candlefish (or sand lance), pilchard, anchovies, and smelt.

NEW SECTION

WAC 220-56-126 UNLAWFUL PROVISIONS—DUWAMISH WATERWAY. During the period September 1 through October 15, in those waters of the Duwamish Waterway downstream from the First Avenue South Bridge to an east-west line through SW Hanford Street on Harbor Island and parallel to SW Spokane Street where it crosses Harbor Island:

(1) It is unlawful to take, fish for or possess salmon using any gear other than that specified in WAC 220-56-205 (freshwater salmon angling gear).

(2) It is unlawful to take, fish for or possess food fish or shellfish from one hour after official sunset to one hour before official sunrise.

(3) It is unlawful to use baitfish jigger gear.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-56-128 PERSONAL-USE FISHERY—AREAS AND SEASONS. (1) It is unlawful to take, fish for or possess ((~~salmon, bottomfish and other~~)) food fish taken for personal use in those waters lying within one mile below any fish rack, fishway, dam or other artificial or natural obstruction, either temporary or permanent, unless otherwise provided.

(2) It is lawful, unless otherwise provided, to take, fish for or possess ((~~salmon, bottomfish, or other~~)) food fish in waters outside of or downstream from the following described lines and as provided in WAC 220-56-105:

(a) Hood Canal: A radius of one hundred feet from the confluence of Finch Creek with tidewater adjacent to the Hood Canal Salmon Hatchery.

(b) Sinclair Inlet: A line fifty yards from the pierhead line of the Puget Sound Naval Shipyard at Bremerton.

(c) Budd Inlet: The Fourth Avenue Bridge at Olympia.

(d) Shilshole Bay: For salmon, the line shall be the Burlington Northern Railroad Bridge. For bottomfish or other food fish, the line shall be 400 feet below the fish ladder at the Chittenden Locks from October 1 through May 31; and below the Burlington Northern Railroad Bridge all year.

(e) Chinook River: The tide gate at the Highway 101 Bridge.

(3) It is unlawful to take, fish for, or possess food fish for personal use in those waters of the Columbia River between the Vernita Bridge and the Hanford power line crossing (wooden towers at ((~~524~~)) S24, T13N, R27E) from October 16 through ((~~May 31~~)) June 30.

(4) It is unlawful to take, fish for or possess food fish for personal use in those Columbia River waters between the upstream line of Bonneville Dam to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse.

NEW SECTION

WAC 220-56-156 LANDING CANADIAN ORIGIN FOOD FISH AND SHELLFISH. It is unlawful to land in any Washington state port food fish or shellfish taken for personal use from Canadian waters unless the person landing the food fish or shellfish possesses a Canadian sport fishing license and catch record, if one is required, valid for the period when the food fish or shellfish were taken, and provides written official documentation of previous landing in Canada. Without written official documentation of previous landing in Canada, all personal use food fish and shellfish taken from Canadian waters

must conform to applicable harvest regulations for the area where first landed in Washington.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-180 BAG LIMIT CODES. (1) Code A: In waters having this code designation, the bag limit in any one day is six salmon not less than 10 inches in length, not more than two of these six salmon may be any combination of the following:

Chinook over 24 inches in length

Coho over 20 inches in length

Pink, chum or sockeye over 10 inches in length.

((~~The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.~~)).

(2) Code C: In waters having this code designation, the bag limit in any one day is six chinook and coho salmon in the aggregate not less than 10 inches in length or more than the following:

24 inches in length for chinook; 20 inches in length for coho.

((~~The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.~~))

(3) Code F: In waters having this code designation, the bag limit in any one day is two salmon provided that:

(a) Chinook salmon must be not less than 24 inches in length, coho salmon must be not less than 16 inches, but there is no minimum size on other salmon.

(b) During the period April 15 through June 15 in waters of the Strait of Juan de Fuca between the mouth of the Sekiu River and a line from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island, it is unlawful to take and retain chinook salmon greater than 30 inches in length.

((~~(c) The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.~~))

(4) Code H: In waters having this code designation, the bag limit in any one day is three salmon provided that:

(a) Chinook salmon must be not less than 22 inches in length, but there is no minimum size for other salmon.

(b) During the period April 15 through June 15 in Punch Card Areas 5, 6, and 7, it is unlawful to retain or possess chinook salmon greater than 30 inches in length.

OR

(b) During the period April 15 through June 15 in Punch Card Area 7 it is unlawful to retain or possess chinook salmon greater than 30 inches in length.

(c) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than two of the three salmon daily bag limit may be chinook, except:

OR

(c) In contiguous marine waters of Puget Sound east of the mouth of the Sekiu River, no more than one of the three salmon daily bag limit may be chinook, except:

(i) During the period March 15 through July 15, it is unlawful to retain or possess chinook salmon taken for personal use while fishing in Punch Card Areas 10, 11, or 13.

OR

(i) During the period January 1 through December 31, it is unlawful to retain or possess chinook salmon taken for personal use while fishing in Punch Card Areas 10, 11, or 13.

(ii) During the period April 1 through June 30, it is unlawful to retain or possess chinook salmon taken for personal use while fishing in Punch Card Area 9, except for those waters of Possession Sound lying northerly of a line running 90 degrees true east from Possession Point.

OR

(ii) During the period January 1 through December 31, it is unlawful to retain or possess chinook salmon taken for personal use while fishing in Punch Card Area 9.

OR

(ii) During the period January 1 through December 31, it is unlawful to retain or possess chinook salmon taken for personal use while fishing in Punch Card Areas 5, 6, or 9.

OR

(ii) During the period January 1 through December 31, it is unlawful to retain or possess chinook salmon taken for personal use while fishing in Punch Card Areas 5 or 6.

(iii) During the period July 16 through July 31, it is unlawful to retain and possess chinook salmon taken for personal use while fishing in waters of Carr Inlet northerly of a line running westerly 273 degrees true from the northernmost point of land on the south side at the entrance of Horsehead Bay to a marker on the Longbranch Peninsula.

(iv) The daily bag limit in Punch Card Area 12 is three salmon of any species.

((~~(d) The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.~~))

(5) Code I: In waters having this code designation, the bag limit in any one day is eight salmon, not less than 6 inches in length or an aggregate daily catch of eight salmon and other salmonid fish. The aggregate catch may not contain more than 3 fish over 14 inches nor more than 2 fish over 20 inches. ((~~The possession limit is the same as the daily catch limit.~~)) Salmon angling catch record card is not required, but a gamefish license is required to take, fish for or possess gamefish.

(6) The possession limit in all waters regulated under Bag Limits A, C, F, H, and special bag limits shall not exceed the equivalent of two daily bag limits of fresh salmon, and additional salmon may be possessed in frozen or processed form. The possession limit in waters regulated under Bag Limit I is the same as the daily bag limit, and additional salmon may not be possessed in any form.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-185 MARINE AREA CODES. The term "marine area code numbers" is defined as the catch area for the salmon catch record card. The following is a list of the catch areas:

(1) Area 1 (Ilwaco): West of the Megler-Astoria Bridge - north to Leadbetter Point.

(2) Area 2 (Westport-Ocean Shores): From Leadbetter Point north to the Queets River.

(3) Area 3 (La Push): From the Queets River north to Cape Alava.

(4) Area 4 (Neah Bay): From Cape Alava north and inside Juan de Fuca Strait to the Sekiu River.

(5) Area 5 (Sekiu and Pillar Point): From mouth of Sekiu River east to Low Point, mouth of the Lyre River.

(6) Area 6 (East Juan de Fuca Strait): From Low Point east to the Partridge Point-Point Wilson line north to the line from Trial Island (near Victoria, B.C.) - Navigation Buoy BW "R" - Smith Island((~~= Point Colville-Langley Point and west of~~)) - the most northeasterly of the Lawson Reef lighted buoys (RB1 QK Fl Bell) - Northwest Island - the Initiative 77 ((~~line fronting Deception Pass~~)) marker on Fidalgo Island.

(7) Area 7 (San Juan Islands): All marine waters north of the ((~~Trial Island~~)) line described under Area 6 to the United States-Canadian boundary.

(8) Area 8 (Deception Pass, Hope and Camano Islands): ((~~The 77~~)) A line projected from west point on Whidbey Island to Reservation Head on Fidalgo Island east through Deception Pass, including all waters east of Whidbey Island to ((~~Mukilteo-Columbia Beach~~)) the Possession Point - Shipwreck Line.

(9) Area 9 (Admiralty Inlet): All waters inside and south of the Partridge Point-Point Wilson Line and ((~~the Mukilteo-Columbia Beach~~)) a line ((~~to the site~~)) projected from the southerly tip of Possession Point 110 degrees true to a shipwreck on the opposite shore and northerly of the Hood Canal Bridge and the Apple Cove Point-Edwards Point Line.

(10) Area 10 (Seattle-Bremerton): From the Apple Cove Point-Edwards Point Line to a line projected true east-west through the ((~~north~~)) northern tip of Vashon Island ((~~(east-west)~~)).

(11) Area 11 (Tacoma-Vashon Island): From the ((~~north~~)) northern tip of Vashon Island to the Tacoma Narrows Bridge.

(12) Area 12 (Hood Canal): All contiguous waters south of the ((~~site of the~~)) Hood Canal Bridge.

(13) Area 13 (South Puget Sound): All contiguous waters south of the Tacoma Narrows Bridge.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-190 SALTWATER SEASONS AND BAG LIMITS—SALMON. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180:

(1) Puget Sound contiguous marine waters east of the mouth of the Sekiu River – bag limit H – open the entire year, except as provided in WAC 220-56-120, 220-56-128, 220-56-130, and 220-56-195.

(2) Strait of Juan de Fuca from the mouth of the Sekiu River to a line projected from the most westerly point on Cape Flattery to the Tatoosh Island Light then to Bonilla Point on Vancouver Island – open entire year, unless the season in the Pacific Ocean closes a week or more before Puget Sound coho salmon management needs prevail (the Sunday nearest September 2); in which case, this area will be closed concurrently with the ocean from the time of the ocean closure until the Puget Sound coho management period (the Sunday nearest September 2). Bag and size limits shall conform with Pacific Ocean regulations during those times when salmon angling is permitted in adjacent coastal ocean waters. During those periods when the ocean salmon angling season is closed and the area described in this subsection is open to salmon angling, the bag limit shall conform with regulations of adjacent waters of the Strait of Juan de Fuca (Area 5—Sekiu), but minimum size limits shall remain unchanged from those which were in effect when the ocean season was last open.

(3) Pacific Ocean coastal waters: All waters west of a line from Tatoosh Island Light to Bonilla Point, Pacific Ocean, and Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10 – bag limit F – open on the Saturday preceding Memorial Day through Labor Day.

(4) Grays Harbor (waters east of a line from the outermost end of the north jetty to the outermost exposed end of the south jetty including the waters of the Westport Boat Basin) – (a) ((~~bag limit F –~~)) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean, but not to extend beyond August 15, unless otherwise provided, (b) all Westport Boat Basin waters and adjacent waters of Grays Harbor when fishing from the Westport Marina Fishing Boardwalk only – special bag limit – six salmon per day not less than 10 inches in length, not more than two of which may be any combination of the following: Pink, sockeye or chum salmon over 10 inches in length or coho salmon over 20 inches in length. All chinook salmon over 24 inches in length must be released. Open to personal use salmon fishing October 1 through November 30. ((~~The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh salmon. Additional salmon may be possessed in a frozen or processed form.~~))

(5) Willapa Harbor (waters east of a line from Leadbetter Point to Cape Shoalwater Light and downstream from river mouths as defined in WAC 220-56-105) – (a) ((~~bag limit F – open November 1 through August 31~~)) Open to salmon angling coincidentally with the season, bag limit, size, and gear restrictions in adjacent waters of the Pacific Ocean, (b) special bag limit – six salmon not less than 10 inches in length not more than two of which may be any combination of the following: Chinook over 24 inches in length; coho over 20 inches in length; pink, chum, or sockeye over 10 inches in length – open September 1 through ((~~October 31~~)) November 30.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-56-195 CLOSED AREAS—SALTWATER SALMON ANGLING. The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the state Highway 532 Bridge between Camano Island and the mainland and south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough shall be closed to salmon angling April 15 through June 30.

(2) Bellingham Bay: Those waters of Portage Bay and Bellingham Bay north of a line from Point Francis to Post Point shall be closed to salmon angling April 15 through ((~~June 30~~)) July 15.

(3) Carr Inlet: Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling at all times.

NEW SECTION

WAC 220-56-197 CLOSED AREAS—COHO SALMON ANGLING. It is unlawful to take or possess coho salmon taken for personal use during the period September 1 through October 31 from those waters of Skagit Bay lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the State Highway 532 Bridge between Camano Island and the mainland, and south of the Burlington Northern Railroad Bridge at the north end of Swinomish Slough.

NEW SECTION

WAC 220-56-199 CLOSED AREAS—CHINOOK SALMON ANGLING. It is unlawful to take or possess chinook salmon during the period June 16 through August 31 in those waters of Port Susan lying northerly of a line projected from Camano Head to Hermosa Point.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-235 POSSESSION LIMITS—BOTTOMFISH. It is unlawful, unless otherwise provided, for any one person to take in any one day more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish. Additional bottomfish may be possessed in a frozen or processed form.

(1) Coastal (Punch Card Areas 1 through 4):

(a) Lingcod:

(i) 3 fish in Punch Card Areas 1 through 3 and Area 4 west of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island light, thence to Bonilla Point;

(ii) 2 fish in Punch Card Area 4 east of a line projected from the most westerly point on Cape Flattery to the Tatoosh Island Light, thence to Bonilla Point.

(b) Rockfish – 15 fish.

(c) All other species – no limit.

(2) Puget Sound:

(a) East of the mouth of the Sekiu River and west and north of a line from Point Partridge to Point Wilson and west of ((~~the 77 line~~)) a line between west point on Whidbey Island and Reservation Head on Fidalgo Island. (Punch Card Areas 5 through 7) – 15 fish in the aggregate of all species of bottomfish, no more than 2 of which may be lingcod and no more than 10 of which may be rockfish. It is unlawful to possess lingcod less than 22 inches in length taken by angling. The daily bag limit taken by spear fishing may include no more than one lingcod in the 15 fish aggregate, with no size restriction.

(b) All contiguous marine waters east and south of a line from Point Partridge to Point Wilson and east of the 77 line (Punch Card Areas 8 through 13) – 15 fish in the aggregate of all species of bottomfish, no more than 1 of which may be lingcod, and no more than 5 of which may be rockfish. It is unlawful to possess lingcod less than 22 inches in length taken by angling. There is no size restriction on the one lingcod allowed in the daily bag limit if taken by spear fishing.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-240 POSSESSION LIMITS—OTHER FOOD FISH. It shall be lawful, unless otherwise provided, for any one person to take in any one day or possess at any one time in the state of Washington the following quantities and sizes of food fish for personal use:

(1) Sturgeon: (a) 3 fish not less than 36 inches nor more than 72 inches in length state-wide, except as provided for in (b) of this subsection.

(b) Columbia River and mainstem impoundments upstream from a line perpendicular to the river flow at the Oregon/Washington boundary approximately 17.3 miles above McNary Dam to the United States/Canada border and those waters of the Snake River from its mouth upstream to the powerline crossing below Highway 12 Bridge at Clarkston – 2 fish not less than 48 inches nor more than 72 inches in length.

(2) Smelt: 20 pounds.

(3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.

(4) All other food fish: No limit.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

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 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.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-56-330 CRAB—AREAS AND SEASONS. (1) It is unlawful to ((~~take,~~)) fish for or possess crab taken for personal use with shellfish pot gear or to have in the water, set or fish any shellfish pot gear ((~~for crab in Puget Sound from April 16 through May 25~~)) except during the open gear season. The open gear season for crab may open by emergency regulation prior to July 1, but in any case will open July 1, and will close April 15.

(2) Except as provided in subsection (1) of this section, it is lawful to fish for and possess male Dungeness crabs taken for personal use the entire year in state waters.

(3) Except as provided in subsection (1) of this section, it is lawful to fish for and possess red rock crabs of either sex taken for personal use the entire year in state waters.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-400 ABALONE. (1) It is unlawful to remove undersized abalone from the water, and any undersized abalone must be replaced immediately with the shell outward to the site from which is was removed.

(2) The first five legal size abalone taken must be retained, and it is unlawful to detach abalones once the personal possession limit has been taken.

(3) It ((~~shall be~~)) is unlawful to possess in the field any abalone taken for personal use which has the shell removed.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-56-198 DUWAMISH WATERWAY—UNLAWFUL PROVISIONS.

WAC 220-56-201 MARKING SPORT-CAUGHT SALMON.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-130 BOGACHIEL RIVER. (1) ((~~Bag limit A - July 1 through October 31: Downstream from the Highway 101 Bridge to the mouth of the Calawah River. All coho salmon greater than 20 inches in length must be immediately released.~~

~~(2)~~)) Bag limit A - July 1 through August 31: Downstream from the ((~~mouth of the Calawah River~~)) Highway 101 Bridge. All coho salmon greater than 20 inches in length must be released immediately.

((~~(3)~~)) (2) Special bag limit - Six salmon not less than 10 inches in length, not more than four of which may exceed 24 inches in length - September 1 through November 30: Downstream from the ((~~mouth of the Calawah River~~)) Highway 101 Bridge. All coho salmon greater than 20 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-160 COLUMBIA RIVER. (1) Bag limit C - June 1 through December 31: Downstream from Chief Joseph Dam to the Richland - Pasco Highway 12 Bridge except those waters between the Vernita Bridge and the old Hanford townsite wooden powerline towers are open only during the period July 1 through October 15, and except for the special season and bag limited provided for in subsection (2) of this section. The following are closed waters:

(a) Chief Joseph Dam - waters between the upstream line of Chief Joseph Dam to a line perpendicular to the thread of the stream from a point 400 feet downstream from the west end of the tailrace deck.

(b) Wells Dam - waters between the upstream line of Wells Dam and a point 400 feet below the spawning channel discharge stream.

(c) Rocky Reach, Rock Island and Wanapum Dams - waters between the upstream lines of these dams and points 400 feet downstream.

(d) Priest Rapids Dam - waters between the upstream line of Priest Rapids Dam and a point 400 feet downstream.

(e) Jackson (Moran) Creek - waters within 500 feet of the mouth.

(2) Bag limit A - April 1 through July 31: East bank only in that portion of the Columbia River from WDF boundary marker located approximately 1/2 mile upstream from Spring Creek (Ringold hatchery rearing pond outlet) downstream to a WDF boundary marker located approximately 1/4 mile downstream of Ringold wasteway outlet.

(3) Waters downstream from the Richland-Pasco Highway 12 Bridge to Hood River Bridge: Closed entire year. The following waters are closed to fishing for food fish at all times:

(a) McNary Dam - waters between the upstream line of McNary Dam and a line across the river from the red and white marker on the Oregon shore to the downstream end of the wingwall of the boat lock near the Washington shore.

(b) John Day Dam - waters between the upstream line of John Day Dam and markers approximately 3,000 feet downstream, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(c) The Dalles Dam - waters between the upstream line of the Dalles Dam and the upstream side of the Interstate 197 Bridge, except that fishing is permitted from the Washington shore to within 400 feet of the fishway entrance.

(4) Bag limit A - September 1 through March 15: That portion downstream from Hood River Bridge to the Interstate 5 Bridge at Vancouver, except waters of Camas Slough are open under this bag limit from August 1 through March 15 between the upper Highway 14 Bridge on Lady Island to a line projected true north from the lower end of Lady Island and hook regulations and shad and sturgeon seasonal restrictions in Camas Slough are identical with regulations and restrictions in adjacent mainstem Columbia River waters. The following are closed waters:

(a) Spring Creek - waters within 1/4 mile of the U.S. Fish and Wildlife Service Hatchery grounds between posted boundary markers located 1/4 mile on either side of the fish ladder entrance.

(b) Bonneville Dam - waters between the upstream line of Bonneville Dam and a point 600 feet below the fish ladder at the new Bonneville Dam powerhouse.

(5) Special bag limit ((~~C~~)) - six chinook, coho, and sockeye salmon in the aggregate not less than 10 inches in length or more than the following: 24 inches in length for chinook; 20 inches in length for coho; no maximum length restriction for sockeye - June 1 through July 25:

Waters downstream from the Interstate 5 Bridge to the Megler-Astoria Bridge.

(6) Bag limit A - August 16 through March 31: Waters downstream from the Interstate 5 bridge to the Megler-Astoria Bridge. During the month of September, it is unlawful to ((~~take,~~)) fish for((,)) or possess salmon taken for personal use in ((~~that portion~~)) those waters of the Columbia River ((~~north of~~)) extending to midstream between a line projected perpendicular to the stream flow from Abernathy Point Light to a line projected perpendicular to the stream flow from a boundary marker east of the mouth of Abernathy Creek.

(7) Bag limit A - August 16 through March 31: Waters downstream from the Megler-Astoria Bridge to a line projected true north and south through buoy 10, except that during the period August 16 through September 30 when size and bag limit regulations shall conform with the most recent ocean fishing regulations for adjacent waters of punch card area 1.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-175 COWLITZ RIVER. (1) Special bag limit - April 1 through July 31: Downstream from a marker 400 feet below the Cowlitz Salmon Hatchery Barrier Dam on the north side of the river and downstream from the base of the barrier dam on the south side of the river to the mouth. Bag limit is six salmon per day not less than 10 inches in length, only three of which may exceed 24 inches in length.

(2) That portion of the Cowlitz River downstream from the mouth of Mill Creek is open to salmon angling 24 hours per day during the period April 1 to July 31.

(3) Bag limit A - August 1 through March 31: Downstream from markers 400 feet below the barrier dam except, during the period October 1 through December 31, chinook salmon over 28 inches in length taken upstream of the Interstate 5 Bridge must be released.

(4) Salmon angling from boats is prohibited the entire year in designated open waters between the barrier dam and a line from the mouth of Mill Creek to a boundary marker on the opposite shore.

(5) Bag limit A - Open the entire year: From the confluence of the Muddy Fork and Ohanapecosh rivers downstream to Riffe (Davisson) Lake.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-215 DUNGENESS RIVER. Bag limit A - October 15 through December 31: Downstream from ((~~the siphon hole intake, consisting of a metal pipe with concrete headlands, located approximately 1/2 mile upstream of the Dungeness River~~)) markers at the former Taylor Bridge site approximately one mile below the state salmon hatchery rack. Chinook salmon over 28 inches must be released. Closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-310 KALAMA RIVER. (1) Bag limit A - Saturday preceding Memorial Day through November 30: From Summers Creek upstream to the 6420 Road (approximately one mile above the gate at the end of the county road) is open to the taking of salmon with lawful fly fishing tackle only. Legal flies are limited to single-hook artificial flies measuring not more than 1/2 inches between shank and point.

(2) Bag limit A - Saturday preceding Memorial Day through November 30: Downstream from the mouth of Summers Creek to the markers at the Kalama Falls (Upper) Salmon Hatchery.

(3) Bag limit A - open the entire year: Downstream from a point 1,000 feet below the fishway at the upper salmon hatchery, with the following exception: During the period September 1 through October 31, that portion of the Kalama River from markers at the Lower Kalama Hatchery pumphouse (intake) downstream to the natural gas pipeline crossing at Mahaffey's Campground will be open for fly fishing only and lawful salmon angling gear in the remaining portion of these waters downstream to the Interstate 5 Bridge is limited to bait or lures with one single point hook only, measuring not more than 1/2 inch from point to shank.

October 1 through December 31: Chinook salmon over 28 inches caught in the area downstream from a point 1,000 feet below the fishway at the upper salmon hatchery to the natural gas pipeline must be released.

(4) During the time the department of fisheries temporary rack is installed just below the Modrow Bridge, that portion of the river from a point 200 feet above the temporary rack downstream to a set of markers 1,500 feet below the temporary rack is closed to salmon angling.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-335 NASELLE RIVER. (1) Bag limit A - July 1 through ((~~January 31~~)) September 30: Downstream from ((~~the Big Hill Bridge~~)) a point 400 feet below the entrance to the Naselle Salmon Hatchery Attraction Channel to Highway 101 Bridge((~~. All~~)) except only one chinook salmon greater than ((~~28~~)) 24 inches in length ((~~must be released immediately~~)) may be retained as part of the daily bag limit.

(2) Special bag limit - six salmon per day not less than 10 inches in length, not more than four of which may be coho salmon greater than 20 inches in length and not more than two of which may be chum salmon. All chinook salmon over 28 inches in length must be released immediately - October 1 through January 31: Downstream from the Big Hill Bridge to the Highway 101 Bridge.

(3) Waters within 400 feet both upstream and downstream from the entrance to the Naselle Salmon Hatchery Attraction Channel are closed to salmon angling at all times.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-350 NOOKSACK RIVER. (1) Bag limit A - ((~~July 15~~)) August 1 through December 31: Downstream from the confluence of north and south forks to Lummi Indian Reservation boundary.

(2) Bag limit C - September 1 through October 31: (North fork) downstream from Maple Creek to mouth of north fork.

(3) The entire Nooksack River is closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-57-400 SALMON RIVER (JEFFERSON COUNTY). Bag limit ((~~C~~)) A - ((~~October 1~~)) September 15 through October 31: Downstream from the Q ((~~1800~~)) 1000 Road Bridge((;)) including waters within Olympic National Park outside the boundaries of the Quinault Indian Reservation ((~~and Olympic National Park~~)). Chinook salmon greater than 24 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-425 SKAGIT RIVER. (1) Bag limit ((~~A~~)) C - July 1 through December 31: Downstream from the mouth of the Cascade River to Gilligan Creek. ((~~Chinook salmon over 24 inches in length must be released.~~))

(2) Special bag limit - Downstream from Gilligan Creek bag limit ((~~A~~)) C from July 1 through December 31 EXCEPT the six salmon daily bag limit may include no more than one chinook salmon greater than 24 inches in length.

(3) The entire Skagit River is closed to the taking of pink salmon in odd-numbered years.

AMENDATORY SECTION (Amending Order 82-61, filed 6/9/82)

WAC 220-57-465 STILLAGUAMISH RIVER. Bag limit A - ((~~July 1~~)) October 1 through January 31: Downstream from confluence of north and south forks. Closed to the taking of pink salmon in odd-numbered years. Chinook salmon greater than 24 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57-495 WASHOUGAL RIVER. (1) Bag limit A - January 1 through October 15: Downstream from the former steel bridge site at the Washougal Mercantile. From October 1 through October 15 chinook salmon over 28 inches must be released. From September 1 through October 15, lawful salmon angling gear shall be restricted to bait or lures with one single point hook only, measuring no more than 1/2 inch from point to shank.

(2) Bag limit A - October 16 through December 31: Downstream from bridge at Salmon Falls to mouth. Chinook salmon over 28 inches

must be released. From October 16 to October 31, lawful salmon angling gear shall be restricted to bait or lures with one single point hook only, measuring no more than 1/2 inch from point to shank.

(3) "Washougal River – Special fishing area": Waters from markers 50 feet upstream from the fisheries department salmon hatchery rack, upstream to the barrier dam are open to salmon fishing from September 18 through December 31. This special fishery shall be limited to persons who are 65 years of age or older. Persons wishing to participate in this fishery must have proof of their age in their possession while fishing. Daily bag limit: Six salmon 10 inches or more in length. Possession limit: Two daily bag limits in any form. The first six salmon caught, regardless of where they are hooked (inside or outside their mouth), must be retained. In this special fishing area, legal fishing gear shall be limited to one hand-held rod to which may be attached not more than one hook (or one lure with one hook attached). This one hook shall not have more than three points, and the maximum distance between shank and points is not to exceed 1/2 inch.

NEW SECTION

WAC 220-57-502 WHATCOM CREEK. Bag limit C – August 1 through December 31: Downstream from the footbridge below Dupont Street in Bellingham.

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-505 WHITE SALMON RIVER. Bag limit A – ((~~September 1~~)) January 1 through December 31: Downstream from a set of markers approximately 1/2 mile north of Highway 14 Bridge. (Little) White Salmon River (Drano Lake): Bag limit A – ((~~September 1~~)) January 1 through December 31: Downstream from markers on point of land downstream and across from federal salmon hatchery.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57-510 WILLAPA RIVER. (1) ((~~Bag limit A~~)) Special bag limit – six salmon per day not less than 10 inches in length not more than four of which may be adult salmon, defined as chinook salmon greater than 24 inches in length, coho salmon greater than 20 inches in length, or chum salmon greater than 10 inches in length, except no more than two of the six salmon may be adult chinook and chum salmon in any combination, and after October 14, all chinook salmon greater than 28 inches in length must be released immediately – July 1 through January 31: Downstream from Highway 6 Bridge, approximately 2 miles below the mouth of Trap Creek, to the Highway 101 Bridge. ((~~Chinook salmon greater than 28 inches in length must be released immediately.~~))

(2) Bag limit A – October 15 through January 31: Downstream from mouth of Fork Creek to the Highway 6 Bridge approximately 2 miles below the mouth of Trap Creek. Chinook salmon greater than 28 inches in length must be released immediately.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57A-010 ARMSTRONG LAKE (SNOHOMISH COUNTY). ((~~Bag limit I – April 15 through September 3.~~)) Closed to salmon angling the entire year.

AMENDATORY SECTION (Amending Order 83-16, filed 3/17/83)

WAC 220-57A-012 BAKER LAKE (WHATCOM COUNTY). Bag limit I – April ((~~17~~)) 21 through October 31.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57A-037 CLEAR LAKE (PIERCE COUNTY). Bag limit I – April ((~~15~~)) 21 through July 4 and September 1 through October 31.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57A-040 CUSHMAN LAKE (MASON COUNTY). Bag limit I – April ((~~15~~)) 21 through October 31.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57A-080 GOODWIN LAKE (SNOHOMISH COUNTY). Bag limit I – April ((~~15~~)) 21 through October 31.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57A-112 MCMURRAY LAKE (SKAGIT COUNTY). Bag limit I – April ((~~15~~)) 21 through September ((~~3~~)) 2.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57A-152 SHANNON RESERVOIR (SKAGIT COUNTY). Bag limit I – April ((~~15~~)) 21 through October 31.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57A-185 WILDERNESS LAKE (KING COUNTY). Bag limit I – April ((~~15~~)) 21 through September ((~~3~~)) 2.

AMENDATORY SECTION (Amending Order 84-22, filed 4/11/84)

WAC 220-57A-190 WYNOOCHEE RESERVOIR (GRAYS HARBOR COUNTY). Bag limit I – April ((~~15~~)) 21 through October 31.

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
REP = Repeal of existing section
READOPT = Readoption of existing section
REAFF = Order assuming and reaffirming rules
RESCIND = Rescind previous emergency rule
REVIEW = Review of previously adopted rule
STMT = Statement regarding previously adopted rule

Suffixes:

-P = Proposed action
-C = Continuance of previous proposal
-E = Emergency action
-W = Withdrawal of proposed action
No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

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4-25-140	AMD-P	85-02-066
4-25-260	REP-P	85-02-066
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16-231-413	NEW-P	85-03-101
16-231-613	NEW-P	85-03-101
16-231-615	AMD-P	85-03-101
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137-52-025	NEW-P	85-03-104
137-52-030	NEW-P	85-03-104
137-52-035	NEW-P	85-03-104
137-52-040	NEW-P	85-03-104
137-52-045	NEW-P	85-03-104
137-52-050	NEW-P	85-03-104
137-54-010	NEW-P	85-02-067
137-54-020	NEW-P	85-02-067
137-54-030	NEW-P	85-02-067
137-54-040	NEW-P	85-02-067
137-70-060	AMD-P	85-03-103
137-70-070	AMD-P	85-03-103
139-04-010	AMD-P	85-03-076
139-08-005	AMD-P	85-03-077
139-08-010	REP-P	85-03-077
139-08-020	REP-P	85-03-077
139-08-030	REP-P	85-03-077
139-08-040	AMD-P	85-03-077
139-08-060	REP-P	85-03-077
139-08-090	AMD-P	85-03-077
139-08-130	AMD-P	85-03-077
139-08-150	AMD-P	85-03-077
139-08-240	AMD-P	85-03-077
139-08-270	AMD-P	85-03-077
139-08-280	AMD-P	85-03-077
139-08-290	AMD-P	85-03-077
139-08-320	AMD-P	85-03-077
139-08-330	AMD-P	85-03-077
139-08-350	AMD-P	85-03-077
139-08-360	AMD-P	85-03-077
139-08-370	AMD-P	85-03-077
139-08-390	REP-P	85-03-077
139-08-400	REP-P	85-03-077
139-08-410	REP-P	85-03-077
139-08-420	REP-P	85-03-077
139-08-430	REP-P	85-03-077
139-08-440	REP-P	85-03-077
139-08-450	REP-P	85-03-077
139-08-460	REP-P	85-03-077
139-08-470	REP-P	85-03-077
139-08-480	REP-P	85-03-077
139-08-490	REP-P	85-03-077
139-08-510	REP-P	85-03-077
139-08-570	AMD-P	85-03-077
139-08-600	NEW-P	85-03-077
140-08-010	REP	85-03-004
140-08-020	REP	85-03-004
140-08-030	REP	85-03-004
140-08-040	REP	85-03-004
140-08-050	REP	85-03-004
140-08-060	REP	85-03-004
140-08-070	REP	85-03-004
140-08-080	REP	85-03-004
140-08-090	REP	85-03-004
140-08-100	REP	85-03-004
140-08-110	REP	85-03-004
140-09-010	NEW	85-03-004
140-09-020	NEW	85-03-004
140-09-030	NEW	85-03-004
140-09-040	NEW	85-03-004
140-09-050	NEW	85-03-004
140-09-058	NEW	85-03-004
140-09-065	NEW	85-03-004
140-09-080	NEW	85-03-004
140-09-090	NEW	85-03-004
140-09-100	NEW	85-03-004
140-09-110	NEW	85-03-004
140-09-120	NEW	85-03-004

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140-09-155	NEW	85-03-004
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140-09-185	NEW	85-03-004
140-09-200	NEW	85-03-004
140-09-220	NEW	85-03-004
140-09-230	NEW	85-03-004
173-19-450	AMD-C	85-03-046
173-144-010	NEW-E	85-03-075
173-144-020	NEW-E	85-03-075
173-144-030	NEW-E	85-03-075
173-144-040	NEW-E	85-03-075
173-144-050	NEW-E	85-03-075
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173-144-080	NEW-E	85-03-075
173-144-090	NEW-E	85-03-075
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220-12-020	AMD-P	85-03-110
220-16-340	AMD-P	85-03-110
220-20-010	AMD-P	85-03-110
220-28-440	REP-E	85-03-037
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220-47-930	REP-E	85-03-036
220-47-931	NEW-E	85-03-036
220-56-100	AMD-P	85-03-110
220-56-105	AMD-P	85-03-110
220-56-115	AMD-P	85-03-110
220-56-116	AMD-P	85-03-110
220-56-126	NEW-P	85-03-110
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220-57-215	AMD-P	85-03-110
220-57-28000F	REP-E	85-03-074
220-57-310	AMD-P	85-03-110
220-57-335	AMD-P	85-03-110
220-57-350	AMD-P	85-03-110
220-57-400	AMD-P	85-03-110
220-57-425	AMD-P	85-03-110
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230-04-325	AMD	85-03-026
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230-12-020	AMD	85-03-026
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230-25-065	AMD-E	85-03-029
230-25-120	AMD	85-03-059
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230-30-070	AMD-E	85-03-028
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230-30-102	AMD-E	85-03-028
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230-30-999	NEW-E	85-03-028
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230-40-055	NEW	85-03-026
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248-18-680	AMD-P	85-02-069
248-18-700	AMD-P	85-02-069
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248-30-110	AMD	85-03-063
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248-30-130	AMD	85-03-063
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275-38-001	AMD-E	85-03-007
275-38-745	AMD-P	85-03-006
275-38-745	AMD-E	85-03-007
275-38-785	AMD-P	85-03-006
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275-85-005	REP-P	85-03-104
275-85-010	REP-P	85-03-104
275-85-015	REP-P	85-03-104
275-85-020	REP-P	85-03-104
275-85-025	REP-P	85-03-104
275-85-030	REP-P	85-03-104
275-85-035	REP-P	85-03-104
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275-85-045	REP-P	85-03-104
275-85-050	REP-P	85-03-104
284-52-050	AMD	85-03-035
284-52-060	AMD	85-03-035
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296-17-320	AMD-P	85-02-052
296-17-350	AMD-P	85-02-052
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296-17-390	AMD-P	85-02-052
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296-17-510	AMD-P	85-02-052
296-17-511	AMD-P	85-02-052
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296-17-516	AMD-P	85-02-052
296-17-521	AMD-P	85-02-052
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296-17-524	AMD-P	85-02-052
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296-17-527	AMD-P	85-02-052
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296-17-58201	AMD-P	85-02-052
296-17-583	AMD-P	85-02-052
296-17-585	AMD-P	85-02-052
296-17-594	AMD-P	85-02-052
296-17-598	AMD-P	85-02-052
296-17-601	REP-P	85-02-052
296-17-614	AMD-P	85-02-052
296-17-618	AMD-P	85-02-052
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296-17-627	AMD-P	85-02-052
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296-124-040	NEW	85-03-065
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308-11-120	AMD	85-03-045
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308-37-170	NEW-P	85-02-062
308-37-180	NEW-P	85-02-062
308-37-190	NEW-P	85-02-062
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308-42-136	NEW-P	85-03-107
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308-52-260	AMD	85-03-084
308-52-270	AMD	85-03-084
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308-151-080	AMD	85-03-085
308-151-100	AMD	85-03-085
308-151-100	AMD-P	85-03-108
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308-171-010	NEW-P	85-02-065
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308-171-100	NEW-W	85-02-053
308-171-100	NEW-P	85-02-065
308-171-101	NEW-W	85-02-053
308-171-101	NEW-P	85-02-065
308-171-102	NEW-W	85-02-053
308-171-102	NEW-P	85-02-065
308-171-200	NEW-W	85-02-053
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308-171-201	NEW-W	85-02-053
308-171-201	NEW-P	85-02-065
308-171-202	NEW-W	85-02-053
308-171-202	NEW-P	85-02-065
308-171-300	NEW-W	85-02-053
308-171-300	NEW-P	85-02-065
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314-52-030	AMD-P	85-03-106
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326-40-020	AMD-P	85-03-032
326-40-020	AMD-E	85-03-043
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344-12-030	AMD	85-03-018
344-12-035	AMD	85-03-018
344-12-040	AMD	85-03-018
344-12-045	AMD	85-03-018
344-12-050	AMD	85-03-018
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